

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 36025

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**TEXAS CENTRAL RAILROAD AND INFRASTRUCTURE, INC. &
TEXAS CENTRAL RAILROAD, LLC-
AUTHORITY TO CONSTRUCT AND OPERATE-
PASSENGER LINE BETWEEN DALLAS, TX AND HOUSTON, TX**

**JURISDICTIONAL REPLY TO PETITIONERS' RESPONSE TO THE
BOARD'S REQUEST FOR ADDITIONAL INFORMATION**

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October 8, 2019

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**REPLY OF TEXANS AGAINST HIGH SPEED RAIL, INC. TO
PETITIONERS' RESPONSE TO THE SURFACE
TRANSPORTATION BOARD'S REQUEST FOR ADDITIONAL
INFORMATION BASED ON THE BOARD'S LACK OF
PASSENGER RAIL JURISDICTION UNDER ICCTA**

Texans Against High Speed Rail, Inc. ("TAHSR") submits this Reply in opposition to the Response filed by Petitioners Texas Central Railroad and Infrastructure, Inc. ("TCRI") and Texas Central Railroad, LLC ("TCRR") (collectively "TCR") to the Surface Transportation Board's request for additional information in its Decision issued June 20, 2019. Petitioners' are not entitled to a reopening.

SUMMARY OF ARGUMENT

TCR claims that it is an interurban electric railway that is proposing to operate a "closed system" of intrastate tracks between points in Houston and Dallas, Texas. TCR's closed system "will run on dedicated HSR tracks for passenger rail service only and cannot travel on other rail lines."¹ As FRA has recently noted, TCR's closed system "will replicate the system and operations of

¹ Federal Railroad Administration ("FRA"), *Dallas to Houston High-Speed Rail Environmental Impact Statement: Scoping Report*, at p. 3 (April 2015).

the Tokaido Shinkansen,”² which is operated by the Central Japan Railway Company. That isolated system is incompatible with the general system of rail transportation in the United States and cannot interconnect with the interstate rail network that hosts Amtrak’s passenger operations. As the operator of such a unique railway system, TCR is not, and will not be, a “rail carrier” as defined by 49 U.S.C. § 10102(5).³

Moreover, TCR’s proposed multi-modal operations in interstate commerce will not be “only by railroad.” Because the Board’s general jurisdiction under 49 U.S.C. § 10501(a)(1)(A) applies to “transportation by rail carrier that is (A) only by railroad,” the Board lacks jurisdiction to approve TCR’s proposed project. Nor will TCR’s “closed system” be part of the interstate rail network. Even if it were, the Board, consistent with the unambiguous wording of 49 U.S.C. § 10501(a)(2)(A) and ICCTA’s legislative history, has no remaining entry, exit and fare jurisdiction over rail passenger service. Lastly, because the Board has no jurisdiction over the construction of TCR’s closed system of tracks, the Board should summarily deny TCR’s Petition to Reopen.⁴

² Letter to Michael Finnegan from Ronald L. Batory, dated August 30, 2019, and filed with the Board on October 3, 2019. Even if FRA were to issue a rule of particular applicability (RPA) to TCR at some indeterminate time in the future, that act will have no impact whatsoever on the instant matter. It will not restore the Board’s pre-ICCTA jurisdiction over passenger rail service. Nor will it cause TCR’s closed system to be part of the interstate rail network.

³ Prior to ICCTA, the provisions of § 10102(5) were codified at 49 U.S.C. § 10907 of the ICA and denied the ICC authority under sections 10901-10906 over a “street, suburban or interurban electric railway that is not operated as part of a general system of rail transportation.” Nothing substantive was changed by ICCTA.

⁴ Should the Board find that it has jurisdiction, TAHSR has also filed a separate pleading that focuses on the evidentiary failures of TCR’s positions.

I. The Board's Prior Conclusion That TCR's Proposed Line Would Not Be Part Of The Interstate Rail Network And Is Therefore Not Within the Board's Jurisdiction Is Correct As A Matter Of Law.

The Board's July 18, 2016 Decision denying the petition collectively filed by TCRI and TCR under 49 U.S.C. § 10502 for an exemption from the prior approval requirements of 49 U.S.C. § 10901 was correctly decided. The Board does not have jurisdiction over the construction of TCR's proposed line.

As the Board noted, "[i]t is undisputed that [TRC's proposed] Line would provide only intrastate passenger service between Dallas and Houston." Slip op. at 4. It explained that what TCR "characterizes as its proposed 'connections' to Amtrak are not sufficient to make the proposed Line part of the interstate rail network." The Board also noted TCR's admission that "the Line would not directly connect, nor would it be feasible to directly connect with Amtrak." *Id.*

In seeking reopening, TCR has not, and cannot, point to any evidence it would directly connect its proposed system with the interstate rail network. As before, TCR's alleged "connections" with Amtrak would still require passengers to "connect" with Amtrak "by taking a seven-mile shuttle bus service in Houston" or by either taking a shorter shuttle service in Dallas or walking approximately a mile. These intermodal movements simply do not constitute "seamless" all rail transportation service required by section 10501(a)(1)(A).

While a through ticket may reflect an interstate movement by a passenger, a ticket alone cannot subject the movement to the Board's general jurisdiction over rail passenger transportation. While Congress intended to

expand the Board's jurisdiction over rail freight transportation when it enacted ICCTA, it unquestionably intended to eliminate and curtail the Board's pre-existing jurisdiction over rail passenger transportation.

A. TCR's project cannot satisfy the general jurisdictional provisions of 49 U.S.C. § 10501(a)(1)(a) and § 10501(a)(2)(A).

In seeking reopening, TRC wholly ignores the unequivocal statutory language of 49 U.S.C. § 10501(a)(1)(A), which states that "the Board has jurisdiction over transportation by rail carrier that is (A) ***only by railroad.***" (emphasis added). It also ignores the statutory limitation that requires the transportation to be part of the interstate rail network. 49 U.S.C. § 10501(a)(2)(A).

Even if TCR's "closed system" were to be constructed, TCR would still have to arrange for the transportation of potential passengers between its facilities and those of Amtrak by bus or some other mode of non-rail transportation. Because TCR's proposed through-ticket service, by definition, is ***not only by railroad***, the Board lacks statutory jurisdiction over TCR's proposed rail passenger transportation services.⁵

For this reason, the Board would lack jurisdiction even if TCR has entered into a valid through-ticking arrangement with Amtrak. TCR cannot

⁵ Congress drew an explicit statutory distinction between the "general system of transportation" and the "interstate rail network." The "interstate rail network" over which all trains can be physically operated is a statutory component of the Board's general jurisdiction. The same is not true of unique track systems that part of the "general system of rail transportation" that, while subject to FRA's jurisdiction under the Rail Safety Acts, cannot be used for the transportation of all types of standard rail equipment.

directly connect its closed system (which uses a unique Japanese track technology) with the interstate rail network that encompasses the tracks of the host railroads over which Amtrak operates. Therefore, the Board must reject TCR's petition to reopen and affirm its prior decision of July 18, 2016, that it does not have jurisdiction over TCR's proposed line.

B. ICCTA eliminated the Board's general jurisdiction over rail passenger transportation.

ICCTA's legislative history shows that Congress intended to enhance the Board's jurisdiction over *freight rail transportation* by providing it with exclusive jurisdiction over *freight rail* transportation between "a place in a state and another place in the same state as part of the interstate rail network."⁶ The same is not true with respect to the Board's jurisdiction over *passenger rail* transportation service.⁷

The relevant legislative history begins with the explanatory comments in the Report of the Committee on Transportation and Infrastructure, H.R. Rep. No. 104-311, at 82 (1995). Its "*Summary of Rail Provisions in H.R. 2539*" explicitly identifies the "[p]rovisions and activities that would be **repealed or eliminated** upon enactment of H.R. 2539 (emphasis added). *Id.* These

⁶ 49 U.S.C. § 10501(a)(2)(A).

⁷ As will be demonstrated, Congress eliminated the Board's rail passenger jurisdiction with the exception of two provisions involving (i) facilities for interchange and (ii) liability of rail carriers under receipts and bills of lading. Neither exception provides the Board with post-ICCTA jurisdiction over the construction of a system of intrastate tracks that cannot be physically connected with the interstate rail network.

provisions and activities include, among other items, “[r]egulation of entry, exit, and fares of passenger rail service” (emphasis added). *Id.* at 82.

That intent is next reflected in the proposed Interstate Commerce Commission Sunset Act of 1995.⁸ As explained in the Report of the Committee on Commerce, Science, and Transportation:⁹

Beyond weeding out outdated and unnecessary provisions, the bill generally does not attempt to substantively redesign rail regulation. Rather it would preserve the careful balance put in place by the 4R Act and the Staggers Act that led to a dramatic revitalization of the rail industry while protecting significant shipper and national interests.

Outdated Regulatory Provisions. The bill would eliminate many outdated, unnecessary, and burdensome regulatory requirements and restrictions on the rail industry. These include, for example, the elimination of *all regulation of rail passenger transportation*.¹⁰

The description in S. Report 104-176 of the proposed amendments to the Board’s “General Jurisdiction,” contains the following:

This section would amend 49 U.S.C. 10501—which establishes jurisdiction over rail and pipeline transportation and intermodal rail-water or pipeline-water transportation—in several respects. The exclusive nature of the Board’s regulatory authority under Part A would be clarified (paragraph 1). The Board’s rail jurisdiction would be limited to freight transportation (paragraph 2 and 4), because rail passenger transportation today (other than service by Amtrak, which is not regulated under the ICA) is now

⁸ S. 1396. This Act was introduced by Chairman Pressler and Senator Exon on November 3, 1995.

⁹ S. Report 104-176, 104th Cong. 1st Session, Nov. 21, 1995.

¹⁰ *Id.* at 6 (emphasis added).

purely local or regional in nature and should be regulated (if at all) at that level.¹¹

Finally, in addressing the amendment of 49 U.S.C. 10501, the Joint Explanatory Statement of the Committee of Conference that accompanied H.R. 2539 briefly summarizes the House provision with the terse comment that “[t]his provision (Section 301) replaces the railroad portion of former Section 10501. Conforming changes are made to reflect the direction preemption of state economic regulation of railroads.”¹²

Then, the entirety of the Senate version is repeated:

Section 304 (General Jurisdiction) amends 49 U.S.C. 10501, which establishes jurisdiction over rail and pipeline transportation and intermodal rail-water or pipeline-water transportation in several respects. The exclusive nature of the Board’s regulatory authority would be clarified. The Board’s rail jurisdiction would be limited to freight transportation, because rail passenger transportation today (other than service by Amtrak, which is not regulated under the Interstate Commerce Act) is now purely local or regional in nature and should be regulated (if at all) at that level.”¹³

The Conference substitute reads, in pertinent part, as follows:

This provision adopted by the Committee changes the statement of agency jurisdiction **to reflect curtailment of regulatory jurisdiction in areas such as passenger transportation**. In light of the exclusive Federal authority over auxiliary tracks and facilities, this subject is integrated into the statement of general jurisdiction. This section also clarifies that, **although regulation of passenger transportation is generally eliminated**, public transportation authorities that meet the existing criteria for being rail

¹¹ *Id.* at 29.

¹² H.R. Rep. 104-88, at 167 (1995) (Conf. Rep. 104-422).

¹³ *Id.*

carriers may invoke the terminal area and reciprocal switching access remedies of section 11102 and 11103.¹⁴

Nothing in the foregoing legislative history is ambiguous. When Congress enacted ICCTA, it intended to enhance the Board's jurisdiction over rail freight operations that are "part of the interstate rail network." Conversely, Congress decided to curtail or eliminate the Board's general jurisdiction over passenger rail transportation.

As a result, private contractual agreements like the agreement TCR has allegedly reached with Amtrak to promote the sale of through tickets cannot restore the Board's jurisdiction over passenger rail transportation. Under that agreement, even if a traveler purchased a through ticket that results in interstate transportation involving Amtrak, TCR, bus and cab service (or walking approximately one mile), that purchase would not provide the Board with any statutory jurisdiction over the traveler's interstate transportation. That agreement cannot trump Congress' explicit intent to curtail and eliminate the Board's jurisdiction over passenger rail transportation.

C. Congress's decision to retain the pre-existing definition of "transportation" in section 10102 does not negate its intent to eliminate the ICC's former jurisdiction over rail passenger service.

Both the House and Senate precursors to ICCTA proposed the elimination of various definitions in section 10102. The House, unlike the Senate version, retained the basic wording of former subsection 10102(26),

¹⁴ *Id.* (emphases added).

which defined the word “transportation” as including, among other items, “equipment of any kind related to the passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and services related to that movement, ... interchange of passengers and property.”¹⁵ As explained in the House Report:

The amended definitions delete several terms redundant in light of the abolition of regulatory jurisdiction over express and sleeping car companies. Unlike the former Section 10102, the definitions are confined entirely to terms to railroad provisions.¹⁶

As the Conference Report explains, the Conference substitute:

integrates changes common to both House and Senate provisions *to reflect reductions in regulatory jurisdiction*. To reflect the reorganization of all rail provisions into a separate part, non-rail definitions have been deleted. To clarify that only providers of rail transportation for compensation are within the scope of the statute, the definition of “rail carrier” is limited to persons providing *common carrier* rail transportation.¹⁷

There is nothing in the legislative history to suggest that the House, by retaining the word “passenger” within the definition of “transportation,” intended *sub silentio* to reject the repeated goal of eliminating the Board’s rail passenger jurisdiction or to modify the Board’s general jurisdiction. Any such suggestion is repudiated by the statement in the H. Report 104-311 regarding

¹⁵ The Senate version would have amended the definition of the word “transportation” in former subsection (26)(A) and (B) by (i) striking the words “of passengers or property or both” in (A) and inserting “of property” in their place and (ii) by striking the words “passengers and” in (b). See S. Bill 1396, section 303 and S. Report 104-176, at p. 29.

¹⁶ H. Report 104-311, at p. 95.

¹⁷ Conf. Report at 166 (initial emphasis added).

the retention of the Carmack Amendment as part of proposed section 11506 in H.R. 2539. As was explained:

This section reenacts the rail portions of the statutory regime governing carrier liability for loss and damage to shipments, known as the “Carmack Amendment” from its antecedent legislation, previously recodified as section 11707. Along with the facilities access provisions discussed earlier, this is the only provision of the revised statute still made applicable to rail *passenger* transportation, as well as freight service. (Emphasis in original).¹⁸

The definition of “transportation” does not provide the Board with general jurisdiction over the construction of a closed system of tracks that is, by physical design and the nature of its proposed connections, not part of the interstate rail system.¹⁹

D. The various pre-ICCTA precedents cited by TCR are irrelevant and immaterial in the narrow context of this matter.

TCR’s petition to reopen relies solely on its claim that the through ticketing arrangement that appears to have been negotiated with Amtrak has resulted in substantially changed circumstances that require reopening. As TAHSR has previously argued, “TCR’s ‘paper bridge’ with Amtrak is merely an unenforceable ‘agreement to agree; that does not constitute substantially

¹⁸ H. Report 104-311, at p. 109.

¹⁹ In *DesertXpress Enterprises, LLC-Petition for Declaratory Order*, FD No. 34914, slip op. at 13, it appears that the Board did not consider the foregoing comments regarding the deliberate termination of “entry, exit, and rate regulation of passenger rail transportation” when it focused briefly on the literal wording of section 10102(9) at pp. 12 and 13. TAHSR respectfully submits that had the Board focused on the entirety of the legislative history, it would have recognized that Congress explicitly intended to eliminate its regulatory jurisdiction over far more than “passenger train discontinuance and special passenger rates.” *Id.* at 13.

changed circumstances.”²⁰ As the Board explained in its July 18, 2016 Decision, while it may examine several factors in determining its jurisdiction, “*no one factor is controlling*” (emphasis added).²¹ Because the asserted through ticket arrangement is the only factor identified by TCR, the Board must deny reopening.

There is nothing in the various pre-ICCTA cases cited by TCR that supports a claim of continued Board jurisdiction when the legislative history demonstrates a deliberate intent to eliminate Board jurisdiction of “entry, exit, and fares of passenger rail service.” TAHSR does not contest the pre-ICCTA proposition that interstate transportation resulted when a rail carrier that was located solely in one State was involved with an interstate movement of freight or passengers that either commenced or terminated in the State in which it was located. Nor does TAHSR quarrel with the precedents that involve other administrative agencies.

However, because this matter must be decided under the law as it now exists, and not as it existed prior to the enactment of ICCTA in December 1995, the various pre-ICCTA cases cited by TCR are inapplicable, distinguishable, and no longer on point. *See United States v. Capital Transit Co.*, 325 U.S. 357 360 (1945) (“We must now test the Commission’s power in this case by the provisions of a statute enacted subsequent” to an earlier precedent that was based on the law as it existed in 1912.”

²⁰ TAHSR Reply in Opposition to Reopen, filed May 31, 2018, at 12.

²¹ *Id.*

E. TCR’s reliance on DesertXpress is misplaced.

In its Reply, TCR heavily relies on the Board’s reasoning expressed in *DesertXpress Enterprises, LLC—Petition for Declaratory Order*, FD 34914 (STB served May 7, 2010). Its reliance is misplaced.²² The Board in its decisions in *DesertXpress* did not address highly relevant portions of the legislative history, nor did it have any reason to focus on the provisions of § 10501(a)(1)(A), whose significance in this matter cannot be avoided.

In *DesertXpress 2010*, the Board primarily focused on the provisions of subsection 10501(a)(2)(A). As the Board reasoned:

First, the phrase “as part of the interstate rail network” in subsection 10501(a)(2)(A) is ambiguous, and the legislative history of the ICC Termination Act of 1995 (ICCTA) supports the view that Congress did not intend it to restrict the Board’s preexisting jurisdiction over rail transportation that crosses a state line.²³

As it also explained:

We do not believe that Congress intended that phrase to impose any new limitation on the agency’s pre-ICCTA authority over rail transportation that crosses a state line. Instead, we conclude that the phrase was added in ICCTA as a necessary qualification to ICCTA’s new, explicit statutory grant of jurisdiction to the agency over *intrastate* rail transportation.”²⁴

However, there is nothing in the legislative history to support the suggestion that Congress differentiated rail passenger service that crosses a

²² Herein after referred to as “*DesertXpress 2010*.”

²³ *Id.* at 8 (footnote omitted).

²⁴ *Id.* (emphasis in original).

state line from rail passenger service that does not cross a state line.²⁵ Instead, both the Senate and the House of Representative clearly agreed from the outset that, except for explicitly defined exceptions, the Board’s jurisdiction over rail passenger service under ICCTA should be curtailed or eliminated.

While the Board’s jurisdiction over rail passenger transportation was curtailed or eliminated, federal jurisdiction over Amtrak and the national rail passenger transportation was vested in other agencies. FRA, for example, “exercises jurisdiction over all railroad passenger operations, regardless of the equipment they use.”

However, Congress retained the Board’s limited jurisdiction under statutes other than ICCTA to regulate aspects of Amtrak’s services. *See, e.g.* the Rail Passenger Service Act of 1970 (“RSPAA”), by which Congress assigned the dispute-resolution role to the Interstate Commerce Commission in matters that arise between Amtrak and the host railroads. The Board now occupies that role. *Dep’t of Transp. v. Ass’n of Am. Railroads*, 135 S. Ct. 1225, 1229 (2015). *See* 49 U.S.C. §24308(a).²⁶

The Board also cannot rely on its prior assertion in *DesertXpress* that:

The House version of the bill amended section 10501(a)(2)(A) to add the phrase ‘the same or’ to give

²⁵ It is unquestioned that the Board has retained its pre-ICCTA jurisdiction over rail freight carriers, including the construction of lines or track used by such carriers. Moreover, Congress clearly extended the Board’s jurisdiction over intrastate freight rail operations.

²⁶ Moreover, under Section 213(a) of the Passenger Rail Investment and Improvement Act of 2008 (“PRIIA”), the Board may investigate whether delays and service quality deficiencies are due to causes that could reasonably be addressed by the host freight railroad, Amtrak or other intercity passenger rail operators. None of that authority, however, is involved here.

the agency jurisdiction over rail transportation between a place in ‘a State and a place in *the same or* another State,’* without qualification. *H.R. Rep. No. 104-311 at 3(1995) (emphasis added by Board).²⁷

The Board’s “without qualification” comment appears to focus on the language that was initially proposed in the House version of H.R. 2539, which did not include the phrase “as part of the interstate rail network.” That, however, has nothing to do with the repeated statements in the legislative history that Congress meant to terminate the Board’s passenger rail jurisdiction.

Conclusion

For all the above-stated reasons, the Board should affirm its prior conclusion that it lacks jurisdiction and deny TCR’s request that it reopen this proceeding.

²⁷ *DesertXpress* at 9.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have served all parties of record in this proceeding with this document by United States mail or by e-mail on October 8, 2019.

/s/ Richard H. Streeter

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Texans Against High Speed Rail, Inc. ("TAHSR")¹ submits this Factual Reply to Petitioners' Response to the Board's Request for Additional Information as follows:

INTRODUCTION AND SUMMARY OF REPLY

Texas Central's proposed Dallas to Houston high-speed rail line (the "Project") is a closed, intrastate system that will not be operated as part of the general system of rail transportation or interstate rail network. Thus, the Board lacks jurisdiction over the Project, as it correctly determined in 2016.

Soon after the Board issued its decision, Texas Central boasted that it cleared the way for construction: "Simply put, *STB approval will not be required before construction can start*. Look for construction to begin as soon as the federal environmental study is completed."² Texas Central reiterated, "STB's decision makes clear that *the Board's approval is not required*. By removing a

¹ TAHSR is a not-for-profit organization whose members include citizens, landowners, farmers, ranchers, business owners, interested organizations, and elected officials who share the core belief of combating eminent domain abuse for private economic gain, and preventing unnecessary government subsidies. In addition to its goal of protecting private property rights and maintaining efficient modes of transportation, TAHSR seeks to protect the environment along the affected corridor through preservation of farmland, enhancement of wildlife, protection of waters, wetlands, and endangered and protected species, and recognition of the rural lifestyle.

² Exhibit A. (emphasis added). Texas Central has since removed this press release from its website.

regulatory uncertainty, the construction of high-speed rail in Texas is even closer.”³ Yet, Texas Central had told the Board the exact opposite in its Petition for Exemption: “Texas Central, of course, *will not begin construction of its proposed rail line without Board approval.*”⁴

Upon returning to Texas, the Project encountered roadblocks at both the state and local level: (1) the Texas Legislature passed legislation prohibiting the expenditure of *any* funds for private high-speed rail; (2) impacted counties passed resolutions requiring Texas Central to provide proof of eminent domain authority prior to surveying, constructing, or performing any activities on county property; (3) these same counties passed resolutions stating they will not close, abandon, vacate or alter county roads for the Project; and (4) despite filing more than 40 lawsuits against hundreds of landowners in six different counties, Texas Central could not find a single court to rule it had the right to exercise eminent domain in Texas.

So, in May 2018, Texas Central changed its mind once again. Even though it had told stakeholders Board approval “will not be required before construction can begin” (after telling the Board just the opposite), Texas Central asked the Board to reopen this proceeding, assert jurisdiction over the Project, and grant an exemption to construct.

At the time, it remained undisputed that the Project is a closed, intrastate system, incapable of establishing a physical connection with any rail line that is part of the interstate rail network. Nevertheless, Texas Central claimed that “substantially changed circumstances” existed in the form of a “Through Ticketing Agreement” with Amtrak. In fact, the alleged agreement lacks essential terms and is unenforceable.⁵ At best, the parties merely “agreed to agree.”

³ *Id.* (emphasis added).

⁴ Petition for Clarification, p. 4 (submitted Apr. 19, 2016).

⁵ See TAHSR Reply to Petition to Reopen, p. 12-15.

In response to the Petition to Reopen, TAHSR explained that even if a court were to find the alleged Amtrak agreement to be enforceable, the following jurisdictional obstacles remained: (1) Texas Central’s proposed Dallas station location is approximately a mile from Amtrak’s Dallas station; and (2) Texas Central’s proposed Houston station location is approximately nine miles from Amtrak’s Houston station. As such, connecting passengers holding a “through ticket” in Dallas or Houston would still find themselves stranded from any connecting rail service. As of the filing of this Reply, nothing has changed in this regard.

Texas Central tried to bury this glaring jurisdictional dilemma—the lack of *any* physical connection between Texas Central and Amtrak service in Dallas *or* Houston—in a single paragraph of the alleged Amtrak agreement labeled “Connection Between Services,” which requires Texas Central to provide a “transfer service” between stations in Dallas and Houston. However, the provision is silent as to what mode of transportation must be employed to effectuate this service (*e.g.*, by shuttle bus). It merely states the parties “will jointly evaluate other measures to facilitate connections and enhance the experience of travelers.”

With respect to the essential terms of the alleged Amtrak agreement, TAHSR identified several significant loose ends: (1) whether (and when) Texas Central will actually come to concrete, definitive terms with Amtrak; (2) what those essential terms will be; (3) whether Texas Central will, in fact, implement a through ticketing arrangement; (4) whether Texas Central will, in fact, provide the contemplated transfer service; (5) whether Texas Central will continue to provide transfer service after the alleged Amtrak agreement expires in three years; and (6) the means by which Texas Central will provide transfer service. As TAHSR put it, these loose ends demonstrate the alleged Amtrak agreement does not constitute “concrete plans” or a “clearly defined arrangement.”

Instead of summarily denying the Petition to Reopen, the Board issued an Interim Decision on June 20, 2019, in which it asked Texas Central to provide five categories of additional information.⁶ The Board's requests were clear, specific, direct, and appropriately targeted. Subsequently, the Board extended the submission deadline to August 21, 2019. Thus, Texas Central had over two months to gather the requested information.

In its Response, Texas Central failed to provide the Board the additional information it requested. Instead, Texas Central merely provided: (1) two verified statements full of unsupported, conclusory claims; and (2) pages and pages of strained, misguided legal arguments, contending, in essence, that the volume (or lack thereof) of connecting passengers is not relevant to the Board's jurisdictional analysis. Due to Texas Central's utter and complete failure to provide the Board the information it requested, and for the multitude of other reasons set forth in this Reply, TAHSR respectfully requests that the Board deny Texas Central's Petition to Reopen.

ARGUMENT

I. Texas Central failed to provide the Board the additional information it requested.

In its Interim Decision, the Board asked Texas Central to provide the following additional information relating to the Project:⁷

- Projections relating to annual passenger transfers (from Amtrak to Texas Central service) in the first, fifth, and tenth full year of operation, supported by a full description of underlying methodologies, assumptions, and data sources;
- The data on which the annual transfer passenger projections are based;
- Details pertaining to the physical connection for any transfer passengers who may choose to walk between the Texas Central and Amtrak stations in Dallas;

⁶ Interim Decision, p. 3-4 (released June 20, 2019).

⁷ *Id.* The Board also requested legal support for finding jurisdiction over transportation by a rail carrier that involves a complete break or gap in physical rail assets, and a discussion of whether the proposed transfer service is similar to freight transfer and transload activities. *Id.* at 4. TAHSR will address these and other topics in its Reply to Response Based on the Board's Lack of Passenger Rail Jurisdiction under ICCTA.

- Identification of available infrastructure for transfer passengers who choose to walk between the Texas Central and Amtrak stations in Dallas;
- Arrangements Texas Central has made for transferring passengers' luggage;
- Details pertaining to the proposed connecting transfer service ("Transfer Service") between the Texas Central and Amtrak stations in Dallas and Houston;
- Frequency of Texas Central's proposed Transfer Service, and adjustability of the Transfer Service based on delays or schedule changes; and
- Projected wait times for transfer passengers who choose to use the proposed Transfer Service and for those who choose to use other means, including walking.

Rather than provide the Board the information, details, and supporting data it requested, Texas Central submitted only the verified statements of Bruce Williams (Amtrak) and Tim Keith (Texas Central). Neither statement contains a single supporting document, nor did Texas Central separately provide any documentation to support its Response. Rather, Texas Central brazenly asks the Board to take it at its word, a time-honored tradition it has employed consistently and repeatedly throughout this proceeding and elsewhere.

A. Tim Keith is not a credible witness, and his unsupported, conclusory statements should be disregarded.

Before digging into the specifics regarding Texas Central's failure to provide the Board the information it requested, TAHSR must address one piece of alleged evidence Texas Central did provide—the verified statement of its Chief Investment Officer Tim Keith.

This is not the first time Texas Central has offered a verified statement of Tim Keith in an effort to obtain relief from the Board. On April 19, 2016, Texas Central submitted verified statements of Keith in support of both its Petition for Exemption and Petition for Clarification.⁸ In each statement, Keith made numerous false and misleading statements.

⁸ Petition for Exemption, Verified Statement of Timothy B. Keith (submitted Apr. 19, 2016); Petition for Clarification, Verified Statement of Timothy B. Keith (submitted April 19, 2016).

1. Keith misrepresented that Texas Central was about to condemn property when, in fact, it did not have (and still does not have) the right to condemn.

In its Petition for Clarification, Texas Central attempted to block “state court litigation” concerning its alleged right to condemn prior to Board approval to construct, which, according to Texas Central, “could significantly slow down Texas Central’s property acquisition process.”⁹ In support, Keith told the Board, “[i]f a landowner is unwilling to negotiate or if a purchase price cannot be agreed upon, Texas Central intends to initiate the first phase of the process in Texas to obtain an assessment of the property’s fair value.”¹⁰ Keith continued, “Texas Central expects to initiate this phase *within the next 2-3 months*.”¹¹ This never happened; in fact, Texas Central has yet to “initiate this phase” of the condemnation process because it still does not have the right to condemn.¹² Keith’s false statement was merely part of Texas Central’s attempt to circumvent state court litigation over its purported right to exercise the power of eminent domain in Texas.¹³

Later, in the very state court eminent domain litigation it sought to avoid, Texas Central reversed course, claiming Keith lacked personal knowledge of Texas Central’s operations and its purported right to exercise eminent domain authority as a railroad company under Texas law. Specifically, Texas Central moved to protect Keith from giving his deposition on the basis that he “*possesses no unique or superior personal knowledge of the day-to-day operations of [Texas Central]*” and [its newly-formed affiliate Integrated Texas Logistics, Inc.] or their statuses as

⁹ Petition for Clarification, p. 9-10.

¹⁰ Petition for Clarification, Keith Statement at ¶ 7.

¹¹ Petition for Clarification, Keith Statement at ¶ 9. (emphasis added).

¹² As discussed on page 49, a Texas state court ultimately ruled by Final Judgment that Texas Central *does not* have the right to exercise eminent domain in Texas.

¹³ *Id.*

railroad companies and interurban electric railways.”¹⁴ Keith signed a declaration averring to his purported lack of knowledge.¹⁵ Keith’s sudden obliviousness was surprising, to say the least, considering he had signed two verified statements in 2016 in support of Texas Central’s Petitions for Exemption and Clarification.¹⁶ In them, Keith claimed wide-ranging personal knowledge of many facets of Texas Central’s day-to-day operations and its alleged right to condemn.¹⁷

2. Keith misrepresented the Project’s estimated total costs.

In 2016, Keith told the Board “total cost of civil construction and the core system is estimated to be over \$10 billion.”¹⁸ This lowball estimate was misleading, at best, and Texas Central never provided any proof to support it. In state court litigation, Texas Central later admitted estimated costs of “approximately \$18 billion,” although it never provided any proof of this estimate either.¹⁹ In the Draft Environmental Impact Statement (“DEIS”) published in December 2017, the FRA projected costs of up to \$18 billion.²⁰ Finally, the U.S. Department of Transportation’s Permitting Dashboard presently shows “Estimated Project Costs” of \$19

¹⁴ Exhibit B. Although Texas Central claims Integrated Texas Logistics, Inc. (“ITL”) is an essential participant to its operations, ITL is not a party to this proceeding. *See* page 50, *infra*.

¹⁵ Exhibit B.

¹⁶ *See* Petition for Exemption, Verified Statement of Timothy B. Keith (submitted Apr. 19, 2016); Petition for Clarification, Verified Statement of Timothy B. Keith (submitted April 19, 2016).

¹⁷ *Id.*

¹⁸ Petition for Exemption, Keith Statement at ¶ 10.

¹⁹ Exhibit C (Texas Central sworn interrogatory response no. 9, served Nov. 20, 2018).

²⁰ DEIS at ES.9.15 (“TCRR estimates (see Appendix F, TCRR Conceptual Engineering Design Report) capital costs for the HSR system between \$15 billion and \$18 billion (2017).”)

billion.²¹ Yet, none of this has deterred Texas Central from its efforts to mislead. The “Facts” page of its website, ironically, states, “[t]he train system will cost more than \$12-billion to construct.”²²

3. Keith falsely stated the Project would be privately funded.

Keith swore to the Board twice in 2016 that the Project would be “privately developed.”²³ Yet, Keith (and Texas Central) knew this claim to be false when he made it.

In 2014, Texas Central had entered into a Memorandum of Understanding with the FRA that specifically states Texas Central “may submit applications to the [FRA] for loans.”²⁴ In 2015, Texas Central admitted it may rely on Transportation Infrastructure Finance and Innovation Act (“TIFIA”) Railroad Rehabilitation and Improvement Financing (“RRIF”) loans, and potentially other federal funding programs.²⁵ Also in 2015, former Ambassador Ron Kirk, a Texas Central spokesman, conceded Texas Central “will aggressively pursue” federal loans.²⁶ Finally, in an

²¹ UNITED STATES DEPARTMENT OF TRANSPORTATION PERMITTING DASHBOARD, *Dallas to Houston High Speed Rail*, <https://www.permits.performance.gov/permitting-projects/dallas-houston-high-speed-rail> (last visited Oct. 2, 2019).

²² <https://www.texascentral.com/facts/>.

²³ Petition for Exemption, Keith Statement at ¶ 10; Petition for Clarification, Keith Statement at ¶ 3.

²⁴ Exhibit D, p. 1.

²⁵ See, e.g., Eric Nicholson, *Texas Central Railway’s Fuzzy Definition of ‘Privately Financed,’* DALLAS OBSERVER (Aug. 11, 2015), <http://www.dallasobserver.com/news/texas-central-railways-fuzzy-definition-of-privately-financed-7479867>.

²⁶ Crystal Wright, *Is rail company lying about building Texas bullet train without subsidies?*, FORT WORTH STAR-TELEGRAM (July 8, 2016), <https://www.star-telegram.com/opinion/opn-columns-blogs/other-voices/article88543642.html>;

Brandon Formby, *Biden calls Dallas-Houston bullet train beginning of new transportation era in America*, DALLAS MORNING NEWS (Nov. 18, 2015), <http://transportationblog.dallasnews.com/2015/11/as-biden-addresses-infrastructure-spending-in-dallas-lawmakers-grapple-with-funding-in-d-c.html/>.

August 2015 interview, Keith identified TIFIA and RRIF, specifically, as “existing programs we’d like to target,” as they provide federal loans to rail ventures.²⁷

Moreover, soon after Keith told the Board in 2016 the Project would be privately financed, he admitted what he already knew—Texas Central will seek federal loans to help finance its debt. On February 23, 2017, Keith told the Dallas Morning News that Texas Central was considering a range of financing options, including federal programs that would essentially provide cheap loans aimed at spurring infrastructure construction.²⁸ “As the government moves away from funding projects... these [RRIF and TIFIA] loans allow them to take a less meaningful role... and allows the markets to solve for the difference,” Keith said.²⁹

Despite all of these contrary admissions, Texas Central alleges in its Response, “the project will be financed *entirely* by investors and entrepreneurs.”³⁰ This is demonstrably false.

4. Keith attempted to pressure the Board with “deadlines” that did not exist.

In 2016, Keith claimed Texas Central’s “business plan calls for it to begin construction in 2017... and to initiate passenger service in 2021.”³¹ Likewise, he swore, “[m]eeting the deadlines set by Texas Central’s business plan is critical to obtaining the private financing for the project.”³² Texas Central has yet to produce a “business plan,” or *any* plan containing *any* purported deadlines.

²⁷ Eric Nicholson, *Texas Central Railway’s Fuzzy Definition of ‘Privately Financed,’* DALLAS OBSERVER (Aug. 11, 2015), <https://www.dallasobserver.com/news/texas-central-railways-fuzzy-definition-of-privately-financed-7479867>.

²⁸ Jill Cowan, *How to pay for a \$12 billion bullet train without asking Texas for money,* DALLAS MORNING NEWS (Feb. 23, 2017), <https://www.dallasnews.com/business/economy/2017/02/23/how-to-pay-for-texas-12-billion-bullet-train-without-asking-the-state-for-money/>.

²⁹ *Id.*

³⁰ Response, p. 46. (emphasis added).

³¹ Petition for Clarification, Keith Statement at ¶ 3. Contemporaneously, Texas Central told the Board its “*business model* calls for it to begin construction in 2017.” Petition for Exemption, p. 3. (emphasis added).

³² Petition for Clarification, Keith Statement at ¶ 4.

Moreover, Texas Central Vice-President Travis Kelly recently testified that Texas Central does not even have “a written-down document called a business plan, no.”³³ In any event, Texas Central now claims in its Response it will initiate passenger service in 2026.³⁴

In his verified statement attached to Texas Central’s Response, Keith makes numerous unfounded, conclusory claims, without providing any supporting data or documentation. In other words, Texas Central is asking the Board to take Tim Keith at his word again.

B. Texas Central failed to provide support for its projections, including a full description of underlying methodologies, assumptions, and data sources, together with the data on which its projections are based.

The Board asked Texas Central to provide annual passenger transfer projections in the first, fifth, and tenth full year of operations.³⁵ The Board also requested support for the projections, including “a full description of the underlying methodologies, assumptions, and data sources... on which they are based.”³⁶ Finally, the Board asked Texas Central to provide the data on which its projections are based.³⁷ Texas Central failed to provide this information.

According to Senior Director Bruce Williams, Amtrak used its Long-Distance Train Demand Forecasting Model, which relies on “a direct demand approach” to forecast ridership.³⁸ But Williams failed to provide a full description of his underlying methodologies and assumptions. Instead, he merely projects ridership based upon unspecified and undisclosed “customer travel surveys and actual ridership and revenue data,” as applied to “all” unspecified and undisclosed

³³ Exhibit E (excerpts from deposition of Travis Kelly dated Dec. 4, 2018).

³⁴ Response, p. 8 (“Amtrak’s connecting passenger forecasts assume that ridership in year one (2026)”).

³⁵ Interim Decision, p. 3.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Williams Statement, p. 5-8.

“existing and new markets.”³⁹ Williams then lists a variety of “key inputs” included in his model, without disclosing *any* actual data (or data source) regarding *any* of these inputs.⁴⁰ In addition, Williams claims the projections are based upon a number of other components, without providing *any* actual data (or data source) relating to *any* of these components.⁴¹ Finally, Williams acknowledges that data on Texas Central’s ticket fares is “not available.”⁴² To account for this unknown variable, Williams claims he assumed “a range of fares,” without providing *any* data (or data source) relating to this assumption.⁴³

To be clear, Texas Central’s purported “full description” of its “underlying methodologies, assumptions, and data sources, together with the data on which [its projections] are based” is wholly contained in paragraphs 11-19 of Williams’ verified statement. Given that Texas Central provided no other support for its projections, including any source documentation or data, or in-depth analysis or discussion, or actual reports or models, or consideration of other forecasting models, Texas Central’s Response is woefully insufficient.

1. Texas Central failed to show how it calculated ridership of passengers transferring from Amtrak to Texas Central service.

Texas Central failed to mention or discuss other forecasting models used for various types of rail lines. For instance, Texas Central could have considered a separate relationship model often used to calculate high-speed rail ridership.⁴⁴ Or, Texas Central could have employed a

³⁹ *Id.*

⁴⁰ *Id.* at ¶ 15.

⁴¹ *Id.* at ¶ 16.

⁴² *Id.* at ¶ 8.

⁴³ *Id.*

⁴⁴ Daniel Brand, Thomas Parody, Poh Ser Hsu, Kevin Tierney, *Forecasting High-Speed Rail Ridership*, TRANSPORTATION RESEARCH RECORD 1341, <http://onlinepubs.trb.org/Onlinepubs/trr/1992/1341/1341-002.pdf>.

simultaneous modeling approach.⁴⁵ The State of Minnesota used a mixed methodology for determining potential ridership on a proposed Minneapolis to Milwaukee line, which Texas Central could have considered.⁴⁶

Texas Central also failed to consider the European Union's Passenger Demand Forecasting Handbook used to predict conventional rail ridership.⁴⁷ Nor did Texas Central consider or discuss a geographically weighted regression model used on several rail projects in Australia.⁴⁸ Instead, Texas Central merely assumes Amtrak's direct demand model approach is the best fit. However, Amtrak does not even have any true high-speed rail to conventional rail ridership model because the Northeast Corridor is not exclusively high-speed rail.⁴⁹ At the very least, Texas Central should have employed components of European models or the Japanese model, as they account for conventional to high-speed rail ridership transfers.

In addition, Texas Central assumes that passengers on conventional rail (Amtrak service) will transfer to high-speed rail (Texas Central service), and vice versa. Yet, there are no examples in the United States of conventional rail feeding ridership to high-speed rail. Furthermore, Amtrak is a public corporation, while Texas Central is a private entity. Similarly, there are no examples in the United States of public rail feeding ridership to private rail.

⁴⁵ Rongfang Liu and Andy Li, *Forecasting high-speed rail ridership using a simultaneous modeling approach*, TRANSPORTATION PLANNING AND TECHNOLOGY JOURNAL (Jan 12., 2011) <https://www.tandfonline.com/doi/abs/10.1080/03081060.2012.701816>.

⁴⁶ *Twin Cities-Milwaukee-Chicago Intercity Passenger Rail Service Purpose and Need Statement* (July 2017), <https://www.leg.state.mn.us/docs/2017/other/170785.pdf>.

⁴⁷ Tom Worlsey, *Rail Demand Forecasting Using the Passenger Demand Forecasting Handbook* (Dec. 2012), <https://www.racfoundation.org/wp-content/uploads/2017/11/pdfh-worsley-dec2012.pdf>.

⁴⁸ Simon Blainey and Corinne Mulley, *Using Geographically Weighted Regressing to Forecast Rail Demand in the Sydney Region*, AUSTRALASIAN TRANSPORT RESEARCH FORUM (Oct. 2013), <https://pdfs.semanticscholar.org/2dc4/57993527c70e4dfefe8a53207dee07783380.pdf>.

⁴⁹ Although sections of the Acela and selected other trains can be classified as emerging or regional high-speed rail as defined by the FRA, no U.S. rail line including the Acela is truly high-speed.

2. Texas Central did not account for Amtrak's potential elimination of long-distance routes.

Texas Central assumes Amtrak service will remain unchanged through 2035. Yet, Amtrak has announced expected changes to its current long-haul rail service.⁵⁰ Amtrak CEO Richard Anderson recently testified before Congress, “[t]he demand is clearly there for additional short-corridor service throughout the U.S., which includes both additional frequencies for existing routes and establishing new routes between city pairs. The present network simply does not fit the future. Probably today, we operate 15 of them, including Empire Builder across the northern western half of the U.S., the Zephyr from Chicago to San Francisco, the Southwest Chief, and the Coast Starlight. In an ideal state, *we probably would operate somewhere between five to 10 and instead focus our efforts and resources on short-haul intercity transportation*, because that’s where the demand indicators are for Amtrak.”⁵¹ (emphasis added).

Reducing service can be politically challenging, but Amtrak’s train sets are nearing the end of their useful life and available funding for new sets is limited. Thus, elimination of some routes is likely. Among long-distance Amtrak trains, the Sunset Limited (Houston) and Texas Eagle (Dallas) rank 6th and 10th respectively in annual operating losses.⁵² In addition, the Sunset Limited and Texas Eagle lines serve identical routes between San Antonio and Los Angeles. For these and

⁵⁰ Ted Mann, *Amtrak Plan to Expand Ridership Could Sidetrack Storied Trains*, THE WALL STREET JOURNAL (Feb. 20, 2019), <https://www.wsj.com/articles/amtrak-plan-to-expand-ridership-could-sidetrack-storied-trains-11550664000?mod=breakingnews>.

⁵¹ Testimony of Richard Anderson President & Chief Executive Officer National Railroad Passenger Corporation (Feb. 7, 2019), <https://transportation.house.gov/imo/media/doc/Anderson%20Testimony.pdf>.

⁵² Ted Mann, *Amtrak Plan to Expand Ridership Could Sidetrack Storied Trains*, THE WALL STREET JOURNAL (Feb. 20, 2019), <https://www.wsj.com/articles/amtrak-plan-to-expand-ridership-could-sidetrack-storied-trains-11550664000?mod=breakingnews>.

other reasons, both lines are prime candidates for consolidation or elimination in Amtrak's 2020-2024 improvement plan.

C. Texas Central's transfer passenger projections are grossly inflated.

Texas Central projects the following transfer passenger ridership: 5,100 to 5,700 passengers in 2026, 17,400 to 19,600 in 2030, and 18,300 to 20,500 in 2036.⁵³ Texas Central failed to provide a breakdown of these figures, *i.e.*, how many projected Dallas transfer passengers versus Houston transfer passengers. In any event, these projections are greatly exaggerated.

First, passengers dislike both transfers and stops. Each additional transfer can cut ridership in half, and each additional stop can reduce ridership by 10-25%.⁵⁴ Texas Central relied on this rationale in deciding to include only three stops on its Dallas to Houston high-speed rail line, but has ignored it in projecting transfer passengers.

Second, the type of passengers who use Amtrak differ from those who use high-speed rail. Conventional rail passengers are generally middle-income, older, and tend to be more oriented toward leisure travel. High-speed rail passengers are typically wealthy, younger, business travelers. Texas Central ignores this important reality.

Third, Texas Central apparently will not provide luggage transfer service. When changing planes between connecting flights, airline companies transfer passengers' luggage. Undoubtedly, the number of connecting air passengers would decrease significantly if they had to drag their luggage from one gate to another.

⁵³ Response, p. 7-8.

⁵⁴ Hiroyuki Iseki, Brian Taylor, and Mark Miller, *The Effects of Out-of-Vehicle Time on Travel Behavior: Implications for Transit Transfers*, INSTITUTE OF TRANSPORTATION STUDIES (Jan. 18, 2006), <https://www.its.ucla.edu/wp-content/uploads/sites/6/2014/06/Appendix-A.pdf>;

The future for interurban passenger support (Nov. 2009), <https://www.itf-oecd.org/sites/default/files/docs/10interurban.pdf>.

Finally, Texas Central assumes full ramp-up in five years, when full ramp-up on rail lines typically takes ten years. Texas Central also assumes that 30% of Texas Eagle passengers and 18% of Sunset Limited passengers will be connecting passengers—*more than double the percentage of connecting passengers in Europe*—where rail is much more interwoven into daily travel.⁵⁵

1. Where are these 20,000+ transfer passengers coming from?

Below is Amtrak's National Route Map pulled from its website:⁵⁶



Dallas is stranded along an east to west segment, with no real direct connection to any major city in any neighboring state. As such, the only potential major connecting city would be Little Rock,

⁵⁵ *The future for interurban passenger support* (Nov. 2009), <https://www.itf-oecd.org/sites/default/files/docs/10interurban.pdf>.

⁵⁶ AMTRAK ROUTES AND DESTINATIONS, <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/Maps/Amtrak-System-Map-1018.pdf> (last visited Oct. 7, 2019).

Arkansas. Although Oklahoma City appears to be a potential candidate for connecting Amtrak ridership, its route connects in Fort Worth, not Dallas. And, Texas Central claims independent ridership flowing from passengers connecting through Amtrak's Heartland Flyer station in Fort Worth.⁵⁷ In short, Texas Central's claim that tens of thousands of passengers per year will choose to take Amtrak service (from unspecified locations around the U.S.) as a means to get to Houston (through a connection in Dallas) is puzzling.

As for Amtrak passengers needing to reach Dallas through a connection in Houston, presumably they would be traveling from or through El Paso, Austin, or San Antonio (from the west) or Louisiana (from the east). It would make very little sense for these travelers to take Amtrak service to Houston, only to then switch modes and board another train headed to Dallas.

2. It is highly unlikely long-distance travelers will choose connecting rail service.

Based purely on common sense, it is abundantly clear Texas Central has greatly exaggerated its transfer passenger projection. Consider the following hypothetical.

Option 1: Interstate rail travel from Chicago to Houston, connecting through Dallas.

If a resident of Chicago wants to travel to Houston by rail, using Amtrak and Texas Central service connecting through Dallas, that traveler must:⁵⁸

- Purchase a \$106 Amtrak ticket for service from Chicago to Dallas;⁵⁹
- Purchase a Texas Central ticket (price unknown) for service from Dallas to Houston;
- Depart Chicago at 1:45 pm on Amtrak;

⁵⁷ See pages 18-19, *infra*.

⁵⁸ Texas Central references the Texas Eagle train that provides one westbound train and one eastbound train daily between Chicago and Los Angeles, with a stop at Dallas Union Station. Response, p. 6.

⁵⁹ <https://tickets.amtrak.com/itd/amtrak>.

- Assuming no delays, arrive in Dallas *the following day* at 11:30 am;
- Take transfer service from Amtrak station to Texas Central station in Dallas;
- Assuming no delays, board 1:00 pm Texas Central high-speed rail;
- Arrive in Houston at approximately 2:30 pm.

To be clear, *this one-way trip would take 24.75 hours to complete, assuming no delays*, and would include a switch from rail service... to transfer service... to high-speed rail service. Total costs are unknown because Texas Central has not released its estimated ticket prices.⁶⁰ In addition, luggage arrangements and fees, and change fees, are also unknown.

Option 2: Air travel from Chicago to Houston

Alternatively, that same resident of Chicago wishing to travel to Houston could log on to www.southwest.com and book a non-stop flight from Chicago (MDW) to Houston (HOU) as follows: \$117 total cost, 2 hour 50 minute duration, two free checked bags, no change fees.

Trip & Price Details

Flight Modify Remove

Thu 11/7 MDW → HOU 2hr 50min Nonstop Wanna Get Away

1:15PM 4:05PM

Price per passenger: \$95.52
Taxes and fees per passenger: \$21.46
Total per passenger: \$116.98
Passenger(s): x1
Flight total: \$116.98

Helpful Information:

- Please read the [fare rules](#) associated with this purchase.
- When booking with Rapid Rewards® points, your point balance may not immediately update in your account.

