



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

EO-3033

Office of Environmental Analysis

October 10, 2018

Peter A. Pfohl
Slover & Loftus LLP
1224 Seventeenth Street, NW
Washington, D.C. 20036

Re: FD36186, Texas Railway Exchange LLC—Construction and Operation
Exemption—Galveston County, Tex.; Approval of EIS Waiver Request

Dear Mr. Pfohl,

Pursuant to 49 C.F.R. § 1105.6(d), the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) is granting your October 2, 2018 request for a waiver from the requirements of 49 C.F.R. § 1105.6(a), which generally provide for the preparation of an Environmental Impact Statement (EIS) for a rail construction and operation proposal. OEA is granting the requested waiver based on available information gathered to date, including materials submitted by the petitioner, OEA's consultation with federal, state, and local agencies, and a site visit on August 15, 2018 to the project area.

OEA understands that Texas Railway Exchange LLC (TREX) intends to file a petition seeking exemption from the prior approval requirements of 49 U.S.C § 10901 for the construction and operation of approximately 3,000 feet of new rail line that would extend from the Texas International Terminal facility (the Terminal) on the Galveston Ship Channel to an existing rail line owned and operated by BNSF Railway Company (BNSF) in the City of Galveston, Galveston County, Texas. The Terminal currently receives BNSF rail traffic through a reciprocal switching arrangement with the Union Pacific Railroad Company (UP). The proposed rail line would provide a direct connection between the Terminal and the BNSF rail line and an alternative to the switching arrangement with UP.

From conversations with TREX representatives, OEA understands that the rail traffic levels on the proposed rail line would be fewer than two trains per day, on average. Because rail traffic on the proposed rail line would be diverted from the existing reciprocal switching arrangement with UP, the total volume of rail traffic reaching the Terminal would not increase as a result of TREX's proposal. OEA understands that trains on the proposed rail line would carry a variety of commodities to and from the Terminal, potentially including ethanol and agricultural inputs.

Based on the information available to date, OEA believes that the proposed action would not result in significant environmental impacts and that any impacts could be addressed through appropriate mitigation measures. OEA's opinion is based on the reasons outlined below:

- In June 2018, OEA sent out agency consultation letters to various federal, state, and local agencies. To date, OEA has received responses from the U.S. Army Corps of Engineers (the Corps); the Federal Emergency Management Agency (FEMA); the Texas Commission on Environmental Quality (TCEQ); the Natural Resources Conservation Service (NRCS); the Texas Parks and Wildlife Department (TPWD); the City of Galveston; and the Texas Historical Commission (the Texas State Historic Preservation Officer or Texas SHPO). Those comments have not identified potentially significant environmental impacts that could occur as a result of TREX's proposal.
- A wetland delineation was conducted in August 2018 by Spirit, LLC (Spirit), a contractor hired by TREX for two alternative routes identified by TREX. That delineation concluded that, although the proposed rail line would cross areas containing waterways and wetlands, neither of the two alternative routes would affect more than 0.5 acres of aquatic resources. TREX's preferred alternative would impact fewer than 0.1 acres of aquatic resources and would likely qualify for a Corps Nationwide Permit to meet the requirements of Section 404 of the Clean Water Act. During the course of the environmental review process, OEA will review these findings and recommend appropriate mitigation for potential impacts to wetlands and waterways.
- On August 15, 2018, OEA and Burns & McDonnell, OEA's third-party contractor, conducted a site inspection of the proposed project area. The proposed rail line would primarily cross land that has been previously disturbed for industrial and transportation uses. The topography is generally flat and would not require extensive regrading for construction of the proposed rail line. Based on OEA's site inspection and discussions with TREX, soil disturbance during construction would be minimal and would be confined to the proposed rail right-of-way.
- Because much of the project area has been previously disturbed for industrial and transportation uses, very little wildlife habitat remains that could potentially be affected by the proposed rail line. Therefore, the potential for adverse impacts to wildlife species, including federally and state listed threatened and endangered species, is low.
- The proposed rail line would cross Port Industrial Road, a lightly travelled public road that provides access to the Terminal and other industrial facilities along the

Galveston Ship Channel. This would require the construction of a new at-grade crossing on Port Industrial Road. OEA understands that rail traffic at this crossing would be diverted from an existing at-grade crossing that is currently used during UP switching operations. Therefore, impacts to public transportation and safety would be minor and could potentially be beneficial if TREX's proposal results in increased efficiency of rail operations and shorter processing times for trains moving in and out of the Terminal.

- Based on OEA's site inspection and the information provided by TREX, there do not appear to be any residences or other sensitive noise receptors in the project area. The projected traffic on the proposed rail line would not exceed the Board's threshold for detailed analysis of noise during rail operations. Therefore, the potential for significant impacts related to noise is low.
- Because the proposed rail line would not result in an increase in rail traffic in the project area, the potential for impacts to air quality during rail operations is low. If TREX's proposal increases the efficiency of rail operations serving the Terminal, emissions from locomotives could decrease and local air quality could be improved.
- Because rail traffic on the proposed rail line would be diverted from an existing rail line, TREX's proposal is unlikely to result in any changes to transportation of hazardous materials, energy resources, or recyclable commodities.
- There are no known historic properties or archeological sites within or adjacent to the proposed rail right-of-way. The Texas SHPO has submitted comments stating that no historic properties would be affected by TREX's proposal.
- Information collected to date indicates that there would be no significant impacts to transportation systems, land use, energy, air quality, noise, safety, biological resources, or surface or groundwater resources. Nor does OEA anticipate that there would be significant impacts on minority or low-income populations, based on initial site reconnaissance.

After the EA is prepared, OEA will make the document available for a 30-day public review and comment period. Once the comment period ends, OEA will prepare a Final EA that discusses the comments received and includes any additional analysis or appropriate modifications to its analysis. The Final EA will also set forth OEA's recommended mitigation measures for the Board. The Board will then consider the EA, the public comments, and the Final EA recommendations before making its final decision in this proceeding.

If it becomes clear during the environmental review process that potentially significant adverse environmental impacts would result from the project and that these impacts could not

be adequately mitigated, OEA would then prepared a more detailed EIS, as required by the Council on Environmental Quality's regulations and the Board's environmental rules at 49 C.F.R. § 1105.6(a).

If you have any questions or would like to discuss this matter further, please contact Josh Wayland of my staff at (202) 245-0330 or email at waylandj@stb.dot.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson, Director
Office of Environmental Analysis