

APPENDIX A ORAL COMMENTS RECEIVED ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

SEA held two public meetings on the Draft EIS on January 14 and 15, 2003 at the Pasadena Convention Center and Cesar E. Chavez High School, respectively. A total of 115 oral comments were received at the two meetings (50 comments at the Pasadena Convention Center meeting and 65 comments at the Cesar E. Chavez High School meeting). The transcripts from the public meetings are contained in this Appendix.

Each oral comment was assigned a comment number. The January 14 transcript contains comments D0122 through D0171 and the January 15 transcript includes comments D0172 through D0256. Table A-1 organizes the oral comments on the Draft EIS alphabetically within the following categories:

- Elected Officials (Federal, state, and local)
- Agencies (Federal, state, tribal, and local)
- Organizations
- Citizens

Table A-1
Oral Comments Received on the Draft EIS at Public Meetings

Commenter Name	Commenter Title/Organization	Comment Number
ELECTED OFFICIALS		
Federal Government		
Coleman, Bill	Representing Nick Lampson, Member, U.S. House of Representatives	D0199
Green, Gene	Member, U.S. House of Representatives	D0192
Tyler, Peter	Representing Nick Lampson, Member, U.S. House of Representatives	D0122
State Government		
Noriega, Rick	Member, Texas House of Representatives	D0193
Local Government		
Alvarado, Carol	Member, Houston City Council	D0196
Edmundson, Nancy	Mayor, City of Shore Acres	D0123
Manlove, John	Mayor, City of Pasadena	D0125
O'Neil, Natalie	Mayor, Taylor Lake Village	D0127
Parker, Anniese	Member, Houston City Council	D0198
Robinson, Carroll	Member, Houston City Council	D0195
Sekula-Gibbs, Shelley	Member, Houston City Council	D0124
Sekula-Gibbs, Shelley	Member, Houston City Council	D0194
Smith, Eloise	Mayor, City of South Houston	D0126
Wiseman, Addie	Member, Houston City Council	D0197
AGENCIES		
Local Government		
Campos, Esther	Houston Independent School District	D0201
Hansen, Mary Margaret	Greater East End Management District	D0221
ORGANIZATIONS		
Ashworth, Wendy	Atofina	D0155
Blackburn, Jim	Galveston Bay Preservation and Conservation Association	D0147
Blackburn, Jim	Galveston Bay Conservation and Preservation Association	D0220
Borgen, Dan	Bayport Rail Terminal	D0139
Boyd, Donovan	Hydrochem Industrial Services	D0137
Collins, Anthony	The Metropolitan Organization	D0206
Cornell, Steve	Atofina Petrochemicals	D0204
Cortez, Richard	Magnolia Park Presinct Judge	D0200
Cubley, Ruby	Clear Lake Area Chamber of Commerce	D0152
Dovalina, Rick	LULAC	D0209
Duggan, George	Burlington Northern Santa Fe	D0213

Table A-1 (continued)
Oral Comments Received on the Draft EIS at Public Meetings

Commenter Name	Commenter Title/Organization	Comment Number
Dwyer, Annette	North Fork Community Association/Association of Clear Lake Communities	D0153
Dwyer, Annette	North Fork Community Association/Association of Clear Lake Communities	D0234
Franklin, Scott	Onyx Industrial	D0148
Freeman, David	Burlington Northern Santa Fe	D0212
Gallegos, Robert	Eastwood/Lawndale-Wayside Super Neighborhood	D0238
Ganey, Steve	Baypoint Community Association	D0138
Gelinas, Robert	Basell	D0143
Goss, Gordon	East Lawndale Civic Association	D0222
Gregson, Megan	Old World Industries	D0150
Hemmer, Jeff	Lyondell Chemical Company/Equistar Chemical Company	D0205
Kessler, Kurt	Equistar Chemical Company	D0129
Leon, Norma	Metropolitan Organization	D0217
Martinez, Dan	Lyondell Chemical Company	D0203
Mathera, Douglas	Lyondell Chemical Company	D0131
McKinney, Michael	LBC Petro Chemical United	D0132
McWilliams, David	Metropolitan Organization	D0218
Meza, Paul	Second Ward Residents Organization	D0230
Ness, Daryl	Burlington Northern Santa Fe	D0214
Padilla, Theresa	Metropolitan Organization	D0219
Parker, Steve	Eastwood Civic Association	D0255
Parras, Juan	Environmental Justice Clinic at Southeastern Texas University/Labor Council for Latin American Advancement	D0242
Pocsik, Steve	Atofina	D0154
Rincon, Gregory	Greater East End Coalition	D0210
Sanders, Gene	Austin Industrial	D0134
Schick, Tom	American Chemistry Council	D0141
Seep, David	Burlington Northern Santa Fe	D0145
Tolson, Leah	Pecan Park Civic Association	D0247
Turner, Raymond	Meadow Creek Village Civic Club	D0248
Vargo, Mary	Southeast Neighborhood Coalition/Coalition for Responsible Railroad Building	D0207
Willits, Debora	Houston Yacht Club	D0157

Table A-1 (continued)
Oral Comments Received on the Draft EIS at Public Meetings

CITIZENS			
Commenter Name	Comment Number	Commenter Name	Comment Number
Barbick, Chris	D0223	Kelley, Bill	D0168
Berg, Cheryl	D0149	Ketner, Debbie	D0254
Bill, R.S.	D0240	Liebeg, Sandra	D0239
Bish, John	D0156	Lindsay, Robert	D0144
Bridges, Bill	D0171	Marrack, David	D0229
Bridges, Bill	D0256	Martinez, Maria	D0226
Brown, Gregory	D0208	Mayfield, Charles	D0236
Brunsfeld, John	D0170	McEwing, David	D0215
Castillo, Liza	D0227	Miller, Josh	D0146
Cheuvront, David	D0169	Morua, Alejandro	D0251
Cobarruvias, John	D0128	Nunez, Anna	D0250
Cobarruvias, John	D0231	Parras, Juan	D0164
Coronado, Christine	D0252	Peterson, Doug	D0160
Coronado, Gilbert	D0243	Peterson, Doug	D0237
de Gussman, Dianna Almos	D0224	Puffer, William	D0130
Ekong, Archie	D0228	Pulgini, Douglas	D0133
Enriquez, Rafael	D0249	Ramirez, Macario	D0245
Fraga, Felix	D0202	Rodriggs, Michael	D0253
Gauntt, Betty	D0140	Russell, John	D0142
Gauntt, Betty	D0232	Sexton, Janette	D0246
Gauntt, Johnny	D0163	Siwinski, Lisa	D0136
Gauntt, Johnny	D0233	Smitherman, Marijane	D0159
Given, Chris	D0166	Stehly, Mark	D0211
Groves, Eileen	D0162	Tee, Kristy	D0151
Gussman, Antonio	D0225	Trojanowski, Kitty	D0244
Hammock, Tal	D0165	Valdes, Luis	D0235
Harpole, David	D0135	Valdez, Nelda	D0241
Helmkamp, Matthew	D0158	Vargo, Mary	D0161
Huerta, Juanita	D0216	Wortham, Mike	D0167

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7 DEPARTMENT OF TRANSPORTATION
8 SURFACE TRANSPORTATION BOARD
9
10 PUBLIC MEETING - DRAFT EIS
11
12 SAN JACINTO RAIL LIMITED CONSTRUCTION
13 EXEMPTION AND THE BURLINGTON NORTHERN
14 AND SANTA FE RAILWAY COMPANY
15 OPERATION EXEMPTION - BUILD-OUT TO
16 THE BAYPORT LOOP NEAR HOUSTON,
17 HARRIS COUNTY, TEXAS
18
19 STB FINANCE DOCKET NO. 34079
20
21
22 January 14, 2003
23 7:00 P.M.
24 Pasadena Convention Center
25 7902 Fairmont Parkway
Pasadena, Texas

A P P E A R A N C E S

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2
3 ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION, SURFACE
4 TRANSPORTATION BOARD:
5 Mr. Chris Caperton
6 Public Affairs Management
7 Third-Party Contractor
8
9 Ms. Dana White
10 Section of Environmental Analysis
11 Surface Transportation Board
12
13 Mr. Alan Summerville
14 ICF Consulting
15 Third-Party Contractor
16
17 ON BEHALF OF THE FEDERAL AVIATION ADMINISTRATION:
18 Ms. Nan Terry
19 Texas Airports Development Office
20
21 ON BEHALF OF THE NATIONAL AERONAUTICS AND SPACE
22 ADMINISTRATION:
23 Ms. Perri Fox
24 Johnson Space Center
25
26 ON BEHALF OF THE U.S. COAST GUARD:
27 Mr. Phil Johnson
28 Eighth Coast Guard District
29 Bridge Administration Branch
30
31 INTERPRETER FOR THE SPANISH LANGUAGE:
32 Mr. Edgar Coronado
33 Interpreters & Translators Associated
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P R O C E E D I N G S

MR. CAPERTON: Ladies and gentlemen,

we'll get started here as soon as we get everybody signed in and make sure we have enough chairs for everybody. If you'll be patient, we'll take care of some business here and we'll get going shortly.

(Recess taken.)

MR. CAPERTON: If I could have your attention, please. Thank you for your patience, and I'll ask you to be patient for a few more minutes. We are going to open up the back wall and put in a few more seats so people don't feel cramped. We'll get started shortly. We're going to get this back wall open. Thank you.

(Recess taken.)

MR. CAPERTON: Good evening, ladies and gentlemen, and thank you again for your patience as we were involved in this capital improvement program here to expand our meeting space. I think everybody will be able to have a chair and plenty of elbow room here

tonight.

I'd like to officially call the meeting to order. This is the public meeting for the Bayport Loop Draft Environmental Impact Statement. My name is Chris Caperton, and I work for a firm called Public Affairs Management. We're part of a third-party contractor team that's supporting the Surface Transportation Board and the Section of Environmental Analysis. You may be familiar with that group by their initials SEA. And I'm going to be assisting as the facilitator this evening.

We have an agenda, and we'd like to follow that agenda tonight. We want to go over some protocol and some ground rules for our meeting. We're going to introduce the panel, and then we're going to hear your comments, which is really the main reason that we're here. So we're going to try to keep our comments brief and to the point.

There will not be any formal response to the comments here tonight by the panel. We want to hear your comments on the Draft EIS. You can also provide your comments in writing. We have a drop box over here. There's also other information over here on the table about the mailing address and the toll-free hotline, if you would like to submit your comments on the document.

Now, some people have preregistered to speak this evening and some people have registered here tonight. And it's not too late. If you would like to speak, you can come over here to the side table and put your name down and we'll get your name on the list. It's our intention to hear everybody speak tonight. I know that we're scheduled to run until 9:00 o'clock, but we're committed to stay beyond that time to hear your comments.

Now, the comment period for the Draft EIS ends on February 21st. So if you're not submitting comments tonight orally or in writing, you have until that time to turn in your comments. Again, information is available here on the tables. We also have maps around this room and in the lobby that show the proposed action and the alternatives.

We also posted outside our meeting protocol, and we're asking everybody to be courteous and follow those protocols, if they would. I'll go over them real briefly here. First of all, we're not going to allow any demonstrations in this room tonight. If you want to demonstrate or if you have large placards or signs, petitions or information to hand out, please do that in the lobby outside. And we've set up a table out there to make that easier.

Anybody that disrupts the meeting, we're going to ask that the security personnel who are here tonight to remove those people from the room. I know we won't have any of those problems. I appreciate everybody's cooperation and being courteous to all the speakers here.

We're also asking the speakers tonight to abide by some ground rules. We'll have one speaker at a time and each speaker will be given three minutes to talk and I am the keeper of the clock. And when you have one minute left to speak, I'll just turn up this sign that says "one minute." And when your time is up, I'll flip it over, and it says "time." And we ask everybody to abide by that three-minute rule, and that way we'll be able to hear from everybody that signed up or that intends to sign up to speak tonight.

Now, if you have your comments in writing and you want to put them into the record, you can give them to the court reporter or you can put them over here in the drop box. And those comments will be put into the record for tonight's meeting. It's also important to remember that all comments, be they written or oral, are given equal weight by the Surface Transportation Board in their review of this project.

We have a full house, and, like I said,

1 we want to give everybody a chance to speak, so we
2 probably will go beyond the 9:00 o'clock deadline. We
3 encourage you, though, to focus your comments on the
4 Draft EIS. Like I said, every comment will be given --
5 will be responded to in the Final EIS, as appropriate.

6 If you have other comments or questions
7 about procedures, protocol, regulations, you might want
8 to avail yourself of the hotline number, where you can
9 get sort of a direct response to those type of
10 questions. And again, information about the hotline is
11 over here on the table.

12 We have a court reporter that's going to
13 be taking the minutes of tonight's meeting. And we also
14 have a court reporter that's putting a realtime
15 translation up on the screen for anybody that's deaf or
16 hard of hearing. And, please, there are seats up here
17 at the front. You can come up and use those seats if
18 you need to read off the screen.

19 We also have Mr. Edgar Coronado with us
20 tonight to provide a Spanish language translation if
21 anybody would like to speak in Spanish.

22 Mr. Coronado.

23 MR. CORONADO: (Comments in Spanish.)

24 MR. CAPERTON: Please, when you're
25 talking into the mike, get close to the mike. It's not

1 quite as sensitive as this particular one.

2 Did everybody hear Mr. Coronado or does
3 he need to repeat? Can you hear in the back? Okay.
4 Thanks.

5 I'd like to introduce Dana White, who's a
6 project manager for the Surface Transportation Board's
7 Section of Environmental Analysis. And she's going to
8 present a brief overview of the Board's role and
9 introduce the cooperating agencies that are with us
10 tonight.

11 MS. WHITE: Good evening. My name is
12 Dana White, and I am the project manager for the Surface
13 Transportation Board, Section of Energy -- Section of
14 Environmental Analysis. I would like to welcome you to
15 this public meeting and invite you to provide your
16 comments orally or in writing tonight or before the
17 comment deadline of February 21st.

18 As many of you know, we distributed the
19 Draft EIS on December 6, 2002, to a large number of
20 elected officials, agencies, organizations, and other
21 parties. We placed copies of the Draft EIS and a
22 Spanish translation of the executive summary in
23 libraries and other facilities. We also distributed
24 notices to over a thousand interested parties and the
25 media to indicate that the Draft EIS was available. We

1 distributed several copies to people who requested one
2 from our toll-free number.

3 This meeting represents the next step in
4 the environmental review process. We were here almost a
5 year ago to listen to your concerns and questions as
6 part of the scoping process. The Draft EIS provides
7 information about this project, the environmental review
8 process, and it addresses a number of potential
9 environmental impact areas as well as specific questions
10 and concerns that you raised during the scoping period.

11 Tonight we want to hear from you on the
12 content of the Draft EIS. We will consider all comments
13 on the draft and incorporate responses to specific
14 comments in the Final EIS.

15 After the close of the comment period on
16 the Draft EIS, a Final EIS will be prepared in response.
17 The Surface Transportation Board will then issue a final
18 decision based upon the entire environmental record and
19 all of the public and agency comments. The final
20 decision will determine whether to give approval to the
21 project and, if so, the appropriate environmental
22 mitigation. No action can be taken until the Board and
23 the cooperating agencies issue final decisions.

24 I would like to introduce the cooperating
25 agencies that have joined with the Board in the

1 preparation of this Draft EIS. A cooperating agency is
2 an agency with jurisdiction by law or special expertise
3 as it relates to an aspect of the proposed action. The
4 cooperating agency designation allows these agencies to
5 comply with the National Environmental Policy Act
6 without publishing their own separate document, thus
7 reducing paperwork and duplication. Cooperating agency
8 status also benefits agency coordination and
9 consultation during the environmental review process.

10 I'd like to next introduce the U.S. Coast
11 Guard.

12 MR. JOHNSON: My name is Phil Johnson.
13 I'm with the Eighth Coast Guard District, Bridge
14 Administration Branch.

15 The U.S. Coast Guard is participating as
16 a cooperating agency because under the General Bridge
17 Act of 1946, the Coast Guard has the approval authority
18 for bridges over navigable waterways in the United
19 States.

20 The Coast Guard, as part of the EIS
21 process, will assess the navigational and environmental
22 impacts of construction, maintenance, and operation of
23 proposed bridges associated with the proposed action and
24 alternatives. This assessment will form a component of
25 the agency's review of whether or not to issue a bridge

1 permit under the General Bridge Act of 1946.

2 MS. TERRY: My name is Nan Terry, and I'm
3 representing the Federal Aviation Administration. The
4 FAA is a cooperating agency with the Surface
5 Transportation Board because we have potential federal
6 actions associated with the proposed action. We are
7 assessing the aviation and environmental impacts of the
8 proposed action related to any potential change to the
9 Ellington Field airport layout plan or the release of
10 airport property to accommodate the proposed action.

11 The City of Houston is the owner of
12 Ellington Field. If the owner requests a change to the
13 airport layout plan or a release of airport property,
14 the FAA has to decide whether to approve such a change.
15 The proposed action would require a change to the
16 airport layout plan since it would cross city-owned
17 airport property.

18 In addition to the proposed change to the
19 airport layout plan, the other federal actions involve
20 possible releases of airport property. The city
21 acquired the land at Ellington Field in different ways.
22 The original airport land was transferred to the city
23 from the federal government as surplus land for use as
24 an airport. Subsequently, the FAA gave the city a grant
25 to purchase additional land.

1 These land transfers require the FAA to
2 determine whether a nonaviation use would have an
3 adverse effect on the airport. We must decide whether
4 to release the affected airport property from the City
5 of Houston's obligations under the grants that the FAA
6 gave the city to purchase the land and other
7 requirements associated with the original land transfer.

8 We appreciate you being here tonight to
9 express your thoughts and opinions on the proposed
10 action and to take part with us in the NEPA process. We
11 are committed to complying with NEPA.

12 MS. FOX: My name is Perri Fox, and I'm
13 with NASA. NASA is a cooperating agency because we're
14 evaluating potential noise and vibration impacts to our
15 Neutral Buoyancy Laboratory operations and activities.
16 Based on this information, we will determine whether to
17 grant an easement to the proposed action across the
18 access road that connects the Sonny Carter Training
19 Facility, which houses our Neutral Buoyancy Laboratory
20 along with other space-related projects and activities,
21 with Ellington Field, which we use for training and
22 other flight activities.

23 MR. SUMMERVILLE: My name is Alan
24 Summerville. I'm with the firm ICF Consulting, and I am
25 the project manager for the third-party contractor team

1 that supports the Section of Environmental Analysis of
2 the Surface Transportation Board as well as the
3 cooperating agencies through the environmental review
4 process.

5 More specifically, we work with the lead,
6 the Surface Transportation Board, and the cooperating
7 agencies to help consult with regulatory agencies,
8 prepare analyses, conduct public involvement, support
9 them in preparing the actual document, and other
10 associated activities related to the environmental
11 review.

12 MR. CAPERTON: If you came in late and
13 came in through the back door, we'd ask you to sign in
14 before you leave tonight so that we have a record of how
15 many people came to this meeting. And if you'd like to
16 be on our mailing list, there's also a place for you to
17 put your address on the sheet of paper so you can get
18 future correspondence or information from the
19 Transportation Board.

20 I'd like to quickly go over the ground
21 rules again. One speaker at a time, and speakers will
22 have three minutes to speak. If you'll come to the
23 microphone and clearly state your name and, if you wish,
24 your address, and that way, you'll be put on our mailing
25 list, and any group or organization that you're

1 affiliated with.

2 We would like to give the elected
3 officials the opportunity to speak first, and I'd like
4 to call Peter Tyler, who is going to be speaking for
5 Congressman Lampson, I believe.

6 MR. TYLER: Hello. I'm Peter Tyler. I
7 represent -- I'm here for Congressman Nick Lampson, the
8 United States Representative for the Ninth Congressional
9 District, which includes a portion of Clear Lake. I've
10 already presented a letter in the written record, which
11 I'll be reading now.

12 To summarize what I'll be reading, he has
13 already stated in the past his opposition to the current
14 plans for the San Jacinto Rail line and he's also urging
15 the STB to review and reconsider the DEIS for the
16 proposed rail line.

17 I'll now read the letter which was sent
18 to Chairman Nober of the STB:

19 "I am writing to urge a review and
20 reconsideration by the Surface Transportation Board of
21 the Environmental Impact Statement for the proposed
22 San Jacinto Rail project.

23 "The proposed rail project continues to
24 be of great concern to affected residents and
25 communities. I have significant reservations regarding

1 the planned rail project due to the adverse impact to
2 the constituents living in the Clear Lake area of my
3 district as well as other communities. For these
4 reasons, I am restating my opposition to the proposed
5 rail line. I am hopeful that the involved companies can
6 find an alternative rail scenario that allows for
7 efficient transport of goods without locating a new rail
8 line that is too close to homes, businesses, schools,
9 parks, and other vital facilities.

10 "At the same time, the rail project is
11 obviously quite" -- excuse me -- "is obviously quite
12 complex and requires a robust process for understanding
13 the many impacts. However, throughout the review
14 process, the public has not had adequate opportunity for
15 input and participation. From an inconclusive Draft
16 Environmental Impact Statement to inadequately brief
17 comment periods, it seems evident that the STB has
18 demonstrated an insufficient level of concern for public
19 opinion and thus the public well-being.

20 "I have also recently been made aware by
21 some in the community of concerns regarding the
22 demographic analysis of affected minority and low income
23 communities. Federal policy requires that the
24 Department of Transportation take into consideration any
25 discernible or disproportionate adverse effects on the

1 minority or low income population during consideration
2 and review of major transportation projects. I believe
3 it is appropriate that these comments be dutifully
4 considered by the Surface Transportation Board during
5 consideration of the Final EIS.

6 "I therefore urge that the STB reinstate
7 the review process, thereby allowing full and complete
8 analysis of the proposal. I look forward to working
9 with the STB on this issue during the months ahead.

10 "Sincerely, Nick Lampson, Member of
11 Congress."

12 MR. CAPERTON: Thank you.

13 Councilman Carroll G. Robinson is our
14 next speaker. Is the Councilman here this evening or a
15 representative from his office?

16 Mayor Nancy Edmundsen is our next
17 speaker.

18 MAYOR EDMUNDSEN: Good evening. My name
19 is Nancy Edmundsen and I'm Mayor of the City of Shore
20 Acres. Shore Acres is located in the far eastern end of
21 the proposed rail line. While the City will be
22 submitting review panel comments and written comments as
23 well, I do want to mention a few concerns specifically
24 about the Draft Environmental Impact Statement tonight.

25 The biggest problem with the DEIS is it's

1 basing all of the impact analysis on only two trains a
2 day. The conclusion of the DEIS of few impacts on
3 surrounding communities is purely a function of the low
4 projected usage of the line.

5 A rail line is a long-term investment, at
6 least 30 years, and an EIS is supposed to assess both
7 short-term and long-term impacts of a proposed project.
8 While San Jacinto Rail may have commitments for only two
9 trains per day today, they will solicit additional
10 business once the line is built.

11 The stated purpose of the line is to
12 break Union Pacific's monopoly on the Bayport area and
13 offer more competitive rates. Won't these lower rates
14 induce additional customers to use the new rail line?
15 More traffic on that rail line is clearly foreseeable
16 and should have been assessed.

17 Another significant problem with the DEIS
18 is the naive analysis of land use impact. By blithely
19 stating that affected areas are already getting a mix of
20 land uses, the DEIS concludes that the proposed project
21 would not affect land use patterns. In fact,
22 San Jacinto Rail in conjunction with the proposed
23 Bayport Container Terminal would tip the delicate
24 balance that our area strikes now between residential
25 quality of life and industrial development. It would

1 tip that balance toward full-scale industrial sprawl.

2 The noise analysis is as poor as the land
3 use analysis. In essence, the methodology concludes
4 that additional noise does not constitute an impact
5 unless the average noise levels across a 24-hour period
6 reaches 65 DBA, an extremely high level of noise.
7 Looking at only average noise levels seems particularly
8 inappropriate for trains which are by nature
9 intermittent.

10 Under this methodology, a train rumbling
11 through your living room or a whistle blowing outside of
12 your window is not an impact, just as long as the
13 average noise across the day and night doesn't reach an
14 unbearable level.

15 Again, on the noise analysis, the
16 baseline noise measurements seem to be suspect. For
17 example, at one of the sites in Shore Acres that was
18 used for noise level monitoring, the San Jacinto Rail
19 DEIS finds more than double the noise level as was
20 measured during the Bayport DEIS analysis. And Baywood
21 Country Club showed noise levels considered
22 uninhabitable by the FAA? I don't think so. The DEIS
23 concludes, in essence, that the affected areas are so
24 noisy anyhow that what difference does two more trains
25 make?

1 Finally, the DEIS fails to properly look
2 at cumulative impact. Whether you believe that the BNSF
3 and the Port of Houston have ever spoken or will ever
4 even look each other in the eye, the fact of the matter
5 is the two projects would affect the same areas,
6 particularly those on the east end of the line, which
7 Shore Acres is located. And those impacts should be
8 looked at cumulatively.

9 The land use, noise, and wetlands
10 analysis in particular are areas where cumulative
11 impacts are a concern. Analyzing one of these projects
12 while pretending the other one does not exist is
13 irresponsible and, if I'm not mistaken, illegal.

14 There are clearly other important issues:
15 environmental justice, safety, hazardous spills, which I
16 know others will address. But I want to conclude by
17 stating to the Surface Transportation Board and the
18 San Jacinto Rail that our communities will stand
19 together to fight this proposal.

20 The integrity of the neighborhoods in the
21 Clear Lake area and in the East End are as important to
22 me as I hope the integrity of my community is to them.
23 We're not just fighting a "not in my backyard" issue
24 here. We're fighting a "preserve our quality of life
25 and preserve our region" issue.

1 Thank you.

3 (Applause.)

5 MR. CAPERTON: Thank you. Our next
6 speaker is Councilwoman Shelley Sekula-Gibbs.

7 COUNCILWOMAN SEKULA-GIBBS: Thank you,
8 Ms. White. Thank you for allowing us to have another
9 three weeks to have written comments and extending the
10 deadline to February 21st to allow more people to take
11 advantage of the opportunity to submit written comments.
12 I am Shelley Sekula-Gibbs, and I am an
13 at-large city council member for the City of Houston.
14 And the San Jacinto Rail is a bad thing for the entire
15 City of Houston; not just for Clear Lake, not just for
16 South Houston, and not just for the East End, but for
17 the entire economy of the city. We are not against
18 competition. We favor the idea of competition. But the
19 overall goal is to not destroy neighborhoods while
20 competition is being achieved.

21 An amicable agreement between Burlington
22 Northern Santa Fe and Union Pacific to share the
23 existing track along Highway 146 is the preferred route.
24 Unfortunately, that seems to not be the route that they
25 are pursuing. We would encourage you to look at that as

1 the optimal way to have competition for the two rails.

2 The Draft EIS is not a complete document.
3 The City will provides its own written comments
4 regarding their concerns about the Draft EIS. The City
5 of Houston passed a resolution in September that is
6 against the rail. I'm sure that most of you are aware
7 of that here in this room.

8 However, the City is certainly not
9 against competition. The draft does not take into
10 account that there are 30,000 school children within one
11 mile of the tracks. Some already are within one mile of
12 existing tracks, but the increase of rail traffic will
13 increase the risk of derailment and exposure to toxic
14 cargo by 66 percent.

15 The draft fails to consider the reduced
16 access to emergency vehicles and HAZMAT vehicles when
17 trains, which are up to 100 cars long, block
18 intersections. The draft does not take into
19 consideration the jeopardy that track 2D would pose on
20 the City's Southeast Water Treatment Facility, which
21 provides fresh water to the southeast corner of Harris
22 County. If a derailment occurred there, it would expose
23 up to two million Harris County residents to toxic
24 substances in our fresh water.

25 Section -- selection of route 1 or 1C

1 would stifle commercial growth along Ellington, would
2 reduce home values, and would reduce the value of the
3 one city park in the Clear Lake area, Sylvan Rodriguez
4 Park. It would also pose a security risk on Ellington
5 airport space, where you know the President of the
6 United States frequently lands.

7 Alignments along route 1 or 1C would pose
8 an environmental security and safety hazard to the Sonny
9 Carter Research Facility, and we hope that you will take
10 that into strong consideration. This is not adequately
11 addressed in the draft. Possible derailment,
12 construction damage, and a chronic vibratory stress may
13 have deleterious effects along pipelines that crisscross
14 throughout the southeast corner of Harris County, and
15 that is not adequately addressed in the Draft EIS.

16 In conclusion, we would call your
17 attention to the fact that the people are very
18 interested in supporting industry. We do not want to
19 stifle industry. We support the Bayport shippers in
20 their search for competitive rates, but we do not want
21 to do so at the risk of destroying the neighborhoods and
22 imposing health risks on our children.

23 Thank you.

25 (Applause.)

1
2 MR. CAPERTON: Thank you.
3 Mayor John Manlove, please.
4 MAYOR MANLOVE: Good evening. I'm John
5 Manlove, Mayor of the City of Pasadena. And this
6 morning in our council meeting, we passed a resolution
7 which is against the expansion of the railway through
8 this area that heavily impacts our neighborhoods. I'd
9 like to take a moment and read the resolution to you
10 which, by the way, passed unanimously. We have an
11 eight-member council and the mayor, and it passed
12 unanimously amongst all of our council members.
13 Could you hold that for a second.
14 Thank you.
15 "A resolution expressing the City of
16 Pasadena's support for the companies operating in the
17 Pasadena Bayport Industrial District, expressing the
18 City's opposition to the currently proposed routes for a
19 new rail line in southeast Harris County proposed by the
20 San Jacinto Rail Limited, Burlington Northern and
21 Santa Fe Railway, and expressing the City's support for
22 a negotiated settlement negating the need for
23 construction of additional rail lines.
24 "Several companies operating
25 manufacturing facilities in the Pasadena Industrial

1 District have expressed their concern over unreasonably
2 high noncompetitive rates for rail transportation of
3 products to and from their sites. Said companies have
4 united to form an entity known as San Jacinto Rail
5 Limited for the purpose of constructing an alternate
6 rail line in partnership with the Burlington Northern
7 Santa Fe Railway.
8 "Whereas, the City of Pasadena recognizes
9 the importance of area industry to the local and
10 regional economy and is a supporter of area industries
11 need to operate in a competitive environment which
12 offers fair pricing to all users of transportation
13 venues, including rail lines; and,
14 "Whereas, there is significant opposition
15 to the proposed routes for the San Jacinto Rail Limited
16 rail line proposed by BNSF, there will be significant
17 safety risks associated with construction and operation
18 of a rail line along such proposed routes through and/or
19 adjacent to the City of Pasadena, and the various
20 proposed rail line routes pass by schools, parks, the
21 water plant, and various neighborhoods; and,
22 "Whereas, BNSF plans a transport -- plans
23 to transport toxic chemicals within close proximity of
24 schools, parks, the water plant, and neighborhoods and
25 the City Council has significant concerns about the

1 effects the proposed rail extension routes will have on
2 public health and safety, mobility, environmental
3 quality, and the quality of life in and around the City
4 of Pasadena;
5 "Now, therefore, be it resolved by the
6 City Council of the City of Pasadena, Texas, that the
7 City of Pasadena does hereby oppose the effort by BNSF
8 to build and operate the San Jacinto Rail Limited rail
9 line along the currently proposed routes, that the City
10 of Pasadena urges the Federal Surface Transportation
11 Board to require Union Pacific and the Port Terminal
12 Rail Association to negotiate in good faith with all
13 companies doing business in and around the Pasadena
14 Industrial District and with the goal of providing
15 competitive pricing for the rail transport thereby
16 negating the need for construction of the proposed
17 San Jacinto Rail line along any of the proposed routes.
18 "Section 3, that the City of Pasadena
19 officially determined that a sufficient written notice
20 of the date, hour, place, and subject of this meeting of
21 the City Council was posted at a place convenient to the
22 public at the City Hall of the City Government and Code
23 and at this meeting has been open to the public as
24 required by law at all times during which this
25 resolution and the subject matter thereof has been

1 discussed, considered, and formally acted upon, the City
2 Council further confirms such written notice and the
3 contents and the posting thereof.
4 "Passed, approved, and adopted this
5 14th day of January, 2003."
6 Thank you very much.
7
8 (Applause.)
9
10 MR. CAPERTON: Mayor Eloise Smith,
11 please.
12 MAYOR SMITH: Good evening, ladies and
13 gentlemen. Thank you for the opportunity for our
14 community to address this important issue of the
15 San Jacinto Rail. I'm Eloise Smith, Mayor of the City
16 of South Houston. We're a very small city, population
17 about 16,000.
18 I found it interesting in Congressman
19 Lampson's letter, and I'd like to reiterate, he says,
20 "I've also recently been made aware by some in the
21 community of concerns regarding the demographic analysis
22 of affected minority and low income communities."
23 Ladies and gentlemen, that describes
24 South Houston. If you are aware of our area, we are
25 probably 90 percent minority and probably one of the

1 lowest per capita incomes in Harris County. The
2 proposed rail would run almost right through the middle
3 of our city. We have homes as close as from here to the
4 front door right from the track.

5 All that is between these homes -- and
6 I'm talking a considerable amount of them -- is just a
7 Harris County Flood Control ditch, and then there's the
8 railroad. These people would be in imminent danger if
9 we had a derailment. There have been derailments on
10 this track already, and I understand that they propose
11 to and have been working on the track, but that's not
12 going to prevent derailments.

13 At the current location, where shipments
14 are made along 146 in the Ship Channel area, they have
15 wonderful fire departments, HAZMAT groups over there.
16 They have all the facilities. We have a very small
17 volunteer fire department. To make matters worse, the
18 majority of our firemen live on one side of the tracks;
19 all of our fire trucks and fire equipment are on the
20 other side of the tracks.

21 We're not talking just two additional
22 trains a day, and I think that everyone is aware of
23 that. It may start that way, but I can assure you that
24 we already have an abundance of trains. We've had
25 incidences where we cannot get a fire truck to a home

1 that's burning. We have many schools, about seven
2 schools, that would be less than a half a mile from that
3 railroad track, not to mention a lot of nursery schools
4 and day care centers, one right across the street from
5 the railroad.

6 In our community, we also are recipients
7 of the Southeast Water Plant. A derailment along there,
8 as Shelley had stated, would be devastating to our area.
9 About 80 percent of our water comes from this water
10 plant.

11 I believe that the San Jacinto Rail
12 project should be totally reconsidered, and I know that
13 I speak for the 16,000 constituents that I have. It
14 just would be a big mistake for our community
15 especially. We're just right on that railroad track.
16 It's -- it's -- I'm three blocks -- my home is three
17 blocks from the railroad, and there are just thousands
18 of homes in our area that would come in this category.
19 We're very close.

20 We already have some fears as to the
21 HAZMAT and hazardous materials that are coming through
22 our community. We're asking that you please do not add
23 to this situation we already have.

24 Thank you very much.
25

1 (Applause.)

2
3 MR. CAPERTON: Mayor Natalie O'Neill,
4 please.

5 MAYOR O'NEILL: Good evening. Thank you.
6 I want to make something clear. We're not against the
7 companies that need to get their product to market. But
8 what I do want everyone to understand, before I tell you
9 about your DEIS, is that this proposed railway will
10 impact tens of thousands of citizens from the bay to the
11 East End. And the only reason it's necessary is to save
12 a handful of companies a few bucks. This is not
13 reasonable.

14
15 (Applause.)

16
17 MAYOR O'NEILL: On to the DEIS, your
18 review shows just a train or two a day. But Burlington
19 Northern Santa Fe is a common carrier. There are 14
20 industries at the Bayport Industrial area and a proposed
21 container port. And any of them can and may use that.
22 So the train per day or two trains per day, that's not
23 reasonable either.

24 You need to look at the big picture, the
25 end game. This EIS has to be combined with the Bayport

1 EIS. The cumulative impacts should be studied under the
2 Council on Environmental Quality. Section 40, CF 2,
3 Subsection 1508.25 says that they have to be studied
4 together because they are multiple pending proposals
5 with cumulatively significant impacts adjacent to each
6 other going on at the same time.

7 I think everybody knows that.
8 Nevertheless, there's every effort to keep the two
9 projects separate. Those two need to be looked at
10 cumulatively.

11 These projects together, but even
12 individually, will change land use from primarily
13 residential to primarily industrial. This land, if you
14 look at it, is prairie pothole wetlands, and it goes all
15 the way down to the bay, and what you're planning on
16 doing is changing that whole line to be primarily
17 industrial. And when it goes to the East End, it's
18 going to carry not only the trains from the 14 Bayport
19 industries that are there and the proposed Bayport
20 Container Port, if it goes in, but any new facilities
21 that build along this line.

22 That has huge potential to have huge
23 impacts, and it's just about a few dollars.

24 Thank you.
25

1 (Applause.)

2
3 MR. CAPERTON: That concludes the elected
4 officials that signed up to speak. Are there any other
5 elected officials that wish to speak tonight?

6 If not, we'll move to the list of
7 citizens who have signed up to speak. I'll call two
8 names at a time so you can start to get psyched up for
9 your comments.

10 Our first speaker is John Cobarruvias, to
11 be followed by Kurt Kessler.

12 MR. COBARRUVIAS: Good evening. My name
13 is John Cobarruvias. I am a board member of a community
14 association of over 2,000 homes, and we voted
15 unanimously to oppose this project. I do want to say
16 that there was a number of people who have volunteered
17 their time and money and time away from their kids to
18 attend this and fight this. And I want to thank the
19 crowd for coming out here. It is greatly appreciated.

20 Let me make sure we understand something.
21 We are not against progress. We are not against jobs.
22 We're not against profits. And we're not against need.
23 But we are against greed. And that is what this is all
24 about is greed. At the first meeting we were told that
25 this train would be going north of -- it couldn't be put

1 north of Ellington because there was a water treatment
2 plant. And they yelled and screamed that they could not
3 bring this north of Ellington.

4 A month ago, I was at city council and
5 they were on their knees begging city council to sell
6 them the land so they could build it north of Ellington.
7 Now, where is this track going to be built? Someone
8 asked me today, and my answer is this: It depends on
9 what day it is. It depends on what hearing you're at
10 and which PR firm you're talking to, which lobbyist
11 you're talking to, and which lawyer you're talking to.
12 We don't know. We're not getting that information, and
13 this impact statement does not adequately address it.
14 You talk about one train a day, one going
15 in, one going out. Let me tell you about one going in
16 and one going out in North Texas. There were two
17 trains, BNSF -- on a BNSF track. They were going in the
18 opposite direction, and they hit each other. This
19 happened up in North Texas. Accidents do happen. It's
20 not being addressed adequately.

21 In 1993, the federal government denied an
22 application for a rail because it was too close to a
23 residential area in Ohio. This rail was carrying
24 lumber. The rail that they are proposing is carrying
25 ethylene oxide, propylene oxide, plastic pellets, and

1 gosh knows what else, because they don't know either.

2 You have the authority to deny an
3 application. You have denied an application in the
4 past, and you must stand with this community based upon
5 the inadequacy of this DEIS, based upon the fact that
6 cities have stood up and unanimously said no to this
7 proposal. And you must stand up for our community and
8 you must deny this application.

9 Thank you.

10
11 (Applause.)

12
13 MR. CAPERTON: Thank you. Kurt Kessler,
14 to be followed by William Puffer.

15 MR. KESSLER: Thanks. Is that volume
16 okay? No? Okay. How about that?

17 My name is Kurt Kessler, and I'm the
18 production superintendent at the Equistar Bayport
19 chemicals plant. I'm a chemical engineer and I'm
20 responsible for manufacturing ethylene oxide. My wife
21 and I live in Clear Lake, and she practices veterinary
22 medicine here. And I appreciate the opportunity to
23 speak to you about issues regarding this rail project.