No change fees.¹
Change your flight later without a fee.

FARE: \$0.00
SUBTOTAL: \$95.52
TAXES & FEES: \$21.46
TRIP TOTAL: \$116.98

⁶⁰ On its website, Texas Central speculates, “[t]icket prices will be based on a variable pricing model, with consumer demand driving price fluctuations.” <https://www.texascentral.com/facts/>.

By any metric, Texas Central's proposed connecting rail service is far less desirable: it takes longer, costs more, requires switching between multiple modes of transportation, and is vastly more inconvenient. No traveler with a sound mind would choose Option 1 over Option 2, let alone tens of thousands annually.

3. Texas Central's projection of 3,000+ annual passengers connecting through Amtrak's Heartland Flyer service in Fort Worth is absurd.

In a desperate attempt to increase its transfer passenger projections, Texas Central claims an additional 3,000+ Amtrak passengers will connect through Amtrak's Heartland Flyer rail line in Fort Worth.⁶¹ According to Texas Central, "[n]early all of these passengers also are expected to be traveling interstate."⁶² Texas Central does not provide any data to support this projection other than "Amtrak's modeling," which is flawed for reasons previously explained. Undoubtedly, there is no such supporting data. Consider the following hypothetical.

Option 1: Interstate rail travel from Oklahoma City to Houston, connecting through Amtrak's Heartland Station in Fort Worth

If a resident of Oklahoma City wants to travel to Houston by rail, using Amtrak and Texas Central service connecting through Fort Worth, that traveler would:

- Purchase a \$44 Amtrak ticket for service from Oklahoma City to Fort Worth;⁶³
- Purchase a Texas Central ticket (price unknown) for service from Dallas to Houston;
- Depart Oklahoma City at 8:25 am on Amtrak;
- Arrive in Fort Worth at 12:27 pm;

⁶¹ Response, p. 11-12.

⁶² *Id.* at 12.

⁶³ <https://tickets.amtrak.com/itd/amtrak>.

- Take a 40+ minute transfer service to Texas Central station in Dallas;⁶⁴
- Assuming no delays, board 2:00 pm Texas Central high-speed rail;
- Arrive in Houston at approximately 4:00 pm.

This one-way trip would take 7.75 hours to complete, assuming no delays, and would also include a switch from rail service... to transfer service... to high-speed rail service. Total costs, luggage arrangements and fees, and change fees, are also unknown.

Option 2: Air travel from Oklahoma City to Houston

Alternatively, that same resident of Oklahoma wishing to travel to Houston could book a non-stop flight from Oklahoma City (OKC) to Houston (HOU) as follows: \$99 total cost, 1 hour 25 minute duration, two free checked bags, no change fees.

The screenshot displays a flight booking interface. At the top, it says 'Trip & Price Details' with tabs for 'Price', 'Payment', and 'Confirmation'. Below this, there's a 'Flight' section with options to 'Modify' or 'Remove'. The flight details show a departure on 'Thu 11/7' from 'OKC' at '2:55PM' to 'HOU' at '4:20PM', with a duration of '1hr 25min' and a 'Nonstop' status. A 'Wanna Get Away' fare is highlighted. To the right, a price breakdown shows: 'Price per passenger' at \$78.77, 'Taxes and fees per passenger' at \$20.21, and a 'Total per passenger' of \$98.98 for '1 Passenger(s)'. The 'Flight total' is also \$98.98. Below the flight details, there's a 'Helpful information' section with two bullet points about fare rules and Rapid Rewards points. At the bottom, a large orange banner states 'No change fees.¹' with the text 'Change your flight later without a fee.' and a small link 'View all change fees and rules'. To the right of this banner, a summary table shows: 'BASE FEE' at \$0.00, 'SUBTOTAL' at \$78.77, 'TAXES & FEES' at \$20.21, and 'TRIP TOTAL' at \$98.98. A small note at the bottom right says 'These prices include taxes'.

Category	Amount
Price per passenger	\$78.77
Taxes and fees per passenger	\$20.21
Total per passenger	\$98.98
Passenger(s)	x1
Flight total	\$98.98

BASE FEE	\$0.00
SUBTOTAL	\$78.77
TAXES & FEES	\$20.21
TRIP TOTAL	\$98.98

Here again, no travelers would choose Option 1 over Option 2, let alone thousands.

⁶⁴ Amtrak's Union Station in Dallas is approximately 32 miles from Fort Worth's Amtrak station.

4. Amtrak has a history of inflating ridership projections.

In 2016, Amtrak projected 2018 ridership of 4,825,700 for its long-distance trains.⁶⁵ Yet, in spite of a strong economy with increased travel across all modes, actual ridership ended up being only 3,410,800 (70.6% of Amtrak's projection).⁶⁶ And while Amtrak may post large percentage ridership gains on various lines, these are due to low total ridership, as Amtrak carries a relatively small percentage of all intercity passengers. For common carriers, airlines account for 64.7% of total passenger miles, buses 34.7%, and Amtrak a mere 0.7%.⁶⁷ Therefore, any actual Amtrak ridership growth, regardless of percentage, is miniscule. For instance, total Amtrak ridership between 2005 and 2016 increased from 25.4 to 31.3 million, an 23% increase but actual increase of only 5.9 million riders.⁶⁸ By comparison, total airplane ridership increased from 804.4 million to 932.0 million, a 16% increase but an actual increase of 127.6 million riders.⁶⁹ For each new rail passenger, there were 142 new airline passengers.

These 2016 inflated Amtrak projections forecasted long-distance ridership only two years in the future. In contrast, Texas Central forecasts ridership 16 years in the future. Based on Amtrak's error rate after two years of data, its 2016 projection would have been off by more than 11.3 million riders by 2032 (16 years in the future). Applying the same error rate to Texas Central's

⁶⁵ Amtrak Five Year Service Line Plans: Fiscal Years 2017-2021, <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/businessplanning/Amtrak-Five-Year-Service-Plans-FY17-FY21-final.pdf>.

⁶⁶ Amtrak Monthly Performance Report: YTD September FY 2018, <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/monthlyperformancereports/2018/Amtrak-Monthly-Performance-Report-September-2018.pdf>.

⁶⁷ David Randall Peterman, *Amtrak: Overview*, CONGRESSIONAL RESEARCH SERVICE (Sep. 28, 2017), <https://fas.org/sgp/crs/misc/R44973.pdf>.

⁶⁸ *Id.*

⁶⁹ *Id.*

calculations, its projections would be off by 208,000 riders in 16 years, more than enough to affect the viability of the Dallas and Houston Amtrak lines.

5. Amtrak ridership in Dallas and Houston is negligible.

Amtrak provides “State Facts Sheets” on its website, which include total “boardings + alightings” for fiscal years 2017 and 2018. Below are average total boardings plus alightings for several major U.S. metropolitan areas:⁷⁰

- New York City (Penn Station): 10,264,877
- Philadelphia (30th Street Station): 4,441,827
- Washington D.C. (Union Station): 5,211,348
- Chicago (Union Station): 3,388,179
- Boston (South Station): 1,560,790
- Baltimore (Penn Station): 1,052,430

In stark contrast, here are the figures for Dallas and Houston:⁷¹

- Dallas (Union Station): 46,970
- Houston (HOS): 19,995

The disparity in these figures would not be surprising to residents of Dallas or Houston. Indeed, ask anyone in either city about “Amtrak,” and chances are they do not know whether Amtrak is a bus or train (or both), how much tickets cost, where the Amtrak stations are, or where the service goes.

⁷⁰ AMTRAK STATE FACT SHEETS, <https://www.amtrak.com/about-amtrak/amtrak-facts/state-fact-sheets.html> (last visited Oct. 7, 2019).

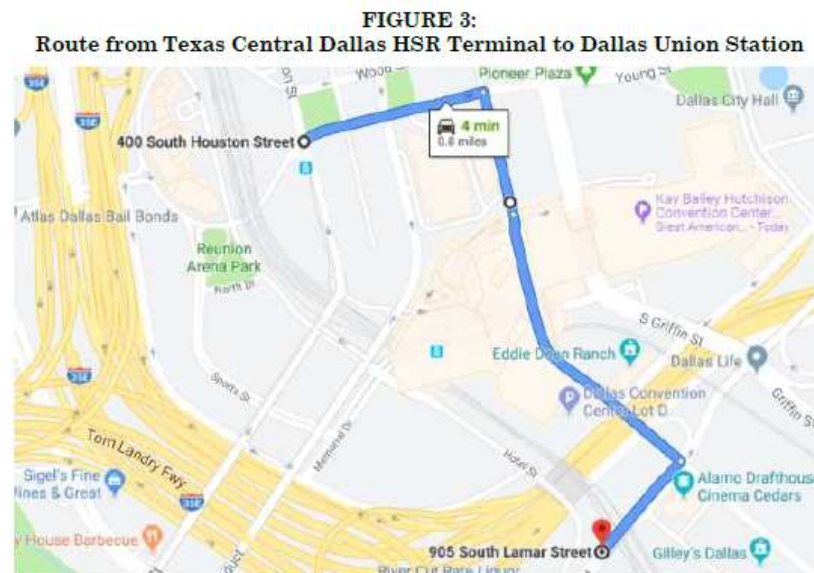
⁷¹ *Id.*

D. Texas Central failed to provide details pertaining to the physical connection and available infrastructure for transfer passengers who choose to walk between stations in Dallas.

The Board requested details pertaining to the physical connection for transfer passengers who choose to walk between stations in Dallas. Relatedly, the Board asked Texas Central to indicate what infrastructure would be available to a transfer passenger walking between the stations and what arrangements, if any, Texas Central would make for transferring luggage.

In its Response, Texas Central first states the stations in Dallas “will be approximately one-half mile apart, as measured in a straight line.”⁷² This is irrelevant, as transfer passengers cannot travel to and from the stations in Dallas in a straight line.

Texas Central concedes walking between stations in Dallas will require passengers to cover approximately 0.8 miles of public sidewalks. Although unclear, this measurement appears to be based on the route between stations shown in Figure 3 of Texas Central’s Response, which ends at 905 South Lamar Street (Texas Central station).



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⁷² Response, p. 13.

However, as shown in the proposed layout of the Dallas terminal contained in the DEIS, the bulk of the Dallas station is located much further south than 905 South Lamar Street.

Figure 2-19: Dallas Terminal



In any event, whether measured on foot or by vehicle, the Amtrak and Texas Central stations in Dallas are about a mile apart, door to door.

The entirety of Texas Central’s response to the Board’s second request for information is contained on page 13 of its Response. Texas Central concedes it is “unlikely that many transferring passengers will choose to carry their luggage and walk between stations.”⁷³ But, fortunately for

⁷³ *Id.*

those who do, Texas Central claims it “is planning *some changes* to make that trip even easier.”⁷⁴ According to Texas Central, it “will work with the City of Dallas to install a dedicated pedestrian walkway and improve sidewalk access....”⁷⁵ This mere speculation, supported only by the conclusory statements of Tim Keith, should be disregarded.

The notion that transfer passengers might choose to walk between stations is absurd. As for transferring luggage, Texas Central avoids that conundrum entirely, which is unsurprising. The notion that transfer passengers might carry their luggage between stations is beyond absurd.

First, the only infrastructure available to a transfer passenger choosing to walk between stations consists of narrow sidewalks amidst city blocks, interrupted by a notoriously busy convention center, over a highway overpass. Since Texas Central failed to provide the Board any details regarding the physical connection and available infrastructure (or lack thereof), TAHSR created a video depicting the precise information the Board requested.

VIDEO LINK - TEXAS CENTRAL AND AMTRAK STATIONS IN DALLAS

As the Board can plainly see, there is no physical connection between stations. Likewise, there is hardly any infrastructure available for transfer passengers who choose to walk. Nor is there space to “install a dedicated pedestrian walkway,” despite what Tim Keith would have the Board believe. Transfer passengers would have to weave their way through city traffic and a crowded convention center complex, then traverse an extremely narrow walkway on a highway overpass.

⁷⁴ *Id.*

⁷⁵ *Id.*

Second, the total crime rate in the areas immediately surrounding the Texas Central and Amtrak stations in Dallas (within five miles of the convention center) is more than twice the national average.⁷⁶ Dallas is on pace to have one of its highest murder rates in more than a decade.⁷⁷

Third, it is extremely hot in Dallas at least five months a year (May through September). During this five-month stretch in 2018, Dallas recorded 120 days with the temperatures reaching 90 degrees, and 32 days with temperatures reaching 100 degrees.⁷⁸ This year has not been much kinder. During the same stretch in 2019, Dallas recorded 113 days with temperatures reaching 90 degrees, and 20 days with temperatures reaching 100 degrees.⁷⁹

In short, transfer passengers who choose to walk a mile between stations in Dallas will be forced to carry their luggage in dangerous neighborhoods with no dedicated walkways, through a convention center, and across an overpass, under the blazing sun.

E. Texas Central failed to provide details pertaining to the proposed Transfer Service.

In its third request, the Board asked Texas Central to provide details pertaining to the proposed Transfer Service, including its frequency, adjustability based on delays or schedule changes, and projected wait times.⁸⁰

Regarding details pertaining to the Transfer Service, Texas Central claims it has developed “a specific transportation plan to facilitate passenger transfers between [Amtrak and Texas Central

⁷⁶ Crime data gathered from ADT.com, city-data.com, and areavibes.com.

⁷⁷ Rebecca Lopez, *Dallas on track to have one of the highest murder rates in more than a decade*, WFFA 8 (June 6, 2019), <https://www.wfaa.com/article/news/crime/dallas-on-track-to-have-one-of-the-highest-murder-rates-in-more-than-a-decade/287-b3ee632f-9d6b-4ab1-b52c-e0785402a088>.

⁷⁸ Historical weather data gathered from Accuweather.com and weather.gov.

⁷⁹ Historical weather data gathered from Accuweather.com and weather.gov.

⁸⁰ Interim Decision, p. 3-4.

service].”⁸¹ Of course, though, Texas Central submitted no such plan, choosing instead to cite only to Tim Keith’s verified statement.

Texas Central claims further it “will fund and operate air-conditioned, rubber tire electric buses.”⁸² Texas Central does not know the type of electric buses, whether they will be purchased or leased, when they will be purchased or leased, or any other relevant details. Texas Central does not know the size of the buses either, but promises they will be “sized appropriately.”⁸³ Or, Texas Central may not even use buses at all. Instead, it may use some “other commercially available electric vehicle.”⁸⁴ And, of course, Texas Central provided no support for any of these claims other than Keith’s verified statement.

Interestingly, Texas Central’s claim that it may use electric buses is a relatively new development. In state court litigation, Texas Central Vice-President Travis Kelly submitted declarations in which he discussed and attached both the Petition to Reopen and alleged Amtrak agreement.⁸⁵ When Kelly was asked in a July 2018 deposition (two months after Texas Central filed its Petition to Reopen), “do you know by what mode of transportation Texas Central intends to effectuate this transfer service,” he admitted, “[a]s I sit here today, I don’t believe that decision has been finally made.”⁸⁶

Moreover, Kelly did not even know whether Texas Central would “self-perform” the Transfer Service or “contract out for that,” nor was he aware of “what technology might be used”

⁸¹ Response, p. 14.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.* at 15.

⁸⁵ *See, e.g.*, Exhibit F at ¶¶ 9-10 (excluding attachments).

⁸⁶ Exhibit G, p. 65, l. 21-25 (excerpts from deposition of Travis Kelly dated July 19, 2018).

or any “conversations with third parties in regards to their providing of this specific service.”⁸⁷ To be fair, maybe only Tim Keith had answers to these basic questions. But, as previously explained, Texas Central took the position Keith could not be deposed because he had no personal knowledge of its day-to-day operations.⁸⁸

Although Texas Central could not provide the Board any details regarding the proposed Transfer Service in its Response, Keith made the following promise: “In order to provide the most efficient transportation option, Texas Central will continue to evaluate updates in technology and changing local road infrastructure conditions before it initiates service.”⁸⁹ This is not what the Board requested; rather, it is speculative nonsense, which is par for the course for Texas Central.

F. There is no guarantee Texas Central will initiate Transfer Service or provide such service following expiration of the alleged Amtrak agreement.

The only thing obligating Texas Central to provide the proposed Transfer Service is a sole provision in the parties’ Voluntary Coordination Agreement (“VCA”).⁹⁰ Although the subsequent Reservation and Ticketing Agreement (“RTA”) mentions the proposed Transfer Service, it contains no provision obligating Texas Central to provide Transfer Service.”⁹¹ As such, if upon commencement of operation Texas Central chooses *not* to provide Transfer Service, Amtrak would be the only party with standing to sue for breach and seek specific performance, and it could do so only based on the terms of the VCA.

⁸⁷ *Id.* at p. 66, l. 22 – p. 67, l. 6.

⁸⁸ *See* pages 6-7, *supra*; *see also* Exhibit B.

⁸⁹ Response, p. 4.

⁹⁰ Petition to Reopen, Exhibit 2 at ¶ 6 (executed December 6, 2016).

⁹¹ Petition to Reopen, Exhibit 1 (executed October 13, 2017).

Moreover, the terms of both the VCA and RTA remain in effect only until the third anniversary of the commencement of Texas Central passenger service.⁹² Thus, even if Texas Central were to initiate Transfer Service, it would have no obligation (contractual or otherwise) to continue providing such service upon expiration. When asked whether Texas Central will, in fact, continue to provide Transfer Service following expiration of the VCA in three years, Vice-President Travis Kelly admitted, “I would have to speculate. I don’t know.”⁹³

Finally, only the RTA contains an express survival clause, which states that certain provisions shall survive termination.⁹⁴ Yet, none of those provisions relate to Transfer Service—nor could they—as the RTA contains no such provision obligating Texas Central to provide Transfer Service.⁹⁵

In truth, the undisputed lack of physical connection between the Amtrak and Texas Central stations in Dallas and Houston is the sole driving force behind the proposed Transfer Service. Put another way, Texas Central never would have contemplated Transfer Service but for this glaring jurisdictional dilemma. In all likelihood, once no further relief is needed from this Board, the Transfer Service provision will be fed to the shredder.

G. Texas Central’s proposed schedule for connecting passengers will not work.

Although Texas Central provided some details pertaining to the purported frequency and adjustability of the Transfer Service based on delays and schedule changes, it failed to account for

⁹² Petition to Reopen, Exhibit 1 at ¶ 11.1, Exhibit 2 at ¶ 11.

⁹³ Exhibit G, p. 67, l. 14-19 (excerpts from deposition of Travis Kelly dated July 19, 2018).

⁹⁴ Petition to Reopen, Exhibit 1 at ¶ 11.3

⁹⁵ Petition to Reopen, Exhibit 1 at ¶ 11.3 (“The following provisions shall survive termination of this Agreement: Section 2, ‘Pricing and Payment;’ Section 3.3, ‘Use of a Party’s Brand and Proprietary Materials;’ Section 5, ‘Indemnification and Limitation of Liability;’ Section 6, ‘Insurance;’ Section 7, ‘Notices;’ and Section 10, ‘Confidentiality and Passenger Information;’ Section 12., ‘Records and Audit;’ and Section 13, ‘Governing Law.’”).

Amtrak delays. After plucking a 90-minute transfer window out of thin air, Texas Central claims “Amtrak also concurs that the connecting times should provide reliable connections even if... trains arrive late.”⁹⁶

In both Dallas and Houston, Amtrak trains are consistently and significantly late. For the time period spanning October 5, 2018 to October 5, 2019 (700 data points), Amtrak arrivals at Dallas’ Union Station were, on average, 1 hour and 24 minutes late.⁹⁷ For the same time period (284 data points), Amtrak arrivals in Houston were, on average, 1 hour and 57 minutes late.⁹⁸ Taking into account these significant average delays and the uncertainty surrounding the Transfer Service, many connecting passengers will miss their scheduled departures.

H. Texas Central failed to provide details pertaining to projected wait times for transfer passengers who choose to connect by means other than Transfer Service, including walking.

The Board is aware some connecting passengers might choose to transfer between the Amtrak and Texas Central stations in Dallas and Houston on their own, rather than relying on Texas Central’s proposed Transfer Service. For that reason, the Board asked Texas Central to provide details pertaining to projected wait times for transfer passengers who choose to connect by means other than Transfer Service.⁹⁹ Texas Central failed to respond to this request entirely.

⁹⁶ Response, p. 19; Williams Statement at ¶ 9.

⁹⁷ Exhibit H. Amtrak delay statistics gathered from <https://juckins.net/> and <http://dixielandsoftware.net/Amtrak/status/StatusMaps/>. TAHSR resorted to these independent resources because, as of 2017, Amtrak no longer records On-Time Performance for Short Distance (<400 miles) or Long Distance (>=400 miles) and instead records three new categories: Northeast corridor, State Supported, and Long Distance.

⁹⁸ Exhibit I.

⁹⁹ Interim Decision, p. 4.

II. Texas Central continues to claim it is an “interurban electric railway,” which, if true, means it is not a “rail carrier” as defined at 49 U.S.C. § 10102(5).

A “rail carrier” is defined as “a person providing common carrier railroad transportation for compensation, *but does not include* street, suburban, or *interurban electric railways* not operated as part of the general system of rail transportation.”¹⁰⁰ Despite this exclusion from the definition of “rail carrier,” Texas Central continues to claim it is an interurban electric railway.

A. Texas Central’s admissions in state district court lawsuits.

In 40+ Texas state court lawsuits,¹⁰¹ Texas Central filed verified pleadings alleging it is both a railroad and “*an electric railway* as that term is used in Section 131.012 *et. seq.* of the Texas Transportation Code.”¹⁰² In fact, in a petition filed on the same day as its Petition to Reopen, Texas Central made this claim.¹⁰³ Moreover, Texas Central’s judicial admissions are corroborated by its filings with the Texas Secretary of State in which it claims to be organized “[t]o plan, build, maintain and operate an interurban electric railroad.”¹⁰⁴ Texas Central has yet to explain how it can simultaneously be a railroad (subject to Board jurisdiction) and an interurban electric railway (outside Board jurisdiction).

B. Texas Central’s recent admissions before the Texas Legislature.

In 2019, numerous bills related to high-speed rail were submitted during the 86th Texas legislative session. During various committee hearings on these bills, Texas Central sent

¹⁰⁰ 49 U.S.C. § 10102(5) (emphasis added).

¹⁰¹ Exhibit J contains a chart of every Texas state court lawsuit in which Texas Central has claimed to be an “interurban electric railway.”

¹⁰² See, e.g., Exhibit K. Section 131 of the Texas Transportation Code deals solely with interurban electric railway companies, which are defined as “a corporation chartered under the laws of this state to conduct and operate an electric railway between two municipalities in this state.”

¹⁰³ Exhibit L.

¹⁰⁴ Exhibit M.

representatives and attorneys to testify on its behalf. These representatives testified unequivocally that Texas Central believes it is an interurban electric railway that will operate between two municipalities in the State of Texas. Here are three examples:

[VIDEO LINK – TEXAS CENTRAL TESTIFIES BEFORE TEXAS LEGISLATURE](#)

[VIDEO LINK – TEXAS CENTRAL TESTIFIES BEFORE TEXAS LEGISLATURE](#)

[VIDEO LINK – TEXAS CENTRAL TESTIFIES BEFORE TEXAS LEGISLATURE](#)

C. Texas Central’s recent admissions in the 13th Court of Appeals.

After losing the only contested case argued before a Texas state district court, Texas Central appealed that decision to the 13th Court of Appeals. Texas Central filed its Appellants’ Brief on July 18, 2019.¹⁰⁵ On appeal, Texas Central continues to argue that, unequivocally, it is an interurban electric railway under Texas law chartered to “operate an electric railway *between two municipalities in the state*.”¹⁰⁶ (emphasis added).

III. If the Board asserts jurisdiction over the Project, it must require a full application.

On May 31, 2016, TAHSR filed its Reply to Petition for Exemption (“Exemption Reply”). TAHSR explained that due to the following factors, among others, the Board must require Texas Central to submit a full application:¹⁰⁷

- 1) The Project’s sheer magnitude — at least \$18 billion;
- 2) The unfathomable environmental impact of a 240-mile-long berm 20 feet high;
- 3) The substantial adverse impact on tens of thousands of Texas citizens and landowners and the communities in which they live;
- 4) The prohibition on grade crossings which threatens to freeze any future road expansion in the affected counties; and

¹⁰⁵ Exhibit N.

¹⁰⁶ See, e.g., Exhibit N at 3, 12, 15-16, 55-56.

¹⁰⁷ Reply to Petition for Exemption, p. 2 (submitted May 31, 2016).

- 5) The enormous cost and complexity of constructing and operating this “first of its kind” high-speed train in the United States.

TAHSR also asked the Board to consider two additional crucial facts regarding Texas Central’s claim that the Project will be “privately funded”:¹⁰⁸

- 1) Texas Central is an unproven start-up that is grossly undercapitalized; and
- 2) Texas Central has presented no evidence that it has the necessary funding to construct and operate the Project.

Rather than repeating those arguments here, TAHSR incorporates its Exemption Reply and urges the Board to give it due consideration.

Subsequently, in its Reply to Texas Central’s Petition to Reopen, TAHSR focused on new facts that further demonstrate the need for a full application, several of which will be rehashed or summarized here.¹⁰⁹ Nevertheless, TAHSR incorporates its Reply to Petition to Reopen and urges the Board to also give it due consideration.

A. The Board must view this Project in the context of the high-speed rail disaster in California and the serious infrastructure problems plaguing the nation.

Significant revenue shortfalls are already preventing key components of interstate commerce and transportation from being adequately addressed. For example, the Dallas Morning News recently reported that “[t]he Texas Department of Transportation’s Dallas district has a \$24 billion to-do list and, over the next decade, expects to receive only about \$8 billion to address its freeway needs.”¹¹⁰ Dallas County commissioner Mike Cantrell lamented, “[i]t’s difficult to

¹⁰⁸ *Id.* at 3.

¹⁰⁹ Reply to Petition to Reopen, p. 15-39 (submitted May 31, 2018).

¹¹⁰ Ray Leszczynski, *With LBJ East OK’d, question of how to pay for \$24 billion in upcoming mega-projects remains*, DALLAS MORNING NEWS (May 27, 2018), <https://www.dallasnews.com/news/transportation/2018/05/28/with-lbj-east-ok-d-question-of-how-to-pay-for-24-billion-in-upcoming-mega-projects-remains/>.

imagine how all of these projects are going to be funded...You're talking new capacity versus maintenance, bridges, air quality and so many things that need to be done with such a shortage in funding." Given these local infrastructure issues and those facing the nation as a whole, the public interest will not be served by siphoning off tens of billions of dollars to support a Project for which there is no established need while our highways and bridges continue to deteriorate.

In truth, Texas Central's Project is the antithesis of public convenience and necessity. First, construction will be a source of constant inconvenience to landowners who stand to lose their property or be landlocked by a 240-mile-long, 40-foot-high electrified fence. Second, the Project is not financially viable; rather, it will require massive public subsidies from Texas and U.S. taxpayers to sustain operations. Third, the Project will not create billions in economic benefits; rather, it will be a financial albatross around the necks of the U.S. Treasury and Texas taxpayers, none of whom wish to be victimized by a repeat of the situation in California, where projected costs ballooned from \$33 billion to upwards of \$80 billion, with no end in sight. Earlier this year, Governor Gavin Newsom put it simply: "The [California] project, as currently planned, would cost too much and take too long... There's been too little oversight and not enough transparency."¹¹¹

Texas Central has also greatly exaggerated ridership projections while underestimating costs, a sure-fire recipe for financial disaster. Likewise, Texas Central has proceeded with hardly any oversight, and is far from transparent. Accordingly, if the Board were to assert jurisdiction over the Project, it must deny Texas Central's Petition for Exemption and require a full application.

¹¹¹ Alissa Walker, *California's high-speed rail is still on. But how can it move forward?*, CURBED (Feb. 22, 2019), <https://www.curbed.com/2019/2/15/18225441/california-high-speed-rail-gavin-newsom>.

B. Contrary to Texas Central’s assertion, opponents of the Project have provided ample evidence that the Project will be a financial disaster.

On page 45 of its Response, Texas Central complains that “[o]pponents clamor¹¹² about the financial viability of this project, but offer no evidence to overcome this strong presumption in favor of new rail construction projects.” Indeed, TAHSR and others have uttered and proclaimed loudly and insistently that financial viability must be assessed, and for good reason. All objective, verifiable data reveals the Project will fail spectacularly.

As for Texas Central’s allegation that opponents have offered “no evidence” to support their clamoring, nothing could be further from the truth. Although TAHSR has previously provided the Board an overwhelming amount of such evidence, it must do so again in this Reply.

1. Common sense dictates Texas Central’s ridership projections are greatly exaggerated.

In 2016, Texas Central told the Board the Project “will attract four million riders annually by the year 2025, relying on the unsupported statement of Tim Keith.”¹¹³ Texas Central also told the Board, “by 2026, approximately 20% of all Dallas-Houston travelers will choose Texas Central’s high-speed passenger service.”¹¹⁴ Subsequently, Texas Central published a “ridership brochure” on its website.¹¹⁵ In it, Texas Central claimed, “NEARLY 5 MILLION PASSENGERS ARE FORECAST TO USE THE BULLET TRAIN BY 2026 AND 10 MILLION PASSENGERS BY 2050.”¹¹⁶ (emphasis is Texas Central’s).

¹¹² *Clamor*, MERRIAM-WEBSTER DICTIONARY (2019) (“clamor” means to become loudly insistent, to utter or proclaim insistently and noisily).

¹¹³ Petition for Exemption, p. 8. After TAHSR explained to the Board in detail why its ridership projections were greatly exaggerated, Texas Central belatedly submitted its supposed ridership study under seal.

¹¹⁴ *Id.*

¹¹⁵ Exhibit O - <http://www.texascentral.com/wp-content/uploads/2016/11/Ridership-Brochure.pdf>.

¹¹⁶ *Id.* at 10.

Texas Central's projection of 5 million annual passengers by 2026 equates to *approximately 13,700 passengers per day*. By comparison, on average 2,529 passengers flew between Dallas and Houston per day during 2017 Q1 -- 2018 Q4.¹¹⁷

Notably, the number of average daily passengers flying between Dallas and Houston has steadily declined. In its May 2016 Reply to Petition for Exemption, TAHSR advised the Board that, on average, 2,858 passengers flew between Dallas and Houston per day during 2014 Q3 -- 2015 Q3.¹¹⁸ In its May 2018 Reply to Petition to Reopen, TAHSR advised the Board that this figure had decreased to 2,685 average daily passengers during 2015 Q3 -- 2017 Q2.¹¹⁹

Even assuming Texas Central could divert *all* of these airline passengers to its high-speed rail service, *Texas Central must also convince more than 11,000 Dallas to Houston vehicle travelers—each and every day—to divert to its high-speed train to meet its projection.*

The heavily-trafficked Union Station in Washington, D.C., which has been in service since 1907, currently serves approximately 5 million Amtrak passengers annually,¹²⁰ including a number of commuters who transfer to the subway to get to work along with travelers headed to BWI Airport. Texas Central's service will serve neither of these constituencies. In Philadelphia, 30th Street Station transports approximately 4.3 million Amtrak passengers annually.¹²¹ Given these statistics and the fact there is *no existing customer base*, the notion that Texas Central will achieve 5 million annual passengers or any projection remotely close to it is fantasy.

¹¹⁷ U.S. DEPARTMENT OF TRANSPORTATION, *Domestic Airline Consumer Airfare Reports*, <https://www.transportation.gov/office-policy/aviation-policy/domestic-airline-consumer-airfare-report-pdf> (last visited Oct. 6, 2019)

¹¹⁸ Reply to Petition for Exemption, p. 33 (submitted May 31, 2016).

¹¹⁹ Reply to Petition to Reopen, p. 22 (submitted May 31, 2018).

¹²⁰ AMTRAK STATE FACT SHEETS, <https://www.amtrak.com/about-amtrak/amtrak-facts/state-fact-sheets.html> (last visited Oct. 6, 2019).

¹²¹ *Id.*

2. Independent infrastructure experts from the Reason Foundation concluded the Project will fail “spectacularly.”

The Reason Foundation is a non-partisan think tank whose public policy research “promotes choice, competition, and a dynamic market economy as the foundation for human dignity and progress.” According to its website, Reason produces “rigorous, peer-reviewed research and directly engages the policy process.”¹²²

One of Reason’s transportation infrastructure experts, Baruch Feigenbaum, published a study in 2013 titled *High-Speed Rail in Europe and Asia: Lessons for the United States*.¹²³ In his study, which examined the prospects for high-speed rail in the U.S., Feigenbaum noted that only two high-speed rail lines in the world are profitable: Paris-Lyon in France and Tokyo-Osaka in Japan. Feigenbaum concluded that most U.S. high-speed rail lines would “lose substantial amounts of funds. Only the Northeast Corridor could potentially break even.”

In 2017, after a thorough analysis of Texas Central’s Project, the Reason Foundation released a report titled *Texas High Speed Rail: Caution Ahead* that included both a summary¹²⁴ and 65-page detailed analysis¹²⁵ of its conclusions. The following table displays an overview of Reason’s concerns with the Project:¹²⁶

¹²² <https://reason.org/>.

¹²³ Baruch Feigenbaum, *High-Speed Rail in Europe and Asia: Lessons for the United States*, REASON FOUNDATION (May 2013), https://reason.org/wp-content/uploads/2013/05/high_speed_rail_lessons.pdf.

¹²⁴ Baruch Feigenbaum, *Texas High Speed Rail Requires Caution – Summary Report*, REASON FOUNDATION (Feb. 6, 2017), https://reason.org/wp-content/uploads/files/texas_high_speed_rail.pdf; see TAHSR Reply to Petition to Reopen, Exhibit G.

¹²⁵ Baruch Feigenbaum, *Texas High Speed Rail Requires Caution – Detailed Analysis*, REASON FOUNDATION (Feb. 2017) <https://reason.org/issue-brief/texas-high-speed-rail-requires-caution/>; see TAHSR Reply to Petition to Reopen, Exhibit M.

¹²⁶ Feigenbaum Summary Report, p. 4.

Table 1: Summary of Concerns with Texas High-Speed Rail Plan		
Concern	Details	Impact
Cost v. Ridership	Successful high-speed rail lines have been built in countries when and where land is cheaper and easier to acquire, construction costs are cheaper, and ridership is much higher.	Major
No Existing Passenger Rail Service	More than 2/3 of high-speed rail passengers have come from existing transit service. Without existing conventional rail service, a larger share of passengers must come from air and passenger vehicles.	Major
Airport Proximity to Downtown	Both Dallas and Houston have airports located within seven miles of downtown. High-speed rail has been successful in cities where airports are far or challenging to get to from downtown.	Major
Limited Transit Service	Both Dallas and Houston have limited rail transit networks. Houston has just redesigned its bus network, but the cities' transit networks are not designed to funnel passengers downtown. In cities with successful high-speed rail, five to 12 times more people were transit users than in Dallas and Houston.	Moderate
Low Population Density	Dallas ranks 143rd in population within 2 miles of downtown and Houston ranks 36th. Most high-speed rail services rely on travelers who live downtown because it is more convenient for those living outside of downtown to fly.	Moderate
Low Employment Density	Dallas ranks 16th in employment within 2 miles of downtown and Houston ranks 15th. High-speed rail lines cater to downtown employees since it is more convenient to take the rail line than fly.	Moderate
Car Ownership	Car ownership rates are 25%–50% higher in Dallas and Houston than in cities with successful high-speed rail. Car ownership affects not just the number of travelers who drive, but also the density and spatial structure of a city.	Minor

Based on its review of “verifiable data from U.S. and Texas public and private transportation services, historic data taken from worldwide high-speed rail operations, and the unique land use and transportation characteristics of the Dallas to Houston corridor,” Reason estimated Texas Central’s 2035 annual ridership at 1.4 million passengers.¹²⁷ According to Reason, Texas Central’s “ridership projection of 4 to 5 million annual passengers is not grounded in reality.”¹²⁸ Reason stated Texas Central’s overstated projections are symptomatic of “demand exaggeration” and that “to the best of our knowledge and despite requests, [Texas Central] has not provided any objective or verifiable data to support its projections.”¹²⁹ With respect to costs, Reason believes that “actual construction costs may exceed \$20 billion.”¹³⁰

Reason concluded its analysis with several stern warnings related to the Project. First, Reason cautioned that “Texas elected officials, lenders, investors and taxpayers should demand

¹²⁷ Feigenbaum Detailed Analysis, p. 40.

¹²⁸ *Id.* at 52.

¹²⁹ *Id.* at 40.

¹³⁰ Feigenbaum Summary Report, p. 6.

full disclosure and pay close attention to the details because we do not believe that Texas Central can build the rail line without significant public subsidies.”¹³¹

Second, Reason commented that although it strongly supports privately constructed high-speed rail, it cannot support this Project: “In spite of their large and growing populations, Dallas and Houston are poster children for big cities where high-speed rail has no chance of succeeding without public funding unless land use and transit patterns change dramatically.”¹³²

Third, Reason conceded it truly hopes high-speed rail becomes a reality in the U.S., preferably through private development and implementation.¹³³ However, Reason expressed its concern the Project “*will fail so spectacularly* that privately financed U.S. high-speed rail lines may never be given a second chance.”¹³⁴

3. As recently as March 2019, the Reason Foundation reiterated that its primary areas of concern regarding the Project remain.

After Reason published both its detailed and summary analyses of the Project in 2017, Texas Central attacked Reason in multiple press releases. Texas Central also criticized other peer-reviewed studies which had detailed various concerns regarding the Project’s feasibility.¹³⁵

¹³¹ *Id.* at 8.

¹³² *Id.* at 7.

¹³³ *Id.*

¹³⁴ *Id.* (emphasis added).

¹³⁵ Those peer-reviewed studies are:

Craig Roco and Leslie Olson, *Policy and Financing Analysis of High Speed Rail Ventures in the State of Texas*, TEXAS A&M TRANSPORTATION INSTITUTE (Sep. 2004), <https://static.tti.tamu.edu/swutct.tamu.edu/publications/technicalreports/167150-1.pdf>;

James Jarrett, Jorge Anchondo, David Huff, Ramesh Rao, and Charles Zlatkovich, *A Review of the Economic Feasibility of a Privately Financed High Speed Passenger, Rail System in Texas*, UNIVERSITY OF TEXAS AT AUSTIN (1992), <https://repositories.lib.utexas.edu/handle/2152/30185>;

Matthew Glans, *High Speed Rail Won’t Work in Texas*, THE HEARTLAND INSTITUTE (July 17, 2018)

According to Texas Central, all of these studies were out-of-date and did not include the private-sector innovations that Texas Central alleges it will use.

In March 2019, Reason published an updated analysis.¹³⁶ In addition to responding to Texas Central's unfounded criticisms, Reason noted that because Texas Central has continued its work on the Project, including the commissioning of another outside feasibility, "it is time to revisit the case for and against this proposed high-speed rail project."¹³⁷ Reason stressed that Texas Central has yet to address the numerous legitimate concerns regarding ridership and costs raised by Reason and other peer-reviewed studies.¹³⁸ With respect to Texas Central's new feasibility study, "written by an anonymous author at a global management consulting firm, L.E.K.," Reason concluded it "has a number of its own problems."¹³⁹

Reason also detailed numerous concerns expressed by other transportation experts and researchers.¹⁴⁰ According to Reason, "[t]hese researchers work for free-market think tanks, and

<https://www.heartland.org/publications-resources/publications/research--commentary-high-speed-rail-wont-work-in-texas>;

Randal O'Toole, *High Speed Rail The Wrong Road for America*, CATO INSTITUTE (Oct. 31, 2008), <https://object.cato.org/pubs/pas/pa-625.pdf>;

Wendell Cox, *EU Auditor High Speed Rail Criticisms: Lessons for North America and Australia*, NEWGEOGRAPHY (July 19, 2018), <http://www.newgeography.com/content/006033-euauditor-high-speed-rail-criticisms-lessons-north-america-and-australia>;

Travis Korson, *America's First Bullet Train is Already a Failure and It Hasn't Even Been Built*, THE HILL (Dec. 4, 2017), <https://thehill.com/opinion/technology/363141-americas-first-bullettrain-is-already-a-failure-and-it-hasnt-even-been>.

¹³⁶ Exhibit __ - Baruch Feigenbaum, *Texas High Speed Rail Requires Caution: An Updated Analysis*, REASON FOUNDATION (Mar. 2019) <https://reason.org/wp-content/uploads/texas-high-speed-rail-plan-requires-caution.pdf>.

¹³⁷ Feigenbaum Updated Analysis, p. 1.

¹³⁸ *Id.* at 2-3.

¹³⁹ *Id.* at 5.

¹⁴⁰ *Id.* at 3-4.

are pre-disposed to support a privately funded high-speed rail line. Yet, they cast doubts on Texas Central's ridership projections and cost estimates.”¹⁴¹

In its Updated Analysis, Reason summarized its primary areas of concern as follows:¹⁴²

- Texas Central's lack of transparency regarding the Project's details;
- Texas Central's challenges in acquiring right-of-way and limited funding/financing, both of which appear to be the cause of mounting delays in the project's timetable;
- Texas Central's use of a management consulting firm—L.E.K.—to estimate ridership for a transportation mega-project, rather than a company with expertise in traffic and revenue studies;
- Texas Central's claim that 60% to 99% of Dallas to Houston travelers will switch from car to high-speed rail, when the highest diversion rate anywhere in the world is 18%;
- Texas Central's potential pursuit of RRIF loans, which could provide funding for more than 50% of the project's estimated \$20 billion capital cost, despite the RRIF program's lack of taxpayer safeguards; and
- Texas Central's failure to account for numerous factors indicating that the project could fail financially, including the presence of low-cost airline flights between Dallas and Houston, lack of conventional rail travel between those cities, and low employment and population densities.

These are the *very same concerns* TAHSR has been “clamoring” about since Texas Central first released its overstated ridership projections. Rather than address these legitimate concerns in an open forum, Texas Central has fought vigorously to hide its “feasibility studies” from the public.¹⁴³ Even now, Texas Central urges the Board to “take jurisdiction and then simply ask Texas Central to answer targeted and relevant questions it might have *under seal*.”¹⁴⁴ (emphasis added).

¹⁴¹ *Id.* at 4.

¹⁴² *Id.* at 14-15.

¹⁴³ In protracted state court open records litigation, Texas Central ultimately succeeding in shielding its initial feasibility study from public disclosure.

¹⁴⁴ Response, p. 44, n. 75.

Reason concluded its Updated Analysis with the following warning: “There is a significant probability that if this project is built and put into operation, Texas Central will default on its loans, require a taxpayer bailout, or both. This would be a devastating outcome for Texas, its residents, taxpayers, and proponents of private high-speed rail in the United States.”¹⁴⁵

Back in 2008, a Reason Foundation review of the California high-speed rail plan called its ridership projections “the most unrealistic projections produced for a major transport project anywhere in the world.”¹⁴⁶ Those words fell on deaf ears. A decade later, California found itself mired in a boondoggle, with rising costs, never-ending delays, and no end in sight.

The Reason Foundation is now sounding the alarm again. Thus, the Board must heed Reason’s warning and conduct its own analysis before allowing Texas Central to permanently alter the Texas environmental landscape for a project destined for failure.

4. The Texas Department of Transportation concluded Texas Central has overestimated ridership while underestimating costs.

In 2013, the Texas Department of Transportation (TxDOT) issued its Texas Statewide Ridership Analysis Report *Statewide Analysis Model – Version 2.5*.¹⁴⁷ TxDOT, an agency with decades of experience analyzing massive infrastructure projects, forecasted 2035 annual ridership between 0.7-2.7 million passengers for the Project.¹⁴⁸ As for costs, TxDOT estimated upfront capital costs of \$18.3 billion.¹⁴⁹

¹⁴⁵ Feigenbaum Updated Analysis, p. 15.

¹⁴⁶ Wendell Cox, Joseph Vranich and Adrian Moore, *The California High-Speed Rail Proposal: A Due Diligence Report*, POLICY STUDY NO. 370, REASON FOUNDATION (Sep. 2008), <https://reason.org/wp-content/uploads/files/1b544eba6f1d5f9e8012a8c36676ea7e.pdf>.

¹⁴⁷ TEXAS DEPARTMENT OF TRANSPORTATION, *Texas Statewide Ridership Analysis Report Statewide Analysis Model – Version 2.5* (2013), <https://ftp.dot.state.tx.us/pub/txdot-info/rail/rail-ridership-report-1213.pdf>.

¹⁴⁸ *Id.* at 71.

¹⁴⁹ *Id.*

5. The former Chief Maglev Scientist of the FRA concluded the Project is destined for “certain failure.”

In its Reply to Petition for Exemption, TAHSR submitted a declaration from John T. Harding, PhD, former Chief Maglev Scientist for the FRA,¹⁵⁰ in which he performed an analysis of Texas Central’s projections compared with facts contained in TxDOT’s report.¹⁵¹ Much like the Reason Foundation and TxDOT, Dr. Harding concluded that Texas Central’s ridership projections are greatly exaggerated, to the tune of almost six times that of his projections.

Dr. Harding also ran a financial feasibility scenario in which he gave Texas Central the full benefit of the doubt. Using its own projections and cost estimates, Dr. Harding believes that by 2035 Texas Central will run an annual loss of \$250 million.¹⁵² Based on his analysis, Dr. Harding determined there appears to be no reasonable likelihood that Texas Central could repay its investment, much less cover operating costs, with a realistic appraisal of ridership. In fact, he concluded the Project is destined for “certain failure.”¹⁵³

6. If the Board were to assert jurisdiction, it must assess financial feasibility because the FRA did not.

Under NEPA, the FRA “bears the responsibility for defining at the outset the objectives of an action.”¹⁵⁴ With respect to this responsibility, the FRA “must look hard at the factors relevant to the definition of purpose.”¹⁵⁵ Those factors, as announced by Texas Central at the outset, were:

¹⁵⁰ While at the FRA, Harding was a contributing author to a commercial feasibility study examining the economics of bringing high-speed ground transportation to well-populated groups of cities through the United States. FEDERAL RAILROAD ADMINISTRATION, *High-Speed Ground Transportation for America: CFS Report to Congress* (Sep. 1, 1997), <https://www.fra.dot.gov/eLib/details/L02519>.

¹⁵¹ Reply to Petition for Exemption, Exhibit H, Verified Statement of John T. Harding (submitted May 31, 2016).

¹⁵² *Id.* at ¶ 21.

¹⁵³ *Id.* at ¶ 26.

¹⁵⁴ *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991).

¹⁵⁵ *Id.*

- Is the Project safe?
- Is the Project reliable?
- Is the Project economically viable?

Yet, as explained below, the DEIS contains no economic viability analysis. The FRA removed this factor entirely, choosing instead to accept Texas Central's exaggerated, unsupported claims without further inquiry. The Board must not do the same.

On March 22, 2015, Texas Central issued a Screening Report to all stakeholders.¹⁵⁶ Texas Central stated: "The purpose of the privately proposed Project is to provide reliable, safe, and economically viable passenger rail transportation using proven high-speed rail technology."¹⁵⁷ In order to achieve this objective, Texas Central stated that the Project must meet certain criteria, including economic viability:

- Economic: achieve a favorable return on investment when weighing expected ridership and revenue against estimated project capital investments, project delivery schedule, and long-term operations and maintenance expense.

In the FAQ section of the Screening Report, Tim Keith stated, "the FRA must carry forward potential corridor alternatives that meet the Project's purpose and need, which includes the requirement that the project be 'economically viable.'"¹⁵⁸

In April 2015, the FRA released its Scoping Report.¹⁵⁹ In the Scoping Report, the FRA attempted to absolve itself of responsibility for any financial failure by stating that through the

¹⁵⁶ *Texas Central's Step 1 Screening of Corridor Alternatives Report*, <http://www.texascentral.com/wp-content/uploads/2015/09/Step-1-Screening-of-Corridor-Alternatives-Report.pdf> (last visited Oct. 6, 2019).

¹⁵⁷ *Id.* at 5.

¹⁵⁸ *Id.* at Frequently Asked Questions, p. 5.

¹⁵⁹ *Dallas to Houston High-Speed Rail Environmental Impact Statement Scoping Report*, <https://www.fra.dot.gov/eLib/Details/L16346> (last visited Oct. 6, 2019).

screening process, Texas Central determined that “the Project is feasible and economically viable from Dallas to Houston.”¹⁶⁰ Texas Central estimated ridership of “12,000 passengers per day,”¹⁶¹ totaling 4.38 million passengers annually.

In the “Comments on Proposed Purpose and Need” section, the FRA carefully explained that it “is not responsible for verifying Texas Central’s ridership forecasts” and that it “does not maintain financial information on [Texas Central].”¹⁶² As such, the FRA could not answer these questions:

- “Why does Texas Central think people will ride this train?”
- “What ridership data is Texas Central using?”
- “What will the Project cost and who will get the profit?”

Even though Texas Central had just told stakeholders that the Project must be economically viable to achieve its purpose, the FRA stated that those issues “are not directly applicable to the NEPA process and should be addressed directly to Texas Central on their website.”¹⁶³

On August 10, 2015, the FRA released its Technical Report.¹⁶⁴ In the Technical Report, the FRA listed a number of “constraints” related to travel between Dallas and Houston on the I-45 corridor.¹⁶⁵ Without attempting to corroborate Texas Central’s assumptions regarding future profitability, the FRA concluded, “[a]s a result of these constraints, combined with the distance between the two metropolitan areas and potential ridership demand, Texas Central identified an

¹⁶⁰ *Id.* at 4.

¹⁶¹ *Id.* at 9.

¹⁶² *Id.* at 18, 27.

¹⁶³ *Id.* at 28.

¹⁶⁴ *Dallas to Houston High-Speed Rail Project Corridor Alternatives Analysis Technical Report*, <https://www.fra.dot.gov/eLib/Details/L16978> (last visited Oct. 6, 2019).

¹⁶⁵ *Id.* at 4.

opportunity to develop a profitable privately-financed and operated high-speed passenger rail system.”¹⁶⁶ Much like in its Scoping Report, the FRA accepted Texas Central’s representations that the Project will be “profitable” and that there is a “need” for it, instead of conducting its own, independent evaluation.

