



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

June 5, 2007

J. Paul Loether
Keeper, National Register of Historic Places
National Park Service
Department of the Interior
Washington, DC 20240

Re: STB Finance Docket No. 34284, Southwest Gulf Railroad Company --
Construction and Operation Exemption -- Medina County, Texas: Request for
Keeper's Determination of Eligibility for the Quihi and Upper Quihi
Rural Historic Districts

Dear Mr. Loether:

I am writing to request a Determination of Eligibility for two rural historic districts (the Quihi and Upper Quihi Rural Historic Districts), which were identified by the Surface Transportation Board (STB or Board) during the course of an Environmental Impact Statement (EIS) currently pending before the agency. The STB is conducting this EIS as part of its consideration of a petition filed by Southwest Gulf Railroad Company (SGR), a railroad subsidiary formed by Vulcan Construction Materials, LP (Vulcan). SGR is proposing to construct and operate a new rail line in Medina County, Texas, connecting an existing Union Pacific Railroad (UP) rail line to a new Vulcan limestone quarry approximately seven miles north of the UP rail line.

As part of its EIS review, the Board's Section of Environmental Analysis (SEA) assessed a number of rail route alignments, and compared the environmental impacts of those alignments to the route developed by SGR. In its Draft EIS (DEIS) and Supplemental DEIS, SEA studied seven rail line alignments (called alternatives) and the No-Action Alternative. At the conclusion of these documents, SEA determined that two of the alternative alignments that had been studied were "environmentally preferable" because they would be located east of, and therefore avoid the more historically significant Quihi Rural Historic District. The alignment developed by SGR, known as the "Proposed Route" would bisect the Quihi Rural Historic District.

Following SEA's determination, SGR requested further consideration of its Proposed Route by developing a mitigation plan that it believes would adequately minimize impacts of constructing and operating the Proposed Route on the Quihi Rural Historic District. The Texas Historical Commission (THC)(the State Historic Preservation Office for Texas), on the other

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hand, has stated its support of either of the Eastern Alternatives identified by SEA as environmentally preferable because those alternatives would completely avoid the Quihi Rural Historic District and have less impact on the Upper Quihi Rural Historic District. In response to these diverse views on what alternative or alternatives should be considered environmentally preferable, the Advisory Council on Historic Preservation (ACHP) wrote to SEA recommending that the agency seek a determination from the Keeper of the National Register to (among other things) provide greater clarity on the significance, defining characteristics, and integrity of the Quihi and Upper Quihi Rural Historic Districts. Such a determination, asserted ACHP, would assist STB and the Section 106 consulting parties in better assessing appropriate measures to avoid adverse effects to significant historic properties.

Consequently, I am making this request under 36 CFR Section 63.2(d) pursuant to 36 CFR Section 800.4(c)(2) of its regulations implementing Section 106 of the National Historic Preservation Act (NHPA). Below, I describe the project in more detail, provide a summary of the agency's environmental review to date, and describe more fully the request for clarification from the ACHP. I have also enclosed all the information that I believe you will need to make your determination.

Description of the Undertaking

The proposed project consists of a proposed rail line in Medina County, Texas (approximately 45 miles west of San Antonio) that would extend approximately seven miles from a loading track at a proposed Vulcan quarry to the Del Rio Subdivision of the UP Railroad Company (UP). SGR would use the new rail line to transport limestone from the proposed quarry to the UP rail line.

Agency's Environmental Review

SEA initially analyzed four potential construction alternatives (the Proposed Route, Alternative 1, Alternative 2, and Alternative 3) and the No-Action Alternative¹ in its DEIS prepared to comply with the National Environmental Policy Act (NEPA) and NHPA (see Appendix A, Figure 1). As part of its environmental reviews, SEA completed two cultural resource studies² to identify any historic properties that may be located within the Area of Potential Effect (APE)³ of each of the four alternatives analyzed in the DEIS (see Map Sheet 2A and 2B).