24 I've read the Draft Environmental Impact
25 Statement, and I have to compliment the Board on what I

1 think is a thorough and accurate but still sensitive
2 review of the project. Now, since this project was
3 announced quite a while ago, members of the community --
4 and that includes some of my friends and neighbors --
5 questioned us about the safe handling and transportation
6 of ethylene oxide and propylene oxide.

7 To understand what we do to make and ship
8 these products safely, you need to understand how we
9 view safety. Safety starts with the design and the
10 construction of these billion dollar plants. And over
11 the years, we have spent hundreds of millions to
12 continue to develop, review, and refine clean, safe
13 processes. And we spend millions annually to ensure
14 that the facilities are operated in that manner.

15 Each of our people receives on average
16 over a hundred hours of training in operating -- in
17 safe, clean, efficient operation of these facilities.
18 Safety is a value among our employees and that success
19 is evident in our historical performance. To my
20 knowledge, neither plant has ever had an incident that's
21 required any action on the part of the public. But the
22 way we see it, our responsibility to each other and to
23 the community does not stop at our fence line.

24 The same high standards apply to
25 transportation. The rail cars used to transport

1 ethylene oxide and propylene oxide are state of the art.
 2 They're designed not to leak, not when they're being
 3 loaded, not when they're rolling down the rails. In
 4 fact, they're tough, reinforced with three-quarter-inch
 5 steel to maintain the tank's integrity even in the event
 6 of a derailment. Every car is rigorously inspected
 7 before it's loaded, again while it's being loaded, and
 8 prior to leaving the facility.

9 Those inspections include not only the
 10 mechanical components, like wheels and brakes and so
 11 forth, but the tank itself, the pipings, fittings,
 12 valves, et cetera. Similar inspections are conducted by
 13 the railroads along routes to our customers. And we
 14 believe that the whole transportation process is
 15 inherently safe.

16 We believe that the performance of our
 17 people and our equipment and the railroads, whether
 18 that's UP or BNSF, speaks for itself. There has not
 19 been a leak during transportation of either of these
 20 products for decades, not since 1989, in fact.

21 In closing, I'd like to make one last
 22 comment. We're not a giant, faceless chemical plant
 23 hiding behind our gates. We're a group of people, we're
 24 neighbors in this community, and we're making products
 25 that go into things that we all use from automotive

1 parts to medical equipment, paints, varnishes, you name
 2 it. The list goes on.

3 And we want the same things that you
 4 want. We want a safe, quiet place to raise our
 5 families. We want good schools, good jobs, and
 6 neighbors who care about each other. And the quality of
 7 life is important to us. If not, we wouldn't be living
 8 here in Clear Lake.

9 In closing, I just want to thank the
 10 Board for the opportunity to comment, and I urge you to
 11 accept the findings in the Draft EIS.

12 (Applause.)

13 MR. CAPERTON: Thank you. William
 14 Puffer, to be followed by Douglas Mathera.

15 MR. PUFFER: Good evening. My name is
 16 Marty Puffer. I'm the health, safety, and environmental
 17 specialist with Lyondell --

18 MR. CAPERTON: You need to get a little
 19 bit closer to the microphone.

20 MR. PUFFER: My name is Marty Puffer.
 21 I'm the health, safety, and environmental specialist for
 22 the Lyondell Bayport facility. I'm presently
 23 responsible for ensuring that our plant manages and

1 disposes of processed materials in accordance with the
 2 regulations and the parameters of our operating permits.

3 Over the past 25 years, I have gained
 4 experience in the transportation and handling of
 5 hazardous materials, including chemicals and nuclear
 6 waste at another chemical plant. I appreciate the
 7 opportunity to comment on the San Jacinto Rail project.
 8 I believe my comments will come from a different
 9 perspective than you may hear tonight.

10 My wife and sons, ages 16 and 3, live in
 11 Camino South, less than a half a mile from Union Pacific
 12 line that parallels State Highway 3. Much has been said
 13 about the safety and the transportation of ethylene
 14 oxide and propylene oxide over the proposed San Jacinto
 15 Rail project. I respect and understand those concerns,
 16 but my family and I don't particularly share those
 17 concerns.

18 Our family is not and has never been
 19 worried about living next to the railroad track on which
 20 chemicals are transported, and I can tell you why.
 21 First, I know from personal knowledge the responsibility
 22 that the people at our plant accept when they load those
 23 cars. They know that it will travel near their homes.
 24 They know their schools, they know their parks, and they
 25 know their hospitals. They know what they are handling

1 and they know what they are doing.

2 Second, the rail cars, they're tough.
 3 They're designed and built to carry those chemicals,
 4 even if there is a derailment.

5 Third, the railroads have safely handled
 6 hundreds of shipments of propylene oxide and ethylene
 7 oxide every day and have not spilled a drop since 1989.
 8 The chemical industry and the railroads have done a
 9 tremendous job in getting the product to its destination
 10 safely.

11 And there's a fourth reason, which is not
 12 safety related. Much has been said about the property
 13 values, which is wrong. My wife and I purchased our
 14 home less than a half mile from the Union Pacific tracks
 15 along Highway 3 in 1998. Today our home is appraised
 16 33 percent more than we paid for it then. That's a
 17 pretty good increase. Railroads haven't hurt values in
 18 Bellaire, West University, River Oaks, Champions,
 19 Sugar Land, or Kingwood either.

20 In closing, I'd like to say again my
 21 family and I do not fear for our safety because of the
 22 rail line near our home, and we know that the value of
 23 our home has not been adversely affected by the
 24 railroad. The environmental analysis has determined
 25 that this railroad will not adversely impact any

1 population. It is for these reasons that I urge the
2 Board to accept the findings of the Draft Environmental
3 Impact Statement.

4 Thank you.

6 (Applause.)

8 MR. CAPERTON: Douglas Mathera, to be
9 followed by Laurence Tobin.

10 MR. MATHERA: My name is Douglas Mathera.
11 I manage the Lyondell Bayport plant. My wife and I have
12 lived in the Clear Lake area with our three children for
13 14 years. I appreciate the opportunity to comment on
14 the Draft Environmental Impact Statement and to
15 compliment the Board on what I believe is a thorough,
16 complete, accurate, and balanced assessment of the
17 environmental issues.

18 I must also reiterate for the Board,
19 however, the reasons why we have joined with competing
20 chemical companies and Burlington Northern Santa Fe to
21 bring rail competition to Bayport. We must have relief
22 from the crippling high rates charged by Union Pacific
23 for moving our products to customers. Without
24 competition for rail service, Lyondell, Equistar,
25 Basell, and Atofina often pay up to twice as much to

1 ship our products as do plants with competitive rail
2 options.

3 These are particularly difficult times
4 for chemical manufacturers. Increasing costs and weak
5 demand over the past several years have brought us to
6 significant changes in how we run our plant. We must
7 scrutinize every dollar that we spend to drive down
8 costs while at the same time maintaining the highest
9 level of safety and environmental performance. We've
10 cut production jobs. We've realigned our management
11 structure to eliminate jobs. We've built in new
12 reliability standards. We've reduced our energy
13 consumption. We've adjusted our processes to more
14 efficiently use our raw materials. And we've
15 renegotiated supplier contracts.

16 We've even received concessions from
17 trucking companies to transport our product. There is
18 only one area where we have been unable to cut costs:
19 rail transportation. And the effects of the Union
20 Pacific monopoly are plain. The future viability of our
21 plants and others operating in the Bayport Industrial
22 District is in jeopardy of falling behind other regions
23 of the United States and the world. Having to pay
24 millions of dollars a year in excessive transportation
25 expense hampers our ability to compete in global

1 chemical markets and diverts capital that could be more
2 beneficially invested in the local economy.

3 Simply put, plants in the Bayport
4 Industrial District are not cost competitive with
5 facilities that enjoy alternate rail options. It has
6 been asserted that we need only ask Union Pacific to
7 negotiate new rates to resolve this issue. Decades of
8 negotiations have not changed the reality that captive
9 shippers are charged rates far in excess of shippers who
10 have competitive alternatives. We would not have
11 proceeded with this costly and controversial decision if
12 other options existed for us.

13 The San Jacinto Rail partners have
14 diligently followed the prescribed procedures and
15 regulations to develop a solution to our rail
16 transportation requirements through the remedies
17 provided by the Surface Transportation Board and its
18 predecessor. San Jacinto Rail is a thoughtful,
19 environmentally sensitive development proposal that
20 balances the needs of the communities and the industrial
21 district in which it will operate.

22 I thank the Board for the opportunity to
23 share my point of view and urge you to accept the
24 findings of the Draft Environmental Impact Statement.

25 Thank you.

1
2 (Applause.)

4 MR. CAPERTON: Mr. Laurence Tobin. Is
5 Mr. Tobin here tonight?

6 C.C. McLean. Is Mr. or Ms. C.C. McLean
7 here? Okay. We'll move on.

8 Michael McKinney, to be followed by
9 Douglas Fulgini.

10 MR. MCKINNEY: My name is Michael
11 McKinney and I am the president of LBC Houston. LBC
12 Houston is a bulk liquid storage company handling a wide
13 range of chemicals, petrochemicals, petroleum, and other
14 liquid products. We operate facilities here at Bayport
15 and near Baton Rouge to handle the strategic bulk
16 storage needs of our customers.

17 LBC has provided services to Lyondell
18 Chemical Company, a San Jacinto Rail partner, for almost
19 25 years at our Bayport facility and also for Lyondell's
20 business in Europe. Our Bayport facility is near
21 Atofina Petrochemical's Bayport plant. From our
22 perspective, Lyondell and Atofina have always operated
23 in a safe, responsible manner, and they make a
24 significant contribution to the economy of southeast
25 Harris County through the jobs they offer, the taxes

1 they pay, and the local services they purchase from
2 companies such as LBC.
3 Petrochemicals from the Bayport
4 Industrial District are a significant part of this
5 region's economy, second only to NASA and the aerospace
6 industry. I am greatly concerned about the ability of
7 these plants to maintain their levels of employment,
8 investment, or expenditures for local services, such as
9 provided by my employees, if they continue to be
10 burdened by excessive rail transportation costs.

11 As long as Lyondell, Atofina, and the
12 other chemical plants in the Bayport area are served by
13 only one rail carrier, they will be vulnerable plants.
14 In the highly competitive global market for chemicals,
15 the lack of competitive options for rail transportation
16 or any other service can greatly impact the economic
17 viability of a chemical manufacturer.

18 As a company that provides services to
19 the chemical producers, LBC is also impacted by this
20 same shortfall at our local facility. Through the
21 remedies provided by the Surface Transportation Board
22 and its predecessor, the San Jacinto Rail partners have
23 diligently followed the prescribed procedures and
24 regulations to develop a solution to their rail
25 transportation requirement. San Jacinto Rail Limited is

1 a thoughtful, environmentally sensitive development
2 proposal that balances the needs of the communities and
3 industrial districts in which it will operate.

4 As a resident of Pasadena in the Clear
5 Lake area, I'm grateful for the various mitigation
6 proposals which will serve to maintain and enhance the
7 quality of life in my community. I thank the Board for
8 the opportunity to share my point of view and I urge
9 that they accept the findings of the Draft Environmental
10 Impact Statement.

11 Thank you.

13 (Applause.)

15 MR. CAPERTON: Douglas Pulgini, to be
16 followed by Gene Sanders.

17 MR. PULGINI: Thank you. Is that better?
18 My name is Douglas Pulgini. I'm vice president of Elite
19 International. We are a global logistics provider, a
20 freight forwarding shipping company here in Houston. We
21 specialize with services particularly for the chemical
22 industry. Our U.S. headquarters is located here in
23 Houston, and we employ approximately 125 people here
24 throughout the Houston area.

25 Elite operates extensively along the Ship

1 Channel, in the Bayport Industrial District, and other
2 ports along the Gulf Coast. We currently services --
3 provide services to San Jacinto Rail partners Atofina,
4 Basell, Equistar, and Lyondell. Elite -- as you can
5 imagine, the economic health of these companies is of
6 great importance to my company, and this also can be
7 said for most other service providers, vendors,
8 suppliers, and other suppliers that provide services to
9 companies in this Bayport Industrial District.

10 When business is good for these
11 facilities, all these facilities, business tends to be
12 better for us. When their operations are challenged,
13 when their profitability is in jeopardy, like it has
14 been now for the last two or three years, this has an
15 adverse effect on our company and many companies like
16 ours, many service providers like ourselves. Our
17 services at this time are needed less and less when
18 these companies become more and more noncompetitive.

19 Our margins are squeezed and our
20 employment levels are also in jeopardy. When you speak
21 of the economic viability of these four companies or any
22 other major facilities along this Bayport District, you
23 have to remember that addressing -- you have to address
24 the economic viability of hundreds and hundreds of other
25 small companies that are providing services and

1 manufacturing products, things like that, to the
2 chemical industry. There are -- and matter of factly,
3 there are eight -- for every job in the chemical
4 industry at these plants, there are eight other jobs in
5 the local economy that are providing goods and services
6 to the same chemical industry.

7 Since Elite is a global provider of
8 services, we know very well how competitive this
9 business is. These companies face stiff competition not
10 only domestically, but from Europe, Asia, and the Middle
11 East. We know that many supply decisions are based on
12 differences of a fraction of a cent. Maintaining an
13 advantage over the competition is a goal of every
14 business, small and large, and it must be particularly
15 challenging for these companies and others in Bayport.

16 As a local business person and a service
17 provider to each of these companies, I am grateful for
18 this opportunity and I would hope that you consider
19 this -- accept the findings of the DEIS.

20 Thank you very much.

21 MR. CAPERTON: Thank you.

23 (Applause.)

25 MR. CAPERTON: Gene Sanders, to be

1 followed by David Harpole.

2 MR. SANDERS: My name is Gene Sanders and
3 I'm a project manager and an employee-owner of Austin
4 Industrial. Austin Industrial is an employee-owned
5 industrial maintenance and construction company based in
6 Houston that specializes in supplying labor forces for a
7 wide range of chemical industry clients. We have
8 operations in the Gulf Coast area from Florida to Texas,
9 with a large portion of these operations in the Bayport
10 Industrial District.

11 Austin Industrial provides services to
12 San Jacinto Rail partners Lyondell, Equistar, and
13 Atofina. We employ 1,500 employee-owners in these
14 facilities with an annual payroll of approximately
15 \$80 million. The economic health of these companies is
16 very important to us.

17 I have had an opportunity to work at the
18 San Jacinto Rail partners' facilities. I know firsthand
19 how they insist we perform our daily work safely at all
20 times. I also know firsthand how they insist that we
21 perform our daily work as to never have an impact on the
22 environment and surrounding areas. These companies work
23 very diligently to ensure that the most important thing
24 on everyone's mind is the safety of the people and the
25 proper care of the environment.

1 We need to help these type of companies
2 prosper. Austin Industrial and other area companies
3 need these companies to succeed for us to be successful.
4 By that, I mean be employed. When these companies
5 prosper, the other businesses prosper with them. When
6 these companies are not profitable, then other
7 businesses suffer the same fate.

8 The Bayport Industrial District is a
9 significant part of this region's economy. I'm very
10 concerned about the competitive rail service these
11 companies -- without competitive rail service, these
12 companies cannot continue to be competitive in today's
13 markets. When the Bayport companies market their
14 products, they are already at a disadvantage to the
15 competitors because their transportation costs are
16 higher.

17 Everyone knows how tight today's markets
18 are and that a penny here or a penny there can change a
19 company's total existence in a market. The chemical
20 industry is essential to our local economy. As said
21 before, every job in the chemical industry in Texas is
22 estimated to create eight additional jobs in Texas. By
23 supporting the new rail line, you are supporting more
24 than just the Bayport plants. You are supporting an
25 essential infrastructure in the Bayport area and the

1 local economy.

2 As a resident of the area and an
3 employee-owner representing other employee-owners of my
4 company, I am grateful for your consideration of the
5 proposal to provide a solution to the rail
6 transportation requirements of these companies. I thank
7 the Board for the opportunity to share my point of view
8 and urge that it accept the findings of the DEIS.

9 Thank you.

10
11 (Applause.)

12
13 MR. CAPERTON: David Harpole, to be
14 followed by Lisa Siwinski.

15 MR. HARPOLE: Good evening. My name is
16 Dave Harpole. My family and I live in the Clear Lake
17 area of Houston about a mile and a half from where the
18 San Jacinto rail line is being proposed. I also work
19 for Lyondell Chemical Company and have been involved in
20 the project for the past year and a half. I'm here
21 tonight to highlight some of the positive actions that
22 this partnership has taken in response to our neighbors
23 and to challenge some of the falsehoods made by
24 opponents of this build-out.

25 Responsible land management has been a

1 consideration from day one. The route proposed by BNSF
2 was selected to utilize existing industrial utility and
3 pipeline corridors. Looking ahead, the land north of
4 Clear Lake City is no more suited for heavy industrial
5 use than it is for residential. Its future is
6 commercial and light industry, except for the 24 acres
7 of prime real estate along Space Center Boulevard that
8 has been set aside by BNSF as part of its mitigation
9 plan, further evidence against industrial encroachment.
10 Another 24 acres of mitigation has been
11 set aside for conservation near Armand Bayou. And
12 BNSF's wetlands mitigation plan will more than offset
13 the minimal damage to existing wetlands during
14 construction.

15 Requests from Clear Lake residents for a
16 grade separation at Space Center Boulevard were
17 accommodated by BNSF early in this process. That
18 bridge, like the overpass at Red Bluff, eliminates a
19 question about noise. There will be no train whistles
20 from the time a westbound train enters the Bayport
21 District until it has passed Clear Lake City and is
22 traveling north on the GH&H, again at speeds of no more
23 than 20 miles an hour.

24 BNSF was asked to find a route north of
25 Ellington Field. One was found and can be safely

1 operated around Houston's water treatment plant. When
 2 Texas Parks and Wildlife and Armand Bayou Nature Center
 3 voiced concerns about hardwood trees along a route at
 4 Taylor Bayou, BNSF developed an alternate route along
 5 Port Road.

6 Opponents have released red herrings
 7 about fault lines and pipelines, airplanes and
 8 floodplains, and their national security scare tactics
 9 have no merit either. School proximity also should not
 10 be an issue. Clear Creek schools have safely coexisted
 11 for decades adjacent to UP tracks transporting Texas
 12 City chemicals. This project is no different and no
 13 closer. Houston ISD has constructed 13 schools since
 14 1999. Four are less than one half mile from a railroad;
 15 three are less than one mile; five are between one and
 16 two miles; and the other one, the most distant, two
 17 miles. Same trains, same products, same issues. None.

18 And finally, for the record, I want to
 19 note that when a Draft Environmental Impact Statement
 20 concludes that a project has no adverse impact on any
 21 population, then efforts to make race an issue are
 22 reprehensible.

23 San Jacinto Rail is a thoughtful,
 24 environmentally sensitive development that balances the
 25 needs of the communities and the industrial customers

1 who need competitive rail service. I thank the Board
 2 for the opportunity to share my point of view, and I
 3 urge you to accept the findings of the Draft
 4 Environmental Impact Statement.

5 Thank you.

6
 7 (Applause.)

8
 9 MR. CAPERTON: Lisa Siwinski, to be
 10 followed by Donovan Boyd.

11 MS. SIWINSKI: My name is Lisa Siwinski,
 12 and I'm speaking to you on behalf of my family, my
 13 husband, David, and my two sons, Ryan, six, and Joseph,
 14 four. I'm an engineer by trade, but I stay at home with
 15 my children. I'm a mom. I live along Space Center
 16 Boulevard in the North Fork Subdivision.

17 The proposed San Jacinto rail line will
 18 be located within a few hundred feet of my home. The
 19 only thing physically separating this new rail line from
 20 my home is open field, Ellington Field. I've heard the
 21 measures that will be taken to prevent leaks and
 22 derailments, however, an accident by definition is an
 23 unexpected and undesirable event. Can anyone really
 24 guarantee that there will never be an accident?

25 Two products that will be transported in

1 these rail cars are ethylene oxide and propylene oxide.
 2 Ethylene oxide, produced by Equistar, per their material
 3 safety data sheet on their website, ethylene oxide is
 4 hazardous by OSHA's hazard communication definition; is
 5 a known human carcinogen, a cancer hazard, per OSHA and
 6 IARC, the International Agency for Research on Cancer;
 7 is a suspect reproductive hazard causing adverse
 8 reproductive effects and birth defects; is highly
 9 flammable; is a colorless gas whose odor is not a
 10 warning of a leak and whose vapors may travel long
 11 distances along the ground before reaching a source of
 12 ignition and flashing all the way back.

13 Propylene oxide, produced by Lyondell,
 14 per their MSDS sheet on their website, propylene oxide
 15 is hazardous by OSHA's hazardous communication
 16 definition; is a carcinogen per IARC 2B, and a possible
 17 cancer hazard; can damage nucleic acids, genetic
 18 material; is extremely flammable, highly reactive, a
 19 clear, colorless liquid whose odor is not a warning of a
 20 leak and whose vapors may travel long distances along
 21 the ground before reaching a source of ignition and
 22 flashing back. A visual of a jet engine comes to mind
 23 with Ellington Field.

24 If this rail line is constructed, we have
 25 to live with the constant fear of the unexpected,

1 undesirable event. I do not accept the findings of the
 2 proposal. I do not accept this proposed new rail line
 3 and cannot believe any civilized human being expects me
 4 to. This is a populated, residential area with
 5 thousands of families with children.

6 When that unexpected, undesirable event
 7 occurs, will you be able to look yourself in the mirror,
 8 knowing you played a part in causing cancer to a healthy
 9 father, an abnormal birth to an expectant mother, or
 10 death to a playground full of innocent children? I
 11 personally invite anyone to my home if this will help
 12 you see how much it would destroy an innocent
 13 neighborhood.

14 Thank you.

15
 16 (Applause.)

17
 18 MR. CAPERTON: Mr. Boyd, to be followed
 19 by Steve Ganey.

20 MR. BOYD: I'll have to bend over here.
 21 My name is Donovan Boyd and I am the president of
 22 Hydrochem Industrial Services. We are a national
 23 provider of industrial services operating in most of the
 24 50 states from 49 branch offices. Our corporate
 25 headquarters are in Deer Park; however, we employ

1 roughly 550 people in the metropolitan Houston area,
2 including a number of people in the Bayport Industrial
3 District.

4 Hydrochem provides services to Atofina,
5 Basell, Equistar, and Lyondell, and the well-being of
6 our company and thus our employees depends upon the
7 well-being of these customers. Recent years have been
8 difficult for the petrochemical industry, as you have
9 heard from others. Domestic and global competition
10 coupled with a poor worldwide economy have squeezed our
11 customers' financial positions down to very frightening
12 levels. That pain has been passed on to us, their
13 suppliers.

14 Many of Hydrochem's employees live in the
15 communities adjacent to this proposed line and other
16 rail lines and they gladly cross the tracks each day to
17 earn a good living serving the chemical companies. If
18 we're unable to support these companies with every
19 opportunity to be more competitive in their markets,
20 real people with real jobs will suffer the consequences.
21 Some already have.

22 Dollars saved in transportation costs are
23 dollars available to keep people employed and keep these
24 companies viable. This is a matter of survival for some
25 companies. My travels for Hydrochem include visits to

1 all of the industrial and commercial centers of the
2 country. I've seen the devastating impact on
3 communities resulting from the loss of fundamental
4 industries. Whole towns have been devastated by the
5 loss of steel and aluminum production now largely done
6 overseas, and such losses are partially the result of
7 less than aggressive competitive initiatives.

8 Houston now enjoys many sources of
9 employment and economic health from heavy industry to
10 high-tech. It is this breadth that allows our
11 metropolis to weather economic storms better than many
12 others. We must support this fundamental element of our
13 economic base, the chemical process industry, with
14 vigor.

15 I have studied the writings of the
16 Transportation Board and the media as well regarding
17 this project. As a deeply committed advocate of
18 environmental responsibility, I entered into the reading
19 with an open mind, I assure you, unwilling to support a
20 project that I felt would be harmful. It's my opinion
21 that the rail partners have exercised great care in
22 their plans, have properly weighed the interests of our
23 space, our communities, our families, and our economic
24 needs.

25 I urge you to accept the findings and I

1 thank you for allowing me to speak tonight.

2
3 (Applause.)

4
5 MR. CAPERTON: Okay. No more tall
6 people, please. (Laughter; adjusting microphone.)

7 MR. GANEY: Good evening. My name is
8 Steve Ganey and as a board member, I'm speaking to you
9 on behalf of Baypoint Community Association instead of
10 our president Paul Kevin Dicks, who is out ill tonight.

11 UNIDENTIFIED SPEAKER: We can't hear you.

12 MR. GANEY: How about this? I'll repeat
13 this. My name is Steve Ganey. I'll be speaking to you
14 on behalf of the Baypoint Community Association instead
15 of Paul Kevin Dicks, who's our president. He's out ill
16 tonight, so please bear with me.

17 Our association would like to clarify to
18 the Surface Transportation Board that Baypoint is the
19 closest neighborhood to alternative 1C. The line would
20 come within 200 feet from the Baypoint fence line.
21 Baypoint, which has 561 homes and several commercial
22 sites, opposes alternative 1C for the following reasons:
23 public safety, noise, vibration, quality of life, and,
24 of course, property values.

25 The Interstate Commerce Commission, ICC,

1 the predecessor to the Surface Transportation Board,
2 denied Finance Docket 31320 on July 23rd, 1993, on the
3 grounds of public safety, which would have given
4 permission to build a rail line in the suburbs of
5 Cincinnati. One of the findings was that it would pass
6 within a thousand feet of 470 homes and 220 mobile
7 homes. Proposed alternative 1C far surpasses these
8 figures.

9 In closing, how can the Surface
10 Transportation Board even consider proposal 1C when
11 precedents have been set back in 1993?

12 Good evening and thank you.

13
14 (Applause.)

15
16 MR. CAPERTON: Our next speaker is Dan
17 Borgen, to be followed by Betty Gauntt.

18 MR. BORDEN: Good evening. Thank you.
19 My name is Dan Borgen. I'm a resident of Clear Lake,
20 been here for ten years with my wife, three children,
21 who attend Clear Lake High School -- two of them, one
22 who is at Space Center Intermediate. I'm also here as a
23 representative of Bayport Rail Terminal.

24 I'd like to address some of the issues
25 that I've heard in communication with some of my

1 neighbors, many of my fellow citizens in the area. As I
2 said earlier, we live here. We go to church here. We
3 are involved in the community in various levels. But
4 let me speak about my individual personal experience as
5 it relates to rail safety at our terminal, Bayport Rail
6 Terminal.

7 We have -- we have shown repeatedly over
8 the past five years that we have -- since we have been
9 in business for five years in Bayport, that we have not
10 had a single safety issue, not a release, not a spill,
11 not a community involvement, adverse involvement of any
12 kind during the past five years. And the -- I guess the
13 interesting part about that is most of this community
14 and probably the room here doesn't even know that we
15 exist at Bayport. I think that's a real testament, that
16 we operate very efficiently, very safely there.

17 And many people have said to me, "When is
18 that Bayport Rail Terminal even going to be
19 constructed?"

20 And I have to tell them, "It's already
21 constructed. We have been operating for five years."

22 We currently interchange with Union
23 Pacific in the Bayport Loop. We are extremely sensitive
24 to the needs of our customers at Bayport. We get to
25 deal with them every day. We hear their concerns about

1 how their rates are being affected in a solo serve
2 situation. This also is a -- as you have heard earlier,
3 a customer-driven project. I mean, this is the first
4 time I've seen in this industry where competitive
5 industries have gone together with a railroad to invest
6 significant amounts of capital to build into an area to
7 provide dual service.

8 This investment, if approved, will
9 provide competitive transportation rates and improved
10 service which secures a stable employment base, job
11 growth, and a greater tax base to fund our schools and
12 community.

13 Let me also speak to one of the points
14 that I've heard discussed this evening and at other
15 times, and this is the volume of traffic that we hear.
16 We will be the receiving terminal for and interchange
17 the traffic, if approved, coming into and out of the
18 Bayport area. I can tell you and I'd like to look
19 around and tell each of you that I can tell you
20 firsthand that all of our operating plans do not exceed
21 the 100 -- or the -- the unit train coming in and the
22 unit train coming out on a daily average basis.

23 It just does not happen. So you can
24 choose to believe what you will, but I can tell you and
25 I invite you to call me, come and talk to me about that,

1 but it does not.

2 The other issue is property values. I,
3 as a resident and homeowner in the Clear Lake community,
4 do not feel threatened whatsoever about the property
5 value question.

6 And in conclusion, San Jacinto Rail
7 project in my opinion is a benefit to Bayport and its
8 customers, to Bayport Rail Terminal and its employees,
9 and is a safe and beneficial stimulus to our entire
10 economy.

11 Thank you very much for this time.

12 (Applause.)

13 MR. CAPERTON: Betty Gauntt, to be
14 followed by Thomas Schick.

15 MS. GAUNTT: Hello. My name is Betty
16 Gauntt and I live in the Baywood Oaks Subdivision.
17 There are at least 3,000 houses in our subdivision and
18 the adjacent subdivisions. The railroad looks like it
19 would be about a half a mile behind my house. My house
20 backs up to Genoa-Red Bluff.

21 These companies have been talking about
22 how safe the trains are and the cars are. I assume that
23 airplanes are also safe, but they do have crashes, don't

1 they? They're tough, they're inspected. Things will
2 happen. It only takes one of these. Maybe there hasn't
3 been one in however many years they're saying, but it
4 only takes one to kill me or my family or my neighbors.
5 And that's what I'm concerned about.

6 Previous people have talked about the
7 hazardous materials, the air quality, water quality, all
8 of those things, and I won't go through them all again.
9 I am concerned about my property values. I am concerned
10 about my neighbors in the same respect. I am concerned
11 about the water I drink, the air I breathe. I know
12 these chemicals cause cancer. My father had brain
13 cancer from working in a refinery, so I know that they
14 cause that.

15 We have homes, schools, businesses, day
16 cares in our area that would all be affected by this.
17 And they're saying we have to have the railroad in order
18 to have competition. There's already a rail line there.
19 You know, Microsoft was broken up because of a monopoly.
20 It sounds to me like Union Pacific -- somebody somewhere
21 in Washington, D.C. or elsewhere could cause them to
22 make an agreement with the other trains.

23 (Applause.)

1 MS. GAUNT: I don't think that
2 additional rail lines are really the issue here. I
3 believe that this could be addressed in other ways so
4 that our communities, neighbors, children, businesses
5 are not affected by these rail lines. These companies
6 are thinking about their bottom line, and I guess I'm
7 thinking about mine also. But I think there's another
8 way to affect their bottom line.

9 There could be someone that would affect
10 this monopoly that Union Pacific has and could cause
11 them to make some type of agreement so that my home
12 would not be affected. I urge you to not accept the
13 findings of this for -- previous people have mentioned
14 all of the reasons why, and I cannot understand why
15 anyone would spend \$80 million on a rail line that would
16 only have two trains.

17 Thank you.

18 (Applause.)

19 MR. CAPERTON: Mr. Schick, to be followed
20 by John Russell.

21 MS. SCHICK: Good evening. My name is
22 Tom Schick. I'm an attorney with the American Chemistry
23 Council in the Washington, D.C. area. We represent 165

1 companies which account for more than 90 percent of the
2 production of plastics and chemicals in the United
3 States. Atofina is a member, Basell, Equistar, and
4 Lyondell.

5 The American Chemistry Council also works
6 very closely with Burlington Northern Santa Fe and Union
7 Pacific on transportation safety matters. I'm pleased
8 to be here tonight to give the American Chemistry
9 Council's perspective on just two topics.

10 Number one, the original basis for the
11 San Jacinto project, which goes to the very question
12 that was asked by the previous speaker: Why would
13 someone do this? Number two, safety of hazardous
14 materials.

15 The basis for this project is not new.
16 It goes back to 1996 in an agreement called the
17 CMA agreement. CMA is the previous name of the American
18 Chemistry Council. We were called the Chemical
19 Manufacturers Association. In a letter that I filed on
20 behalf of ACC in March of 2002, which, by the way, gives
21 my business address, if you need that, I want to read
22 only one sentence.

23 Quote, "The proposed SJRL build-in is
24 precisely the kind of project envisioned by the CMA
25 agreement," end of quote. That's exactly what was

1 involved.

2 Why do I say that? Why were we
3 envisioning this? Because at that time, there was only
4 one railroad serving the Bayport Loop. That was
5 Southern Pacific, and it was merging with Union Pacific.
6 And the concern was there would be the loss of potential
7 opportunity in the future to build in and have a second
8 railroad serve those captive plants. UP could have
9 built in essentially along the lines that you're talking
10 about.

11 CMA raised that issue in the negotiations
12 with Union Pacific, which obviously include the Southern
13 Pacific. We reached an agreement which was incorporated
14 in a settlement which was also signed by The Burlington
15 Northern Santa Fe. More important, that was then
16 adopted by the Surface Transportation Board and made a
17 part of that merger. That's a permanent condition of
18 that merger. If there's a build-in, BNSF can pick up
19 the traffic on the GH&H. That's my first point.

20 The second point has to do with safety.
21 You all know about the importance of chemicals to the
22 economy here in the U.S. I'm not going to go into that.
23 85 percent of the materials that will be handled by SJRL
24 are nonhazardous, but I understand your concerns about
25 it. The first point, rail operations, including

1 hazardous materials issues, are extensively regulated by
2 the Department of Transportation. The same regulations
3 would apply to this very traffic, regardless which
4 railroad carries it.

5 But going beyond rules and regulations
6 from Washington, the American Chemistry Council is very
7 proud of its Responsible Care initiative, which is a
8 health, safety, environmental initiative that goes back
9 about 15 years. For the four member companies of ACC,
10 it's an obligation of membership. They cannot belong to
11 our association without participating.

12 For Burlington Northern Santa Fe and for
13 Union Pacific, it goes beyond that. They volunteered to
14 be Responsible Care partners. So I would end up by
15 saying that all six of these companies are equally
16 committed to safety.

17 Thank you.

18 (Applause.)

19 MR. CAPERTON: John Russell, to be
20 followed by Robert Gelinas.

21 MR. RUSSELL: Good evening. My name is
22 John Russell and I have been a Clear Lake resident for
23 13 years. I am an engineer and work for Basell USA,

1 Inc., one of the San Jacinto Rail Limited partners. I
2 appreciate the opportunity to express my support for the
3 project and explain why the San Jacinto Rail line is
4 important to me.

5 Tonight I speak on behalf of myself and
6 not as a representative of Basell. I am concerned about
7 the impact on the Bayport industries -- excuse me -- of
8 a single rail service and the resulting impact on the
9 employees and the local communities. The petrochemical
10 industry has tremendous global competition, high
11 material costs, and depressed prices. A competitive
12 rail line would present a potential for a huge cost
13 savings.

14 The plant where I work employs over 260
15 company workers and outside contractors and has already
16 had to shut down one key production unit due to cost
17 considerations, of which shipping was the major factor.
18 The Bayport plant pays much more for shipping by rail
19 than sister plants elsewhere in North America.
20 Transportation costs have a very high impact on the
21 Bayport industry's bottom line.

22 Basell and other companies in the region
23 were greatly impacted by Union Pacific service
24 disruptions following the Union Pacific and Southern
25 Pacific merger in 1997. Rail competition is badly

1 needed in the Bayport complex. The new rail line will
2 result in competition and provide a service alternative
3 in the event of future service disruptions.

4 The rail competition will allow the
5 companies to improve their cost structure, to reduce
6 transportation cost, and will help plants maintain a
7 competitive position in the international marketplace.
8 It is important to the financial viability of these
9 companies in order to maintain local employment and the
10 taxes and financial benefits that result to the local
11 communities.

12 The findings of the Environmental Impact
13 Study by SEA on the impact of the new rail line have
14 shown that there will be little to negligible impact on
15 the environment and surrounding neighborhoods,
16 negligible safety impact, and negligible impact on grade
17 crossings. As a local resident, I would not support
18 this project if I believed it presented a health or a
19 safety risk.

20 I sincerely ask your support for the
21 construction of the San Jacinto Rail line.

22 Thank you very much.

23
24 (Applause.)
25

1 MR. CAPERTON: Robert Gelinas, to be
2 followed by Robert Lindsay.

3 MR. GELINAS: Good evening. My name is
4 Robert Gelinas. I'm the Basell plant manager in Bayport
5 and also a Clear Lake resident. Tonight I'd like to
6 talk about the importance of competitive rail for our
7 industry and our plant. The plastics business --
8 plastics have become a commodity product over time, and
9 cost has become a very, very critical competitive factor
10 in this business. A difference of a fraction of a pound
11 can make a difference between making a sale and losing a
12 sale.

13 Our plant over the years has been able to
14 reduce costs, improve efficiency, and today we are one
15 of -- we are in the top 25 percent of the best plants in
16 terms of operating costs in North America. In the
17 transportation area, we are one of the worst. We are in
18 the worst 25 percent of the plants in our industry, and
19 this is due to the extra costs we pay for our rail
20 transportation.

21 This additional shipping cost -- and
22 we're talking millions of dollars only from my plant.
23 This additional shipping cost is significant and
24 significant enough to risk any further investment at our
25 facility. We compete every day for investment with our

1 sister plants in other states, and management will
2 invest in plants that are efficient and have low costs.

3 We all know what happens to plants that
4 have no investments. Technology becomes obsolete.
5 Equipment becomes obsolete. And over time, we're facing
6 plant closures. Our site currently employs 260 people.
7 This rail project would make the future of 260 families
8 more secure. Not having competitive shipping costs, on
9 the other hand, would jeopardize the long-term
10 employment by making us less competitive.

11 The STB has completed a very
12 comprehensive environmental study, and this study has
13 shown that there is no significant impact on the
14 environment in our neighborhoods. This reinforces my
15 position that this project should be approved to secure
16 the jobs of my employees and potentially create new jobs
17 in the future.

18 Thank you.

19
20 (Applause.)
21

22 MR. CAPERTON: Robert Lindsay, to be
23 followed by David Seep.

24 MR. LINDSAY: Good evening. My name is
25 Rob Lindsay and I work at the Basell Bayport plant in

1 Pasadena. However, today I come to speak to you as a
2 private citizen and an American. It might come as a
3 surprise, but I don't believe this proposed railroad
4 should have to be built. In fact, I think it's
5 un-American that this railroad is even being considered.

6
7 (Applause.)

8
9 MR. LINDSAY: Let's remember why this
10 railroad is being proposed. The purpose of the proposed
11 railroad is to provide competitive rail services. Today
12 Union Pacific is a monopoly. What is a monopoly? A
13 monopoly is when you don't have a choice who you buy
14 from and what price you pay. The only reason this
15 railroad is being considered is because a company called
16 Union Pacific is taking companies in the Bayport
17 Industrial District hostage and is demanding ransom for
18 rail service.

19
20 (Applause.)

21
22 MR. LINDSAY: Today's ransom is paid
23 through higher prices where competition does not exist,
24 a ransom so high that it's cheaper to build an
25 \$80 million railroad than continue to pay this ransom.

1 The freedoms and riches of America have been supported
2 by a free economy and hardworking Americans. America's
3 economy is based on a system called free enterprise, a
4 free enterprise system founded on the basic principles
5 of hard work, fair play, and competition; a free
6 enterprise system where hard work and fair play are
7 rewarded and poor work and unfair play is punished.

8 As we sit in the relative safety of this
9 room, we have young Americans preparing for war so you
10 and I can enjoy the freedoms of America. Do you support
11 American principles of fair play and competition? Do
12 you support free enterprise or monopoly? Do you support
13 competition or Union Pacific? Do you support right or
14 wrong? Do we stand by and watch and do nothing and let
15 this injustice continue?

16 The railroad is the only action that
17 effective companies can take to force Union Pacific to
18 negotiate. It's the only action available. The best
19 way to prevent this railroad from being built is to show
20 Union Pacific that the railroad will be built if they
21 don't play fair. What is right and just is for us to
22 support free enterprise, competition, and American
23 principles.