In the DEIS, the Project’s purpose no longer includes the provision of “economically viable” transportation. Rather than providing safe, reliable and “economically viable” transportation, the FRA states in the DEIS that the purpose is to provide “reliable and safe high-speed passenger rail transportation between Dallas and Houston.”¹⁶⁷ In a footnote, the FRA concedes that “[a]n initial version of the Project Purpose included economic viability. As the Project developed and through coordination with cooperating agencies, FRA determined that economic viability is an objective of Texas Central, not a component of the Project Purpose.”¹⁶⁸

7. The Board must not blindly adopt Texas Central’s unsupported conclusions regarding the Project’s alleged economic impacts.

In the DEIS, the FRA stated: “Texas Central reported that it would pay a total of \$2.5 billion in taxes to state and local jurisdictions by the year 2040.” Instead of referencing a study or independent research or analysis, the FRA references only the “Facts” section of Texas Central’s website, which coincidentally does not contain any study, research or analysis.

¹⁶⁶ *Id.*

¹⁶⁷ DEIS at 1-5.

¹⁶⁸ DEIS at 1-5 n.3. Removal of economic viability from the Project’s purpose fundamentally alters the entire DEIS analysis. If the defined purpose of the Project is to provide “safe, reliable, and economically viable passenger rail transportation,” as Texas Central represented to stakeholders, and the FRA determined that the Project is not economically viable, then the No-Build Alternative suddenly becomes a reasonable alternative that must be closely evaluated. Likewise, none of the Build Alternatives could meet the Project’s purpose, and there would be no Project. On the other hand, if the purpose is only to provide safe, reliable transportation, all of the Build Alternatives remain in play, while the No-Build Alternative may be dismissed out of hand. This latter scenario appears to be exactly what happened.

Along these same lines, the FRA states that “ticket sales could generate between \$15 billion and \$39 billion in sales tax for the state plus \$5 billion in local tax revenue.”¹⁶⁹ These are the same figures Texas Central touted in its Petition for Exemption without any supporting data.¹⁷⁰

In sum, the FRA predicated its entire assessment of the Project’s need and the viability solely on Texas Central’s unproven word.

C. Texas Central still does not have any money.

In 2016, Texas Central admitted it had secured less than 1% of the financing it needs to construct the Project.¹⁷¹ In 2018, after receiving a \$300 million loan from Japan,¹⁷² Texas Central admitted it had secured only \$465 million in financing.¹⁷³ In its Response, Texas Central claims to have raised “over \$450 million in capital commitments.”¹⁷⁴ Notably, Texas Central has failed to disclose how (or when) it expects to raise the remaining \$18-\$20 billion needed for the Project.

TAHSR must also address Texas Central’s attempt to blame others for its inability to raise money. On page 46 of its Response, Texas Central states, “it is counterproductive to require applicants of major, multi-billion-dollar private rail project to convince the STB of the project’s financial viability, when a critical mass of investors will inevitably await the federal licenses and

¹⁶⁹ DEIS at 3.14-19.

¹⁷⁰ Petition for Exemption, p. 11. According to the Texas Comptroller’s Office, Texas does not have a sales tax on transportation. On numerous occasions, TAHSR requested clarification regarding this multi-billion-dollar issue from both the FRA and its consultant AECOM. The FRA declined to reply to the inquiry.

¹⁷¹ Exhibit Q.

¹⁷² Ray Leszcynski, *Texas Central lands \$300 million loan for Dallas-to-Houston bullet train project*, DALLAS MORNING NEWS (Sep. 13, 2018), <https://www.dallasnews.com/news/transportation/2018/09/13/texas-central-lands-300-million-loan-for-dallas-to-houston-bullet-train-project/>.

¹⁷³ Exhibit C (Texas Central sworn interrogatory response no. 10, served Nov. 20, 2018).

¹⁷⁴ Response, p. 46.

permits before committing to the project.” In other words, Texas Central insinuates the Board’s (and FRA’s) failure to rubberstamp the Project is the cause of its financing woes.

Yet, in 2015, Texas Central made the following representations to the Texas Attorney General in an effort to convince the Attorney General to shield Texas Central’s ridership study from public disclosure:¹⁷⁵

- “[Texas Central] is a private company currently seeking private funding to provide new and much-needed transportation infrastructure to two of Texas’ largest- and growing-metro areas”;
- “*Within the next six months*, [Texas Central] anticipates finishing its current round of funding and seeking additional funding from private sources. This is a critical moment for any business, particularly for one, like [Texas Central], offering a new technology for the state of Texas”;
- “If [REDACTED] ridership projections and [REDACTED] are disclosed, [Texas Central] will be placed at a disadvantage both in its *imminent funding process*...”;
- “[B]ecause of the sensitivity of investors during the funding process, disclosing outdated ridership projections or cost estimates would jeopardize [Texas Central’s] ability to obtain funding.”

The Board must assess Texas Central’s financial fitness in order to protect “the affected communities from needless disruptions and environmental impacts if the applicant were to start construction but not be able to complete the project and provide the proposed service.”¹⁷⁶ The Board has previously stated that “to properly analyze the transportation merits of the proposed action, accurate financial information is an essential component of a construction application.”¹⁷⁷

¹⁷⁵ Exhibit R. (emphasis added).

¹⁷⁶ *Tongue River Railroad Company, Inc.—Construction and Operation—Western Alignment*, FD No. 30186, 2007 WL 2936132 at *8 (STB served Oct. 9, 2007)).

¹⁷⁷ *Great Lakes Basin Transp., Inc.—Rail Construction and Operation*, FD No. 35952, 2017 WL 3835978 at *4 (STB served Aug. 31, 2017) (citing *Tongue River R.R.*, slip op. at 14).

In *Great Lakes Basin Transportation, Inc.*, the Board rejected an application from Great Lakes Basin Transportation (“GLBT”) to build a 261-mile rail line because GLBT’s assets of \$151 were “clearly deficient” for purposes of constructing the rail line.¹⁷⁸ In doing so, the Board also determined that it could not “reasonably rely” on the financial information purporting to show GLBT’s financial condition.¹⁷⁹

Previously, in *California High-Speed Rail Authority—Construction Exemption—In Fresno, Kings, Tulare, and Kern Counties*, FD No. 35274, 2013 WL 6328523 (STB served Dec. 4, 2013) (“*Cal-HSR I*”), the Board denied the Authority’s request for a conditional grant of exemption authority on the transportation aspects of the project prior to completion of the environmental review.¹⁸⁰ In her concurrence, Chairman Begeman cautioned against approval of any segments of this “enormous” project unless the Board “first carries out a comprehensive analysis of the segment at issue, including its financial fitness.”¹⁸¹ She stated the Board “should also understand its funding aspects, and then make a decision on a full record.”¹⁸² Finally, Chairman Begeman noted the complete lack of information regarding the Authority’s financial condition: “The Authority’s current petition fails to include any details about the project’s finances. That void needs to be corrected before the Board acts further.”¹⁸³

¹⁷⁸ *Id.* at *4.

¹⁷⁹ *Id.*

¹⁸⁰ *Cal-HSR II*, 2013 WL 6328523 at *2.

¹⁸¹ *Id.* at *4. Similarly, in *Cal-HSR I*, Chairman Begeman dissented from the Board’s decision to grant an exemption on the incomplete record before it. In doing so, she expressed her concern that the Board was setting dangerous precedent “in its dash to meet the authority’s tight deadlines.” *Cal-HSR I*, 2013 WL 3053064 at *20.

¹⁸² *Id.*

¹⁸³ *Id.*

Here, Texas Central has provided *no* information regarding its financial condition, other than its admission it has secured approximately 1-2% of the Project's estimated costs. In truth, Texas Central's financing pressures have been driving its hurry-up approach from day one—a multi-billion tail wagging this dog of a Project. Without a full record and assurance that sufficient funding is in place, the Board must deny Texas Central's Petition for Exemption. Texas Central should be required to demonstrate the extent to which funds are now available, the source(s) of funding, and a timeline regarding the acquisition of remaining funds. Texas Central must disclose this information to ensure that Texans are not left saddled with a half-built project.

D. Texas Central does not have the power to exercise eminent domain in Texas.

On May 7, 2019, a Leon County District Court issued a Final Judgment declaring that Texas Central is *not* a Railroad Company or Interurban Electric Railway under Texas law.¹⁸⁴ This Final Judgment emanated from hotly-contested, protracted state court litigation pending since 2016. Texas Central's appeal of the Final Judgment is pending before the 13th Court of Appeals in Corpus Christi, Texas.¹⁸⁵ Thus, the issue of whether Texas Central is a railroad company or interurban electric railway under Texas law will ultimately be decided by the 13th Court of Appeals or Texas Supreme Court, and will take several years to adjudicate.

As it stands, and unless and until the Final Judgment is reversed on appeal, Texas Central does not have the right to exercise eminent domain in Texas. Accordingly, Texas Central may not enter onto private property to conduct surveys for the Project, nor may it acquire the necessary right-of-way through the exercise of eminent domain.

¹⁸⁴ Exhibit S.

¹⁸⁵ Appeal No. 13-19-00297-CV, *Texas Central Railroad & Infrastructure, Inc. and Integrated Texas Logistics, Inc. v. James Fredrick Miles*, in the Court of Appeals for the Thirteenth Judicial District Corpus Christi-Edinburg, Texas.

Moreover, there continues to be substantial confusion surrounding the identity of the true moving entity(-ies) behind the Project.¹⁸⁶ Despite the fact that Texas Central Railroad & Infrastructure, Inc. (“TCRI”) and Texas Central Railroad, LLC are the only petitioners in this proceeding, TCRI continues to represent in sworn state court pleadings that “[TCRI] and Integrated Texas Logistics, Inc. (“ITL”) plan to construct the first high-speed passenger train in the United States.”¹⁸⁷ As the Board is aware, ITL is not a party to this proceeding.¹⁸⁸ When asked whether ITL intends to petition the Board for approval to construct, ITL and TCRI Vice-President Travis Kelly testified, “I’m not aware.”¹⁸⁹ It must also be noted that ITL did not appear as a party in *any* of the 40+ state court eminent domain lawsuits until it sued its first landowner at 5:58 pm on May 4, 2018, a few hours after Texas Central filed its Petition to Reopen.¹⁹⁰

Finally, in unsuccessful attempts to persuade Texas state courts that TCRI is a legitimate railroad with eminent domain authority,¹⁹¹ it has intimated that, as a result of the Petition to Reopen, the Board’s assertion of jurisdiction over the Project is a foregone conclusion. Specifically, Texas Central stated in a July 2018 pleading, “we expect the STB to assert jurisdiction over the Project this summer.”¹⁹² When that did not happen, TCRI told another court in September and November 2018, “we expect the STB to assert jurisdiction over the Project in the near

¹⁸⁶ See, e.g., Delta Troy’s Reply to Petition to Reopen, p. 14-17 (submitted May 31, 2018).

¹⁸⁷ See, e.g., Exhibit T.

¹⁸⁸ ITL is not a party to Texas Central’s alleged through-ticketing arrangement with Amtrak either.

¹⁸⁹ Exhibit G, p. 71, l. 1-6 (excerpts from deposition of Travis Kelly dated July 19, 2018).

¹⁹⁰ Exhibit U.

¹⁹¹ As the Board has recognized, “[w]hether a party has regulatory authority to acquire a line, or operate it, or both, is distinct from the question of whether it obtained the necessary state law property interest or contractual right to exercise that Board-granted authority.” *V&S Railway, LLC—Petition for Declaratory Order—Railroad Operations in Hutchison, Kan.*, FD 35459, 2014 WL 129128 (Jan. 14, 2014) at *3

¹⁹² Exhibit V.

future.”¹⁹³ Finally, earlier this year Vice-President Travis Kelly told the Texas Legislature that Texas Central expected the Board to assert jurisdiction over the Project.¹⁹⁴

E. Were the Board to find that it has post-ICCTA jurisdiction, it should follow its decision in *Ozark Mountain*.

The Board’s authority to exempt rail carrier transportation is provided by 49 U.S.C. § 10502. However, because Texas Central is *not a rail carrier*, the Board has no jurisdiction to exempt its operations.

Should the Board find that Texas Central is a rail carrier, it should nevertheless follow its reasoning expressed in *Ozark Mountain Railroad—Construction Exemption* proceeding. In that proceeding, the Board rejected Ozark Mountain’s attempt to use the exemption process. Instead, the Board required a detailed construction application for a project far less costly and significant than Texas Central’s.¹⁹⁵ In addition, the Board properly directed Ozark Mountain to provide financial information including “projected construction costs, pro forma profit and loss statements, and funding sources.”¹⁹⁶

In its Exemption Reply, TAHSR submitted the following chart (which has now been updated) comparing the factors set forth in *Ozark Mountain* to Texas Central’s Project:¹⁹⁷

¹⁹³ Exhibit W.

¹⁹⁴ [**VIDEO LINK - TEXAS CENTRAL TESTIFIES BEFORE THE TEXAS LEGISLATURE**](#)

¹⁹⁵ *Ozark Mountain Railroad – Construction Exemption*, FD No. 32204, 1995 WL 561990 at *4-6 (STB served Sep. 25, 1995).

¹⁹⁶ *Ozark Mountain Railroad – Construction Exemption*, FD No. 32204, 1994 WL 48847 at *3 (ICC served Feb. 19, 1994).

¹⁹⁷ TAHSR Exemption Reply, p. 16.

FACTORS CONSIDERED BY THE BOARD	OZARK PROJECT - SPECIFIC FACTS	TEXAS CENTRAL PROJECT - SPECIFIC FACTS
1. Magnitude of the Project	\$300 Million	\$18-\$20 Billion 60+ times greater than Ozark
2. Serious concerns raised by the public	200 letters from landowners	Approx. 3400 verified citizen statements, plus letters from Federal and State Congressmen, and eight County Opposition Replies
3. Questions as to financial viability	Legitimate questions raised by opponents	Reason Foundation, TxDOT Report, Dr. Harding and common sense nullify viability of TCR's Project
4. Uncertainty as to completion of project	Serious concerns raised by opponents	Texas Central has shown no ability to raise \$18-20 billion, despite the fact that it has been promoting the Project for over five years
5. Project sponsor would not supply financial documents	Railroad's refusal to produce documents was an impermissible collateral attack on Board authority	Texas Central has refused to provide <i>any</i> documents related to its finances
6. Questions as to ridership	Issues raised as to whether 5,000 passengers per day could be achieved	Near impossible goal of over 13,000 passengers per day
7. Undisclosed investors	The Board called Ozark's investor mysterious	Texas Central's investors are unknown

In *Ozark Mountain*—an indisputably much less severe fact pattern—the Board concluded the application process “is the more appropriate vehicle for the Commission to use in considering whether to approve the proposed construction and operation.”¹⁹⁸ Here, it is without question an application is the more appropriate vehicle given Texas Central's lack of transparency as to the

¹⁹⁸ *Ozark Mountain Railroad*, 1995 WL 561990 at *2.

Project’s business model, costs, financing, ridership estimates, and economic benefits, not to mention the significant impact the Project will have on thousands of Texans and the communities in which they live.

TAHSR is aware that the *Ozark Mountain* decision does not apply in all circumstances. For instance, in *California High-Speed Rail Authority—Construction Exemption—In Fresno, Kings, Tulare, and Kern Counties, Cal.*, FD No. 35724, 2014 WL 3973120 (STB served Aug. 12, 2014) (“*Cal-HSR III*”), wherein the Board was not presented with the explicit challenges to its jurisdiction that are presented herein, the Board stated that contrary to statements from the opposition, the decision in *Ozark Mountain* did not require that the Authority file an application. The Board explained that in *Ozark Mountain*, “the agency required an application because the project proponent was an entirely unknown entity that had provided no information on its investors or how it proposed to finance the construction of an estimated \$300 million rail line.”¹⁹⁹ The Board then contrasted *Ozark Mountain*, an “entirely unknown entity,” with the California Authority, “a known California state agency which, with regard to this Line, has received partial funding from a Federal grant.”²⁰⁰ The Board concluded, “[u]nlike the mysterious investors in *Ozark Mountain*, it is public knowledge that the State of California receives billions of dollars in tax revenues annually, and it is not for the Board to second guess California’s budget priorities.”²⁰¹

Texas Central is not the Authority. Texas Central is *Ozark Mountain*. It is an entirely unknown private entity that has provided *no* information regarding its investors or financial condition. Nor has Texas Central provided any information regarding how it proposes to finance

¹⁹⁹ *Cal-HSR III*, 2014 WL 3973120 at *9.

²⁰⁰ *Id.*

²⁰¹ *Id.*

its \$18-20 billion project other than to falsely represent that it will be “privately funded.” Unlike the Authority, Texas Central’s investors are a mystery and it does not receive billions of dollars in tax revenues annually. In fact, Texas Central is a mere start-up that does not generate any revenue. Finally, given that the Board has been provided substantial information “raising serious concerns about the impact of the proposal on the people who live in the area,” it should second guess Texas Central and its representations regarding the Project.²⁰²

F. Significant adverse impacts will occur if an exemption is granted.

1. As detailed in its public comments to the DEIS, the Project will have devastating environmental impacts.

On March 9, 2018, TAHSR submitted its comments to the DEIS, which detail: (1) the devastating environmental impacts resulting from the Project; and (2) numerous inaccuracies and contained in the DEIS.²⁰³ TAHSR incorporates its DEIS Comments for purposes here.

2. Over 3,400 affected Texas landowners and citizens have voiced their opposition to Texas Central and its Project through verified statements.

While the Project may benefit Texas Central, its Japanese partners, and a very few number of individuals who wish to travel between Dallas and Houston in 90 minutes by train, the interests of these very few must be weighed against the interests of the thousands of Texans whose entire lives will be impacted by loss of their land and the daily intrusion of trains whizzing by their homes at 200 miles per hour. In its Reply to Petition to Reopen, TAHSR submitted approximately 1,900 verified statements from affected Texas landowners and citizens who are adamantly opposed to the Project and to the relief requested by Texas Central in its Petitions.²⁰⁴ These statements are in

²⁰² *Id.*

²⁰³ Exhibit X (excluding attachments).

²⁰⁴ Reply to Petition to Reopen, Exhibit S (submitted May 31, 2018).

addition to the over 1,500 landowner and citizen statements TAHSR submitted in May 2016 in its Reply to Texas Central's Petition for Clarification.²⁰⁵

The mere fact that TAHSR was able to collect this many verified statements on such short notice (in addition to the 1,500 statements it gathered in 2016) speaks volumes to the widespread, consolidated opposition in the affected region. Due to Texas Central's lack of transparency, these citizens are relying on the Board "to stop Texas Central's continuing efforts to hide information from the Texans whose lives and communities will be permanently affected by this Project." Fully aware of the calamitous project in California, these citizens state that "the Board must require that Texas Central release all of its financials and related information to ensure that Texas does not end up with a half-built train." As the formal representative of these concerned citizens and landowners, TAHSR respectfully requests that the Board give these statements full consideration.

In addition, State Representatives Trent Ashby, Cecil Bell, Jr. Will Metcalf, John Wray and Ernest Bailes, and State Senators Brian Birdwell and Robert Nichols, have voiced their opposition to Texas Central and its Project.²⁰⁶ In their verified statements, these elected officials state that Texas Central "is attempting to circumvent State Law(s) and County regulations by reopening their application to the STB."²⁰⁷ In the event the Board takes jurisdiction, these officials ask the Board to take a "hard look" at the Project because "[Texas Central] has thus far avoided disclosing any substantiating data to support their claims."²⁰⁸ And, the Board has already received numerous filings opposing the Project, including from Congressman Kevin Brady.

²⁰⁵ Reply to Petition for Clarification, Exhibit 3 (submitted May 19, 2016).

²⁰⁶ Reply to Petition to Reopen, Exhibit N (submitted May 31, 2018).

²⁰⁷ *Id.*

²⁰⁸ *Id.*

Finally, the Project will also substantially impact the farming and ranching community. TAHSR previously submitted a Verified Statement from the Texas and Southwestern Cattle Raisers Association (“TSCRA”), a 141-year-old trade association with a membership of more than 17,500 beef cattle operations.²⁰⁹ On behalf of its 55,000 members, many of which who will be impacted by the Project, TSCRA opposes Texas Central’s Petition to Reopen.

3. The Project will adversely impact counties and communities.

The Project’s proposed 240-mile-long right-of-way, a sealed corridor, will bisect the ten Texas counties through which it passes. Construction of the rail line embankment will freeze in place the existing road network and obstruct future community development of roadways and transportation networks like school bus routes and bike paths.²¹⁰ The physical and jurisdictional issues surrounding roads in the counties through which the Project is proposed to be constructed are nearly insurmountable. Depending on the alternative selected by the FRA, between 231 and 237 roads would be crossed and between 147 to 246 roads would be impacted.²¹¹

Importantly, several counties have already passed resolutions stating that they will not close, abandon, vacate or alter any county road to accommodate the Project.²¹² The counties resolved further that all county roads must be maintained for use by the traveling public at all times during and after construction.²¹³ These counties also passed resolutions requiring Texas Central to provide proof of eminent domain authority prior to surveying, constructing, or performing any

²⁰⁹ Reply to Petition to Reopen, Exhibit O.

²¹⁰ As explained more fully in TAHSR’s DEIS Comments, this gross oversight renders the DEIS entirely inadequate under NEPA. Exhibit X, p. 69-72.

²¹¹ DEIS at 3.11-73.

²¹² See, e.g., Reply to Petition to Reopen, Exhibit P.

²¹³ *Id.*

work on county property.²¹⁴ In the DEIS, the FRA failed to discuss how the Project can be built in the face of this opposition. The passage of these county resolutions constitutes a material change to the design assumptions included in the DEIS—assumptions inconsistent with county law.

Moreover, as demonstrated by the Replies to Texas Central’s Petition for Exemption and Petition for Clarification filed by eight Texas counties along the corridor, the Project will have substantial adverse impacts on many aspects of the county road plan and county governance.²¹⁵ These substantial concerns regarding how Texas Central will work with the county government, given its past behavior, caused each of these counties to voice objections to Texas Central’s Petition for Exemption and Petition for Clarification.²¹⁶ In addition, several of these counties also opposed Texas Central’s Petition to Reopen.²¹⁷

CONCLUSION

TAHSR respectfully requests that the Board deny Texas Central’s Petition to Reopen and dismiss this proceeding for lack of jurisdiction. The Board gave Texas Central a chance, but it failed to provide the Board the information it requested.

Alternatively, if the Board determines it has jurisdiction, TAHSR requests that the Board deny the Petition for Exemption on the basis that the Board lacks sufficient information to make an informed decision. Requiring Texas Central to file a full application under 49 U.S.C. §10901 is merely requiring Texas Central to do what is required of any new entity requesting authority to

²¹⁴ *Id.*

²¹⁵ *See* Replies to Petition for Exemption (submitted May 19, 2016) and Replies to Petition for Clarification (submitted May 31, 2016) filed by Ben Leman (Grimes County), Trey Duhon (Waller County), H. M. Davenport (Navarro County), Linda Grant (Freestone County), Carol Bush (Ellis County), Byron Ryder (Leon County), Carl Cannon (Madison County), Daniel Burkeen (Limestone County).

²¹⁶ *Id.*

²¹⁷ TAHSR Reply to Petition to Reopen, Exhibit Q.

construct; that is, provide the Board with sufficient information regarding the Project so that it can make an informed decision. If the Board grants an exemption without requiring a full application, Texas Central may never disclose this critical information until it is too late.

Finally, TAHSR requests that the Board deny on the Petition for Exemption on the merits because the Project is not in the public's interest. Granting Texas Central an exemption will deny the public the opportunity to meaningfully comment and participate despite no real urgency. If the Board will require Texas Central to file a full application and disclose objective, verifiable information regarding its Project, and allow for discovery and meaningful public comment, the Board will see for itself the looming disaster.

Respectfully submitted,

/s/ M. Patrick McShan

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214-965-9300 (tel.)

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***Counsel for Texans Against High Speed
Rail, Inc.***

CERTIFICATE OF SERVICE

I hereby certify that I have served all parties of record in this proceeding with this document by United States mail or by e-mail on October 8, 2019.

/s/ Richard H. Streeter

I:/High-speed Train/Surface Transportation Board/Pleadings/TAHSR Reply2 TCR R2 STB Request.doc

Exhibit A

Setting the Record Straight

STB'S RULING ON TEXAS' HIGH-SPEED TRAIN

The Surface Transportation Board (STB) recently clarified that Texas' privately developed high-speed train project does not require board approval. That's because it will be constructed and operated entirely within the state of Texas and will not be part of the interstate rail network. Some have grossly misinterpreted the STB decision and its impact on Texas Central's project linking North Texas and Houston.

Here, fact-checking a news release from a group against the train, we set the record straight:

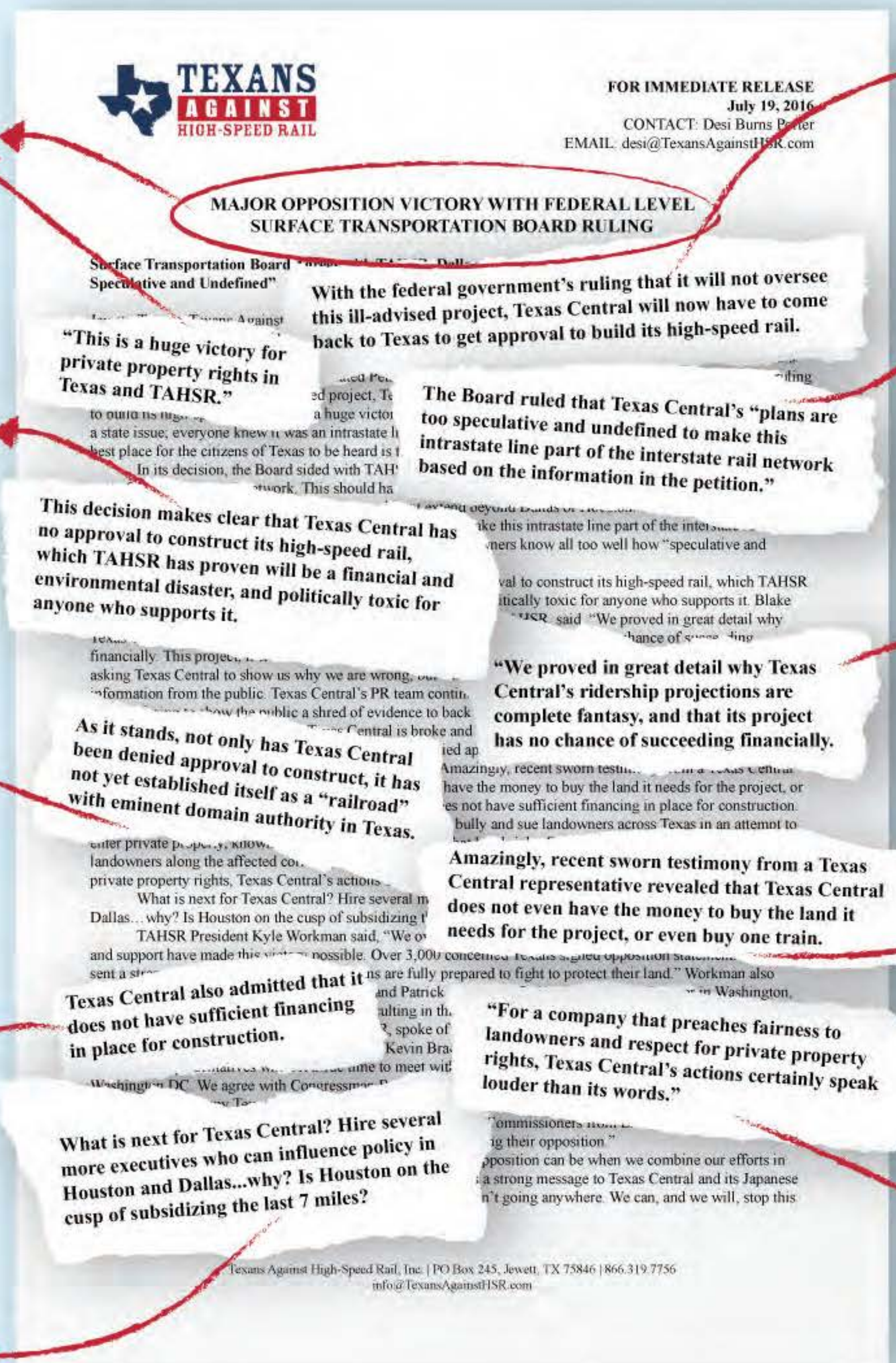
The STB's decision had nothing - zero - to do with property rights. With or without STB jurisdiction, the purchase of property and the protection of landowners was always a state issue.

False. STB's decision makes clear that the board's approval is not required. By removing a regulatory uncertainty, the construction of high-speed rail in Texas is even closer.

No such authority was requested. And therefore the STB did not deny it. Simply put: STB approval will not be required before construction can start. Look for construction to begin as soon as the federal environmental study is completed by the Federal Railroad Administration.

The project is in the development phase, for which there is ample funding.

Texas Central will not take federal grants for construction or public subsidies for operation. Repeating baseless, rhetorical questions or speculation will not make it a fact.



False. Once the current federal environmental review process is complete, construction will begin.

The only thing labeled as "undefined" were prospective plans with Amtrak.

False, no such proof was provided. Texas Central has tried to share its proprietary information with TAHSR, but that group would rather make bogus accusations than have access to the facts.

False again. Texas Central is buying land right now at an impressive clip and negotiations are underway with train and system suppliers based on standards and designs under review by the Federal Railroad Administration.

Landowners actions do, too - the majority of them have allowed voluntary access for surveys and many have accepted initial offers for the purchase of their land. Texas Central continues to keep its word.

Exhibit B

CAUSE NO. 98668

TEXAS CENTRAL RAILROAD &
INFRASTRUCTURE, INC., AND
INTEGRATED TEXAS LOGISTICS,
INC.

Plaintiffs,

v.

RONNY CALDWELL,
Defendant.

§ IN THE 40TH JUDICIAL DISTRICT COURT

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ELLIS COUNTY, TEXAS

**PLAINTIFFS' MOTION FOR PROTECTION AND MOTION TO
QUASH NOTICE OF INTENT TO TAKE ORAL AND
VIDEOTAPED DEPOSITION OF TIM B. KEITH**

Plaintiffs Texas Central Railroad & Infrastructure, Inc. ("TCRI") and Integrated Texas Logistics, Inc. ("ITL") file this Motion for Protective Order and Motion to Quash Notice of Intent to Take Oral and Videotaped Deposition of Tim B. Keith ("Motion") and would respectfully show the Court as follows:

INTRODUCTION

On October 1, 2018, counsel for Defendant Ronny Caldwell ("Mr. Caldwell") served a Notice of Intent to Take Oral and Videotaped Deposition ("Deposition Notice") on TCRI and ITL for the deposition of Chief Operating Officer Tim B. Keith ("Mr. Keith"). Mr. Keith has no unique personal knowledge of facts relevant to this lawsuit. Accordingly, TCRI and ITL move for a protective order prohibiting the apex deposition of Mr. Keith.¹

ARGUMENTS AND AUTHORITIES

Mr. Caldwell's counsel served the Deposition Notice by electronic delivery on Monday, October 1, 2018.² Mr. Keith is the President of TCRI and ITL, and has served in such capacity

¹ TCRI and ITL reserve all rights to seek further protection from the deposition.

² A true and correct copy of the Deposition Notice is attached hereto as Exhibit "A."

since 2015 and 2017 respectively. Mr. Keith has no unique or superior personal knowledge of the facts relevant to this lawsuit.³ Specifically, Mr. Keith possesses no unique or superior personal knowledge of the day-to-day operations of TCRI and ITL or their statuses as railroad companies and interurban electric railways.

The Texas Supreme Court has recognized that permitting depositions of high-ranking corporate officials such as Mr. Keith poses a significant risk of abuse. Accordingly, when a party notices the deposition of a high-ranking corporate official, a corporation may elect to quash the deposition by filing a motion for a protective order supported by a declaration denying the official's knowledge of relevant facts. *Crown Central Petroleum Corp. v. Garcia*, 904 S.W.2d 125, 128 (Tex. 1995). According to the "apex doctrine," a trial court should refuse to permit such a deposition unless the requesting party can demonstrate that the corporate official possesses unique or superior personal knowledge of discoverable information. *Id.* If no such knowledge is demonstrated, the requesting party must make a good faith effort to obtain the discovery through less intrusive means. *Id.* The protective order or motion to quash may only be modified if the requesting party can demonstrate that, despite its good faith effort, (1) there exists a reasonable indication that the official's deposition is calculated to lead to the discovery of admissible evidence, and (2) all less intrusive methods of discovery are unsatisfactory, insufficient, or inadequate. *Id.*; see also *In re Alcatel USA, Inc.*, 11 S.W.3d 173, 175–76 (Tex. 2000).

As a high-ranking official of a corporate party with no relevant knowledge of the issues to be explored at the proposed deposition, Mr. Keith should be excused from appearing and testifying under the "apex doctrine." Mr. Caldwell cannot demonstrate, nor has he attempted to demonstrate, that Mr. Keith possesses unique or superior personal knowledge of discoverable information. Due

³ See Declaration of Tim B. Keith, incorporated herein and attached hereto as Exhibit "B."

to Mr. Keith's lack of personal knowledge of facts relevant to the above-captioned lawsuit, his testimony is not calculated to lead to the discovery of admissible evidence. Further, Mr. Caldwell previously sought and obtained depositions of the corporate representatives of TCRI and ITL. Plaintiffs have agreed to allow Mr. Caldwell to utilize those depositions in this matter. In light of the deposition testimony already available to Mr. Caldwell, Mr. Caldwell cannot, nor has he attempted to, show that less intrusive methods of discovery (i.e., the use of prior depositions of ITL's and TCRI's corporate representatives) are unsatisfactory, insufficient, or inadequate.

It would set an unreasonable precedent to allow each and every landowner who opposed the railroad and TCRI's and ITL's right to survey to take depositions of TCRI's and ITL's senior executives. Because Mr. Keith lacks knowledge of facts relevant to the legal issues implicated by this lawsuit, TCRI and ITL seek a protective order from this Court prohibiting Mr. Caldwell from taking the apex deposition of Mr. Keith. Since this Motion is timely filed on or before the third business day after service of the Deposition Notice, the noticed deposition is automatically stayed. *See* TEX. R. CIV. P. 199.4. TCRI and ITL reserve all rights to seek protections from the requested deposition in accordance with the Texas Rules of Civil Procedure.

PRAYER

WHEREFORE PREMISES CONSIDERED, Texas Central Railroad & Infrastructure, Inc. and Integrated Texas Logistics, Inc. respectfully request that the Court grant this Motion for Protective Order and Motion to Quash Notice of Intent to Take Oral and Videotaped Deposition of Tim B. Keith, and for any further relief in equity or in law to which they may be justly entitled.

Respectfully submitted,

/s/ Monte F. James

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ATTORNEYS FOR PLAINTIFFS TEXAS
CENTRAL RAILROAD &
INFRASTRUCTURE, INC. AND
INTEGRATED TEXAS LOGISTICS, INC.

CERTIFICATE OF SERVICE

This is to certify that on this the 4th day of October, 2018, a true and correct copy of the foregoing document was served via:

E-Service

Blake Beckham

Patrick McShan

The Beckham Group

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/s/ Monte F. James

Monte F. James

CAUSE NO. 98668

TEXAS CENTRAL RAILROAD &
INFRASTRUCTURE, INC., AND
INTEGRATED TEXAS LOGISTICS,
INC.

Plaintiffs,

v.

RONNY CALDWELL,

Defendant.

§ IN THE 40TH JUDICIAL DISTRICT COURT

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§ ELLIS COUNTY, TEXAS

DECLARATION OF TIM B. KEITH

1. My name is Tim B. Keith. I am over the age of 21 and am fully competent to make this Declaration. I have personal knowledge of the facts stated herein, and they are all true and correct.

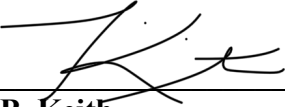
2. I am the President of Texas Central Railroad & Infrastructure, Inc. ("TCRI") and Integrated Texas Logistics, Inc. ("ITL"), Plaintiffs in the above-entitled and action. I have served in those roles since 2015 and 2017, respectively.

3. I understand that I have been noticed for a deposition in Cause No. 98668 in the 40th Judicial District Court of Ellis County, Texas (the "Lawsuit").

4. I have very minimal or no personal knowledge of facts relevant to this lawsuit. Specifically, any knowledge that I have relating to this Lawsuit would be second-hand, comprised of reports and information from TCRI and ITL employees. I do not possess any knowledge unique or superior to that of the TCRI and ITL employees who are actually acquainted with the facts and issues relating to this Lawsuit.

I declare under penalty of perjury that the foregoing Paragraphs 1–4 are true and correct.

Executed in Milan Italy, on the 4th day of October 2018.



Tim B. Keith

Exhibit C

CAUSE NO. 18-C-3883

TEXAS CENTRAL RAILROAD &
INFRASTRUCTURE, INC., AND
INTEGRATED TEXAS LOGISTICS,
INC.

Plaintiffs,

v.

RONNY CALDWELL,

Defendant.

§ COUNTY COURT AT LAW NO. 1

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ELLIS COUNTY, TEXAS

**PLAINTIFF TEXAS CENTRAL RAILROAD & INFRASTRUCTURE,
INC.'S SECOND SUPPLEMENTAL OBJECTIONS AND RESPONSES TO
DEFENDANT'S FIRST SET OF INTERROGATORIES**

TO: Defendant Ronny Caldwell, by and through his attorney of record, Blake L. Beckham, THE BECKHAM GROUP, P.C., 3400 Carlisle, Suite 550, Dallas, Texas 75204.

Plaintiff Texas Central Railroad & Infrastructure, Inc. ("TCRI") serves these Second Supplemental Objections and Responses to Defendant's First Set of Interrogatories pursuant to Texas Rule of Civil Procedure 197.

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFFS TEXAS
CENTRAL RAILROAD &
INFRASTRUCTURE, INC. AND
INTEGRATED TEXAS LOGISTICS, INC.

CERTIFICATE OF SERVICE

This is to certify that on this the 20th day of November, 2018, a true and correct copy of the foregoing document was served via:

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Megan Davis Sturn

begin construction of the test track and related facilities. For clarity, TCRI told the Court in Leon County that “The second factor that’s important is in Ellis County is where we’re going to build the test track, and its related facilities. And, we need to begin on that. And, so Ellis County is a higher priority for Texas Central than Leon County is in terms of getting started.” This is the “test track” and “related facilities” Defendant is referring to in this interrogatory.

RESPONSE: TCRI objects to this request because it is compound and seeks proprietary, trade secret, and confidential material.

Subject to and without waiving these objections, and subject to TCRI’s prior responses, TCRI does not yet have a firm date to begin construction of the test track and related facilities.

INTERROGATORY NO. 9: State the total amount, in dollars, of the total estimated capital and construction costs for the Proposed Project.

RESPONSE: TCRI objects to this discovery request because it seeks information that is not relevant. Tex. R. Civ. P. 192.3(a).

TCRI objects to this discovery request because it is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3(a).

The total estimated capital and construction costs of the Project would not be relevant in a condemnation action and is certainly irrelevant in this survey action. *See Pizzitola v. Hous. Indep. School Dist.*, No. 13-05-249-CV, 2006 Tex. App. LEXIS 4369, 2006 WL 1360838 (Tex. App.—Corpus Christi 2006, no pet.); *see also Clear Lake City Water Auth. v. Clear Lake Country Club, L.P.*, 340 S.W.3d 27, 39 (Tex. App.—Houston [1st Dist.] 2011, no pet.); *Dakota, Minnesota & E. Rr. Corp. v. South Dakota*, 236 F. Supp. 2d 989 (D.S.D. 2002) (holding that a state financing requirement amounted to regulation of a railroad company that was preempted by the Surface Transportation Board).

Subject to the above and foregoing objections and without waiving the same, the total estimated capital and construction costs are approximately \$18 billion. TCRI reserves the right to supplement this response should the total estimated costs change.

INTERROGATORY NO. 10: State the total amount, in dollars, of the private financing currently available to TCRI for the construction and operation of the Proposed Project.

RESPONSE: TCRI objects to this discovery request because it seeks information that is not relevant. Tex. R. Civ. P. 192.3(a).

TCRI objects to this discovery request because it is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3(a).

The total amount, in dollars, of the private financing currently available to TCRI for the construction and operation of the Project would not be relevant in a condemnation action and is certainly irrelevant in this survey action. *See Pizzitola v. Hous. Indep. School Dist.*, No. 13-05-249-CV, 2006 Tex. App. LEXIS 4369, 2006 WL 1360838 (Tex. App.—Corpus Christi 2006, no pet.); *see also Clear Lake City Water Auth. v. Clear Lake Country Club, L.P.*, 340 S.W.3d 27, 39

(Tex. App.—Houston [1st Dist.] 2011, no pet.); *Dakota, Minnesota & E. Rr. Corp. v. South Dakota*, 236 F. Supp. 2d 989 (D.S.D. 2002) (holding that a state financing requirement amounted to regulation of a railroad company that was preempted by the Surface Transportation Board).

Subject to the above and foregoing objections and without waiving the same, the total amount, in dollars, of the private financing available to TCRI and/or ITL for the construction and operation of the Proposed Project as of November 15, 2018 is \$465 million. This response is presented subject to the protective order signed by the parties and TCRI hereby designates the total amount of the private financing available to TCRI and/or ITL as “for attorneys’ eyes only.”

INTERROGATORY NO. 11: Has any federal or state governmental or regulatory body or agency authorized TCRI to construct the Proposed Project? If so, identify all such bodies or agencies.

RESPONSE: TCRI objects to this discovery request as ambiguous and because it seeks information that is not relevant. Tex. R. Civ. P. 192.3(a).

TCRI objects to this discovery request because it is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3(a).

TCRI objects to this discovery request because it is an impermissible fishing expedition.

Subject to and without waiving these objections, TCRI answers as follows: No, because currently no such authorization is required; TCRI is not at the construction phase of the project. The Federal Railroad Administration and the Army Corps of Engineers are the primary regulators and agencies who will be responsible for issuing an environmental permit to TCRI to build the Project. Further, TCRI believes that it is subject to the jurisdiction of the Surface Transportation Board.

INTERROGATORY NO. 12: To the extent you claim TCRI may construct its Proposed Project prior to seeking or obtaining approval or authority from the State of Texas or any state agency or regulatory body, state the basis of this claim.

RESPONSE: TCRI objects to this discovery request because it is ambiguous and impermissibly requests that TCRI render a legal opinion.

Subject to and without waiving this objection, TCRI answers as follows: Currently no such authorization is required. TCRI believes that it is subject to the jurisdiction of the Surface Transportation Board.

VERIFICATION

I, Travis Kelly, make the following declaration.

1. My name is Travis Kelly. My birth date is January 23, 1982. I am fully competent to make this Declaration. I have personal knowledge of the facts stated herein, and they are all true and correct. My address is 1409 South Lamar Street Suite 1022, Dallas, Texas 75215.

2. I have read Plaintiff Texas Central Railroad & Infrastructure, Inc.'s ("TCRI") Second Supplemental Objections and Responses to Defendant's First Set of Interrogatories and I am familiar with its contents. The factual statements set forth therein are true and correct to the best of my personal knowledge and based on information I acquired in the process of responding to the requests on behalf of TCRI.

3. I reserve the right to make any changes in the aforesaid answers if it should appear at any time that omissions or errors have been made, or that additional or more accurate information has been obtained.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNED this 20th day of November, 2018.



Travis Kelly

Exhibit D

**MEMORANDUM OF
UNDERSTANDING**

**AMONG FEDERAL RAILROAD ADMINISTRATION,
TEXAS DEPARTMENT OF TRANSPORTATION,
TEXAS CENTRAL HIGH-SPEED RAILWAY, LLC, AND
URS CORPORATION, A NEVADA CORPORATION**

RE: Environmental Analysis and Preparation of Appropriate Environmental Documents
Relating to New Core Express Service (High-Speed Rail) - **Dallas to Houston.**

I. Introduction and Purpose

- A. Texas Central High-Speed Railway, LLC or its affiliates ("Applicant") may submit applications to the Federal Railroad Administration ("FRA") for loans or for other approvals or regulatory actions associated with the New Core Express Service (High-Speed Rail) - Dallas to Houston ("Project"). The Applicant may also apply to other federal agencies for approvals associated with the Project to support its Project.
- B. In considering these requests ("Application"), the FRA will consider the potential environmental impacts resulting from the Project pursuant to the National Environmental Policy Act of 1969 ("NEPA"). The FRA will prepare a project-level environmental impact statement. The FRA has adopted aspects of the Surface Transportation Board's environmental procedures for this review, and pursuant to 40 CFR 1506.5(c), 49 CFR 1105.4(j), and 1105.10(d), FRA has selected, and Applicant has agreed to engage at Applicant's expense, URS Corporation, ("Contractor") as the Independent Third Party Contractor for this environmental review. Contractor shall assist the FRA, as the lead Federal agency, in conducting

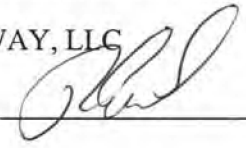
D. If the Applicant withdraws its intent to pursue the Project, the Contractor shall provide to FRA, Applicant and TxDOT all work product prepared under this MOU and/or the Contract, at no cost to FRA or TxDOT.

X. Modification

This MOU may be modified only by written amendment executed by the FRA, the Applicant, the Contractor, and TxDOT.

TEXAS CENTRAL HIGH-SPEED

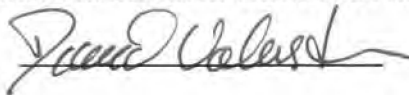
RAILWAY, LLC

By: 

Title: President

Date: 7/7/14

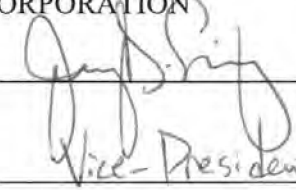
FEDERAL RAILROAD ADMINISTRATION

By: 

Title: Division Chief

Date: July 29, 2014

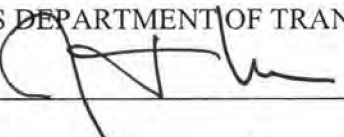
URS CORPORATION

By: 

Title: Vice-President

Date: 7/3/14

TEXAS DEPARTMENT OF TRANSPORTATION

By: 

Title: Executive Director

Date: 7/14/23

Exhibit E

Page 1

1 CAUSE NO. 16-C-3638

2 DARREN EAGLE, § IN THE COUNTY COURT

3 Plaintiff, §

4 VS. §

5 TEXAS CENTRAL RAILROAD & §

6 INFRASTRUCTURE, INC., § AT LAW NUMBER 1

7 Defendant, §

8 VS. §

9 INTEGRATED TEXAS LOGISTICS, §

10 INC., §

11 Intervenor. § ELLIS COUNTY, TEXAS

12 CAUSE NO. 18-C-3883

13 TEXAS CENTRAL RAILROAD & § IN THE COUNTY COURT

14 INFRASTRUCTURE, INC., and §

15 INTEGRATED TEXAS LOGISTICS, §

16 INC., § AT LAW NUMBER 1

17 Plaintiffs, §

18 VS. §

19 RONNY G. CALDWELL, §

20 Defendant. § ELLIS COUNTY, TEXAS

21 CAUSE NO. 18-C-3460

22 TEXAS CENTRAL RAILROAD & § IN THE COUNTY COURT

23 INFRASTRUCTURE, INC., and §

24 INTEGRATED TEXAS LOGISTICS, §

25 INC., § AT LAW NUMBER 1

26 Plaintiffs, §

27 VS. §

28 WILLIAM H. GETZENDANER, JR., §

29 as Trustee of the §

30 GETZENDANER TRUST, §

31 Defendant. § ELLIS COUNTY, TEXAS

Page 2

1 -----

2

3 ORAL AND VIDEOTAPED DEPOSITION OF

4 TRAVIS KELLY

5 (as Corporate Representative of

6 Texas Central Railroad & Infrastructure, Inc.,

7 and Integrated Texas Logistics, Inc.)

8 DECEMBER 4, 2018

9 -----

10 ORAL AND VIDEOTAPED DEPOSITION of TRAVIS KELLY,

11 produced as a witness at the instance of Defendant

12 Caldwell, and duly sworn, was taken in the above-styled

13 and numbered cause on the 4th of December 2018, from

14 9:11 a.m. to 6:12 p.m., before Molly Carter, CSR in and

15 for the State of Texas, reported by machine shorthand, at

16 the offices of Jackson Walker, LLP, 100 Congress Avenue,

17 Suite 1100, Austin, Texas, pursuant to the Texas Rules of

18 Civil Procedure and the provisions stated on the record

19 or attached hereto.