¹ In the No-Action Alternative the proposed construction would not take place and SGR has indicated it would then truck the limestone from the quarry to the UP line.

² The cultural resources studies completed by SEA in the DEIS are the Preliminary Cultural Resources Assessment; and a Technical Memorandum: Supplement to the Preliminary Cultural Resources Assessment (see Volume III, Appendix I of the DEIS).

³ The APE for direct impacts was defined as 1000 feet on either side of each alternative.

During the course of the cultural resource field studies, SEA identified a potential rural historic landscape that encompassed the town of Quihi through which all four alternatives cross. Written and oral comments provided by the THC and other Section 106 consulting parties, both during and following issuance of the DEIS, provided corroborating evidence of the location of significant Texan frontier community composed of multiple 19th century German-Alsatian elements including original buildings, structures, ruins, circulation networks and many other components that make up rural historic landscapes meeting the criteria of the National Register of Historic Places (National Register) defined in National Register Bulletin #30: Guidelines for Evaluating and Documenting Rural Historic Landscapes (National Park Service 1989).

In addition, consultation meetings held between SEA, SGR, THC and the ACHP stressed the need for an additional study that would more conclusively determine if a rural historic landscape is present; and if so, generally establish its boundaries; identify its contributing and non-contributing elements; and determine if any identified rural historic landscape is eligible for listing in the National Register as a District. The ACHP and THC firmly indicated that such a study was needed prior to completion and/or execution of any agreement document to address adverse effects.

As a result of the above series of events, SEA determined a Supplemental Draft Environmental Impact Statement (or SDEIS) was necessary. The SDEIS would assess additional rail alternatives to the east (the Eastern Alternatives) that would largely avoid historic properties near Quihi. The Eastern Alternatives that SEA analyzed in the SDEIS consist of the Eastern Bypass Route, the MCEAA Medina Dam Route and SGR's Modified Medina Dam Route (see Map Sheet 1). In the SDEIS, SEA determined that the Eastern Bypass Route and the MCEAA Medina Dam routes are environmentally preferable and thus dropped SGR's Medina Dam Route from further consideration.

The SDEIS included a reconnaissance survey of each of the Eastern Alternatives comparable to the studies completed for the original alternatives.⁴ In addition, SEA also completed an extensive landscape study,⁵ in which it examined, in detail, the entire area encompassed by all seven of the proposed alternatives (see Map Sheet 1).

⁴ SEA completed a reconnaissance survey for the Eastern Alternatives in May of 2006. The survey identified known cultural resources within the APE previously defined for each of the alternatives studied in the DEIS (1000 feet on either side of the rail alignments) and made an evaluation of the potential for the APE to contain unknown cultural resources. In addition, a study of the Eastern Bypass Route conducted by Gonzalez, Tate, & Iruegas, Inc. (GT&I) by Iruegas and Penick (2005) on behalf of SGR, provided information on this route. SEA extracted and reformatted this relevant information from both of these studies into its survey report on the Eastern Alternative (see Volume II, Appendix F-1 of SDEIS).

⁵ The Rural Historic Landscape Analysis, Quihi Vicinity, Medina County, Texas is included in Volume II, Appendix F-2 of the SDEIS.

The landscape study resulted in the identification of *three* rural historic landscapes, each of which SEA determined to be eligible for listing in the National Register: the New Fountain Rural Historic District and the Quihi and Upper Quihi Rural Historic Districts (see Map Sheet 1). The landscape study further indicated that both the Quihi and Upper Quihi Rural Historic Districts could be potentially impacted by the proposed construction project. (The New Fountain Rural Historic District was determined to be too far west to be adversely affected by any of the seven alternatives and is therefore not part of this discussion). Moreover, results included in the landscape study suggested that the Quihi area constitutes one of the most unusual and intact frontier settlements in Texas.