24 If we support these principles, we have
25 to stand against injustice and to support the building

1 of this proposed railroad. Americans do what's right
2 and just even when it's not easy.

3 Thank you.

4
5 (Applause.)

6
7 MR. CAPERTON: David Seep, to be followed
8 by Josh Miller.

9 MR. SEEP: Good evening and thank you for
10 allowing me to speak tonight. My name is David Seep and
11 I am director of environmental engineering and program
12 development for The Burlington Northern and Santa Fe
13 Railway Company. Among other duties, I'm responsible
14 for providing oversight regarding the environmental
15 issues for the San Jacinto Rail project.

16 Tonight I'd like to discuss the voluntary
17 mitigation measures that have been proposed and the
18 benefits of those measures. In an attempt to be
19 sensitive to the concerns of the communities and
20 consistent with the Surface Transportation Board's
21 recommendations, BNSF prepared and submitted to the
22 Board last August a comprehensive set of voluntary
23 mitigation measures. I'd like to focus my comments on
24 just a few of the 76 mitigation measures that are in
25 Chapter 6 of the Draft Environmental Impact Statement.

1 The first step in the process was to
2 avoid and minimize adverse impacts through early
3 planning and comprehensive site investigations. Track
4 alignments therefore were selected to reduce impacts by
5 using areas along existing utility corridors where land
6 had previously been disturbed. Based on our extensive
7 field work, we were able to modify our alignments to
8 avoid many impacts.

9 For example, at the Taylor Bayou
10 crossing, BNSF developed an alternative crossing
11 concept, identified as alternative 1B of the
12 Draft Environmental Impact Statement, that reduces
13 impacts of the tidal marshes by 75 percent. Even now
14 during the final stages of design we are continuing to
15 look for innovative approaches to further reduce wetland
16 impacts and are designing the track structure with berms
17 and flow check areas in an effort to improve water
18 quality.

19 As a result, for the entire length of the
20 project, only about 7 acres of wetland habitat will be
21 affected, of which less than 3 acres will be
22 jurisdictional wetland. To compensate for those
23 unavoidable impacts, BNSF is proposing to reserve more
24 than 48 acres of habitat in three different ecosystems:
25 the coastal prairie, bottomland hardwoods, and the

1 essential fish habitats.

2 Another example of BNSF's commitment to
3 the environment is the work that was done related to
4 endangered species. A preliminary review did not
5 indicate any affected endangered species. During the
6 process, however, we became aware of the possibility of
7 suitable habitat for an endangered plant species, the
8 Texas Prairie Dawn. Through BNSF's effort, 18
9 previously unknown populations of this endangered Texas
10 Prairie Dawn, a small flowering plant, that was not
11 known to occur in this area before, was found. I am
12 pleased to report that not only will our preferred
13 alignment not impact this plant, but we are -- we have
14 purchased and are setting aside a habitat for these
15 newly identified plants, something that possibly would
16 not have happened without our involvement.

17 However, our commitment to conservation
18 does not end with our voluntary mitigation measures. We
19 continue to explore ways to use the 24-acre mitigation
20 site to create a larger coastal prairie conservation
21 site in the area, which otherwise might eventually be
22 developed. This will potentially also help to ensure
23 that these open spaces near the rail line will remain
24 undeveloped.

25 These are just a few of the examples why

1 we are justifiably proud of our environmental position
2 and our voluntary mitigation measures.
3 And once again, thank you for letting me
4 speak.

5
6 (Applause.)

7
8 MR. CAPERTON: Josh Miller, to be
9 followed by Jim Blackburn.

10 MR. MILLER: Good evening. My name is
11 Josh Miller and I'm 27 years old, recently married, and
12 have a wonderful five-month-old son. I work as an
13 operator for Atofina Petrochemicals at the Bayport site.
14 Because of the job Atofina provides for my family, I am
15 able to be the sole provider for my household, and my
16 wife is able to stay home with our son.

17 I hired on at Atofina a little over five
18 years ago; however, after working at Bayport for four
19 years, I decided to leave Atofina and returned to my old
20 job working for a restaurant. My goal was to finish my
21 college degree, taking classes during the day and
22 earning my income by waiting tables in the evening.
23 Well, it only took a few months to realize what I
24 mistake I had made by leaving and how hard it was going
25 to be to provide for my family.

1 After talking to my plant manager and
2 human resources manager, they agreed to rehire me and
3 let me return to my job at the plant. This has turned
4 out to be a true blessing for my family. I have been
5 able to purchase a home, provide a comfortable living
6 for my family, and secure medical coverage. I have also
7 continued my education, with Atofina paying most of the
8 expense.

9 The medical coverage has been a
10 lifesaver, as I'm sure many of you with children know
11 quite well. We have had our share of medical problems
12 with my son, and without the benefits provided by my
13 employer, it would have been difficult, if not
14 impossible, for my son to receive the care he has been
15 given.

16 The railway is very important to my
17 company and to me personally. I rehired with Atofina in
18 the hopes of providing a living for my family over the
19 next 30 years. My concern is that ventures like the
20 railway project that are vital for my family's survival
21 will be stopped, putting my company and others like them
22 in an economic disadvantage, meaning that my job and
23 many more jobs will not be long term or will no longer
24 exist.

25 Thank you.

1
2 (Applause.)

3
4 MR. CAPERTON: Jim Blackburn, to be
5 followed by Scott Franklin.

6 MR. BLACKBURN: Good evening. I'm Jim
7 Blackburn. I'm chairman of the Galveston Bay
8 Conservation and Preservation Association, and I
9 appreciate the opportunity to be here and speak against
10 the San Jacinto Rail project. I'm speaking --

11
12 (Applause.)

13
14 MR. BLACKBURN: I'm speaking here tonight
15 because, among other things, I'm sick and tired of
16 environmental impact statements not telling the truth
17 about what's happening about proposed actions. This
18 Environmental Impact Statement does not tell the truth
19 about a number of different issues, and that's a
20 violation of the National Environmental Policy Act.

21 Now, these companies can talk all they
22 want to about unfair competition, but it is truly
23 reprehensible to misrepresent the impacts of a project
24 to a community and to come in tonight and stack the
25 comments with company comments and not allow the people

1 to come in and talk. And that, I'd say, more than
2 anything else really makes me angry.

3
4 (Applause.)

5
6 MR. BLACKBURN: The companies had a
7 chance to put this program together. They had a chance
8 to provide input on the Environmental Impact Statement.
9 This should be a comment period for the citizens
10 tonight, and it's bothersome.

11 Now, I'll tell you what's reprehensible.
12 What's reprehensible is that the truth was not told
13 about the land use impacts. That truth was not told
14 about the minority census tracks that exist alongside
15 this rail.

16 What's reprehensible is that there is an
17 Ohio case decided in 1993 that denied for public safety
18 reasons, a line that impacted much fewer people than
19 this line did, because there were too many people living
20 by it. What is it about Houston that makes the standard
21 that's applicable in Ohio not applicable in Houston?

22 We just -- everybody in the country knows
23 that we just get dumped on down here? Why can't we have
24 an Ohio standard applied here if it was used to deny a
25 rail? That becomes more reprehensible when it's a

1 minority-dominated community that is denied the same
2 protection that a suburb in Ohio got. That's what we're
3 dealing with here.

4 Galveston Bay Conservation and
5 Preservation Association submitted scoping comments to
6 the Surface Transportation Board identifying that there
7 were minority communities that were affected and they
8 were primarily Hispanic. There is absolutely no reason
9 other than gross negligence or intention to misrepresent
10 why this wouldn't have been in the Environmental Impact
11 Statement. That is truly reprehensible.

12 There are many other problems with this
13 project. There are cumulative impacts with Bayport that
14 have been totally ignored. There are mobility impacts
15 that have been ignored throughout the community. There
16 are land use, wetlands impacts due to secondary
17 development. There are any number of issues that have
18 been neglected. But what's really reprehensible is that
19 we can't get the truth out of the Surface Transportation
20 Board.

21 We need a supplemental Draft
22 Environmental Impact Statement to tell the truth, to let
23 everyone in this community know the truth of what is
24 going to be impacted and affected.

25 Thank you.

1
2 (Applause.)

3
4 MR. CAPERTON: Scott Franklin, to be
5 followed by Cheryl Berg.

6 MR. FRANKLIN: Good evening. My name is
7 Scott Franklin with Onyx Industrial Services Company,
8 located in La Porte, Texas, providing industrial
9 cleaning to the petrochemical industry. We employ a
10 local area workforce of over 300 personnel at this
11 location. Additionally, Onyx employs numerous suppliers
12 which service our operations as a result of our daily
13 business activities.

14 Onyx Industrial Services has provided
15 industrial services to Atofina for several years.
16 Atofina is an important client that provides significant
17 economic benefit to both our company and employees. In
18 these uncertain economic times, the financial health and
19 viability of our client base is of significant concern
20 to our company, employees, suppliers, and stockholders.
21 If Atofina experiences a curtailment in operations due
22 to competitiveness in the marketplace, Onyx would be
23 faced with workforce, supplier, and revenue reductions.

24 We would like to see Atofina remain
25 financially strong and competitive so that our company,

1 employees, and suppliers continue to benefit from the
2 successful relationship that we have had through the
3 years.

4 Thank you.

5
6 (Applause.)

7
8 MR. CAPERTON: Cheryl Berg, to be
9 followed by Steve Ross.

10 MS. BERG: Thank you very much. Good
11 evening, members of this panel. My name is Cheryl Berg.
12 I'm a homeowner in Clear Lake, where my family has lived
13 for the past 12 years, and I'm also a small business
14 owner in the Clear Lake area as well.

15 I address you this evening as a citizen
16 being in support of the proposed rail project, and I do
17 so firstly because of my support of the need for local
18 competition in the business community. Competition is a
19 key component to a healthy economy, and a healthy
20 economy is good for all citizens in this area from all
21 walks of life. The Bayport Industrial District is a key
22 economic engine for the local community, and I support
23 responsible initiatives to stabilize economic positions
24 of those industries.

25 The San Jacinto Rail proposal does, in

1 fact, propose a solution to a serious problem for our
2 local industry, and it does so responsibly. Shippers
3 currently with no available rail alternatives other than
4 the status quo will continue to be disadvantaged in the
5 market where other industrial participants have
6 competitive rail access. This unique partnership of
7 competitive industries at Bayport is a clear example of
8 the serious need for change to bring about rail
9 competition at Bayport.

10 As a result, our local economy will
11 benefit in sustaining the economic health of our vital
12 industrial district. In addition, local enterprises
13 will also benefit. I have some familiarity with the
14 rail industry and some of the rail infrastructure
15 locally. Any way you slice it, rail transportation is
16 the safest mode of HAZMAT transportation available to
17 industries at Bayport.

18 And you are all aware that in anyone's
19 memory, there has never been any serious incidents of
20 rail transportation out of Bayport. That's because
21 these industries have seriously made safety a way of
22 life. Bottom line is that the risks of major rail
23 incidents on this route are far less likely to occur
24 than, say, a HAZMAT incident on Highway 3.

25 I don't take this issue lightly, because

1 I do live in this community as well. However, I am
2 convinced that BNSF offers a safe transportation product
3 and the relative risks are remote in view of the limited
4 number of HAZMAT cars they propose to transport over the
5 new rail route. In any event, these risks, albeit to
6 other areas of our community, still exist whether or not
7 this line gets built. And in point of fact, a state of
8 the art new line of railroad in lieu of the current
9 alternative is something that bears consideration.

10 This is an important project that
11 deserves our local support, particularly where
12 responsible companies have clearly done their homework
13 and have attempted to address our community's concerns.

14 Thank you very much.

16 (Applause.)

18 MR. CAPERTON: Steve Ross. I believe
19 it's Steve. It's a handwritten -- last name Ross.
20 Anybody signed up to speak?

21 MR. POCSIK: Is it Pocsik?

22 MR. CAPERTON: No, it's not. Megan
23 Gregson, to be followed by Kristy Tee.

24 MS. GREGGSON: Good evening. My name is
25 Megan Greggson and I am the production planner and

1 liaison logistics coordinator for Old World Industries,
2 located off of Bayport Boulevard. Our facility produces
3 ethylene glycol and ethylene oxide. Ethylene glycol is
4 used to manufacture polyester fiber, resins, epoxy,
5 recording tape, automotive antifreeze, and engine
6 coolants, among other things. Ethylene oxide is used
7 primarily in the production of ethylene glycols but is
8 also used in manufacturing soaps, detergents, and
9 medical sterilization of materials.

10 We ship hundreds of thousands of tons of
11 liquid chemicals each year via barge, rail car, and tank
12 truck. Nearly half of those shipments to our customers
13 across the United States move by rail. Given that, Old
14 World Industries is encouraged by the efforts of
15 San Jacinto Rail and The Burlington Northern and
16 Santa Fe Railway Company to construct a new rail line to
17 provide alternative service to the Bayport Industrial
18 District. We believe competitive rail service is vital
19 to the survival of our business and the survival of our
20 customer's business.

21 In fact, our industry as a whole would
22 benefit from an economical standpoint and from a
23 logistics standpoint by simply having more
24 transportation alternatives. Since purchasing our plant
25 in December of 1999, we have performed numerous rail

1 cost studies, most of which have magnified the
2 noncompetitive situation we are currently forced to
3 endure. We have compared our rail freight costs out of
4 Bayport against the costs for rail transportation out of
5 the Houston area, where there is competition, and have
6 found that we are paying much higher freight costs out
7 of Bayport.

8 Our current exacerbated rail freight
9 costs have forced us to look and act upon other
10 alternatives to rail in order for our own company to
11 remain competitive. The current situation in Bayport
12 with Union Pacific being a monopolizing rail carrier has
13 not provided competitive rail costs, and until it does,
14 Old World will continue to move away from rail and to
15 other alternatives where available.

16 Thank you for your time.

18 (Applause.)

20 MR. CAPERTON: Kristy Tee, to be followed
21 by Gene Sanders.

22 MS. TEE: Good evening. My name is
23 Kristy Tee and I come speaking as a citizen that lives
24 in North Fork, and it's in very close proximity to IC, I
25 believe. I live right along Space Center Boulevard

1 backing up to that. And with my friend Lisa, I am a
2 mother who stays at home with children, and I have them
3 in elementary school. And I am very concerned about the
4 rail going in.

5 I am part of the group for responsible
6 rail called CORE. We are not against business. We want
7 competitive business. As a businesswoman when I was
8 working, I respect those people that need their jobs and
9 I do -- we're not against that. We want you to be
10 responsible in your job to try and look at the real
11 thing that's going on here, which I really think we have
12 been misled as to the number of rails.

13 I respect the gentleman who says there's
14 only two rails that are going to go out, but it just
15 doesn't make any sense. I mean, common sense says
16 there's got to be more activity with the number of
17 companies that are there and with the amount of
18 potential business that can come out of those companies
19 and the need for them to increase their business to
20 eventually send out more business. So how's that going
21 to happen? It's going to be by rail. So, you know, it
22 just doesn't make any sense.

23 So I think you have to be prudent and
24 look at the fact that there could be potentially a lot
25 more business on those rails. I'm concerned about

1 derailment. There's been various derailments around the
2 country. You can't tell me that it's safe. And I know
3 those cars are made well. They say that they seal them
4 well, but I have seen cases where they haven't been
5 sealed well.

6 Nobody can prove it to me, like Lisa
7 said, that it's going to be safe, and I don't want to be
8 there the day that it happens, when that car falls and
9 leaks, something happens, and we -- what do you do with
10 the kids? You're a shut-in. It's very difficult. So I
11 want you to look at that.

12 I want you to look at the population, the
13 population that's being affected, the number of people
14 that live within very close proximity to the lines, the
15 demographics of that.

16 I want you to look at the noise. I am
17 very sensitive to loud noises because of a seizure
18 disorder. And I don't know how many decibels is
19 acceptable to you, but to me, to walk into a Wal-Mart is
20 too many decibels. So whatever that is, that's too high
21 for me, and it affects my health.

22 I want you to look also at the air
23 quality as well. There's many other issues, the
24 pipeline issues. I am going to draft up a statement
25 that is all-inclusive, but I wanted to address this in

1 front of my fellow citizens to make them aware and to
2 ask them, you know, to present to you their feelings
3 regarding what's real and what's actually going on here.

4 I thank you for your time.

6 (Applause.)

8 MR. CAPERTON: Gene Sanders.

9 Ruby Cubley, to be followed by Annette
10 Dwyer.

11 MS. CUBLEY: I'm here on behalf of the
12 Clear Lake Area Chamber of Commerce. I'm going to read
13 a letter that our board passed this morning addressed to
14 the Surface Transportation Board Members.

15 "This letter amends and replaces comments
16 filed in March 2002 by letter from the Clear Lake Area
17 Chamber of Commerce. This new filing states our
18 organization's concerns and comments regarding the
19 proposal of the San Jacinto Rail Limited project to
20 construct a new rail line to service the Bayport
21 Industrial portion of the Clear Lake area.

22 "Our organization represents some 2,000
23 members and a business community encompassing nine
24 municipalities located in Harris or Galveston County,
25 Texas. These municipalities are home to some 200,000

1 residents who currently enjoy a comparatively high
2 quality of life. It is the view of our organization
3 that, number one, there should be adequate and
4 competitive transportation services, including railway,
5 for the numerous petrochemical plants and other
6 industries operating in the Bayport industrial area of
7 our community.

8 "Number two, these industries are
9 important to the continued economic viability and growth
10 of the Clear Lake area.

11 "Number three, the quality of life for
12 our 200,000 residents is important to the economy of our
13 area and should not be compromised by an additional
14 railway winding its way across the area, increasing
15 noise, causing interruptions to roadway traffic with
16 additional rail crossings, and posing potential
17 environmental and public health threats from accidents
18 or spills along the proposed rail line.

19 "Number four, all routes currently
20 proposed by the San Jacinto Rail Limited project are too
21 close to existing residential and public areas. In some
22 locations, a railway could be only a few hundred feet
23 from homes. Additionally, proximity to a public park
24 and school are of concern. All this will adversely
25 affect the residential desirability of the area and

1 negatively impact property values.

2 "Number five, national security and
3 terrorism are of concern. All routes now proposed place
4 the railway adjacent to or very near one of this
5 nation's vital defensive facilities, Ellington Field.
6 This airfield is the operational home of the 147th
7 Fighter Wing of the Texas Air National Guard, which
8 provides air defense along the Gulf Coast. There is
9 concern that having the trains carrying hazardous and
10 perhaps toxic chemicals and subject to possible
11 dangerous chemical releases by either accident or
12 terrorist attack could compromise the airfield's
13 function as an essential national defense facility.

14 "It also is a fact that currently another
15 rail line, Union Pacific Railroad, holds a monopoly on
16 rail service to a number of our area industries. We
17 believe that instead of permitting a new rail line to be
18 constructed and operated, the Union Pacific Railroad
19 should be encouraged to allow the proper and realistic
20 compensation that Burlington Northern Santa Fe Railway,
21 the railroad partner in the San Jacinto Rail Limited
22 project, its use of a portion of Union Pacific's
23 existing tracks and rights-of-way.

24 "By acting to cause the utilization by
25 multiple users of existing Union Pacific Railroad

1 tracks, the Surface Transportation Board would, number
2 one, keep the rail cars and their chemical cargoes
3 further away from populated areas and more within
4 existing industrial areas, thus eliminating the Clear
5 Lake community's safety and environmental concerns about
6 a new rail line near homes, schools, and parks.

7 "Number two, not place a new target for a
8 terrorist attack or potential for debilitating
9 operational accident alongside an important national
10 defense facility, Ellington Field.

11 "Four, provide a means for industry to
12 have a competitive choice of more than one rail carrier.

13 "We respectfully request you work on
14 behalf of the citizens of Clear Lake and encourage the
15 Union Pacific Railroad and the San Jacinto Rail Limited
16 group to come together and develop a way to conduct
17 their businesses in a manner that serves industry, the
18 general public, and national defense.

19 "Should you have any questions or require
20 additional information regarding our Chamber's position,
21 please do not hesitate to contact us."

22 And it's signed Scott Steel, Chairman of
23 the Board.

24 Thank you.
25

1 (Applause.)
2

3 MR. CAPERTON: Annette Dwyer, to be
4 followed by Steve Grossman.

5 MS. DWYER: Hello. My name is Annette
6 Dwyer. I am on the board of the North Fork Community
7 Association, a neighborhood of 1,038 homes which would
8 be one of the two neighborhoods located most closely to
9 the new rail line that is proposed. I'm also on the
10 board of the Association of Clear Lake Communities, an
11 organization which represents 13 neighborhoods in Clear
12 Lake.

13 In August of 2001, our Board was among
14 the first to find out that an application had been
15 submitted to the Surface Transportation Board for this
16 new rail line. At that time, we were able to see the
17 map that was initially sent in, and I could see why at
18 that time the Surface Transportation Board had no
19 problem with this proposal. If I looked at that map, I
20 would have thought it was a rail line going through the
21 wilds of West Texas, because it was so outdated and
22 completely left out neighborhoods for miles around.

24 (Applause.)
25

1 MS. DWYER: At the same time, until it
2 was brought to their attention, no one along an existing
3 rail line that would take this train 30 miles further
4 into Houston was notified. That was completely ignored.
5 But a lot has changed since August 2001.

6 I don't think at that time we could have imagined that
7 two planes could have been used as weapons despite all
8 their safety precautions and in a matter of minutes wipe
9 out thousands of people and millions of dollars in
10 property. Since the last few months, the FBI has issued
11 its own warning that they believe that terrorists will
12 target trains, use trains in much the same manner.

13 They're not going to be targeting trains
14 that are out in West Texas or carrying lumber. They're
15 going to be looking for trains that have the maximum
16 impact in a community.

18 (Applause.)
19

20 MS. DWYER: I'm also disturbed that NASA,
21 the Coast Guard, and the FAA are here representing the
22 Board today; however, they are only looking at matters
23 of property and there is not one issue of national
24 defense or security, when we have the Coast Guard at
25 Ellington Field. And we are also concerned about the

1 interceptor group, which is our first line of defense,
2 that that is being completely ignored. It is woefully
3 inadequately addressed in the Draft Environmental Impact
4 Statement and needs to be addressed most closely.

5 At first, I was not concerned about this,
6 but after working on this issue for 18 months, this has
7 become more of a concern to me. While the average
8 citizen has been subject to extraordinary measures if
9 you're flying, being searched, I do believe that the
10 San Jacinto Rail should hold itself up to extraordinary
11 measures also and become -- I believe this is also an
12 un-American -- as someone previously stated, an
13 un-American proposal.

14 Thank you.

15 (Applause.)

16 MR. CAPERTON: Steve Pocsik, to be
17 followed by Wendy Ashworth.

18 MR. POCSEK: Good evening. My name is
19 Steve Pocsik and I am plant manager of the Atofina plant
20 in Bayport. We make plastic pellets that are sold to
21 other companies who then convert the pellets into
22 products we all use every day, such as plastic bags,
23 bottles, tanks and pipes. We are a partner in the

1 San Jacinto Rail project.

2 My plant employs more than 200 Atofina
3 and contract people. We provide desirable, high paying
4 jobs with good benefits, jobs that people want to have
5 for a long time. We experience very little turnover.
6 For 22 years, our site has provided good jobs and been a
7 good neighbor in the community. Many of our employees
8 have been at the plant the entire time the site has been
9 in existence, but many of my employees are young. They
10 have children, and they are counting on the Atofina site
11 being there for another 22 years or even more.

12 Atofina is important to the community.
13 Our annual payroll is over \$15 million. Our employees
14 pay property taxes. Our plant pays property taxes. In
15 fact, Atofina pays more than \$3 million per year in
16 property taxes, two thirds of which go to the Clear
17 Creek Independent School District. Our employees spend
18 their money in the local area, and many are active in
19 the community.

20 Last year, our employees raised more than
21 \$16,000 for the United Way. We are actively involved in
22 supporting projects and programs associated with CCISD,
23 and we participate in other community activities.

24 The long-term viability of the Atofina
25 site is dependent on competitive rail rates. As

1 consumers continue to enjoy low prices driven by giants
2 like Wal-Mart, our business as a supplier has become
3 more and more competitive. By necessity, decisions on
4 future investments can no longer ignore the enormous
5 disadvantage our Bayport site has regarding rail
6 transportation.

7 My company is international and has
8 choices as to where to invest in future projects. The
9 company must invest in sites that are the most
10 competitive. Due to the extreme disadvantage in
11 shipping costs that exists at the Bayport plant, Bayport
12 is not as desirable as many other company-owned
13 locations. Without future investment, the future of our
14 jobs is at risk.

15 To illustrate the disadvantage that
16 exists, Atofina has another plant only ten miles from
17 the Bayport plant in La Porte. That site has
18 competitive rail service. We both ship our plastic
19 pellets all over the nation. If you take a typical
20 example of shipping to Chicago, it costs Bayport twice
21 as much to ship a rail car to Chicago than it does when
22 shipped from our La Porte plant.

23 This is not only an economic issue for
24 more than 200 workers and their families at my plant,
25 but this is an economic issue for thousands of workers

1 in Bayport whose companies can benefit from the leverage
2 that competitive rail service would provide. This isn't
3 about making more money or profits. It's about jobs.
4 It's about getting my plant to be as cost effective to
5 run as other facilities that have competitive rail
6 service.

7 My family, including my three children,
8 live in Clear Lake less than a mile from the proposed
9 rail line. So this issue is a personal one for me as
10 well. I feel confident the environmental aspects have
11 been adequately evaluated and urge you to accept the
12 findings of the DEIS and help assure the long-term
13 economic viability of the Atofina Bayport site.

14 (Applause.)

15 MR. CAPERTON: Wendy Ashworth, to be
16 followed by John Bish.

17 MS. ASHWORTH: Good evening. My name is
18 Wendy Ashworth and I live with my husband and
19 22-month-old toddler in northern Clear Lake about a mile
20 from the proposed new BNSF rail line. I live in one of
21 the neighborhoods that will be affected by the rail, and
22 I work for Atofina, so I'm speaking to you tonight as a
23 citizen, a mother, and the administrative manager of the

1 Atofina Petrochemicals Bayport plant.

2 As a citizen and mother, I really don't

3 have concerns about the proposed new rail line either

4 for my neighborhood or for my family. I grew up near a

5 railroad, so I have experience living near a rail line

6 that others may not have. Some of the important

7 differences between this proposed rail line, however,

8 and the one that I grew up near are the trains on this

9 rail line will be at slow speeds and there will be no

10 whistles blown. As a child, I grew up accustomed to

11 fast trains and loud whistles, so as a mother, I'm glad

12 to know that difference exists.

13 The other reason I'm not concerned is

14 that the business side of me knows the facts about this

15 rail. The majority of the cars shipped on this rail

16 will contain harmless plastic pellets. These are the

17 same plastic pellets that my plant makes and that are in

18 the stuffed animals and Beanie Babies that my son and

19 your children or perhaps grandchildren play with every

20 day.

21 The Atofina Bayport plant employs more

22 than 200 local people. We and the other plants in the

23 Bayport Industrial District currently being held captive

24 to the Union Pacific Railroad provide good jobs to many

25 people. On my small cul-de-sac, there are nine houses.

1 Of these, five families have at least one person

2 employed in the local petrochemical industry. That's

3 55 percent of my immediate neighbors.

4 According to the University of Houston,

5 the chemical industry is the second largest employer in

6 the region, so clearly our jobs are important to the

7 community. Our people work here, live here. We raise

8 our children here, and we shop here. We are good

9 corporate citizens and important members of this

10 community.

11 At Atofina, we pay our employees well.

12 We provide benefits, and we actively participate in the

13 local community and economy. We provide the kinds of

14 jobs and work environment that people desire. When we

15 had 5 operation positions come available recently, we

16 had almost 400 applicants. That's 80 applicants for

17 each opening. This is the kind of response we get to

18 almost every position we advertise.

19 As the administrative manager for the

20 Bayport facility, I am responsible for our people from

21 hiring through retirement. I am witness to the fact

22 that this is a well-run facility. I believe it's one of

23 the best, with the sole exception of shipping. Atofina

24 provides desirable jobs, but to continue doing so, we

25 must remain competitive in the workplace.

1 I work for a large company but a

2 relatively small plant, and my plant must compete with

3 every other Atofina location for corporate dollars. Our

4 Bayport plant has many attractive features, an excellent

5 safety record, a good location, and a positive workforce

6 with a can-do attitude. It's truly a great place to

7 work. For us to stay in the game, however, we have to

8 remain competitive in rail service. Without

9 competition, my plant currently pays twice as much for

10 rail service as our other facilities.

11 In conclusion, the jobs of our employees

12 and the employees of the countless local suppliers and

13 vendors serving our plant depend upon remaining

14 competitive in the marketplace. This is why four

15 competing companies have joined together to build a new

16 rail line. It's because we all know that the jobs we

17 provide depend upon it.

18 Thank you.

19

20 (Applause.)

21

22 MR. CAPERTON: John Bish, to be followed

23 by Debora Willits.

24 MR. BISH: Good evening. My name is John

25 Bish and I echo the sentiments of those opposed to the

1 rail line on a number of cases. I think it's naive at

2 best to assume that there's no linkage between the

3 Bayport facilities and the rail line. I think it's

4 naive at best to assume that there will only be two

5 trains traveling on this track given that The Burlington

6 Northern Santa Fe is a for-profit company.

7 I think it's -- I have serious concerns,

8 given the insights that we've been given into the

9 operation of companies here lately, companies like Enron

10 and WorldCom, that they don't always exercise the best

11 judgment when large sums of money are involved. I just

12 want to let you know that we're relying on you, the

13 Surface Transportation Board, to protect the interests

14 of the citizens in this area.

15 Thank you.

16

17 (Applause.)

18

19 MR. CAPERTON: Debora Willits, to be

20 followed by Matthew Helm Kemp.

21 MS. WILLITS: Good evening. Can you hear

22 me now? I come to you from the Houston Yacht Club and

23 I'm a delegate of the Houston Yacht Club and we are here

24 to inform you that we are absolutely opposed to what is

25 going on with this. We are absolutely appalled that you

1 are ignoring the cumulative impact on what's happening
2 with the San Jacinto Rail project with the Bayport
3 Container Terminal. We think that the environmental
4 issues on the bay have been absolutely overlooked.

5 We will be asking for a supplemental EIS.
6 We will be filing comments. We are really disappointed
7 this is going on. There's a lot of people in this
8 community that use this area as recreational venue. We
9 have a lot of important customers, important employees
10 and employers in the room, but balanced use of land is
11 very, very important.

12 Not only is Clear Lake and specifically
13 Shore Acres and Kemah the areas where those plants
14 reside and proposed line resides, we have a lot of
15 tourism here, a lot of people using this bay. We have a
16 worldwide sailing venue, and you're ignoring all that.
17 There is not another habitat we can ship that to. It's
18 here, it's ours, it's now. And you have an obligation
19 to us to look at that.

20 Thank you very much.

22 (Applause.)

24 MR. CAPERTON: Matthew Helm Kemp, to be
25 followed by Marijane Smitherman.

1 MR. HELMKEMP: Yes. My name is Matt
2 Helm Kemp and I am a technical manager for a chemical
3 company on the Ship Channel. I live in Baypoint
4 Subdivision. And I'd just like to say that I'm strongly
5 opposed to the proposed rail line. A couple of things
6 concern me.

8 (Applause.)

10 MR. HELMKEMP: My biggest concern has to
11 do with ethylene oxide. Ethylene oxide is one of the
12 most dangerous chemicals on the face of the earth, and I
13 realize that Lyondell, Equistar, and other companies are
14 going to take precautions. One of the people that works
15 for me is on HAZMAT teams. And sometimes he doesn't get
16 to come in to work because he has to go out on HAZMAT
17 calls. When he goes on these calls, it's not because
18 somebody designed something poorly or an employee didn't
19 care and they purposefully did something wrong. It was
20 companies with good intentions had some things that went
21 wrong. Now, ethylene oxide is something you really
22 don't want to have go wrong.

23 I was actually asked by upper management
24 in my company to take a job a few years ago at a plant
25 that worked with ethylene oxide, and I actually turned

1 the job down. I was very concerned just for my own
2 safety with working around ethylene oxide.

3 That being the case, the estimates I saw
4 on a paper here said there were 21,000 people within a
5 quarter mile of the railroad tracks. If I felt that it
6 would be dangerous for me to even -- or I had concerns
7 about my safety to even work at a place like that, I
8 certainly would feel very badly about having 21,000
9 people within a quarter of a mile of ethylene oxide in
10 rail cars.

11 And I do know what I'm talking about. I
12 have undergraduate and graduate degrees in chemical
13 engineering, and I am certainly not opposed to industry.
14 But I have very grave concerns of ethylene oxide and
15 other hazardous materials being this close to families
16 and schools.

17 Thanks.

19 (Applause.)

21 MR. CAPERTON: Marijane Smitherman, to be
22 followed by Doug Peterson.

23 MS. SMITHERMAN: Good evening. I want to
24 apologize first because I came here kind of on a lark.
25 I was concerned about this. So I've only written a

1 couple of notes down here. I'm not a professional
2 speaker like some of these petrochemical people are.

3 But I moved to this community in 1968.
4 My name is Marijane Frede Smitherman. I am for
5 competition. My father is a Chevrolet dealer here and
6 has been here for about, what, 30 years or so. So I
7 want to welcome the petrochemical industry to the 21st
8 century of competition. I think the issue that we have
9 here is that we need to get Tom DeLay and some of the
10 other congressmen, whatever, to look at the Union
11 Pacific issue. And I feel like that --

13 (Applause.)

15 MS. SMITHERMAN: -- you're really
16 stepping on the backs of all of the citizens of Clear
17 Lake, because this issue cannot be dealt with by you
18 guys, okay?

19 And I want to talk about being out of
20 work. My husband has been out of work for nine months.
21 I would rather him be out of work for nine years than
22 endanger the people of Shore Acres or Clear Lake or
23 South Houston, those poor people there, than have him go
24 back to work. That's how important this issue is.

1 (Applause.)

2
3 MS. SMITHERMAN: And I'm shaking right
4 now because I'm very nervous. I am married. I have
5 four children. I brought two of my children here with
6 me. They're in the back. My husband was home with my
7 other two children. We live probably about a half a
8 mile from this proposed site, this proposed railroad
9 site. We have lived outside of Chicago for the past
10 three and a half years, and when I would come home, back
11 here to Houston, and I would hear about this proposed
12 rail site, I didn't really pay much attention because I
13 couldn't believe that it would really pass, that it
14 would really happen, that once again, as someone stated,
15 someone's going to dump on Houston again.

16 It just hurt my heart to think about
17 that. And now we've moved back here. We came back
18 around Thanksgiving, and I find out that it might be in
19 my backyard or someone else's backyard. And it really
20 is very upsetting, so I hope that you will look at all
21 the different issues and see -- look at it with your
22 heart. Think about if you lived in South Houston.
23 Would you want to live there?

24 And let me tell you, I lived in West
25 University for 11 years, and we got rid of our rail

1 lines there. I don't know about Bellaire and all those
2 other places, but I'm going to call them and find out.
3 But they know what's right there, okay, and we should
4 know what's right here.

5 My gosh, this is Texas. Did y'all
6 forget -- you got your money in the way of doing what's
7 right, I think. So that's all I have to say.

8 Thank you.

9
10 (Applause.)

11
12 MR. CAPERTON: Doug Peterson.

13 MR. PETERSON: Good evening. My name is
14 Doug Peterson and I'm the president of the Bay Area New
15 Democrats, a democratic organization in the Bay Area.
16 And I'm also a family member, a father of three
17 daughters. We live in the Bay Forest area. And I just
18 wanted to start out by asking you a question. And that
19 question is simply: What will it take?

20 You know, I've looked through the DEIS
21 and I've looked through a lot of other documents and
22 when I read through the comments that you made, it
23 appears to me that the decision is made. And really,
24 you're looking for reasons. You're looking for
25 rationale. You're looking for justification to justify

1 what you've already decided.

2 I heard Jim Blackburn say we need to have
3 a supplemental DEIS. I think that's very true. I think
4 if you look at some of the things that have been
5 discovered about the Hispanics along the rail line on
6 the north side, you really have to talk about what is
7 truly reprehensible. And what is reprehensible is that
8 people or organizations or corporations will actually
9 lie about how many minorities are actually close to
10 these rail lines.

11 As I understand it, you folks pay
12 attention to what the submissions are from the rail
13 lines or the facts about this. And it is incredible to
14 me that there's the possibility that you listened to
15 that and look at that and then make your decision. I
16 hope that you will take the time to do another
17 supplemental statement and take a real hard look at
18 this. This is not a simple issue, I'll admit, but
19 you've got to take the time to do it right.

20 And another thing I'd like to say is that
21 I think it's a shame the way the speakers have been laid
22 out tonight, that people like myself that work in
23 another job, have a family, have kids go play soccer,
24 the whole thing, we've got to try to fit our time in to
25 do this type of thing. And to have an advance sign-in

1 works nicely for the private sector, for the corporate
2 leader, for the corporate representatives. But if
3 you're a regular person, it makes it real hard. You
4 don't have time to do these kind of things.

5 And so let me suggest that before you go
6 any farther on this, after you do the hearing up north
7 of here in East Houston, that you also take some time
8 and come down to Clear Lake and let the people talk to
9 you.

10 Thank you.

11
12 (Applause.)

13
14 MR. CAPERTON: Thank you. Now, that
15 represents everybody that either preregistered or signed
16 up tonight to speak. Is there anybody else that has not
17 spoken tonight that would like to speak?

18 If you could just come to the mike one at
19 a time and state your name, please. Thank you.

20 MS. VARGO: I'm Mary Vargo. I'm chairman
21 of the Southeast Neighborhood Coalition. I've been
22 working for the last year with the Clear Lake group and
23 all the other groups that are involved in this. I live
24 in the forgotten Highway 3 area. I live in the area
25 that your DEIS stated was primarily Anglo. I thought

1 that was rather amusing, because I don't have one Anglo
2 neighbor.

3 I live in a neighborhood of over a
4 thousand homes, and at least 95 percent are Hispanic.
5 Yesterday I pulled the HISD, Houston Independent School
6 District, demographic studies, which are ready available
7 to you guys. I pulled them on each of the schools that
8 is within close proximity to the rail. They are
9 anywhere from 90 to 99 percent minority. The vast
10 majority is Hispanic. They also have a vast majority
11 that are in the free lunch program, which indicates
12 poverty.

13 Now, you look at those of us who are here
14 working on this and you think, "Gosh, those guys
15 couldn't be too poor." Well, the people that are really
16 poor are the people who aren't here, because they're
17 working two or three jobs.

18 One of my neighbors came to ask me for
19 some help, a Hispanic man who doesn't speak much
20 English. He came to ask me for some help on a legal
21 matter. I asked him how much money he made. He was
22 very excited because he just got a new job. He makes
23 8.50 an hour. When he's not at work, he and his wife
24 and three children are mowing grass from daylight to
25 dark, summer, winter, spring, and fall.

1 I want you to know I offered -- when Dana
2 White was here last time, I offered to drive anybody
3 that wanted to know anything about the community
4 anywhere they wanted to go. I've lived in it 51 years.
5 No one took us up on it. You talk about there only
6 being -- that there are no homes closer than a thousand
7 feet. Your wording was very clever, closer than a
8 thousand feet to the proposed line.

9 Now, I don't think that's correct, even
10 in Clear Lake, but I can tell you right now, there are
11 thousands of homes whose back line, their property line,
12 is adjacent to the right-of-way. Drive up Highway 3 and
13 see how many homes are like that. Tomorrow night, you
14 can walk out the front door of Chavez High School and
15 you'll be staring at the railroad.