20

21

22

23

24

25

Page 3

1 APPEARANCES

2

3 FOR TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC., and

4 INTEGRATED TEXAS LOGISTICS, INC.:

5 MR. MONTE F. JAMES

6 MR. ROBERT B. NEBLETT

7 Jackson Walker, LLP

8 100 Congress Avenue, Suite 1100

9 Austin, Texas 78701-4099

10 Phone: (512) 236-2000

11 mjames@jw.com

12 rneblett@jw.com

13 FOR RONNY CALDWELL:

14 MR. M. PATRICK McSHAN

15 The Beckham Group, P.C.

16 3400 Carlisle, Suite 550

17 Dallas, Texas 75204

18 Phone: (214) 965-9300

19 patrick@beckham-group.com

20 FOR WILLIAM GETZENDANER:

21 MR. RONALD E. BUNCH

22 Attorney at Law

23 112 South Rogers, 2nd Floor

24 Waxahachie, Texas 75168

25 Phone: (972) 937-7080

reb@7080@sbcglobal.net

FOR DARREN EAGLE:

MR. DEREK D. ROLLINS

Shackelford, Bowen, McKinley & Norton, LLP

9201 North Central Expressway, Fourth Floor

Dallas, Texas 75231

Phone: (214) 780-1400

drollins@shackelford.law

ALSO PRESENT:

MR. JASON WARNER, VIDEOGRAPHER

MS. KATIE BARNES

Page 4

I N D E X	
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TRAVIS KELLY	
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Signature and Changes	264
Reporter's Certificate	266
EXHIBITS	
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Exhibit 1	Joint Notice of Intent to Take Deposition of Texas Central Railroad & Infrastructure, Inc., and Integrated Texas Logistics, Inc. 7
Exhibit 2	Amended Declaration of Travis Kelly 11
Exhibit 3	TCP Structure Chart 27
Exhibit 4	Certificate of Filing of Integrated Texas Logistics, Inc. 38
Exhibit 5	Verified Original Petition and Application for Injunctive Relief 43
Exhibit 6	2/7/17 Texas Tribune Article: "High-Speed Train Developer Withdraws Lawsuits Against Texas Landowners" 53
Exhibit 7	Verified First Amended Petition and Application for Injunctive Relief and Declaratory Judgment 59
Exhibit 8	Certificate of Formation for TXHS Railroad, Inc. 70

Page 5	Page 7
1 EXHIBITS: (Continued) 2 Exhibit 9 Plaintiff Texas Central Railroad & 3 Infrastructure, Inc.'s Objections and 4 Responses to Defendant's First Set of Interrogatories 72 5 Exhibit 10 Plaintiff Texas Central Railroad & 6 Infrastructure, Inc.'s First Supplemental 7 Objections and Responses to Defendant's 8 First Set of Interrogatories 72 9 Exhibit 11 Plaintiff Texas Central Railroad & 10 Infrastructure, Inc.'s Second Supple- 11 mental Objections and Responses to 12 Defendant's First Set of Interrogatories 72 13 Exhibit 12 12/26/12 Letter from TXHS Railroad, Inc., 14 to Comptroller Susan Combs 76 15 Exhibit 13 Plaintiff Integrated Texas Logistics, 16 Inc.'s Objections and Responses to 17 Defendant's First Set of Interrogatories 83 18 Exhibit 14 V.T.C.A., Transportation Code, §199.003 . 91 19 Exhibit 15 Information about TCRI from Comptroller's 20 Online Eminent Domain Database 104 21 Exhibit 16 Information about ITL from Comptroller's 22 Online Eminent Domain Database 104 23 Exhibit 17 V.T.C.A., Transportation Code, §112.052, 24 §112.053 and §131.012 105 25 Exhibit 18 Reporter's Record of 11/20/18 Motion(s) to Consolidate and Motion to Compel Hearing 114 Exhibit 19 Defendant Texas Central Railroad & Infrastructure, Inc.'s Objections and Responses to Darren Eagle's First Set of Interrogatories 121 Exhibit 20 Aerial Photographs/Maps from Website 121 Exhibit 21 Affidavit of Shaun McCabe 123	1 THE VIDEOGRAPHER: Today is December 4th, 2018. 2 The time is 9:11 a.m. We're on the record. 3 TRAVIS KELLY, 4 having been first duly sworn, testified as follows: 5 EXAMINATION 6 BY MR. McSHAN: 7 Q Can you state your name for the record, please? 8 A My name is Byron Travis Kelly. 9 Q Mr. Kelly, are you taking any medications, or 10 is there any other reason that you could not testify 11 truthfully today? 12 A No, sir. 13 Q Can you review what I've marked as Exhibit 14 Number 1? Do you recognize that document? 15 A I do. 16 Q And that's the -- for purposes of today, Texas 17 Central Railroad & Infrastructure, Inc., we've had many 18 of these depositions, I'm going to refer to them as TCRI. 19 Will you understand what I'm referring to when I say 20 TCRI? 21 A I will. 22 Q And as for Integrated Texas Logistics, Inc., 23 the Plaintiff in some of these cases, the Intervenor in 24 another, I'm going to refer to them as ITL, is that okay? 25 A That's okay.
Page 6	Page 8
1 EXHIBITS: (Continued) 2 Exhibit 22 Plaintiffs' Amended Motion for Partial 3 Summary Judgment 138 4 Exhibit 23 Article from FRA Website: "Dallas to 5 Houston High-Speed Rail - Draft Environmental Impact Statement" 187 6 Exhibit 24 PowerPoint Slides from 6/27/16 7 Presentation on Dallas to Houston High 8 Speed Rail Project to Dallas City Council and Transportation and Trinity River Project Committee 189 9 Exhibit 25 10/10/18 Press Release: Texas Central 10 Names Global Railway Company Renfe as Its High-Speed Train Operating Partner 212 11 Exhibit 26 Excerpts from Motion to Continue Hearing 12 in Leon County 224 13 Exhibit 27 Plaintiff Integrated Texas Logistics, 14 Inc.'s Second Supplemental Objections and Responses to Defendant's First Set of Interrogatories 229 15 Exhibit 28 Hand Drawing 243 16 Exhibit 29 11/5/18 Article from Community Impact 17 Newspaper: "Questions Remain for Texas 18 Central High-Speed Rail Slated for Houston" 250 19 Exhibit 30 11/28/18 Article from Houston Chronicle: 20 "Things to Know About Houston-Dallas High-Speed Bullet Train Beginning Construction in 2019" 259	1 Q And then as you know, we're taking this 2 deposition on behalf of three landowners, Mr. Caldwell, 3 Mr. Getzendaner and Mr. Eagle. If I refer to the Ellis 4 County landowners today, will you understand that that's 5 who I'm referring to? 6 A Those three landowners? 7 Q Those three landowners. 8 A Correct. 9 Q And if I'm going to refer to the Ellis County 10 landowners as a whole or any of these three property 11 owners individually, I'll say Caldwell, Getzendaner, or 12 Eagle. Do you understand that? 13 A I understand. 14 Q But if it gets confusing at any point in time, 15 let me know, because I don't want you answering questions 16 that apply to everybody if I'm just asking about one or 17 two of them. 18 Do you understand that you've been designated to 19 testify on behalf of TCRI and ITL on the majority of -- 20 or all the topics that are listed in Exhibit 1? 21 A I do understand. 22 MR. JAMES: Objection, form. 23 Q (By Mr. McShan) Can you give me your -- or what 24 position do you hold for Texas Central, or TCRI? 25 A I'm a vice president for TCRI.

Page 249 1 THE WITNESS: My understanding is that it will. 2 Q (By Mr. McShan) Will TCRI need a Record of 3 Decision before it can begin construction of the test 4 track? 5 MR. JAMES: Objection, form. 6 THE WITNESS: My understanding is that it will. 7 Q (By Mr. McShan) Do TCRI or ITL have a business 8 plan? 9 A TCRI and ITL don't have a written-down document 10 called a business plan, no. 11 Q Well, what do they have that would constitute a 12 business plan, if anything? 13 MR. JAMES: Objection, form. 14 THE WITNESS: TCRI and ITL are going about 15 their business and building a railroad and interurban 16 electric railway, 240-mile high-speed passenger rail 17 system that will connect Dallas and Houston, but don't 18 have a document labeled "business plan." 19 Q (By Mr. McShan) Do they have any sort of 20 document or set of documents or information to share with 21 an investor or with Renfe or anybody else that lays out 22 any sort of business plan? 23 MR. JAMES: Objection, form. 24 THE WITNESS: I'm not, I'm not familiar with 25 the documents that are shared with investors.	Page 251 1 A She is an officer in TCRI and ITL. 2 Q And she's referring to a \$300 million loan from 3 two Japanese entities, and she says, "This loan is 4 important for many reasons," Reed said. 'This loan shows 5 that somebody has looked at our business plan [who] is a 6 major global financial player and made a loan to the 7 project." 8 Do you know what business plan Ms. Reed is referring 9 to in that quote? 10 A I'd have to speculate. I don't believe that 11 she is here referring to a specific document, but rather 12 the totality of those, of what has been done by the 13 project. I don't believe she's referring here to a 14 specific document. 15 Q So you don't believe that Texas Central or ITL 16 possess a document that could be termed "a business 17 plan"? 18 MR. JAMES: Objection, form. That's the fourth 19 time you've asked him about a business plan, and it's 20 nearly 6:00 o'clock. It's been asked and answered. 21 Q (By Mr. McShan) Next paragraph says, "Since a 22 Draft Environmental Impact -- Environmental Statement was 23 issued by the FRA in December 2017, Texas Central 24 officials have given 2019 as a target date for when 25 construction could begin." Do you agree that 2019 is a
Page 250 1 Q (By Mr. McShan) Who would be familiar with 2 those documents, out of the TCRI's officers and 3 directors? 4 MR. JAMES: Objection, form. 5 THE WITNESS: I'd have to speculate what 6 someone else might know about something that I'm not 7 familiar with. 8 Q (By Mr. McShan) So you as TCRI and ITL's 9 corporate representative do not know which of TCRI or 10 ITL's officers have knowledge of the business plan? 11 MR. JAMES: Objection, form. 12 THE WITNESS: That's not what I -- that wasn't 13 the question, and that's not what I -- that's not what I 14 said. What I said was I'm not familiar with there being 15 a written-down document called a business plan. 16 Q (By Mr. McShan) I'm marking for you what I've 17 designated as Exhibit 29. This is an article that was 18 published in Community Impact Newspaper on, I think it 19 was November 5th, 2018, in the most recent media blitz. 20 And I've got a couple of questions here. 21 If you'll flip to the third page -- are you 22 there? 23 A I am. 24 Q Second full paragraph starts with a quote from 25 Holly Reed. And who's Holly Reed?	Page 252 1 feasible target date for when construction could begin on 2 this project? 3 A My understanding of the environmental review 4 process, it could conclude within calendar 2019, which 5 would allow for the following activities to take place 6 and construction could, could commence in 2019. That 7 was, that is admittedly aggressive. I believe that it is 8 unlikely, but not technically impossible for construction 9 to begin in 2019. 10 Though this, this paragraph appears to have been 11 written by the reporter and not attributed to a 12 particular Texas Central representative nor associated 13 with a certain date where that statement could have been 14 made. 15 Q So you think the reporter may have made up that 16 date? 17 MR. JAMES: Objection, form. 18 THE WITNESS: I believe it is possible that at 19 one point 2019 was, was provided as a more likely date 20 for the beginning of construction activity. 21 Q (By Mr. McShan) Let's look at the sixth page of 22 that article, please, under the -- 23 MR. JAMES: What page is it, on it? 24 MR. McSHAN: 6 of 14 on the bottom right. It's 25 the little small numbers.

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1 I, TRAVIS KELLY, have read the foregoing deposition
 2 and hereby affix my signature that same is true and
 3 correct, except as noted above.
 4
 5 TRAVIS KELLY
 6
 7 THE STATE OF TEXAS :
 8 COUNTY OF _____ :
 9 Before me, _____, on this
 10 day personally appeared TRAVIS KELLY, known to me (or
 11 proved to me under oath or through _____)
 12 (description of identity card or other document) to be
 13 the person whose name is subscribed to the foregoing
 14 instrument and acknowledged to me that they executed the
 15 same for the purposes and consideration therein
 16 expressed.
 17 Given under my hand and seal of office this _____
 18 day of _____ 2018.

NOTARY PUBLIC IN AND FOR

THE STATE OF _____

MY COMMISSION EXPIRES: _____

Page 266

1 CAUSE NO. 16-C-3638
 2 DARREN EAGLE, § IN THE COUNTY COURT
 3 Plaintiff, §
 4 VS. §
 5 TEXAS CENTRAL RAILROAD & §
 6 INFRASTRUCTURE, INC., § AT LAW NUMBER 1
 7 Defendant, §
 8 VS. §
 9 INTEGRATED TEXAS LOGISTICS, §
 10 INC., § ELLIS COUNTY, TEXAS
 11 Intervenor. §
 12
 13 CAUSE NO. 18-C-3883
 14 TEXAS CENTRAL RAILROAD & § IN THE COUNTY COURT
 15 INFRASTRUCTURE, INC., and §
 16 INTEGRATED TEXAS LOGISTICS, §
 17 INC., § AT LAW NUMBER 1
 18 Plaintiffs, §
 19 VS. §
 20 RONNY G. CALDWELL, §
 21 Defendant. § ELLIS COUNTY, TEXAS
 22
 23 CAUSE NO. 18-C-3460
 24 TEXAS CENTRAL RAILROAD & § IN THE COUNTY COURT
 25 INFRASTRUCTURE, INC., and §
 26 INTEGRATED TEXAS LOGISTICS, §
 27 INC., § AT LAW NUMBER 1
 28 Plaintiffs, §
 29 VS. §
 30 WILLIAM H. GETZENDANER, JR., §
 31 as Trustee of the §
 32 GETZENDANER TRUST, §
 33 Defendant. § ELLIS COUNTY, TEXAS

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1
 2 REPORTER'S CERTIFICATION
 3 DEPOSITION OF TRAVIS KELLY
 4 (as Corporate Representative of
 5 Texas Central Railroad & Infrastructure, Inc.,
 6 and Integrated Texas Logistics, Inc.)
 7 DECEMBER 4, 2018
 8
 9 I, MOLLY CARTER, Certified Shorthand Reporter in and
 10 for The State of Texas, hereby certify to the following:
 11 That the witness, TRAVIS KELLY, was duly sworn by
 12 the officer and that the transcript of the oral
 13 deposition is a true record of the testimony given by the
 14 witness;
 15 That the deposition transcript was submitted on
 16 December 7, 2018 to the witness or to the attorney for the
 17 witness for examination, signature and return to me by
 18 December 27, 2018;
 19 That the amount of time used by each party at the
 20 deposition is as follows:
 21 MR. MONTE F. JAMES: (00:00)
 22 MR. ROBERT B. NEBLETT: (00:00)
 23 MR. M. PATRICK McSHAN: (06:14)
 24 MR. RONALD E. BUNCH: (00:00)
 25 MR. DEREK D. ROLLINS: (00:00)
 That pursuant to information given to the deposition
 officer at the time said testimony was taken, the
 following includes counsel for all parties of record:

Page 268

1 FOR TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC., and
 2 INTEGRATED TEXAS LOGISTICS, INC.:
 3 MR. MONTE F. JAMES
 4 MR. ROBERT B. NEBLETT
 5 Jackson Walker, LLP
 6 100 Congress Avenue, Suite 1100
 7 Austin, Texas 78701-4099
 8 Phone: (512) 236-2000
 9 FOR RONNY CALDWELL:
 10 MR. M. PATRICK McSHAN
 11 The Beckham Group, P.C.
 12 3400 Carlisle, Suite 550
 13 Dallas, Texas 75204
 14 Phone: (214) 965-9300
 15 FOR WILLIAM GETZENDANER:
 16 MR. RONALD E. BUNCH
 17 Attorney at Law
 18 112 South Rogers, 2nd Floor
 19 Waxahachie, Texas 75168
 20 Phone: (972) 937-7080
 21 FOR DARREN EAGLE:
 22 MR. DEREK D. ROLLINS
 23 Shackelford, Bowen, McKinley & Norton, LLP
 24 9201 North Central Expressway, Fourth Floor
 25 Dallas, Texas 75231
 Phone: (214) 780-1400
 I further certify that I am neither counsel for,
 related to, nor employed by any of the parties or
 attorneys in the action in which this proceedings was
 taken, and further that I am not financially or otherwise
 interested in the outcome of the action.
 Further certification requirements pursuant to Rule
 203 of TRCP will be certified to after they have
 occurred.

Page 269

1 Certified to by me this 7th day of December 2018.

2
3
4
5 ~~MOLLY CARTER, CSR, RPR, CRR~~
6 CSR NO. 2613, Expires 12-31-19

7 Lexitas - Firm Reg. No. 17
8 1016 La Posada, Suite 294
9 Austin, Texas 78752
Telephone: (512) 465-9100
10
11
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22
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24
25

Page 270

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP

2 The original deposition /signature page was/was not
3 returned to the deposition officer on _____;

4 If returned, the attached Changes and Signature page
5 contains any changes and the reasons therefor;

6 If returned, the original deposition was delivered
7 to MR. M. PATRICK McSHAN, Custodial Attorney;

8 That \$ _____ is the deposition officer's charges
9 to the Defendant Caldwell for preparing the original
10 deposition transcript and any copies of exhibits;

11 That the deposition was delivered in accordance with
12 Rule 203.3, and that a copy of this certificate was
13 served on all parties shown herein on _____
14 and filed with the Clerk.

15 Certified to by me this _____ day of _____
16 2018.
17
18

19 ~~MOLLY CARTER, CSR, RPR, CRR~~
20 CSR NO. 2613, Expires 12-31-19

21 Lexitas - Firm Reg. No. 17
22 1016 La Posada, Suite 294
23 Austin, Texas 78752
24 Telephone: (512) 465-9100
25

Exhibit F

DECLARATION OF TRAVIS KELLY

1. My name is Travis Kelly. My birth date is January 23, 1982. I am fully competent to make this Declaration. I have personal knowledge of the facts stated herein and they are all true and correct. My address is 1409 South Lamar Street Suite 1022, Dallas, Texas 75215.

2. I am employed by TRH Employeeco LLC. I am an officer of Texas Central Railroad & Infrastructure, Inc. ("TCRI") and hold the position of Vice President. I have held that position since 2012. I am familiar with TCRI's original Certificate of Formation and its Certificate of Amended filed with the Texas Secretary of State. I have knowledge of the operations of TCRI from its formation to present day, and the efforts TCRI has undertaken and continues to undertake in order to construct and operate a high-speed passenger train. I am also an officer of Integrated Texas Logistics ("ITL"), and I have held the position of Vice President since its formation in 2017. I am familiar with ITL's Certificate of Formation filed with the Texas Secretary of State. I have knowledge of the operations of ITL from its formation to present day, and the efforts ITL has undertaken and continues to undertake in order to construct and operate a high-speed passenger train.

3. TCRI is a Texas corporation. It was formed in 2012 for the purpose of constructing, operating and maintaining a 240-mile long high-speed passenger railway that connects Dallas/Fort Worth and Houston (the "Project"). Attached as Exhibit "A-1" to this declaration is a true and correct copy of TCRI's Amended Articles of Incorporation filed in 2015, which state that TCRI was formed to "build, maintain and operate an interurban electric railroad." TCRI is primarily responsible for pre-construction activities related to design and right-of-way acquisition and overall construction responsibility for the Project. TCRI is also responsible for the construction activities related to the tracks, stations, platforms, power systems, communication systems, and other infrastructures along the route. Attached to this declaration as Exhibit "A-3" is a true and correct copy of the Texas Comptroller's Eminent Domain Database entries for TCRI for 2016, 2017, and 2018.

4. ITL is also a Texas corporation. ITL was chartered in 2017 for the express purpose of building and operating an interurban electric railway. ITL will support and assist TCRI and contractors in the procurement, storage, and timely delivery of the rolling stock and component parts necessary for construction. ITL will also procure, own, and operate any short line railroads necessary to facilitate the Project. Following construction, ITL will maintain the rail infrastructure and rolling stock. Attached as Exhibit A-2 to this declaration is a true and correct copy of ITL's Certificate of Formation. Attached to this declaration as "Exhibit A-4" is a true and correct copy of the Texas Comptroller's Eminent Domain Database entry for ITL for 2018.

5. Once constructed, the state-of-the-art Shinkansen technology will allow the train to travel at speeds approaching 200 miles per hour, resulting in a travel time from Houston to Dallas of less than 90 minutes. Those speeds mean that little variance in curvature of the route can be tolerated. Since its formation, TCRI has been working diligently to perform the tasks necessary to construct and operate the Project. Today, there are nearly 100 technical experts

DECLARATION OF TRAVIS KELLY

the FRA hearing held in Leon County. The public comment period ended on March 9, 2018. A Final Environmental Impact Statement is expected to be issued in the first quarter of 2019.

8. At the same time, TCRI and its affiliates have been working with the United States Army Corps of Engineers ("Army Corps") to secure the necessary permits that will be required to construct its railway over the various waters of the United States that will be crossed along its proposed 240-mile long route. In order to obtain information to satisfy the environmental review and permitting process, the FRA and the Army Corps have requested the physical inspection of the routes being considered for the proposed rail line. Since January of 2016, TCRI has been actively conducting the requisite on-the-ground surveys and examinations and has, to date, conducted over 2,000 surveys and examinations in an effort to ensure that the routes will support the Project. In addition, TCRI has obtained over 4,000 signed survey permit forms from landowners, granting TCRI the right to enter landowners' property and conduct surveying activities for the purpose of constructing the railroad. The difference between the over 4,000 signed survey permit forms and the 2,000 surveys and examinations is the discretion TCRI exercised by not surveying non-affected properties as the Preferred Build Alternative was finalized. In addition to these efforts, TCRI and its affiliates have hosted 29 public town halls and given more than 1,500 public presentations along the route.

9. In addition to its regulatory activities, TCRI and its affiliates have engaged several private contractors to assist in the construction and management of the Project. Arup Texas, Inc. and Freese and Nichols, Inc. have provided management, consulting, and environmental permitting services related to the environmental impact of the Project. In addition, TCRI has engaged Fluor Enterprises and the Lane Construction Corporation to perform construction planning activities with engineering support from WSP, a leading engineering and professional services consultancy. Fluor Enterprises, the Lane Construction Corporation, WSP, and Survey and Mapping, LLC are refining and updating construction planning and sequencing, scheduling and cost estimates and other design and engineering activities. Fluor Enterprises is a global engineering firm and is currently number 149 on the Fortune 500 list of companies. These activities have been guided by the release of the DEIS. In addition, ITL has engaged Bechtel to manage the Project. Bechtel has completed more than 300 major train and subway projects, including the Channel Tunnel High Speed 1, Crossrail in London, Riyadh Metro and Dulles Corridor Metrorail in the Washington, D.C., area. In addition to these contractors, TCRI has employed law firms, appraisers, surveyors, architects, railroad operations advisors, market research and customer experience consultants, ridership forecasting experts, and financial advisors. TCRI has also contracted with Amtrak to connect the Project to Amtrak's extensive interstate rail network. Terminals in Dallas and Houston will connect to Amtrak's system, and passengers will be able to purchase through-tickets through the Amtrak reservations system that permit the passenger to travel on both systems. Amtrak does not currently offer service between Dallas and Houston and does not currently plan to offer such services outside of the agreement with TCRI. Under the agreement, TCRI will also be required to provide shuttle services to through-ticket passengers to and from Amtrak's stations.

10. On May 4, 2018, TCRI and its affiliates formally requested that STB assert jurisdiction over the project. While the STB formerly declined jurisdiction over the Project based on a finding that it only involved intrastate transportation, TCRI's new relationship with

DECLARATION OF TRAVIS KELLY

Amtrak connects the Project to the interstate rail network. Accordingly, the Project will involve transportation between Texas and other states. A true and correct copy of the Application for STB Certification is attached hereto as Exhibit "A-7."

11. Furthermore, TCRI is actively entering into voluntary option agreements to secure the right to purchase right-of-way needed to construct the railroad, and, as of execution of this declaration, has negotiated options to purchase hundreds of properties. Like surveying and examining for a proposed route, acquiring the right to purchase land needed for the railway is a business operation that must be engaged in prior to constructing the railroad on which trains will travel and for which tickets will be sold.

12. TCRI has developed a process for coordinating surveys and examination of property. If a landowner's property may be impacted by the Project, TCRI sends the landowner a letter notifying them of the potential impact and TCRI's need to access the landowner's property. The landowner is also given a land agent representative contact to assist in the discussions. Then, one of TCRI's agents will reach out to the landowner to meet in person and discuss the Project, and request access to enter the landowner's property. The landowner is then presented with a survey permission form that, if executed by the landowner, will allow TCRI and its agent(s) to conduct the surveys and examinations necessary to select the most advantageous route for the proposed railway. TCRI consistently works with landowners to modify the survey permission form in a way that provides TCRI access to conduct the activities it needs to conduct, while providing the landowners with assurances that said work will be done in the least invasive way possible. TCRI's agents are usually able to develop a written agreement that is mutually agreeable to the parties.

13. TCRI followed this procedure with respect to Mr. Miles, but Mr. Miles remains vehemently opposed to any attempt by TCRI and its affiliates to exercise their rights under the Texas Transportation Code. Mr. Miles is a member of the Texans Against High Speed Rail interest group ("TAHSR"). His counsel in this matter also represents TAHSR and several other landowners impacted by the Project. Counsel for Mr. Miles has represented several land owners that have permitted TCRI to conduct surveys on their properties.

14. TCRI does not currently own any rolling stock and has not constructed a depot station or any train track.

I declare under penalty of perjury that the foregoing Paragraphs 1-14 are true and correct.

Executed in TRAVIS County, Texas, on the 18th day of July, 2018.



Travis Kelly

DECLARATION OF TRAVIS KELLY

Exhibit G

1 CAUSE NO. 16-0137CV
 2 JAMES FREDRICK MILES,) IN THE DISTRICT COURT
 3 Plaintiff,)
 4 vs.) 87th JUDICIAL DISTRICT
 5 TEXAS CENTRAL RAILROAD &)
 6 INFRASTRUCTURE, INC.,)
 7 Defendant,)
 8 and)
 9 INTEGRATED TEXAS)
 10 LOGISTICS, INC.,)
 11 Intervenor.) LEON COUNTY, TEXAS

12 *****

13 ORAL VIDEOTAPED DEPOSITION

14 BYRON TRAVIS KELLY

15 July 19, 2018

16 *****

17
 18
 19
 20 ORAL VIDEOTAPED DEPOSITION OF BYRON TRAVIS KELLY,
 21 produced as a witness at the instance of the Plaintiff
 22 and duly sworn, was taken in the above-styled and
 23 numbered cause on the 19th day of July, 2018, from
 24 9:17 a.m. to 2:28 p.m., before April Balcombe-Anderson,
 25 Certified Shorthand Reporter in and for the State of

1 ALSO PRESENT:

2
 3 Mr. Byron Travis Kelly,
 4 the Witness; and
 5 Ms. Katie Barnes; and
 6 Mr. Jordan Mummert,
 7 the Videographer; and
 8 Ms. April Balcombe-Anderson,
 9 the Court Reporter.
 10
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 12
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 24
 25

1 Texas, reported by computerized stenotype machine at the
 2 offices of Jackson Walker, LLP, 100 Congress Avenue,
 3 Suite 1100, Barton Springs Room, Austin, Texas 78701
 4 pursuant to the Texas Rules of Civil Procedure and the
 5 provisions stated on the record or attached hereto.

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7
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1 EXHIBITS (cont.) 2 EXHIBIT DESCRIPTION PAGE 3 Exhibit 9 Report of conversation between 90 4 James Miles and members of the 5 Texas Central team at the Leon 6 County Open House 7 Exhibit 10 One-Pager 105 8 Exhibit 11 Document entitled "Texas Bullet 119 9 Train Moves Ahead with Federal 10 Environmental Report" 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 get you out of here before 3:00. Okay? 2 A. Great. 3 Q. Is that fair? 4 A. Fair. 5 (Exhibit 1 marked). 6 Q. (BY MR. McSHAN) I will hand you what I have 7 marked as Kelly Exhibit 1. 8 If you'll take a moment and review that 9 document for the record, please. 10 A. Okay. 11 Q. You'll see on the final page there, there's a 12 verification with your signature; is that correct? 13 A. That's correct. 14 Q. And -- and you'll see in the verification, it 15 says that you have read these answers and that you 16 verified that every statement was within your personal 17 knowledge and true and correct at the time that you 18 signed that on January 5th, 2017; is that correct? 19 A. That's correct. 20 Q. And I'm going to look at a few of these 21 answers. Some of them, your counsel objected, and so 22 I'm not going to ask you about those; or some of them, 23 there was objections, but there was also an answer by 24 you, and I would like to ask about those. 25 Let's start with interrogatory number 1,
Page 6	Page 8
1 P-R-O-C-E-E-D-I-N-G-S 2 THE VIDEOGRAPHER: This is the deposition 3 of Travis Kelly. The date is July 19th, 2018. The time 4 is approximately 9:17 a.m. We are on the record. 5 Will the court reporter please swear in 6 the witness. 7 (Witness sworn). 8 BYRON TRAVIS KELLY, 9 having been first duly sworn, testified as follows: 10 EXAMINATION 11 QUESTIONS BY MR. McSHAN: 12 Q. Please state your name for the record. 13 A. My name is Byron Travis Kelly. 14 Q. Mr. Kelly, we took -- we had a deposition with 15 you about a month ago, so you know how this works. 16 I understand you need to leave by 17 3:00 o'clock today; is that correct? 18 A. I need to be in a car headed to the airport by 19 3:00, yeah. 20 Q. Okay. I will respect your time. I ask that 21 you and your counsel respect mine. Let's -- if you need 22 a break, let's take one, but let's try to keep the 23 breaks short today and -- I will try not to mess up the 24 lunch schedule like I did last time -- take a reasonable 25 lunch, and then we'll get through this, and I may even	1 which asks you to identify and describe the surveys that 2 Texas Central must conduct on Mr. Miles' property. 3 Do you see that in interrog- -- 4 interrogatory number 1? 5 A. I see that. 6 Q. And is -- is the list that is -- and I'll give 7 you a second to review it, but is the list contained 8 there on interrogatory number -- in answer to 9 interrogatory number 1, is that -- is that list accurate 10 as of today; or has that list changed from January 1st, 11 2017, to today? 12 A. (Witness reviews document). 13 This list provided -- provides what would 14 initially be -- or what would be the initial surveys 15 that would be conducted. 16 For example, if likely habitats of 17 protected flora and fauna are found, subsequent analysis 18 might need to be conducted on the property to verify or 19 to determine what mitigation approaches might be 20 appropriate. Likewise for follow-up on the 21 archaeological, historical investigations. 22 So this would be the initial surveys. 23 This is the -- the required survey to get started, and 24 then with subsequent surveys and analysis as required 25 depending upon what is -- is discovered during these

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1 not -- that's a legal question. This witness is not 2 qualified to answer that question. 3 I'm instructing him not to answer. 4 MR. McSHAN: And what basis are you 5 instructing him not to answer? 6 MR. JAMES: The question calls for a legal 7 conclusion of which this witness is not qualified to 8 give. 9 Don't answer the question. 10 Q. (BY MR. McSHAN) If the STB declines 11 jurisdiction, does TCRI have any intention of asking the 12 legislature to reenact the Texas high-speed rail 13 authority or some similar authority to oversee its 14 project? 15 MR. JAMES: I'm going to instruct the 16 witness not to answer it based on the fact that the 17 question calls for a legal conclusion of which this 18 witness is not qualified to give. 19 Don't answer the question. 20 MR. McSHAN: What legal conclusion am I 21 asking for? I'm asking for their intention of what 22 they're going to do. I'm not asking him to conclude 23 anything, Monte. 24 MR. JAMES: My instruction stands. 25 Q. (BY MR. McSHAN) Are you going to follow your	1 referring to when it says "application for STB 2 certification"? 3 MR. JAMES: Objection. Form. 4 A. I don't. 5 Q. (BY MR. McSHAN) Is that certification for 6 approval to construct? 7 MR. JAMES: Objection. Form. 8 A. I would have to speculate. I'm not certain. 9 Q. (BY MR. McSHAN) Now, the second sentence of 10 your declaration, paragraph 10, says: While STB 11 formerly had declined jurisdiction over the project 12 based on a finding that involved intrastate 13 transportation, TCRI's new relationship with Amtrak 14 connects the project to the interstate rail network. 15 Do you believe that to be a true 16 statement? 17 A. I believe that to be a true statement. 18 Q. What is your understanding of TCRI's new 19 relationship with Amtrak? 20 MR. JAMES: Objection. Form. 21 A. My understanding is that we have agreed to 22 purchase some services from Amtrak, including some -- 23 some marketing-type services. They have, obviously, a 24 great deal experience of moving people by train across 25 the country, a great number of people every single day.
Page 58	Page 60
1 counsel's instruction? 2 A. I am. 3 Q. Getting back to this exhibit, as we sit here 4 today, the statement "TCRI, of course, will not begin 5 construction of its proposed rail line without board 6 approval," is that a true statement? 7 MR. JAMES: Objection. Form. 8 A. If the Surface Transportation Board assumes 9 jurisdiction over the project, the project would have to 10 receive approval from the board prior to construction is 11 my -- that's my understanding. 12 Q. (BY MR. McSHAN) Has -- let's look back at 13 Exhibit 2, which is the Amended Summary Judgment. 14 All right. Let's look at your 15 declaration, please. 16 You there? 17 A. I am. 18 Q. Okay. Paragraph 10 discusses various facts 19 related to TCRI's most recent effort to obtain STB 20 jurisdiction, and the final two sentences say: 21 Accordingly, the project will involve transportation 22 between Texas and other states. A true and correct copy 23 of the application for STB certification is attached 24 hereto as Exhibit A-7. 25 Do you know what certification TCRI is	1 So they -- we are purchasing services from them in that 2 regard. 3 We've also agreed to a through ticketing 4 or a joint-ticketing agreement with Amtrak where 5 passengers on the bullet train will be able to purchase 6 tickets on any Amtrak reservation system across the 7 country, including their in-station kiosk or app or 8 1-800 number and any other means that might be available 9 at the time, for a trip that would include use of both 10 the Amtrak system and the bullet train system. 11 So if one were traveling, say, from 12 St. Louis to New Orleans, they would book a single 13 ticket through the Amtrak reservation system and travel 14 from St. Louis to Dallas via Amtrak, transfer via a 15 shuttle service that's provided by Texas Central from 16 the Amtrak station in Dallas to the high-speed train 17 station in Dallas, take the bullet train to Houston, 18 board another shuttle there provided by Texas Central 19 that would take that passenger from the Houston bullet 20 train station to the Houston Amtrak station, where they 21 would board their train on to New Orleans in this 22 scenario. 23 Q. (BY MR. McSHAN) You mentioned in that answer 24 that there would be a transfer via shuttle service 25 that's provided by Texas Central from the Amtrak station

Page 61	Page 63
1 in Dallas to the high-speed train station in Dallas. 2 Do you know how far physically it is from 3 the proposed station location in Dallas to the Dallas 4 Amtrak station? 5 A. My recollection is, as the crow flies, maybe a 6 mile and a half. 7 Q. Okay. And what about in Houston, how far is 8 the Houston station from TCRI's proposed station? 9 A. I don't recall specifically, but some -- some 10 distance greater than a mile and a half. 11 Q. Does it -- approximately nine miles sound 12 right? 13 A. I don't know. 14 Q. But it's -- it's -- it's significantly more 15 than a mile and a half, correct? 16 MR. JAMES: Objection. Form. 17 A. It's some distance greater than a mile and a 18 half. 19 Q. (BY MR. McSHAN) Now, when you say "via 20 shuttle," what are you referring to? 21 Or let me -- or let me -- that's a bad 22 question. Strike that question. 23 Whose responsibility is it, Amtrak or 24 Texas Central's, to get people from -- to and from the 25 Amtrak station and the TCR proposed station?	1 shuttle service between the -- the two stations in both 2 Dallas and Houston. 3 Q. (BY MR. McSHAN) If you could look at the 4 initial Motion for Summary Judgment, please. 5 MR. JAMES: What exhibit number? 6 MR. McSHAN: It's -- I think it's -- 7 MR. JAMES: 4. 8 MR. McSHAN: -- 4, Monte. 9 Q. (BY MR. McSHAN) And then let's -- if you could, 10 flip to Exhibit A-7, which is the Petition to Reopen. 11 All right. See it there? 12 Now, if you could, Mr. Kelly, keep 13 flipping. There's actually exhibits attached to the 14 Petition to Reopen. 15 There is Exhibit 1, which is Amtrak and 16 Texas Central Reservation and Ticketing Agreement. I 17 think that's been referred to before as the "RTA." 18 Are you familiar with that document? 19 A. I'm generally familiar with this document. 20 Q. And then the second one that's in here is 21 Exhibit 2, the VCA, which is the Voluntary Coordination 22 Agreement. 23 Do you see that document? 24 A. I do. 25 Q. All right. Let's look at paragraph 6, which
Page 62	Page 64
1 A. The service is being developed currently. We 2 are -- that's one of the things that we will be working 3 on Amtrak -- with Amtrak to -- to resolve. There will 4 be a number of solutions required for a wayfinding 5 within the current Amtrak station. 6 And we are anticipating this service for 7 the design of our station in Dallas so that the 8 specifics of that -- of that service have not yet been 9 refined and finalized. 10 The same would be true in Houston. 11 MR. McSHAN: I'm going to object as 12 nonresponsive. 13 Q. (BY MR. McSHAN) I'm going to ask again. You 14 got close to answering it and maybe you don't know the 15 answer, but I'm going to try one more time. 16 I just want to know -- I know you don't 17 know the specifics of the shuttle service yet. I'm just 18 asking you if you know, as you sit here today, whose 19 responsibility is it going to be, Texas Central, Amtrak, 20 or a combination, or both their responsibility, to 21 shuttle persons to and from TCRI's proposed station 22 locations and the Amtrak stations? 23 MR. JAMES: Objection. Form. 24 A. My understanding of the agreement would call 25 for Texas Central to be responsible for operating that	1 says "Connection between Services." 2 MR. JAMES: Section 6 or paragraph 6? 3 MR. McSHAN: I guess section 6, number -- 4 wherever it says number 6, page 3. 5 Q. (BY MR. McSHAN) Now, section 6 confirms what 6 you just told me, that with respect to the facilitation 7 of the passenger connection, that Texas Central agrees 8 to provide at its expense a transfer service between the 9 stations. That's correct? 10 MR. JAMES: Objection. Form. 11 A. Will you restate the question? 12 Q. (BY MR. McSHAN) I just am asking you to confirm 13 that Section 6 provides that Texas Central will be 14 responsible for facilitating passenger connections 15 between the Texas Central station and Amtrak stations? 16 MR. JAMES: Objection. Form. 17 A. I agree. 18 Q. (BY MR. McSHAN) All right. Now, can you tell 19 me -- strike that. 20 What efforts, if any, has Texas Central 21 made to date in order to be in a position to provide 22 that transfer service once passenger service commences? 23 A. The team working on the design of the Dallas 24 station and the Houston station understands that, 25 included in those designs, they now have to accommodate

Page 65 1 this service. It has to accommodate the connection of 2 a -- of a -- of a shuttle of some sort. And so we're 3 working on what that -- what that might be. 4 We've had to identify for the FRA with 5 some general specificity what type of service we're 6 envisioning so that the environmental impact of that 7 service can be -- can be included in the ongoing 8 environmental review of the project. 9 So we have -- we are looking at available 10 technologies and looking at that in relation to the 11 level of service that will need to be provided both in 12 Dallas and Houston and which technologies might best 13 accommodate that, so that those plans can be 14 incorporated into ongoing planning for the station 15 design and -- and the thoroughfare planning around the 16 stations in both Dallas and Houston. 17 Q. You'll see in Section 6 that this passenger 18 connection services referred to as capital T, capital S 19 Transfer Service, correct? 20 A. I see that. 21 Q. As we sit here today, do you know by what mode 22 of transportation Texas Central intends to effectuate 23 this transfer service? 24 A. As I sit here today, I don't believe that 25 decision has been finally made.	Page 67 1 A. It's not -- to my knowledge, it's not been 2 determined whether Texas Central would self-perform or 3 the -- this operation or would contract out for that, or 4 what technology might be used, and I am unaware of 5 conversations with third parties in regards to their 6 providing of this specific service. 7 Q. Are you aware that the term of this agreement 8 that we're looking at in Exhibit 2 of Exhibit A-7 from 9 the summary judgment is a 3-year term from the 10 commencement of passenger service? 11 A. Could you point me to that in this document? 12 Q. Page 6, Section 11. 13 A. I see that. 14 Q. Does -- do you know as you sit here today 15 whether Texas Central intends to continue to provide the 16 transfer service outlined in Section 6 beyond the 17 initial three-year term of this agreement? 18 MR. JAMES: Objection. Form. 19 A. I would have to speculate. I don't know. 20 Q. (BY MR. McSHAN) Now, this Petition to Reopen, 21 if you flip back a few pages -- let's look at page 8, 22 which is the "Conclusion." 23 MR. JAMES: Page what? 24 MR. McSHAN: 8 of the Petition to Reopen. 25 It says "Conclusions," and it's got a
Page 66 1 Q. So you don't know whether it's going to be a 2 bus or Uber or a walkway or what? You don't know? 3 MR. JAMES: Objection. Form. 4 A. As I sit here today, that analysis is ongoing 5 as to which types of technology are available now, which 6 types of technology are in development that might be 7 available upon the commencement of passenger operations. 8 And there may be a different technology solution in 9 the -- in Dallas relative to Houston, potentially, given 10 the -- the delta and the differences needed to be 11 covered and the difference in the thoroughfare planning 12 around each station. 13 So in one area one technology might make 14 more sense then, and another area, another station, a 15 different technology, a different solution, might make 16 sense. 17 And that analysis is ongoing now with both 18 the stationary teams and -- and -- and other working 19 groups within the company, but all working with the 20 common understanding of the type of service that has to 21 be provided per our contract with Amtrak. 22 Q. (BY MR. McSHAN) Has Texas Central discussed or 23 negotiated with any transportation companies regarding 24 the retention of those companies for the purposes of 25 providing this transfer service?	Page 68 1 signature page on it. 2 Do you see that? 3 MR. JAMES: Now, tell me where again. 4 MR. McSHAN: I'm sorry, Monte. It's the 5 conclusion of the actual Petition to Reopen, which is 6 Exhibit A -- 7 MR. JAMES: Yeah, I know that. 8 Where are you in that document? 9 MR. McSHAN: Page 8, "Conclusion." 10 MR. JAMES: Where does it say 11 "Conclusion"? Well, I'm in the wrong one, then. 12 Hang on. 13 THE WITNESS: It's ahead of -- ahead of 14 that. 15 MR. JAMES: Ahead of it? 16 THE WITNESS: Yeah. That's a -- yeah. 17 That's an exhibit and he's looking at the final page. 18 MR. McSHAN: Page 8 of Exhibit A-7. 19 MR. JAMES: Okay. 20 Q. (BY MR. McSHAN) All right. Now, you see there 21 it says, this is the -- the Petition to Reopen we're 22 looking at, that's what's referred to in your 23 declaration as the "Application for Certification"; 24 correct? 25 MR. JAMES: Objection. Form.

Page 69	Page 71
1 Q. (BY MR. McSHAN) All right. Let's go back and 2 look at your declaration. 3 THE REPORTER: Was there an answer? 4 MR. JAMES: No. 5 THE REPORTER: Thanks. 6 Q. (BY MR. McSHAN) See paragraph 10 of your 7 declaration? 8 MR. JAMES: Wait just a second. 9 Section 10? 10 MR. McSHAN: Yes. 11 MR. JAMES: Okay. 12 Q. (BY MR. McSHAN) All right. You see what's 13 the -- what -- you see the -- where the final sentence, 14 it says "A true and correct copy of the application for 15 STB certification is attached hereto as Exhibit A-7." 16 Did I read that correctly? 17 A. You did read that correctly. 18 Q. All right. Now, let's go to Exhibit A-7, which 19 you've referred to in your declaration as the 20 "Application for STB Certification." I'm looking at 21 page 8. 22 It says: Texas Central requests that the 23 boards reopen this proceeding, assert jurisdiction over 24 the Texas Central line, and grant the exemptions 25 requested by Texas Central's exemption petition.	1 A. One of the other entities is ITL. 2 Q. Has ITL filed any petitions or sought any 3 relief from the STB? 4 A. No. 5 Q. Does it intend to do so? 6 A. I'm not aware. 7 MR. McSHAN: Let's take a break. I'm 8 going to call Jimmy and get an update on what's going 9 on. 10 MR. JAMES: It's -- this will be a good 11 use of our time. It's 11:24. You want to use this now. 12 THE VIDEOGRAPHER: The time's 11:24. 13 We're off the record. 14 (Lunch recess, 11:24 a.m. to 12:39 p.m.). 15 THE VIDEOGRAPHER: Time is 12:39. We're 16 on the record. 17 (Exhibit 8 marked). 18 Q. (BY MR. McSHAN) Mr. Kelly, I have marked for 19 you Exhibit 8, which is a copy of your deposition that 20 you gave on June 29th. I understand that since it's a 21 recent deposition, you haven't had a chance to make any 22 corrections or changes, but I'd still like to ask you a 23 couple of questions about some answers you gave on that 24 date. 25 And I've marked two pages there. You need
Page 70	Page 72
1 Do you understand the exemptions that 2 Texas Central is seeking in its exemption petitions? 3 MR. JAMES: Objection. Form. 4 A. I have a general understanding of the 5 exemptions. 6 Q. (BY MR. McSHAN) What is that general 7 understanding? 8 A. My general understanding is that there are some 9 regulations, some oversight, that STB is statutorily 10 capable of exerting over railroads but typically or 11 often don't do so over passenger railroads, and we are 12 requesting exemption from -- from some of those. 13 But I -- that's my understanding. I'm -- 14 I didn't write it. I'm not a lawyer. I'm not sure. 15 Q. And the petitioners who are seeking those 16 exemptions are TCRI and Texas Central Railroad, LLC; 17 correct? 18 A. That is correct. 19 Q. And those are two of the entities that are 20 going to construct and operate the high-speed train, 21 correct? 22 A. Those are two of the entities that will -- 23 Q. And -- 24 A. -- construct and operate the railroad. 25 Q. And the other entity is who?	1 to go to page 63, please, which is the first mark I have 2 there. It's double-sided and I've highlighted some 3 language there. 4 You will see that I asked you on page 63, 5 line 2: "Is it a true statement that ITL was created to 6 erase any question as to TCRI's ability to enter onto 7 and survey the property?" 8 And you gave an answer, and towards the 9 end of the answer, you said: "So ITL was created to 10 erase any question as to TCRI or ITL's authority to 11 enter onto and survey the property." 12 As we sit here today on July 19th, is -- 13 that answer you gave, is that still an accurate answer? 14 A. ITL was created out of an abundance of caution 15 because of arguments that were made as it relates to 16 TCRI's eminent domain authority, arguments that TCRI had 17 waived its authority. We disagree with those, with that 18 argument. 19 ITL was created in part to -- out of an 20 abundance of caution to remove any doubt as to -- or 21 to -- to resolve that, but also to perform specific 22 functions for the project related to the procurement of 23 rolling stock and maintenance equipment -- maintenance 24 of way equipment, the transport of materials to the 25 construction site, the storage of construction

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1 That pursuant to information given to the
2 deposition officer at the time said testimony was taken,
3 the following includes all parties of record:

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19 That the amount of time used by each party at the
20 time of the deposition is as follows:

21 Mr. McShan (3h2m)

22 Attorney for Plaintiff

23 That a copy of this certificate was served on all
24 parties shown herein on _____ and filed
25

Page 134

1 with the Clerk.

2 I further certify that I am neither counsel for,
3 related to, nor employed by any of the parties in the
4 action in which this proceeding was taken, and further
5 that I am not financially or otherwise interested in the
6 outcome of this action.

7 Further certification requirements pursuant to
8 Rule 203 of the Texas Code of Civil Procedure will be
9 complied with after they have occurred.

10 Certified to by me on this 26th day of July, 2018.

11

12

13

14

15 April Balcombe, CSR, CRR, CRC
16 Texas CSR 5752
17 Expiration: 12/31/2019
18 Lexitas - Firm Registration No. 17
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19

20

21

22

23

24

25

Page 135

1 FURTHER CERTIFICATION UNDER TRCP RULE 203

2

3 The original deposition was/was not returned to the

4 deposition officer on _____.

5 If returned, the attached Changes and Signature

6 page(s) contain(s) any changes and the reasons therefor.

7 If returned, the original deposition was delivered

8 to M. Patrick McShan, Custodial Attorney.

9 \$_____ is the deposition officer's charges to the

10 Plaintiff for preparing the original deposition and any

11 copies of exhibits;

12 The deposition was delivered in accordance with

13 Rule 203.3, and a copy of this certificate, served on

14 all parties shown herein, was filed with the Clerk.

15 Certified to by me on this _____ day of

16 _____, _____.

17

18

19

20 April Balcombe, CSR, CRR, CRC

21 Texas CSR 5752

22 Expiration: 12/31/2019

23 Lexitas - Firm Registration No. 17

24 1016 La Posada, Suite 294

25 Austin, Texas 78752

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Exhibit H

Amtrak Status Maps Archive Database

Historical Amtrak on-time performance data

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Train Number and/or Station Search of Past Amtrak Performance

Here you can search Amtrak train performance by their stations and/or train numbers. The list will show how late (or early) a particular train departed or arrived at a station for a range of dates.

To begin, enter the train number or wildcards such as "30*", "2100-2200", "3,4,5,6" or "all". Include the dates and optional [station code](#).

Graphical displays of performance can be made with the [Google Chart](#)  page.

Train number: and/or Station code:

Start date:  End date (optional): 

Originating on: ☒ Su ☒ Mo ☒ Tu ☒ We ☒ Th ☒ Fr ☒ Sa

Sort results by: ☐ Scheduled DP ☐ Scheduled AR ☐ DP Delays ☒ AR Delays

Sort direction: ☐ Ascending ☒ Descending

Optional: show delays minutes

700 results found.