Views of SGR, THC and ACHP

Shortly after SEA issued its SDEIS, SGR developed a mitigation plan that it offered to voluntarily implement with the intent of minimizing impacts of constructing and operating the Proposed Route on the Quihi Rural Historic District. While recognizing that the Proposed Route would traverse the District, SGR in a letter dated January 16, 2007, offered four measures designed to reduce impacts on the District. These measures included a “conservation easement” that would permit the THC to control development on what is believed to be the most sensitive section of the District, a requirement that SGR would adjust the Proposed Route to avoid direct impacts on certain contributing elements in the District, a contribution of \$500,000 from SGR to THC for THC’s use in fostering preservation and similar goals, and support from SGR and Vulcan for adoption of any local preservation ordinance designed to preserve the historic integrity of the District.

SGR hoped that the mitigation plan would allow SEA to determine that, as mitigated, the Proposed Route was environmentally preferable. SGR asserted that it believes that the Eastern Routes would be too costly to operate and should one of those routes be licensed by the Board, SGR would likely not construct the new rail line but, rather, would rely on trucks to transport products to and from the quarry.

After receiving SGR’s mitigation plan, SEA convened first a meeting and then a conference call of the “Section 106 consulting parties,” to discuss SGR’s mitigation proposal and solicit the views of the consulting parties on whether the mitigation adequately reduced impacts on the Quihi Rural Historic District to allow the Proposed Route to be considered as an environmentally preferable route. During these discussions, concerns were raised by various parties about aspects of SGR’s Proposed Route. SGR asked for the opportunity to revise its mitigation plan to respond to the concerns raised, and on April 5, 2007, distributed a revised plan to the consulting parties. Both SGR’s original and revised mitigation plans are enclosed with this letter.

In letters dated January 19, 2007 and March 15, 2007, the THC provided its comments in response to the SDEIS in which it strongly supported the use of SEA’s environmentally preferred eastern routes. In both letters, the THC reiterated that construction of either the Eastern Bypass

Route or the MCEAA Medina Dam Alternative would significantly lessen the impact of the project on critical historic resources.

Following receipt of the above correspondence from SGR and THC, and the meeting and conference call with the Section 106 consulting parties, ACHP wrote to SEA stating that greater clarity was needed to assist the consulting parties in assessing what needed to be avoided, preserved, or protected during project planning. Specifically, ACHP stated, that clarity was needed regarding the integrity of the elements identified within the Districts and the boundaries of the Districts. The ACHP also stressed the importance of continuing to work closely with the Tap Pilam-Coahuiltecan Nation which has indicated to SEA, the THC and the ACHP the potential for the project area to contain *cenotes* (or limestone/karst sinkholes) that could include burials and other properties of religious and cultural significance to the Nation.

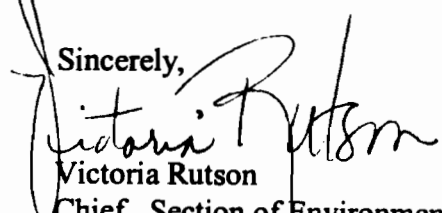
Based on the ACHP concerns and recommendations, we are thus seeking a formal determination from the Keeper of the National Register specifically regarding the following:

- A determination as to whether the Quihi and the Upper Quihi Rural Historic Districts are separate and distinct districts or a single district; eligible for listing in the National Register as separate districts or as a single district;
- A determinations of the appropriate boundaries of any eligible district(s);
- A determination of the contributing and non-contributing elements of any eligible historic district(s), considering both significance and integrity, including any rural landscape elements (land uses and activities, patterns of spatial organization, circulation networks, boundary demarcations, etc.); and
- The significance of *cenotes* within any eligible historic district(s) and the basis of their importance to Indian tribes.

Conclusion

We request your consideration of our findings to clarify the above issues within the 45 day period pursuant to 36 CFR Section 63.2(e) of your regulations. We have attached all of the relevant information for your review. If you require additional information or clarification regarding our request, please feel free to contact me, Diana Wood at (202) 245-0302, or Catherine Glidden at (202) 245-0293. Thank you for your assistance in this matter.