16 You can stand in the parking lot of
17 Foodarama or Seller Brothers Grocery Store and not only
18 will you be the only white people there, you may one of
19 the few who speak English. The people who are being
20 affected by this still don't even know about it. I have
21 Hispanic people calling me every day, the ones that know
22 what's going on, and they say, "Mary, the Hispanic
23 people don't know."

24 Many of these people are very poorly
25 educated. Many of them don't have any education. They

1 may not even be able to read in Spanish, and that is not
2 an insulting comment to them. It is to say to you that
3 I think you have misused your time. You have misused
4 your opportunity to do something for the public, and you
5 have ignored the majority of the population.

6
7 (Applause.)

8
9 MS. GROVES: Good evening. I'm Bileen
10 Groves. I am a member of the board of directors of
11 Pinebrook Subdivision. We are at the very end of Clear
12 Lake City Boulevard at Meadowbrook. Pinebrook has 1,081
13 homes. We are south of the proposed path of the
14 railroad, and we are not as proximate as North Fork or
15 Baypoint. But there are concerns, because we know the
16 land out there.

17 We're living with all the fault lines.
18 We're living right behind all those pipelines. We're
19 living behind what used to be gas storage caves. We
20 know what the land is like out there. We know it
21 shifts. Your consideration of the soil, your
22 consideration of the pipelines during the DEIS was
23 inadequate.

24 I can understand the concerns of the
25 business entities. They are talking about several

1 thousand jobs. The association of Clear Lake told you
2 there are over 200,000 residents in Clear Lake and South
3 Houston. Our values, our financial viability is being
4 affected by these -- this proposed rail. Because we
5 have to get to work, we have to live, we have to sell
6 our homes, we have to breathe the air, our viability.
7 Extend to us the same courtesy.

8 I realize you need to be competitive.
9 I'm an attorney for one of the major companies in Clear
10 Lake. I understand bottom line. I'm understanding very
11 well that the United States Congress is going to be
12 cutting my agency's budget, which means my company's
13 budget is going to be cut, which means I may -- we may
14 have to lay off people.

15 The economy is bad. I have three nephews
16 who are out of work right now. But recognize that we
17 have over 200,000 people here. This is their dollars
18 too.

19
20 (Applause.)

21
22 MS. GROVES: This is their savings that
23 bought these homes. I have to stress to you, you did
24 not consider national safety. I live a quarter of a
25 mile south of the flight plan or the landing pattern or

1 take-off pattern at Ellington Field. I can tell you
2 what it was like to be awakened at 3:00 a.m. and
3 4:00 a.m. when F-14s went off and scrambled after 9/11.
4 And if we go to war, they're going to be scrambled every
5 day and every night.

6 And if you've got railroad cars there and
7 you've got chemicals there, and even if 10 percent of
8 them is hazardous, you're creating a national security
9 danger to the 200,000 residents in Clear Lake.

10

11 (Applause.)

12

13 MS. GROVES: You have to consider that,
14 and it wasn't considered in the DEIS. I'd just like to
15 tell you one thing you didn't consider was traffic or
16 adequately consider traffic, particularly traffic
17 compared with the addition if Bayport goes through, not
18 going to the fact that you should have considered them
19 both simultaneously.

20 In my prior lifetime as an attorney, I
21 was an assistant city attorney for Columbus, Ohio, and I
22 represented the city and I was integral in the routing
23 of hazardous materials, albeit it was trucking. And the
24 Ohio Trucking Association kept on saying to me, "Eileen,
25 our trucks are safe. We drive safe. We follow all of

1 the routing requirements. Our trucks are safe."

2 And I can't remember if it was in 1987 or
3 1988. A hydrogen truck ignored routing and overturned
4 at the intersection of I-71 and I-70 in downtown
5 Columbus, Ohio, about a mile from the State Capitol.

6 MR. CAPERTON: Please wrap up,
7 Ms. Groves.

8 MS. GROVES: I will wrap up very quickly.

9 As a result of that turnover, besides the
10 fact that it was within a quarter of a mile to three
11 hospitals, it tied up traffic on I-71 north and south
12 between Cleveland and Cincinnati and between the Indiana
13 line and the West Virginia line.

14 Now, folks, I invite you to try to get
15 out of Clear Lake at 8:00 o'clock in the morning or at
16 5:00 o'clock in the afternoon on Clear Lake City
17 Boulevard, which is going to be right south or running
18 parallel to -- if you're on Highway 3, to that track.
19 If you have an incident, how are the 200,000 people of
20 Clear Lake supposed to get out of here?

21 Thank you.

22

23 (Applause.)

24

25 MR. GAUNT: I'm Johnny Gaunt. I wasn't

1 going to speak, because I was going to let my wife do
2 the talking for me, but it seems to me like we have a
3 very simple situation right here. It seems like what
4 we've got is a case of there's a rail already there, but
5 they're gouging. They're gouging you people too much.
6 This is why your company sent you in here to talk,
7 because they're charging you too much.

8 It seems to me like if there would be a
9 way that you can legally bring pressure to bear on the
10 existing line to get right with their price, we wouldn't
11 need this other line.

12

13 (Applause.)

14

15 MR. GAUNT: And that's the route you
16 need to go instead of jeopardizing us with the hazardous
17 chemicals that have been explained. Just force the
18 company to get right on their price, because if they
19 did, you wouldn't need this line.

20 Am I right? Companies, am I right?

21 Okay. That solves it.

22

23 (Applause.)

24

25 MR. PARRAS: Good evening. My name is

1 Juan Parras and I hope you can see me because I'm not
2 invisible, as your figures apparently show that we are
3 nonexistent in Southeast Houston. We represent the
4 majority of the minority community in that area
5 beginning at Ellington Field all the way to inner city
6 and almost all the way to the east borders of Harris
7 County.

8 Again, I just want to, I guess, refer --
9 or refrain from commenting right here too much, because
10 I will be at the Cesar Chavez High School meeting. And
11 I invite those of you who are opposed to the rail system
12 to join us at the Cesar Chavez High School.

13 Were you able to hear me? I've just
14 realized that I'm echoing and I can hear myself.

15 Anyway, I will reserve my comments for
16 tomorrow. We are visible. You can feel me, touch me if
17 you want to, but we exist and we vote.

18

19 (Applause.)

20

21 MR. HAMMOCK: Hi. My name is Tal
22 Hammock. I'm a resident of Clear Lake. I live in Bay
23 Glen Subdivision. I have a wife and two children. And
24 I've listened to the comments, and to hear the company
25 people talk about it, it sounds like this is a good

1 deal. But I have to tell you, I am vehemently opposed
2 to it because it's bringing a rail track through our
3 neighborhoods, through -- by our schools and putting our
4 kids in danger.

5 Frankly, I'm a plaintiff's personal
6 injury attorney. That's what I do for a living. I have
7 a lot of cases where well-intentioned individuals and
8 well-intentioned companies made mistakes. And I just
9 don't think that a rail line through a neighborhood is
10 where you want a serious mistake to happen.

11 Thank you very much.

12 (Applause.)

13 MR. GIVEN: My name is Chris Given. I'm
14 a resident of Bay Oaks, father of four children. And I
15 know that the primary mandate of the Surface
16 Transportation Board is to promote commerce. I'm not
17 going to fool myself by thinking that you have some kind
18 of environmental imperative here.

19 I didn't have an opportunity to prepare
20 any speech like the people that filibustered for the
21 first two hours up here --

22 (Applause.)

1 MR. GIVEN: -- but I will tell you that
2 some of the same companies that have talked about the
3 cost of transportation putting them out of business,
4 like Basell, who shut down a plastics plant in
5 Louisiana, or Equistar, who shut down a plant in
6 Port Arthur, and cited as the reasons for those closures
7 being unfair foreign competition, I guess I'm here to
8 tell you that the emperor is not wearing any clothes.

9 Furthermore, they talk about the safety
10 of these rail cars. When I see those cars going down
11 the track, I guess I'm kind of caught with the image
12 that if they can't even protect them from adolescents
13 from spray paint, how can they protect them in our
14 neighborhood?

15 (Applause.)

16 MR. WORTHAM: Good evening. My name is
17 Mike Wortham. I work for a NASA contractor. I
18 appreciate your staying here late tonight. I will try
19 to be brief. I had three points I wanted to make that
20 I felt compelled to make before I left.

21 When the proposal was first made and I
22 saw it in the local paper, I went to the NASA archives

1 of Space Station photos of the area and pulled down a
2 photo and overlaid the rail track and filled in the
3 schools and the churches and the parks. And I was
4 appalled at the proximity of the rail line to those
5 facilities.

6 My second point is I deal some in risk
7 mitigation of space systems. It's a basic fundamental
8 when you're dealing with risk mitigation of systems that
9 risk is additive. You must add the risk of all the
10 subsystems to obtain the risk of the total system.
11 Therefore, it was a very powerful argument made tonight
12 that the risks of Bayport must be additive with the
13 risks of the rail line.

14 My third and most important point is when
15 I put all the comments tonight in the scales of justice,
16 I hear first of all the comments of the mothers, who put
17 a very personal face on it. We have the comments of the
18 corporate representatives, who put a money face on it.
19 And I must say that the scales of justice in my opinion
20 fall heavily on the side of opposing this rail line.

21 Thank you very much.

22 (Applause.)

23 MR. KELLEY: I just have a couple of

1 brief comments. I'm Bill Kelley and I reside in Clear
2 Lake. I worked for a chemical company for 41 years
3 before I retired. We had a couple of plants that were
4 captive to the Union Pacific Railroad, and we had some
5 things that we worked out with the railroad, coming down
6 to the fact that we almost built our own railroad at one
7 point to get the rates done.

8 We had water-compelled rates. We had FOB
9 pricing, where you price it to let the customer who may
10 be more viable and had more expertise in traffic
11 negotiations negotiate his own rate, which he could
12 possibly do better, these type of things. And I didn't
13 hear any of those mentioned.

14 I just kept hearing profitability,
15 profitability. I think with the threat that was put on
16 here with Union Pacific, I think it's been going on
17 quite some time now. I think they have to listen. They
18 have to recognize the fact that there is competition out
19 there, and I think that alone should have some impact on
20 it. That's all I had to say.

21 (Applause.)

22 MR. CHEUVRONT: My name is David
23 Cheuvront. I'm an engineer with NASA. I've also been

1 an engineer with Rockwell, McDonald Douglas, and
 2 Rocketdyne, also with U.S. Navy federal service. I'd
 3 like to say I started into engineering in chemical
 4 engineering. I decided to change my career to
 5 mechanical and aerospace. I was also a pilot, and I
 6 understand risk mitigation. I made that decision
 7 because of the risks that I saw in dealing with some of
 8 these chemicals. I did not want to be around that
 9 personally to the extent that I would have to be if I
 10 were in chemical engineering.

11 The concern of this came up to me
 12 recently. I reviewed parts of your environmental study.
 13 I realize your purpose here tonight is comments on the
 14 study. I have to say I've seen enough question about
 15 some of the comments -- some of the content of your
 16 report to say there would be question in my mind whether
 17 everything was covered adequately. The review I had of
 18 your report initially, I saw maps showing the rail line
 19 not crossing Armand Bayou. I agree with the comments
 20 that a lot of detail was missing from that.

21 And other considerations, I certainly
 22 understand the need for competitive rates. I think that
 23 is an issue that must be addressed. I'm not convinced
 24 that the rail line is the best way to do that. I think
 25 one has to look at the risks versus the benefits of a

1 proposed action. And if this was a new rail line
 2 creating new infrastructure, new service to an area, I
 3 would fully support it. But it's not. It's a way to
 4 try to break a monopoly.

5 I think there's other ways to do that
 6 without having risks to the wetlands, which I understand
 7 was one of the few areas that you did see some degree of
 8 risk to.

9 So I'd just like to end with those
 10 statements and would request an addendum or additional
 11 look at the cumulative effects that have been mentioned
 12 before. I think that's important. And do a real risk
 13 versus benefit ratio and see whether or not this is
 14 really warranted given there is existing service.

15 Thank you.

16 (Applause.)

17 MR. BRUNSFELD: Hello. My name is John
 18 Brunsfeld. I also work at NASA. I'm also an aerospace
 19 engineer and also an expert in risk analysis of sorts.
 20 You've heard a lot about that, risk analysis and
 21 consequences. Generally we try to analyze not only the
 22 likelihood of a particular risk but also the
 23 consequence. And there are various ways to look at

1 that.

2 If it was a low likelihood and low
 3 consequence, of course, we wouldn't all be here talking
 4 about it. If it's a low likelihood and high
 5 consequence, then it's something that in particular you
 6 need to pay a lot of attention to. And, of course, if
 7 it's high likelihood and high consequence, there's no
 8 issue again.

9 This, I think, is one where -- you know,
 10 I have a fair amount of trust in the engineering of the
 11 chemical industry, that they've done a good job in
 12 analyzing the risks and designing the tanks and
 13 designing their systems, but it's an inevitable
 14 consequence of relatively complex systems, like rail
 15 transportation systems, that there will be accidents. I
 16 think that should be taken as a given. There's really
 17 no escape from that.

18 So, therefore, you have to really look
 19 then at the consequence. And I think we have heard
 20 about the consequence from a variety of factions in this
 21 case. With the ethylene oxides and other chemicals, it
 22 would be a serious consequence, and in part it's the
 23 human factors that we've talked about but also the
 24 national factors that others have talked about.

25 A relatively minor incident would still

1 cause a tremendous amount of concern. Certainly any
 2 significant leakage would cause even more concern and
 3 very likely result in a mandatory evacuation of many
 4 national resources, including major facilities for NASA,
 5 including aircraft operations at Ellington Field, which
 6 are at the south end of the field, and our training
 7 operations at the Neutral Buoyancy Laboratory, which are
 8 also directly within, you know, I would say probably
 9 50 feet of the proposed rail line and involve hundreds
 10 of people, in addition, thousands of people who are
 11 involved in mission operations.

12 We have humans living in space now 365
 13 days a year, 24 hours a day, 7 days a week on the
 14 International Space Station. Any interruption in our
 15 ability to transport support personnel to and from the
 16 Johnson Space Center would have a significant impact on
 17 those space operations and put human lives at risk, not
 18 only on the ground but in space.

19 Furthermore, the proposed rail line on
 20 the south side of Ellington Field would have a
 21 significant impact on another transportation system.
 22 You're the Surface Transportation Board. The Federal
 23 Aviation Administration is very interested in airport
 24 resources. There's prime land on the south side of 22
 25 for future airport development and represents certainly

1 more than \$80 million worth of revenue and jobs and
 2 resources for the Clear Lake area and Houston and our
 3 nation.
 4 Thank you.
 5
 6 (Applause.)
 7
 8 MR. CAPERTON: Any other speakers
 9 tonight?
 10 MR. BRIDGES: I'll be brief. I'm Bill
 11 Bridges. I live in Pinebrook Subdivision. I recommend
 12 rejection of the Draft Environmental Impact Statement
 13 due to the risk of exposure to hazardous materials to
 14 the residents along the proposed San Jacinto Rail line
 15 and its extension along the UP tracks along Highway 3
 16 and recommend that an alternate route be selected for
 17 being built, which would connect to existing UP track
 18 along Highway 146. And the connection would be at the
 19 same transportation rates as are being established for
 20 the connection to the UP tracks along Highway 3.
 21 I'm not sure I understand why you've got
 22 to build track 12 miles to the west to connect to UP
 23 track when you could build track one half mile to the
 24 east to connect to the UP track.
 25 Thank you.

1
 2 (Applause.)
 3
 4 MR. CAPERTON: Anybody else like to speak
 5 this evening?
 6 If not, we will be holding a public
 7 hearing tomorrow at Cesar Chavez High School starting at
 8 7:00 o'clock. The comment period is open until
 9 February 21st.
 10 And we thank you for coming out tonight
 11 and participating. Good evening.
 12
 13 (Proceedings concluded at 10:02 p.m.)
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1 STATE OF TEXAS :
 2 COUNTY OF HARRIS :
 3
 4 I, Melodie I. Thompson, a Certified
 5 Shorthand Reporter and Notary Public in and for the
 6 State of Texas, do hereby certify that the that the
 7 proceedings in the foregoing transcript were taken in
 8 machine shorthand by me and thereafter reduced to
 9 typewriting under my direction and that the foregoing
 10 pages of typewritten material comprise a true, complete,
 11 and correct transcript of the proceedings to the best of
 12 my ability to hear and understand.
 13 Given under my hand and seal of office
 14 this the 29th day of January, 2003.
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 7 DEPARTMENT OF TRANSPORTATION
 8 SURFACE TRANSPORTATION BOARD
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 10 PUBLIC MEETING - DRAFT EIS
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 12 SAN JACINTO RAIL LIMITED CONSTRUCTION
 13 EXEMPTION AND THE BURLINGTON NORTHERN
 14 AND SANTA FE RAILWAY COMPANY
 15 OPERATION EXEMPTION - BUILD-OUT TO
 16 THE BAYPORT LOOP NEAR HOUSTON,
 17 HARRIS COUNTY, TEXAS
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 19 STB FINANCE DOCKET NO. 34079
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A P P E A R A N C E S

ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION, SURFACE
TRANSPORTATION BOARD:

Mr. Chris Caperton
Public Affairs Management
Third-Party Contractor

Ms. Dana White
Section of Environmental Analysis
Surface Transportation Board

Mr. Alan Summerville
ICF Consulting
Third-Party Contractor

ON BEHALF OF THE FEDERAL AVIATION ADMINISTRATION:

Mr. Ben Guttery
Texas Airports Development Office

ON BEHALF OF THE NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION:

Ms. Perri Fox
Johnson Space Center

ON BEHALF OF THE U.S. COAST GUARD:

Mr. Marcus Redford
Eighth Coast Guard District
Bridge Administration Branch

INTERPRETER FOR THE SPANISH LANGUAGE:

Mr. Edgar Coronado
Interpreters & Translators Associated

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January 15, 2003

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P R O C E E D I N G S

MR. CAPERTON: If I could have your attention, please. We'd like to get the meeting started shortly, after we get people registered. You don't have to register right now. You can do that after the meeting.

If you would like to speak, we'd ask that you register at the table tonight. But if you can begin to get to your seats here in the next few minutes, we'd like to get started. Thanks.

(Recess taken.)

MR. CAPERTON: If everybody could have a seat, please. Good evening. I'd like to call this meeting to order. We're glad that you came out this evening to participate in this process. This is a public meeting for the Bayport Loop Draft Environmental Impact Statement.

My name is Chris Caperton. I work for a firm called Public Affairs Management, and we're a part of the third-party contractor team supporting the Surface Transportation Board's Section of Environmental Analysis or SEA. And I'll be assisting tonight as the

facilitator for this meeting.

We have an agenda that we'd like to go over with you quickly. We're going to talk about our meeting protocols and ground rules. We'll have some brief comments by the panel that you see up front, and then we want to go quickly into your comments. That's the reason we're here tonight is to hear your comments on the Draft Environmental Impact Statement or Draft EIS, as it's sometimes referred to.

Now, the panel will not be making any type of formal response to you tonight. We're here to hear your comments and your concerns. So we'll be in listening mode, and it's going to be your opportunity to speak to us.

Some people have preregistered to speak tonight and some of you have registered as you came in. And it's not too late to register. Feel free to go to the table in the middle of the auditorium and put your name down if you would like to speak tonight.

Now, we're in the comment period for the Draft EIS, and this comment period runs through February 21st. So the Section of Environmental Analysis will be taking comments on this document until that time and will be taking comments in two ways: comments orally tonight and comments that are submitted in

writing. Now, both types of comments carry equal weight, so if you don't get a chance to give all your comments tonight or you choose to not give any comments but want to turn them in in writing, they will be considered equally by the Surface Transportation Board.

If you're giving an oral comment and you have your comments written out and you'd like to provide a copy of those comments, you can give a copy to the court reporter who's sitting here to my right or you can put your comments in the drop box that's back at the sign-in table. There are also sheets that you can use to put written comments, and again, you can drop those off in the box there.

At the table there we also have information about the toll-free hotline and the mailing address. We also have information about the project and copies of the Draft EIS if you want to take a look at that.

Now, we posted some meeting protocols outside the door. I hope everybody had a chance to see that sign as they walked in. We will not allow any demonstrations tonight and we can't allow any large placards or signs to be displayed, but you can do that in the lobby if you would like to. And if you want to hand out petitions or literature or anything like that,

you are free to do that in the lobby, and there's a table set up for that.

We've already seen cooperation in that regard, and we appreciate that very much. We want everybody to feel safe and secure in presenting their comments and knowing that they can present their comments without fear of disruption. But if anybody should disrupt the meeting, we do have security personnel here and we'll ask them to remove you from the meeting. I know we won't have any problems.

We do have some ground rules tonight as well. We're going to have one speaker at a time. We have two microphones set up on either aisle, and you can come down and use either microphone to present your comments. We're limiting each speaker to three minutes of time to speak, and I will keep the clock.

When you have one minute left to speak, I will put this sign up on the table that says "one minute remaining." And when your time is up, I'll flip the sign over to say "time." We ask that everybody be courteous and conscious of the time so that we can allow everybody to have a chance to speak who wants to tonight.

Again, oral comments and written comments carry equal weight, and all substantive comments will be

1 considered by the Surface Transportation Board in their
2 Final EIS.

3 We also have with us tonight Mr. Edgar
4 Coronado. He's a translator, and if you wish to provide
5 your comments in Spanish, he is here to translate for
6 you.

7 Mr. Coronado.

8 MR. CORONADO: Thank you. (Comments in
9 Spanish.)

10 MR. CAPERTON: Thank you.

11 I'd like to introduce Ms. Dana White, who
12 is the project manager for the Surface Transportation
13 Board, Section of Environmental Analysis. She's going
14 to present a brief overview of the Board's role and
15 introduce the cooperating agencies and third-party
16 contractor.

17 MS. WHITE: Good evening. My name is
18 Dana White and I am the project manager for the Surface
19 Transportation Board's Section of Environmental
20 Analysis. I would like to welcome you to this public
21 meeting and invite you to provide your comments orally
22 or in writing tonight or before the comment deadline of
23 February 21st.

24 As many of you know, we have distributed
25 the Draft EIS on December 6, 2002, to a large number of

1 elected officials, agencies, organizations, and other
2 interested parties. We placed copies of the Draft EIS
3 and a Spanish translation of the executive summary in
4 libraries and other facilities.

5 We also distributed notices to over a
6 thousand interested parties and the media to indicate
7 that the Draft EIS was available. We distributed
8 several copies to people who requested one from our
9 toll-free number.

10 This meeting represents the next step in
11 the environmental review process. We were here almost a
12 year ago to listen to your concerns and questions as
13 part of the scoping process. The Draft EIS provides
14 information about this project, the environmental review
15 process, and addresses a number of potential
16 environmental impact areas as well as the specific
17 questions and concerns that you raised during the
18 scoping process.

19 Tonight we want to hear from you
20 specifically on the content of the Draft EIS. We will
21 consider all comments on the draft and incorporate
22 responses to specific comments in the Final EIS. After
23 the close of the comment period, a Final EIS will be
24 prepared in response to your comments.

25 The Surface Transportation Board will

1 then issue a final decision based upon the entire
2 environmental record and all of the public and agency
3 comments. The final decision will determine whether to
4 give final approval to this project and, if so, the
5 appropriate mitigation. No action can be taken until
6 the Board and the cooperating agencies issue final
7 decisions.

8 I would like to introduce the cooperating
9 agencies that have joined with the Board in the
10 preparation of this Draft EIS. A cooperating agency is
11 an agency with jurisdiction by law or special expertise
12 as it relates to an aspect of the project. The
13 cooperating agency designation allows these agencies to
14 comply with the National Environmental Policy Act
15 without publishing their own separate document, thus
16 reducing paperwork and duplication. Cooperating agency
17 status also benefits agency coordination and
18 consultation during the environmental review process.

19 I'd like to introduce the U.S. Coast
20 Guard.

21 MR. REDFORD: Good evening. My name is
22 Marc Redford. I'm in Bridge Administration for the
23 Eighth Coast Guard District in New Orleans.

24 The U.S. Coast Guard is participating as
25 a cooperating agency under the General Bridge Act of

1 1946. It has approval authority for bridges over
2 navigable waters in the United States. The Coast Guard,
3 as part of the EIS process, will assess the navigation
4 and environmental impacts of the construction,
5 maintenance, and operation of the proposed bridges
6 associated with the proposed action and alternatives.

7 This assessment will form a component of
8 the agency's review of whether or not to issue a bridge
9 permit under the General Bridge Act of 1946 where
10 permits are required.

11 MR. GUTTERY: I'm Ben Guttery with the
12 Federal Aviation Administration. The FAA is a
13 cooperating agency with the Surface Transportation Board
14 because we have potential federal actions associated
15 with the proposed action. We are assessing the aviation
16 environmental impacts of the proposed action related to
17 any potential change to the Ellington Field airport
18 layout plan for release of airport property to
19 accommodate the proposed action.

20 The City of Houston is the owner of
21 Ellington Field. If the owner requests a change to the
22 airport layout plan or a release of airport property,
23 the FAA has to decide whether to approve such a change.
24 The proposed action would require a change to the
25 airport layout plan since it would cross city-owned

1 airport property.

2 In addition to the proposed change to the
3 airport layout plan, other federal actions involve
4 possible releases of airport property. The city
5 acquired the land at Ellington Field in different ways.
6 The original airport land was transferred to the city
7 from the federal government as surplus land for use as
8 an airport. Subsequently the FAA gave the city a grant
9 to purchase additional land.

10 These land transfers require the FAA to
11 determine whether a nonaviation use would have an
12 adverse effect on the airport. We must decide whether
13 to release the affected property from the City of
14 Houston's obligations under the grants from the FAA and
15 other requirements associated with the original land
16 transfer.

17 We appreciate you being here tonight to
18 express your thoughts and opinions on this proposed
19 action and to take part with us in this NEPA process.
20 We are committed to complying with NEPA.

21 MS. FOX: Good evening. I'm Perri Fox
22 and I'm with NASA. NASA is a cooperating agency because
23 we're evaluating potential noise and vibration impacts
24 to our Neutral Buoyancy Laboratory operations and
25 activities. Based on this information, we will

1 determine whether to grant an easement for the proposed
2 action to cross the access road between the Sonny Carter
3 Training Facility, which houses our Neutral Buoyancy
4 Laboratory, among other manned spaceflight-related
5 projects and facilities, and Ellington Field, which we
6 use for training and other flight activity.

7 MR. SUMMERVILLE: My name is Alan
8 Summerville. I'm with the firm ICF Consulting. I'm the
9 project manager for the third-party contractor team
10 supporting the Surface Transportation Board's Section of
11 Environmental Analysis and the cooperating agencies in
12 the environmental review process.

13 More specifically, we work under SEA's
14 direction and the cooperating agencies to support them
15 in consulting regulatory agencies, conduct technical
16 analyses, implement public involvement, prepare the
17 actual Draft EIS and Final EIS, and undertake other
18 activities related to the environmental review process.

19 MR. CAPERTON: We're ready to start. Let
20 me go over the ground rules again real quickly. We'll
21 have one speaker at a time and I'll call the speakers
22 from the list of registered speakers. Each speaker will
23 have three minutes to present their comments. Feel free
24 to move the microphone up or down if you need to. If
25 you need other assistance, I'll be glad to help out.

1 When you come to the microphone, please
2 state your name clearly for the court reporter and give
3 your address if you'd like your name to be added to our
4 mailing list. And let us know if you are associated or
5 affiliated with any group or organization.

6 I'd also like to point out that our list
7 of speakers tonight is based on the order in which they
8 called and registered on our hotline, and that's the way
9 I will read the speakers off the list.

10 We would like to give our elected
11 officials the opportunity to speak first, and I'd like
12 to ask Congressman Gene Green to present his comments.

13 Thank you.

14 CONGRESSMAN GREEN: Thank you. I have
15 copies for both the court reporter and also the panel.

16 First, I'd like to thank you for having
17 the hearing here tonight at Chavez. Last year, in
18 January, there was only one hearing at the Pasadena
19 Convention Center similar to what you had last night,
20 and because the route would put additional traffic on
21 the tracks that we see in front of this school, that's
22 why I'm glad you did have a second hearing here.

23 My name is Gene Green, and I am a member
24 of the United States House of Representatives
25 representing the 29th District, where we're sitting this

1 evening. And I come before you both as a member of
2 congress and also as a resident of Harris County.

3 Having read the Surface Transportation
4 Board's December 6 Draft Environmental Impact Statement
5 on the San Jacinto Rail Limited project, I'm extremely
6 disappointed in the conclusions reached in this
7 document. I am especially frustrated that the Draft EIS
8 claims that the environmental and mobility impacts on
9 the East End would be negligible. Nothing could be
10 further from the truth.

11 We already have severe traffic congestion
12 problems in the East End, the area from literally the
13 boundaries of South Houston, that I represent, to
14 downtown Houston. We have problems with existing train
15 traffic blocking many of our local interchanges. If it
16 is a problem now, it stands to reason that more trains
17 will only make the problems worse and there will be more
18 than two trains a day. And I'll get to that in a
19 minute.

20 According to a January 6 of this year
21 article in the Houston Chronicle, each day, at least 150
22 loaded cars go out of Bayport and 150 empty cars come in
23 on a Union Pacific track that hugs the Ship Channel
24 along Texas 225 through Pasadena and Deer Park. About
25 half the traffic continues on through the industrial

1 area that skirts the East End, and the other half is
2 pushed right through our neighborhoods. In fact, during
3 peak productions times, the number of cars can be as
4 many as 600 cars per day currently.

5 And I'd like to submit that article --
6 there's a copy of that article, and I'd like to submit
7 it to the panel from the Houston Chronicle as part of
8 the statement.

9
10 (Houston Chronicle newspaper article
11 "East End Crossing, Residents Decry Plan
12 for \$80 million Train Track,"
13 incorporated herein by reference.)
14

15 CONGRESSMAN GREEN: In previous letters
16 to the Surface Transportation Board, I've recommended
17 that if you approve this project, you must make it
18 contingent on building at least three grade separations,
19 one at Howard Drive and Galveston Road here at Cesar
20 Chavez. As you came in probably from the Gulf Freeway
21 or I-45, you crossed those tracks there. Also further
22 to the west, we have Milby High School at Galveston
23 Road, that's had the same tracks cross there literally
24 within half a block of a high school, and one at Spencer
25 Highway, where it crosses the GH&H rail line.

1 That would be to the south in the city of
2 South Houston, because the city of South Houston has no
3 grade separations in the three crossings that they have.
4 If we're going to see the additional train traffic, they
5 need to have some way to have HAZMAT or EMS in case of
6 emergency on one side of those tracks or the other.
7 Unfortunately, each of these requests were not included
8 in the Draft EIS of December 6th.

9 Trains have become such a burden in the
10 East End that Houston City Council Member Carol Alvarado
11 and I formed a rail task force to try and deal with some
12 of the problems associated with the large concentration
13 of trains in our very urban area. The East End Rail
14 Task Force, with the financial assistance of both
15 railroads, Union Pacific and Burlington Santa Fe, has
16 asked the Texas Transportation Institute at Texas A&M
17 University to conduct a study on the impacts of
18 increased rail traffic in and around the East End
19 neighborhoods.

20 This TTI study is important because it
21 assesses the current grade crossing concerns in the East
22 End. And this study will provide a very good baseline
23 for the current rail situation in the East End and will
24 give the STB the data to prevent additional train
25 traffic in the area. And I thank you for extending the

1 comment time into later February, because hopefully
2 we'll have that by February 6th so you can consider that
3 study.

4 Since the creation of the STB in January
5 of 1996, and my having been in Congress since 1993 -- in
6 1996, it seems like the STB has exhibited little or no
7 value on the comments of ordinary citizens. There is
8 overwhelming public opposition to this project and there
9 has been no effort by the STB to move -- it's always
10 been moving in an expedited manner. And that's why when
11 Congress convenes again at the end of this month, I
12 intend to introduce legislation that will require the
13 giving of a greater weight to local concerns. So it
14 will be part of the panel's interests.

15 Another article in the Houston
16 Chronicle --

17
18 (Applause.)
19

20 CONGRESSMAN GREEN: -- dated January 9th,
21 clearly shows and again the article talks about false
22 data being submitted, but there's data being considered
23 that does not consider the population in the area,
24 particularly the 29th Congressional District. When the
25 data used to map the route is corrected to reflect

1 residents who identified themselves as Hispanics, which
2 was not a major census category, the figures show that
3 communities affected by the new trains are
4 overwhelmingly Latino.

5 By law and executive order, all federal
6 agencies are required to assess whether a proposal's
7 adverse effects fall disproportionately on minority
8 communities. The maps that are being considered do not
9 reflect that, whether it was entered in by BNSF or
10 San Jacinto Rail or maps that were part of the research
11 by the STB.

12 And again, that article is attached and I
13 ask that that article also be considered as part of the
14 statement.

15
16 (Houston Chronicle newspaper article
17 "Rail Planners Hit for Using Bad Data;
18 Hispanics Uncounted, Lawyer Says,"
19 incorporated herein by reference.)
20

21 CONGRESSMAN GREEN: Our bill would
22 require that local public concerns be taken into greater
23 consideration than in the past when considering the
24 public convenience and necessity standard and would
25 require the STB to use a higher standard in addressing

1 public comments when a proposal is in a residential
2 area.

3 Again, I appreciate the hearing here,
4 because last year we asked for one here, but the comment
5 time was extended last year on the original scoping
6 hearing. But this is our first hearing in this area for
7 the STB on this particular project.

8 It would also require the STB to
9 investigate if there is false or material information
10 that would require automatic denial of an application if
11 the information was intentionally provided. The bill
12 would require a determination on whether a proposal
13 would have a disproportionate impact on either minority
14 areas or economically disadvantaged areas.

15 Personally -- and I don't think any of my
16 constituents disagree with the need for competition at
17 the Bayport Loop complex, but it's how that competition
18 is to be had is what concerns us. Competition should
19 not come at the expense of my constituents or the people
20 here tonight. And I strongly urge the STB to look at
21 other options that would have the least impact on a very
22 congested rail area and a very urban area in East
23 Houston.

24 Thank you.

25

1 (Applause.)

2
3 MR. CAPERTON: Representative Rick
4 Noriega.

5 REPRESENTATIVE NORIEGA: Thank you,
6 members of the panel. My name is Rick Noriega and I'm
7 the State Representative in District 145, where we are,
8 so welcome to District 145 and our great State of Texas.

9 I'm here tonight also to speak to the
10 environmental -- the Draft Environmental Impact
11 Statement. I have some remarks, but I would prefer
12 submitting them in writing -- wait until the 21st to
13 submit my entire remarks. In addition, in the interest
14 of time, I'll be brief so that our neighbors will have
15 the opportunity to be the voice here in the community.

16 You are aware of the project, the rail
17 line, that's being proposed, and the creation of the new
18 track will result empirically in a net increase of train
19 traffic in the East End. That cannot be refuted.

20 When we had a civic club meeting with the
21 Eastwood Civic Association, Burlington Northern Santa Fe
22 partners have admitted that yes, there will be a net
23 increase of train traffic in the East End. These trains
24 often carry hazardous materials -- you are aware of the
25 content of the cargo -- right in front of Chavez High

1 School, where we are today, and Milby High School, as
2 Congressman Green has mentioned in his comments, and a
3 great deal of the elementary schools within several
4 hundred feet.

5 Many concerns regarding this project,
6 including noise, water, air pollution, public safety
7 were addressed in the Draft Environmental Impact
8 Statement published by the U.S. Army Corps of Engineers,
9 Galveston District, as required by NEPA, the National
10 Environmental Policy Act. Although there are many
11 controversies involved with the impact of the proposed
12 project, the focus of my statement involves the
13 environmental justice problems.

14 One of the things that I really get
15 frustrated about as an elected official is that my
16 parents -- we were raised in a way that if you work hard
17 and go to school and do the right things, it doesn't
18 matter who you are or what you are. In this country,
19 you can succeed and be what you want to be.

20

21 (Applause.)

22

23 REPRESENTATIVE NORIEGA: And I think
24 what's interesting -- one of the things that I really,
25 really resent in my role as an elected official is

1 getting pigeonholed and getting pigeonholed for perhaps
2 my last name or my particular ethnicity, because I feel
3 I am much more capable of doing other things.

4 Although there are many controversies
5 involved with the Impact Statement, the focus of my
6 statement, again, involves only the environmental
7 injustice problem. It is so egregious, the
8 disproportionate adverse effects primarily in this area
9 of the county on low income and minority communities
10 that would be created in East and Southeast Houston by
11 the rail traffic, that I have a sworn obligation that I
12 took yesterday to the Constitution and the State
13 Constitution that I'm required to speak out. Because
14 the oversight was just so egregious, it was either due
15 to malice or it was due to incompetence. And neither
16 one of those are acceptable.

17

18 (Applause.)

19

20 REPRESENTATIVE NORIEGA: As you are
21 aware, and I'm sure was mentioned last night, on the
22 2000 census questionnaire, there was no category to
23 check for Hispanic in the initial section. The census
24 categories were white, black, American Indian, Asian,
25 Pacific Islander, or other multiracial. Once classified

1 into one of the seven categories, only then could the
2 applicant be identified as Hispanic.

3 The Draft Environmental Impact Statement
4 does not honestly reflect the census data that was
5 collected, as was mentioned by Congressman Green. The
6 Bayport chemical companies and Burlington Northern
7 Santa Fe did not look past the first section when
8 calculating minority communities along the proposed rail
9 line. Over 27,825 Hispanics or 90 percent of the people
10 who live within a quarter mile of the route were not
11 counted as white in the racial data provided.

12 An executive order that all federal
13 agencies must strive to achieve environmental justice
14 identifying and addressing disproportionately high and
15 adverse health or environmental effects on minority or
16 low income populations is something that y'all are aware
17 of that we have to adhere to. And I can go on about the
18 population numbers along Old Galveston Road, the East
19 End, and within a quarter of a mile of the proposed rail
20 line, but I will provide that in my formal comments.

21 And we can break these numbers down to
22 show the number of Hispanics from the total population
23 is nearly 31,000. As you can see, the vast majority of
24 the census blocks within a quarter of a mile of the
25 proposed line are majority Hispanic, representing over

1 70 percent of the entire population along the proposed
2 route.

3 In 1993, there was a similar situation in
4 Ohio. The Indiana Ohio Railway Company wanted to build
5 a rail line in the suburbs of Cincinnati. The STB, then
6 the Interstate Commerce Commission, correctly denied the
7 permit because of public safety concerns. In that case,
8 there were only a thousand people living within a
9 thousand feet of the rail line. Here we have over
10 20,000 people living within 1,320 feet of this proposed
11 line, not to mention the 23 schools nearby that are much
12 closer.

13 The rail line in the Ohio case was going
14 to transport lumber, tires, and plastic. The proposed
15 track here will carry hazardous materials. The fact
16 that more families and children will be affected here in
17 Houston than in Cincinnati and the fact that hazardous
18 material will be transported versus lumber, tires, and
19 plastic makes it incumbent upon the Surface
20 Transportation Board to not approve this particular
21 permit.

23 (Applause.)

25 REPRESENTATIVE NORIEGA: The Draft

1 Environmental Impact Statement must be revised to
2 reflect the correct census data and minority community
3 populations. When that is done, according to your own
4 mandates, the STB cannot approve this rail line. It
5 will disproportionately affect this community.

6 In closing, I have lived in the East End
7 all my life. Our own community is already overwhelmed,
8 as was mentioned, by train congestion, and we'll
9 continue to work in the process to make sure that this
10 permit is not approved.

11 Thank you.

13 (Applause.)

15 MR. CAPERTON: Councilwoman Shelley
16 Sekula-Gibbs, please.

17 COUNCILWOMAN SEKULA-GIBBS: Good evening,
18 ladies and gentlemen of the Surface Transportation
19 Board. Thank you for allowing me to address you again
20 tonight. It was an opportunity I had last night to
21 speak to you at the Pasadena Convention Center, where a
22 very large group similar to this also addressed their
23 serious concerns about the Burlington Northern Santa Fe
24 rail. And once again, I want to thank you for extending
25 the comment period for people to speak out both in

1 favor, which I think are few, and against the rail,
2 which I think are many.