History for Amtrak ALL TRAINS at DAL (Dallas, TX)							
Train #	Origin Date	Sch Ar	Act Ar	Comments	Ar Delay (mins)	Service Disruption	Cancellations
21	07/09/2019 (Tu)	07/10/2019 11:30 AM (We)	4:21AM	Ar: 16 hr, 51 min late. Dp: 16 hr, 45 min late.	1011	SD	
21	08/09/2019 (Fr)	08/10/2019 11:30 AM (Sa)	1:05AM	Ar: 13 hr, 35 min late. Dp: 13 hr, 23 min late.	815	SD	
21	02/01/2019 (Fr)	02/02/2019 11:30 AM (Sa)	12:04AM	Ar: 12 hr, 34 min late. Dp: 12 hr, 17 min late.	754	SD	
21	11/19/2018 (Mo)	11/20/2018 11:30 AM (Tu)	11:34PM	Ar: 12 hr, 4 min late. Dp: 12 hr, 12 min late.	724		
21	04/08/2019 (Mo)	04/09/2019 11:30 AM (Tu)	11:00PM	Ar: 11 hr, 30 min late. Dp: 11 hr, 23 min late.	690	SD	
21	03/01/2019 (Fr)	03/02/2019 11:30 AM (Sa)	9:01PM	Ar: 9 hr, 31 min late. Dp: 9 hr, 24 min late.	571		
21	03/20/2019 (We)	03/21/2019 11:30 AM (Th)	8:47PM	Ar: 9 hr, 17 min late. Dp: 9 hr, 33 min late.	557	SD	
21	10/23/2018 (Tu)	10/24/2018 11:30 AM (We)	7:18PM	Ar: 7 hr, 48 min late. Dp: 7 hr, 29 min late.	468	SD	
21	01/31/2019 (Th)	02/01/2019 11:30 AM (Fr)	6:47PM	Ar: 7 hr, 17 min late. Dp: 7 hr, 2 min late.	437	SD	
21	08/19/2019 (Mo)	08/20/2019 11:30 AM (Tu)	6:25PM	Ar: 6 hr, 55 min late. Dp: 6 hr, 51 min late.	415		

21	10/18/2018 (Th)	10/19/2018 11:30 AM (Fr)	6:21PM	Ar: 6 hr, 51 min late. Dp: 6 hr, 48 min late.	411		
21	04/02/2019 (Tu)	04/03/2019 11:30 AM (We)	6:12PM	Ar: 6 hr, 42 min late. Dp: 6 hr, 24 min late.	402		
22	10/14/2018 (Su)	10/14/2018 3:20 PM (Su)	9:58PM	Ar: 6 hr, 38 min late. Dp: 6 hr, 29 min late.	398	SD	
21	06/20/2019 (Th)	06/21/2019 11:30 AM (Fr)	6:08PM	Ar: 6 hr, 38 min late. Dp: 6 hr, 45 min late.	398		
21	07/29/2019 (Mo)	07/30/2019 11:30 AM (Tu)	6:08PM	Ar: 6 hr, 38 min late. Dp: 6 hr, 36 min late.	398	SD	
21	06/09/2019 (Su)	06/10/2019 11:30 AM (Mo)	6:07PM	Ar: 6 hr, 37 min late. Dp: 6 hr, 35 min late.	397		
21	06/29/2019 (Sa)	06/30/2019 11:30 AM (Su)	6:06PM	Ar: 6 hr, 36 min late. Dp: 6 hr, 24 min late.	396		
21	02/22/2019 (Fr)	02/23/2019 11:30 AM (Sa)	6:00PM	Ar: 6 hr, 30 min late. Dp: 6 hr, 22 min late.	390		
22	07/11/2019 (Th)	07/11/2019 3:20 PM (Th)	9:47PM	Ar: 6 hr, 27 min late. Dp: 6 hr, 35 min late.	387	SD	
22	11/21/2018 (We)	11/21/2018 3:20 PM (We)	9:41PM	Ar: 6 hr, 21 min late. Dp: 6 hr, 18 min late.	381		
21	07/18/2019 (Th)	07/19/2019 11:30 AM (Fr)	5:45PM	Ar: 6 hr, 15 min late. Dp: 6 hr, 11 min late.	375		
22	04/07/2019 (Su)	04/07/2019 3:20 PM (Su)	9:33PM	Ar: 6 hr, 13 min late. Dp: 6 hr, 4 min late.	373		
21	12/09/2018 (Su)	12/10/2018 11:30 AM (Mo)	5:42PM	Ar: 6 hr, 12 min late. Dp: 6 hr, 18 min late.	372		
21	04/30/2019 (Tu)	05/01/2019 11:30 AM (We)	5:30PM	Ar: 6 hr late. Dp: 5 hr, 59 min late.	360		
21	10/07/2018 (Su)	10/08/2018 11:30 AM (Mo)	5:28PM	Ar: 5 hr, 58 min late. Dp: 5 hr, 41 min late.	358	SD	
21	05/10/2019 (Fr)	05/11/2019 11:30 AM (Sa)	5:06PM	Ar: 5 hr, 36 min late. Dp: 5 hr, 30 min late.	336		
21	07/12/2019 (Fr)	07/13/2019 11:30 AM (Sa)	5:03PM	Ar: 5 hr, 33 min late. Dp: 5 hr, 24 min late.	333		
21	07/17/2019 (We)	07/18/2019 11:30 AM (Th)	5:00PM	Ar: 5 hr, 30 min late. Dp: 5 hr, 28 min late.	330		
22	06/11/2019 (Tu)	06/11/2019 3:20 PM (Tu)	8:48PM	Ar: 5 hr, 28 min late. Dp: 5 hr, 22 min late.	328		
22	05/03/2019 (Fr)	05/03/2019 3:20 PM (Fr)	8:29PM	Ar: 5 hr, 9 min late. Dp: 5 hr, 10 min late.	309		
22	03/17/2019 (Su)	03/17/2019 3:20 PM (Su)	8:21PM	Ar: 5 hr, 1 min late. Dp: 4 hr, 52 min late.	301		
21	06/08/2019 (Sa)	06/09/2019 11:30 AM (Su)	4:27PM	Ar: 4 hr, 57 min late. Dp: 5 hr, 17 min late.	297		
21	07/14/2019 (Su)	07/15/2019 11:30 AM (Mo)	4:21PM	Ar: 4 hr, 51 min late. Dp: 4 hr, 48 min late.	291		
21	04/17/2019 (We)	04/18/2019 11:30 AM (Th)	4:20PM	Ar: 4 hr, 50 min late. Dp: 4 hr, 44 min late.	290		
22	02/05/2019 (Tu)	02/05/2019 3:20 PM (Tu)	8:08PM	Ar: 4 hr, 48 min late. Dp: 4 hr, 38 min late.	288	SD	
21	09/18/2019 (We)	09/19/2019 11:30 AM (Th)	4:15PM	Ar: 4 hr, 45 min late. Dp: 4 hr, 35 min late.	285		
22	08/13/2019 (Tu)	08/13/2019 3:20 PM (Tu)	7:55PM	Ar: 4 hr, 35 min late. Dp: 4 hr, 23 min late.	275		
22	10/12/2018 (Fr)	10/12/2018 3:20 PM (Fr)	7:54PM	Ar: 4 hr, 34 min late. Dp: 4 hr, 24 min late.	274		

21	03/27/2019 (We)	03/28/2019 11:30 AM (Th)	4:04PM	Ar: 4 hr, 34 min late. Dp: 4 hr, 33 min late.	274		
22	07/26/2019 (Fr)	07/26/2019 3:20 PM (Fr)	7:53PM	Ar: 4 hr, 33 min late. Dp: 4 hr, 24 min late.	273		
21	07/01/2019 (Mo)	07/02/2019 11:30 AM (Tu)	4:00PM	Ar: 4 hr, 30 min late. Dp: 4 hr, 34 min late.	270		
21	03/22/2019 (Fr)	03/23/2019 11:30 AM (Sa)	3:48PM	Ar: 4 hr, 18 min late. Dp: 4 hr, 12 min late.	258		
21	04/24/2019 (We)	04/25/2019 11:30 AM (Th)	3:42PM	Ar: 4 hr, 12 min late. Dp: 4 hr, 2 min late.	252	SD	
22	01/15/2019 (Tu)	01/15/2019 3:20 PM (Tu)	7:31PM	Ar: 4 hr, 11 min late. Dp: 3 hr, 58 min late.	251		
21	04/10/2019 (We)	04/11/2019 11:30 AM (Th)	3:41PM	Ar: 4 hr, 11 min late. Dp: 4 hr, 3 min late.	251		
22	07/12/2019 (Fr)	07/12/2019 3:20 PM (Fr)	7:31PM	Ar: 4 hr, 11 min late. Dp: 4 hr, 7 min late.	251		
22	09/12/2019 (Th)	09/12/2019 3:20 PM (Th)	7:27PM	Ar: 4 hr, 7 min late. Dp: 3 hr, 55 min late.	247		
22	10/11/2018 (Th)	10/11/2018 3:20 PM (Th)	7:26PM	Ar: 4 hr, 6 min late. Dp: 4 hr, 17 min late.	246		
22	10/16/2018 (Tu)	10/16/2018 3:20 PM (Tu)	7:25PM	Ar: 4 hr, 5 min late. Dp: 4 hr, 23 min late.	245		
22	03/27/2019 (We)	03/27/2019 3:20 PM (We)	7:25PM	Ar: 4 hr, 5 min late. Dp: 4 hr, 30 min late.	245		
22	10/09/2018 (Tu)	10/09/2018 3:20 PM (Tu)	7:24PM	Ar: 4 hr, 4 min late. Dp: 3 hr, 50 min late.	244		
22	11/13/2018 (Tu)	11/13/2018 3:20 PM (Tu)	7:22PM	Ar: 4 hr, 2 min late. Dp: 3 hr, 50 min late.	242		
22	06/09/2019 (Su)	06/09/2019 3:20 PM (Su)	7:21PM	Ar: 4 hr, 1 min late. Dp: 3 hr, 57 min late.	241		
21	03/30/2019 (Sa)	03/31/2019 11:30 AM (Su)	3:30PM	Ar: 4 hr late. Dp: 3 hr, 49 min late.	240		
21	02/07/2019 (Th)	02/08/2019 11:30 AM (Fr)	3:27PM	Ar: 3 hr, 57 min late. Dp: 3 hr, 58 min late.	237		
21	05/07/2019 (Tu)	05/08/2019 11:30 AM (We)	3:25PM	Ar: 3 hr, 55 min late. Dp: 4 hr, 2 min late.	235		
21	02/28/2019 (Th)	03/01/2019 11:30 AM (Fr)	3:24PM	Ar: 3 hr, 54 min late. Dp: 4 hr late.	234		
21	07/25/2019 (Th)	07/26/2019 11:30 AM (Fr)	3:22PM	Ar: 3 hr, 52 min late. Dp: 3 hr, 44 min late.	232		
21	06/23/2019 (Su)	06/24/2019 11:30 AM (Mo)	3:19PM	Ar: 3 hr, 49 min late. Dp: 3 hr, 45 min late.	229		
21	07/26/2019 (Fr)	07/27/2019 11:30 AM (Sa)	3:17PM	Ar: 3 hr, 47 min late. Dp: 3 hr, 59 min late.	227		
21	07/16/2019 (Tu)	07/17/2019 11:30 AM (We)	3:15PM	Ar: 3 hr, 45 min late. Dp: 3 hr, 43 min late.	225	SD	
21	03/03/2019 (Su)	03/04/2019 11:30 AM (Mo)	3:13PM	Ar: 3 hr, 43 min late. Dp: 3 hr, 33 min late.	223		
21	04/03/2019 (We)	04/04/2019 11:30 AM (Th)	3:13PM	Ar: 3 hr, 43 min late. Dp: 3 hr, 59 min late.	223		
21	06/15/2019 (Sa)	06/16/2019 11:30 AM (Su)	3:12PM	Ar: 3 hr, 42 min late. Dp: 3 hr, 32 min late.	222		
21	08/20/2019 (Tu)	08/21/2019 11:30 AM (We)	3:10PM	Ar: 3 hr, 40 min late. Dp: 3 hr, 32 min late.	220		
21	06/30/2019 (Su)	07/01/2019 11:30 AM (Mo)	3:07PM	Ar: 3 hr, 37 min late. Dp: 3 hr, 31 min late.	217		

22	09/13/2019 (Fr)	09/13/2019 3:20 PM (Fr)	6:56PM	Ar: 3 hr, 36 min late. Dp: 3 hr, 25 min late.	216	SD	
21	03/24/2019 (Su)	03/25/2019 11:30 AM (Mo)	3:05PM	Ar: 3 hr, 35 min late. Dp: 3 hr, 31 min late.	215		
21	05/29/2019 (We)	05/30/2019 11:30 AM (Th)	3:05PM	Ar: 3 hr, 35 min late. Dp: 3 hr, 29 min late.	215		
21	04/20/2019 (Sa)	04/21/2019 11:30 AM (Su)	2:59PM	Ar: 3 hr, 29 min late. Dp: 3 hr, 16 min late.	209		
21	03/14/2019 (Th)	03/15/2019 11:30 AM (Fr)	2:58PM	Ar: 3 hr, 28 min late. Dp: 3 hr, 29 min late.	208		
21	05/18/2019 (Sa)	05/19/2019 11:30 AM (Su)	2:58PM	Ar: 3 hr, 28 min late. Dp: 3 hr, 18 min late.	208		
22	07/17/2019 (We)	07/17/2019 3:20 PM (We)	6:47PM	Ar: 3 hr, 27 min late. Dp: 3 hr, 17 min late.	207		
22	03/03/2019 (Su)	03/03/2019 3:20 PM (Su)	6:44PM	Ar: 3 hr, 24 min late. Dp: 3 hr, 23 min late.	204		
21	05/01/2019 (We)	05/02/2019 11:30 AM (Th)	2:50PM	Ar: 3 hr, 20 min late. Dp: 3 hr, 44 min late.	200		
22	11/07/2018 (We)	11/07/2018 3:20 PM (We)	6:38PM	Ar: 3 hr, 18 min late. Dp: 3 hr, 6 min late.	198		
22	11/17/2018 (Sa)	11/17/2018 3:20 PM (Sa)	6:38PM	Ar: 3 hr, 18 min late. Dp: 3 hr, 10 min late.	198		
21	05/13/2019 (Mo)	05/14/2019 11:30 AM (Tu)	2:48PM	Ar: 3 hr, 18 min late. Dp: 3 hr, 15 min late.	198	SD	
22	05/21/2019 (Tu)	05/21/2019 3:20 PM (Tu)	6:38PM	Ar: 3 hr, 18 min late. Dp: 3 hr, 5 min late.	198		
21	06/13/2019 (Th)	06/14/2019 11:30 AM (Fr)	2:48PM	Ar: 3 hr, 18 min late. Dp: 3 hr, 31 min late.	198		
21	12/08/2018 (Sa)	12/09/2018 11:30 AM (Su)	2:46PM	Ar: 3 hr, 16 min late. Dp: 3 hr, 10 min late.	196		
21	06/24/2019 (Mo)	06/25/2019 11:30 AM (Tu)	2:45PM	Ar: 3 hr, 15 min late. Dp: 3 hr, 14 min late.	195		
22	07/14/2019 (Su)	07/14/2019 3:20 PM (Su)	6:33PM	Ar: 3 hr, 13 min late. Dp: 3 hr, 15 min late.	193		
21	08/30/2019 (Fr)	08/31/2019 11:30 AM (Sa)	2:42PM	Ar: 3 hr, 12 min late. Dp: 3 hr, 3 min late.	192		
21	05/23/2019 (Th)	05/24/2019 11:30 AM (Fr)	2:40PM	Ar: 3 hr, 10 min late. Dp: 3 hr, 14 min late.	190		
21	07/20/2019 (Sa)	07/21/2019 11:30 AM (Su)	2:40PM	Ar: 3 hr, 10 min late. Dp: 3 hr late.	190		
22	10/01/2019 (Tu)	10/01/2019 3:20 PM (Tu)	6:30PM	Ar: 3 hr, 10 min late. Dp: 2 hr, 59 min late.	190	SD	
21	08/10/2019 (Sa)	08/11/2019 11:30 AM (Su)	2:36PM	Ar: 3 hr, 6 min late. Dp: 2 hr, 59 min late.	186	SD	
22	11/08/2018 (Th)	11/08/2018 3:20 PM (Th)	6:24PM	Ar: 3 hr, 4 min late. Dp: 2 hr, 51 min late.	184		
21	03/08/2019 (Fr)	03/09/2019 11:30 AM (Sa)	2:34PM	Ar: 3 hr, 4 min late. Dp: 3 hr, 1 min late.	184		
21	03/26/2019 (Tu)	03/27/2019 11:30 AM (We)	2:34PM	Ar: 3 hr, 4 min late. Dp: 3 hr, 3 min late.	184		
21	11/14/2018 (We)	11/15/2018 11:30 AM (Th)	2:32PM	Ar: 3 hr, 2 min late. Dp: 2 hr, 58 min late.	182		
22	02/15/2019 (Fr)	02/15/2019 3:20 PM (Fr)	6:22PM	Ar: 3 hr, 2 min late. Dp: 2 hr, 52 min late.	182		
21	06/22/2019 (Sa)	06/23/2019 11:30 AM (Su)	2:32PM	Ar: 3 hr, 2 min late. Dp: 2 hr, 52 min late.	182		

21	01/25/2019 (Fr)	01/26/2019 11:30 AM (Sa)	2:29PM	Ar: 2 hr, 59 min late. Dp: 2 hr, 48 min late.	179		
21	08/23/2019 (Fr)	08/24/2019 11:30 AM (Sa)	2:28PM	Ar: 2 hr, 58 min late. Dp: 3 hr, 3 min late.	178		
21	03/23/2019 (Sa)	03/24/2019 11:30 AM (Su)	2:26PM	Ar: 2 hr, 56 min late. Dp: 2 hr, 45 min late.	176		
21	12/10/2018 (Mo)	12/11/2018 11:30 AM (Tu)	2:24PM	Ar: 2 hr, 54 min late. Dp: 2 hr, 46 min late.	174		
21	10/14/2018 (Su)	10/15/2018 11:30 AM (Mo)	2:23PM	Ar: 2 hr, 53 min late. Dp: 3 hr, 1 min late.	173		
21	05/26/2019 (Su)	05/27/2019 11:30 AM (Mo)	2:23PM	Ar: 2 hr, 53 min late. Dp: 2 hr, 36 min late.	173		
21	03/12/2019 (Tu)	03/13/2019 11:30 AM (We)	2:22PM	Ar: 2 hr, 52 min late. Dp: 2 hr, 43 min late.	172		
21	04/05/2019 (Fr)	04/06/2019 11:30 AM (Sa)	2:22PM	Ar: 2 hr, 52 min late. Dp: 2 hr, 44 min late.	172		
21	07/19/2019 (Fr)	07/20/2019 11:30 AM (Sa)	2:20PM	Ar: 2 hr, 50 min late. Dp: 2 hr, 43 min late.	170		
21	08/31/2019 (Sa)	09/01/2019 11:30 AM (Su)	2:19PM	Ar: 2 hr, 49 min late. Dp: 2 hr, 38 min late.	169		
21	03/04/2019 (Mo)	03/05/2019 11:30 AM (Tu)	2:17PM	Ar: 2 hr, 47 min late. Dp: 2 hr, 34 min late.	167		
21	10/11/2018 (Th)	10/12/2018 11:30 AM (Fr)	2:16PM	Ar: 2 hr, 46 min late. Dp: 2 hr, 48 min late.	166		
21	10/09/2018 (Tu)	10/10/2018 11:30 AM (We)	2:14PM	Ar: 2 hr, 44 min late. Dp: 2 hr, 34 min late.	164		
21	10/10/2018 (We)	10/11/2018 11:30 AM (Th)	2:14PM	Ar: 2 hr, 44 min late. Dp: 2 hr, 35 min late.	164		
21	10/30/2018 (Tu)	10/31/2018 11:30 AM (We)	2:14PM	Ar: 2 hr, 44 min late. Dp: 2 hr, 35 min late.	164		
21	07/02/2019 (Tu)	07/03/2019 11:30 AM (We)	2:14PM	Ar: 2 hr, 44 min late. Dp: 2 hr, 39 min late.	164		
21	12/28/2018 (Fr)	12/29/2018 11:30 AM (Sa)	2:13PM	Ar: 2 hr, 43 min late. Dp: 2 hr, 33 min late.	163		
21	04/12/2019 (Fr)	04/13/2019 11:30 AM (Sa)	2:12PM	Ar: 2 hr, 42 min late. Dp: 3 hr, 1 min late.	162		
22	12/21/2018 (Fr)	12/21/2018 3:20 PM (Fr)	6:01PM	Ar: 2 hr, 41 min late. Dp: 2 hr, 34 min late.	161		
22	06/16/2019 (Su)	06/16/2019 3:20 PM (Su)	6:01PM	Ar: 2 hr, 41 min late. Dp: 2 hr, 30 min late.	161		
21	08/17/2019 (Sa)	08/18/2019 11:30 AM (Su)	2:10PM	Ar: 2 hr, 40 min late. Dp: 2 hr, 30 min late.	160		
21	12/03/2018 (Mo)	12/04/2018 11:30 AM (Tu)	2:07PM	Ar: 2 hr, 37 min late. Dp: 2 hr, 36 min late.	157		
21	01/15/2019 (Tu)	01/16/2019 11:30 AM (We)	2:07PM	Ar: 2 hr, 37 min late. Dp: 2 hr, 28 min late.	157		
21	08/21/2019 (We)	08/22/2019 11:30 AM (Th)	2:07PM	Ar: 2 hr, 37 min late. Dp: 2 hr, 34 min late.	157		
22	10/30/2018 (Tu)	10/30/2018 3:20 PM (Tu)	5:56PM	Ar: 2 hr, 36 min late. Dp: 2 hr, 23 min late.	156		
22	03/22/2019 (Fr)	03/22/2019 3:20 PM (Fr)	5:56PM	Ar: 2 hr, 36 min late. Dp: 2 hr, 28 min late.	156	SD	
22	04/09/2019 (Tu)	04/09/2019 3:20 PM (Tu)	5:56PM	Ar: 2 hr, 36 min late. Dp: 2 hr, 24 min late.	156		
21	06/28/2019 (Fr)	06/29/2019 11:30 AM (Sa)	2:05PM	Ar: 2 hr, 35 min late. Dp: 2 hr, 43 min late.	155		

21	10/12/2018 (Fr)	10/13/2018 11:30 AM (Sa)	2:04PM	Ar: 2 hr, 34 min late. Dp: 2 hr, 28 min late.	154		
22	04/16/2019 (Tu)	04/16/2019 3:20 PM (Tu)	5:54PM	Ar: 2 hr, 34 min late. Dp: 2 hr, 22 min late.	154		
22	04/25/2019 (Th)	04/25/2019 3:20 PM (Th)	5:54PM	Ar: 2 hr, 34 min late. Dp: 2 hr, 23 min late.	154		
21	03/05/2019 (Tu)	03/06/2019 11:30 AM (We)	2:02PM	Ar: 2 hr, 32 min late. Dp: 2 hr, 30 min late.	152		
21	08/24/2019 (Sa)	08/25/2019 11:30 AM (Su)	2:02PM	Ar: 2 hr, 32 min late. Dp: 2 hr, 28 min late.	152		
21	05/27/2019 (Mo)	05/28/2019 11:30 AM (Tu)	1:59PM	Ar: 2 hr, 29 min late. Dp: 2 hr, 31 min late.	149		
22	12/20/2018 (Th)	12/20/2018 3:20 PM (Th)	5:48PM	Ar: 2 hr, 28 min late. Dp: 2 hr, 20 min late.	148		
21	01/26/2019 (Sa)	01/27/2019 11:30 AM (Su)	1:57PM	Ar: 2 hr, 27 min late. Dp: 2 hr, 18 min late.	147		
21	05/21/2019 (Tu)	05/22/2019 11:30 AM (We)	1:56PM	Ar: 2 hr, 26 min late. Dp: 2 hr, 31 min late.	146		
21	11/02/2018 (Fr)	11/03/2018 11:30 AM (Sa)	1:55PM	Ar: 2 hr, 25 min late. Dp: 2 hr, 16 min late.	145		
22	06/21/2019 (Fr)	06/21/2019 3:20 PM (Fr)	5:45PM	Ar: 2 hr, 25 min late. Dp: 2 hr, 13 min late.	145		
21	01/29/2019 (Tu)	01/30/2019 11:30 AM (We)	1:54PM	Ar: 2 hr, 24 min late. Dp: 2 hr, 31 min late.	144		
21	03/18/2019 (Mo)	03/19/2019 11:30 AM (Tu)	1:52PM	Ar: 2 hr, 22 min late. Dp: 2 hr, 16 min late.	142		
21	01/19/2019 (Sa)	01/20/2019 11:30 AM (Su)	1:51PM	Ar: 2 hr, 21 min late. Dp: 2 hr, 11 min late.	141		
21	08/26/2019 (Mo)	08/27/2019 11:30 AM (Tu)	1:51PM	Ar: 2 hr, 21 min late. Dp: 2 hr, 14 min late.	141		
21	03/19/2019 (Tu)	03/20/2019 11:30 AM (We)	1:50PM	Ar: 2 hr, 20 min late. Dp: 2 hr, 13 min late.	140		
21	11/26/2018 (Mo)	11/27/2018 11:30 AM (Tu)	1:48PM	Ar: 2 hr, 18 min late. Dp: 2 hr, 14 min late.	138	SD	
21	06/26/2019 (We)	06/27/2019 11:30 AM (Th)	1:48PM	Ar: 2 hr, 18 min late. Dp: 2 hr, 7 min late.	138		
22	05/18/2019 (Sa)	05/18/2019 3:20 PM (Sa)	5:36PM	Ar: 2 hr, 16 min late. Dp: 2 hr, 5 min late.	136		
21	07/10/2019 (We)	07/11/2019 11:30 AM (Th)	1:46PM	Ar: 2 hr, 16 min late. Dp: 2 hr, 16 min late.	136		
21	08/22/2019 (Th)	08/23/2019 11:30 AM (Fr)	1:45PM	Ar: 2 hr, 15 min late. Dp: 2 hr, 3 min late.	135		
21	10/17/2018 (We)	10/18/2018 11:30 AM (Th)	1:43PM	Ar: 2 hr, 13 min late. Dp: 2 hr, 14 min late.	133		
21	09/09/2019 (Mo)	09/10/2019 11:30 AM (Tu)	1:42PM	Ar: 2 hr, 12 min late. Dp: 2 hr late.	132		
22	06/18/2019 (Tu)	06/18/2019 3:20 PM (Tu)	5:31PM	Ar: 2 hr, 11 min late. Dp: 2 hr, 2 min late.	131		
22	09/15/2019 (Su)	09/15/2019 3:20 PM (Su)	5:31PM	Ar: 2 hr, 11 min late. Dp: 2 hr, 4 min late.	131		
21	01/23/2019 (We)	01/24/2019 11:30 AM (Th)	1:40PM	Ar: 2 hr, 10 min late. Dp: 1 hr, 57 min late.	130		
21	04/28/2019 (Su)	04/29/2019 11:30 AM (Mo)	1:40PM	Ar: 2 hr, 10 min late. Dp: 2 hr late.	130		
22	08/20/2019 (Tu)	08/20/2019 3:20 PM (Tu)	5:30PM	Ar: 2 hr, 10 min late. Dp: 1 hr, 58 min late.	130		

22	10/15/2018 (Mo)	10/15/2018 3:20 PM (Mo)	5:29PM	Ar: 2 hr, 9 min late. Dp: 2 hr, 2 min late.	129		
22	10/28/2018 (Su)	10/28/2018 3:20 PM (Su)	5:29PM	Ar: 2 hr, 9 min late. Dp: 1 hr, 57 min late.	129		
21	03/13/2019 (We)	03/14/2019 11:30 AM (Th)	1:39PM	Ar: 2 hr, 9 min late. Dp: 1 hr, 54 min late.	129		
21	03/15/2019 (Fr)	03/16/2019 11:30 AM (Sa)	1:39PM	Ar: 2 hr, 9 min late. Dp: 2 hr, 4 min late.	129		
21	02/20/2019 (We)	02/21/2019 11:30 AM (Th)	1:38PM	Ar: 2 hr, 8 min late. Dp: 1 hr, 59 min late.	128		
22	06/20/2019 (Th)	06/20/2019 3:20 PM (Th)	5:28PM	Ar: 2 hr, 8 min late. Dp: 1 hr, 58 min late.	128		
22	06/14/2019 (Fr)	06/14/2019 3:20 PM (Fr)	5:27PM	Ar: 2 hr, 7 min late. Dp: 1 hr, 56 min late.	127		
22	11/09/2018 (Fr)	11/09/2018 3:20 PM (Fr)	5:26PM	Ar: 2 hr, 6 min late.	126		
22	06/17/2019 (Mo)	06/17/2019 3:20 PM (Mo)	5:26PM	Ar: 2 hr, 6 min late. Dp: 2 hr, 4 min late.	126		
22	10/04/2019 (Fr)	10/04/2019 3:20 PM (Fr)	5:26PM	Ar: 2 hr, 6 min late. Dp: 1 hr, 55 min late.	126		
22	10/29/2018 (Mo)	10/29/2018 3:20 PM (Mo)	5:25PM	Ar: 2 hr, 5 min late. Dp: 1 hr, 55 min late.	125		
21	11/21/2018 (We)	11/22/2018 11:30 AM (Th)	1:35PM	Ar: 2 hr, 5 min late. Dp: 1 hr, 52 min late.	125		
22	04/02/2019 (Tu)	04/02/2019 3:20 PM (Tu)	5:25PM	Ar: 2 hr, 5 min late. Dp: 1 hr, 59 min late.	125	SD	
21	08/28/2019 (We)	08/29/2019 11:30 AM (Th)	1:35PM	Ar: 2 hr, 5 min late. Dp: 1 hr, 51 min late.	125		
22	04/19/2019 (Fr)	04/19/2019 3:20 PM (Fr)	5:24PM	Ar: 2 hr, 4 min late. Dp: 1 hr, 55 min late.	124		
22	07/30/2019 (Tu)	07/30/2019 3:20 PM (Tu)	5:24PM	Ar: 2 hr, 4 min late. Dp: 1 hr, 54 min late.	124		
22	10/25/2018 (Th)	10/25/2018 3:20 PM (Th)	5:23PM	Ar: 2 hr, 3 min late. Dp: 1 hr, 53 min late.	123	SD	
21	11/17/2018 (Sa)	11/18/2018 11:30 AM (Su)	1:33PM	Ar: 2 hr, 3 min late. Dp: 1 hr, 58 min late.	123		
22	01/04/2019 (Fr)	01/04/2019 3:20 PM (Fr)	5:23PM	Ar: 2 hr, 3 min late. Dp: 1 hr, 55 min late.	123		
22	03/29/2019 (Fr)	03/29/2019 3:20 PM (Fr)	5:23PM	Ar: 2 hr, 3 min late. Dp: 1 hr, 52 min late.	123		
21	12/06/2018 (Th)	12/07/2018 11:30 AM (Fr)	1:32PM	Ar: 2 hr, 2 min late. Dp: 1 hr, 52 min late.	122		
21	04/04/2019 (Th)	04/05/2019 11:30 AM (Fr)	1:32PM	Ar: 2 hr, 2 min late. Dp: 1 hr, 53 min late.	122		
21	07/13/2019 (Sa)	07/14/2019 11:30 AM (Su)	1:32PM	Ar: 2 hr, 2 min late. Dp: 1 hr, 53 min late.	122		
22	03/24/2019 (Su)	03/24/2019 3:20 PM (Su)	5:21PM	Ar: 2 hr, 1 min late. Dp: 1 hr, 57 min late.	121		
21	11/11/2018 (Su)	11/12/2018 11:30 AM (Mo)	1:29PM	Ar: 1 hr, 59 min late. Dp: 1 hr, 41 min late.	119	SD	
21	05/11/2019 (Sa)	05/12/2019 11:30 AM (Su)	1:29PM	Ar: 1 hr, 59 min late. Dp: 1 hr, 48 min late.	119		
21	02/11/2019 (Mo)	02/12/2019 11:30 AM (Tu)	1:28PM	Ar: 1 hr, 58 min late. Dp: 2 hr, 28 min late.	118		
21	07/11/2019 (Th)	07/12/2019 11:30 AM (Fr)	1:28PM	Ar: 1 hr, 58 min late. Dp: 1 hr, 52 min late.	118		

21	04/06/2019 (Sa)	04/07/2019 11:30 AM (Su)	1:26PM	Ar: 1 hr, 56 min late. Dp: 1 hr, 55 min late.	116		
21	08/05/2019 (Mo)	08/06/2019 11:30 AM (Tu)	1:26PM	Ar: 1 hr, 56 min late. Dp: 1 hr, 54 min late.	116		
22	06/22/2019 (Sa)	06/22/2019 3:20 PM (Sa)	5:15PM	Ar: 1 hr, 55 min late. Dp: 1 hr, 55 min late.	115		
21	08/14/2019 (We)	08/15/2019 11:30 AM (Th)	1:24PM	Ar: 1 hr, 54 min late. Dp: 1 hr, 42 min late.	114		
22	08/30/2019 (Fr)	08/30/2019 3:20 PM (Fr)	5:14PM	Ar: 1 hr, 54 min late. Dp: 1 hr, 44 min late.	114		
21	05/25/2019 (Sa)	05/26/2019 11:30 AM (Su)	1:23PM	Ar: 1 hr, 53 min late. Dp: 2 hr late.	113		
22	06/10/2019 (Mo)	06/10/2019 3:20 PM (Mo)	5:13PM	Ar: 1 hr, 53 min late. Dp: 1 hr, 59 min late.	113		
21	06/27/2019 (Th)	06/28/2019 11:30 AM (Fr)	1:23PM	Ar: 1 hr, 53 min late. Dp: 1 hr, 46 min late.	113		
21	02/27/2019 (We)	02/28/2019 11:30 AM (Th)	1:22PM	Ar: 1 hr, 52 min late. Dp: 1 hr, 40 min late.	112		
21	04/13/2019 (Sa)	04/14/2019 11:30 AM (Su)	1:22PM	Ar: 1 hr, 52 min late. Dp: 2 hr, 2 min late.	112		
22	12/29/2018 (Sa)	12/29/2018 3:20 PM (Sa)	5:11PM	Ar: 1 hr, 51 min late. Dp: 1 hr, 50 min late.	111		
21	09/20/2019 (Fr)	09/21/2019 11:30 AM (Sa)	1:20PM	Ar: 1 hr, 50 min late. Dp: 1 hr, 43 min late.	110		
22	02/25/2019 (Mo)	02/25/2019 3:20 PM (Mo)	5:09PM	Ar: 1 hr, 49 min late. Dp: 1 hr, 51 min late.	109	SD	
21	04/01/2019 (Mo)	04/02/2019 11:30 AM (Tu)	1:19PM	Ar: 1 hr, 49 min late. Dp: 1 hr, 38 min late.	109		
21	05/15/2019 (We)	05/16/2019 11:30 AM (Th)	1:19PM	Ar: 1 hr, 49 min late. Dp: 1 hr, 37 min late.	109		
21	04/11/2019 (Th)	04/12/2019 11:30 AM (Fr)	1:18PM	Ar: 1 hr, 48 min late. Dp: 1 hr, 40 min late.	108		
21	06/12/2019 (We)	06/13/2019 11:30 AM (Th)	1:18PM	Ar: 1 hr, 48 min late. Dp: 1 hr, 38 min late.	108		
21	01/22/2019 (Tu)	01/23/2019 11:30 AM (We)	1:17PM	Ar: 1 hr, 47 min late. Dp: 1 hr, 35 min late.	107		
21	02/12/2019 (Tu)	02/13/2019 11:30 AM (We)	1:17PM	Ar: 1 hr, 47 min late.	107		
22	12/13/2018 (Th)	12/13/2018 3:20 PM (Th)	5:05PM	Ar: 1 hr, 45 min late. Dp: 1 hr, 35 min late.	105		
21	10/08/2018 (Mo)	10/09/2018 11:30 AM (Tu)	1:13PM	Ar: 1 hr, 43 min late. Dp: 1 hr, 35 min late.	103		
21	04/07/2019 (Su)	04/08/2019 11:30 AM (Mo)	1:13PM	Ar: 1 hr, 43 min late. Dp: 1 hr, 36 min late.	103		
21	05/03/2019 (Fr)	05/04/2019 11:30 AM (Sa)	1:11PM	Ar: 1 hr, 41 min late. Dp: 1 hr, 33 min late.	101		
21	09/05/2019 (Th)	09/06/2019 11:30 AM (Fr)	1:11PM	Ar: 1 hr, 41 min late. Dp: 1 hr, 31 min late.	101		
21	11/12/2018 (Mo)	11/13/2018 11:30 AM (Tu)	1:10PM	Ar: 1 hr, 40 min late. Dp: 1 hr, 29 min late.	100		
21	01/01/2019 (Tu)	01/02/2019 11:30 AM (We)	1:10PM	Ar: 1 hr, 40 min late. Dp: 1 hr, 42 min late.	100		
21	01/11/2019 (Fr)	01/12/2019 11:30 AM (Sa)	1:10PM	Ar: 1 hr, 40 min late. Dp: 1 hr, 28 min late.	100		
21	11/16/2018 (Fr)	11/17/2018 11:30 AM (Sa)	1:09PM	Ar: 1 hr, 39 min late. Dp: 1 hr, 30 min late.	99		

21	09/06/2019 (Fr)	09/07/2019 11:30 AM (Sa)	1:09PM	Ar: 1 hr, 39 min late.	99		
21	03/11/2019 (Mo)	03/12/2019 11:30 AM (Tu)	1:08PM	Ar: 1 hr, 38 min late. Dp: 1 hr, 30 min late.	98		
22	08/02/2019 (Fr)	08/02/2019 3:20 PM (Fr)	4:58PM	Ar: 1 hr, 38 min late. Dp: 1 hr, 27 min late.	98		
21	08/03/2019 (Sa)	08/04/2019 11:30 AM (Su)	1:08PM	Ar: 1 hr, 38 min late. Dp: 1 hr, 49 min late.	98		
21	08/07/2019 (We)	08/08/2019 11:30 AM (Th)	1:08PM	Ar: 1 hr, 38 min late. Dp: 1 hr, 36 min late.	98		
22	09/06/2019 (Fr)	09/06/2019 3:20 PM (Fr)	4:58PM	Ar: 1 hr, 38 min late. Dp: 1 hr, 27 min late.	98		
22	12/11/2018 (Tu)	12/11/2018 3:20 PM (Tu)	4:57PM	Ar: 1 hr, 37 min late. Dp: 1 hr, 28 min late.	97		
22	02/24/2019 (Su)	02/24/2019 3:20 PM (Su)	4:57PM	Ar: 1 hr, 37 min late. Dp: 1 hr, 27 min late.	97		
22	03/08/2019 (Fr)	03/08/2019 3:20 PM (Fr)	4:57PM	Ar: 1 hr, 37 min late. Dp: 1 hr, 30 min late.	97		
22	01/08/2019 (Tu)	01/08/2019 3:20 PM (Tu)	4:56PM	Ar: 1 hr, 36 min late. Dp: 1 hr, 38 min late.	96		
21	02/02/2019 (Sa)	02/03/2019 11:30 AM (Su)	1:06PM	Ar: 1 hr, 36 min late. Dp: 1 hr, 25 min late.	96		
22	03/23/2019 (Sa)	03/23/2019 3:20 PM (Sa)	4:56PM	Ar: 1 hr, 36 min late. Dp: 1 hr, 27 min late.	96		
22	09/17/2019 (Tu)	09/17/2019 3:20 PM (Tu)	4:56PM	Ar: 1 hr, 36 min late. Dp: 1 hr, 29 min late.	96		
22	10/19/2018 (Fr)	10/19/2018 3:20 PM (Fr)	4:55PM	Ar: 1 hr, 35 min late. Dp: 1 hr, 26 min late.	95		
21	03/17/2019 (Su)	03/18/2019 11:30 AM (Mo)	1:05PM	Ar: 1 hr, 35 min late. Dp: 1 hr, 56 min late.	95		
22	03/19/2019 (Tu)	03/19/2019 3:20 PM (Tu)	4:55PM	Ar: 1 hr, 35 min late. Dp: 1 hr, 27 min late.	95		
22	04/24/2019 (We)	04/24/2019 3:20 PM (We)	4:55PM	Ar: 1 hr, 35 min late. Dp: 1 hr, 26 min late.	95		
22	08/21/2019 (We)	08/21/2019 3:20 PM (We)	4:55PM	Ar: 1 hr, 35 min late. Dp: 1 hr, 22 min late.	95		
22	08/28/2019 (We)	08/28/2019 3:20 PM (We)	4:55PM	Ar: 1 hr, 35 min late. Dp: 1 hr, 34 min late.	95		
21	09/08/2019 (Su)	09/09/2019 11:30 AM (Mo)	1:05PM	Ar: 1 hr, 35 min late. Dp: 1 hr, 35 min late.	95		
21	10/31/2018 (We)	11/01/2018 11:30 AM (Th)	1:04PM	Ar: 1 hr, 34 min late. Dp: 1 hr, 33 min late.	94		
22	12/08/2018 (Sa)	12/08/2018 3:20 PM (Sa)	4:54PM	Ar: 1 hr, 34 min late. Dp: 1 hr, 21 min late.	94	SD	
22	12/15/2018 (Sa)	12/15/2018 3:20 PM (Sa)	4:54PM	Ar: 1 hr, 34 min late. Dp: 1 hr, 15 min late.	94		
22	12/24/2018 (Mo)	12/24/2018 3:20 PM (Mo)	4:54PM	Ar: 1 hr, 34 min late. Dp: 1 hr, 24 min late.	94		
22	04/04/2019 (Th)	04/04/2019 3:20 PM (Th)	4:54PM	Ar: 1 hr, 34 min late. Dp: 1 hr, 22 min late.	94		
21	12/12/2018 (We)	12/13/2018 11:30 AM (Th)	1:03PM	Ar: 1 hr, 33 min late. Dp: 1 hr, 24 min late.	93		
21	08/18/2019 (Su)	08/19/2019 11:30 AM (Mo)	1:03PM	Ar: 1 hr, 33 min late. Dp: 1 hr, 23 min late.	93		
21	11/20/2018 (Tu)	11/21/2018 11:30 AM (We)	1:02PM	Ar: 1 hr, 32 min late. Dp: 1 hr, 34 min late.	92		

21	03/21/2019 (Th)	03/22/2019 11:30 AM (Fr)	1:02PM	Ar: 1 hr, 32 min late. Dp: 1 hr, 33 min late.	92		
21	03/31/2019 (Su)	04/01/2019 11:30 AM (Mo)	1:02PM	Ar: 1 hr, 32 min late. Dp: 1 hr, 32 min late.	92		
22	09/01/2019 (Su)	09/01/2019 3:20 PM (Su)	4:52PM	Ar: 1 hr, 32 min late. Dp: 1 hr, 23 min late.	92		
21	10/13/2018 (Sa)	10/14/2018 11:30 AM (Su)	1:00PM	Ar: 1 hr, 30 min late. Dp: 1 hr, 20 min late.	90	SD	
22	03/10/2019 (Su)	03/10/2019 3:20 PM (Su)	4:49PM	Ar: 1 hr, 29 min late. Dp: 1 hr, 27 min late.	89		
21	10/29/2018 (Mo)	10/30/2018 11:30 AM (Tu)	12:58PM	Ar: 1 hr, 28 min late. Dp: 1 hr, 17 min late.	88		
21	04/16/2019 (Tu)	04/17/2019 11:30 AM (We)	12:58PM	Ar: 1 hr, 28 min late. Dp: 1 hr, 19 min late.	88		
21	08/12/2019 (Mo)	08/13/2019 11:30 AM (Tu)	12:56PM	Ar: 1 hr, 26 min late. Dp: 1 hr, 16 min late.	86		
21	12/15/2018 (Sa)	12/16/2018 11:30 AM (Su)	12:55PM	Ar: 1 hr, 25 min late. Dp: 1 hr, 7 min late.	85		
21	04/19/2019 (Fr)	04/20/2019 11:30 AM (Sa)	12:55PM	Ar: 1 hr, 25 min late. Dp: 1 hr, 16 min late.	85		
21	07/24/2019 (We)	07/25/2019 11:30 AM (Th)	12:55PM	Ar: 1 hr, 25 min late. Dp: 1 hr, 15 min late.	85		
21	07/31/2019 (We)	08/01/2019 11:30 AM (Th)	12:55PM	Ar: 1 hr, 25 min late. Dp: 1 hr, 15 min late.	85		
21	10/01/2019 (Tu)	10/02/2019 11:30 AM (We)	12:55PM	Ar: 1 hr, 25 min late. Dp: 1 hr, 15 min late.	85		
21	10/05/2018 (Fr)	10/06/2018 11:30 AM (Sa)	12:54PM	Ar: 1 hr, 24 min late. Dp: 1 hr, 15 min late.	84		
21	12/14/2018 (Fr)	12/15/2018 11:30 AM (Sa)	12:54PM	Ar: 1 hr, 24 min late. Dp: 1 hr, 6 min late.	84		
21	03/02/2019 (Sa)	03/03/2019 11:30 AM (Su)	12:53PM	Ar: 1 hr, 23 min late. Dp: 1 hr, 13 min late.	83		
21	09/21/2019 (Sa)	09/22/2019 11:30 AM (Su)	12:53PM	Ar: 1 hr, 23 min late. Dp: 1 hr, 13 min late.	83		
21	10/15/2018 (Mo)	10/16/2018 11:30 AM (Tu)	12:52PM	Ar: 1 hr, 22 min late. Dp: 1 hr, 28 min late.	82		
21	07/08/2019 (Mo)	07/09/2019 11:30 AM (Tu)	12:52PM	Ar: 1 hr, 22 min late. Dp: 1 hr, 30 min late.	82		
22	06/19/2019 (We)	06/19/2019 3:20 PM (We)	4:41PM	Ar: 1 hr, 21 min late. Dp: 1 hr, 10 min late.	81		
21	09/11/2019 (We)	09/12/2019 11:30 AM (Th)	12:51PM	Ar: 1 hr, 21 min late. Dp: 1 hr, 20 min late.	81		
22	12/16/2018 (Su)	12/16/2018 3:20 PM (Su)	4:40PM	Ar: 1 hr, 20 min late. Dp: 1 hr, 12 min late.	80		
21	01/28/2019 (Mo)	01/29/2019 11:30 AM (Tu)	12:50PM	Ar: 1 hr, 20 min late. Dp: 1 hr, 13 min late.	80		
21	10/16/2018 (Tu)	10/17/2018 11:30 AM (We)	12:49PM	Ar: 1 hr, 19 min late. Dp: 1 hr, 39 min late.	79		
21	11/09/2018 (Fr)	11/10/2018 11:30 AM (Sa)	12:49PM	Ar: 1 hr, 19 min late. Dp: 1 hr, 6 min late.	79		
21	07/06/2019 (Sa)	07/07/2019 11:30 AM (Su)	12:49PM	Ar: 1 hr, 19 min late. Dp: 1 hr, 11 min late.	79		
21	08/13/2019 (Tu)	08/14/2019 11:30 AM (We)	12:49PM	Ar: 1 hr, 19 min late. Dp: 1 hr, 13 min late.	79		
22	11/10/2018 (Sa)	11/10/2018 3:20 PM (Sa)	4:37PM	Ar: 1 hr, 17 min late. Dp: 1 hr, 6 min late.	77		

21	05/12/2019 (Su)	05/13/2019 11:30 AM (Mo)	12:46PM	Ar: 1 hr, 16 min late. Dp: 1 hr, 5 min late.	76		
21	05/22/2019 (We)	05/23/2019 11:30 AM (Th)	12:45PM	Ar: 1 hr, 15 min late. Dp: 1 hr, 13 min late.	75		
21	09/12/2019 (Th)	09/13/2019 11:30 AM (Fr)	12:45PM	Ar: 1 hr, 15 min late. Dp: 1 hr, 12 min late.	75	SD	
21	03/16/2019 (Sa)	03/17/2019 11:30 AM (Su)	12:44PM	Ar: 1 hr, 14 min late. Dp: 1 hr, 7 min late.	74		
22	05/23/2019 (Th)	05/23/2019 3:20 PM (Th)	4:34PM	Ar: 1 hr, 14 min late. Dp: 1 hr, 4 min late.	74		
21	05/24/2019 (Fr)	05/25/2019 11:30 AM (Sa)	12:44PM	Ar: 1 hr, 14 min late. Dp: 1 hr, 5 min late.	74		
21	05/17/2019 (Fr)	05/18/2019 11:30 AM (Sa)	12:43PM	Ar: 1 hr, 13 min late. Dp: 1 hr, 5 min late.	73		
21	09/16/2019 (Mo)	09/17/2019 11:30 AM (Tu)	12:43PM	Ar: 1 hr, 13 min late. Dp: 1 hr, 5 min late.	73		
21	12/11/2018 (Tu)	12/12/2018 11:30 AM (We)	12:42PM	Ar: 1 hr, 12 min late. Dp: 1 hr late.	72		
22	12/14/2018 (Fr)	12/14/2018 3:20 PM (Fr)	4:32PM	Ar: 1 hr, 12 min late. Dp: 1 hr, 2 min late.	72		
22	04/10/2019 (We)	04/10/2019 3:20 PM (We)	4:32PM	Ar: 1 hr, 12 min late. Dp: 1 hr, 1 min late.	72	SD	
22	06/24/2019 (Mo)	06/24/2019 3:20 PM (Mo)	4:32PM	Ar: 1 hr, 12 min late. Dp: 1 hr, 3 min late.	72		
21	08/29/2019 (Th)	08/30/2019 11:30 AM (Fr)	12:42PM	Ar: 1 hr, 12 min late. Dp: 1 hr, 6 min late.	72		
22	10/05/2018 (Fr)	10/05/2018 3:20 PM (Fr)	4:31PM	Ar: 1 hr, 11 min late. Dp: 1 hr, 4 min late.	71		
22	09/02/2019 (Mo)	09/02/2019 3:20 PM (Mo)	4:31PM	Ar: 1 hr, 11 min late. Dp: 1 hr late.	71		
22	01/03/2019 (Th)	01/03/2019 3:20 PM (Th)	4:30PM	Ar: 1 hr, 10 min late. Dp: 59 min late.	70		
22	03/11/2019 (Mo)	03/11/2019 3:20 PM (Mo)	4:30PM	Ar: 1 hr, 10 min late. Dp: 1 hr late.	70		
22	07/01/2019 (Mo)	07/01/2019 3:20 PM (Mo)	4:30PM	Ar: 1 hr, 10 min late. Dp: 1 hr, 2 min late.	70		
22	11/06/2018 (Tu)	11/06/2018 3:20 PM (Tu)	4:29PM	Ar: 1 hr, 9 min late. Dp: 1 hr, 1 min late.	69		
21	11/08/2018 (Th)	11/09/2018 11:30 AM (Fr)	12:39PM	Ar: 1 hr, 9 min late. Dp: 59 min late.	69		
22	11/14/2018 (We)	11/14/2018 3:20 PM (We)	4:29PM	Ar: 1 hr, 9 min late. Dp: 56 min late.	69		
22	07/22/2019 (Mo)	07/22/2019 3:20 PM (Mo)	4:29PM	Ar: 1 hr, 9 min late. Dp: 1 hr, 9 min late.	69		
22	08/04/2019 (Su)	08/04/2019 3:20 PM (Su)	4:29PM	Ar: 1 hr, 9 min late. Dp: 1 hr, 4 min late.	69		
21	09/04/2019 (We)	09/05/2019 11:30 AM (Th)	12:39PM	Ar: 1 hr, 9 min late. Dp: 1 hr, 1 min late.	69		
22	09/25/2019 (We)	09/25/2019 3:20 PM (We)	4:29PM	Ar: 1 hr, 9 min late. Dp: 58 min late.	69		
22	02/08/2019 (Fr)	02/08/2019 3:20 PM (Fr)	4:28PM	Ar: 1 hr, 8 min late. Dp: 59 min late.	68		
21	04/21/2019 (Su)	04/22/2019 11:30 AM (Mo)	12:38PM	Ar: 1 hr, 8 min late. Dp: 57 min late.	68		
21	11/07/2018 (We)	11/08/2018 11:30 AM (Th)	12:37PM	Ar: 1 hr, 7 min late. Dp: 55 min late.	67		