Sincerely,



Victoria Rutson

Chief, Section of Environmental Analysis
STB Federal Preservation Officer

Enclosures:

- Letter from David H. Coburn, representing Southwest Gulf Railroad, to F. Lawrence Oaks, State Historic Preservation Officer, Texas Historical Commission (and cc'ing Section 106 consulting parties), dated January 16, 2007.
- Letter from David H. Coburn, representing Southwest Gulf Railroad, to F. Lawrence Oaks, State Historic Preservation Officer, Texas Historical Commission (and cc'ing Section 106 consulting parties), dated April 5, 2007.
- Letter from F. Lawrence Oaks, State Historic Preservation Officer, Texas Historical Commission, to Ms. Rini Ghosh, Section of Environmental Analysis, Surface Transportation Board, dated January 19, 2007.
- Letter from F. Lawrence Oaks, State Historic Preservation Officer, Texas Historical Commission, to Ms. Diana Wood, Section of Environmental Analysis, Surface Transportation Board, dated March 15, 2007.
 - Letter from Charlene Dwin Vaughn, Assistant Director, Federal Permitting, Licensing, and Assistance Section, Office of Federal Agency Programs, the Advisory Council on Historic Preservation, to Ms. Victoria Rutson, Chief, Section of Environmental Analysis, Surface Transportation Board, dated April 27, 2007.
- Surface Transportation Board, Section of Environmental Analysis. 2004. Draft Environmental Impact Statement, Finance Docket No. 34284, Southwest Gulf Railroad Company Construction and Operation Exemption, Medina County Texas. Washington, D.C. (Volumes I, II and III of the DEIS are included in CD format). Included in the DEIS are the following supplemental documents:
 - Preliminary Cultural Resources Assessment; and Technical Memorandum: Supplement to the Preliminary Cultural Resources Assessment (see Appendix I, Volume III).
- Surface Transportation Board, Section of Environmental Analysis. 2006. Supplemental Draft Environmental Impact Statement, Finance Docket No. 34284, Southwest Gulf Railroad Company Construction and Operation Exemption, Medina County Texas. Washington, D.C. (Volumes I and II of the SDEIS are included in CD format). Included in the SDEIS are the following supplemental documents:

- Technical Memorandum: Cultural Resources Assessment of the Three Eastern Alternatives (see Volume II, Appendix F-1).
- Rural Historic Landscape Analysis, Quihi Vicinity, Medina County, Texas (see Appendix F-2, Volume II).
- Rural Historic Landscape Study: Maps (See Appendix A of Landscape Study in Volume II).
- Rural Historic Landscape Study: Inventory of Sites (See Appendix B of Landscape Study in Volume II).
- Rural Historic Landscape Study: Digital Photos of Sites (See Appendix C of Landscape Study in Volume II).

Cc: (Without Enclosures):

Honorable Ciro Rodriguez, U.S. House of Representatives
 Ms. Charlene Dwin-Vaughn, ACHP
 Ms. Katry Harris, ACHP
 Mr. F. Lawrence Oaks, THC
 Mr. Brad Patterson, THC
 Mr. David Coburn, SGR
 Ms. Jaya Zyman-Ponebshek, URS
 Mr. Raymond Hernandez, Tap Pilam Coahuiltecan Nation
 Mr. Richard C. Garay, Coahuiltecan Research Associates
 Mr. Troy Johanntoberns, Wichita & Affiliated Tribe
 Ms. Dorla Goombi, Kiowa Tribe of Oklahoma
 Ms. Lynn Schonchin, Comanche Nation of Oklahoma
 Ms. Holly Houghten, Mescalero Apache Tribe
 Mr. Robert Hancock, Medina County Historical Commission
 Mrs. Cynthia Lindsey, Quihi and New Fountain Historical Society
 Mr. C. Ray Schoch, Schweers Historical Foundation
 Mr. Harold Weiblen, Weiblen Farms
 Mr. Archie Gerdes
 Dr. Robert Hester
 Dr. Robert Fitzgerald, MCEAA
 Mr. Brian R. Pietruszewski, Gardner Law Firm