3 I would like to say that many of the
4 people in this building are Spanish speakers, and I hope
5 that some of the Spanish-speaking television stations
6 are covering this tonight, because it is very important
7 for the Spanish-speaking community to understand the
8 risks that will be incurred if the rail is constructed.

9 And one way to say it is -- (comments in
10 Spanish). And I hope that people will understand that.

12 (Applause.)

14 COUNCILWOMAN SEKULA-GIBBS: Regarding the
15 Draft Environmental Impact Statement, I will submit
16 official comments in writing. Several things I would
17 like to say, though, are that the Draft EIS fails to
18 consider the high risk that will be imposed upon the
19 Southeast Water Treatment Facility that provides water
20 to over 750,000 members of Harris County and the City of
21 Houston. And if the water is contaminated by
22 derailment, it will not only expose the 750,000 people,
23 but it will back up into the city's main water supply,
24 thereby exposing them to toxic chemicals.

25 And that will be two million people --

1 two million people, who are not here tonight, who don't
2 know about the risks tonight, who have never heard about
3 the San Jacinto Rail. And that is not identified as a
4 risk in the Draft EIS. So please pay close attention to
5 that.

6 In addition, people are assuming that --
7 or at least I think the Draft EIS assumes that only two
8 trains will run every day. I have personally asked
9 Burlington Northern Santa Fe to write that down and
10 submit it to us in writing, that they will limit it to
11 two, but, of course, they won't do that. The Burlington
12 Northern Santa Fe will run as many trains on that track
13 as they can because profit is the ultimate goal.

14
15 (Applause.)

16
17 COUNCILWOMAN SEKULA-GIBBS: The trains
18 can be up to a hundred cars long. And, as you know,
19 those trains can block numerous intersections. That
20 will deny people, especially in this community, access
21 to HAZMAT vehicles should there be a derailment and
22 access to emergency vehicles, so that if a person has a
23 heart attack, they will not be receiving aid within the
24 required eight minutes.

25 If you and I have a heart that stops

1 beating and you don't have aid within eight minutes,
2 ladies and gentlemen, you are dead. And I assure you,
3 when a train is a hundred cars long, there's no way to
4 get around that in eight minutes.

5 In addition, the trains -- the increase
6 in train traffic will diminish the property values for
7 this -- for all the property that is surrounding the
8 track where the train will travel. There will be noise
9 pollution and the risk of derailment. Ethylene oxide
10 and propylene oxide will be carried in those cars, and
11 they are extremely volatile, explosive, and potentially
12 lethal.

13 So I encourage you to think very, very
14 carefully about the unmentioned risks that are
15 unmentioned in the Draft EIS, and I would encourage
16 everyone in this auditorium to write your formal
17 comments and your concerns to the Surface Transportation
18 Board, because they need to see those comments in
19 writing as well as speaking here tonight.

20 Thank you all for coming.

21
22 (Applause.)

23
24 MR. CAPERTON: Councilman Carroll
25 Robinson, please.

1
2 (Applause.)

3
4 COUNCILMAN ROBINSON: You can clap.

5 Good evening. I apologize for being a
6 little late, but I had to make one stop or my wife would
7 have terminated the contract that I cut with her a
8 couple of years back.

9 I heard some of the comments of my
10 colleagues. I think you all know the City of Houston is
11 on record in opposition to the rail line. We have some
12 serious concerns about the deficiencies in the Draft
13 Environmental Impact Statement. Clearly they haven't
14 had enough demographic information in terms of the
15 makeup of the communities along the rail line.

16 We also have serious land use
17 implications. You have to remember that at least for
18 the City of Houston, 56 percent of our revenue bases
19 come from property taxes. And this is already a
20 residential type area, and we'd like to see it grow in
21 that direction. That information wasn't analyzed.

22 There have been a number of cases in the
23 past in terms of the Board's own position relative to
24 environmental impact in terms of proximity to the rail
25 line, whether it impacts the residential communities,

1 homes. None of that kind of analysis was done in this
2 instance.

3 You also only have a voluntary plan for
4 mitigation, which is very interesting. When I first got
5 on the Houston City Council, we were involved in some
6 issues about expanding our airport runways, and there
7 was never a one-to-one in any environmental situation
8 relative to wetland mitigation. And that's the extent
9 of the voluntary plan. You have a one-to-one
10 mitigation.

11 That seems extraordinarily interesting,
12 because I think the Surface Transportation Board would
13 be breaking new ground that EPA and no federal agency
14 has ever agreed to. I don't know if you want to go on
15 record in terms of adopting that kind of voluntary plan
16 that sets that as a new standard for wetlands
17 mitigation. If that's going to be the case, it ought to
18 be more than a voluntary plan. There ought to be action
19 by Congress. Congressman Green cannot consider that
20 kind of standard when talking about wetland mitigation.

21 You also have this issue. When you go
22 back and look at the standards that the Surface
23 Transportation Board predecessor agency before had
24 looked at when they talked about the nature of the items
25 that are being transported, they said that coal dust was

1 sufficient enough hazard that it warranted a denial of
2 trackage in an area. We're going to have something
3 that's called compounding the problem.

4 A lot of folks are going to tell you it's
5 all right because you already have trains going through
6 the community. I think that ought to be a warning to
7 us. That ought to be a concern to us, because now
8 you're going to increase the impact.

9 I think ultimately we'd like to see the
10 City -- and we're going to have a comprehensive response
11 from the City as a whole and we'll be discussing that in
12 time to submit it before the deadline. We want all
13 three routes -- we know there is a preferred route, but
14 we want all three routes evaluated comprehensively and
15 in total.

16
17 (Applause.)

18
19 COUNCILMAN ROBINSON: We also -- you may
20 not have an appreciation for this, but a couple of
21 months back -- Councilwoman Alvarado, do you remember
22 they had a "60 Minutes" -- Congressman Green, they had
23 an interview with President Bush aboard Air Force One
24 that the President had granted to them. And he was
25 talking about his experience on September 11th, 2001.

1 And the President said he knew he was going to be all
2 right coming back out of Florida through Louisiana,
3 heading out to the Midwest, when he looked out that
4 window and he saw the two F-16s on either side of
5 Air Force One.

6 Ladies and gentlemen, those planes
7 scrambled from right down the road at Ellington Field.
8 The preferred route would cut into the city's property
9 at Ellington Field. God forbid that something happens
10 and you would have a significant portion enough -- not
11 Houston, not Texas, but the entire Southwest United
12 States without the air coverage it uses out of that Air
13 Force base out there, that Fighter Wing.

14
15 (Applause.)

16
17 COUNCILMAN ROBINSON: Now, I don't know
18 how you do an evaluation of this line and you don't take
19 into consideration not the issue of the people of
20 Houston's property, but the national security
21 implications to this entire region. And that's got to
22 be taken into consideration. If it's not taken into
23 consideration, then we have some serious questions.
24 You also have this reality on the
25 northern line. Through the good fortune of foresighted

1 people -- and I'll be finished in a minute -- the City
2 of Houston went out and spent a whole lot of taxpayers'
3 money to buy water not just for us but for this entire
4 region, and we built a water plant. Now, what always
5 interests me is everybody that's in this plant -- see, I
6 watch too much TV.

7 I don't think terrorists hit you at one
8 little location. I think if they come and you're
9 running past the airport, they're going to blow the
10 train up by the airport. I think if they come and
11 you're running by the water plant, they're going to blow
12 the train up by the water plant. Nobody's thought about
13 that.

14 What happens if you destroy the water
15 supply in this region? There's not just crossing the
16 bayou on the southern route. It's running past the
17 water plant on the northern route. That's got to be
18 taken into consideration.

19 You have so many issues that have just
20 been given short trip in the Environmental Impact
21 Statement, you know, it's almost a rush to judgment to
22 get this thing done. And I know we want to have
23 competition and everybody in this region -- we
24 understand about jobs. We know that in this tight
25 economy, but I don't think anybody in this city, this

1 region wants to sacrifice our health, our safety, and
2 our quality of life on the issue of jobs for one
3 \$80 million rail line. I don't think they're going to
4 stop.

5
6 (Applause.)

7
8 COUNCILMAN ROBINSON: And I hope that all
9 these commentaries will be taken into consideration. I
10 was highly disappointed. When you look at the
11 Draft EIS, it's almost as if the concerns that were
12 raised by folks relative to the scope had really not
13 been taken into consideration because the document
14 didn't go out and reevaluate a lot of things that people
15 said, especially the City, that we thought you should
16 adjust the scope to consider.

17
18 (Applause.)

19
20 COUNCILMAN ROBINSON: So with all that
21 said, I look forward to hopefully a better document and
22 a more thoughtful analysis. But at the end of the day,
23 my colleagues and I intend to -- if the Surface
24 Transportation Board does not come back with a document
25 worthy of the public, we intend to go to court and make

1 our case on the grounds that we have to.

2

3 (Applause.)

4

5 MR. CAPERTON: Councilwoman Carol

6 Alvarado, please.

7 COUNCILWOMAN ALVARADO: Good evening.

8 I'd like to welcome the Surface Transportation Board to
9 Houston and also to this beautiful building. It's named
10 after Cesar Chavez, and as I sit here, I think about
11 what Cesar Chavez stood for and what he fought for. He
12 fought against racism, against discrimination. And
13 that's what we're here for. We're here to fight against
14 environmental racism, environmental discrimination.

15

16 (Applause.)

17

18 COUNCILWOMAN ALVARADO: If you look out
19 in the audience, you see people from all walks of life,
20 Democrats, Republicans, joining hands, opposing this
21 project. And your local representatives, your state
22 representatives, your members of congress, community
23 leaders, church organizations, everyone has come
24 together. I have not seen an organized effort like this
25 in quite some time. And I'm really pleased to see all

1 the people that took time on a cold night to come here
2 and voice their opposition for this proposed rail
3 project.

4

5 I have a statement that I will submit to
6 you in writing. I'm going to summarize my comments.

6

7 (Letter dated January 15, 2003, from
8 Carol Alvarado, Houston City Council,
9 District I, to Dana White, incorporated
10 herein by reference.)

11

12 COUNCILWOMAN ALVARADO: I represent
13 District I in City Council. I grew up in Manchester. I
14 grew up in a neighborhood that was surrounded by rail,
15 surrounded by chemical companies. I know firsthand the
16 dangers of the two when you mix them. I was deeply
17 disappointed to see the comments that were made on the
18 Draft EIS. We are at your mercy. You are the people
19 that have the opportunity to say no to this project.
20 Members of the Surface Transportation
21 Board are appointed by the president and confirmed by
22 the senate. President Bush talked about compassion in
23 action. I ask you tonight, show us some compassion.

24

25 (Applause.)

1

2 COUNCILWOMAN ALVARADO: Your Board has
3 the authority to force Burlington Northern and Union
4 Pacific to come to an agreement. That's why we're here,
5 because these two railroad companies can't agree, and we
6 are the ones that are paying for it. I will tell you
7 that I believe that this rail line will impact the
8 public safety tremendously and put our children and
9 community in harm's way.

10

11 I'm also concerned that -- and you've
12 heard this earlier -- that inaccurate information has
13 been presented regarding the census data and numbers in
14 the eastern community. I'm deeply troubled that the
15 Draft EIS concludes that the environmental impact of the
16 proposed rail line will only be negligible. Moreover,
17 this EIS fails to recognize the high volume of traffic
18 in the East End.

18

19 Furthermore, the draft concludes
20 regarding rail operation and safety, increased
21 transportation of hazardous chemicals and impact on
22 environmental justice populations are problematic and
23 disheartening. I ask you, for the sake of our
24 community, for the sake of our children, please say no
25 to this proposal.

25

Thank you.

1

2 (Applause.)

3

4 MR. CAPERTON: Councilwoman Addie
5 Wiseman, please.

6

7 COUNCILWOMAN WISEMAN: Thank you for the
8 opportunity to address you. As the agency responsible
9 for granting authority for the construction, operation,
10 and maintenance of new rail line facilities, your
11 Section of Environmental Analysis was given the charge
12 of preparing the recently released Draft EIS, which
13 identifies and evaluates the potential environmental
14 impacts associated with the proposed action and
15 alternatives.

15

16 While the U.S. Coast Guard, FAA, and NASA
17 are cooperating agencies and actions considered in the
18 Draft EIS will or may include decisions by the Board and
19 each of the three cooperating agencies, I respectfully
20 request that the Board take action to include additional
21 federal agencies in assessing the proposed action and
22 alternatives.

22

23 The U.S. Coast Guard is concerned with
24 issuance of bridge permits. The FAA has the
25 responsibility to review land use and possible changes
to the airport layout plan. And NASA must decide

1 whether to grant an easement. I am concerned with the
 2 fact that their scope of study is very limited.

3 According to the summary of environmental
 4 consequences, although the proposed action would cross
 5 the runway protection zone for Runway 35L at Ellington
 6 Field, the FAA has determined there is no air space
 7 conflict. Additionally, the FAA initially intended that
 8 the instrument landing system for Runway 22 could be
 9 degraded while trains used the track parallel to the
 10 runway. The applicants, however, conducted a glide
 11 slope evaluation study, which concluded that neither the
 12 proposed action nor alternative 1C would adversely
 13 impact it.

14 Additionally it was determined that
 15 almost all of the project area is already exposed to the
 16 risks associated with the transportation of hazardous
 17 materials, with the exception of the areas around the
 18 build segments, and that these areas would be exposed to
 19 only a low risk. No consideration has been given to the
 20 fact that these areas include an airfield used for
 21 military purposes and plays a vital role in homeland
 22 security, as was evident during the height of the
 23 September 11th terrorist attacks when U.S. jets were
 24 deployed from Ellington Field to escort Air Force One
 25 and protect the President of the United States. The

1 DEIS does not indicate any assessment or federal
 2 evaluation of potential impact to the military use of
 3 Ellington Field.

4 As the City of Houston district council
 5 member whose district this airfield lies in, I ask that
 6 before any final decision is reached by this Board, that
 7 the federal agencies responsible for homeland security,
 8 which would include the Transportation Security
 9 Administration, be asked to fully review the proposed
 10 action and alternatives to determine whether or not
 11 construction of this proposed rail will negatively
 12 impact or compromise the integrity and security of
 13 Ellington Field as it applies to military use.

14 This is a regional issue. We must
 15 consider the regional security of our community.

16 Thank you.

17
 18 (Applause.)

19
 20 MR. CAPERTON: Councilwoman Annise
 21 Parker.

22
 23 (Applause.)

24
 25 COUNCILWOMAN PARKER: If it seems that

1 the City of Houston is piling on tonight, we are.

2
 3 (Applause.)

4
 5 COUNCILWOMAN PARKER: I'm the fifth
 6 council member that you've heard from, three of us here
 7 because we're at large and also represent the area
 8 impacted. And I will submit my remarks in writing and
 9 the City of Houston, of course, has taken a position in
 10 it.

11 And I don't believe in making speeches
 12 that have already been made. There are a lot of folks
 13 here who have a lot to say. I would ask that everybody
 14 who is here tonight to oppose this rail line, let's
 15 stand up and show them.

16
 17 (Applause; audience members standing.)

18
 19 COUNCILWOMAN PARKER: Thank you.

20 MR. CAPERTON: Bill Coleman, please,
 21 representing Congressman Nick Lampson.

22 BILL COLEMAN: My name is Bill Coleman.
 23 I am here for Congressman Nick Lampson, who represents
 24 the 9th Congressional District of Texas. I'm going to
 25 read a letter that Congressman Lampson sent to the

1 Surface Transportation Board Chairman, Roger Nober.

2 It says: "Dear Chairman Nober:

3 "I am writing to urge a review and
 4 reconsideration by the Surface Transportation Board of
 5 the Environmental Impact Statement for the proposed
 6 San Jacinto Rail project.

7 "The proposed rail project continues to
 8 be of great concern to the affected residents and
 9 communities. I have significant reservations regarding
 10 the planned rail project due to the adverse impact to
 11 the constituents living in the Clear Lake area of my
 12 district as well as other communities. For these
 13 reasons, I am restating my opposition to the proposed
 14 rail line. I am hopeful that the involved companies can
 15 find an alternative rail scenario that allows for
 16 efficient transportation of goods without locating a new
 17 rail line that is too close to homes, businesses,
 18 schools, parks, and other vital facilities.

19 "At the same time, the rail project is
 20 obviously quite complex and requires a robust process
 21 for understanding the many impacts. However, throughout
 22 the review process, the public has not had adequate
 23 opportunity for input and participation. From an
 24 inconclusive Draft Environmental Impact Statement to
 25 inadequately brief comment periods, it seems evident

1 that the STB has demonstrated an insufficient level of
 2 concern for public opinion and thus public well-being.
 3 "I have also recently been made aware by
 4 some in the community of concerns regarding the
 5 demographic analysis of affected minority and low income
 6 communities. Federal policy requires that the
 7 Department of Transportation take into consideration any
 8 discernible or disproportionate adverse effects on the
 9 minority or low income populations during consideration
 10 and review of major transportation projects. I believe
 11 it is -- I believe it appropriate that these final
 12 comments be dutifully considered by the Surface
 13 Transportation Board during consideration of the
 14 Final EIS.
 15 "Therefore, I urge that the STB
 16 reinstate the review process, thereby allowing full and
 17 complete analysis of the proposal. I look forward to
 18 working with the STB on this issue during the months
 19 ahead.
 20 "Sincerely, Nick Lampson, Member of
 21 Congress."
 22 In summary, Congressman Lampson is
 23 opposed to the San Jacinto Rail line.
 24 Thank you.
 25

1 (Applause.)
 2
 3 MR. CAPERTON: Judge Richard Cortez.
 4 MR. CORTEZ: Good evening. Thank you,
 5 panel, for allowing us to speak tonight. My name is
 6 Richard Cortez. I am the precinct election judge of
 7 Precinct 64 in Magnolia Park.
 8
 9 (Applause.)
 10
 11 MR. CORTEZ: I'm here tonight to speak
 12 out against trains passing through our communities with
 13 deadly cargoes. We have to stand up and fight for what
 14 could be our very lives and those of our children.
 15 These train companies are trying to save the millions of
 16 dollars it would cost them to reroute through open land
 17 that would not be close to our communities or our
 18 schools, instead, choosing to gamble with millions of
 19 lives with a possible derailment or a massive leak.
 20 Ours is a safety concern, a life concern,
 21 a concern that should also be yours. Your trains carry
 22 hazardous materials, toxic materials, kill-us-dead
 23 materials, chemicals of mass destruction. To those of
 24 you who represent San Jacinto Rail and other responsible
 25 parties, I beg of you, please, spare our lives.

1 Thank you.
 2
 3 (Applause.)
 4
 5 MR. CAPERTON: Esther Campos.
 6 MS. CAMPOS: Good evening. I am very
 7 happy to be able to speak with you tonight because I've
 8 been spending some of my time attending meetings in my
 9 neighborhood. I am a resident of the East End. I am
 10 also on the School Board. I represent part of the
 11 East End, and this is one of the schools that we've just
 12 opened. It opened last year. We're very proud of it.
 13 And the School District has as its first
 14 core value: Safety above all. And I'm here because
 15 children are not here to speak for themselves.
 16
 17 (Applause.)
 18
 19 MS. CAMPOS: I took time to look at not
 20 23 schools, but just a handful. Stevenson Elementary,
 21 down the street, as of December 19th, it was 1,133
 22 children enrolled at Stevenson. Here at Cesar Chavez,
 23 we have 2,156 students. Down the street at Milby High
 24 School, 2,119 students. At Deady Middle School, at the
 25 end of Highway 3 here, there is 1,064. Patterson,

1 around the corner, 825. Rucker, on the other side of
 2 the tracks, is 715. J.R. Harris, another elementary
 3 school on Broadway, 784.
 4 This makes me shudder because the danger
 5 just driving in this area and seeing the fires in the
 6 evenings frightens me, like it did once when I saw a
 7 volcano in Guatemala. I wanted to go home. But this is
 8 home. And I see the flames, and I think of the
 9 potential danger that is out there for our children.
 10 And I want to be brief in telling you a
 11 story that happened to me when I first came on the
 12 board. I had some parents call me from what we call
 13 Second Ward. Their children were being punished for
 14 being late to school. And why were they late to school?
 15 Because they had to wait for two rows of tracks to get
 16 to school.
 17
 18 (Applause.)
 19
 20 MS. CAMPOS: Instead of trying -- oh, and
 21 the reason is because Enron had to have an exit from 59.
 22 They had to move some tracks over to create an exit for
 23 the stadium. We no longer have Enron, but we still have
 24 the two tracks and the children are still late to
 25 school. The irony of it.

1
2 (Applause.)
3
4 MS. CAMPOS: We think about prevention
5 rather than remedies. So what do the railroads do?
6 They create a program, a lifesaver's program, to educate
7 students about the dangers of trains and so forth.
8 That's good, but why can't we prevent these occasions
9 from happening? Why can't we look to the future and
10 enact some prevention when we have an opportunity?
11
12 (Applause.)
13
14 MS. CAMPOS: What happens -- thank you
15 very much. My time is over, but the fight is not over.
16 We will continue to press this issue.
17 Thank you.
18
19 (Applause.)
20
21 MR. CAPERTON: That's all the elected
22 officials that registered to speak. Are there any other
23 elected officials that wanted to speak this evening?
24 If not, we'll move on to our speaker
25 list. I really would ask you to abide by the

1 three-minute rule. We have over 50 people that have
2 signed up to speak tonight and we want to hear from
3 everybody. We're going to stay and hear everybody that
4 wants to speak tonight, but if you'll be sensitive to
5 that three-minute rule, then you're doing the people on
6 down the line a favor as well.
7 I'm not going to ask you to hold your
8 applause. You may applaud if you feel like it. That
9 cuts into people's time, but if you want to express
10 yourself, feel free to do that.
11 I would ask you not to demonstrate. It's
12 a form of intimidation. The panel is here to listen to
13 your comments. They want to be able to respond to your
14 comments. So let's keep that in mind and be cooperative
15 in that manner as well. I thank you ahead of time.
16 I'll call two names at a time so that
17 people can come to the microphone to speak and the next
18 person can begin to prepare their remarks.
19 The first person is Felix Fraga. The
20 second person is Dan Martinez.
21 MR. FRAGA: I'm Felix Fraga. I work for
22 neighborhood centers in this part of town. First of
23 all, I want to congratulate all our elected officials.
24 They did a great job representing our community.
25

1 (Applause.)
2
3 MR. FRAGA: It makes me feel proud that I
4 was one of them at one time. As I mentioned to you, I
5 work for neighborhood centers and meetings like this are
6 wonderful and really important, as our Congressman Gene
7 Green mentioned.
8 You know, all of us feel that competition
9 is necessary and may be good, but it should never be
10 done at the expense of the communities. I just hope
11 that we don't give up on each other and all of us will
12 work hard to make our community the best place to live
13 in and whatever companies are located in our community,
14 that we work with those to make it successful.
15 I just wanted to mention that there's two
16 companies involved in this, and we have benefited over
17 the years from their community service.
18 One of them is Lyondell. For 22 years,
19 they have been participating with us at Ripley House
20 with our needy families' Christmas programs. They've
21 adopted one of our largest middle schools, Deady, as
22 their business partner, and they also work with the
23 Junior Achievement at Milby.
24 Union Pacific has also been very generous
25 to our community through our community center, Ripley

1 House. They made a wonderful contribution to the
2 construction of our new building. So I just think all
3 of us working together, we can make the best situation
4 of the companies that are located here.
5 Hopefully we can do whatever it takes to
6 be successful, but never at the expense of the community
7 and that we work out all of these concerns that people
8 have. The concerns are real. I have worked here all my
9 life and I know what it is to live where trains go by
10 all day long and all night. In fact, I wish there was
11 some way we could get them not to blow their whistles so
12 loud after 2:00 o'clock in the morning.
13
14 (Applause.)
15
16 MR. FRAGA: Again, let's not give up on
17 each other and let's keep working together. We need
18 companies in our community, but never should their
19 success have to be at the expense of the quality of life
20 in the community.
21 Thank you very much.
22
23 (Applause.)
24
25 MR. CAPERTON: Dan Martinez, to be

1 followed by Steve Cornell.

2 MR. MARTINEZ: Good evening. My name is
3 Dan Martinez, the principal at Deady Middle School at
4 2500 Broadway. For those of you not familiar with
5 Deady, we're located just north of Loop 610 on Broadway.
6 Present enrollment -- it was 1,064, but as of today,
7 it's 1,062. Our students feed into Milby High School.

8 Let me preface my comments by saying that
9 I'm not here to speak on behalf of this rail line.
10 Obviously as a principal with all the schools that we
11 have around here, Deady included, I'm not in favor of
12 any trains coming by. I wish we could get rid of all of
13 them, but I understand that there's a role for everyone.
14 I'm just concerned about the safety of my kids as well
15 as the elementary schools and high schools, Chavez and
16 Milby, nearby.

17 I am here tonight to speak on behalf of
18 the Lyondell Chemical Company. As Mr. Fraga mentioned,
19 Lyondell has been a business partner of Deady since
20 1989, and we are indeed fortunate to have had such a
21 concerned and committed partner associated with our
22 school for the past 13 years. I know the company
23 focused on enriching the educational experiences of our
24 students and providing encouragement and support for our
25 teachers.

1 Representatives from Lyondell served on
2 the SBDMC, Site-Based Decision Making Committee, and
3 worked closely with me and the faculty. Here are some
4 of the things Lyondell has been involved with at Deady
5 over the years. When Lyondell first came to Deady,
6 employee volunteers would help our students with their
7 homework, usually after school and often providing them
8 with pizzas.

9 Lyondell helped begin our program helping
10 our students promote their writing skills. Volunteers
11 have hosted a back-to-school breakfast for teachers at
12 the end of summer break. When school introduced school
13 uniforms, Lyondell provided each student with uniform
14 T-shirts. School supplies were provided for students at
15 the beginning of the year and are available to students
16 during the year.

17 Last year, when our students needed
18 funding to help send 99 boxes of origami cranes to
19 Washington, D.C. in honor of the victims of
20 September 11th, Lyondell stepped forward and helped us
21 to fund it. They have donated art and science lab
22 supplies. They have developed an incentive program for
23 honor roll students and have provided school jackets to
24 honor roll students.

25 They have provided funds to enable school

1 field trips and transportation to school sporting
2 events. They are a sponsor of our yearbook. They
3 sponsor rocket club, chess club, history club, reading
4 club. You name it.

5 UNIDENTIFIED SPEAKER: Who cares about
6 that?

7 (Multiple people speaking
8 at the same time.)

9 MR. CAPERTON: Please, if people will be
10 kind enough to hear everyone's comments without comment.

11 MR. MARTINEZ: Basically what I want to
12 say is I'd like to show my appreciation for Lyondell and
13 all they have done for us.

14 Thank you.

15 (Multiple people speaking
16 at the same time.)

17 UNIDENTIFIED SPEAKER: We don't care.

18 MR. CAPERTON: Sir, please, no comments.

19 UNIDENTIFIED SPEAKER: His time is up.
20 He needed to sit down.

21 MR. CAPERTON: I'm going to be generous

1 and let people wrap up their comments rather than going
2 over and cutting off the microphone, and I'll do the
3 same for you, sir.

4 UNIDENTIFIED SPEAKER: This isn't about
5 pizzas and origami. It's about kids' lives. We don't
6 care about pizzas and origami.

7 MR. CAPERTON: Okay. Our next speaker is
8 Steve Cornell, please.

9 MR. CORNELL: Good evening. Thank you
10 very much for the opportunity to speak tonight. My name
11 is Steve Cornell. I'm a vice president for Atofina
12 Petrochemicals. We are one of the companies in the
13 San Jacinto Rail partnership. My company ships plastic
14 pellets. We ship plastic pellets to our customers.
15 They turn those into products now in homes all over
16 Texas and all over America.

17 I'm here tonight simply for one reason,
18 to communicate to you our situation regarding our
19 Bayport facility and the fact that it has the highest
20 shipping costs in our company. The reason that the
21 shipping costs are so high at Bayport is simple. You've
22 heard it, but let me repeat.

23 It's not the type of product we make,
24 because plastic pellets are very easy, very simple, very
25 safe to haul. It's not our location, because we have a

1 neighboring facility in La Porte about ten miles down
2 the road, and we can send plastic pellets from that
3 facility to the same destinations for about half the
4 cost of our Bayport facility.

5 The problem is simply the lack of
6 competition. Unfortunately we find ourselves in a very
7 difficult situation. It's a situation similar to having
8 only one choice in long distance telephone service. And
9 I think everybody can relate to that. Everybody knows
10 when you have one service provider competing for -- or
11 if you have more than one service provider competing for
12 the same call, your rate is going to go down.
13 Competition reduces the rates.

14 At Bayport today for my company, we have
15 only one choice in long distance rail service, and that
16 is Union Pacific. There is no reason Union Pacific will
17 agree to lower their rates. My opinion is that UP will
18 never lower their rates until there is a viable
19 alternative for me to use, a viable alternative like the
20 San Jacinto railroad.

21 Obviously we are convinced of this and
22 are willing to spend our dollars to provide lasting
23 competition and viability for the future of our
24 facility. Be assured we have tried numerous times to
25 get better rates from UP to no avail. So I'm asking

1 tonight for your support.

2 We run a good operation at Bayport. We
3 employ about 200 people. They're good people with
4 families. They have good jobs, but in the end, that's
5 all insignificant to me if I cannot get my product to my
6 customer at a competitive price. Unless we bring down
7 this cost burden, we will continue to struggle to
8 survive.

9 So I'm here to simply ask you to look at
10 the merits of the Draft EIS and I urge you to accept it.

11 I thank you for your time.

12 (Applause.)

13 MR. CAPERTON: Jeff Hemmer, to be
14 followed by Anthony Collins.

15 MR. HEMMER: Good evening. My name is
16 Jeff Hemmer. I'm vice president of supply chain for the
17 Houston-based Lyondell Chemical Company and also for a
18 joint venture Equistar Chemicals. Among my
19 responsibilities is product distribution. Lyondell and
20 Equistar have used rail transportation for many years to
21 safely and efficiently transport our products to
22 customers across the United States, products that are
23 used by consumers on a daily basis.

1 To compete in the global chemical
2 business, we must continue to find ways to lower our
3 costs. Distribution represents our third highest cost
4 category after raw materials and payroll, two areas of a
5 highly competitive market. Where we have been
6 unsuccessful until now is in significantly reducing
7 distribution costs at locations such as Bayport
8 Industrial Complex that do not have competitive rail
9 service.

10 Without competition, companies such as
11 Lyondell, Equistar, Atofina, and Basell pay 40 to
12 60 percent higher rates. This disadvantage costs us one
13 half to one cent a pound in a business climate where
14 profit or loss is literally determined by fractions of a
15 cent. When we pay millions of dollars a year in
16 excessive transportation expense, that not only hampers
17 our ability to compete in global chemical markets but
18 also diverts capital that could be more beneficially
19 invested in the local economy.

20 The chemical industry is one of Houston's
21 prime economic engines. The four partners in this
22 project are a major part of this, providing jobs to
23 5,000 employees and 2,000 contractors, 1,100 in the
24 Bayport area alone. Without rail competition, the
25 future viability of the Bayport Industrial District and

1 the facilities operating there are in jeopardy of
2 falling behind other regions of the United States and
3 the world. And the ramifications to the surrounding
4 community are significant.

5 While controlling our costs is important,
6 there's no higher priority than safety in our companies,
7 and that extends from the manufacture of products to the
8 safe transportation to our customers, whether by rail,
9 by truck, by barge, or by pipeline. As an industry, the
10 performance of U.S. railroads in transporting hazardous
11 materials is outstanding; 99.996 percent of the
12 hazardous material moved by rail this year arrived at
13 its destination without any form of incident.

14 The performance of Burlington Northern
15 Santa Fe and Union Pacific is even better than that.
16 Union Pacific has been safely transporting Lyondell's
17 ethylene oxide and propylene oxide from Bayport through
18 Houston and throughout the whole nation for decades. We
19 have no record of any ethylene oxide or propylene oxide
20 cars from our facilities being involved in an accident
21 that resulted in a leak or a spill. And as an industry,
22 there have been no accidents involving propylene oxide
23 or ethylene oxide that resulted in any form of leak
24 since the late 1980s due in part to the strenuous design
25 of the cars and operating specifications of these cars.

1 To more effectively manage our costs in
2 the safest possible way, the San Jacinto Rail partners
3 have diligently followed the prescribed procedures and
4 regulations to develop a solution to our rail
5 transportation requirements through the remedies
6 provided by the Surface Transportation Board.
7 San Jacinto Rail is a thoughtful, environmentally
8 sensitive development proposal that balances the needs
9 of the communities and the industrial district in which
10 it will operate.

11 I thank the Board for the opportunity to
12 share my point of view and urge that you accept the
13 findings of the Draft Environmental Impact Statement.

14 (Applause.)

15 MR. CAPERTON: Anthony Collins, to be
16 followed by Mary Vargo.

17 MR. COLLINS: My name is Anthony Collins.
18 I attend Park Place United Methodist Church right up the
19 road a ways. We belong to TMO, The Metropolitan
20 Organization. Several of us are here tonight.

21 (Applause.)

22

1 MR. COLLINS: And I live -- personally I
2 live about 300 yards from this train track we're talking
3 about. So you folks are going to be here tonight. We
4 appreciate you being here. You're going to hear our
5 points of view. Then you're going to go home. But we
6 are going to live with your decision as it is made.

7 (Applause.)

8 MR. COLLINS: You've heard from all of
9 our elected officials. You are hearing from townspeople
10 who live in this side of town. We oppose this project.
11 Who's in favor? We have heard from the people, and I
12 respect their purpose. I respect the necessity of a
13 competitive environment. I understand that. But we're
14 talking about our homes, our livelihood, our schools,
15 and our children.

16 (Applause.)

17 MR. COLLINS: We're not talking about
18 making money or saving a penny and a half on a project.

19 (Applause.)

20

1 MR. COLLINS: And it will be on your
2 conscience whatever happens here. It will be your
3 responsibility and one that you cannot evade. I would
4 like -- almost all the points I was going to make have
5 been addressed by speakers prior to me.

6 The issue of the misrepresentation of the
7 ethnicity in this area, I happen to be an Irishman.
8 Lots of us live here happily with our Hispanic
9 neighbors. It's a good neighborhood, and we want to
10 keep it that way.

11 (Applause.)

12 MR. COLLINS: What about this business of
13 one or two trains a day? Who believes that? One or two
14 trains a day. I tell you what will happen. In a year
15 or two, well, we're going to have to add another two or
16 three trains. We'll have 10 or 15 more trains in five
17 years if you approve this. That's exactly -- and you
18 have heard from other people what that's going to mean
19 to this community.

20 (Applause.)

21 MR. COLLINS: So there are alternate

1 routes. There are possibilities for negotiation. And I
2 hope you will turn down this troubled and mistaken --
3 this misrepresented report. I hope you will turn it
4 down and will have an opportunity to think about this in
5 a rational way that takes the environmental and safety
6 concerns into account.

7 Thank you.

8 (Applause.)

9 MR. CAPERTON: Mary Vargo, to be followed
10 by Gregory Brown.

11 MS. VARGO: My name is Mary Vargo. I'm
12 chairman of the Southeast Neighborhood Coalition. I'm
13 also involved in the group called CORE, Coalition for
14 Responsible Railroad. The STB has failed miserably
15 in its analysis and has provided slanted, inaccurate,
16 and misleading information, ignoring the potentially
17 devastating consequences this project would bring to the
18 predominantly poor minority population of our community,
19 which, by the way, you said was an Anglo area. I don't
20 know which is worse, thinking the STB intentionally
21 published a pack of lies and misleading information or
22 the possibility that the STB is so incompetent that they
23 think this is accurate data.

(Applause.)

MS. VARGO: To add insult to injury, the STB has ignored the results of a 1993 Ohio case in which a similar project was denied due to safety hazards in the community. This was a project that affected far fewer people than this one will.

With regard to what the companies have done for our schools, I salute them for doing that, but is that the cost of doing business? Is that the cost of having a relationship with them, to support their activities?

SJR changes the use of the area by making it a high traffic line with high volumes of hazardous chemicals. To do the math, two trains per day going out, two trains per day returning -- and, by the way, when they say two, that 33 cars a day means two -- 33 cars going one way. That's 66 cars coming back. You do the math. It comes out to be 48,180 cars per year, 30 percent of that hazardous, or 14,454. In five years, they anticipate to double. That will be 96,000 additional cars per year on -- again, added to the existing traffic.

Misleading comments. The area, as you

can see, is predominantly Anglo. I pulled the demographic statements from HISD. Of the 20 area schools that I just happened to pull, the demographics show 90 to 99 percent minority, most of it Hispanic. The elementary schools have a high percentage of children in the lower income area proven by the free lunch program.

I want to read you something that appears on the ethylene oxide website, which is, by the way, sponsored by two of the San Jacinto Rail partners. This is a quote I pulled off of the website.

"Over the past 50 years, there have been many incidents in both EO production plants and EO consuming plants resulting in major plant damage as well as fatalities. There have also been a significant number of EO transportation incidents."

That is from their industry website. All right.

"Rail car explosion due to reaction between residual EO and cleaning water; explosion of rail cars containing EO wash water."

Now, we hear about Burlington Northern's wonderful safety record. That may be per million miles, but a lot of their miles are in the back lands of North Dakota or West Texas. In reality, BNSF incurred

\$65.9 million in damages in the year 2000 and in the last six years have had over \$300 million in damages.

The partners are among the highest polluters in the county, Lyondell being number two. They have released in the last one year 13 million pounds of toxic chemicals. That doesn't sound safe.

It is illegal, immoral, and unethical to put lives and property at risk, thinly veiling the justification as a need for competition. The issue is not competition. It is whether there is any acceptable reason to knowingly put lives at risk just to make a buck. There are safe alternatives in less densely populated areas.

This project will not be approved if the EIS is truthful and accurate.

(Applause.)

MR. CAPERTON: Gregory Brown, to be followed by Rick Dovalina.

MR. BROWN: Thank you, and welcome to Southeast Houston. My name is Greg Brown and I am from Meadowcreek Village, a neighborhood of 1,500 homes about two blocks south of here along the GH&H line. We can debate all night about the number of trains that will

use the San Jacinto Rail line or the relative safety of rail transport. I agree that rail is probably the safest way to transport hazardous material over land, but we all know accidents happen.

We also all know that there are going to be more than two trains a day using this line. The partners indicated in their original filings that they will activity seek additional users. I think it is reprehensible to shift the potential risk of hazardous chemical cargo, no matter how small, from a predominantly industrial area along Highways 146 and 225 to a predominantly residential area along Highway 3.

What I find even more disturbing is that the STB completely ignores the power it has under law to solve the problem without building additional rail. The Staggers Rail Act of 1980 did not completely deregulate the railroad industry. Congress was aware that there were many captive shippers only served by a single rail line and it is not practical to have multiple lines built to every location. That is why they continued the authority of the Interstate Commerce Commission, now the Surface Transportation Board, to regulate rates and enforce competitive access in monopoly situations such as we have in Bayport.

Title 49, Chapter 111, Section 111.02 of

1 the U.S. Code states: "The Board may require terminal
2 facilities, including main line tracks for a reasonable
3 distance outside of a terminal owned by a rail carrier
4 providing transportation subject to the jurisdiction of
5 the Board under this part, to be used by another rail
6 carrier if the Board finds its use to be practicable and
7 in the public interest."

8 It then describes how the Board may
9 establish conditions for such use if the carriers cannot
10 agree. In short, the law clearly gives the STB the
11 authority to force a negotiated settlement to end a
12 monopoly when it is in the public interest to do so.