22	12/03/2018 (Mo)	12/03/2018 3:20 PM (Mo)	4:27PM	Ar: 1 hr, 7 min late. Dp: 56 min late.	67		
22	04/05/2019 (Fr)	04/05/2019 3:20 PM (Fr)	4:27PM	Ar: 1 hr, 7 min late. Dp: 59 min late.	67		
22	04/08/2019 (Mo)	04/08/2019 3:20 PM (Mo)	4:27PM	Ar: 1 hr, 7 min late. Dp: 57 min late.	67		
22	05/08/2019 (We)	05/08/2019 3:20 PM (We)	4:27PM	Ar: 1 hr, 7 min late. Dp: 1 hr late.	67		
22	08/27/2019 (Tu)	08/27/2019 3:20 PM (Tu)	4:27PM	Ar: 1 hr, 7 min late. Dp: 59 min late.	67		
22	10/10/2018 (We)	10/10/2018 3:20 PM (We)	4:26PM	Ar: 1 hr, 6 min late. Dp: 57 min late.	66		
22	11/30/2018 (Fr)	11/30/2018 3:20 PM (Fr)	4:26PM	Ar: 1 hr, 6 min late. Dp: 55 min late.	66		
22	03/26/2019 (Tu)	03/26/2019 3:20 PM (Tu)	4:26PM	Ar: 1 hr, 6 min late. Dp: 1 hr, 2 min late.	66		
22	05/28/2019 (Tu)	05/28/2019 3:20 PM (Tu)	4:26PM	Ar: 1 hr, 6 min late. Dp: 1 hr, 1 min late.	66		
21	07/21/2019 (Su)	07/22/2019 11:30 AM (Mo)	12:36PM	Ar: 1 hr, 6 min late. Dp: 1 hr, 1 min late.	66		
22	10/23/2018 (Tu)	10/23/2018 3:20 PM (Tu)	4:25PM	Ar: 1 hr, 5 min late. Dp: 54 min late.	65		
22	11/29/2018 (Th)	11/29/2018 3:20 PM (Th)	4:25PM	Ar: 1 hr, 5 min late. Dp: 52 min late.	65		
22	09/26/2019 (Th)	09/26/2019 3:20 PM (Th)	4:25PM	Ar: 1 hr, 5 min late. Dp: 56 min late.	65		
22	12/12/2018 (We)	12/12/2018 3:20 PM (We)	4:24PM	Ar: 1 hr, 4 min late. Dp: 51 min late.	64		
21	03/29/2019 (Fr)	03/30/2019 11:30 AM (Sa)	12:34PM	Ar: 1 hr, 4 min late. Dp: 1 hr late.	64		
22	07/23/2019 (Tu)	07/23/2019 3:20 PM (Tu)	4:24PM	Ar: 1 hr, 4 min late. Dp: 54 min late.	64		
22	10/07/2018 (Su)	10/07/2018 3:20 PM (Su)	4:23PM	Ar: 1 hr, 3 min late. Dp: 1 hr, 10 min late.	63		
21	12/01/2018 (Sa)	12/02/2018 11:30 AM (Su)	12:33PM	Ar: 1 hr, 3 min late. Dp: 52 min late.	63		
22	02/09/2019 (Sa)	02/09/2019 3:20 PM (Sa)	4:23PM	Ar: 1 hr, 3 min late. Dp: 54 min late.	63		
22	03/12/2019 (Tu)	03/12/2019 3:20 PM (Tu)	4:23PM	Ar: 1 hr, 3 min late. Dp: 52 min late.	63		
21	09/01/2019 (Su)	09/02/2019 11:30 AM (Mo)	12:33PM	Ar: 1 hr, 3 min late. Dp: 56 min late.	63		
21	07/03/2019 (We)	07/04/2019 11:30 AM (Th)	12:32PM	Ar: 1 hr, 2 min late. Dp: 50 min late.	62		
21	07/07/2019 (Su)	07/08/2019 11:30 AM (Mo)	12:32PM	Ar: 1 hr, 2 min late. Dp: 1 hr late.	62		
21	05/08/2019 (We)	05/09/2019 11:30 AM (Th)	12:31PM	Ar: 1 hr, 1 min late. Dp: 50 min late.	61		
22	05/27/2019 (Mo)	05/27/2019 3:20 PM (Mo)	4:21PM	Ar: 1 hr, 1 min late. Dp: 54 min late.	61		
21	06/10/2019 (Mo)	06/11/2019 11:30 AM (Tu)	12:31PM	Ar: 1 hr, 1 min late. Dp: 49 min late.	61		
22	07/28/2019 (Su)	07/28/2019 3:20 PM (Su)	4:21PM	Ar: 1 hr, 1 min late. Dp: 42 min late.	61		
21	08/25/2019 (Su)	08/26/2019 11:30 AM (Mo)	12:31PM	Ar: 1 hr, 1 min late. Dp: 51 min late.	61		

21	09/10/2019 (Tu)	09/11/2019 11:30 AM (We)	12:31PM	Ar: 1 hr, 1 min late. Dp: 48 min late.	61		
22	01/20/2019 (Su)	01/20/2019 3:20 PM (Su)	4:20PM	Ar: 1 hr late. Dp: 47 min late.	60		
21	04/09/2019 (Tu)	04/10/2019 11:30 AM (We)	12:30PM	Ar: 1 hr late. Dp: 56 min late.	60		
22	05/12/2019 (Su)	05/12/2019 3:20 PM (Su)	4:19PM	Ar: 59 min late. Dp: 52 min late.	59		
21	06/11/2019 (Tu)	06/12/2019 11:30 AM (We)	12:29PM	Ar: 59 min late. Dp: 57 min late.	59		
21	09/13/2019 (Fr)	09/14/2019 11:30 AM (Sa)	12:29PM	Ar: 59 min late. Dp: 49 min late.	59		
21	09/22/2019 (Su)	09/23/2019 11:30 AM (Mo)	12:29PM	Ar: 59 min late. Dp: 52 min late.	59		
22	11/01/2018 (Th)	11/01/2018 3:20 PM (Th)	4:18PM	Ar: 58 min late. Dp: 48 min late.	58		
21	04/15/2019 (Mo)	04/16/2019 11:30 AM (Tu)	12:28PM	Ar: 58 min late. Dp: 50 min late.	58		
22	05/25/2019 (Sa)	05/25/2019 3:20 PM (Sa)	4:18PM	Ar: 58 min late. Dp: 51 min late.	58		
21	06/21/2019 (Fr)	06/22/2019 11:30 AM (Sa)	12:27PM	Ar: 57 min late. Dp: 58 min late.	57		
21	10/28/2018 (Su)	10/29/2018 11:30 AM (Mo)	12:26PM	Ar: 56 min late. Dp: 42 min late.	56		
22	02/17/2019 (Su)	02/17/2019 3:20 PM (Su)	4:16PM	Ar: 56 min late. Dp: 51 min late.	56		
22	04/06/2019 (Sa)	04/06/2019 3:20 PM (Sa)	4:16PM	Ar: 56 min late. Dp: 49 min late.	56		
22	09/29/2019 (Su)	09/29/2019 3:20 PM (Su)	4:15PM	Ar: 55 min late. Dp: 49 min late.	55		
21	01/16/2019 (We)	01/17/2019 11:30 AM (Th)	12:24PM	Ar: 54 min late. Dp: 41 min late.	54		
21	12/13/2018 (Th)	12/14/2018 11:30 AM (Fr)	12:23PM	Ar: 53 min late. Dp: 1 hr, 1 min late.	53		
22	01/13/2019 (Su)	01/13/2019 3:20 PM (Su)	4:13PM	Ar: 53 min late. Dp: 42 min late.	53		
22	06/30/2019 (Su)	06/30/2019 3:20 PM (Su)	4:13PM	Ar: 53 min late. Dp: 50 min late.	53		
821	10/05/2018 (Fr)	10/05/2018 2:00 PM (Fr)	2:52PM	Ar: 52 min late.	52		
21	12/04/2018 (Tu)	12/05/2018 11:30 AM (We)	12:22PM	Ar: 52 min late. Dp: 39 min late.	52		
22	12/30/2018 (Su)	12/30/2018 3:20 PM (Su)	4:12PM	Ar: 52 min late. Dp: 43 min late.	52		
22	01/12/2019 (Sa)	01/12/2019 3:20 PM (Sa)	4:12PM	Ar: 52 min late. Dp: 40 min late.	52		
21	03/10/2019 (Su)	03/11/2019 11:30 AM (Mo)	12:22PM	Ar: 52 min late. Dp: 44 min late.	52		
22	04/27/2019 (Sa)	04/27/2019 3:20 PM (Sa)	4:12PM	Ar: 52 min late. Dp: 40 min late.	52		
21	04/29/2019 (Mo)	04/30/2019 11:30 AM (Tu)	12:22PM	Ar: 52 min late. Dp: 44 min late.	52		
21	05/06/2019 (Mo)	05/07/2019 11:30 AM (Tu)	12:22PM	Ar: 52 min late. Dp: 44 min late.	52		
22	08/12/2019 (Mo)	08/12/2019 3:20 PM (Mo)	4:12PM	Ar: 52 min late. Dp: 47 min late.	52		

21	09/23/2019 (Mo)	09/24/2019 11:30 AM (Tu)	12:22PM	Ar: 52 min late. Dp: 44 min late.	52		
22	02/11/2019 (Mo)	02/11/2019 3:20 PM (Mo)	4:11PM	Ar: 51 min late. Dp: 37 min late.	51		
21	02/25/2019 (Mo)	02/26/2019 11:30 AM (Tu)	12:21PM	Ar: 51 min late. Dp: 42 min late.	51		
22	03/30/2019 (Sa)	03/30/2019 3:20 PM (Sa)	4:11PM	Ar: 51 min late. Dp: 40 min late.	51		
22	04/11/2019 (Th)	04/11/2019 3:20 PM (Th)	4:10PM	Ar: 50 min late. Dp: 40 min late.	50		
21	08/16/2019 (Fr)	08/17/2019 11:30 AM (Sa)	12:20PM	Ar: 50 min late. Dp: 42 min late.	50		
21	09/27/2019 (Fr)	09/28/2019 11:30 AM (Sa)	12:20PM	Ar: 50 min late. Dp: 44 min late.	50		
22	03/02/2019 (Sa)	03/02/2019 3:20 PM (Sa)	4:09PM	Ar: 49 min late. Dp: 39 min late.	49		
22	05/13/2019 (Mo)	05/13/2019 3:20 PM (Mo)	4:09PM	Ar: 49 min late. Dp: 41 min late.	49		
22	05/15/2019 (We)	05/15/2019 3:20 PM (We)	4:09PM	Ar: 49 min late. Dp: 42 min late.	49		
21	05/30/2019 (Th)	05/31/2019 11:30 AM (Fr)	12:19PM	Ar: 49 min late. Dp: 41 min late.	49		
22	06/23/2019 (Su)	06/23/2019 3:20 PM (Su)	4:09PM	Ar: 49 min late. Dp: 39 min late.	49		
21	08/11/2019 (Su)	08/12/2019 11:30 AM (Mo)	12:19PM	Ar: 49 min late. Dp: 43 min late.	49		
21	09/03/2019 (Tu)	09/04/2019 11:30 AM (We)	12:19PM	Ar: 49 min late. Dp: 40 min late.	49		
22	07/10/2019 (We)	07/10/2019 3:20 PM (We)	4:08PM	Ar: 48 min late. Dp: 37 min late.	48		
22	04/28/2019 (Su)	04/28/2019 3:20 PM (Su)	4:07PM	Ar: 47 min late. Dp: 38 min late.	47		
22	10/20/2018 (Sa)	10/20/2018 3:20 PM (Sa)	4:06PM	Ar: 46 min late. Dp: 41 min late.	46		
21	11/10/2018 (Sa)	11/11/2018 11:30 AM (Su)	12:16PM	Ar: 46 min late. Dp: 32 min late.	46		
22	12/01/2018 (Sa)	12/01/2018 3:20 PM (Sa)	4:06PM	Ar: 46 min late. Dp: 34 min late.	46		
22	02/02/2019 (Sa)	02/02/2019 3:20 PM (Sa)	4:06PM	Ar: 46 min late. Dp: 35 min late.	46	SD	
22	05/19/2019 (Su)	05/19/2019 3:20 PM (Su)	4:06PM	Ar: 46 min late. Dp: 35 min late.	46		
21	09/02/2019 (Mo)	09/03/2019 11:30 AM (Tu)	12:16PM	Ar: 46 min late. Dp: 39 min late.	46		
21	11/15/2018 (Th)	11/16/2018 11:30 AM (Fr)	12:15PM	Ar: 45 min late. Dp: 34 min late.	45		
21	02/19/2019 (Tu)	02/20/2019 11:30 AM (We)	12:15PM	Ar: 45 min late. Dp: 34 min late.	45		
21	06/25/2019 (Tu)	06/26/2019 11:30 AM (We)	12:15PM	Ar: 45 min late. Dp: 35 min late.	45		
22	06/29/2019 (Sa)	06/29/2019 3:20 PM (Sa)	4:05PM	Ar: 45 min late. Dp: 35 min late.	45		
21	10/04/2018 (Th)	10/05/2018 11:30 AM (Fr)	12:14PM	Ar: 44 min late. Dp: 32 min late.	44		
21	02/15/2019 (Fr)	02/16/2019 11:30 AM (Sa)	12:14PM	Ar: 44 min late. Dp: 34 min late.	44		

21	08/15/2019 (Th)	08/16/2019 11:30 AM (Fr)	12:14PM	Ar: 44 min late. Dp: 41 min late.	44		
22	04/13/2019 (Sa)	04/13/2019 3:20 PM (Sa)	4:03PM	Ar: 43 min late. Dp: 34 min late.	43		
22	08/11/2019 (Su)	08/11/2019 3:20 PM (Su)	4:03PM	Ar: 43 min late. Dp: 34 min late.	43	SD	
21	09/14/2019 (Sa)	09/15/2019 11:30 AM (Su)	12:13PM	Ar: 43 min late. Dp: 32 min late.	43		
21	01/04/2019 (Fr)	01/05/2019 11:30 AM (Sa)	12:12PM	Ar: 42 min late. Dp: 36 min late.	42		
22	05/10/2019 (Fr)	05/10/2019 3:20 PM (Fr)	4:02PM	Ar: 42 min late. Dp: 40 min late.	42		
21	06/16/2019 (Su)	06/17/2019 11:30 AM (Mo)	12:12PM	Ar: 42 min late. Dp: 33 min late.	42		
22	09/16/2019 (Mo)	09/16/2019 3:20 PM (Mo)	4:01PM	Ar: 41 min late. Dp: 36 min late.	41		
21	09/25/2019 (We)	09/26/2019 11:30 AM (Th)	12:11PM	Ar: 41 min late. Dp: 31 min late.	41		
22	10/13/2018 (Sa)	10/13/2018 3:20 PM (Sa)	4:00PM	Ar: 40 min late. Dp: 29 min late.	40		
22	12/18/2018 (Tu)	12/18/2018 3:20 PM (Tu)	4:00PM	Ar: 40 min late. Dp: 37 min late.	40		
22	03/25/2019 (Mo)	03/25/2019 3:20 PM (Mo)	4:00PM	Ar: 40 min late. Dp: 30 min late.	40		
22	04/17/2019 (We)	04/17/2019 3:20 PM (We)	4:00PM	Ar: 40 min late. Dp: 29 min late.	40		
22	12/04/2018 (Tu)	12/04/2018 3:20 PM (Tu)	3:59PM	Ar: 39 min late. Dp: 29 min late.	39		
21	02/09/2019 (Sa)	02/10/2019 11:30 AM (Su)	12:09PM	Ar: 39 min late. Dp: 28 min late.	39		
22	05/26/2019 (Su)	05/26/2019 3:20 PM (Su)	3:59PM	Ar: 39 min late. Dp: 30 min late.	39		
22	07/05/2019 (Fr)	07/05/2019 3:20 PM (Fr)	3:59PM	Ar: 39 min late. Dp: 31 min late.	39		
21	09/28/2019 (Sa)	09/29/2019 11:30 AM (Su)	12:09PM	Ar: 39 min late. Dp: 26 min late.	39		
21	10/03/2019 (Th)	10/04/2019 11:30 AM (Fr)	12:09PM	Ar: 39 min late. Dp: 30 min late.	39		
22	12/06/2018 (Th)	12/06/2018 3:20 PM (Th)	3:58PM	Ar: 38 min late. Dp: 25 min late.	38		
22	12/22/2018 (Sa)	12/22/2018 3:20 PM (Sa)	3:58PM	Ar: 38 min late. Dp: 30 min late.	38		
22	01/16/2019 (We)	01/16/2019 3:20 PM (We)	3:58PM	Ar: 38 min late. Dp: 25 min late.	38		
22	01/18/2019 (Fr)	01/18/2019 3:20 PM (Fr)	3:58PM	Ar: 38 min late. Dp: 52 min late.	38		
22	03/09/2019 (Sa)	03/09/2019 3:20 PM (Sa)	3:58PM	Ar: 38 min late. Dp: 26 min late.	38		
22	06/12/2019 (We)	06/12/2019 3:20 PM (We)	3:58PM	Ar: 38 min late. Dp: 29 min late.	38		
21	06/18/2019 (Tu)	06/19/2019 11:30 AM (We)	12:08PM	Ar: 38 min late. Dp: 36 min late.	38		
22	08/23/2019 (Fr)	08/23/2019 3:20 PM (Fr)	3:58PM	Ar: 38 min late. Dp: 25 min late.	38		
22	09/22/2019 (Su)	09/22/2019 3:20 PM (Su)	3:58PM	Ar: 38 min late. Dp: 29 min late.	38		

21	10/02/2019 (We)	10/03/2019 11:30 AM (Th)	12:08PM	Ar: 38 min late. Dp: 37 min late.	38		
21	10/26/2018 (Fr)	10/27/2018 11:30 AM (Sa)	12:07PM	Ar: 37 min late. Dp: 1 hr, 4 min late.	37		
22	11/11/2018 (Su)	11/11/2018 3:20 PM (Su)	3:57PM	Ar: 37 min late. Dp: 25 min late.	37		
22	02/26/2019 (Tu)	02/26/2019 3:20 PM (Tu)	3:57PM	Ar: 37 min late. Dp: 24 min late.	37		
22	03/01/2019 (Fr)	03/01/2019 3:20 PM (Fr)	3:57PM	Ar: 37 min late. Dp: 27 min late.	37		
22	05/16/2019 (Th)	05/16/2019 3:20 PM (Th)	3:57PM	Ar: 37 min late. Dp: 27 min late.	37		
22	07/20/2019 (Sa)	07/20/2019 3:20 PM (Sa)	3:57PM	Ar: 37 min late. Dp: 29 min late.	37		
21	07/23/2019 (Tu)	07/24/2019 11:30 AM (We)	12:07PM	Ar: 37 min late. Dp: 38 min late.	37		
22	07/27/2019 (Sa)	07/27/2019 3:20 PM (Sa)	3:57PM	Ar: 37 min late. Dp: 24 min late.	37		
22	09/09/2019 (Mo)	09/09/2019 3:20 PM (Mo)	3:57PM	Ar: 37 min late. Dp: 26 min late.	37		
22	09/21/2019 (Sa)	09/21/2019 3:20 PM (Sa)	3:57PM	Ar: 37 min late. Dp: 29 min late.	37		
22	10/17/2018 (We)	10/17/2018 3:20 PM (We)	3:56PM	Ar: 36 min late. Dp: 29 min late.	36		
21	10/19/2018 (Fr)	10/20/2018 11:30 AM (Sa)	12:06PM	Ar: 36 min late. Dp: 27 min late.	36		
21	02/23/2019 (Sa)	02/24/2019 11:30 AM (Su)	12:06PM	Ar: 36 min late. Dp: 24 min late.	36		
21	04/25/2019 (Th)	04/26/2019 11:30 AM (Fr)	12:06PM	Ar: 36 min late. Dp: 31 min late.	36		
21	04/27/2019 (Sa)	04/28/2019 11:30 AM (Su)	12:06PM	Ar: 36 min late. Dp: 27 min late.	36		
22	05/01/2019 (We)	05/01/2019 3:20 PM (We)	3:56PM	Ar: 36 min late. Dp: 25 min late.	36		
21	05/02/2019 (Th)	05/03/2019 11:30 AM (Fr)	12:06PM	Ar: 36 min late. Dp: 32 min late.	36		
22	05/06/2019 (Mo)	05/06/2019 3:20 PM (Mo)	3:56PM	Ar: 36 min late. Dp: 29 min late.	36		
22	06/25/2019 (Tu)	06/25/2019 3:20 PM (Tu)	3:56PM	Ar: 36 min late. Dp: 25 min late.	36		
22	08/19/2019 (Mo)	08/19/2019 3:20 PM (Mo)	3:56PM	Ar: 36 min late. Dp: 24 min late.	36		
21	10/20/2018 (Sa)	10/21/2018 11:30 AM (Su)	12:05PM	Ar: 35 min late. Dp: 22 min late.	35		
22	11/23/2018 (Fr)	11/23/2018 3:20 PM (Fr)	3:55PM	Ar: 35 min late. Dp: 28 min late.	35		
22	01/22/2019 (Tu)	01/22/2019 3:20 PM (Tu)	3:55PM	Ar: 35 min late. Dp: 44 min late.	35		
22	05/02/2019 (Th)	05/02/2019 3:20 PM (Th)	3:55PM	Ar: 35 min late. Dp: 25 min late.	35		
22	08/01/2019 (Th)	08/01/2019 3:20 PM (Th)	3:55PM	Ar: 35 min late. Dp: 25 min late.	35		
22	08/05/2019 (Mo)	08/05/2019 3:20 PM (Mo)	3:55PM	Ar: 35 min late. Dp: 30 min late.	35		
22	10/02/2019 (We)	10/02/2019 3:20 PM (We)	3:55PM	Ar: 35 min late. Dp: 24 min late.	35		

22	10/21/2018 (Su)	10/21/2018 3:20 PM (Su)	3:54PM	Ar: 34 min late. Dp: 25 min late.	34		
22	11/02/2018 (Fr)	11/02/2018 3:20 PM (Fr)	3:54PM	Ar: 34 min late. Dp: 26 min late.	34		
22	11/24/2018 (Sa)	11/24/2018 3:20 PM (Sa)	3:54PM	Ar: 34 min late. Dp: 26 min late.	34		
22	11/28/2018 (We)	11/28/2018 3:20 PM (We)	3:54PM	Ar: 34 min late. Dp: 21 min late.	34		
21	12/22/2018 (Sa)	12/23/2018 11:30 AM (Su)	12:04PM	Ar: 34 min late. Dp: 24 min late.	34		
22	01/19/2019 (Sa)	01/19/2019 3:20 PM (Sa)	3:54PM	Ar: 34 min late. Dp: 22 min late.	34		
21	02/13/2019 (We)	02/14/2019 11:30 AM (Th)	12:04PM	Ar: 34 min late. Dp: 30 min late.	34		
22	02/22/2019 (Fr)	02/22/2019 3:20 PM (Fr)	3:54PM	Ar: 34 min late. Dp: 23 min late.	34		
22	04/23/2019 (Tu)	04/23/2019 3:20 PM (Tu)	3:54PM	Ar: 34 min late. Dp: 23 min late.	34		
22	05/14/2019 (Tu)	05/14/2019 3:20 PM (Tu)	3:54PM	Ar: 34 min late. Dp: 26 min late.	34		
22	05/17/2019 (Fr)	05/17/2019 3:20 PM (Fr)	3:54PM	Ar: 34 min late. Dp: 25 min late.	34		
21	05/28/2019 (Tu)	05/29/2019 11:30 AM (We)	12:04PM	Ar: 34 min late. Dp: 29 min late.	34		
22	05/29/2019 (We)	05/29/2019 3:20 PM (We)	3:54PM	Ar: 34 min late. Dp: 24 min late.	34		
22	09/11/2019 (We)	09/11/2019 3:20 PM (We)	3:54PM	Ar: 34 min late. Dp: 30 min late.	34		
21	11/18/2018 (Su)	11/19/2018 11:30 AM (Mo)	12:03PM	Ar: 33 min late. Dp: 22 min late.	33		
22	11/20/2018 (Tu)	11/20/2018 3:20 PM (Tu)	3:53PM	Ar: 33 min late. Dp: 23 min late.	33		
22	01/27/2019 (Su)	01/27/2019 3:20 PM (Su)	3:53PM	Ar: 33 min late. Dp: 20 min late.	33		
22	02/27/2019 (We)	02/27/2019 3:20 PM (We)	3:53PM	Ar: 33 min late. Dp: 22 min late.	33		
22	03/05/2019 (Tu)	03/05/2019 3:20 PM (Tu)	3:53PM	Ar: 33 min late. Dp: 19 min late.	33		
22	04/01/2019 (Mo)	04/01/2019 3:20 PM (Mo)	3:53PM	Ar: 33 min late. Dp: 25 min late.	33		
22	04/22/2019 (Mo)	04/22/2019 3:20 PM (Mo)	3:53PM	Ar: 33 min late. Dp: 21 min late.	33		
21	04/26/2019 (Fr)	04/27/2019 11:30 AM (Sa)	12:03PM	Ar: 33 min late. Dp: 22 min late.	33		
22	04/26/2019 (Fr)	04/26/2019 3:20 PM (Fr)	3:53PM	Ar: 33 min late. Dp: 24 min late.	33		
22	04/29/2019 (Mo)	04/29/2019 3:20 PM (Mo)	3:53PM	Ar: 33 min late. Dp: 22 min late.	33		
22	05/20/2019 (Mo)	05/20/2019 3:20 PM (Mo)	3:53PM	Ar: 33 min late. Dp: 23 min late.	33		
22	05/30/2019 (Th)	05/30/2019 3:20 PM (Th)	3:53PM	Ar: 33 min late. Dp: 25 min late.	33		
22	06/08/2019 (Sa)	06/08/2019 3:20 PM (Sa)	3:53PM	Ar: 33 min late. Dp: 25 min late.	33		
22	06/27/2019 (Th)	06/27/2019 3:20 PM (Th)	3:53PM	Ar: 33 min late. Dp: 22 min late.	33		

22	07/15/2019 (Mo)	07/15/2019 3:20 PM (Mo)	3:53PM	Ar: 33 min late. Dp: 23 min late.	33		
22	07/24/2019 (We)	07/24/2019 3:20 PM (We)	3:53PM	Ar: 33 min late. Dp: 24 min late.	33		
22	12/23/2018 (Su)	12/23/2018 3:20 PM (Su)	3:52PM	Ar: 32 min late. Dp: 24 min late.	32		
21	01/05/2019 (Sa)	01/06/2019 11:30 AM (Su)	12:02PM	Ar: 32 min late. Dp: 27 min late.	32		
22	01/21/2019 (Mo)	01/21/2019 3:20 PM (Mo)	3:52PM	Ar: 32 min late. Dp: 21 min late.	32		
22	02/07/2019 (Th)	02/07/2019 3:20 PM (Th)	3:52PM	Ar: 32 min late. Dp: 19 min late.	32		
22	03/14/2019 (Th)	03/14/2019 3:20 PM (Th)	3:52PM	Ar: 32 min late. Dp: 21 min late.	32		
22	03/21/2019 (Th)	03/21/2019 3:20 PM (Th)	3:52PM	Ar: 32 min late. Dp: 23 min late.	32		
22	04/18/2019 (Th)	04/18/2019 3:20 PM (Th)	3:52PM	Ar: 32 min late. Dp: 24 min late.	32		
22	05/09/2019 (Th)	05/09/2019 3:20 PM (Th)	3:52PM	Ar: 32 min late. Dp: 23 min late.	32		
22	06/15/2019 (Sa)	06/15/2019 3:20 PM (Sa)	3:52PM	Ar: 32 min late. Dp: 23 min late.	32		
22	06/26/2019 (We)	06/26/2019 3:20 PM (We)	3:52PM	Ar: 32 min late. Dp: 21 min late.	32		
21	08/27/2019 (Tu)	08/28/2019 11:30 AM (We)	12:02PM	Ar: 32 min late. Dp: 29 min late.	32		
21	02/08/2019 (Fr)	02/09/2019 11:30 AM (Sa)	12:01PM	Ar: 31 min late. Dp: 22 min late.	31		
22	05/05/2019 (Su)	05/05/2019 3:20 PM (Su)	3:51PM	Ar: 31 min late. Dp: 26 min late.	31		
22	06/13/2019 (Th)	06/13/2019 3:20 PM (Th)	3:51PM	Ar: 31 min late. Dp: 21 min late.	31		
21	11/25/2018 (Su)	11/26/2018 11:30 AM (Mo)	12:00PM	Ar: 30 min late. Dp: 23 min late.	30		
22	08/09/2019 (Fr)	08/09/2019 3:20 PM (Fr)	3:50PM	Ar: 30 min late. Dp: 24 min late.	30		
21	10/04/2019 (Fr)	10/05/2019 11:30 AM (Sa)	12:00PM	Ar: 30 min late. Dp: 18 min late.	30		
21	11/30/2018 (Fr)	12/01/2018 11:30 AM (Sa)	11:59AM	Ar: 29 min late. Dp: 17 min late.	29		
21	11/24/2018 (Sa)	11/25/2018 11:30 AM (Su)	11:58AM	Ar: 28 min late. Dp: 18 min late.	28		
21	09/24/2019 (Tu)	09/25/2019 11:30 AM (We)	11:58AM	Ar: 28 min late. Dp: 30 min late.	28		
21	11/13/2018 (Tu)	11/14/2018 11:30 AM (We)	11:57AM	Ar: 27 min late. Dp: 15 min late.	27		
21	01/27/2019 (Su)	01/28/2019 11:30 AM (Mo)	11:57AM	Ar: 27 min late. Dp: 13 min late.	27		
22	03/31/2019 (Su)	03/31/2019 3:20 PM (Su)	3:47PM	Ar: 27 min late. Dp: 31 min late.	27		
22	08/26/2019 (Mo)	08/26/2019 3:20 PM (Mo)	3:47PM	Ar: 27 min late. Dp: 15 min late.	27		
21	09/30/2019 (Mo)	10/01/2019 11:30 AM (Tu)	11:57AM	Ar: 27 min late. Dp: 19 min late.	27		
21	08/04/2019 (Su)	08/05/2019 11:30 AM (Mo)	11:56AM	Ar: 26 min late. Dp: 33 min late.	26		

22	08/24/2019 (Sa)	08/24/2019 3:20 PM (Sa)	3:46PM	Ar: 26 min late. Dp: 13 min late.	26		
21	12/07/2018 (Fr)	12/08/2018 11:30 AM (Sa)	11:55AM	Ar: 25 min late. Dp: 11 min late.	25		
22	08/25/2019 (Su)	08/25/2019 3:20 PM (Su)	3:45PM	Ar: 25 min late. Dp: 16 min late.	25		
21	09/29/2019 (Su)	09/30/2019 11:30 AM (Mo)	11:55AM	Ar: 25 min late. Dp: 25 min late.	25		
21	06/17/2019 (Mo)	06/18/2019 11:30 AM (Tu)	11:54AM	Ar: 24 min late. Dp: 14 min late.	24		
21	07/27/2019 (Sa)	07/28/2019 11:30 AM (Su)	11:54AM	Ar: 24 min late. Dp: 16 min late.	24		
21	10/22/2018 (Mo)	10/23/2018 11:30 AM (Tu)	11:53AM	Ar: 23 min late. Dp: 17 min late.	23		
22	11/18/2018 (Su)	11/18/2018 3:20 PM (Su)	3:43PM	Ar: 23 min late. Dp: 16 min late.	23		
21	07/05/2019 (Fr)	07/06/2019 11:30 AM (Sa)	11:53AM	Ar: 23 min late. Dp: 14 min late.	23		
22	11/25/2018 (Su)	11/25/2018 3:20 PM (Su)	3:42PM	Ar: 22 min late. Dp: 23 min late.	22		
22	12/28/2018 (Fr)	12/28/2018 3:20 PM (Fr)	3:42PM	Ar: 22 min late. Dp: 18 min late.	22		
21	07/28/2019 (Su)	07/29/2019 11:30 AM (Mo)	11:51AM	Ar: 21 min late. Dp: 15 min late.	21		
22	08/07/2019 (We)	08/07/2019 3:20 PM (We)	3:41PM	Ar: 21 min late. Dp: 10 min late.	21		
21	11/06/2018 (Tu)	11/07/2018 11:30 AM (We)	11:50AM	Ar: 20 min late. Dp: 6 min late.	20		
21	01/21/2019 (Mo)	01/22/2019 11:30 AM (Tu)	11:50AM	Ar: 20 min late. Dp: 15 min late.	20		
21	07/22/2019 (Mo)	07/23/2019 11:30 AM (Tu)	11:50AM	Ar: 20 min late. Dp: 14 min late.	20		
21	09/26/2019 (Th)	09/27/2019 11:30 AM (Fr)	11:50AM	Ar: 20 min late. Dp: 12 min late.	20		
22	03/20/2019 (We)	03/20/2019 3:20 PM (We)	3:39PM	Ar: 19 min late. Dp: 5 min late.	19		
22	11/05/2018 (Mo)	11/05/2018 3:20 PM (Mo)	3:38PM	Ar: 18 min late. Dp: 15 min late.	18		
22	07/03/2019 (We)	07/03/2019 3:20 PM (We)	3:38PM	Ar: 18 min late. Dp: 13 min late.	18		
22	10/18/2018 (Th)	10/18/2018 3:20 PM (Th)	3:37PM	Ar: 17 min late. Dp: 6 min late.	17		
21	10/27/2018 (Sa)	10/28/2018 11:30 AM (Su)	11:47AM	Ar: 17 min late. Dp: 4 min late.	17	SD	
22	11/26/2018 (Mo)	11/26/2018 3:20 PM (Mo)	3:37PM	Ar: 17 min late. Dp: 13 min late.	17		
22	01/11/2019 (Fr)	01/11/2019 3:20 PM (Fr)	3:37PM	Ar: 17 min late. Dp: 7 min late.	17		
22	03/06/2019 (We)	03/06/2019 3:20 PM (We)	3:37PM	Ar: 17 min late. Dp: 6 min late.	17		
21	06/14/2019 (Fr)	06/15/2019 11:30 AM (Sa)	11:47AM	Ar: 17 min late. Dp: 6 min late.	17		
22	09/18/2019 (We)	09/18/2019 3:20 PM (We)	3:37PM	Ar: 17 min late. Dp: 5 min late.	17		
22	05/24/2019 (Fr)	05/24/2019 3:20 PM (Fr)	3:36PM	Ar: 16 min late. Dp: 7 min late.	16		

22	12/17/2018 (Mo)	12/17/2018 3:20 PM (Mo)	3:35PM	Ar: 15 min late. Dp: On time.	15		
22	07/08/2019 (Mo)	07/08/2019 3:20 PM (Mo)	3:35PM	Ar: 15 min late. Dp: 6 min late.	15		
22	10/24/2018 (We)	10/24/2018 3:20 PM (We)	3:34PM	Ar: 14 min late. Dp: 5 min late.	14		
21	02/21/2019 (Th)	02/22/2019 11:30 AM (Fr)	11:44AM	Ar: 14 min late. Dp: 6 min late.	14		
22	07/29/2019 (Mo)	07/29/2019 3:20 PM (Mo)	3:34PM	Ar: 14 min late. Dp: 7 min late.	14		
21	10/21/2018 (Su)	10/22/2018 11:30 AM (Mo)	11:43AM	Ar: 13 min late. Dp: 7 min late.	13		
21	05/16/2019 (Th)	05/17/2019 11:30 AM (Fr)	11:43AM	Ar: 13 min late. Dp: On time.	13		
21	06/19/2019 (We)	06/20/2019 11:30 AM (Th)	11:43AM	Ar: 13 min late. Dp: On time.	13		
22	07/09/2019 (Tu)	07/09/2019 3:20 PM (Tu)	3:33PM	Ar: 13 min late. Dp: 11 min late.	13		
21	11/01/2018 (Th)	11/02/2018 11:30 AM (Fr)	11:42AM	Ar: 12 min late. Dp: 5 min late.	12		
22	01/05/2019 (Sa)	01/05/2019 3:20 PM (Sa)	3:32PM	Ar: 12 min late. Dp: 5 min late.	12		
21	03/06/2019 (We)	03/07/2019 11:30 AM (Th)	11:42AM	Ar: 12 min late. Dp: 2 min late.	12		
21	08/01/2019 (Th)	08/02/2019 11:30 AM (Fr)	11:42AM	Ar: 12 min late. Dp: 12 min late.	12		
22	01/28/2019 (Mo)	01/28/2019 3:20 PM (Mo)	3:31PM	Ar: 11 min late. Dp: On time.	11		
22	02/12/2019 (Tu)	02/12/2019 3:20 PM (Tu)	3:31PM	Ar: 11 min late. Dp: On time.	11		
22	07/19/2019 (Fr)	07/19/2019 3:20 PM (Fr)	3:31PM	Ar: 11 min late. Dp: 25 min late.	11		
22	08/06/2019 (Tu)	08/06/2019 3:20 PM (Tu)	3:31PM	Ar: 11 min late. Dp: 7 min late.	11		
22	09/23/2019 (Mo)	09/23/2019 3:20 PM (Mo)	3:31PM	Ar: 11 min late. Dp: On time.	11		
21	10/06/2018 (Sa)	10/07/2018 11:30 AM (Su)	11:40AM	Ar: 10 min late. Dp: On time.	10		
22	10/27/2018 (Sa)	10/27/2018 3:20 PM (Sa)	3:30PM	Ar: 10 min late. Dp: On time.	10		
22	12/19/2018 (We)	12/19/2018 3:20 PM (We)	3:30PM	Ar: 10 min late. Dp: On time.	10		
22	02/14/2019 (Th)	02/14/2019 3:20 PM (Th)	3:30PM	Ar: 10 min late. Dp: 1 min late.	10		
22	02/21/2019 (Th)	02/21/2019 3:20 PM (Th)	3:30PM	Ar: 10 min late. Dp: On time.	10		
22	03/04/2019 (Mo)	03/04/2019 3:20 PM (Mo)	3:30PM	Ar: 10 min late. Dp: 2 min late.	10		
22	03/13/2019 (We)	03/13/2019 3:20 PM (We)	3:30PM	Ar: 10 min late. Dp: 5 min late.	10		
22	05/04/2019 (Sa)	05/04/2019 3:20 PM (Sa)	3:30PM	Ar: 10 min late. Dp: On time.	10		
22	06/28/2019 (Fr)	06/28/2019 3:20 PM (Fr)	3:30PM	Ar: 10 min late. Dp: 4 min late.	10		
22	09/05/2019 (Th)	09/05/2019 3:20 PM (Th)	3:30PM	Ar: 10 min late. Dp: On time.	10		

22	12/02/2018 (Su)	12/02/2018 3:20 PM (Su)	3:29PM	Ar: 9 min late. Dp: On time.	9		
22	01/02/2019 (We)	01/02/2019 3:20 PM (We)	3:29PM	Ar: 9 min late. Dp: On time.	9		
22	02/13/2019 (We)	02/13/2019 3:20 PM (We)	3:29PM	Ar: 9 min late. Dp: On time.	9		
22	03/18/2019 (Mo)	03/18/2019 3:20 PM (Mo)	3:29PM	Ar: 9 min late. Dp: 7 min late.	9		
22	08/16/2019 (Fr)	08/16/2019 3:20 PM (Fr)	3:29PM	Ar: 9 min late. Dp: 4 min late.	9		
22	09/10/2019 (Tu)	09/10/2019 3:20 PM (Tu)	3:29PM	Ar: 9 min late. Dp: 1 min late.	9		
22	09/20/2019 (Fr)	09/20/2019 3:20 PM (Fr)	3:29PM	Ar: 9 min late. Dp: 2 min late.	9		
22	10/26/2018 (Fr)	10/26/2018 3:20 PM (Fr)	3:28PM	Ar: 8 min late. Dp: On time.	8		
21	11/29/2018 (Th)	11/30/2018 11:30 AM (Fr)	11:38AM	Ar: 8 min late. Dp: 1 min late.	8		
22	12/05/2018 (We)	12/05/2018 3:20 PM (We)	3:28PM	Ar: 8 min late. Dp: 1 min late.	8		
22	12/26/2018 (We)	12/26/2018 3:20 PM (We)	3:28PM	Ar: 8 min late. Dp: 1 min late.	8		
22	01/24/2019 (Th)	01/24/2019 3:20 PM (Th)	3:28PM	Ar: 8 min late. Dp: On time.	8		
22	03/28/2019 (Th)	03/28/2019 3:20 PM (Th)	3:28PM	Ar: 8 min late. Dp: 4 min late.	8		
22	05/22/2019 (We)	05/22/2019 3:20 PM (We)	3:28PM	Ar: 8 min late. Dp: On time.	8		
22	01/07/2019 (Mo)	01/07/2019 3:20 PM (Mo)	3:27PM	Ar: 7 min late. Dp: On time.	7		
22	01/23/2019 (We)	01/23/2019 3:20 PM (We)	3:27PM	Ar: 7 min late. Dp: On time.	7		
22	04/30/2019 (Tu)	04/30/2019 3:20 PM (Tu)	3:27PM	Ar: 7 min late. Dp: 4 min late.	7		
22	08/08/2019 (Th)	08/08/2019 3:20 PM (Th)	3:27PM	Ar: 7 min late. Dp: On time.	7		
22	08/14/2019 (We)	08/14/2019 3:20 PM (We)	3:27PM	Ar: 7 min late. Dp: On time.	7		
22	08/29/2019 (Th)	08/29/2019 3:20 PM (Th)	3:27PM	Ar: 7 min late. Dp: On time.	7		
22	09/24/2019 (Tu)	09/24/2019 3:20 PM (Tu)	3:27PM	Ar: 7 min late. Dp: On time.	7		
22	10/03/2019 (Th)	10/03/2019 3:20 PM (Th)	3:27PM	Ar: 7 min late. Dp: On time.	7		
22	10/06/2018 (Sa)	10/06/2018 3:20 PM (Sa)	3:26PM	Ar: 6 min late. Dp: On time.	6		
22	11/12/2018 (Mo)	11/12/2018 3:20 PM (Mo)	3:26PM	Ar: 6 min late. Dp: On time.	6		
22	11/16/2018 (Fr)	11/16/2018 3:20 PM (Fr)	3:26PM	Ar: 6 min late. Dp: On time.	6		
22	11/27/2018 (Tu)	11/27/2018 3:20 PM (Tu)	3:26PM	Ar: 6 min late. Dp: 26 min late.	6		
22	12/10/2018 (Mo)	12/10/2018 3:20 PM (Mo)	3:26PM	Ar: 6 min late. Dp: 6 min late.	6		
22	01/25/2019 (Fr)	01/25/2019 3:20 PM (Fr)	3:26PM	Ar: 6 min late. Dp: On time.	6		

21	05/05/2019 (Su)	05/06/2019 11:30 AM (Mo)	11:36AM	Ar: 6 min late. Dp: On time.	6		
22	05/07/2019 (Tu)	05/07/2019 3:20 PM (Tu)	3:26PM	Ar: 6 min late. Dp: On time.	6		
22	07/18/2019 (Th)	07/18/2019 3:20 PM (Th)	3:26PM	Ar: 6 min late. Dp: On time.	6		
22	07/31/2019 (We)	07/31/2019 3:20 PM (We)	3:26PM	Ar: 6 min late. Dp: On time.	6		
22	08/15/2019 (Th)	08/15/2019 3:20 PM (Th)	3:26PM	Ar: 6 min late. Dp: On time.	6		
22	09/19/2019 (Th)	09/19/2019 3:20 PM (Th)	3:26PM	Ar: 6 min late. Dp: On time.	6		
22	10/08/2018 (Mo)	10/08/2018 3:20 PM (Mo)	3:25PM	Ar: 5 min late. Dp: On time.	5		
22	10/31/2018 (We)	10/31/2018 3:20 PM (We)	3:25PM	Ar: 5 min late. Dp: 1 min late.	5		
22	11/19/2018 (Mo)	11/19/2018 3:20 PM (Mo)	3:25PM	Ar: 5 min late. Dp: 5 min late.	5		
21	12/26/2018 (We)	12/27/2018 11:30 AM (Th)	11:35AM	Ar: 5 min late. Dp: On time.	5		
22	02/18/2019 (Mo)	02/18/2019 3:20 PM (Mo)	3:25PM	Ar: 5 min late. Dp: On time.	5		
22	03/07/2019 (Th)	03/07/2019 3:20 PM (Th)	3:25PM	Ar: 5 min late. Dp: On time.	5		
22	04/15/2019 (Mo)	04/15/2019 3:20 PM (Mo)	3:25PM	Ar: 5 min late. Dp: On time.	5		
22	07/02/2019 (Tu)	07/02/2019 3:20 PM (Tu)	3:25PM	Ar: 5 min late. Dp: 3 min late.	5		
22	07/25/2019 (Th)	07/25/2019 3:20 PM (Th)	3:25PM	Ar: 5 min late. Dp: On time.	5		
21	08/06/2019 (Tu)	08/07/2019 11:30 AM (We)	11:35AM	Ar: 5 min late. Dp: On time.	5		
22	09/04/2019 (We)	09/04/2019 3:20 PM (We)	3:25PM	Ar: 5 min late. Dp: On time.	5		
22	09/27/2019 (Fr)	09/27/2019 3:20 PM (Fr)	3:25PM	Ar: 5 min late. Dp: On time.	5		
21	12/21/2018 (Fr)	12/22/2018 11:30 AM (Sa)	11:34AM	Ar: 4 min late. Dp: On time.	4		
22	12/27/2018 (Th)	12/27/2018 3:20 PM (Th)	3:24PM	Ar: 4 min late. Dp: 1 min late.	4		
22	12/31/2018 (Mo)	12/31/2018 3:20 PM (Mo)	3:24PM	Ar: 4 min late. Dp: On time.	4		
22	01/10/2019 (Th)	01/10/2019 3:20 PM (Th)	3:24PM	Ar: 4 min late. Dp: On time.	4		
22	02/01/2019 (Fr)	02/01/2019 3:20 PM (Fr)	3:24PM	Ar: 4 min late. Dp: 1 min late.	4		
22	02/19/2019 (Tu)	02/19/2019 3:20 PM (Tu)	3:24PM	Ar: 4 min late. Dp: On time.	4		
21	05/04/2019 (Sa)	05/05/2019 11:30 AM (Su)	11:34AM	Ar: 4 min late. Dp: 8 min late.	4		
21	05/09/2019 (Th)	05/10/2019 11:30 AM (Fr)	11:34AM	Ar: 4 min late. Dp: On time.	4		
22	09/03/2019 (Tu)	09/03/2019 3:20 PM (Tu)	3:24PM	Ar: 4 min late. Dp: On time.	4		
21	09/17/2019 (Tu)	09/18/2019 11:30 AM (We)	11:34AM	Ar: 4 min late. Dp: On time.	4		

22	09/30/2019 (Mo)	09/30/2019 3:20 PM (Mo)	3:24PM	Ar: 4 min late. Dp: On time.	4	SD	
22	01/09/2019 (We)	01/09/2019 3:20 PM (We)	3:23PM	Ar: 3 min late. Dp: On time.	3		
22	01/14/2019 (Mo)	01/14/2019 3:20 PM (Mo)	3:23PM	Ar: 3 min late. Dp: On time.	3		
22	01/17/2019 (Th)	01/17/2019 3:20 PM (Th)	3:23PM	Ar: 3 min late. Dp: On time.	3		
22	02/28/2019 (Th)	02/28/2019 3:20 PM (Th)	3:23PM	Ar: 3 min late. Dp: On time.	3		
22	04/03/2019 (We)	04/03/2019 3:20 PM (We)	3:23PM	Ar: 3 min late. Dp: On time.	3		
22	04/12/2019 (Fr)	04/12/2019 3:20 PM (Fr)	3:23PM	Ar: 3 min late. Dp: On time.	3		
22	07/13/2019 (Sa)	07/13/2019 3:20 PM (Sa)	3:23PM	Ar: 3 min late. Dp: On time.	3		
21	07/30/2019 (Tu)	07/31/2019 11:30 AM (We)	11:33AM	Ar: 3 min late. Dp: On time.	3		
22	08/22/2019 (Th)	08/22/2019 3:20 PM (Th)	3:23PM	Ar: 3 min late. Dp: On time.	3		
22	09/07/2019 (Sa)	09/07/2019 3:20 PM (Sa)	3:23PM	Ar: 3 min late. Dp: On time.	3		
22	01/31/2019 (Th)	01/31/2019 3:20 PM (Th)	3:22PM	Ar: 2 min late. Dp: On time.	2		
22	02/03/2019 (Su)	02/03/2019 3:20 PM (Su)	3:22PM	Ar: 2 min late. Dp: 3 min late.	2	SD	
22	02/04/2019 (Mo)	02/04/2019 3:20 PM (Mo)	3:22PM	Ar: 2 min late. Dp: On time.	2		
22	02/06/2019 (We)	02/06/2019 3:20 PM (We)	3:22PM	Ar: 2 min late. Dp: On time.	2		
22	07/06/2019 (Sa)	07/06/2019 3:20 PM (Sa)	3:22PM	Ar: 2 min late. Dp: On time.	2		
22	10/05/2019 (Sa)	10/05/2019 3:20 PM (Sa)	3:22PM	Ar: 2 min late. Dp: On time.	2		
22	10/22/2018 (Mo)	10/22/2018 3:20 PM (Mo)	3:21PM	Ar: 1 min late. Dp: On time.	1		
22	07/07/2019 (Su)	07/07/2019 3:20 PM (Su)	3:21PM	Ar: 1 min late. Dp: On time.	1		
22	08/10/2019 (Sa)	08/10/2019 3:20 PM (Sa)	3:21PM	Ar: 1 min late. Dp: On time.	1	SD	
21	02/10/2019 (Su)	02/11/2019 11:30 AM (Mo)	11:30AM	Ar: On time. Dp: On time.	0		
21	04/22/2019 (Mo)	04/23/2019 11:30 AM (Tu)	11:30AM	Ar: On time. Dp: On time.	0		
22	11/03/2018 (Sa)	11/03/2018 3:20 PM (Sa)	3:19PM	Ar: 1 min early. Dp: On time.	-1		
22	04/20/2019 (Sa)	04/20/2019 3:20 PM (Sa)	3:19PM	Ar: 1 min early. Dp: On time.	-1		
22	08/18/2019 (Su)	08/18/2019 3:20 PM (Su)	3:19PM	Ar: 1 min early. Dp: On time.	-1		
21	01/07/2019 (Mo)	01/08/2019 11:30 AM (Tu)	11:28AM	Ar: 2 min early. Dp: 1 min late.	-2		
21	09/15/2019 (Su)	09/16/2019 11:30 AM (Mo)	11:28AM	Ar: 2 min early. Dp: On time.	-2		
21	09/19/2019 (Th)	09/20/2019 11:30 AM (Fr)	11:28AM	Ar: 2 min early. Dp: 1 min late.	-2		

22	12/09/2018 (Su)	12/09/2018 3:20 PM (Su)	3:17PM	Ar: 3 min early. Dp: On time.	-3		
21	03/07/2019 (Th)	03/08/2019 11:30 AM (Fr)	11:27AM	Ar: 3 min early. Dp: On time.	-3		
21	04/14/2019 (Su)	04/15/2019 11:30 AM (Mo)	11:27AM	Ar: 3 min early. Dp: On time.	-3		
21	08/02/2019 (Fr)	08/03/2019 11:30 AM (Sa)	11:27AM	Ar: 3 min early. Dp: 5 min late.	-3		
22	08/31/2019 (Sa)	08/31/2019 3:20 PM (Sa)	3:17PM	Ar: 3 min early. Dp: 1 min late.	-3		
22	02/10/2019 (Su)	02/10/2019 3:20 PM (Su)	3:16PM	Ar: 4 min early. Dp: On time.	-4		
21	12/27/2018 (Th)	12/28/2018 11:30 AM (Fr)	11:25AM	Ar: 5 min early. Dp: On time.	-5		
22	04/21/2019 (Su)	04/21/2019 3:20 PM (Su)	3:15PM	Ar: 5 min early. Dp: On time.	-5		
22	09/28/2019 (Sa)	09/28/2019 3:20 PM (Sa)	3:15PM	Ar: 5 min early. Dp: On time.	-5		
21	12/02/2018 (Su)	12/03/2018 11:30 AM (Mo)	11:24AM	Ar: 6 min early. Dp: On time.	-6		
21	12/20/2018 (Th)	12/21/2018 11:30 AM (Fr)	11:24AM	Ar: 6 min early. Dp: 34 min late.	-6		
22	01/26/2019 (Sa)	01/26/2019 3:20 PM (Sa)	3:14PM	Ar: 6 min early. Dp: On time.	-6		
21	02/26/2019 (Tu)	02/27/2019 11:30 AM (We)	11:24AM	Ar: 6 min early. Dp: On time.	-6		
22	05/11/2019 (Sa)	05/11/2019 3:20 PM (Sa)	3:14PM	Ar: 6 min early. Dp: On time.	-6		
21	05/19/2019 (Su)	05/20/2019 11:30 AM (Mo)	11:24AM	Ar: 6 min early. Dp: On time.	-6		
21	08/08/2019 (Th)	08/09/2019 11:30 AM (Fr)	11:24AM	Ar: 6 min early. Dp: On time.	-6		
21	11/28/2018 (We)	11/29/2018 11:30 AM (Th)	11:23AM	Ar: 7 min early. Dp: On time.	-7		
22	03/16/2019 (Sa)	03/16/2019 3:20 PM (Sa)	3:13PM	Ar: 7 min early. Dp: On time.	-7		
22	09/14/2019 (Sa)	09/14/2019 3:20 PM (Sa)	3:13PM	Ar: 7 min early. Dp: On time.	-7		
21	02/24/2019 (Su)	02/25/2019 11:30 AM (Mo)	11:22AM	Ar: 8 min early. Dp: On time.	-8	SD	
21	01/20/2019 (Su)	01/21/2019 11:30 AM (Mo)	11:21AM	Ar: 9 min early. Dp: On time.	-9		
22	11/22/2018 (Th)	11/22/2018 3:20 PM (Th)	3:10PM	Ar: 10 min early. Dp: On time.	-10		
21	01/10/2019 (Th)	01/11/2019 11:30 AM (Fr)	11:20AM	Ar: 10 min early. Dp: On time.	-10		
21	01/18/2019 (Fr)	01/19/2019 11:30 AM (Sa)	11:20AM	Ar: 10 min early. Dp: On time.	-10		
21	02/06/2019 (We)	02/07/2019 11:30 AM (Th)	11:20AM	Ar: 10 min early. Dp: On time.	-10		
22	02/16/2019 (Sa)	02/16/2019 3:20 PM (Sa)	3:09PM	Ar: 11 min early. Dp: On time.	-11		
21	12/30/2018 (Su)	12/31/2018 11:30 AM (Mo)	11:18AM	Ar: 12 min early. Dp: On time.	-12		
21	04/23/2019 (Tu)	04/24/2019 11:30 AM (We)	11:18AM	Ar: 12 min early. Dp: On time.	-12		

22	08/17/2019 (Sa)	08/17/2019 3:20 PM (Sa)	3:08PM	Ar: 12 min early. Dp: On time.	-12		
22	11/04/2018 (Su)	11/04/2018 3:20 PM (Su)	3:07PM	Ar: 13 min early. Dp: On time.	-13		
21	11/27/2018 (Tu)	11/28/2018 11:30 AM (We)	11:17AM	Ar: 13 min early. Dp: On time.	-13		
21	01/12/2019 (Sa)	01/13/2019 11:30 AM (Su)	11:17AM	Ar: 13 min early. Dp: 10 min late.	-13		
22	04/14/2019 (Su)	04/14/2019 3:20 PM (Su)	3:07PM	Ar: 13 min early. Dp: 2 min late.	-13		
22	08/03/2019 (Sa)	08/03/2019 3:20 PM (Sa)	3:07PM	Ar: 13 min early. Dp: On time.	-13		
22	07/21/2019 (Su)	07/21/2019 3:20 PM (Su)	3:06PM	Ar: 14 min early. Dp: On time.	-14		
21	01/09/2019 (We)	01/10/2019 11:30 AM (Th)	11:15AM	Ar: 15 min early. Dp: 18 min late.	-15		
21	02/17/2019 (Su)	02/18/2019 11:30 AM (Mo)	11:15AM	Ar: 15 min early. Dp: On time.	-15		
21	04/18/2019 (Th)	04/19/2019 11:30 AM (Fr)	11:15AM	Ar: 15 min early. Dp: On time.	-15		
21	01/13/2019 (Su)	01/14/2019 11:30 AM (Mo)	11:14AM	Ar: 16 min early. Dp: On time.	-16		
22	09/08/2019 (Su)	09/08/2019 3:20 PM (Su)	3:04PM	Ar: 16 min early. Dp: On time.	-16		
22	01/01/2019 (Tu)	01/01/2019 3:20 PM (Tu)	3:01PM	Ar: 19 min early. Dp: On time.	-19		
21	10/24/2018 (We)	10/25/2018 11:30 AM (Th)	11:10AM	Ar: 20 min early. Dp: On time.	-20		
21	11/23/2018 (Fr)	11/24/2018 11:30 AM (Sa)	11:10AM	Ar: 20 min early. Dp: On time.	-20		
22	12/25/2018 (Tu)	12/25/2018 3:20 PM (Tu)	3:00PM	Ar: 20 min early. Dp: On time.	-20		
21	11/22/2018 (Th)	11/23/2018 11:30 AM (Fr)	11:09AM	Ar: 21 min early. Dp: 2 min late.	-21		
21	01/03/2019 (Th)	01/04/2019 11:30 AM (Fr)	11:09AM	Ar: 21 min early. Dp: On time.	-21		
21	02/14/2019 (Th)	02/15/2019 11:30 AM (Fr)	11:09AM	Ar: 21 min early. Dp: On time.	-21		
21	12/17/2018 (Mo)	12/18/2018 11:30 AM (Tu)	11:08AM	Ar: 22 min early. Dp: On time.	-22		
21	01/14/2019 (Mo)	01/15/2019 11:30 AM (Tu)	11:08AM	Ar: 22 min early. Dp: On time.	-22		
21	02/04/2019 (Mo)	02/05/2019 11:30 AM (Tu)	11:08AM	Ar: 22 min early. Dp: On time.	-22		
21	01/06/2019 (Su)	01/07/2019 11:30 AM (Mo)	11:07AM	Ar: 23 min early. Dp: On time.	-23		
21	12/31/2018 (Mo)	01/01/2019 11:30 AM (Tu)	11:06AM	Ar: 24 min early. Dp: On time.	-24		
22	07/04/2019 (Th)	07/04/2019 3:20 PM (Th)	2:55PM	Ar: 25 min early. Dp: On time.	-25		
21	11/04/2018 (Su)	11/05/2018 11:30 AM (Mo)	11:04AM	Ar: 26 min early. Dp: On time.	-26		
21	12/19/2018 (We)	12/20/2018 11:30 AM (Th)	11:04AM	Ar: 26 min early. Dp: On time.	-26		
21	12/23/2018 (Su)	12/24/2018 11:30 AM (Mo)	11:04AM	Ar: 26 min early. Dp: 2 min late.	-26		

21	02/16/2019 (Sa)	02/17/2019 11:30 AM (Su)	11:04AM	Ar: 26 min early. Dp: On time.	-26		
21	03/09/2019 (Sa)	03/10/2019 12:30 PM (Su)	12:04PM	Ar: 26 min early. Dp: On time.	-26		
21	10/25/2018 (Th)	10/26/2018 11:30 AM (Fr)	11:03AM	Ar: 27 min early. Dp: On time.	-27		
21	02/18/2019 (Mo)	02/19/2019 11:30 AM (Tu)	11:03AM	Ar: 27 min early. Dp: On time.	-27		
21	05/20/2019 (Mo)	05/21/2019 11:30 AM (Tu)	11:03AM	Ar: 27 min early. Dp: On time.	-27		
21	12/25/2018 (Tu)	12/26/2018 11:30 AM (We)	11:02AM	Ar: 28 min early. Dp: On time.	-28		
21	01/02/2019 (We)	01/03/2019 11:30 AM (Th)	11:02AM	Ar: 28 min early. Dp: On time.	-28		
21	01/24/2019 (Th)	01/25/2019 11:30 AM (Fr)	11:02AM	Ar: 28 min early. Dp: On time.	-28		
21	02/03/2019 (Su)	02/04/2019 11:30 AM (Mo)	11:02AM	Ar: 28 min early. Dp: On time.	-28		
21	12/16/2018 (Su)	12/17/2018 11:30 AM (Mo)	11:01AM	Ar: 29 min early. Dp: 5 min late.	-29		
21	02/05/2019 (Tu)	02/06/2019 11:30 AM (We)	11:00AM	Ar: 30 min early. Dp: On time.	-30		
21	07/04/2019 (Th)	07/05/2019 11:30 AM (Fr)	11:00AM	Ar: 30 min early. Dp: On time.	-30		
21	12/29/2018 (Sa)	12/30/2018 11:30 AM (Su)	10:57AM	Ar: 33 min early. Dp: On time.	-33		
21	05/14/2019 (Tu)	05/15/2019 11:30 AM (We)	10:54AM	Ar: 36 min early. Dp: On time.	-36		
21	12/18/2018 (Tu)	12/19/2018 11:30 AM (We)	10:51AM	Ar: 39 min early. Dp: On time.	-39		
21	01/08/2019 (Tu)	01/09/2019 11:30 AM (We)	10:51AM	Ar: 39 min early. Dp: On time.	-39		
21	12/24/2018 (Mo)	12/25/2018 11:30 AM (Tu)	10:46AM	Ar: 44 min early. Dp: On time.	-44		
21	01/17/2019 (Th)	01/18/2019 11:30 AM (Fr)	10:46AM	Ar: 44 min early. Dp: On time.	-44		
					Average Ar delay: 1 hour and 24 minutes late		
					Median Ar delay: 51 minutes late		

Database last updated Tuesday October 8, 2019 7:36 AM EDT

Amtrak Status Maps data provided and maintained by statusmaps.com

This website (juckins.net) is not affiliated with amtrak.com or Amtrak (the National Railroad Passenger Corporation)

Exhibit I



Amtrak Status Maps Archive Database

Historical Amtrak on-time performance data

[Home](#) [Search Amtrak Data](#) [Amtrak Resources](#) [Help](#) [About](#)

Train Number and/or Station Search of Past Amtrak Performance

Here you can search Amtrak train performance by their stations and/or train numbers. The list will show how late (or early) a particular train departed or arrived at a station for a range of dates.

To begin, enter the train number or wildcards such as "30*", "2100-2200", "3,4,5,6" or "all". Include the dates and optional [station code](#).

Graphical displays of performance can be made with the [Google Chart](#) page.

Train number: and/or Station code:

Start date: End date (optional):

Originating on: ☒ Su ☒ Mo ☒ Tu ☒ We ☒ Th ☒ Fr ☒ Sa

Sort results by: ☐ Scheduled DP ☐ Scheduled AR ☐ DP Delays ☒ AR Delays

Sort direction: ☐ Ascending ☒ Descending

Optional: show delays minutes

284 results found.

History for Amtrak ALL TRAINS at HOS (Houston, TX)							
Train #	Origin Date	Sch Ar	Act Ar	Comments	Ar Delay (mins)	Service Disruption	Cancellations
2	05/01/2019 (We)	05/03/2019 11:10 AM (Fr)	9:42PM	Ar: 10 hr, 32 min late Dp: 9 hr, 53 min late.	632		
2	07/24/2019 (We)	07/26/2019 11:10 AM (Fr)	9:14PM	Ar: 10 hr, 4 min late. Dp: 9 hr, 33 min late.	604		
1	11/07/2018 (We)	11/07/2018 6:18 PM (We)	3:46AM	Ar: 9 hr, 28 min late. Dp: 9 hr, 20 min late.	568		
2	01/04/2019 (Fr)	01/06/2019 11:10 AM (Su)	7:49PM	Ar: 8 hr, 39 min late. Dp: 8 hr, 4 min late.	519		
1	01/02/2019 (We)	01/02/2019 6:18 PM (We)	2:18AM	Ar: 8 hr late. Dp: 8 hr, 9 min late.	480		
2	07/05/2019 (Fr)	07/07/2019 11:10 AM (Su)	7:01PM	Ar: 7 hr, 51 min late. Dp: 7 hr, 12 min late.	471	SD	
2	07/07/2019 (Su)	07/09/2019 11:10 AM (Tu)	5:35PM	Ar: 6 hr, 25 min late. Dp: 5 hr, 54 min late.	385		
2	09/04/2019 (We)	09/06/2019 11:10 AM (Fr)	5:29PM	Ar: 6 hr, 19 min late. Dp: 5 hr, 45 min late.	379		
2	07/31/2019 (We)	08/02/2019 11:10 AM (Fr)	5:18PM	Ar: 6 hr, 8 min late. Dp: 5 hr, 42 min late.	368		
2	10/07/2018 (Su)	10/09/2018 11:10 AM (Tu)	5:14PM	Ar: 6 hr, 4 min late. Dp: 7 hr, 19 min late.	364		

1	06/10/2019 (Mo)	06/10/2019 6:18 PM (Mo)	12:18AM	Ar: 6 hr late. Dp: 5 hr, 46 min late.	360		
1	05/04/2019 (Sa)	05/04/2019 6:18 PM (Sa)	12:11AM	Ar: 5 hr, 53 min late. Dp: 5 hr, 30 min late.	353		
2	01/13/2019 (Su)	01/15/2019 11:10 AM (Tu)	4:54PM	Ar: 5 hr, 44 min late. Dp: 5 hr, 3 min late.	344		
1	04/08/2019 (Mo)	04/08/2019 6:18 PM (Mo)	12:02AM	Ar: 5 hr, 44 min late. Dp: 5 hr, 54 min late.	344		
2	10/14/2018 (Su)	10/16/2018 11:10 AM (Tu)	4:53PM	Ar: 5 hr, 43 min late. Dp: 5 hr late.	343		
1	03/18/2019 (Mo)	03/18/2019 6:18 PM (Mo)	11:58PM	Ar: 5 hr, 40 min late. Dp: 5 hr, 19 min late.	340		
2	02/22/2019 (Fr)	02/24/2019 11:10 AM (Su)	4:44PM	Ar: 5 hr, 34 min late. Dp: 4 hr, 52 min late.	334		
2	11/21/2018 (We)	11/23/2018 11:10 AM (Fr)	4:24PM	Ar: 5 hr, 14 min late. Dp: 4 hr, 41 min late.	314	SD	
1	07/10/2019 (We)	07/10/2019 6:18 PM (We)	11:32PM	Ar: 5 hr, 14 min late. Dp: 5 hr, 5 min late.	314		
2	09/25/2019 (We)	09/27/2019 11:10 AM (Fr)	4:23PM	Ar: 5 hr, 13 min late. Dp: 4 hr, 33 min late.	313	SD	
1	04/22/2019 (Mo)	04/22/2019 6:18 PM (Mo)	11:21PM	Ar: 5 hr, 3 min late. Dp: 4 hr, 41 min late.	303		
2	08/11/2019 (Su)	08/13/2019 11:10 AM (Tu)	4:12PM	Ar: 5 hr, 2 min late. Dp: 4 hr, 23 min late.	302		
2	03/15/2019 (Fr)	03/17/2019 11:10 AM (Su)	4:09PM	Ar: 4 hr, 59 min late. Dp: 5 hr, 22 min late.	299		
2	04/05/2019 (Fr)	04/07/2019 11:10 AM (Su)	4:06PM	Ar: 4 hr, 56 min late. Dp: 4 hr, 19 min late.	296		
1	10/10/2018 (We)	10/10/2018 6:18 PM (We)	11:12PM	Ar: 4 hr, 54 min late. Dp: 4 hr, 37 min late.	294		
2	04/07/2019 (Su)	04/09/2019 11:10 AM (Tu)	4:01PM	Ar: 4 hr, 51 min late. Dp: 4 hr, 13 min late.	291		
1	05/15/2019 (We)	05/15/2019 6:18 PM (We)	10:57PM	Ar: 4 hr, 39 min late. Dp: 6 hr, 3 min late.	279		
1	06/15/2019 (Sa)	06/15/2019 6:18 PM (Sa)	10:53PM	Ar: 4 hr, 35 min late. Dp: 4 hr, 28 min late.	275		
1	07/27/2019 (Sa)	07/27/2019 6:18 PM (Sa)	10:52PM	Ar: 4 hr, 34 min late. Dp: 4 hr, 26 min late.	274		
2	09/29/2019 (Su)	10/01/2019 11:10 AM (Tu)	3:44PM	Ar: 4 hr, 34 min late. Dp: 3 hr, 48 min late.	274		
1	04/10/2019 (We)	04/10/2019 6:18 PM (We)	10:45PM	Ar: 4 hr, 27 min late. Dp: 4 hr, 14 min late.	267		
2	10/10/2018 (We)	10/12/2018 11:10 AM (Fr)	3:36PM	Ar: 4 hr, 26 min late. Dp: 3 hr, 45 min late.	266		
1	06/03/2019 (Mo)	06/03/2019 6:18 PM (Mo)	10:36PM	Ar: 4 hr, 18 min late. Dp: 4 hr, 6 min late.	258		
2	02/15/2019 (Fr)	02/17/2019 11:10 AM (Su)	3:25PM	Ar: 4 hr, 15 min late. Dp: 3 hr, 30 min late.	255	SD	
1	10/13/2018 (Sa)	10/13/2018 6:18 PM (Sa)	10:32PM	Ar: 4 hr, 14 min late. Dp: 3 hr, 51 min late.	254		
1	09/07/2019 (Sa)	09/07/2019 6:18 PM (Sa)	10:31PM	Ar: 4 hr, 13 min late. Dp: 3 hr, 58 min late.	253		
1	06/17/2019 (Mo)	06/17/2019 6:18 PM (Mo)	10:29PM	Ar: 4 hr, 11 min late. Dp: 3 hr, 57 min late.	251		
1	08/03/2019 (Sa)	08/03/2019 6:18 PM (Sa)	10:29PM	Ar: 4 hr, 11 min late. Dp: 4 hr, 5 min late.	251		

2	06/16/2019 (Su)	06/18/2019 11:10 AM (Tu)	3:17PM	Ar: 4 hr, 7 min late. Dp: 3 hr, 33 min late.	247		
1	03/09/2019 (Sa)	03/09/2019 6:18 PM (Sa)	10:23PM	Ar: 4 hr, 5 min late. Dp: 3 hr, 51 min late.	245		
2	03/17/2019 (Su)	03/19/2019 11:10 AM (Tu)	3:15PM	Ar: 4 hr, 5 min late. Dp: 3 hr, 26 min late.	245		
1	08/31/2019 (Sa)	08/31/2019 6:18 PM (Sa)	10:23PM	Ar: 4 hr, 5 min late. Dp: 3 hr, 52 min late.	245	SD	
1	04/24/2019 (We)	04/24/2019 6:18 PM (We)	10:19PM	Ar: 4 hr, 1 min late. Dp: 3 hr, 39 min late.	241		
1	01/07/2019 (Mo)	01/07/2019 6:18 PM (Mo)	10:18PM	Ar: 4 hr late. Dp: 3 hr, 40 min late.	240		
1	08/26/2019 (Mo)	08/26/2019 6:18 PM (Mo)	10:17PM	Ar: 3 hr, 59 min late. Dp: 3 hr, 41 min late.	239		
1	11/12/2018 (Mo)	11/12/2018 6:18 PM (Mo)	10:16PM	Ar: 3 hr, 58 min late. Dp: 3 hr, 42 min late.	238		
1	06/19/2019 (We)	06/19/2019 6:18 PM (We)	10:13PM	Ar: 3 hr, 55 min late. Dp: 3 hr, 50 min late.	235		
1	06/12/2019 (We)	06/12/2019 6:18 PM (We)	10:09PM	Ar: 3 hr, 51 min late. Dp: 3 hr, 30 min late.	231		
2	06/07/2019 (Fr)	06/09/2019 11:10 AM (Su)	2:55PM	Ar: 3 hr, 45 min late. Dp: 3 hr, 11 min late.	225		
1	07/29/2019 (Mo)	07/29/2019 6:18 PM (Mo)	10:01PM	Ar: 3 hr, 43 min late. Dp: 3 hr, 26 min late.	223		
2	12/19/2018 (We)	12/21/2018 11:10 AM (Fr)	2:52PM	Ar: 3 hr, 42 min late. Dp: 3 hr, 13 min late.	222		
2	03/13/2019 (We)	03/15/2019 11:10 AM (Fr)	2:50PM	Ar: 3 hr, 40 min late. Dp: 3 hr, 8 min late.	220		
2	04/21/2019 (Su)	04/23/2019 11:10 AM (Tu)	2:40PM	Ar: 3 hr, 30 min late. Dp: 2 hr, 49 min late.	210		
1	11/28/2018 (We)	11/28/2018 6:18 PM (We)	9:39PM	Ar: 3 hr, 21 min late. Dp: 3 hr, 20 min late.	201		
2	08/28/2019 (We)	08/30/2019 11:10 AM (Fr)	2:26PM	Ar: 3 hr, 16 min late. Dp: 2 hr, 38 min late.	196	SD	
2	03/27/2019 (We)	03/29/2019 11:10 AM (Fr)	2:25PM	Ar: 3 hr, 15 min late. Dp: 2 hr, 31 min late.	195		
2	08/30/2019 (Fr)	09/01/2019 11:10 AM (Su)	2:21PM	Ar: 3 hr, 11 min late. Dp: 2 hr, 37 min late.	191		
1	12/15/2018 (Sa)	12/15/2018 6:18 PM (Sa)	9:28PM	Ar: 3 hr, 10 min late. Dp: 2 hr, 54 min late.	190		
2	09/27/2019 (Fr)	09/29/2019 11:10 AM (Su)	2:15PM	Ar: 3 hr, 5 min late. Dp: 2 hr, 23 min late.	185		
2	08/25/2019 (Su)	08/27/2019 11:10 AM (Tu)	2:14PM	Ar: 3 hr, 4 min late. Dp: 2 hr, 21 min late.	184		
2	06/12/2019 (We)	06/14/2019 11:10 AM (Fr)	2:11PM	Ar: 3 hr, 1 min late. Dp: 2 hr, 32 min late.	181		
1	06/05/2019 (We)	06/05/2019 6:18 PM (We)	9:18PM	Ar: 3 hr late. Dp: 2 hr, 47 min late.	180		
1	03/02/2019 (Sa)	03/02/2019 6:18 PM (Sa)	9:14PM	Ar: 2 hr, 56 min late. Dp: 2 hr, 36 min late.	176		
2	03/31/2019 (Su)	04/02/2019 11:10 AM (Tu)	2:03PM	Ar: 2 hr, 53 min late. Dp: 2 hr, 7 min late.	173		
1	07/08/2019 (Mo)	07/08/2019 6:18 PM (Mo)	9:11PM	Ar: 2 hr, 53 min late. Dp: 2 hr, 38 min late.	173		
2	10/02/2019 (We)	10/04/2019 11:10 AM (Fr)	2:00PM	Ar: 2 hr, 50 min late. Dp: 2 hr, 8 min late.	170		

2	06/09/2019 (Su)	06/11/2019 11:10 AM (Tu)	1:58PM	Ar: 2 hr, 48 min late. Dp: 2 hr, 8 min late.	168		
1	06/24/2019 (Mo)	06/24/2019 6:18 PM (Mo)	9:06PM	Ar: 2 hr, 48 min late. Dp: 2 hr, 35 min late.	168		
1	09/02/2019 (Mo)	09/02/2019 6:18 PM (Mo)	9:05PM	Ar: 2 hr, 47 min late. Dp: 2 hr, 36 min late.	167		
1	04/13/2019 (Sa)	04/13/2019 6:18 PM (Sa)	9:04PM	Ar: 2 hr, 46 min late. Dp: 2 hr, 30 min late.	166		
1	05/06/2019 (Mo)	05/06/2019 6:18 PM (Mo)	9:03PM	Ar: 2 hr, 45 min late. Dp: 2 hr, 30 min late.	165		
2	03/10/2019 (Su)	03/12/2019 11:10 AM (Tu)	1:51PM	Ar: 2 hr, 41 min late. Dp: 2 hr, 4 min late.	161		
2	04/17/2019 (We)	04/19/2019 11:10 AM (Fr)	1:49PM	Ar: 2 hr, 39 min late. Dp: 2 hr, 5 min late.	159		
1	03/23/2019 (Sa)	03/23/2019 6:18 PM (Sa)	8:54PM	Ar: 2 hr, 36 min late. Dp: 2 hr, 29 min late.	156		
2	03/20/2019 (We)	03/22/2019 11:10 AM (Fr)	1:45PM	Ar: 2 hr, 35 min late. Dp: 1 hr, 58 min late.	155		
1	07/22/2019 (Mo)	07/22/2019 6:18 PM (Mo)	8:53PM	Ar: 2 hr, 35 min late. Dp: 2 hr, 26 min late.	155		
1	12/01/2018 (Sa)	12/01/2018 6:18 PM (Sa)	8:52PM	Ar: 2 hr, 34 min late. Dp: 2 hr, 19 min late.	154		
2	03/24/2019 (Su)	03/26/2019 11:10 AM (Tu)	1:42PM	Ar: 2 hr, 32 min late. Dp: 1 hr, 45 min late.	152		
1	10/15/2018 (Mo)	10/15/2018 6:18 PM (Mo)	8:49PM	Ar: 2 hr, 31 min late. Dp: 2 hr, 11 min late.	151		
1	05/01/2019 (We)	05/01/2019 6:18 PM (We)	8:49PM	Ar: 2 hr, 31 min late. Dp: 2 hr, 8 min late.	151		
1	10/31/2018 (We)	10/31/2018 6:18 PM (We)	8:48PM	Ar: 2 hr, 30 min late. Dp: 3 hr, 3 min late.	150		
1	05/18/2019 (Sa)	05/18/2019 6:18 PM (Sa)	8:46PM	Ar: 2 hr, 28 min late. Dp: 2 hr, 9 min late.	148		
1	01/16/2019 (We)	01/16/2019 6:18 PM (We)	8:44PM	Ar: 2 hr, 26 min late. Dp: 2 hr, 7 min late.	146		
1	10/02/2019 (We)	10/02/2019 6:18 PM (We)	8:44PM	Ar: 2 hr, 26 min late. Dp: 2 hr, 2 min late.	146		
1	01/23/2019 (We)	01/23/2019 6:18 PM (We)	8:43PM	Ar: 2 hr, 25 min late. Dp: 2 hr, 14 min late.	145		
1	03/27/2019 (We)	03/27/2019 6:18 PM (We)	8:43PM	Ar: 2 hr, 25 min late. Dp: 2 hr, 2 min late.	145		
1	05/08/2019 (We)	05/08/2019 6:18 PM (We)	8:41PM	Ar: 2 hr, 23 min late. Dp: 2 hr, 6 min late.	143		
1	09/25/2019 (We)	09/25/2019 6:18 PM (We)	8:39PM	Ar: 2 hr, 21 min late. Dp: 2 hr, 3 min late.	141		
1	09/28/2019 (Sa)	09/28/2019 6:18 PM (Sa)	8:39PM	Ar: 2 hr, 21 min late. Dp: 2 hr, 3 min late.	141		
1	11/14/2018 (We)	11/14/2018 6:18 PM (We)	8:38PM	Ar: 2 hr, 20 min late. Dp: 2 hr, 5 min late.	140		
2	06/23/2019 (Su)	06/25/2019 11:10 AM (Tu)	1:25PM	Ar: 2 hr, 15 min late. Dp: 1 hr, 39 min late.	135		
2	10/26/2018 (Fr)	10/28/2018 11:10 AM (Su)	1:23PM	Ar: 2 hr, 13 min late. Dp: 1 hr, 41 min late.	133		
2	06/02/2019 (Su)	06/04/2019 11:10 AM (Tu)	1:23PM	Ar: 2 hr, 13 min late. Dp: 1 hr, 39 min late.	133		
1	08/14/2019 (We)	08/14/2019 6:18 PM (We)	8:31PM	Ar: 2 hr, 13 min late. Dp: 2 hr late.	133		

1	05/20/2019 (Mo)	05/20/2019 6:18 PM (Mo)	8:28PM	Ar: 2 hr, 10 min late. Dp: 1 hr, 53 min late.	130		
2	07/28/2019 (Su)	07/30/2019 11:10 AM (Tu)	1:20PM	Ar: 2 hr, 10 min late. Dp: 1 hr, 37 min late.	130		
2	06/26/2019 (We)	06/28/2019 11:10 AM (Fr)	1:19PM	Ar: 2 hr, 9 min late. Dp: 1 hr, 44 min late.	129		
2	11/07/2018 (We)	11/09/2018 11:10 AM (Fr)	1:15PM	Ar: 2 hr, 5 min late. Dp: 1 hr, 24 min late.	125		
2	10/28/2018 (Su)	10/30/2018 11:10 AM (Tu)	1:14PM	Ar: 2 hr, 4 min late. Dp: 1 hr, 24 min late.	124		
2	02/20/2019 (We)	02/22/2019 11:10 AM (Fr)	1:14PM	Ar: 2 hr, 4 min late. Dp: 1 hr, 22 min late.	124		
1	04/17/2019 (We)	04/17/2019 6:18 PM (We)	8:20PM	Ar: 2 hr, 2 min late. Dp: 1 hr, 46 min late.	122		
2	09/11/2019 (We)	09/13/2019 11:10 AM (Fr)	1:12PM	Ar: 2 hr, 2 min late. Dp: 1 hr, 22 min late.	122		
2	10/17/2018 (We)	10/19/2018 11:10 AM (Fr)	1:11PM	Ar: 2 hr, 1 min late. Dp: 1 hr, 22 min late.	121		
2	01/09/2019 (We)	01/11/2019 11:10 AM (Fr)	1:10PM	Ar: 2 hr late. Dp: 1 hr, 30 min late.	120		
1	08/12/2019 (Mo)	08/12/2019 6:18 PM (Mo)	8:16PM	Ar: 1 hr, 58 min late. Dp: 1 hr, 37 min late.	118		
1	11/17/2018 (Sa)	11/17/2018 6:18 PM (Sa)	8:15PM	Ar: 1 hr, 57 min late. Dp: 1 hr, 39 min late.	117		
1	04/01/2019 (Mo)	04/01/2019 6:18 PM (Mo)	8:15PM	Ar: 1 hr, 57 min late. Dp: 1 hr, 37 min late.	117		
1	09/09/2019 (Mo)	09/09/2019 6:18 PM (Mo)	8:15PM	Ar: 1 hr, 57 min late. Dp: 1 hr, 37 min late.	117		
1	03/11/2019 (Mo)	03/11/2019 6:18 PM (Mo)	8:14PM	Ar: 1 hr, 56 min late. Dp: 1 hr, 46 min late.	116		
2	05/19/2019 (Su)	05/21/2019 11:10 AM (Tu)	1:06PM	Ar: 1 hr, 56 min late. Dp: 1 hr, 24 min late.	116		
2	08/07/2019 (We)	08/09/2019 11:10 AM (Fr)	1:06PM	Ar: 1 hr, 56 min late. Dp: 1 hr, 37 min late.	116		
2	09/22/2019 (Su)	09/24/2019 11:10 AM (Tu)	1:06PM	Ar: 1 hr, 56 min late. Dp: 1 hr, 11 min late.	116	SD	
1	11/10/2018 (Sa)	11/10/2018 6:18 PM (Sa)	8:12PM	Ar: 1 hr, 54 min late. Dp: 1 hr, 34 min late.	114		
2	08/21/2019 (We)	08/23/2019 11:10 AM (Fr)	1:04PM	Ar: 1 hr, 54 min late. Dp: 1 hr, 33 min late.	114		
1	11/24/2018 (Sa)	11/24/2018 6:18 PM (Sa)	8:10PM	Ar: 1 hr, 52 min late. Dp: 2 hr, 1 min late.	112		
2	12/02/2018 (Su)	12/04/2018 11:10 AM (Tu)	1:02PM	Ar: 1 hr, 52 min late. Dp: 1 hr, 12 min late.	112		
1	12/08/2018 (Sa)	12/08/2018 6:18 PM (Sa)	8:10PM	Ar: 1 hr, 52 min late. Dp: 1 hr, 30 min late.	112		
1	06/08/2019 (Sa)	06/08/2019 6:18 PM (Sa)	8:10PM	Ar: 1 hr, 52 min late. Dp: 1 hr, 39 min late.	112	SD	
2	10/03/2018 (We)	10/05/2018 11:10 AM (Fr)	1:01PM	Ar: 1 hr, 51 min late. Dp: 1 hr, 22 min late.	111		
1	04/06/2019 (Sa)	04/06/2019 6:18 PM (Sa)	8:09PM	Ar: 1 hr, 51 min late. Dp: 1 hr, 35 min late.	111		
2	07/21/2019 (Su)	07/23/2019 11:10 AM (Tu)	1:01PM	Ar: 1 hr, 51 min late. Dp: 1 hr, 15 min late.	111		
1	03/25/2019 (Mo)	03/25/2019 6:18 PM (Mo)	8:08PM	Ar: 1 hr, 50 min late. Dp: 1 hr, 29 min late.	110		

1	12/29/2018 (Sa)	12/29/2018 6:18 PM (Sa)	8:07PM	Ar: 1 hr, 49 min late. Dp: 1 hr, 40 min late.	109		
1	03/06/2019 (We)	03/06/2019 6:18 PM (We)	8:03PM	Ar: 1 hr, 45 min late. Dp: 1 hr, 38 min late.	105		
2	09/08/2019 (Su)	09/10/2019 11:10 AM (Tu)	12:55PM	Ar: 1 hr, 45 min late. Dp: 1 hr, 1 min late.	105		
2	12/09/2018 (Su)	12/11/2018 11:10 AM (Tu)	12:54PM	Ar: 1 hr, 44 min late. Dp: 1 hr, 3 min late.	104		
1	12/10/2018 (Mo)	12/10/2018 6:18 PM (Mo)	8:01PM	Ar: 1 hr, 43 min late. Dp: 1 hr, 27 min late.	103		
2	02/08/2019 (Fr)	02/10/2019 11:10 AM (Su)	12:52PM	Ar: 1 hr, 42 min late. Dp: 55 min late.	102		
1	03/13/2019 (We)	03/13/2019 6:18 PM (We)	8:00PM	Ar: 1 hr, 42 min late. Dp: 1 hr, 23 min late.	102		
1	02/02/2019 (Sa)	02/02/2019 6:18 PM (Sa)	7:59PM	Ar: 1 hr, 41 min late. Dp: 1 hr, 24 min late.	101		
1	12/12/2018 (We)	12/12/2018 6:18 PM (We)	7:58PM	Ar: 1 hr, 40 min late. Dp: 1 hr, 21 min late.	100		
2	12/28/2018 (Fr)	12/30/2018 11:10 AM (Su)	12:50PM	Ar: 1 hr, 40 min late. Dp: 1 hr, 8 min late.	100		
1	01/05/2019 (Sa)	01/05/2019 6:18 PM (Sa)	7:58PM	Ar: 1 hr, 40 min late. Dp: 1 hr, 32 min late.	100		
1	10/24/2018 (We)	10/24/2018 6:18 PM (We)	7:57PM	Ar: 1 hr, 39 min late. Dp: 1 hr, 27 min late.	99		
2	11/14/2018 (We)	11/16/2018 11:10 AM (Fr)	12:48PM	Ar: 1 hr, 38 min late. Dp: 1 hr, 6 min late.	98		
2	01/06/2019 (Su)	01/08/2019 11:10 AM (Tu)	12:48PM	Ar: 1 hr, 38 min late. Dp: 57 min late.	98		
2	03/08/2019 (Fr)	03/10/2019 12:10 PM (Su)	1:48PM	Ar: 1 hr, 38 min late. Dp: 1 hr, 13 min late.	98		
1	12/03/2018 (Mo)	12/03/2018 6:18 PM (Mo)	7:55PM	Ar: 1 hr, 37 min late. Dp: 1 hr, 23 min late.	97		
2	06/05/2019 (We)	06/07/2019 11:10 AM (Fr)	12:47PM	Ar: 1 hr, 37 min late. Dp: 1 hr, 2 min late.	97		
1	07/24/2019 (We)	07/24/2019 6:18 PM (We)	7:55PM	Ar: 1 hr, 37 min late. Dp: 1 hr, 37 min late.	97		
1	10/05/2019 (Sa)	10/05/2019 6:18 PM (Sa)	7:55PM	Ar: 1 hr, 37 min late. Dp: 1 hr, 20 min late.	97	SD	
1	10/08/2018 (Mo)	10/08/2018 6:18 PM (Mo)	7:54PM	Ar: 1 hr, 36 min late. Dp: 1 hr, 15 min late.	96		
1	02/09/2019 (Sa)	02/09/2019 6:18 PM (Sa)	7:54PM	Ar: 1 hr, 36 min late. Dp: 1 hr, 14 min late.	96		
1	02/27/2019 (We)	02/27/2019 6:18 PM (We)	7:54PM	Ar: 1 hr, 36 min late. Dp: 1 hr, 10 min late.	96		
1	02/16/2019 (Sa)	02/16/2019 6:18 PM (Sa)	7:53PM	Ar: 1 hr, 35 min late. Dp: 1 hr, 13 min late.	95		
2	05/12/2019 (Su)	05/14/2019 11:10 AM (Tu)	12:45PM	Ar: 1 hr, 35 min late. Dp: 58 min late.	95		
1	06/22/2019 (Sa)	06/22/2019 6:18 PM (Sa)	7:53PM	Ar: 1 hr, 35 min late. Dp: 1 hr, 21 min late.	95		
2	04/10/2019 (We)	04/12/2019 11:10 AM (Fr)	12:43PM	Ar: 1 hr, 33 min late. Dp: 52 min late.	93		
2	05/03/2019 (Fr)	05/05/2019 11:10 AM (Su)	12:43PM	Ar: 1 hr, 33 min late. Dp: 48 min late.	93		
2	12/21/2018 (Fr)	12/23/2018 11:10 AM (Su)	12:42PM	Ar: 1 hr, 32 min late. Dp: 1 hr, 5 min late.	92		

2	04/03/2019 (We)	04/05/2019 11:10 AM (Fr)	12:41PM	Ar: 1 hr, 31 min late. Dp: 55 min late.	91		
2	09/15/2019 (Su)	09/17/2019 11:10 AM (Tu)	12:40PM	Ar: 1 hr, 30 min late. Dp: 48 min late.	90		
2	12/26/2018 (We)	12/28/2018 11:10 AM (Fr)	12:39PM	Ar: 1 hr, 29 min late. Dp: 58 min late.	89		
2	08/16/2019 (Fr)	08/18/2019 11:10 AM (Su)	12:39PM	Ar: 1 hr, 29 min late. Dp: 52 min late.	89		
2	10/31/2018 (We)	11/02/2018 11:10 AM (Fr)	12:38PM	Ar: 1 hr, 28 min late. Dp: 1 hr, 27 min late.	88		
1	04/15/2019 (Mo)	04/15/2019 6:18 PM (Mo)	7:46PM	Ar: 1 hr, 28 min late. Dp: 1 hr, 15 min late.	88	SD	
2	08/02/2019 (Fr)	08/04/2019 11:10 AM (Su)	12:38PM	Ar: 1 hr, 28 min late. Dp: 52 min late.	88		
1	03/16/2019 (Sa)	03/16/2019 6:18 PM (Sa)	7:45PM	Ar: 1 hr, 27 min late. Dp: 1 hr, 19 min late.	87		
2	11/04/2018 (Su)	11/06/2018 11:10 AM (Tu)	12:36PM	Ar: 1 hr, 26 min late. Dp: 47 min late.	86		
1	11/05/2018 (Mo)	11/05/2018 6:18 PM (Mo)	7:44PM	Ar: 1 hr, 26 min late. Dp: 1 hr, 2 min late.	86		
2	11/28/2018 (We)	11/30/2018 11:10 AM (Fr)	12:36PM	Ar: 1 hr, 26 min late. Dp: 43 min late.	86		
2	07/19/2019 (Fr)	07/21/2019 11:10 AM (Su)	12:36PM	Ar: 1 hr, 26 min late. Dp: 1 hr, 3 min late.	86		
2	07/17/2019 (We)	07/19/2019 11:10 AM (Fr)	12:35PM	Ar: 1 hr, 25 min late. Dp: 58 min late.	85		
1	03/20/2019 (We)	03/20/2019 6:18 PM (We)	7:42PM	Ar: 1 hr, 24 min late. Dp: 1 hr, 10 min late.	84		
1	12/19/2018 (We)	12/19/2018 6:18 PM (We)	7:39PM	Ar: 1 hr, 21 min late. Dp: 1 hr, 16 min late.	81		
2	04/24/2019 (We)	04/26/2019 11:10 AM (Fr)	12:28PM	Ar: 1 hr, 18 min late. Dp: 35 min late.	78		
2	08/23/2019 (Fr)	08/25/2019 11:10 AM (Su)	12:27PM	Ar: 1 hr, 17 min late. Dp: 35 min late.	77	SD	
1	12/24/2018 (Mo)	12/24/2018 6:18 PM (Mo)	7:32PM	Ar: 1 hr, 14 min late. Dp: 54 min late.	74		
1	02/20/2019 (We)	02/20/2019 6:18 PM (We)	7:32PM	Ar: 1 hr, 14 min late. Dp: 47 min late.	74		
2	05/08/2019 (We)	05/10/2019 11:10 AM (Fr)	12:24PM	Ar: 1 hr, 14 min late.	74	SD	
1	07/01/2019 (Mo)	07/01/2019 6:18 PM (Mo)	7:32PM	Ar: 1 hr, 14 min late. Dp: 1 hr, 9 min late.	74		
2	11/11/2018 (Su)	11/13/2018 11:10 AM (Tu)	12:22PM	Ar: 1 hr, 12 min late. Dp: 28 min late.	72		
1	12/22/2018 (Sa)	12/22/2018 6:18 PM (Sa)	7:30PM	Ar: 1 hr, 12 min late. Dp: 1 hr, 16 min late.	72		
1	03/30/2019 (Sa)	03/30/2019 6:18 PM (Sa)	7:30PM	Ar: 1 hr, 12 min late. Dp: 54 min late.	72		
2	05/05/2019 (Su)	05/07/2019 11:10 AM (Tu)	12:22PM	Ar: 1 hr, 12 min late. Dp: 33 min late.	72		
1	04/20/2019 (Sa)	04/20/2019 6:18 PM (Sa)	7:28PM	Ar: 1 hr, 10 min late. Dp: 1 hr late.	70		
2	10/12/2018 (Fr)	10/14/2018 11:10 AM (Su)	12:17PM	Ar: 1 hr, 7 min late. Dp: 23 min late.	67		
2	09/06/2019 (Fr)	09/08/2019 11:10 AM (Su)	12:11PM	Ar: 1 hr, 1 min late. Dp: 24 min late.	61		

2	07/26/2019 (Fr)	07/28/2019 11:10 AM (Su)	12:10PM	Ar: 1 hr late. Dp: 20 min late.	60		
1	09/16/2019 (Mo)	09/16/2019 6:18 PM (Mo)	7:18PM	Ar: 1 hr late. Dp: 50 min late.	60		
1	01/30/2019 (We)	01/30/2019 6:18 PM (We)	7:17PM	Ar: 59 min late. Dp: 34 min late.	59		
1	05/29/2019 (We)	05/29/2019 6:18 PM (We)	7:16PM	Ar: 58 min late. Dp: 42 min late.	58		
2	09/01/2019 (Su)	09/03/2019 11:10 AM (Tu)	12:07PM	Ar: 57 min late. Dp: 31 min late.	57		
1	11/03/2018 (Sa)	11/03/2018 6:18 PM (Sa)	7:13PM	Ar: 55 min late. Dp: 45 min late.	55		
2	09/13/2019 (Fr)	09/15/2019 11:10 AM (Su)	12:05PM	Ar: 55 min late. Dp: 8 min late.	55		
1	12/17/2018 (Mo)	12/17/2018 6:18 PM (Mo)	7:11PM	Ar: 53 min late. Dp: 47 min late.	53		
2	01/11/2019 (Fr)	01/13/2019 11:10 AM (Su)	12:02PM	Ar: 52 min late. Dp: 5 min late.	52		
2	02/13/2019 (We)	02/15/2019 11:10 AM (Fr)	12:02PM	Ar: 52 min late. Dp: 21 min late.	52		
2	08/18/2019 (Su)	08/20/2019 11:10 AM (Tu)	12:02PM	Ar: 52 min late. Dp: 10 min late.	52		
2	01/25/2019 (Fr)	01/27/2019 11:10 AM (Su)	12:01PM	Ar: 51 min late. Dp: 49 min late.	51		
1	08/24/2019 (Sa)	08/24/2019 6:18 PM (Sa)	7:09PM	Ar: 51 min late. Dp: 31 min late.	51		
1	01/26/2019 (Sa)	01/26/2019 6:18 PM (Sa)	7:07PM	Ar: 49 min late. Dp: 26 min late.	49		
1	06/01/2019 (Sa)	06/01/2019 6:18 PM (Sa)	7:07PM	Ar: 49 min late. Dp: 35 min late.	49		
2	10/21/2018 (Su)	10/23/2018 11:10 AM (Tu)	11:58AM	Ar: 48 min late. Dp: 10 min late.	48		
1	12/05/2018 (We)	12/05/2018 6:18 PM (We)	7:06PM	Ar: 48 min late. Dp: 30 min late.	48		
2	01/18/2019 (Fr)	01/20/2019 11:10 AM (Su)	11:58AM	Ar: 48 min late. Dp: 4 min late.	48		
2	02/06/2019 (We)	02/08/2019 11:10 AM (Fr)	11:57AM	Ar: 47 min late. Dp: 3 min late.	47	SD	
1	04/29/2019 (Mo)	04/29/2019 6:18 PM (Mo)	7:05PM	Ar: 47 min late. Dp: 21 min late.	47		
1	11/21/2018 (We)	11/21/2018 6:18 PM (We)	7:04PM	Ar: 46 min late. Dp: 42 min late.	46		
1	01/14/2019 (Mo)	01/14/2019 6:18 PM (Mo)	7:04PM	Ar: 46 min late. Dp: 24 min late.	46		
1	07/03/2019 (We)	07/03/2019 6:18 PM (We)	7:04PM	Ar: 46 min late. Dp: 29 min late.	46		
1	01/12/2019 (Sa)	01/12/2019 6:18 PM (Sa)	7:03PM	Ar: 45 min late. Dp: 28 min late.	45		
1	08/19/2019 (Mo)	08/19/2019 6:18 PM (Mo)	7:03PM	Ar: 45 min late. Dp: 25 min late.	45		
1	08/21/2019 (We)	08/21/2019 6:18 PM (We)	7:02PM	Ar: 44 min late. Dp: 30 min late.	44		
1	09/30/2019 (Mo)	09/30/2019 6:18 PM (Mo)	7:02PM	Ar: 44 min late. Dp: 23 min late.	44		
1	06/29/2019 (Sa)	06/29/2019 6:18 PM (Sa)	7:01PM	Ar: 43 min late. Dp: 29 min late.	43		