13
14 (Applause.)

15
16 MR. BROWN: And I cannot imagine a
17 situation when this would be more in the public
18 interest. You have heard from every municipal
19 government along the proposed route. Shore Acres,
20 Taylor Lake Village, Pasadena, South Houston, Houston,
21 all have told you of the adverse effects this project
22 would have on their communities. These issues are not
23 adequately addressed in the Draft EIS, although they
24 were clearly stated during the scoping period.

25 Using your own numbers, Highway 3 rail

1 traffic would increase by at least 66 percent and could
2 eventually rise to more than 300 percent of current
3 levels, yet you classify the effects as negligible. If
4 the federal government supports a handful of businesses
5 in railroading this project to completion against the
6 wishes of the greater community, then we have the dawn
7 of fascism in the United States, and that scares me much
8 more than this rail line.

9
10 (Applause.)

11
12 MR. CAPERTON: Rick Dovalina, to be
13 followed by Gregory Rincon.

14 MR. DOVALINA: Good evening, Ms. White
15 and members of this panel. My name is Rick Dovalina.
16 I'm the immediate past national president of the League
17 of United Latin American Citizens, LULAC. We have over
18 100,000 members throughout the United States, and we're
19 the largest Hispanic organization in this country.

20 I'm here today not only representing
21 LULAC but as a member of the East End community for the
22 last 25 years. I'm here representing the Hispanic
23 children, the elderly, and the families that will be
24 directly affected by the proposed San Jacinto plan.

25 The councils and members of LULAC in

1 Houston have unanimously passed a resolution opposing
2 the San Jacinto plan. The resolution is hereby
3 submitted as part of the record in these proceedings.

4
5 (Resolution dated January 11, 2003,
6 signed by Mary Ramos, LULAC District VII
7 Director, incorporated herein by
8 reference.)

9
10 MR. DOVALINA: To the Hispanic population
11 of the East End, this issue is simple. It's one of
12 safety. It is a matter of demanding that the executive
13 order issued by the President on environmental justice
14 be followed and implemented and that the rights and
15 concerns of the Hispanic community be given all due
16 consideration under that order. If this San Jacinto
17 plan is analyzed with true and correct data, it will
18 reflect that the minorities are being disproportionately
19 affected by this proposed plan.

20 The number of Hispanics affected by this
21 plan was not correctly disclosed in the EIS. To
22 determine the true impact, the truth must be considered.
23 What we are asking this Board to do is within its powers
24 to do. This Board has denied permits for public safety
25 reasons before in Cincinnati. In that case, only a

1 thousand people were affected. Do the people and the
2 children of Houston deserve less?

3 Public safety concerns should be judged
4 by the same standards. The standards used in Cincinnati
5 should be the standards used in Houston.

6
7 (Applause.)

8
9 MR. DOVALINA: What we ask is for
10 fairness and consideration by this Board. A pattern of
11 racial discrimination by this Board will not and cannot
12 be tolerated.

13
14 (Applause.)

15
16 MR. DOVALINA: Public safety should
17 always override monetary concerns. The only arguments
18 brought forth by the proponents of this plan all have to
19 do with money. What we have -- we have gone through
20 great lengths in this country to ensure that our
21 environment is preserved and that the quality of life
22 remains the most important issue rather than financial
23 concerns of a few corporate entities.

24 If it costs more to do business, so be
25 it. We the community should not have to bear the price

1 with the lives of our families.

2

3 (Applause.)

4

5 MR. DOVALINA: It does not take a math
6 wizard to understand that an increase in traffic of
7 hazardous materials will also increase the risk of
8 disasters. We all live in Houston and Pasadena. We all
9 know that disasters strike. We have heard the
10 explosions. We have smelled the gas, the releases.

11

12 (Applause.)

13

14 MR. DOVALINA: All these corporate
15 individuals that come here will swear that these plants
16 are safe. To them I say: Tell that to the families of
17 the dead workers who have been involved in these
18 explosions.

19

20 (Applause.)

21

22 MR. DOVALINA: We understand that one
23 railroad controls the business and that the other one is
24 paying the price. That's what we're hearing today. It
25 is true that Union Pacific enjoys the fruits of its

1 monopoly in this area, but Burlington Northern also
2 enjoys those fruits in other areas. Why aren't they
3 making a big deal in those areas? Because they control
4 them; they're making the money.

5 We all know it's a simple issue of
6 competition. They found a way to get these major
7 refineries, these major companies, to fight their fight
8 and bring this proposal. We cannot allow them to pass
9 this project simply because they lost to the
10 competition. The cost should be passed to the people
11 that demand the product. It happens in all industries,
12 the pharmaceutical industry.

13 MR. CAPERTON: Please wrap up, sir.

14 MR. DOVALINA: Well, let me just
15 conclude.

16 MR. CAPERTON: Thank you.

17 MR. DOVALINA: In conclusion, I plead
18 with you today to do what is fair and just in this
19 matter, to reject the San Jacinto plan, to send a
20 message to these companies that the value of life is
21 more important than the good almighty dollar.

22 Thank you very much.

23

24 (Applause.)

25

1 MR. CAPERTON: Gregory Rincon, to be
2 followed by David Chamberlin.

3 MR. RINCON: Good evening. My name is
4 Greg Rincon and I'm here representing the Greater East
5 End Coalition. The coalition is made up of all the
6 neighborhoods in the East End and several -- numerous
7 community leaders. We -- two years ago or just about
8 two years ago, in August 2001, the information regarding
9 San Jacinto Rail Limited came to light, to our attention
10 by our neighbors to our south in the Clear Lake
11 community.

12 We had no information, no knowledge of
13 this proposed rail line being built and what the impact
14 would be on our community. Well, here we are two years
15 later just about, and we now know -- after the hundreds
16 of documents going back and forth and submitted, we know
17 what the impact will be. We knew what the impact would
18 be then. We even know that picture much clearer now.

19 What I've brought to you today is a map
20 to give you a visual. I'm a visual person. I like to
21 see things in black and white -- color, if you will.
22 And as you can see, there are several colors on this
23 map. One very prominent is yellow. Yellow will signify
24 the amount of residential land use in the East End.
25 This map is of the East End, basically everything inside

1 of 610 Loop at this point.

2 Another very prominent color that you'll
3 see here is green. Green represents all of the park
4 space that we have in the East End. And, of course, we
5 have red. That will represent the commercial and retail
6 use.

7 As you can see, the proposed line when it
8 comes inside 610 Loop, dissects -- it comes right in the
9 middle of residential and park use of this land. Very
10 little do you see any industrial or other than retail
11 commercial use of this land. And this is our concern,
12 ladies and gentlemen, is that this railroad comes and
13 dissects within 20 feet of residential neighborhoods.

14 If you would, bear with me and visualize
15 yourself if you would live in the East End and sitting
16 on your front porch or back porch and enjoying your day
17 and then here comes a train less than 20 feet of
18 yourself. And that's what our residents are having to
19 deal with is living within 20 feet of a train track in
20 which trains on a daily basis, over 30 times a day,
21 according to your own records that have been submitted
22 as part of the Draft EIS, are having to deal with. And
23 this is our concern to increase that amount of train
24 traffic.

25 Now, it has been said by BNSF that no

1 additional trains would come through the East End.
 2 Well, we acknowledge that UP currently transports some
 3 of the trains from the Bayport facility through the East
 4 End. However, not all of those trains come through the
 5 East End as being proposed by BNSF. So any reasonable
 6 person can conclude that there will be an increase in
 7 train traffic. And that's what we here as a community
 8 are trying to relate to you.

9 And one final remark I'd like to mention,
 10 or a couple of remarks, last night at the hearing, I
 11 attended and I wanted to take notes and listen to what
 12 the community down south of us had to say. And that
 13 community -- and there were comments made by the
 14 chemical companies and by employees of those chemical
 15 companies. And those employees said, "Well, I live -- I
 16 currently live within a mile, mile and a half of the
 17 proposed rail." I ask them to come and live within
 18 20 feet of the proposed rail.

19 Mr. Harpole from one of the chemical
 20 companies said, "There won't be a train horn blown from
 21 the point the train leaves the Bayport facility all the
 22 way to the point where it connects with the GH&H line."
 23 I ask Mr. Harpole to come and live in the East End and
 24 have that horn blown 24 hours a day.

25 Thank you for your time.

1
 2 (Applause.)
 3

4 MR. CAPERTON: David Chamberlin, to be
 5 followed by Mark Stehly. Is David Chamberlin here?

6 Mark Stehly, to be followed by David
 7 Freeman.

8 MR. STEHLY: Hello. I'm Mark Stehly.
 9 I'm assistant vice president, environmental and research
 10 and development, for Burlington Northern Santa Fe. I am
 11 responsible for our environmental, hazardous materials,
 12 and research and development programs. I'm a registered
 13 professional engineer. I have 30 years of experience in
 14 the environmental and hazardous materials field. And
 15 I'm here to talk about the BNSF hazardous material
 16 safety record.

17 There are three things most important to
 18 hazardous material safety, including the safety of
 19 derailment rate, speed of trains, and emergency
 20 response. BNSF has one of the safest railroads in the
 21 U.S. We have reduced our derailment rate by 40 percent
 22 since 1990. We experience only three FRA reportable
 23 derailments per million train miles, and we are much
 24 safer than trucks.

25 The speed of the trains in the area is in

1 the range of 25 miles per hour. This moderate speed
 2 means if we did experience a derailment, a release of
 3 hazardous materials is highly unlikely due to the lower
 4 momentum of the train.

5 We move approximately 500,000 tank cars
 6 of hazardous material per year, half of which are
 7 loaded, half of which are residue cars. In the seven
 8 years since our merger, we averaged five FRA reportable
 9 accidents across our entire 30,000-mile system,
 10 involving releases from nine tank cars on average per
 11 year of these hazardous materials. This year, we had
 12 three accidents involving releases from only three tank
 13 cars. That's from 500,000 cars total, 250,000 loaded
 14 and 250,000 residue.

15 It is extremely unlikely there will be
 16 any release of hazardous materials in the area from an
 17 accident involving our trains. If one should occur, we
 18 are prepared to respond quickly with our personnel and
 19 our contractors as are our shippers. Last year we
 20 trained nearly 3,500 community responders on how to
 21 respond to hazardous materials incidents.

22 The American Chemistry Council, an
 23 industry association of chemical manufacturers, gives a
 24 single award each year to the one transportation company
 25 that does the most for community awareness and emergency

1 response regarding hazardous materials. We have
 2 received this very prestigious award three of the last
 3 four years, an unprecedented achievement in the history
 4 of the award.

5 Lastly, we the U.S. railroads have an
 6 antiterrorism plan which has been reviewed by the Office
 7 of Homeland Security's Transportation Security Agency.
 8 The plan is fully implemented and is a series of
 9 increasing railroad preventative activities based on
 10 threat levels.

11 The BNSF has its own police force
 12 commissioned in all the states of the Union. Our police
 13 force is closely tied in to the U.S. intelligence
 14 community to ensure that we have the greatest possible
 15 warning of any threat to our system.

16 In conclusion, we are safe, we'll be
 17 safer in the future, and we ask that you accept the
 18 Draft EIS statement.

19 Thank you.
 20

21 (Applause.)
 22

23 MR. CAPERTON: David Freeman, to be
 24 followed by George Duggan.

25 MR. FREEMAN: Good evening. Thank you

1 for the opportunity to speak to you tonight. My name is
 2 David Freeman. I'm the general manager of the Gulf
 3 Division of the Burlington Northern Santa Fe Railway and
 4 as such am responsible for the operations in and around
 5 Houston. I'm here tonight to discuss our voluntary
 6 mitigation measures as they relate to the communities
 7 along Highway 3 and in the East End.

8 There are a few of our voluntary
 9 mitigation efforts that I would like to touch on as a
 10 demonstration of our commitment to being a good neighbor
 11 and running an efficient railroad. We have invited
 12 input from the local community, we have listened to that
 13 community, and we have worked very diligently to develop
 14 a comprehensive plan to address issues that have been
 15 identified as important.

16 The most visible of our mitigation
 17 measures was to offer to move away from New South Yard
 18 as our primary switching yard for the Bayport traffic.
 19 A significant number of community members and elected
 20 officials expressed concerns about existing congested
 21 conditions in two areas around New South Yard. The
 22 first of the two areas was TN&O Junction. The track is
 23 located near the intersection of Griggs, Long, and
 24 Mykawa Roads, and it requires reverse movement to enter
 25 New South Yard when coming from Bayport. The second was

1 part of the East Belt located between Telephone Road and
 2 Polk Street.

3 Although we believe that the shifting of
 4 a very limited subset of traffic from Bayport away from
 5 the existing UP routes in and around the East End area
 6 would have minimal, if any, impact on the East End, we
 7 worked again diligently to develop a variation to our
 8 initially proposed route to avoid New South Yard and
 9 move the traffic. This route has fewer at-grade
 10 crossings in the East End and would reduce the
 11 interaction between trains and cars and other vehicles
 12 in that area from our initial planned route.

13 As one of BNSF's representatives to the
 14 East End Mobility Task Force, I'm very glad to be a part
 15 of BNSF's commitment to continue to be an active
 16 participant in the task force, which was set up to
 17 review and propose solutions to longstanding problems in
 18 the East End. Although the problems under review by the
 19 task force are in part unrelated to the proposal for
 20 competitive access to Bayport via the San Jacinto route,
 21 it is a good forum for citizens of the East End to
 22 generate dialogue with BNSF and UP about any concerns
 23 over rail service in the East End area.

24 The task force members include local
 25 elected officials, community members from the area,

1 Union Pacific, and BNSF. I have personally attended
 2 meetings of that task force, and I believe it provides
 3 an excellent opportunity for the community to
 4 communicate with us and for us to understand and address
 5 the rail-related concerns of our neighbors.

6 With regard to the San Jacinto line in
 7 particular, BNSF is committed to establishing various
 8 liaison processes during construction and the first full
 9 year of operation to ensure that communities are able to
 10 communicate with us about issues or concerns related to
 11 the project. We have also proposed other community
 12 relations activities in response to the various concerns
 13 raised in this process.

14 San Jacinto Rail and BNSF in particular
 15 have committed to work with local officials to identify
 16 schools, hazardous response programs, and others for
 17 training that is already in existence and we would
 18 clearly make available to any group that was interested
 19 in being part of those training efforts. We are
 20 committed to working with community officials to ensure
 21 the safety of this operation.

22 I believe the Draft EIS correctly
 23 concluded that the impacts of the San Jacinto project
 24 are negligible, particularly in view of the traffic
 25 levels at issue. Though certain areas of concern have

1 been raised, we believe our voluntary mitigation
 2 measures address in detail how we might resolve those
 3 concerns, even the concerns that may or may not
 4 necessarily result directly from the proposed project.

5 MR. CAPERTON: Please wrap up.

6 MR. FREEMAN: We intend to continue to
 7 receive input and take sensible and responsible actions
 8 where appropriate to resolve the issue.

9 Thank you very much for the opportunity
 10 to address you.

11 (Applause.)

12 MR. CAPERTON: Thank you. George Duggan,
 13 to be followed by Daryl Ness.

14 MR. DUGGAN: Hello. My name is George
 15 Duggan. I'm vice president, industrial products, for
 16 the BNSF Railway. I greatly appreciate this opportunity
 17 to speak today during the public meeting on the proposed
 18 San Jacinto Rail line.

19 Traffic volumes. Since this project was
 20 proposed, there has been much discussion about the
 21 traffic volumes likely to be carried over the
 22 San Jacinto Rail line. As I am aware, the public is
 23 still very concerned about these traffic levels and I

1 would like to take this opportunity to address those.

2 We have submitted our estimates that we
3 will handle 33 to 66 loaded cars per day and an equal
4 number of empty returning cars. This equates to two
5 trains per day. These projections take into account
6 volumes for all Bayport shippers and potential growth
7 for those shippers. Many people feel our projections
8 don't make sense.

9 Let me put this into perspective. We
10 know the total volume of traffic for all Bayport rail
11 shippers, not just our partners, is approximately 300
12 cars per day. This equates to three to four trains per
13 day. This is confirmed by Union Pacific's traffic
14 counts and the STB public data. Our volume projections
15 assume we will get half of the traffic at Bayport.

16 This assumes very aggressive marketing
17 actions. So half the total is still two trains per day.
18 Ultimately the length of trains may vary with volume
19 swings, but we do not anticipate the train count to
20 exceed two.

21 The Bayport Container Terminal. On
22 another topic, we believe it is important to reiterate
23 that we have no plans to serve the Bayport Container
24 Terminal nor have we requested regulatory authority to
25 connect the San Jacinto line to the planned container

1 terminal at Bayport. The purpose and need for a rail
2 project is to provide competitive rail service to the
3 plastic and chemical shippers in the Bayport Loop and
4 has nothing to do with the feasibility of the marine
5 project.

6 The project economics. On the economics
7 of the project, I have heard with interest the
8 suggestion that our two train per day volume estimate
9 seems incredible in light of the estimated \$80 million
10 we plan to spend on the project. In fact, some have
11 suggested we surely must have plans to move far more
12 volume than projected.

13 However, based on our experience in
14 marketing this type of traffic in competition with the
15 Union Pacific, we are confident that along with the
16 shared investment of our partners' contribution to the
17 project, the proposed \$80 million in capital is more
18 than justified assuming our projected traffic levels.

19 Next, we'd like to set the record
20 straight on minority population data. On an unrelated
21 matter, BNSF and our partners in San Jacinto feel
22 compelled to comment to the public that we have been
23 unfairly accused of providing false data to the STB in
24 support of the project. And we wish to set the record
25 straight. That simply is not the case. We have

1 provided no minority population density analysis, and
2 the public record supports that fact.

3 In closing, we do not deny that this
4 project suits the interests of BNSF and our partners,
5 but we must acknowledge that it is in our own
6 self-interests to ensure that we proceed in a
7 responsible manner which is sensitive to the concerns of
8 the community. We have attempted to proactively seek
9 public comment and where sensible and appropriate design
10 mitigation and potential alternatives to address
11 concerns, concerns that may or may not necessarily
12 result directly from our planned service.

13 Your community, which thrives on the
14 stability of the industry at Bayport, deserves the
15 benefits that competition brings, and we pledge to
16 deliver that competition in a responsible manner.

17 Thank you.

18
19 (Applause.)

20
21 MR. CAPERTON: Daryl Ness, to be followed
22 by Dan McEwing.

23 MR. NESS: Good evening. Thank you for
24 the opportunity to speak with you this evening. My name
25 is Daryl Ness. I am a terminal superintendent for the

1 Burlington Northern Santa Fe Railway. Among other
2 things, my responsibilities include the day-to-day
3 management of BNSF train operations in the East End.
4 Although I firmly agree with the conclusion of the
5 Draft EIS that the planned Bayport traffic will have
6 minimal, if any, impacts on the East End operations, the
7 public has raised comments and concerns about our
8 existing operations in the East End unrelated to the
9 proposed new line near Clear Lake.

10 Accordingly, we felt it important to
11 mention some of the challenges we face in the East End
12 and what we have been doing to take care of those
13 challenges. For example, lately we have been investing
14 tens of millions of dollars to improve operations and
15 capacity for the benefit of Houston terminal including
16 the East End. One specific project in the Houston area
17 worth noting is one that we completed last February.

18 We invested \$3 million to improve the
19 tracks in our New South Yard, which is located near the
20 corner of Griggs and Mykawa. This project along with
21 some improvements Union Pacific has made on an adjacent
22 track allows BNSF trains to get off the heavily used
23 East Belt without slowing down for through trains that
24 previously had to wait their turn entering or leaving
25 New South Yard.

1 Trains now move more efficiently through
2 the area, as evidenced by the reduction in the number of
3 block grade crossings and the amount of time a road
4 crossing is blocked. As you know, Union Pacific had
5 been most critical of our local operations in this
6 regard. We are pleased to report that the problem has
7 been fixed.

8 Finally, I want to mention some proactive
9 clean air improvements we have participated in recently,
10 which may be of interest to the citizens of Houston.
11 The Houston-Galveston Area Council, Texas Commission on
12 Environmental Quality, and U.S. Environmental Protection
13 Agency have designated BNSF as a clean air leader for
14 our voluntary commitment to reduce locomotive emissions
15 in the area. As part of our clean air program, we have
16 moved more fuel efficient switching to the Houston area
17 to reduce the amount of emissions generated by our
18 operations. We do have two test switch engines here in
19 Houston which BNSF has put into service at New South
20 Yard right here in the East End.

21 In sum, I think anyone that is familiar
22 with the train traffic in the East End recognizes that
23 the solutions to everyone's concerns are complex and
24 involve ourselves, our competitors, the local government
25 agencies, and the communities themselves. My point

1 tonight is to demonstrate that BNSF is committed to do
2 its part.

3 We are addressing the preexisting
4 problems in the East End unrelated to the San Jacinto
5 project. Our commitment to improve community
6 environmental issues is constant and is more than just
7 rhetoric. It is reflected in real improvements backed
8 by real money with the support of real people like
9 myself and others of BNSF who strive for constant
10 improvement.

11 Thank you for your time.

12 (Applause.)

13 MR. CAPERTON: David McEwing, to be
14 followed by E.T. Dickerson.

15 MR. McEWING: Hello. I've never spoken
16 in a microphone before. I'm David McEwing and I'm a
17 resident of the East End. First of all, I am
18 pro-railroad generally and pro-competition; however, I'm
19 opposed to this project for several reasons. And
20 without belaboring things and points that have already
21 been said, one of the things you've heard is competition
22 lowers costs.

23 One of the costs of maintaining a

1 railroad is track maintenance. So in cutting costs,
2 you're going to be cutting the dollars, I assume, for
3 track maintenance. Track maintenance when -- poorly
4 maintained tracks obviously can enhance and increase the
5 risk of derailment. So in all the studies and all the
6 statistics that I've heard this evening, no one has
7 spoken of how are they going to be -- how is there going
8 to be a mechanism for ensuring that this track, which is
9 already cutting the business in half, how is it going to
10 be maintained and how are we going to be assured that
11 the tracks are going to be well maintained.

12 Added to that is the fact that, as has
13 been noted, the train tracks do run in close proximity
14 to residences. I've heard the figure of 20 feet. In
15 comparing that to a highway -- and I don't dispute that
16 trains are more safe than highways or truck traffic. I
17 don't dispute that. But keep in mind, highways are much
18 broader. If a highway is generally, say, a hundred feet
19 away from a residence and a train track is 20 feet, as
20 has been cited in the reference, that has a real impact
21 on the dispersion and the concentration of contaminants.

22 I did some very quick math, and don't
23 hold me to this, but if something is dispersed at
24 20 feet away, that has a 12 percent -- a diminished
25 concentration of about 12 percent. If it's a hundred

1 feet away, it's 1/100th of a percent, a tremendous
2 amount of -- let me rephrase that. The fact that you
3 have train tracks running in such close proximity to
4 houses results that in the same quantity of a spill, you
5 have a much higher concentration of the contamination.
6 Therefore, there's an inherent risk of having trains
7 carrying toxic substances running in such close
8 proximity to houses.

9 Thank you for your time.

10 (Applause.)

11 MR. CAPERTON: E.T. Dickerson.

12 Juanita Huerta, to be followed by Jim
13 McGill.

14 UNIDENTIFIED SPEAKER: If he's not here,
15 can somebody substitute for him?

16 MR. CAPERTON: We will give Spanish
17 speakers twice the amount of time to accommodate the
18 translation.

19 MS. HUERTA (THROUGH THE INTERPRETER):

20 Good evening. First, I want to thank you for the
21 opportunity to be here tonight. I'm the voice of many
22 children. Well, I'm a school bus driver, and I'm their
23 voice. My work as a driver entails taking the children

1 to school in the morning, and they have to be taken safe
2 and on time.

3 Many of the times I'm very frustrated
4 because I'm very close to the school, but I cannot get
5 there. Because once the train crosses the way, that's a
6 problem.

7 These children are constantly getting to
8 school late, and they're always being detained by the
9 principals. This is something that worries a lot of the
10 drivers that work in this area. In the afternoons, the
11 children leave the school very tired. They're hungry
12 and they have to get quickly to their homes. And many
13 times the train is crossing, and it stops completely.

14 That's a very frustrating situation for
15 the ones in their job, especially when it's hot. As you
16 know, many of the buses do not have air conditioning.
17 The children are inside the buses and they're hungry and
18 they're warm -- hot. I have tried to reverse and try it
19 some other way and I go and run into another train that
20 is crossing some other line.

21 This doesn't happen every day, but if it
22 happens once a month, it is a lot. The train that
23 crosses daily, well, it's there anyway. But the
24 situation that I'm trying to mention, it happens once a
25 month for some reason. I almost know the schedules of

1 the trains and we try to evade them. But many times for
2 some reason they -- I go by there and they take more
3 time than they should take.

4 What I'm much worried about right now is
5 you're talking a lot about this train that you're going
6 to put in production. And unfortunately that is going
7 to cross some of the schools that we are serving. We
8 are not talking a lot about -- perhaps this company is
9 going to save some money, but once again, I would like
10 to ask you: Do you think that this is more valuable
11 than the children that are in that bus for so long and
12 hungry and hot? And sometimes I have taken children
13 that have a fever and they give them to me at school to
14 take them back to their homes.

15 And as a driver of that bus, I feel
16 responsible, so that -- in order to make these children
17 feel fine. I'm only asking you again: Do you think
18 that this company -- first of all, you have children
19 and -- if you have children, I don't know, right? But
20 imagine yourself in a situation like this. Perhaps
21 these people are going to save some money, but what
22 then? And they don't even have an idea of what we have
23 to go through here in the East End daily with our
24 children.

25 I'm asking you once again to take this

1 situation into consideration because as the voice of
2 these children, perhaps they cannot ask you for this,
3 but they need to get and they want to get very soon to
4 their homes.

5 Thank you.

6
7 (Applause.)

8
9 MR. CAPERTON: Our next speaker after
10 this person will be David McWilliams.

11 MS. LEON (THROUGH THE INTERPRETER):
12 Good evening. My name is Norma Leon and I'm an active
13 member of TMO. I'm at the Immaculate Heart -- Mary's
14 Immaculate Heart Church.

15
16 (Applause.)

17
18 MS. LEON (THROUGH THE INTERPRETER): I'm
19 one of the many mothers that worry with respect to the
20 serious problem that we have transporting over rails. I
21 have four children that are between the ages of 19 to 3
22 years of age. Four of them go to schools that are
23 within the area, the affected area. These are Jaime
24 Davila, Milby High School, and the University of
25 Houston.

1 The association in charge of the project
2 carried out a study in which the Hispanic population was
3 not counted today. And as we know, it said -- the study
4 said that 90 percent of the residents of the area are
5 white.

6 And I'm telling myself, how can they --
7 because the last time I saw myself in the mirror, I saw
8 myself as a Hispanic.

9
10 (Applause.)

11
12 MS. LEON (THROUGH THE INTERPRETER): The
13 parents of my children's friends and the majority of the
14 people that are in schools are Hispanics. Members of
15 the Surface Transportation Board, it is not real for you
16 to try to negate us. We are here and it is for that
17 reason that I'm here, so that through me you can hear
18 the Hispanic voice.

19 And I want to make clear that we are a
20 lot and we are demanding responses, such as: Why cannot
21 this project be done somewhere else?

22
23 (Applause.)

24
25 MS. LEON (THROUGH THE INTERPRETER): And

1 why does the company that you see here that presented
2 the project here are able to donate to us with
3 incentives or any other details, but in the case of a
4 death, would you be able to bring one of our children
5 back to life? That would be impossible, right? Is it
6 worth exposing so many people as you're going to do?

7 This is a plea from a mother and if
8 there's anyone who lives in this area, if you would be
9 able to listen and to feel what I'm hearing every time
10 we deal with this subject, you would be able to
11 understand me. All of this is not taken into account.

12 The traffic problems that this would
13 carry -- bring on, the time that you are losing not to
14 be able to get to your appointment or to our work on
15 time, schools and et cetera, and if this is not enough,
16 our properties will be at risk to lower their costs of
17 the properties. And for this reason, there won't be
18 anybody to buy our properties, if we even wanted to
19 leave it. If we -- we wouldn't like to leave this area.

20 If everything that I mentioned previously
21 there is not enough reason to take into account, this
22 means that the project should use another alternative.

23 Thank you for your time.

24
25 (Applause.)

1
2 MR. CAPERTON: David McWilliams, to be
3 followed by Theresa Padilla.

4 MR. McWILLIAMS: I'm David McWilliams,
5 Pastor of Park Place United Methodist Church. I'm a
6 member of The Metropolitan Organization, TMO. I'm
7 speaking against the rail line.

8
9 (Applause.)
10

11 MR. McWILLIAMS: I'm speaking against the
12 rail line but in favor of a better relationship between
13 our community and the rail line proponents. I'm
14 addressing those proponents and this Board tonight. My
15 church is situated less than a mile from the rail line
16 along Highway 3, but many of our people live where the
17 distance is measured not in miles but in feet. For us
18 this is not an academic exercise or an economic
19 question. We are talking about our neighborhood, our
20 homes, our schools, and our children.

21 This is where we live, and we're scared.
22 We are also angry. My church and TMO have been involved
23 in this issue from the very beginning. We have
24 listened, and we have spoken. We have spoken, but we
25 don't think we have been heard. We want to work with

1 you, but we don't think you are taking us very
2 seriously.

3 Now, the numbers in this thing are
4 staggering. Not the dollar numbers, but the people
5 numbers, the thousands of children living within a half
6 of mile of the rail line, going to school within a block
7 of the rail line. I think it is a moral problem when
8 you knowingly endanger schools and homes and children in
9 any numbers, but on that scale, the risk is just
10 unconscionable.

11 But the numbers that fascinate me tonight
12 really are the minority report numbers. And I don't
13 know who prepared that report, but it seems to have been
14 intentionally misleading and it seems to me that whoever
15 prepared that report has a fairly simple choice but an
16 awkward one to make.

17 Either they didn't know the requirements
18 of the law or couldn't count, in which case we're just
19 talking about incompetence --

20
21 (Applause.)
22

23 MR. McWILLIAMS: -- or they knew the law
24 and how to count and intentionally misrepresented the
25 numbers, in which case we're talking about a lack of

1 ethics. So the question is pretty simple.

2
3 (Applause.)
4

5 MR. McWILLIAMS: Is the misrepresentation
6 a matter of incompetence or a lack of ethics? See, the
7 problem is we want to be in a relationship with you. We
8 want to be in a relationship with the companies. We'd
9 like to be in a relationship with the Bayport companies
10 themselves. But we insist that you take our
11 neighborhood seriously and we insist that you deal with
12 us honestly.

13 Thanks.

14
15 (Applause.)
16

17 MR. CAPERTON: One moment, please.

18 Our meeting is scheduled to go to 9:00
19 o'clock. Of course, we're past that time. It is our
20 intention to maybe take a quick break at 9:30, just to
21 give the court reporter a moment to relax her fingers
22 and her hands for a few moments. We'll probably take a
23 five- to seven-minute break at the bottom of the hour.

24 We still have a large number of people
25 who want to speak tonight. Again, it's our intention to

1 stay here and hear everybody that wants to speak.

2 Ms. Padilla, to be followed by Jim

3 Blackburn.

4 MS. PADILLA: I'm Theresa Padilla and I

5 am also with the TMO organization. Our concerns are

6 very serious. I am in full support of our organization

7 and all the people that are here, that we do not need

8 the railroad coming through our neighborhoods, coming

9 through our communities.

10 I am a grandmother and great grandma and

11 I want to see my children and my grandchildren and my

12 great grandchild grow up. This means a lot because we

13 have had incidents here in our community. And it's a

14 horrible thing. And it's horrible not to be able to

15 know where your child is and you come to your community

16 and nothing's there. This has happened in Denver Harbor

17 and it will happen in these other communities, all the

18 surrounding communities, if this rail is approved.

19 We need safety for our children and

20 safety for our community. Thank you.

21

22 (Applause.)

23

24 MR. CAPERTON: Jim Blackburn, to be

25 followed by Mary Margaret Hansen.

1 MR. BLACKBURN: Good evening. Thank you

2 for the opportunity to speak this evening. I'm Jim

3 Blackburn. I'm chairman of the Galveston Bay

4 Conservation and Preservation Association.

5 I'm here tonight because the Draft

6 Environmental Impact Statement does not tell the truth.

7 It doesn't tell the truth about the land use and

8 population near the rail line. The DEIS does not tell

9 the truth about the percentage of Hispanics that will be

10 affected by this rail line. The DEIS does not tell the

11 truth about cumulative impacts. The DEIS does not tell

12 the truth about wetland impacts. And the DEIS does not

13 tell the truth about pipelines and the risk of

14 derailments and explosions.

15 You know, there's no reason why the

16 Draft EIS shouldn't tell the truth. My organization,

17 GBCPA, submitted comments and spoke -- we specifically

18 brought to the attention of the Surface Transportation

19 Board the issue of percentage of Hispanics that would be

20 affected and the fact that environmental injustice was

21 an issue. The question is: Why was this ignored? It's

22 not like you didn't know about this information.

23 And the pipeline issue, there's

24 information that BNSF has that the railroad industry has

25 presented that indicates a substantial risk of

1 commingling pipelines and rail lines, yet that's not

2 identified in the Environmental Impact Statement. And

3 again, I ask the question: Why?

4 We want the truth. We deserve the truth.

5 We cannot and will not allow our community to be bullied

6 into allowing this rail line to be built without having

7 been told the truth. The only way to redress these

8 misrepresentations is to go back and get it right. Do a

9 supplemental Draft Environmental Impact Statement. And

10 I have no doubt that if you tell the truth, you'll deny

11 this rail line on the basis of public safety reasons.

12

13 (Applause.)

14

15 MR. BLACKBURN: Now, to this I want to

16 add one thing. BNSF has stood up here tonight and said

17 they didn't know about this problem, they didn't provide

18 the data. Well, BNSF, you know about it now. Why don't

19 you do the right thing and withdraw this application?

20 Thank you very much.

21

22 (Applause.)

23

24 MR. CAPERTON: Mary Margaret Hansen, to

25 be followed by Gordon Goss.

1 MS. HANSEN: Good evening. Thank you for

2 the opportunity to address you tonight. I'm Mary

3 Margaret Hansen, president of the Greater East End

4 Management District. In September 2001, the Greater

5 East End Management District approved a resolution in

6 support of the efforts of the Greater East End Coalition

7 in its opposition to the San Jacinto Rail Limited as

8 proposed, because we believe such a line will adversely

9 affect the quality of life of all citizens in the East

10 End area. In its resolution, the District further

11 expressed its willingness to work with all the parties

12 involved to address our concerns.

13 The Surface Transportation Board

14 concluded last December that there would be no notable

15 cumulative impacts resulting from the proposed Bayport

16 Loop build-out. We believe indeed there will be notable

17 impacts with more trains running through the East End.

18 Tonight we come with an additional

19 message. We say to all the railroads that ride the

20 tracks in the East End: Be a good neighbor. We believe

21 that the quality of life in the East End for both

22 businesses and residents will be adversely affected by

23 more rail traffic. The railroads do business in our

24 community every time a train runs through our

25 neighborhoods, and yet we see little or no contribution

1 to the development of the community.

2
3 (Applause.)

4
5 MS. HANSEN: The Management District
6 provides services to over 2,500 businesses in a
7 community of over 85,000 residents. Place the East End
8 of Houston on a list of cities with the greatest
9 employment numbers, and we rank 28 in the United States,
10 above San Antonio, Fort Worth, Miami, and Salt Lake
11 City. East End businesses pay assessments to the
12 District to provide special services that provide
13 security patrol, graffiti and litter abatement programs.
14 We do these things with our assessment
15 dollars and because we try to build partnerships to
16 leverage these dollars. Last fall we invited Union
17 Pacific to partner with us in cleaning and maintaining
18 rail lines within our 16 square miles. We proposed a
19 cleanup plan with our crews to clean and maintain over
20 100 railroad street crossings in our 16 square miles.
21 Union Pacific turned down our offer as too expensive.

22 In December we noted a flurry of railroad
23 housekeeping activity along several railroad tracks, and
24 we appreciate this work. However, we don't see them
25 here in January regularly cleaning East End tracks. Is

1 this all we can expect? We invite Union Pacific to
2 reconsider our offer to clean their right-of-way and
3 keep them clear of trash dumping and abandoned railroad
4 materials.

5 To the Surface Transportation Board and
6 to all the railroads represented here tonight: You are
7 hearing the East End. We oppose the new San Jacinto
8 Rail proposal. If it is approved, we will have even
9 more trains, more hazards, congestion, noise, and trash.
10 To the neighborhoods -- from the neighborhoods to the
11 railroads: I say it's time to be a good neighbor.

12 Thank you.

13
14 (Applause.)

15
16 MR. CAPERTON: Gordon Goss, and then we
17 will hear from the Chris Barbick.

18 MR. GOSS: My name is Gordon Goss, chair
19 of safety and traffic issues for the East Lawndale Civic
20 Association, which represents five neighborhoods located
21 in what may be considered the middle of the East End of
22 Houston. I'm here tonight to speak about the quality of
23 life concerns that we as a neighborhood have about the
24 proposed San Jacinto Rail project.

25 During the past several months, we have

1 heard in detail about safety, mobility, and quality of
2 life concerns that residents of the East End have in
3 reference to this proposed project. And through all
4 these debates, we keep asking ourselves: What benefit
5 does this project have to us?

6 And although we hear about employment
7 opportunities and lower prices for goods that are
8 transported on the railroads, these, in my opinion, are
9 red herrings which are being used to railroad this
10 project through the East End. In fact, there are no
11 benefits from this project to residents of the East End.

12 Historically the railroads have not been
13 good neighbors for us and we have no reason to believe
14 that this will change. Railroads don't make good
15 neighbors, especially when they have owners who have
16 made no attempt to be good neighbors. Although the East
17 End is perceived to be on the other side of the railroad
18 tracks, in actuality we are in the middle of the
19 railroad tracks. These railroads run through our
20 neighborhoods, and that's the problem.

21
22 (Applause.)

23
24 MR. GOSS: The East End has always been a
25 large residential community here in Houston, and with

1 urban renewal at work, our quality of life and property
2 values have been on the rise. We don't want this
3 project to slow or halt this urban renewal. This
4 project would basically give the railroad industry a way
5 to continue their bad neighbor policy.

6 What does the San Jacinto Rail project
7 offer the East End? A minimum of two additional 33-car
8 trains per day coming in through and leaving our
9 neighborhood, for a total of 48 100-rail cars per day.
10 This is the minimum. There was no set maximum. The
11 project is expected to double in five years, with no
12 limit to any set level of additional trains. They could
13 run trains 24 hours a day.

14 It is expected that 30 percent of the
15 cars will be transporting hazardous chemicals, and the
16 railroad has offered the city an agreement that they
17 will not provide any HAZMAT equipment for response to a
18 hazardous chemical spill; additional street blockages
19 that could last up to one hour; additional hours of
20 railroad horns blasting through our neighborhoods at
21 night; additional railroad easements that are overgrown
22 with weeds, littered with debris, and are quite a blight
23 on our community.

24 We also get an agreement that they will
25 not hire outside contractors to provide cleanup of the

1 neglected, trashed-out railroad rights-of-way, a problem
2 they have not addressed in the past due to inadequate
3 resources.

4 In conclusion, I would suggest that the
5 Surface Transportation Board's decision to approve this
6 project, which is based on the Draft Environmental
7 Impact Statement's conclusion that the line would have
8 negligible impact on the surrounding environment, be
9 revised to say the Surface Transportation Board's
10 decision to approve this project is based on the finding
11 that the line would have impact on their surrounding
12 environment.

13 Thank you very much.

14 (Applause.)

15 MR. CAPERTON: Chris Barbick, and then
16 we're going to take a seven-minute break.

17 MR. BARBICK: Good evening. My name is
18 Chris Barbick. I am the founder and school director of
19 Yes College Preparatory School. It's a college prep
20 school of 500 students, 90 percent of whom are Hispanic.

21 (Applause.)

1 MR. BARBICK: It's a quarter of a mile
2 from Highway 3, a quarter of a mile within the rail
3 line.

4 I want to first apologize for my outburst
5 earlier. I apologize for that. I'm just very
6 passionate about this. But I'm not going to apologize
7 for how strongly I oppose this plan.

8 (Applause.)

9 MR. BARBICK: I speak for all 500 of our
10 kids, their families, and the 50 teachers that work at
11 the school. I think that for all the obvious reasons
12 that have been mentioned tonight, this plan stinks. No
13 pun intended.

14 But it sends a horrible message to our
15 kids. It tells them that bottom line, corporate greed
16 is more important than the quality of life issues that
17 we've talked about today.

18 (Applause.)

19 MR. BARBICK: It tells them that value
20 judgment and honesty are ideals that are only relevant
21 inside the classroom, because outside in the real world,

1 if you have enough money, you can push people around.

2 (Applause.)

3 MR. BARBICK: I have to be honest. I
4 haven't read all of the information that's been out. I
5 saw the article in the Houston Chronicle, and if I
6 hadn't read it, I probably wouldn't be here this
7 evening. So I don't have all the details. But in
8 talking about this proposal with some of the 7th grade
9 students in my school and presenting the information I
10 did have, I had a kid raise his hand and just point
11 blank ask, "Why are we even talking about this?"

12 And in listening to this tonight, when
13 you look at the pros and cons and see how far the cons
14 outweigh the pros, I ask you all: Why are we even
15 having this conversation? We should not even be here.

16 (Applause.)

17 MR. BARBICK: For a small group of
18 businesses to choose the destruction of neighborhoods
19 and the endangerment of thousands of children rather
20 than sitting down and hashing out a compromise is
21 unacceptable, absolutely unacceptable.

1 Thank you for your time.

2 (Applause.)

3 MR. CAPERTON: We'll take a seven-minute
4 break. And when we return, Dianna Almos de Gussman will
5 speak.

6 We'll try and hold it to seven minutes.
7 So if you want to stand and stretch where you are and
8 not leave the room, we'll reconvene here shortly.

9 (Recess taken.)

10 MR. CAPERTON: If people can begin to
11 take their seats please, we'll get started.

12 If everyone can have a seat, please,
13 we'll resume. We'd like to hear first from Dianna Almos
14 de Gussman and Antonio Gussman.

15 MS. GUSSMAN: Good evening and -- is that
16 on?

17 Good evening and thank you for being here
18 to listen to our comments. I also want to thank our
19 leadership, who has so gallantly come out and
20 represented our community and the wishes of the
21 community to stop this rail from coming through there.

1 I just want to let you know that today I
2 received the DEIS and started reading into the study,
3 ten pages into it, and I was outraged. I come here
4 before you as the precinct election judge of
5 Precinct 27. My name is Dianna Almos de Gussman, and I
6 bring also the comments of one of the largest voting
7 precincts in the East End.

8 This study outraged me because, for one,
9 I live a block away from the railroad, okay? Every day,
10 at least -- and I started counting, because I received
11 this about 1:30 this afternoon. I started counting how
12 many times that train came through there up until the
13 minute I left to come to this meeting this evening. I
14 want to let you know that in between the hours of 2:30
15 in the afternoon and 6:30 in the evening, five trains
16 came through there within 30-minute intervals.

17 That's not to mention the fact that they
18 come through there in the wee hours of the morning, when
19 our hardworking community is trying to sleep, because
20 the majority of the people in my community are laborers
21 who have to get up at 5:00 in the morning to attend
22 their work, not to mention what has already been said
23 tonight. I ditto all of the comments that have been
24 made already by my colleagues as well as community
25 people and other leaders.

1 But I just want to know: Who is going to
2 make the repairs on our homes? Have you even considered
3 the impact that the vibrations that take place every 30
4 minutes of these intervals that these trains are coming
5 through there? I just leveled my home. I had huge,
6 about 2-inch cracks in my walls. Nobody has even
7 mentioned the fact that the majority of these people who
8 live here are -- like I said, it's a laboring community
9 and have to make repairs on their homes that is quite
10 expensive because of the impact that the trains coming
11 through there have.

12
13 (Applause.)

14
15 MS. GUSSMAN: So with that, I want to let
16 you know that my comments will come to you in writing by
17 the 27th of January, because, like I said, I just
18 received this. And I will study it carefully to
19 contradict all of the incompetencies that have been
20 mentioned here in this study.

21 Thank you very much.

22
23 (Applause.)

24
25 MR. CAPERTON: Antonio Gussman.

1 MR. GUSSMAN (THROUGH THE INTERPRETER):
2 My name is Antonio Gussman and I'm talking not just for
3 myself, but for all the people that is going to be
4 endangered on account of that railroad. It doesn't
5 matter whether they're Hispanics, white, or black, but
6 it's people that is endangered.

7 I think that you have to react and do
8 something to try to look for an alternative to change
9 that railroad. I think that you are very intelligent to
10 do that. I think that the corporations also have to
11 think about these people. And I think that you have a
12 way to reroute the train to another place, because there
13 are many people here and many children that are in
14 danger.

15 Thank you.

16
17 (Applause.)

18
19 MR. CAPERTON: The high school is open
20 until midnight and we can stay up until that time to
21 hear comments, but I was approached during the break by
22 three students who asked to be moved up. So in the
23 interest of their well-being and their grades, we're
24 going to do that, if everybody will allow that.

25

1 (Applause.)

2
3 MR. CAPERTON: So Maria Martinez, Maria
4 Castilla and Archie Ekong, please.

5
6 (Applause.)

7
8 MS. MARTINEZ: Well, good evening,
9 everyone. My name is Maria Martinez and I attend Yes
10 College Preparatory, where 500 students, primarily
11 minorities, want to succeed. We spend ten hours of our
12 day, from 7:30 to 5:00, and I don't want to have to
13 worry about the possibility of a derailment or, God
14 forbid, any accident.

15 On a personal level, my house is in the
16 East End and my school is in the Southeast End, where I
17 am constantly overwhelmed by the amount of congestion
18 around the area. And I am here to implore you to deny
19 this application.

20 Good night.

21
22 (Applause.)

23
24 MS. CASTILLO: Hello. My name is Liza
25 Castillo and I am a senior at Yes College Preparatory

1 also. I just turned 18 and I am the student council
2 president. And I was approached by several students in
3 order to represent all of our school and the student
4 body on behalf of the amount of years that we have all
5 been there. And we do spend ten hours a day, as Maria
6 said, studying and we're already worried about our
7 grades and we are worried about, like, student relations
8 and being -- growing up.

9 And the last thing we need is to worry
10 about more congestion and even possibly a derailment and
11 to have our lives at risk because of toxic things.
12 Accidents do happen. We don't want to think that just
13 because every once in a while, they happen, but we don't
14 want that once in a while to hit our school or to hit
15 Milby or the other high school.

16 For the most part, our 7th grade class --
17 we are a school from 6th grade to seniors, and our 6th
18 graders and 7th graders were more informed about that
19 and they approached us. And we as leaders of our school
20 took charge and we are here representing them and
21 representing our community.

22 Also, what my concern is is not
23 whether -- we are not opposing competition. We are not
24 opposing economic progress. We are not opposing any
25 sort of progress like economic. We know ourselves that

1 our parents -- most of our parents came to the United
2 States for the sake of opportunity, for the sake of job
3 opportunity, and for the sake of our economic
4 well-being. Therefore, we understand personally
5 where -- why you guys are fighting for this, because it
6 is in your economic, like, best interests.

7 You know, money is, even though we don't
8 want to admit it -- is what we want in our lives. We
9 need it to live every day. Therefore, I am here to
10 emphasize we are not opposing this because we don't want
11 you to make money, but because we are concerned with our
12 well-being.

13 I used to live for 16 years in the East
14 End, and then I moved to Pasadena. And regardless of
15 that, I could never escape the trains. Our school used
16 to be right there by El Mercado, which is off of
17 Navigation. And so then every day we would hear the
18 trains passing by and we would hear the horns.

19 And I don't know if that was on purpose
20 just to spite us or -- regardless of that, we got used
21 to it. So my lullaby were the trains around, like,
22 1:00 o'clock in the morning, where I would try to begin
23 that cycle of sleeping again.

24 So what I'm urging is for you to rethink
25 this, not to completely say don't build a railroad.

1 Maybe go around, maybe do something else, where you
2 don't affect as many people. I just hope that those
3 maps are not the only thing that you see in the city. I
4 hope that you take a drive down Navigation and count how
5 many railroad tracks you pass by and hope to God that
6 you don't get stuck behind one of them.

7
8 (Applause.)

9
10 MS. CASTILLO: I hope those maps are not
11 the only thing, because you know what? That little
12 square right there is where Mary lives and Mary's my
13 neighbor. And then a couple of streets over, there's
14 Anna and then her cousin lives just across the street
15 and their cousin lives across the street and then my
16 cousin lives next to Archie's neighbor. So probably I
17 know somebody that lives next to that person and that
18 person and that person right there.

19 Regardless of what the matter is, we are
20 people and it doesn't matter what race we are. It
21 doesn't matter, you know, what economic status we are.
22 We need to think about the well-being of the people.
23 And as a student, I hear people saying "oh, the
24 children, the children."

25 Yes, the children help make it -- I can't

1 believe that this is one of the topics of debate is
2 whether to put toxic chemicals nearby where children
3 pass. Children are standing there waiting for the train
4 to pass by to walk to the grocery store.

5 There's just no way to not see this.
6 It's frustrating on behalf of the student body and on
7 behalf of the people here. And so we just wanted -- I
8 urge you to make some kind of agreement, some kind of
9 agreement that benefits everyone and not just benefits
10 one side.

11 Yes, monopolies are bad because of
12 controlling or whatever. I completely agree with that.
13 However, there are more methods. There are better ways
14 around the different problems.

15 Our school motto is: Whatever it takes.
16 And so a hundred percent every day, those are also our
17 school mottos. And I urge you to do whatever it takes
18 to get around from ruining -- possibly ruining our
19 lives.

20 Thank you.

21
22 (Applause.)

23
24 MR. EKONG: Hi. My name is Archie Ekong.
25 I also go to the school, Yes College Preparatory School.

1 I'm the president of our JSA, Junior State of America,
2 chapter at that school. It's a youth political activist
3 group.

4 I would just like to say that the youth
5 of Houston, we do have a voice and we're here to tell
6 you that when you guys make decisions, it affects you in
7 the short run, but five, ten years down the road, that's
8 us.

9 When the pollution becomes a problem,
10 when there's threats of chemical hazards, that goes to
11 us. President Bush has people in Iraq checking on
12 chemical problems. We all know that chemicals are very
13 dangerous things. If it's a problem with Iraq, let's
14 start in Houston. Let's start here. This is a very
15 important thing.

16 (Applause.)

17 MR. EKONG: Yes, I understand that these
18 companies have costs that they do not want to have to go
19 around, but we understand there are implicit and
20 explicit costs. And not just the dollar costs, but you
21 have to factor in the fact that you're risking people's
22 lives. Is the life of a human being worth more than
23 \$80 million? To me, no. That's just a simple fact that

1 you guys should look at.

2 Look at the lives of the children. They
3 told you that the statistics are there. You guys have
4 the report. There's 26 schools that this is affecting,
5 besides the fact -- not just the 26 schools, but there's
6 also people that live there and people that work there.
7 There's jobs, businesses, and things like that.

8 When you weigh it out, it's very simple.
9 It's not in your best interests to have this railroad
10 come through this side of town.

11 I'm not from this side of town, but I
12 have many friends who are on this side of town. And it
13 really doesn't matter, because you're affecting the
14 lives of people. The fact of the matter is you guys
15 would never suggest putting this railroad through
16 River Oaks of Houston. It's something that would not
17 happen.

18 (Applause.)

19 MR. EKONG: And, you know, this is the
20 year 2003 now. It's 2003. Stop the nonsense, really.
21 I mean, it's -- really, it's time for us to put the
22 race -- that's old time stuff. That's not something
23 that's important now. Let's just hold hands, say

1 "Cum Ba Ya," whatever. It doesn't matter, but let's not
2 ruin the lives of people in Houston, Texas, or anywhere
3 in this world.

4 Thank you very much.

5 (Applause.)

6 MR. CAPERTON: The next speaker to sign
7 up is Dr. Marrack, to be followed by Christie Tea.

8 DR. MARRACK: Glad to see you here this
9 evening. I'm David Marrack, a medical doctor.

10 (Applause.)

11 DR. MARRACK: This DEIS is grossly
12 deficient and it isn't any accident. You'll have
13 difficulty convincing a court that this is an accident.
14 Among the things that are wrong or missing are the
15 compliance with Executive Order EO 12895 and the
16 regulations of the CEQ. And for your benefit, if you
17 don't understand that, that's Council for Environmental
18 Quality, 40 CFR 1508.25.

19 I am quoting that for you, because it is
20 apparent in this DEIS that you reflect either you didn't
21 know about it or alternatively you found it convenient

1 to ignore it.

2 You need to read and apply the rulings of
3 your predecessor in the Cincinnati case. It's almost
4 identical to this, except there's more people involved.
5 Are the members of the Transportation Board or members
6 of the panel prepared to say that the fine citizens of
7 Houston are less worthy than those of Cincinnati? Yet
8 that's what this great weighty document implies.

9 The U.S. Supreme Court in Scranton,
10 United States, 1972, rules -- there are actually two
11 rulings -- that the whole of a project must be presented
12 in an EIS. You may not piecemeal it. And that's what
13 you have done here.

14 It stretches the credibility of any
15 imagination to believe that the massive traffic that the
16 Bayport container, if ever built, will not use this
17 line. It's right up against the boundary of that
18 proposed facility. It will be used and you know it and
19 so your EIS must reflect that traffic.

20 The EIS -- and there are lots of things
21 to mention, but it's in no way complete in the
22 deficiencies. The adjacent lands to this rail's future
23 needs to be discussed in full. That's called the
24 secondary impact. And it's not in there and it's the
25 industrial developers who do that, who make the profits

1 and are the motivation for building this rail.
 2 The DEIS ignores the potential impacts of
 3 the geological faults, both the active and the occult in
 4 this area, the most numerous ones, and also the
 5 pipelines that are spread all across the area over which
 6 the rail will go. I will point out to you that grading
 7 the land and the weight of the various industrial
 8 structures that are built will cause occult trunk faults
 9 to open up and be active, causing more cracks in the
 10 pipelines and other problems for the rail.

11 This is a totally unacceptable DEIS.
 12 Throw it away. Go and get a truthful one, or
 13 alternatively do your job and negotiate reasonable
 14 traffic fees for the railroads so that everyone can use
 15 it reasonably.

16 Thank you.

17
 18 (Applause.)

19
 20 MR. CAPERTON: Christie Tea.
 21 Paul Meza, to be followed by John
 22 Cobarruvias.

23 MR. MEZA: My name is Paul Meza. I am
 24 president of the Second Ward Residents Organization.
 25 And we too reject this plan, and I'm going to tell you

1 some of the reasons why.

2 For many years of waiting, the East End
 3 has begun to develop, all because of the sacrifice of
 4 many community volunteers who for many years of their
 5 time -- gave many years of their time to a cause that
 6 would make life better for the residents of the East
 7 End. Today, we face the obstacle that is growing like a
 8 cancer that could hamper the future development and
 9 safety of the residents of the East End, Second Ward.

10 Your message to us has been that it is
 11 more important that chemical companies make money by
 12 paying less than the livelihoods of the people of the
 13 East End. I hope that you will reconsider and give
 14 another plan and not let greed be the American way or
 15 the Houston way of doing business.

16 Thank you.

17
 18 (Applause.)

19
 20 MR. CAPERTON: John Cobarruvias, to be
 21 followed by Michelle Tellez.

22 MR. COBARRUVIAS: Good evening. My name
 23 is John Cobarruvias. I'm from Clear Lake City. My
 24 subdivision was the very first subdivision that was
 25 notified of this rail. An employee of Atofina, one of

1 the partners, came to our board meeting and said, "My
 2 company is going to build a train north of Clear Lake."
 3 Of course, we started making phone calls,
 4 and I have been involved in this since that day. I've
 5 been to hearings after hearings after hearings, and I
 6 can tell you three things that I have learned. One, the
 7 only place that you'll see a group of pin-striped
 8 suits -- this many pin-striped suits is at a funeral.
 9 That is the only other place that you'll see this many
 10 suits.

11 I've also learned from these hearings
 12 that the color of money doesn't care about the color of
 13 your skin. I've also learned one thing else about going
 14 to these hearings and hearings and hearings, that nobody
 15 is listening.

16
 17 (Applause.)

18
 19 MR. COBARRUVIAS: I came here to support
 20 your community, your elected officials who have demanded
 21 a fair review of the facts of this project. And I've
 22 come here in support of the volunteers that have worked
 23 hard to fight this god-awful idea.

24 And I tell you, there's one other thing
 25 that these 18-year-olds saw through this thing. This is

1 a total, 100 percent disaster. And it doesn't take a
 2 rocket scientist to see that. And folks, I am a rocket
 3 scientist.

4
 5 (Applause.)

6
 7 MR. COBARRUVIAS: I want to give you a
 8 couple of examples here. They talk about that this is
 9 negligible, that the impact is. How can they say that
 10 this is not going to have an impact when you haven't
 11 finished the study in the first place? NASA is doing
 12 seismic testing next week. Now, how come they didn't do
 13 the seismic testing last month before you put the study
 14 out on the floor?

15
 16 (Applause.)

17
 18 MR. COBARRUVIAS: I find this totally
 19 unacceptable. You must on that point alone deny this
 20 application.

21 On another example here, last night, they
 22 talked about the fact that the terrorism is a -- it was
 23 a red herring; oh, that's not going to happen. Have you
 24 ever seen a rail car being spray painted? They can't
 25 stop a kid from spray painting a rail car. How are they

1 going to stop a terrorist from bombing one?

2

3 (Applause.)

4

5 MR. COBARRUVIAS: The fact is -- have you
6 studied that? No, you haven't. You haven't studied the
7 effects of what this will do to NASA's facility. You
8 haven't studied what the effects of a spray can will do
9 to a car or what a terrorist will do.

10 You have to deny this application. Stop
11 wasting our time. Stop wasting our money. And do it
12 now. Stand up. Do it now.

13 Thank you.

14

15 (Applause.)

16

17 MR. CAPERTON: Michelle Tellez.

18 Cuauhtemoc Tellez.

19 Betty Gauntt, to be followed by Johnny

20 Gauntt.

21 MS. GAUNTT: Hello. My name is Betty
22 Gauntt and I live in the south part of Pasadena, but my
23 concerns are the same as all these other people here.
24 There are hundreds of thousands of people that will be
25 affected by this rail, and they live in numerous

1 communities of this area. A new part of this rail track
2 would go about a half a mile behind my house.

3 I live within a few blocks of this water
4 treatment plant that we have been discussing tonight. I
5 don't know whether you know this or not. But since
6 9/11, that water treatment plant has been guarded 24
7 hours a day, 7 days a week by two police cars. Now, if
8 there's no danger of terrorism there, do you think
9 they'd be doing that? And how could you let a train
10 with hazardous chemicals run through that water
11 treatment plant? I just don't understand.

12 I am concerned about a lot of things.
13 This water plant, you have been told tonight, furnishes
14 water for maybe two million people that could be
15 affected. I'm concerned about all the issues that have
16 been brought up tonight, the watershed, the bayous, the
17 bays, the pipelines, and all of the other faults and
18 issues that are of a concern.

19 I'm also concerned about our national
20 security at Ellington, since I live less than a mile
21 from the Ellington airport. But I can tell you one
22 thing. After 9/11, I was delighted to hear those planes
23 take off and protect me and you as well. And I don't
24 want this to be hampered in any way.

25 I'm concerned about the trains that are

1 going to go through the tracks that are already here
2 through this community that's here tonight and burden
3 them down with more trains. I'm concerned about all of
4 these issues, as most people here are tonight. But the
5 companies are naturally concerned about their bottom
6 line dollar, and I understand that too.

7 But I urge you to force the railroads to
8 make some type of other arrangements where the tracks
9 can be used that are there now in the other part of the
10 area and not build new lines through our schools. You
11 have been told tonight about 23 schools, but that's only
12 in this area.

13 I want you to know also as I left the
14 Pasadena Convention Center last night, I heard some of
15 these company officials that took up most of our time
16 speaking last night talking about staying at the Warwick
17 Hotel and asking some of the others where they were
18 staying last night. They obviously don't live here.
19 What do they do? They fly in, they tell us that it's
20 okay to have hazardous chemicals in our backyard, but
21 they leave and go home to their safe locations.

22 You can't promise me, neither can anyone
23 else, that there will not be an accident. It only takes
24 one accident to kill me or anybody else that's here or
25 injure us.

1

2 (Applause.)

3

4 MS. GAUNTT: Please think about our
5 safety and reject this Draft EIS as it does have missing
6 and inaccurate data, as you have heard tonight. This
7 affects hundreds of thousands of people, not just 1,000
8 as the rejection did in Ohio.

9 Thank you.

10

11 (Applause.)

12

13 MR. CAPERTON: Johnny Gauntt, to be
14 followed by Annette Dwyer.

15 MR. GAUNTT: Well, I don't know where all
16 those businessmen went that spent the last night at the
17 Warwick. I guess they did all the talking in Pasadena.
18 I don't see them tonight for some reason or another.

19 But, you know, I'd like to say that we
20 live in the greatest country in the entire world here in
21 the United States.

22

23 (Applause.)

24

25 MR. GAUNTT: But even in the greatest

1 country in the world, BS walks and money talks.

2
3 (Applause.)

4
5 MR. GAUNITT: And unfortunately, I guess
6 we're going to have to put up with this until our Lord
7 and Savior Jesus Christ comes and sets up his thousand
8 year millennium rule here on earth. This is when true
9 justice will be done. But since Jesus hasn't done that
10 yet, we're going to have to depend on you committee
11 people here to overcome the BS that walks and the money
12 that talks by ruling in favor of the vast majority of
13 the people and what we want, because this is what we
14 call democracy.

15
16 (Applause.)

17
18 MR. CAPERTON: Annette Dwyer, to be
19 followed by Luis Valdez.

20 MS. DWYER: Hello. My name is Annette
21 Dwyer. I'm a Clear Lake resident. I'm on the board of
22 the North Fork Community Association, which represents
23 1,038 homes, and also a member of the Association of
24 Clear Lake Communities, which represents 13
25 neighborhoods in Clear Lake.

1 Along with John Cobarruvias, we've been
2 working on this for about a year and a half. Since the
3 beginning, when we first found out about this in August
4 of 2001, a lot of bad information has been provided by
5 the rail coalition. The first maps that were provided
6 to the Surface Transportation Board were at least 20
7 years out of date, as if they had no access to any other
8 updated maps. I'm afraid consistently a lot of the
9 information that has been used in the DEIS that has been
10 provided by the rail coalition is disingenuous,
11 incomplete, outdated.

12 They were aware since the beginning --
13 when they realized that they had opposition, they put
14 out a very glossy and slick piece that was mailed to
15 certain people, and none of them were along the 30-mile
16 rail line that already exists. When we asked who
17 received this glossy mailing, it was only to be provided
18 to people that lived within the 13-mile extension to be
19 built.

20 And we asked if there were any materials
21 available in Spanish. They were quite aware, and we
22 told them that when the rail line continued an
23 additional 30 miles, once it reached the Highway 3 line,
24 that the people there lived very close to the tracks and
25 most of them were Hispanic. They have known that since

1 the beginning but were not concerned at the time about
2 providing Spanish materials or notifying them of any
3 hearings.

4 Last night there were a lot of people
5 from the chemical companies there. A lot of folks said
6 they live in Clear Lake and they were perfectly happy to
7 have a rail line go through the neighborhood. Well, I'm
8 not surprised. We are quite aware that there are people
9 that work for the chemical companies opposing it.
10 Certainly they are not going to come to these hearings,
11 because they will lose their jobs. We're in contact
12 with them. They have that concern.

13 I also didn't hear anybody say, "Hey, I
14 live along Highway 3 in the East End and work at the
15 chemical companies and I think it's A-okay too," because
16 surely that would not be the case.

17 Once these rail -- we heard a lot about
18 safety from the chemical company people last night, but
19 once these trains leave their yards, they do not have
20 control over everything that happens. They're not
21 moving within a bubble. And there's a very good reason
22 why there are no neighborhoods around the Bayport
23 Industrial Complex. That is to control the chemical
24 leaks and everything that happens. And it does happen
25 on a regular basis, but you cannot control it once it

1 gets through the neighborhoods.

2 So I would ask that the information
3 provided by the rail lines, that if you're relying
4 solely on that, that it is definitely looked at again
5 and balanced with the information that's provided by a
6 more neutral source.

7 Thank you.

8
9 (Applause.)

10
11 MR. CAPERTON: Luis Valdez, to be
12 followed by Charles Mayfield.

13 DR. VALDEZ: I am Dr. Luis Valdez. I am
14 a retired physician. And I am sorry, but I want to
15 produce a little story here for you.

16 I don't know if you read today the
17 Houston Chronicle about chemicals that people use
18 staining their hair, giving color to the hair. Well, it
19 is an investigation being done because apparently it is
20 related to cancer of the bladder. So the people that
21 are here that are using chemicals in the hair may be
22 asked to participate in a project to find out if it they
23 do develop the cancer of the bladder.

24 See how important chemicals are? And
25 these chemicals are being used for decades, right? To

1 live nearby a factory of chemicals or transportation of
 2 chemicals is a danger that you cannot imagine where the
 3 danger is. I am sure that you are concerned about it.
 4 I don't know if you are understanding
 5 what I am saying or not, because when I came to United
 6 States, I spent some time in Boston and I talked with a
 7 Bostonian accent. I moved to Georgia and I tried to
 8 meet other Georgia doctors, and, well, then I moved to
 9 Nashville, Tennessee, and then moved to Texas. And now
 10 I know how to say howdy.

11
 12 (Applause.)

13
 14 DR. VALDEZ: Now, I have 13 points, but
 15 all of them almost are being referred here today. So I
 16 am just going to read four of them.

17 According to knowledgeable persons, the
 18 project has been grossly understated. It is our
 19 understanding that several railway companies and new
 20 industries with a long problem intend to use this
 21 transportation system. We question the statement that
 22 80 million will be spent for the use of only 30,000 to
 23 3,000 rail cars a year. When the terminal is built, the
 24 traffic and environmental hassles will greatly increase.

25 We are dealing with a problem of

1 monopoly. Monopoly is outlawed in the United States.
 2 The present railroad lines have a monopoly. Why doesn't
 3 the government investigate this problem and act
 4 appropriately to resolve it, bringing the matter to the
 5 attention of the courts, if needed? Or should we do it,
 6 go to court and find out?

7 The proposed additional line will cost
 8 \$80 million to build, and this has been stated to
 9 produce 500 million in one year. That was published in
 10 the local press. Can we trust that the decision will be
 11 made in an unbiased manner without the temptation of
 12 seeing profit motives or prosperity for the city, even
 13 if they pay -- the city pays the price of having safety
 14 and health risks for the population?

15 Many residents of this area are Hispanic,
 16 low income persons. Will this mean that the rights will
 17 be ignored by powerful companies because they may be
 18 underrepresented in higher administrative circles or do
 19 not have the means to fight for their rights?

20 For these reasons, we are adamantly
 21 opposed to this project and we would like you to
 22 seriously consider our recommendations and weigh them
 23 heavily in your decision, which we would hope would be
 24 to deny permission for the construction of this project.

25 Thank you very much for your attention.

1 I am sorry I am not from Washington for you to
 2 understand me better.

3
 4 (Applause.)

5
 6 MR. CAPERTON: Charles Mayfield, to be
 7 followed by Doug Peterson.

8 MR. MAYFIELD: I'll make this real quick.
 9 A lot of everything that everyone has said before, we
 10 all believe in, and I know it's getting late, but
 11 there's three points I want to reiterate.

12 The primary point is that this DEIS or
 13 the Draft is totally inaccurate, because if you stayed
 14 any time in Houston, all the media, all the politicians,
 15 everyone knows that the East Side of Houston is
 16 predominantly Hispanic. The truth is the survey that
 17 was given to y'all did not show that. It was totally in
 18 error. Please throw this out and do away with this,
 19 because they have provided you with inaccurate data.

20 The second point is terrorism. This has
 21 been touched on, but, what, two months ago, the rail
 22 industry was put on high alert because of a possible
 23 threat. What better threat would be a chemical
 24 explosion in a high populated area, such as Houston and
 25 especially the East End?

1 And my final point is the number of
 2 trains. You would have to be, excuse me, but a total
 3 idiot to think that there are only going to be two to
 4 four trains a day going through.

5
 6 (Applause.)

7
 8 MR. MAYFIELD: They are going to --
 9 they're not putting \$80 million into this just for that
 10 many trains. They are -- once the trains are in place,
 11 it goes to competition. And I'm all for it, but they
 12 will expand that area out there. There's property in
 13 that general area for expansion of additional chemical
 14 plants, expansion of the chemical plants that are in
 15 place there.

16 So please look at this realistically and,
 17 please, throw this away. This is -- just like so many
 18 people have said before, this is a total waste of our
 19 time to even consider this.

20 Thank you for your time.

21
 22 (Applause.)

23
 24 MR. CAPERTON: Doug Peterson, to be
 25 followed by Robert Gallegos.

1 MR. PETERSON: Good evening. My name is
2 Doug Peterson and I'm director of the Harris County
3 Democrats. I'm the president of the Bay Area New
4 Democrats, an organization that represents democrats
5 across Southeast Houston, which also passed a resolution
6 last week unanimously against the rail through Clear
7 Lake as well as up this way.

8
9 (Applause.)

10
11 MR. PETERSON: And again, just like last
12 night, I want to ask you: What is it going to take for
13 you folks, or at least the real Board member, to start
14 paying attention? You have seen countless politicians,
15 countless office holders. You have had congressmen.
16 You have had the Mayor of Houston. You have had nearly
17 all Houston City Council members. You have had mayors
18 from other small towns. You have had representatives
19 and directors of neighborhood groups.

20 These people represent hundreds of
21 thousands of people, and they don't come out here just
22 because it's a good place to be seen. They come out
23 here because a lot of people are talking to them. And I
24 hope that that is the kind of thing you folks listen to,
25 because it's apparent from what I've seen in the DEIS

1 that you're not really looking at the facts.
2 Now, September 11th changed everything.
3 I think we all agree on that. And I'm afraid this kind
4 of development and the direction it's taking suggests to
5 me that we are all just do-dahing along, do-dah, do-dah,
6 and continuing with the same kind of development that
7 has gotten us into trouble before. Nuclear weapons,
8 yeah, they can come in. Bioterrorism, the weapons of
9 mass destruction, yes, can be transported through
10 trains.

11 Last week it was reported in the Houston
12 Chronicle that the Pentagon director of the bioterrorism
13 defense group said that ports and transportation hubs
14 were their worst case -- their worst areas to defend.
15 And here we are at a location where there is an
16 opportunity to take these kinds of risks and move them
17 along in the current corridors. And yet, because of
18 this snafu of deregulation and monopoly, we're going to
19 build an unrequired train line directly along a very
20 highly populated area in Clear Lake and then up through
21 a Hispanic low income and minority area in the East End
22 of Houston.

23 What sense is that? Why can't we go back
24 to the corridor that's already built? Find a way to put
25 in additional tracks or to share that line.

1
2 (Applause.)

3
4 MR. PETERSON: Now, I live in the Clear
5 Lake area, but I tell you, I'm really appalled that the
6 government -- I'm also a NASA employee -- the government
7 in this case is being used to discriminate against
8 minorities and low income people.

9
10 (Applause.)

11
12 MR. PETERSON: Now, this should not be
13 taken to Clear Lake. No, don't go to Clear Lake, but
14 no, don't go to the East End of Houston either. Go up
15 146 and cross 225.

16
17 (Applause.)

18
19 MR. PETERSON: And finally, due to the
20 inaccuracies in the DEIS and obvious inconsistencies and
21 especially as far as the number of minorities that are
22 impacted by this thing, I strongly urge and I'm urging
23 congressmen and other elected officials to demand a
24 supplemental DEIS.

25 And I also want to ask that you do a

1 public hearing in the Clear Lake area, close to where
2 all those people live, not in Pasadena, where the
3 representatives of the industry are, but down in Clear
4 Lake for those people too. It's appropriate to be here.
5 It's appropriate to be there.

6 Take the time and do it right.

7
8 (Applause.)

9
10 MR. CAPERTON: Robert Gallegos, to be
11 followed by Sandra Liebeg.

12 MR. GALLEGOS: Hello. My name is
13 Robert Gallegos. I'm president of the
14 Eastwood/Lawndale-Wayside Super Neighborhood. I was
15 born, raised, and still live in the East End. The East
16 End is my home, with railroads and all.

17 We the residents have to hear the train
18 whistles at all times of the day and night. We the
19 residents have to deal with the trains stopped at our
20 intersections, so, therefore, we the residents are late
21 to our destinations. God forbid if any emergency
22 vehicle can't make it to its destination on time to save
23 a life due to a train stopped at an intersection.

24 Therefore, we the East End residents
25 oppose the San Jacinto Rail line, so we the residents

1 ask Burlington Northern and Union Pacific and the
2 Bayport plants to work together to find a common ground
3 to transport your products on the existing rail lines
4 without increasing the number of trains.

5 Now that we the residents have the
6 attention of the railroads and chemical plants, we ask
7 that you spend a percentage of your profits to build
8 some underpasses and overpasses to help keep us, your
9 neighbors, the East End residents, moving and not having
10 to wait for your trains and products to move out of our
11 way so we can reach our final destinations.

12 Thank you.

13
14 (Applause.)

15
16 MR. CAPERTON: Sandra Liebeg, to be
17 followed by R.S. Bill.

18 MS. LIEBEG: Hi. My name is Sandra
19 Liebeg or Liebeg, either way. Actually, I live in
20 Eastwood. I have been there about two years, and I'd
21 like to make a statement. As a human being, we have
22 been born with something called a survival technique.
23 And in that survival technique, we call the common sense
24 part gut instinct.

25 If you go ahead and look at the data

1 that's been given to you -- let's say that you are a
2 bank or you have been given a proposal to have a
3 business partner and that partner comes in to you as a
4 bank owner or loan officer or a person doing business
5 with him and he fills out his application and you find
6 out that the application is in error 90 percent. Would
7 you do business with him? No. Would you loan him
8 money? No.

9
10 (Applause.)

11
12 MS. LIEBEG: I'm not that educated, but I
13 have common sense to know better than to deal with
14 someone like that.

15 I think you need to review the techniques
16 that they're going through to try to get this thing
17 approved. There's a book called "Seven Habits of Highly
18 Effective People" and it's called having a win-win
19 situation. We can have a win-win situation if we take
20 greed out of the way.

21
22 (Applause.)

23
24 MS. LIEBEG: What I propose is -- such as
25 Microsoft, when they send their -- they have deadlines

1 every year to do their new agenda. You have deadlines.
2 You find them rushing to meet the deadlines in
3 technology, and they bypass all the things to make a
4 good product. And at the end, after it's been presented
5 on their deadline, then they come back and say, "Oh, we
6 have some problems here, and we're going to have to have
7 you update it and it's going to cost a little bit more
8 money." So you're being inconvenienced in your
9 pocketbook and in your time.

10 Again, this is the situation with us. If
11 you would go ahead and do the job right, there's no
12 inconvenience and there's no cost. Now, if this company
13 is making a profit -- I don't know what you said, five
14 million or whatever per year in the first year, I've
15 never heard of a business making that kind of money in
16 the first year.

17 What I don't understand is if they make
18 that kind of money, why can't they move this rail to a
19 better place that doesn't affect the quality of life for
20 the people, onto 146 and 225. I know you're in a rush,
21 but let me just explain something very quick.

22 I'd like to invite you to come to my home
23 and spend the night. At 1:30, 2:36, 3:20, and 4:28, the
24 phones -- I'm sorry, I want to call you by the phone --
25 the rails begin to toot their horns so loud that we do

1 not have a complete eight hours' sleep. If you study
2 the sleep pattern of REM, rapid eye movement, and you
3 don't have quality sleep, what happens to you?

4 You're sleep deprived. You get
5 irritable. You don't do work well in your job. You
6 have marital problems, because I don't know about you,
7 but I can be really touchy when I don't have my sleep.
8 I would like to request that something be done about
9 that.

10 But to have more trains coming through
11 when we already have four times being woken up in the
12 middle of our sleep pattern and even more, I'm a little
13 bit upset by that. And I think if you come and spent
14 the night with me, you would be upset too. I'd like to
15 have your phone number and let me just call you when I'm
16 woken up every time.

17 Thank you.

18
19 (Applause.)

20
21 MR. CAPERTON: Mr. R.S. Bill.

22 MR. BILL: You know, I'm already in
23 enough trouble tonight. My wife's celebrating her 76th
24 birthday, and I was supposed to take her out to dinner.
25 Well, she found out I was coming over here and might

1 speak, and she said, "Listen, boy, I'm not going with
2 you over there. I'm going to play it safe and go with
3 your sisters to the Methodist church for prayer
4 meeting." So that's why she's not here, because we're
5 always together.

6 Now, my name is Ransom Bill, last name is
7 Bill. I'm 81 years old and I have been living in this
8 area all my life, except when I was in the Service
9 there.

10 This deal is -- everybody's coming up
11 with all kinds of stories and it's sounding like a
12 broken record, really. And the real thing hasn't been
13 brought up. This is all about money, money, money.
14 Those people down there want to make millions and
15 millions. And that's the American way of life, but
16 they're being hog-tied due to these rates that they're
17 having to pay. And that is not the American way.
18 Regardless of anything, somehow or other, that has to be
19 changed or broken up where competition exists.

20 Now, they can build a new bridge over
21 Clear Creek. The railroads can pay for it. The
22 industries can pay for it. The trains can go down by
23 Texas City, come down Highway 6 to Alvin, and then
24 straight into Houston, and they won't even come near the
25 East End. Those tracks belong to Santa Fe. So somehow

1 or other, we have to be fair and we have to be honest
2 and tell it like it is, regardless of any stories that
3 come up.

4 Now, this is what's going to get me
5 killed, but it's the truth. I have to be honest. This
6 same train has been running for 26 years the other way.
7 Pasadena just built a multimillion dollar school where
8 you can lean out the window and almost shake hands with
9 the engineer. They must not be afraid of it. And I
10 just can't understand why they're so afraid of this
11 train when in 26 years, nobody has ever been hurt.

12 Now, they do pull too long a train.
13 Don't let them tell you they don't pull 200 cars,
14 because I've counted them. And all they have to do is
15 move them at night, and that won't block the traffic.
16 They're doing the best they can. And I don't represent
17 any industry, and those people down there in no way
18 support me or anything I represent.

19 But I think in your place, you'll have to
20 be honest with yourself and consider all angles. Now,
21 figure out some way that -- the bulldog's got the bone
22 in his mouth and the terrier is sitting down there
23 starving to death. You're going to have to get the bone
24 out of the bulldog's mouth and cut it in two and give
25 the terrier some. That's only right.

1 If the train comes through, I'm going to
2 continue to live here. If it doesn't come through --
3 after being a junior high, senior high, and university
4 teacher, I've learned a lot of things about people and
5 especially about parents and, worse yet, the mothers.
6 When I was teaching school, we took them to the bus barn
7 and had an attitude adjustment (indicating).

8
9 (Laughter.)

10
11 MR. BILL: We didn't have conversations
12 in the halls. We graduated them. We warmed their
13 bottoms. We had an attitude adjustment. Now, somewhere
14 in this deal with these chemical plants and the
15 railroad, it's going to be up to you fellows to be
16 honest and figure it out and whoever needs it, give them
17 a darn good attitude adjustment.

18
19 (Applause.)

20
21 MR. CAPERTON: I had down next Luis or
22 Nelda Valdes. Now, we heard from Mr. Valdez earlier, I
23 think.

24 Okay. Thank you.

25 And next on the list is Ruben Varela.

1 MS. VALDES: Yes. I'm Nelda Valdes. And
2 so much has been said already. I am a resident of this
3 area and I am a psychologist, so I have been observing.
4 And one of the things is that we're dealing with
5 something that hasn't happened yet. And so you're going
6 to have to rely on information that's given by the
7 railroads, which is misinformation at this point.

8 And what we are saying to you, the
9 residents, I think that it's kind of a tendency human
10 beings have to deny worst case scenarios. It's easier
11 to say that it may be farfetched or whatever, ignore
12 some of the things that are being said. That's what
13 people did with 9/11. There were a lot of things that
14 officials could have seen, could have done, could have
15 stopped if they had connected the dots.

16 What I would like y'all to think is five
17 years from now, if there is a disaster and you have
18 heard all this and you had the power to stop it and you
19 didn't, how are you going to feel? Are you going to
20 hear the powerful voice of the railroads or are you
21 going to hear we the people?

22
23 (Applause.)

24
25 MR. CAPERTON: Ruben Varela. Mr. Varela?

1 Chuck Carr. Mr. Carr?
2 Daniel Martinez.
3 Juan Parras. You made it back.
4 MR. PARRAS: Yes.
5 MR. CAPERTON: To be followed by Gilbert
6 Coronado.
7 MR. PARRAS: Good evening. It's kind of
8 late. My name is Juan Parras and I'm here representing
9 the Environmental Justice Clinic at Texas Southern
10 University and also the Labor Council for Latin American
11 Advancement. And a couple of things that I wanted to
12 mention, first of all, I want to thank all the elected
13 officials that came to, you know, show their opposition
14 to the rail, San Jacinto Rail system. I want to just
15 acknowledge that.
16 But I also want to acknowledge the fact
17 that we have some key elected officials who are not
18 here, such as County Commissioner Sylvia Garcia and also
19 our State Representative -- no, State Senator Mario
20 Gallegos and also State Representative Joe Moreno. I'm
21 kind of disappointed that they're not here. Gallegos
22 and Moreno may have an excuse because the legislation is
23 taking place, but when I see my State Representative
24 Rick Noriega and Congressman Gene Green and others here,
25 I'm not going to let them easily off the hook. So I

1 want people to know that.
2
3 (Applause.)
4
5 MR. PARRAS: The other thing that I want
6 to talk about is the worst case scenario. It's been
7 mentioned. Worst case scenarios do have to be looked
8 at. In fact, we are sitting right now in the near zone
9 of the worst case scenario. If you look a quarter of a
10 mile from here, there's ExxonMobil, Texas Petrochemical,
11 and Goodyear Tire & Rubber. When you leave this
12 facility tonight on Highway 3, going towards downtown
13 section, not even a two- or three-minute drive, to the
14 right, you'll see all the chemical plants bordering this
15 school.
16 This school is currently pending an
17 environmental justice lawsuit in Region VI because of
18 its close proximity to the chemical facilities. You, if
19 you allow this rail system to go through here, will give
20 us more ammunition to help us fight the battle here,
21 because you will add to our environmental justice
22 claims.
23
24 (Applause.)
25

1 MR. PARRAS: Not only here, but as it
2 goes into Milby and into our communities. We already
3 are overburdened with air pollution, with chemical
4 industry pollution, with -- two days ago, those of you
5 that live in the Houston area, we saw an explosion. Two
6 tank trucks exploded, 18-wheelers, and they were just
7 being cleaned out. Luckily, that was not nearby in the
8 neighborhood.
9 Anyway, the worst case scenario on the
10 derailment should be considered and also the storage of
11 these rail cars, because that hasn't been mentioned too.
12 All these trains are coming in here and we have a train
13 yard in the Manchester community, we have them in
14 Navigation yard, Mykawa facilities.
15 And literally those trains that carry
16 hazardous cargo chemicals can sit there, according to
17 NEPA regulations, for 30 days or longer. They just have
18 to be moved two or three feet every 30 days to be
19 considered still in storage. So we need to count and
20 figure out how many chemicals are actually in storage at
21 those yards and the worst case scenarios dealing with
22 that.
23 Again, practically everything has been
24 said about the issue of using the race card. I think
25 we're not using the race card. It's evident that we

1 live in the community. And if somebody misinterpreted
2 those figures, maybe it wasn't ignorance, but it surely
3 seems like it was oversight or just not completely
4 dealing with the task at hand with an open mind and
5 trying to skew the figures.
6 We don't want to be victims to somebody's
7 miscalculations, so that's why we're asking you to take
8 everything into consideration. Again, I thank you for
9 your time and patience. The battle is not over, as
10 Ms. Campos stated. Bush thinks he's got a problem with
11 Iraq. He's got problems here in Houston that he needs
12 to deal with.
13
14 (Applause.)
15
16 MR. CAPERTON: Gilbert Coronado, to be
17 followed by Kitty Trojanowski.
18 MR. CORONADO: Good evening. I'm Gilbert
19 Coronado. I'm also a member of the Immaculate Heart of
20 Mary Church, a member of TMO, a member of LULAC. And I
21 kind of feel I'm at an advantage because I also work for
22 the railroad. Now, BNSF also has captured businesses
23 and customers just like Union Pacific.
24 I'm a former SP employee. I've been
25 there for 32 years, and I happen to work in the Bayport

1 area. And I'm directly responsible for the safety of
2 the community where I grew up. In fact, I grew up in
3 Magnolia Park. I grew up in Manchester. So all these
4 regulatory agencies don't really factor in to me as much
5 as my own personal desire to keep the area safe.

6 I'm a supervisor, so the carmen work for
7 me, and so I make it a point to run safe trains. The
8 reason I bring this up is because the Bayport terminal
9 area has a bunch of businesses, and they're about -- in
10 fact, the four businesses that are involved with BNSF
11 are within about a two-mile radius from my yard where I
12 work at. And I've been to all those businesses, and it
13 seems to me pretty clear it's a matter of money versus
14 safety.

15 Now, these trains that are brought into
16 my terminal are brought in by the trainmen. The
17 trainmen are not qualified to inspect cars. The only
18 people qualified to inspect cars are the carmen per the
19 Federal Railroad Administration. That's why I'm in
20 charge of the carmen. These carmen inspect the cars,
21 and we make safe trains.

22 Now, there's many times that we find
23 defective cars. We prevent accidents. We prevent
24 derailments. Now, the BNSF, they're building a
25 12.8-mile track and their South Yard is, I'm guessing,

1 about 20 or 25 miles from this facility. And trainmen
2 are going to pick up these cars and these cars are not
3 going to be inspected.

4 Now, a lot of these plants have switch
5 engines in their facility and they themselves damage the
6 cars and let the cars come out. And that's what my men
7 do. We catch the cars that are damaged. So there is
8 the possibility of a disaster happening, of a derailment
9 happening, of some mishap. And I feel that these -- the
10 BNSF is going to take a chance with this, and it's
11 really up to you to prevent it.

12 We can talk about other ways of making
13 this money, but that's not what we want to discuss right
14 now. We want to discuss safety, the safety of the
15 residents. And that's in your hands.

16 Thank you.

17 (Applause.)

18 MR. CAPERTON: Kitty Trojanowski, to be
19 followed by Macario Ramirez.

22 MS. TROJANOWSKI: My name is Kitty
23 Trojanowski. I live in Park Place, which is just across
24 the tracks from here and to the north a little bit,
25 north and west. I belong to several organizations in

1 the community, but tonight I'm here for myself and my
2 family.

3 I want to thank Gene Green and all the
4 political people that were here tonight and have been
5 supporting us on this issue against this rail. But
6 there's one organization, one political group that has
7 not come forth at all, not even a peep out of them. And
8 that's HISD.

9 And I do not understand why they have not
10 opposed this, and I challenge them, if anybody's left
11 around here that's part of the HISD board, that they
12 need to come forth and forward. I know Esther Campos
13 spoke against it, but I want the entire board to vote
14 against it, just like City Council of Houston did and
15 like South Houston City Council. They need to come
16 forward and say, "We want to protect our children."

17 I read the summary of the consequences of
18 the Environmental Impact Statement, and it appears to me
19 that the entire document was written by and for the
20 chemical companies and San Jacinto Rail. Who did this
21 whole study? It's just ridiculous that they would --
22 and each category I read, that there would be no impact
23 or little impact, little consequences, no consequences
24 to all these things that are just going to wipe out our
25 whole neighborhood. You know, if there's one little

1 accident, it's just going to be devastation.

2 Also, I wanted to speak to the two or
3 three gentlemen that got up and spoke about how much the
4 chemical companies have done for their schools, for the
5 Ripley House, for all these different organizations.
6 Any big corporation that is in your area should be doing
7 these things for the community anyway.

8

9 (Applause.)

10 MS. TROJANOWSKI: Why do we need to give
11 them this big praise and pat them on the back for doing
12 all this and then allow them to come on in here and wipe
13 us out? That just doesn't make any sense.

15 I'm, please, asking you, do not rubber
16 stamp this. This is too important for too many people.

17 Thank you.

18 (Applause.)

19 MR. CAPERTON: Macario Ramirez, and then
20 Janice Sexton, please.

23 MR. RAMIREZ: Thank you very much. I
24 appreciate the opportunity to come before this group. I
25 also will make a quick comment about the people that

1 came up here. Felix Fraga and the other gentleman were
2 well meaning, but all you have to do is go see their
3 environmental statements at what used to be TNRCC and
4 you pull their files and you see how much they're
5 polluting the community. So it saddens me.

6 These companies are buying some of these
7 organizations for just a few hundred dollars or a
8 thousand dollars. They ought to be paying millions and
9 millions of dollars to the community to repair it for
10 the harm they've done.

11 Again, my name is Macario Ramirez. I'm a
12 local businessman. I consider myself an activist. I'm
13 founder of the Spanish for Clean Air and Safe
14 Environments. We are now in the process of going to
15 some of the communities and talking to residents to see
16 how much harm has been caused due to pollution that
17 these chemical companies let out into the community.

18 We challenged Valero Energy Company
19 several years ago, but they got through a loophole and
20 managed to not go before a public hearing, which we
21 wanted.

22 Again, we oppose this rail because it's
23 very dangerous to our community. And I think my friend
24 Cesar Chavez, for whom this school was named, is turning
25 over in his grave 20 times right now, because of what's

1 happening, not only here but around the other schools.

2 Like with Juan Parras, I was involved in
3 the protest. It's not that we don't need the Cesar
4 Chavez school. It's a wonderful place. It's just they
5 put it in a terrible location, where it's in harm's way
6 for all the children.

7
8 (Applause.)
9

10 MR. RAMIREZ: That's what's going to
11 happen with the rail line. And I will tell you, ladies
12 and gentlemen, right now, when I was in Washington and
13 other parts of the country, I sat in on some panels
14 similar to yours. And there's a legislative guideline
15 that tells you if a company knowingly -- knowingly does
16 not tell the truth about a community, as it appears has
17 happened here, then you just scratch them off. That's
18 it. They're no more. (Comments in Spanish.) That's
19 the end of it.

20 So I say don't -- these people should not
21 be allowed to put in this railroad. If they want to put
22 it in Timbuktu or somewhere else in the middle of the
23 Gulf of Mexico, fine. Work other things out with the
24 other rail company. But just the fact that -- people
25 keep saying they need to get back and get the data

1 straight. The heck with that. They have it wrong.

2 They have the data. If you substantiate
3 it, then you just cross them out. You're out of it.
4 You don't give them permission to do that.

5 So I commend you and I want to get us all
6 home early also because it's getting late. And I hope
7 you do the right thing, and I hope you just say no.
8 (Comments in Spanish.) Enough is enough. We're not
9 going to allow this to happen anymore. Stop that
10 railroad.

11 Thank you very much.

12
13 (Applause.)

14
15 MR. CAPERTON: Jane Sexton, to be
16 followed by Leah Tolson.

17 MS. SEXTON: Hello. My name is Janette
18 Sexton. I live in the Pasadena-Deer Park area, and I'm
19 just here tonight to voice my strong opposition to this
20 proposal. It is wrong. It is wrong for our community.
21 Please do not endanger our children, our community, our
22 wetlands, and our mobility.

23 Thank you.

24
25 (Applause.)

1
2 MS. TOLSON: Good evening or almost good
3 morning.

4 MR. CAPERTON: Ms. Tolson. Thank you.
5 Raymond Turner will be speaking after you. Go ahead.

6 MS. TOLSON: Good evening again. I'm the
7 current president of Pecan Park Civic Association, and
8 our neighborhood lies between Griggs Road, Lawndale, the
9 I-45 Feeder, and Highway 225. So it's a neighborhood of
10 approximately 3,000 residents. And all of the points
11 that we were going to make and that we're concerned
12 about have been made this evening, so I won't repeat
13 them.

14 But I would like to bring something to
15 your attention, and it's been touched on lightly
16 already. The cost of human life, the quality of life,
17 if you speak in reference to percentages, what is an
18 acceptable loss for a life, for an injury affecting the
19 quality of life? What is acceptable?

20 I'm also a nurse, and when a physician is
21 talking to a patient and family members about, you know,
22 possible risks and complications and if something
23 happens to them, he says it is 100 percent if it happens
24 to them. There's no 1 percent, no 9 percent, no
25 8 percent. If it happens to you, it's 100 percent.

1 We live in a densely populated area, and
 2 if there's a derailment, explosion, whatever, emissions
 3 of chemicals, it's going to affect a heck of a whole lot
 4 of people, okay? So what we're saying is: Do not
 5 approve this application to establish this rail as it
 6 has been proposed in your manual here. The risks by far
 7 outweigh -- the risks to the community outweigh the
 8 benefits to the railroad and to the companies who will,
 9 you know, benefit from all of this.

10 It is more than 50 percent that it's
 11 going to cost the community of what the companies are
 12 putting into it. We ask that you give this your
 13 greatest attention.

14 The race card has been placed. The River
 15 Oaks card has been played. None of you-all live in this
 16 neighborhood, in this area. You're going home to your
 17 own places.

18 We stay here. We were born here, raised
 19 here, probably will die here. We'd like to have a
 20 quality of life. We're already bothered by all of the
 21 things that people have been concerned about here
 22 tonight. We just ask you to do your job.

23 Thank you.

24
 25 (Applause.)

1
 2 MR. CAPERTON: Mr. Turner, to be followed
 3 Ms. Nelda Valdes.

4 Not here? Okay.

5 MR. TURNER: She signed up twice.

6
 7 (Laughter.)
 8

9 MR. TURNER: My name is Raymond Turner.
 10 I'm the president of the civic club for Meadowcreek
 11 Village, which is just south of here. Meadowcreek
 12 Village is a comfortable, completely residential
 13 neighborhood whose western edge abuts the GH&H railroad
 14 line. So I'm going to keep my comments kind of focused
 15 on our neighborhood. Our neighborhood is interesting in
 16 that we're sort of in between Clear Lake and the East
 17 End, but we have our own unique things that are going to
 18 impact this rail line if, in fact, it's approved.

19 The project would obviously directly
 20 adversely impact our neighborhood, real simply, the
 21 proximity of all of our residents and the residents in
 22 the neighborhood. Meadowcreek Village lies roughly
 23 within a mile of the GH&H railroad line. We have a
 24 public school and a Catholic school in our neighborhood,
 25 which are within a mile of the rail line.

1 The increased train traffic -- there's
 2 going to be an increase. It's going to have an adverse
 3 impact on the property values in the neighborhood. It's
 4 going to have an impact on people's access to the
 5 neighborhood via Interstate 45, because the only routes
 6 from our neighborhood to I-45 are going across the
 7 Highway 3 railroad line.

8 One thing that I did not see addressed in
 9 the Draft EIS was the potential for water pollution in
 10 the Berry Bayou watershed. Berry Bayou crosses
 11 underneath the GH&H rail line, runs parallel to that
 12 rail line for a portion, and then Berry Bayou runs
 13 through the heart of Meadowcreek Village. Any accident
 14 or incident in the Berry Bayou watershed would have a
 15 direct impact on Meadowcreek Village.

16 Lastly, I'd like to basically go back and
 17 address the chemical companies with all their ideas and
 18 what have you. I want to sum it up by saying that these
 19 companies have operated profitably with the present cost
 20 structure for many, many years. I question why all of a
 21 sudden there's a need to alter the status quo, thereby
 22 jeopardizing the quality of life for the residents of
 23 Meadowcreek Village and the rest of the East End.

24 Thank you.

25

1 (Applause.)

2
 3 MR. CAPERTON: Juanita Suerta or Suerta.
 4 Barry Smitherman.

5 Rafael Enriquez, to be followed by -- I
 6 believe it's Enid Nunez.

7 MR. ENRIQUEZ: I came with an open mind
 8 this evening, having learned debate in both middle and
 9 high school and I also debated at Baylor. And I'm
 10 disappointed that the students here tonight were not
 11 prepared by their teachers to have had two or three
 12 students present a position in favor of what is being
 13 proposed tonight.

14 There's been too much fear mongering, too
 15 much hysteria, too much confusion, and not a
 16 wholehearted willingness to listen to the truth. I have
 17 a background in industrial distribution, materials
 18 management, and inventory control.

19 Three items I wanted to speak to: The
 20 school bus driver has a duty, with all due respect, to
 21 learn all of the railroad underpasses to be able to
 22 circumvent the railroad track where it exists.

23 UNIDENTIFIED SPEAKER: Where are they?

24
 25 (Multiple people speaking)

at the same time.)

UNIDENTIFIED SPEAKER: There are none.

UNIDENTIFIED SPEAKER: Do you live here?

MR. ENRIQUEZ: They abound. I directed the school bus traffic for HISD, and you have to use --

(Multiple people speaking at the same time.)

MR. ENRIQUEZ: No. I worked with a dispatcher to give the bus drivers the exact locations, Wayside, Polk -- I don't want to dwell on that.

Let me move on to the second item, to the students --

(Multiple people speaking at the same time.)

MR. CAPERTON: Please, one speaker at a time. Thank you.

MR. ENRIQUEZ: -- to the students. Unfortunately, they've gone, but --

(Multiple people speaking at the same time.)

UNIDENTIFIED SPEAKER: We're not here to address the students. We're here to address the issues of the Board.

UNIDENTIFIED SPEAKER: Don't talk to us.

MR. ENRIQUEZ: To the students, I would say that in my time, it was every young man's dream to have a career in railroading. I mean, that was just the all-American aspiration. It's a part of history, and I think it still is a challenge to be sought.

Now, I would have had the students pose questions about employment practices as to what is -- how many minorities comprise your corporate --

UNIDENTIFIED SPEAKER: What would you have the Board do? What would you have the Board do?

MR. ENRIQUEZ: I have the floor.

MR. CAPERTON: Please, let's not have a dialogue. We need to finish his comments. He has one minute remaining. Let's give him the courtesy of finishing.

MR. ENRIQUEZ: I would pose the question of affirmative action and ask how many minorities comprise the corporate sector and what kind of outreach

and good faith is being demonstrated by them to affirm that, in fact, good will is in place.

I would remind the community that there are many families that were fortunate to have worked with the railroad. Chin Duk Suarez is not here tonight. She's working on her Ph.D. in education at the University of Houston. Her father worked for Southern Pacific in Denver Harbor. There are many families that were able to raise families and be productive members of society by having a job and a career with the railroad.

MR. CAPERTON: Mr. Enriquez, if you could wrap up, please.

MR. ENRIQUEZ: Finally, the two recommendations are that you would reconsider Ms. Mary Margaret Hansen's proposals about the cleanup of the East End and also to hear the recommendations offered -- observations made by the safety inspector so that the community will know that they are, in fact, a partner willing to work with the community.

MR. CAPERTON: Ms. Nunez, to be followed by Alejandro Morua.

MS. NUNEZ: My name is Anna Nunez. I have a statement to make not only to the Board but also to the gentleman that just spoke. We have one hour remaining left and today is the anniversary date of the

birthday of Dr. Martin Luther King. And I'd like to read this quote very quickly.

"The ultimate test of a man is not where he stands on positions of comfort and convenience, but where he stands on positions of challenge and controversy. So on some questions, cowards ask: Is the position safe? Expediency asks: Is the position politic? Vanity asks: Is the position popular? But conscience asks: Is the position right?"

And I would ask you and say that you as a Board have a moral obligation to respect and adhere to the good will -- to the will of these good people that have all spoken overwhelmingly, asking you to please deny this issue.

Secondly, very quickly, what people failed to realize is on the census data, Latinos and Hispanics are not marked as a racial category. They are an ethnicity. So a way to skew the numbers and use the numbers to the detriment of the community is that folks may have marked themselves -- on my birth certificate, I'm marked as white. I don't consider myself white. But the U.S. Government says you designate yourself in a racial category as perhaps white, black, et cetera, but your ethnicity is then Latino or Hispanic.

And so I would ask that the study be

1 reevaluated based upon the ethnic breakdown of the total
 2 population within the area which is being considered.
 3 Thank you.
 4 MR. CAPERTON: Ms. Nunez, your first name
 5 again?
 6 MS. NUNEZ: A-N-N-A, Anna.
 7 MR. CAPERTON: Thank you.
 8 MS. NUNEZ: Thank you.
 9
 10 (Applause.)
 11
 12 MR. CAPERTON: Mr. Morua, to be followed
 13 by Christine Coronado.
 14 We just have a few more speakers left.
 15 Thank you for your patience.
 16 MR. MORUA: Thank you. My name is
 17 Alejandro Morua, and I'm a principal of a charter school
 18 in the East End that has predominantly a Latino and
 19 African American student population. I'm a native of
 20 the East End. My parents moved from Mexico in the '60s
 21 and I grew up off of Mercado Garcia, so I grew up with
 22 industry and rail everywhere. And I want -- and
 23 similarly to Anna -- what Anna mentioned today what I do
 24 is every morning before the school bell rings, I have a
 25 conversation with my students about life skills, about

1 the values that we consider important, and the values
 2 that we carry with us for the rest of our lives.
 3 And today we talked about Dr. Martin
 4 Luther King's birthday in 1929, and I focused on two of
 5 them: perseverance and courage. And he demonstrated
 6 these values and life skills in the face of so much
 7 opposition. And I talked to these students, who were
 8 about five, six, seven years of age, some eight years of
 9 age, and I told them about a while ago their
 10 grandparents would have to sit in the back of the bus.
 11 Their grandparents couldn't use some of the same
 12 facilities. Their grandparents couldn't drink at a
 13 water fountain.
 14 And because of people like Dr. King,
 15 we're here today. We're here sharing the same
 16 facilities. And we're somewhat further along this path
 17 towards some kind of equality that this country
 18 hopefully someday will realize. And here we are reading
 19 this rail project, this proposal, disproportionately
 20 affecting people of color.
 21 And I have to tell you this. You know,
 22 I'm a Wharton-educated business person, and I'm doing
 23 this work because I put people first. And when I read
 24 shenanigans like this, I think it's outrageous. And I
 25 will tell you this. And maybe people aren't ballsy

1 enough to say this, but I'm a person of color. I'm a
 2 Latino. You all are white. All of you people are
 3 white. And I think this is outrageous, because this
 4 city is now 70 percent of color and this reminds me of
 5 something like South Africa.
 6
 7 (Applause.)
 8
 9 MR. MORUA: I believe that people have
 10 the best intentions. I believe that people do what they
 11 consider to be the best and that's just the optimist in
 12 me, but I'm here to tell you, I'm morally outraged. And
 13 when I can go back and tell my students tomorrow that I
 14 told you all, you know, how upset I was and what my
 15 concerns are with the implications, I want to tell these
 16 students that they have the same right to participate
 17 and they can also be involved -- I'm sorry -- they can
 18 be involved in this process. But I also want to tell
 19 them that we're in a fair country.
 20 And right now, this does not seem fair.
 21 This is just totally -- to me, it sounds like
 22 environmental racism. And this is not justice. And I
 23 want to see justice served now.
 24
 25 (Applause.)

1
 2 MR. CAPERTON: Ms. Coronado, to be
 3 followed by Michael Rodriggs.
 4 MS. CORONADO: Hello. My name is
 5 Christine Coronado. I would like to start off by
 6 mentioning a few words that have been mentioned today.
 7 Felix de Helena, J.R. Harris, Dearly Middle School, Milby
 8 High School, Houston Community College, Immaculate Heart
 9 of Mary, Immaculate Conception. I want you to know that
 10 I live in the area. I grew up in the area. These are
 11 the schools and churches that I have attended.
 12 Do you know that with the City of
 13 Houston, with -- that were affected by Allison, almost
 14 70 percent of the applicants, 88,736 people resided in
 15 Houston? Of this public notice that was put in the
 16 Houston Chronicle for the citizens to come up and voice
 17 their opinion, one of the meetings, 730 people attended.
 18 That is not a fraction of the people that are willing to
 19 come out and say something on behalf of their community.
 20 I consider myself to be a well-educated,
 21 Hispanic female that did grow up in the East Side. I am
 22 not prepared today, as I wish I could have, to represent
 23 the people in the community that are not aware of this.
 24 Of the 730 people that attended this meeting, it was
 25 published -- 730 residents attended the public hearings

1 held throughout the city. This was published in the
2 Houston Chronicle, La Voz de Houston, the Houston Youth
3 Pages and Southern Chinese Daily News.

4 I am very well educated. I get on the
5 Internet, I read, but I don't have time to sit there and
6 figure out what's going on. I am a full-time employee
7 of Houston Community College as well as a full-time
8 student of Houston Community College. I am trying to
9 better myself in this world so that we won't have people
10 like -- that are more concerned about what they're
11 bringing into the community and not concerned about who
12 lives in the community.

13 Felix de Helena -- I'm sorry -- J.R.
14 Harris in the '80s had a chemical leak. The chemical
15 leak -- I was on that playground. I was in that
16 playground when a cloud of smoke hovered over the area.
17 We did not know what it was at that time, neither did
18 the instructors or the police.

19 Everybody was rushed into the building.
20 Nobody followed up on how I was doing. Nobody ever
21 followed up on what types of effects this might cause me
22 or other students that were playing in that playground.

23 What if those chemicals that are being
24 transported on these rail lines are going through there?
25 Half of these schools that I have mentioned -- all of

1 schools -- excuse me -- all of the schools that I have
2 mentioned are on the proposed rail line. My nephews
3 attend Jaime Davila Elementary School. Jaime Davila
4 Elementary School is a block away from the railroad
5 where this will be.

6 When I attended John R. Harris Elementary
7 School, we had field trips and if the people from
8 Lyondell were here today, I would thank them for what
9 they contributed to my education. Maybe I did benefit
10 from their uniforms and books, all this and that, but
11 you know what? I benefited from my community more than
12 I benefited from what they gave me.

13 They took me on a field trip to Lyondell
14 chemical plant. The one thing that I wish I could have
15 held on to that they gave me from that field trip was
16 the goggles. If I would have those goggles to protect
17 myself, I would gladly hand those down to my nephews, my
18 children, if I had any, to protect them from any
19 possible chemical spills and the biohazardous chemicals
20 that will be passed through the neighborhood.

21 I hope I have everybody's attention on
22 this panel, just like the people that were for the
23 Railroad Commission at 7:00 o'clock when this started.
24 I could have been here, but I was in school trying to
25 educate myself. I want everybody here to know, like I

1 said, if Lyondell was here, I would thank them, but
2 they're not here. All these people signed up early
3 because they knew early what was going on.

4 Like I said, I read the paper. Do I have
5 time to sit down and go through sections of the paper
6 where this is offered? This is a flyer that was
7 distributed at my church. I got this from going to
8 church. I did not get this from going to the newspaper.
9 I picked this up from church, notifying me that there
10 was something that was affecting my community.

11 And to the gentleman who made the
12 statement about the Railroad Commission, how important
13 it was and how people look forward to employment with
14 the Railroad Commission, my father worked at the Port of
15 Houston for 29 years. That was a career that a lot of
16 people look forward to. That is where hazardous
17 chemicals began.

18 They were transported on these ships that
19 came in through the Port of Houston that were employed
20 by Hispanics and that brought all that we have here
21 today due to them. My father now suffers from an airway
22 disease called asbestosis. Who's going to be
23 responsible for cleaning up these railroads, these
24 Mexicans that are out there willing to work, but that
25 are not aware of the reactions that will affect them in

1 the long run?

2 My father does not have medical
3 insurance, nor does he have anybody that has contacted
4 him from the Port of Houston that is willing to
5 contribute any type of donations to his health.

6 MR. CAPERTON: Can you please wrap up
7 your comments.

8 MS. CORONADO: So working for the
9 Railroad Commission, how important is that? Do you
10 know -- when we lived on the railroad line, things would
11 fall off those tracks. Who would go pick up those
12 things? The Hispanic people would. We picked up
13 barrels of sugar, of flour, brought them to our home,
14 and happily accepted them. We weren't in need of it --

15 MR. CAPERTON: Ms. Coronado, please try
16 to wrap up.

17 MS. CORONADO: -- but it was beneficial
18 to us, and we ate off of it. Who's going to tell those
19 people that possible chemicals could be in those same
20 barrels that the sugar was in?

21 MR. CAPERTON: Ms. Coronado, you need to
22 please wrap up.

23 MS. CORONADO: Thank you.

24 MR. CAPERTON: Thank you.

(Applause.)

MR. CAPERTON: Mr. Rodriggs and then
Debbie Ketner.

MR. RODRIGGS: First off, thank you very
much for your endurance and your patience. It's been
four hours now, and I appreciate your time hearing both
sides of the story. My name is Michael Rodriggs, and I
don't represent any organization. I'm not a principal.
I'm not Hispanic. I'm not black. My concern is not for
the hundreds of thousands of folks impacted by this
plan. My concern is a purely selfish one.

My concern is for my five-year-old son
who attends kindergarten within a half a mile of one of
the proposed lines. I believe that his life and the
lives of his classmates are at a greater risk with this
line. From what BNSF said tonight, I understand their
safety record is commendable and I would expect nothing
less from a modern railway system. I also understand
the low probabilities of accidents that have been quoted
here tonight. But all it takes is one catastrophe, just
one.

Even with 26 years of a clean record, the
possibility still exists for one failure tomorrow. Just
one out of all the trains that pass over the lines in

the years to come could put my child at risk, and I'm
worried about the .001 percent. I assure you that the
impact is not negligible, not to me.

I don't know if they're still here, but I
would love to see any of the industries who want this
line to rally all the opposition to this project and pit
us against Union Pacific's stubbornness to negotiate a
fair rate.

Please reconsider the impacts of this
project. They are definitely not negligible.

Thank you.

(Applause.)

MR. CAPERTON: Debbie Ketner.

MS. KETNER: Hello. My name is Debbie
Ketner, and thank you for staying so late and listening
to our voices. If you turn left from the school and go
down two lights and -- excuse me -- turn right and go
down two lights, turn left and turn right again, that's
where I live, on the other side of the railroad tracks.
We've chosen to live in Acre Villa, Park Place area, for
about 13 years. We live in a modest bungalow and we're
renovating it.

We just had new sidewalks placed on our

street and there's two new brick homes, so our
neighborhood is quite mixed. If you stood on the
railroad track and look down Park Place, you would see
the condominiums where the Asian people live. And if
you come down my street, you'll see Black Americans, a
few Caucasians, and my Hispanic neighbors.

It's a half acre with trees. It's
beautiful. And I have woodpeckers that I can hear on
the trees, you know, and it's a beautiful sound. It's a
pier home, and guess what? The railroad does rattle my
home. And when I think that, should I stop the
renovation? Should I consider moving?

We love living in an urban area. We love
our neighborhood. It's a treasure in Houston. And I
was thinking, should I stop painting our cottages where
we house our neighbor's family? We have two cottages on
our property as well. Should I stop landscaping because
the railroad's going to come through?

I would hope -- these are my
considerations. My son attended Milby High School and
he was president of many societies here and we love it
very much.

And another thing I would like to ask
you -- by the way, my half acre goes down into Pine
Gully, so there's a waterway that goes behind my home.

But I was also thinking, when they talked about the
traffic patterns and the hazards, that we're speaking of
chemical spills. But I was thinking too about hurricane
evacuation and the gridlock as people come up I-45 and
how they choose oftentimes -- just the sheer volume of
traffic that has to come during an evacuation up
Highway 3.

And I was wondering if, as someone's jaw
would be clenched with the same anger several speakers
ago, because they couldn't get up I-45 and they couldn't
turn onto Highway 3 because a train was stopped there.
That could happen.

What if a tree -- several trees became --
flew on the railroad tracks? What if the metal
buildings flew, and there it was across the railroad
tracks? How quickly, with all the emergency that's
going on in the area, could they come and address that?

So I would ask you to consider even the
traffic patterns for hurricane evacuation. We would
have visitors down in Galveston, maybe even some of the
business people that come in to meetings for the
railroad, would stay down there and they would have to
evacuate. You know how Allison came in so fast.

And my husband and I work for utility
companies. I work for a phone company. My husband

1 works in a water utility. So we're employed by these
 2 types of companies.

3 And also, I was listening to the
 4 principal. My company, Verizon Foundation -- the
 5 foundation has helped some of the community service
 6 things. The principal was so glad for their help and
 7 how he must receive it. And he was talking about the
 8 cranes that this school sent to the survivors of the
 9 attack. How sad if the New York City survivors of the
 10 World Trade Center would have to send cranes down to our
 11 neighborhood because of some hazard or some catastrophe
 12 because of the rail line.

13 Please don't put extra tracks next to my
 14 house. I want to renovate my house. I have plans for
 15 it. I don't want to be rattled. Never mind chemical
 16 exposures. We all know those kinds of things.

17 Please say no to this fraudulent document
 18 that you were presented.

19

20 (Applause.)

21

22 MR. CAPERTON: This represents all the
 23 people that signed up to speak and the hour is very
 24 late. And if you've persevered to the end and you have
 25 not spoken and would like to speak, we'd like to invite

1 you to make a comment at this time.

2 One, two, maybe three more speakers. We
 3 probably have time to --

4 UNIDENTIFIED SPEAKER: What if we have a
 5 question?

6 MR. CAPERTON: We're not taking -- we're
 7 not here in a question and answer mode. If you haven't
 8 spoken, we'd like to give an opportunity to those who
 9 have not spoken.

10 MR. PARKER: My name is Steve Parker and
 11 I'm with the Eastwood Civic Association. We're just up
 12 the tracks here a little ways as you come towards
 13 downtown. We're a community of about 3,000 homes, and
 14 about 1,500 of them run within a quarter mile of the
 15 railroad tracks. On my way up here tonight, I was
 16 stopped -- I had to take a detour because of a train
 17 that was across the tracks. It was there when I got
 18 home from work and it was still there 20 minutes later
 19 when I left to come here to the meeting.

20 Across the freeway from us and right next
 21 to the railroad tracks is the University of Houston,
 22 which is about 30,000 students. In the last nine
 23 months, since I first started hearing about this
 24 situation, there have been three accidents along the
 25 railroad tracks, one off Produce Road close to our area,

1 one off Hardy Road north of town, and one off Mykawa.
 2 None of these had hazardous chemicals in them, but the
 3 trains did derail.

4 And in our area, Eastwood, Broadmoor,
 5 Youngmans, and Lawndale, each of those wrecks would have
 6 ended up in homes because of the homes that are that
 7 close. There are 114 homes in our section that are
 8 close enough that those trains would have ended up in
 9 the bedrooms of those homes.

10 Another thing that I've heard coming to
 11 some of the meetings that I haven't heard tonight is
 12 about children who are crossing under the trains. We
 13 talked about the children who can't get to school
 14 because of the trains, but coming home from school or
 15 going to school, coming up to trains that are stopped
 16 and crossing under them. Just last fall, there was a
 17 young man just north of our area who lost a leg doing
 18 this coming home from school one day.

19 We've also been talking about the narrow
 20 profit margins that are -- the companies that have been
 21 represented here tonight have talked about. But in our
 22 area, we have a lot of companies, small companies, that
 23 have productivity losses because of the trains that are
 24 stopping in the area and trying to get across the
 25 tracks.

1 And just to sum up, I appreciate y'all
 2 being here and listening to us. This is our opportunity
 3 to speak. After the whole decision is made and over the
 4 next few years, we won't have this opportunity again.
 5 This is our one time to say everything we want to say
 6 and everything that will impact us over the next few
 7 years. So this is our one time and we don't want to
 8 lose our voice.

9 Thanks.

10

11 (Applause.)

12

13 MR. CAPERTON: Yes, sir.

14 MR. BRIDGES: I'm Bill Bridges. I'm a
 15 Pinebrook resident. According to the map, I think I'm
 16 about 3/8ths of a mile from the proposed rail line. I
 17 entered some remarks last night. I assume that they're
 18 part of the record. I'd like to enter these tonight.
 19 I'd like to address the safety and risk and chance of
 20 catastrophic accidents.

21 The BNSF people cited the fact that there
 22 is a negligible chance of catastrophic accidents. Well,
 23 negligible is not zero, so here are some non-zero
 24 scenarios that I'd like for you to consider: A train
 25 rolling through the community at 25 miles an hour or

1 it's just sitting on the track blocking the roadway.
 2 Now, there are a lot of gasoline stations
 3 in the communities, and they're all serviced by gasoline
 4 trucks, the big, long tanker trucks, driven by
 5 18-wheelers, driven by human beings. And human beings
 6 are susceptible to heart attacks, to seizures, to faints
 7 and fainting. We'd hate to see a loaded gasoline tanker
 8 truck plow into one of those tank cars that's loaded
 9 with hazardous chemicals in an area where there are
 10 thousands of people. We can imagine the headlines.
 11 There are small, single-engine pilots
 12 that have airplanes. Pilots are susceptible to heart
 13 attacks, to seizures, to fainting. Again, the risks may
 14 be negligible, the chance may be negligible, but it's
 15 not zero. And it happens all across the United States.
 16 Large airplanes, engines fall off those
 17 planes, tail rudders fall off those planes. As
 18 negligible as it may be, it's still not zero. And if it
 19 happens in this community, it will happen because
 20 somebody allowed -- it will happen because somebody
 21 allowed this rail line to go through and connect
 22 hazardous chemical rail cars through this community.
 23 There are drivers of propane tank trucks.
 24 Propane tank truck drivers are susceptible to the same
 25 heart attacks, seizures, and fainting spells that the

1 drivers of gasoline tank trucks are. School bus drivers
 2 have those same problems.
 3 We can't prevent those. The chemical
 4 companies can't prevent those. And the railroad
 5 companies cannot prevent those. Those accidents happen,
 6 and they're not zero.
 7 I'm sure there are other non-zero
 8 scenarios that thoughtful people can envision. I
 9 request that the Surface Transportation Board reject the
 10 San Jacinto Rail Draft Environmental Impact Statement
 11 due to safety factors, the risks involved, and the
 12 non-zero chance of catastrophic accidents.
 13 And since there is an alternative route
 14 that has not been considered, I request that the Surface
 15 Transportation Board use their power to direct Union
 16 Pacific to share their trackage of the UP line along
 17 Highway 146 with Burlington Northern Santa Fe with an
 18 appropriate market value to mediate the price
 19 negotiated.
 20 Thank you.
 21
 22 (Applause.)
 23
 24 MR. CAPERTON: Our time is up. I believe
 25 that we need to leave the auditorium; is that correct?

1 If you still have comments, please
 2 remember that the comment period is open through
 3 February 21st. Send in your written comments. They're
 4 given equal weight with the oral comments.
 5 Thank you and good night.
 6
 7 (Proceedings concluded at 11:24 p.m.)
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1 STATE OF TEXAS :
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