1	10/22/2018 (Mo)	10/22/2018 6:18 PM (Mo)	7:00PM	Ar: 42 min late. Dp: 20 min late.	42		
1	05/22/2019 (We)	05/22/2019 6:18 PM (We)	7:00PM	Ar: 42 min late. Dp: 28 min late.	42		
1	07/20/2019 (Sa)	07/20/2019 6:18 PM (Sa)	6:59PM	Ar: 41 min late. Dp: 39 min late.	41		
2	07/03/2019 (We)	07/05/2019 11:10 AM (Fr)	11:50AM	Ar: 40 min late. Dp: 1 min late.	40		
1	04/03/2019 (We)	04/03/2019 6:18 PM (We)	6:56PM	Ar: 38 min late. Dp: 24 min late.	38		
2	08/14/2019 (We)	08/16/2019 11:10 AM (Fr)	11:48AM	Ar: 38 min late. Dp: On time.	38		
1	08/05/2019 (Mo)	08/05/2019 6:18 PM (Mo)	6:55PM	Ar: 37 min late. Dp: 25 min late.	37		
1	02/06/2019 (We)	02/06/2019 6:18 PM (We)	6:54PM	Ar: 36 min late. Dp: 13 min late.	36		
1	02/13/2019 (We)	02/13/2019 6:18 PM (We)	6:54PM	Ar: 36 min late. Dp: 10 min late.	36	SD	
1	05/25/2019 (Sa)	05/25/2019 6:18 PM (Sa)	6:53PM	Ar: 35 min late. Dp: 23 min late.	35		
1	07/31/2019 (We)	07/31/2019 6:18 PM (We)	6:53PM	Ar: 35 min late. Dp: 22 min late.	35		
1	09/11/2019 (We)	09/11/2019 6:18 PM (We)	6:53PM	Ar: 35 min late. Dp: 17 min late.	35		
1	04/27/2019 (Sa)	04/27/2019 6:18 PM (Sa)	6:52PM	Ar: 34 min late. Dp: 10 min late.	34		
2	06/19/2019 (We)	06/21/2019 11:10 AM (Fr)	11:44AM	Ar: 34 min late. Dp: On time.	34		
1	01/19/2019 (Sa)	01/19/2019 6:18 PM (Sa)	6:50PM	Ar: 32 min late. Dp: 10 min late.	32		
2	03/01/2019 (Fr)	03/03/2019 11:10 AM (Su)	11:42AM	Ar: 32 min late. Dp: On time.	32		
1	05/27/2019 (Mo)	05/27/2019 6:18 PM (Mo)	6:50PM	Ar: 32 min late. Dp: 16 min late.	32		
1	09/04/2019 (We)	09/04/2019 6:18 PM (We)	6:49PM	Ar: 31 min late. Dp: 21 min late.	31		
1	08/10/2019 (Sa)	08/10/2019 6:18 PM (Sa)	6:45PM	Ar: 27 min late. Dp: 24 min late.	27		
1	12/31/2018 (Mo)	12/31/2018 6:18 PM (Mo)	6:42PM	Ar: 24 min late. Dp: 2 min late.	24		
1	07/06/2019 (Sa)	07/06/2019 6:18 PM (Sa)	6:41PM	Ar: 23 min late. Dp: 5 min late.	23		
1	10/06/2018 (Sa)	10/06/2018 6:18 PM (Sa)	6:40PM	Ar: 22 min late. Dp: 14 min late.	22		
1	10/29/2018 (Mo)	10/29/2018 6:18 PM (Mo)	6:39PM	Ar: 21 min late. Dp: 1 min late.	21		
2	11/30/2018 (Fr)	12/02/2018 11:10 AM (Su)	11:31AM	Ar: 21 min late. Dp: On time.	21		
1	08/17/2019 (Sa)	08/17/2019 6:18 PM (Sa)	6:39PM	Ar: 21 min late. Dp: 3 min late.	21		
2	11/16/2018 (Fr)	11/18/2018 11:10 AM (Su)	11:29AM	Ar: 19 min late. Dp: On time.	19		
2	02/01/2019 (Fr)	02/03/2019 11:10 AM (Su)	11:29AM	Ar: 19 min late. Dp: On time.	19		
1	11/19/2018 (Mo)	11/19/2018 6:18 PM (Mo)	6:35PM	Ar: 17 min late. Dp: 8 min late.	17		

2	12/07/2018 (Fr)	12/09/2018 11:10 AM (Su)	11:27AM	Ar: 17 min late. Dp: On time.	17		
1	01/09/2019 (We)	01/09/2019 6:18 PM (We)	6:35PM	Ar: 17 min late. Dp: On time.	17		
1	09/14/2019 (Sa)	09/14/2019 6:18 PM (Sa)	6:35PM	Ar: 17 min late. Dp: 4 min late.	17		
2	12/05/2018 (We)	12/07/2018 11:10 AM (Fr)	11:26AM	Ar: 16 min late. Dp: On time.	16		
2	03/29/2019 (Fr)	03/31/2019 11:10 AM (Su)	11:25AM	Ar: 15 min late. Dp: On time.	15		
2	04/12/2019 (Fr)	04/14/2019 11:10 AM (Su)	11:25AM	Ar: 15 min late. Dp: 1 min late.	15		
2	05/29/2019 (We)	05/31/2019 11:10 AM (Fr)	11:25AM	Ar: 15 min late. Dp: 1 min late.	15		
1	08/28/2019 (We)	08/28/2019 6:18 PM (We)	6:33PM	Ar: 15 min late. Dp: 6 min late.	15		
2	05/15/2019 (We)	05/17/2019 11:10 AM (Fr)	11:23AM	Ar: 13 min late. Dp: 6 min late.	13		
2	12/12/2018 (We)	12/14/2018 11:10 AM (Fr)	11:21AM	Ar: 11 min late. Dp: On time.	11		
1	09/18/2019 (We)	09/18/2019 6:18 PM (We)	6:26PM	Ar: 8 min late. Dp: On time.	8		
2	12/30/2018 (Su)	01/01/2019 11:10 AM (Tu)	11:17AM	Ar: 7 min late. Dp: On time.	7		
2	06/21/2019 (Fr)	06/23/2019 11:10 AM (Su)	11:14AM	Ar: 4 min late. Dp: On time.	4		
2	12/14/2018 (Fr)	12/16/2018 11:10 AM (Su)	11:13AM	Ar: 3 min late. Dp: 1 min late.	3		
1	10/20/2018 (Sa)	10/20/2018 6:18 PM (Sa)	6:19PM	Ar: 1 min late. Dp: 1 min late.	1		
1	06/26/2019 (We)	06/26/2019 6:18 PM (We)	6:17PM	Ar: 1 min early. Dp: On time.	-1		
2	12/16/2018 (Su)	12/18/2018 11:10 AM (Tu)	11:08AM	Ar: 2 min early. Dp: On time.	-2		
2	04/26/2019 (Fr)	04/28/2019 11:10 AM (Su)	11:08AM	Ar: 2 min early. Dp: On time.	-2		
2	08/09/2019 (Fr)	08/11/2019 11:10 AM (Su)	11:08AM	Ar: 2 min early. Dp: On time.	-2		
2	11/18/2018 (Su)	11/20/2018 11:10 AM (Tu)	11:07AM	Ar: 3 min early. Dp: 1 min late.	-3		
1	11/26/2018 (Mo)	11/26/2018 6:18 PM (Mo)	6:15PM	Ar: 3 min early. Dp: On time.	-3		
2	03/22/2019 (Fr)	03/24/2019 11:10 AM (Su)	11:06AM	Ar: 4 min early. Dp: On time.	-4		
2	05/31/2019 (Fr)	06/02/2019 11:10 AM (Su)	11:06AM	Ar: 4 min early. Dp: On time.	-4		
1	10/17/2018 (We)	10/17/2018 6:18 PM (We)	6:13PM	Ar: 5 min early. Dp: On time.	-5		
2	01/16/2019 (We)	01/18/2019 11:10 AM (Fr)	11:04AM	Ar: 6 min early. Dp: 4 min late.	-6		
1	10/27/2018 (Sa)	10/27/2018 6:18 PM (Sa)	6:09PM	Ar: 9 min early. Dp: On time.	-9		
2	11/02/2018 (Fr)	11/04/2018 11:10 AM (Su)	11:00AM	Ar: 10 min early. Dp: On time.	-10		
2	10/24/2018 (We)	10/26/2018 11:10 AM (Fr)	10:58AM	Ar: 12 min early. Dp: On time.	-12		

2	01/23/2019 (We)	01/25/2019 11:10 AM (Fr)	10:58AM	Ar: 12 min early. Dp: On time.	-12		
2	04/19/2019 (Fr)	04/21/2019 11:10 AM (Su)	10:58AM	Ar: 12 min early. Dp: On time.	-12		
2	05/26/2019 (Su)	05/28/2019 11:10 AM (Tu)	10:58AM	Ar: 12 min early. Dp: 3 min late.	-12		
2	01/02/2019 (We)	01/04/2019 11:10 AM (Fr)	10:56AM	Ar: 14 min early. Dp: On time.	-14		
2	01/30/2019 (We)	02/01/2019 11:10 AM (Fr)	10:56AM	Ar: 14 min early. Dp: On time.	-14		
2	05/17/2019 (Fr)	05/19/2019 11:10 AM (Su)	10:56AM	Ar: 14 min early. Dp: On time.	-14		
2	06/28/2019 (Fr)	06/30/2019 11:10 AM (Su)	10:55AM	Ar: 15 min early. Dp: 1 min late.	-15		
2	10/05/2018 (Fr)	10/07/2018 11:10 AM (Su)	10:53AM	Ar: 17 min early. Dp: On time.	-17		
1	12/26/2018 (We)	12/26/2018 6:18 PM (We)	5:59PM	Ar: 19 min early. Dp: On time.	-19		
2	11/25/2018 (Su)	11/27/2018 11:10 AM (Tu)	10:48AM	Ar: 22 min early. Dp: On time.	-22		
2	06/14/2019 (Fr)	06/16/2019 11:10 AM (Su)	10:48AM	Ar: 22 min early. Dp: On time.	-22		
1	02/23/2019 (Sa)	02/23/2019 6:18 PM (Sa)	5:55PM	Ar: 23 min early. Dp: On time.	-23		
2	10/19/2018 (Fr)	10/21/2018 11:10 AM (Su)	10:42AM	Ar: 28 min early. Dp: On time.	-28		
2	11/23/2018 (Fr)	11/25/2018 11:10 AM (Su)	10:42AM	Ar: 28 min early. Dp: 2 min late.	-28		
2	05/22/2019 (We)	05/24/2019 11:10 AM (Fr)	10:34AM	Ar: 36 min early. Dp: On time.	-36		
2	12/23/2018 (Su)	12/25/2018 11:10 AM (Tu)	10:32AM	Ar: 38 min early. Dp: 1 min late.	-38		
2	04/28/2019 (Su)	04/30/2019 11:10 AM (Tu)	10:23AM	Ar: 47 min early. Dp: On time.	-47		
2	11/09/2018 (Fr)	11/11/2018 11:10 AM (Su)	10:22AM	Ar: 48 min early. Dp: On time.	-48		
1	09/23/2019 (Mo)	09/23/2019 6:18 PM (Mo)	5:30PM	Ar: 48 min early. Dp: On time.	-48	SD	
2	03/06/2019 (We)	03/08/2019 11:10 AM (Fr)	10:21AM	Ar: 49 min early. Dp: On time.	-49		
2	02/27/2019 (We)	03/01/2019 11:10 AM (Fr)	10:19AM	Ar: 51 min early. Dp: 2 min late.	-51		
2	05/24/2019 (Fr)	05/26/2019 11:10 AM (Su)	10:16AM	Ar: 54 min early. Dp: On time.	-54		
Average Ar delay: 1 hour and 57 minutes late							
Median Ar delay: 1 hour and 36 minutes late							

Database last updated Tuesday October 8, 2019 7:36 AM EDT

Amtrak Status Maps data provided and maintained by statusmaps.com

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Exhibit J

TCRI LAWSUITS

	DATE FILED	COUNTY	DEFENDANT	COURT
1.	08/26/2016	Harris	JM Texas Land Fund	61 st
2.	08/08/2016	Harris	House, Calvin V	333rd
3.	08/15/2016	Harris	Delta Troy	234 th
4.	08/11/2016	Harris	Lackey, Patricia Gail	333 rd
5.	08/11/2016	Harris	Green, Michael Kevin	113 th
6.	07/29/2016	Harris	Playa Mar	152 nd
7.	07/28/2016	Harris	McRae, Michael T.	281 st
8.	07/28/2016	Harris	Marrack, Paul	295 th
9.	07/28/2016	Harris	Thomas, Lance Kevin	125 th
10.	07/28/2016	Harris	Wyman-Gordon Forgings	234 th
11.	07/28/2016	Harris	Cyrus, Johnetta L	270 th
12.	07/28/2016	Harris	Evans, Judith	295 th
13.	07/28/2016	Harris	Jennings, Betty	165 th
14.	07/28/2016	Harris	Lander, August	334 th
15.	06/27/2016	Harris	TDTAN Interests LLC	80 th
16.	04/28/2016	Harris	Hayes, Gregory W	334 th
17.	04/06/2016	Harris	Schultz, Bruce W.	333 rd

18.	07/28/2016	Harris	Warren, Frances	127 th
19.	07/28/2016	Harris	Fund Cypress II LLC	151 st
20.	04/06/2016	Harris	Derrington, William L	113 th
21.	06/27/2016	Harris	Arsham Metals Industries, Inc.	270 th
22.	06/27/2016	Harris	Mason Westgreen LP	129 th
23.	07/28/2016	Harris	Eastgroup Properties LP	189 th
24.	05/04/2016	Dallas	TXI Operations, LP	192 nd
25.	04/25/2016	Dallas	Baker, Melba Ray	193 rd
26.	05/16/2016	Dallas	Hodge, Charles B.	191 st
27.	05/16/2016	Dallas	Street, William Glenn	193 rd
28.	05/19/2016	Ellis	Caldwell, James Rodney Caldwell, Casey Lyns	40 th
29.	05/19/2016	Ellis	Caldwell, Ronny (Caldwell 1)	CC #1
30.	05/16/2016	Ellis	Risinger, David J	CC #1
31.	05/16/2016	Ellis	Wilburn, Gaylon G.	CC #1
32.	09/20/2016	Ellis	Spaniel, Richard Wayne	CC #1
33.	09/20/2016	Ellis	Taylor, Douglas C	CC#1
34.	07/13/2016	Travis	Newman, et al	
35.	07/13/2016	Travis	Dao, Loc T	

36.	06/08/2016	Travis	Bettinger, Francelle	
37.	07/13/2016	Travis	Carr, Charles Joseph	
38.	06/03/2016	Leon	Miles, James Frederick (Miles Counterclaim 1)	87 th
39.	06/28/2016	Kendall	Smith, Marsha Gostenick, et al	216 th
40.	05/04/2018	Leon	Miles, James Frederick (Miles Counterclaim 2)	87 th
41.	05/14/2018	Ellis	Getzendaner, William	CC #1
42.	05/21/2018	Ellis	Eagle, Darren	CC #1
43.	06/06/2018	Ellis	Caldwell, Ronny (Caldwell 2)	40 th

Exhibit K

CAUSE NO. 98668

TEXAS CENTRAL RAILROAD &	§	IN THE 40 TH JUDICIAL DISTRICT COURT
INFRASTRUCTURE, INC., AND	§	
INTEGRATED TEXAS LOGISTICS,	§	
INC.	§	
Plaintiffs,	§	
	§	
V.	§	
	§	
RONNY CALDWELL,	§	
Defendant.	§	ELLIS COUNTY, TEXAS

**VERIFIED FIRST AMENDED PETITION AND APPLICATION FOR
INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

Texas Central Railroad and Infrastructure, Inc. ("TCRI") and Integrated Texas Logistics, Inc. ("ITL") (collectively, "Plaintiffs") plan to construct the first high-speed passenger train in the United States. As railroad companies and electric railways, Plaintiffs have the absolute statutory right to examine and survey real property to determine the most advantageous route for the train, which will run between Dallas and Houston. Under the law, Plaintiffs are not required to provide notice to landowners or to seek permission for surveying. That said, Plaintiffs respect private property rights, are responsible corporate citizens, and intend to establish a good working relationship with landowners. For these reasons, TCRI has previously sought written permission from landowners before entering any property to conduct the examination and surveying activities needed to determine the most advantageous route for the train.

By refusing to grant Plaintiffs permission to enter his property, Defendant Ronny Caldwell ("Defendant") has denied that TCRI and ITL have the statutory right to enter his property. At this time, TCRI and ITL have finalized a plan to proceed with surveys and examinations along the Project route and have determined that the safest, and most prudent course of conduct, is to secure a

temporary injunction that can leave no doubt of their right to enter Defendant's property to conduct examinations and surveys. Additionally, as it has been disputed that Plaintiffs qualify as railroad companies and electric railways such that they have the statutory authority to exercise the rights afforded such entities, Plaintiffs further seek a declaratory judgment that they are both railroad companies, as that term is used in TEX. TRANSP. CODE § 112.051, *et. seq.*, and electric railways, as that term is defined in TEX. TRANSP. CODE § 131.011 and used in TEX. TRANSP. CODE § 131.012, *et. seq.*

Plaintiffs file this action because they have no adequate remedy at law for the relief sought. For more than 70 years, Texas courts have recognized that injunctive relief is an appropriate remedy when the right to examine and survey in advance of a project like Plaintiffs' is being denied.¹

I. DISCOVERY LEVEL

1. TCRI pleads that discovery should be conducted in accordance with a Level 3 discovery control plan, pursuant to TEX. R. CIV. P. 190.3.

II. PARTIES

2. Texas Central Railroad and Infrastructure, Inc. is a Texas Corporation licensed to do business in the State of Texas and is in the process of developing a high-speed train between Dallas and Houston, Texas. TCRI amended its charter in 2015 to include, for the first time, its express

¹ *Lewis v. Tex. Power & Light Co.*, 276 S.W.2d 950, 954 (Tex. App.—Dallas 1955 writ ref'd n.r.e.); *see also Occidental Chem. Corp. v. ETC NGL Transp., LLC*, 425 S.W.3d 354, 363 (Tex. App.—Houston [1st Dist.] 2011, pet. dismiss'd) (holding that "Texas courts have also recognized that injunctive relief is appropriate in this specific context, i.e., to grant relief to an entity with the right to access land to conduct preliminary survey work before instituting a condemnation proceeding.").

purpose of planning, building, maintaining, and operating an electric railroad.² TCRI is a railroad company, as that term is used in TEX. TRANSP. CODE § 112.051 *et. seq.* and an electric railway as that term is used in TEX. TRANSP. CODE § 131.012 *et. seq.* Accordingly, TCRI has been statutorily granted the right to “enter on the land or water of any person or corporation” in order to “have an examination and survey of its proposed railway made as necessary to select the most advantageous route” for its proposed railway.³

3. Integrated Texas Logistics is a Texas Corporation licensed to do business in the State of Texas and is in the process of developing a high-speed train between Dallas and Houston, Texas. ITL was chartered for the express purpose of planning, building, maintaining, and operating an electric railroad.⁴ ITL is a railroad company, as that term is used in TEX. TRANSP. CODE § 112.051 *et. seq.* and an electric railway as that term is used in TEX. TRANSP. CODE § 131.012 *et. seq.* Accordingly, ITL has been statutorily granted the right to “enter on the land or water of any person or corporation” in order to “have an examination and survey of its proposed railway made as necessary to select the most advantageous route” for its proposed railway.⁵

4. Defendant Ronny Caldwell an individual domiciled in Ellis County, Texas and may be served with process at 5640 Farm Market 878, Palmer, Texas 75152, or wherever he may be found.

III. JURISDICTION AND VENUE

² See Certificate of Amendment attached hereto as Exhibit “A.”

³ TEX. TRANSP. CODE §§ 112.051(a), 131.013(b).

⁴ See Certificate of Formation attached hereto as Exhibit “B.” ITL was created out of an abundance of caution after certain property owners related to the Project alleged that TCRI did not have eminent domain powers as an electric railway. While Plaintiffs believe this argument is without merit, as discussed in their declaratory judgment action, below, Plaintiffs created ITL to erase any question as to their authority to enter onto and survey the Property, as well as other properties related to the Project.

⁵ TEX. TRANSP. CODE §§ 112.051(a), 131.013(b).

Exhibit L

PARCEL TX-LE-066.320

CAUSE NO: 16-0137CV

JAMES FREDRICK MILES,	§	IN THE 87th DISTRICT COURT
	§	
Plaintiff	§	
	§	
v.	§	
	§	
TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC.	§	LEON COUNTY, TEXAS
	§	
Defendant	§	
	§	
and	§	
	§	
INTEGRATED TEXAS LOGISTICS, INC.,	§	
	§	
Intervenor	§	

**TCRI'S THIRD AMENDED ANSWER, VERIFIED COUNTERCLAIM, AND
APPLICATION FOR INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT¹**

TO THE HONORABLE JUDGE OF SAID COURT:

Texas Central Railroad and Infrastructure, Inc. ("TCRI") and Integrated Texas Logistics, Inc.² ("ITL") plan to construct the first high-speed passenger train in the United States. As railroad companies and **electric railways**, TCRI and ITL have the absolute statutory right to examine and survey real property to determine the most advantageous route for the train, which will run between

¹ On April 26, 2017, the Court entered an order abating this action until such time as TCRI made a final decision regarding the alignment of its proposed rail line. The draft environmental impact statement was released on December 8, 2017. At this time, TCRI renews its request to survey and examine Plaintiff's property, and this matter is ripe for adjudication.

² Integrated Texas Logistics, Inc. was created out of an abundance of caution after Miles alleged that TCRI did not have eminent domain powers as an electric railway. While TCRI and ITL believe this argument is without merit, as discussed in their declaratory judgment action below, ITL was created to erase any question as to TCRI's and ITL's authority to enter onto and survey the Property, as well as other properties related to the Project. ITL's Verified Petition in Intervention and Application for Injunctive Relief was filed on May 4, 2018.

Dallas and Houston. Under the law, TCRI and ITL are not required to provide notice to landowners or to seek permission for surveying. That said, TCRI and ITL respect private property rights, are responsible corporate citizens, and intend to establish a good working relationship with landowners. For these reasons, TCRI has previously sought written permission from landowners before entering any property to conduct the examination and surveying activities needed to determine the most advantageous route for the train.

Plaintiff and Counter-Defendant James Miles (“Plaintiff”) has denied that TCRI—and, by extension, ITL—has the statutory right to enter his property and has refused permission to do so. At this time, TCRI and ITL have finalized a plan to proceed with surveys and examinations along the Project route and have determined that the safest, and most prudent course of conduct is to secure a temporary injunction that can leave no doubt of their right to enter Plaintiff’s property to conduct examinations and surveys. Additionally, as it has been disputed that TCRI qualifies as a railroad company and electric railway such that it has the statutory authority to exercise the rights afforded such entities, TCRI further seeks a declaratory judgment that it is a railroad company, as that term is used in TEX. TRANSP. CODE § 112.051, *et. seq.*, and an electric railway, as that term is used in TEX. TRANSP. CODE § 131.012, *et. seq.*

TCRI files this counterclaim because it has no adequate remedy at law for the relief sought. For more than 70 years, Texas courts have recognized that injunctive relief is an appropriate remedy when the right to examine and survey in advance of a project like TCRI’s is being denied.³

³ *Lewis v. Tex. Power & Light Co.*, 276 S.W.2d 950, 954 (Tex. App.—Dallas 1955 writ ref’d n.r.e.); *see also Occidental Chem. Corp. v. ETC NGL Transp., LLC*, 425 S.W.3d 354, 363 (Tex. App.—Houston [1st Dist.] 2011, pet. dismissed) (holding that “Texas courts have also recognized that injunctive relief is appropriate in this specific context, i.e., to grant relief to an entity with the right to access land to conduct preliminary survey work before instituting a condemnation proceeding.”).

I. GENERAL DENIAL AND ANSWER

1. In accordance with Texas Rule of Civil Procedure 92, TCRI denies each and every, all and singular, the allegations contained in Plaintiff's First Amended Petition and Request for Declaratory Relief and demands strict proof thereof by the appropriate legal standard.

II. COUNTERCLAIM

A. Discovery Level

2. TCRI pleads that discovery should be conducted in accordance with a Level 3 discovery control plan, pursuant to TEX. R. CIV. P. 190.3.

B. Parties

3. Texas Central Railroad and Infrastructure, Inc. is a Texas Corporation licensed to do business in the State of Texas and is in the process of developing a high-speed rail line between Dallas and Houston, Texas. TCRI amended its charter in 2015 to include, for the first time, its express purpose of planning, building, maintaining, and operating an electric railroad.⁴ TCRI is a railroad company, as that term is used in TEX. TRANSP. CODE § 112.051 *et. seq.* and an electric railway as that term is used in TEX. TRANSP. CODE § 131.012 *et. seq.* Accordingly, TCRI has been statutorily granted the right to "enter on the land or water of any person or corporation" in order to "have an examination and survey of its proposed railway made as necessary to select the most advantageous route" for its proposed railway.⁵

4. Intervenor Integrated Texas Logistics, Inc. is a Texas Corporation licensed to do business in the State of Texas and is in the process of developing a high-speed rail line between

⁴ See Certificate of Amendment attached hereto as Exhibit "A."

⁵ TEX. TRANSP. CODE §§ 112.051(a), 131.013(b).

Dallas and Houston, Texas. ITL was chartered for the express purpose of planning, building, maintaining, and operating an electric railroad.⁶ ITL is a railroad company, as that term is used in TEX. TRANSP. CODE § 112.051 *et. seq.* and an electric railway as that term is used in TEX. TRANSP. CODE § 131.012 *et. seq.* Accordingly, ITL has been statutorily granted the right to “enter on the land or water of any person or corporation” in order to “have an examination and survey of its proposed railway made as necessary to select the most advantageous route” for its proposed railway.⁷

5. Plaintiff is an individual who resides in Leon County, Texas.

C. Jurisdiction and Venue

6. This Court has jurisdiction over this case pursuant to TEX. CIV. PRAC. & REM. CODE § 65.021(a).

7. Venue is proper pursuant to TEX. CIV. PRAC. & REM. CODE §§ 15.016 and 65.023(a) because the primary relief requested in this petition is injunctive in nature, and the Plaintiff is domiciled in Leon County, Texas.

D. Texas Rule of Civil Procedure 47 Disclosure

8. TCRI seeks non-monetary relief in the form of injunctive relief and a declaratory judgment, as set forth herein. Additionally, TCRI seeks monetary relief of \$100,000 or less in the form of attorneys’ fees related to its declaratory judgment action.

E. Statement of Facts

⁶ See Certificate of Formation attached hereto as Exhibit “B.” ITL was created out of an abundance of caution after certain property owners related to the Project alleged that TCRI did not have eminent domain powers as an electric railway because of the timing of filing its notice with the Texas Comptroller that TCRI possessed the right of eminent domain as an interurban electric railway. While Plaintiffs believe this argument is without merit, as discussed in their declaratory judgment action below, ITL was created to avoid any question as to its authority to enter onto and survey the Property, as well as other properties related to the Project.

⁷ TEX. TRANSP. CODE §§ 112.051(a), 131.013(b).

Exhibit M

Form 424

(Revised 05/11)

Submit in duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
512 463-5555
FAX: 512/463-5709
Filing Fee: See instructions



Certificate of Amendment

This space reserved for office use.

FILED
In the Office of the
Secretary of State of Texas

JAN 21 2015

Corporations Section

Entity Information

The name of the filing entity is:

TXHS Railroad, Inc.

State the name of the entity as currently shown in the records of the secretary of state. If the amendment changes the name of the entity, state the old name and not the new name.

The filing entity is a: (Select the appropriate entity type below.)

- | | |
|--|---|
| ☒ For-profit Corporation | ☐ Professional Corporation |
| ☐ Nonprofit Corporation | ☐ Professional Limited Liability Company |
| ☐ Cooperative Association | ☐ Professional Association |
| ☐ Limited Liability Company | ☐ Limited Partnership |

The file number issued to the filing entity by the secretary of state is: 801704184

The date of formation of the entity is: 12/20/2012

Amendments

1. Amended Name

(If the purpose of the certificate of amendment is to change the name of the entity, use the following statement)

The amendment changes the certificate of formation to change the article or provision that names the filing entity. The article or provision is amended to read as follows:

The name of the filing entity is: (state the new name of the entity below)

Texas Central Railroad & Infrastructure, Inc.

The name of the entity must contain an organizational designation or accepted abbreviation of such term, as applicable.

2. Amended Registered Agent/Registered Office

The amendment changes the certificate of formation to change the article or provision stating the name of the registered agent and the registered office address of the filing entity. The article or provision is amended to read as follows:

Registered Agent
(Complete either A or B, but not both. Also complete C.)

☐ A. The registered agent is an organization (cannot be entity named above) by the name of:

OR

☐ B. The registered agent is an individual resident of the state whose name is:

<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>
The person executing this instrument affirms that the person designated as the new registered agent has consented to serve as registered agent.			

C. The business address of the registered agent and the registered office address is:

<i>Street Address (No P.O. Box)</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>
		TX	

3. Other Added, Altered, or Deleted Provisions

Other changes or additions to the certificate of formation may be made in the space provided below. If the space provided is insufficient, incorporate the additional text by providing an attachment to this form. Please read the instructions to this form for further information on format.

Text Area (The attached addendum, if any, is incorporated herein by reference.)

☐ Add each of the following provisions to the certificate of formation. The identification or reference of the added provision and the full text are as follows:

☒ Alter each of the following provisions of the certificate of formation. The identification or reference of the altered provision and the full text of the provision as amended are as follows:

Article 5 - Purpose is amended and restated in its entirety to read as follows:

"The purpose for which the corporation is organized is to plan, build, maintain and operate an interurban electric railroad, and to conduct or promote any other lawful businesses or purposes that a corporation is legally allowed to conduct or promote, within this state or any other jurisdiction."

☐ Delete each of the provisions identified below from the certificate of formation.

Statement of Approval

The amendments to the certificate of formation have been approved in the manner required by the Texas Business Organizations Code and by the governing documents of the entity.

Exhibit N

No. 13-19-00297-CV

**In the Court of Appeals
for the Thirteenth Judicial District
Corpus Christi - Edinburg, Texas**

TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC. AND
INTEGRATED TEXAS LOGISTICS, INC.,
Appellants,

V.

JAMES FREDRICK MILES,
Appellee.

On Appeal from the 87th Judicial District Court
Leon County, Texas, Cause No. 16-0137-CV

BRIEF OF APPELLANTS

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ATTORNEYS FOR APPELLANTS
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INTEGRATED TEXAS LOGISTICS, INC.

[Additional Counsel Listed Inside Cover]
ORAL ARGUMENT REQUESTED

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The Leon County District Court granted summary judgment in favor of Miles.

The district court's decision misinterprets the plain text of the Texas Transportation Code, under which TCRI and ITL are both "railroad companies" and "interurban electric railway companies."

Worse, if the district court's decision stands, and the Transportation Code is construed to forever bar new entrants into Texas's railroad market, it would create a monopoly prohibited by the Texas Constitution.

This Court should reverse the district court's judgment, declare that TCRI and ITL each qualify as a "railroad company" and an "interurban electric railway company," and confirm that, in 2007, the Legislature did not enact an irrational law effectively outlawing new railroads, stifling economic development, and creating an unconstitutional monopoly among existing railroads.

STATEMENT OF FACTS

I. TCRI AND ITL WERE FORMED TO DEVELOP AND OPERATE A HIGH-SPEED PASSENGER TRAIN SYSTEM CONNECTING DALLAS AND HOUSTON.

TCRI and ITL are Texas corporations formed for the purpose of developing and operating a high-speed passenger train system

evidence of TCRI and ITL’s engagement in the operations necessary to construct the 240-mile railway between these cities, establish as a matter of law that TCRI and ITL each qualify as a “railroad company” under Transportation Code Section 81.002 and an “interurban electric railway company” under Section 131.011.

The district court’s contrary decision is irreconcilable with the unambiguous text of Sections 81.002 and 131.011. Miles’s arguments below provide no legitimate reason for the district court’s ruling that neither TCRI nor ITL is a “railroad company” or an “interurban electric railway company.”

Section 81.002

Title 5 of the Transportation Code regulates railroads. In a generally applicable provision, Section 81.002 defines a “railroad company” to include “any [] legal entity operating a railroad.” TEX. TRANSP. CODE § 81.002. Miles argued below that TCRI and ITL cannot be “operating a railroad” because they are not currently running trains on tracks. Miles is mistaken. For three reasons, it is clear that TCRI and ITL are “operating a railroad” within Section 81.002’s definition of railroad company.

Section 131.011

Section 131.011 defines an “interurban electric railway company” as “a corporation chartered under the laws of this state to conduct and operate an electric railway between two municipalities in this state.” TEX. TRANSP. CODE § 131.011. It is undisputed, and the record confirms, that both TCRI and ITL are chartered under the laws of Texas. SCR.4, 8-18. The record also conclusively shows that TCRI and ITL are chartered “to conduct and operate an electric railway between two municipalities in Texas.” See SCR.8-18. Nothing more is required to meet Section 131.011’s unambiguous definition of interurban electric railway companies.

Unable to contest that TCRI and ITL meet the plain text of Section 131.011, Miles instead suggested that Section 131.011 should not be applied as written. According to Miles, because “high speed” interurban electric railway technology did not exist in 1907, when the substantive provisions of what is now Chapter 131 were enacted, the Legislature could not have intended to include a “high-speed” interurban electric railway company in its definition of “interurban electric railway company.” See CR.1040.

But Section 131.011 defined interurban electric railways broadly enough to cover electric railways operating at any speed between Texas municipalities, including electric rail service at higher speeds than could be achieved in 1907. *See Kaufman v. Islamic Soc’y of Arlington*, 291 S.W.3d 130, 137-43 (Tex. App.—Fort Worth 2009, pet. denied) (“Texas Supreme Court precedent signals that when the text of a statute logically authorizes the application of the statute to a new technology . . . we should apply the statute in that way.”). The Legislature placed no speed limit on the definition of “interurban electric railway company” and thus did not exclude companies that might one day operate such railways at higher rates of speed.

The Court should reverse the district court’s decision and hold that TCRI and ITL are “interurban electric railway companies” under Section 131.011.

STANDARD OF REVIEW

This is a declaratory judgment case, not a condemnation case.⁴ It involves claims concerning the interpretation of generally applicable

4. Miles mistakenly suggested otherwise below. Invoking precedent concerning condemnation proceedings, Miles suggested that, in interpreting the Transportation Code provisions at issue here, the district court should strictly construe the statutes to favor Miles as the landowner. CR.1647-48. If this were a condemnation action

505 (Tex. 1934) (recognizing that the convenience and necessity of the public as distinguished from that of an individual or any number of individuals controls in determining state transportation issues); *J. Weingarten, Inc. v. Sanchez*, 228 S.W.2d 303, 311 (Tex. App.—Galveston 1950, no writ) (“[W]here the Legislature has declared public policy, acting within its constitutional powers, courts are bound thereby.”).

* * *

Transportation Code Section 81.002 defines a “railroad company” to include “any [] legal entity operating a railroad.” TEX. TRANSP. CODE § 81.002. Because TCRI and ITL unquestionably satisfy the plain text of this definition, the Court should reverse the district court’s contrary decision.

II. TCRI AND ITL ARE ALSO “INTERURBAN ELECTRIC RAILWAY COMPANIES” AS DEFINED BY CHAPTER 131 OF THE TRANSPORTATION CODE.

TCRI and ITL each also qualify as an “interurban electric railway company,” as that term is defined in Transportation Code Section 131.011. Again, the district court reached a contrary decision only by failing to apply the unambiguous text of the statute.

A. Under the Plain Text of Transportation Code Section 131.011, TCRI and ITL are “Interurban Electric Railway Companies.”

Section 131.011 defines an “interurban electric railway company” as “a corporation chartered under the laws of this state to conduct and operate an electric railway between two municipalities in this state.”

TEX. TRANSP. CODE § 131.011. This unambiguous provision applies to TCRI and ITL because they are Texas corporations chartered to conduct and operate an electric railway between two municipalities in the state. SCR.4, 8-18 (Kelly Affidavit and Filings with Texas Secretary of State). No more is required by Section 131.011.

In 2015, TCRI amended its Articles of Incorporation to expressly state that it is organized to “build, maintain and operate an interurban electric railroad.” SCR.8-12. ITL is similarly chartered “to construct, acquire, maintain, or operate lines of electric railway between municipalities in this state for the transportation of freight, passengers, or freight and passengers, with all powers conferred pursuant to and all limitations imposed by Chapter 131 of the Texas Transportation Code.” SCR.13-18. Both TCRI and ITL have notified the Texas Comptroller that Chapter 131 is a source of their eminent domain authority. SCR.19-28.

Exhibit O



TRANSFORMING TRAVEL IN TEXAS

Assessing passenger demand for high-speed train
service between North Texas, the Brazos Valley
and Greater Houston



TEXAS CENTRAL
AMERICA'S BULLET TRAIN



ABOUT THE PROJECT

The design, construction, finance and operation of a new high-speed passenger train line connecting Houston and North Texas has been under development for five years. The project expects to begin construction in 2018, and will enable passengers to travel between Houston and North Texas in 90 minutes, including a stop in the Brazos Valley. This transformational project will provide a safe, productive, fast and reliable choice for travelers between Texas' two largest economic hubs, using proven, world-class technology. The increased mobility between two of the fastest growing metropolitan areas in the US made possible by the Texas Bullet Train will deliver substantial and long-lasting benefits to both the state and local economies.

Texans will have a safe, productive and reliable choice for travel between Houston, the Brazos Valley and North Texas.

ABOUT THE STUDY

In January 2016, Texas Central appointed L.E.K. Consulting to conduct a study exploring the opportunity for a high-speed train service in Texas and the benefits it could bring to Texans.

L.E.K. has developed a commercially-driven, technology-enabled forecast for passenger demand including:

- Estimating the market size and growth rate for travel between the two metropolitan areas;
- Undertaking primary market research with input from more than 2,000 Texans to understand local travel habits and determine the Texas Bullet Train's potential share of the travel market; and
- Building a robust and highly granular forecasting model to predict future passenger demand under a range of assumptions and different scenarios.

This study is the most comprehensive work conducted to date for this specific region and is unprecedented in its depth, innovative approach and use of both new, private research and publicly available data.

L.E.K. has worked closely with Texas state and regional governments, macro-economic forecasters, and cell phone data providers to obtain robust and highly granular third party data and forecasts.

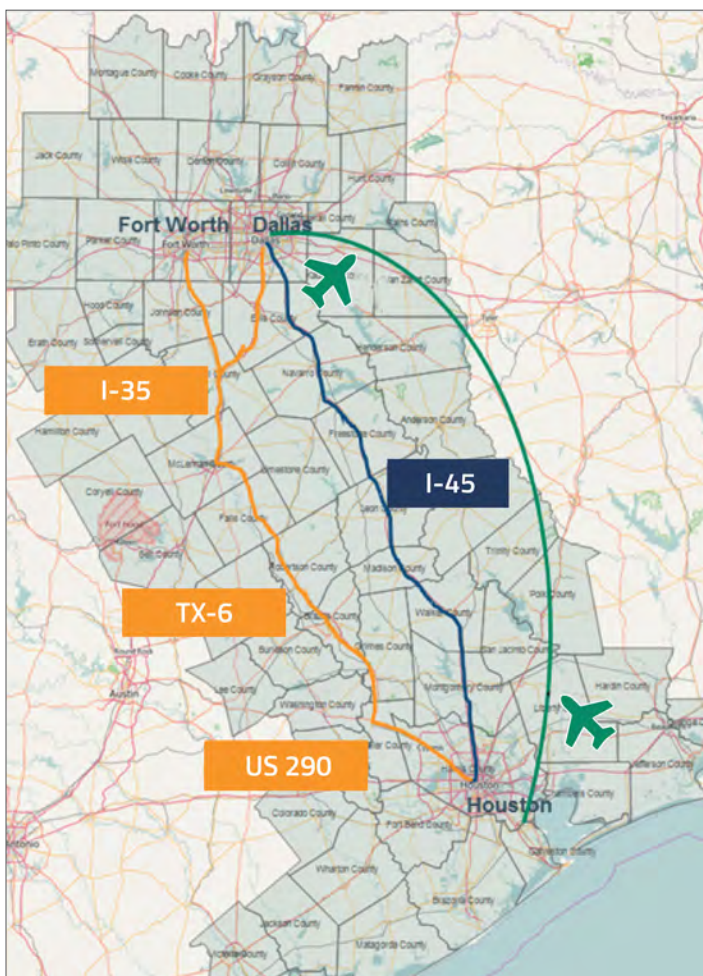
L.E.K. has combined all the data using modeling techniques which either meet or exceed the best practices outlined by the United States Department of Transportation, deploying standard transport economics, statistical analysis and big data approaches to produce a robust and detailed forecast.

1. TRAVEL MARKET OVERVIEW

TEXANS LIKE TO TRAVEL ACROSS TEXAS...

Each year, roughly 14 million journeys¹ are made between Greater Houston and North Texas. Calculated using a variety of data sources, including traffic count data from TxDOT, Bluetooth data from TTI and cell-phone data, this estimate includes all flights, bus journeys, and non-commercial/non-freight road traffic.

Research indicates most journeys are made for personal reasons, nearly half of which are to visit friends and family. Other reasons for travel across the region include taking a vacation/weekend trip, going to a game or shopping. Trips for business are common, representing nearly 20% of all journeys, while students also represent a significant portion of the travel market between Houston and North Texas.



... BUT TRAVEL OPTIONS ARE LIMITED AND JOURNEY TIMES ARE LONG AND UNPREDICTABLE

More than 90% of journeys between Houston and North Texas are made by road, typically using Interstate-45 or the Western alternative route, which consists of a series of interstates, state highways and farm to market roads. Drive times can range from 3.5 to 5.5 hours during busy times, and - once congestion is factored in - may be significantly longer than anticipated and difficult to predict. Moreover, congestion will only get worse, both in and around the metropolitan areas, and along I-45 where vehicle counts have increased at a rate of nearly 10% per year since 2012.

Approximately 1 million journeys are made by air each year, with the connection between Dallas Love Field (DAL) and Houston Hobby (HOU) airports the most popular. Although in theory scheduled flight times range between 60 – 75 minutes, in reality flight times are typically longer, once delays are factored in.

In fact, when all stages of the trip are taken into consideration (check-in, baggage drop, choke-point security, and lining up single-file to board in a cramped aisle) travel by air is not much faster than by road. As a result, air travel inadequately serves the most time sensitive travelers on this route, and has been in decline, with travelers choosing to drive instead of flying.

¹Defined as one-way travel between the North Texas and Houston regions made by one single passenger

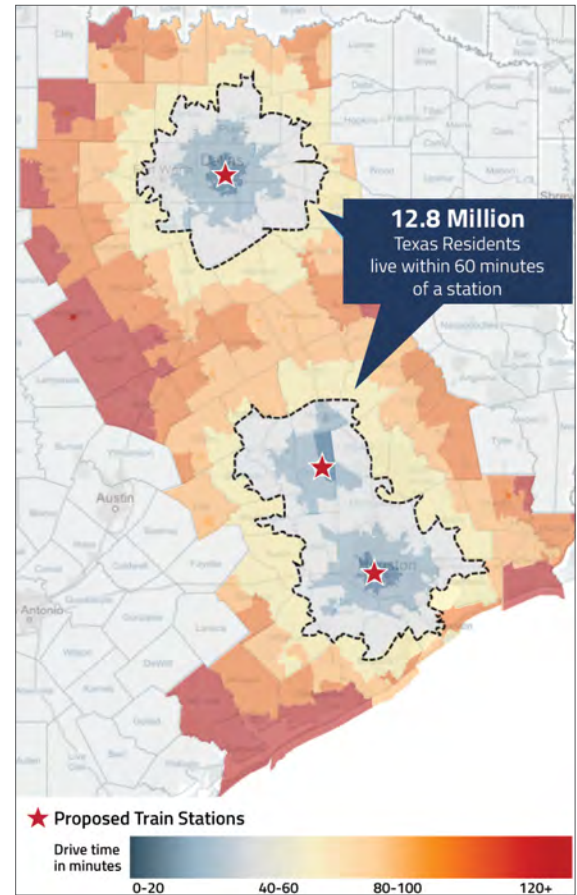
TEXANS DESERVE THE BEST

The Bullet Train will fundamentally transform the journey between North Texas and Greater Houston, providing travelers with a safer, more productive, more reliable and faster alternative to driving or flying. At speeds approaching 200 miles per hour, the Bullet Train will take less than 90 minutes from station-to-station, including one stop in the Brazos Valley.

The Bullet Train system is based on the Tokaido Shinkansen Technology, which has operated for more than 50 years in Japan with **a perfect track record of no crashes and zero passenger fatalities or injuries** due to train accidents.

Three stations will be conveniently located to serve the people of the Houston–North Texas corridor:

- In Dallas serving North Texas;
- In Grimes County serving the Brazos Valley, and
- In Houston serving the Greater Houston region.



OF THE 16 MILLION TEXANS LIVING IN THE LOCAL AREA, OVER 90% WILL BE ABLE TO SAVE AT LEAST 1 HOUR OF THEIR JOURNEY TIME BY TAKING THE BULLET TRAIN

Stations will be within 60 minutes' drive for more than 80% of local residents and will provide easy access to each region's excellent highways, thoroughfares and expansive public transit networks. Passengers will navigate easily through each of the three new stations, designed with the customer in mind, with frequent departures to help minimize waiting time.

SYSTEM SECURITY

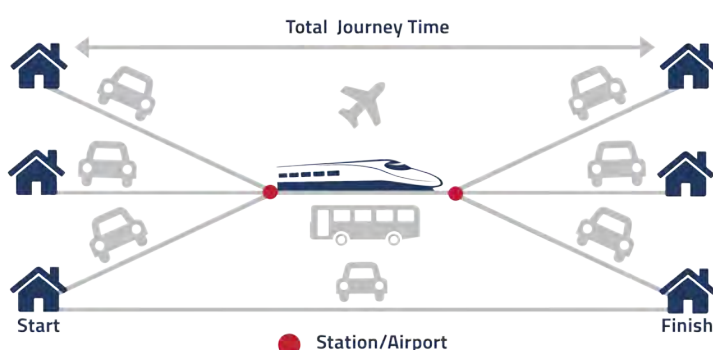
Passenger safety and system security is a top priority for government agencies, law enforcement, the project's private sector workforce and investors. The Department of Homeland Security (including the TSA), Federal Railroad Administration and other oversight agencies will review and approve the passenger security and emergency preparedness plans. Detailed planning is ongoing and of necessity isn't appropriate for full public disclosure. However, we can say that the Texas Bullet Train will adhere to many practices used by the highly successful Japanese Shinkansen train systems (tailored to the unique Texas operational environment)

including a "total system" approach that seamlessly integrates all major train safety system functions. As a privately developed project, there will be an unwavering focus on safety and deploying world-class technologies and practices while ensuring safe operations without imposing the intrusive, time-consuming procedures airline passengers must endure while flying. As threat assessments evolve, the project will continue to adopt security technologies and safety protocols that effectively protect passengers and provide customers peace of mind while traveling.

TEXAS BULLET TRAIN WILL REDUCE JOURNEY TIMES BY 60 MINUTES ON AVERAGE

A comprehensive analysis of every component of a trip between North Texas and Greater Houston via the Bullet Train—including getting to and from the station, check-in, security and boarding—indicates an average total journey time of under 3 hours 30 minutes.

To determine how this compares to current journey times across the region by car or by air, it is necessary to consider the total journey time from start (e.g., home) to finish (e.g., work).



JOURNEYS USING THE TEXAS BULLET TRAIN ARE AROUND 70 MINUTES FASTER THAN TRAVELING BY CAR

When traveling by car, journeys starting from Houston city center and finishing in Dallas city center (or vice versa) take approximately 4 hours 40 minutes at busy times. This includes time spent driving on local roads and the freeway, as well as rest stops.



JOURNEYS USING THE TEXAS BULLET TRAIN ARE AROUND 50 MINUTES FASTER THAN TRAVELING BY PLANE

When traveling by air, journeys starting from Houston city center and finishing in Dallas city center (or vice versa) take approximately 4 hours 20 minutes at busy times. This includes driving to and from the airport, total flight time, as well as time spent at the airport before departure (i.e., for check-in, clearing security, boarding) and upon arrival (i.e., for disembarkation and bag-collection).

SIGNIFICANT TIME SAVINGS WILL DRAW PASSENGERS TO HIGH-SPEED TRAINS

The Texas Bullet Train is therefore an attractive choice of travel for local residents, many of whom would save 60 minutes or more on their total journey time between Greater Houston and North Texas. For instance, people traveling from McKinney to Houston city center would arrive 90 minutes earlier if they took the Bullet Train instead of driving. Likewise, people traveling from Galveston to Denton would save 80 minutes versus an equivalent journey by car, or save 70 minutes versus an equivalent journey by air.

Overall, more than 90% of residents in the area around or between Houston, North Texas and Brazos Valley will make significant time savings over car and air by using the Bullet Train to travel between Greater Houston and North Texas. The Texas Bullet Train should therefore become the preferred mode of travel for millions of travelers. Moreover, to the degree the Bullet Train helps relieve any congestion on busy roadways and at crowded airports, the system will benefit every Texan, even if they choose to continue to drive or fly.

[illegible]

General attitudes towards the Texas Bullet Train are highly positive. When asked to write up to three statements or words that describe their reaction to a picture and description of the Bullet Train, the majority of survey respondents reacted positively, with “fast” and “convenient” most commonly expressed.

Everyone knows Texans love their cars and trucks—we do too! Nevertheless, an overwhelming majority of Texans (more than 80%) said they would use the Bullet Train in the right circumstances, with only 15% of survey respondents stating they would not consider any alternative but their personal vehicle.

A horizontal stacked bar chart comparing the willingness of frequent and non-frequent travelers to wear a mask. The chart has two categories on the y-axis: 'Frequent Travelers' and 'Non-Frequent Travelers'. The x-axis represents the percentage of respondents, with a vertical line at 50%. The legend indicates that red represents 'Definitely Would' and dark blue represents 'Probably Would'. For frequent travelers, the total willingness is 71%, with approximately 35% definitely and 36% probably. For non-frequent travelers, the total willingness is 49%, with approximately 25% definitely and 24% probably.

Traveler Type	Definitely Would (%)	Probably Would (%)	Total Willing (%)
Frequent Travelers	~35	~36	71
Non-Frequent Travelers	~25	~24	49

The survey also tested Texans' likely intention to use the Bullet Train, were it available today. Among survey respondents who had traveled between Greater Houston and North Texas over the last 12 months for personal or business reasons, more than two thirds said that they either "definitely" or "probably would" travel by the Bullet Train on their next journey.



TEXANS ARE NOT SATISFIED WITH THEIR CURRENT CHOICES FOR TRAVEL BETWEEN NORTH TEXAS AND HOUSTON

Encouragingly, almost half of survey respondents who had not traveled between Houston and North Texas in the last 12 months also indicated they “definitely” or “probably would” travel between the two metropolitan areas in the next 12 months, if the Bullet Train existed.

This important finding demonstrates that Texans are not satisfied with their current choices for travel between North Texas and Houston. By providing an alternative that eliminates many of the things that keep people from making the trip in the first place, such as long journey times that make single day trips impractical, high-speed trains have the potential to inspire exciting new journey opportunities.

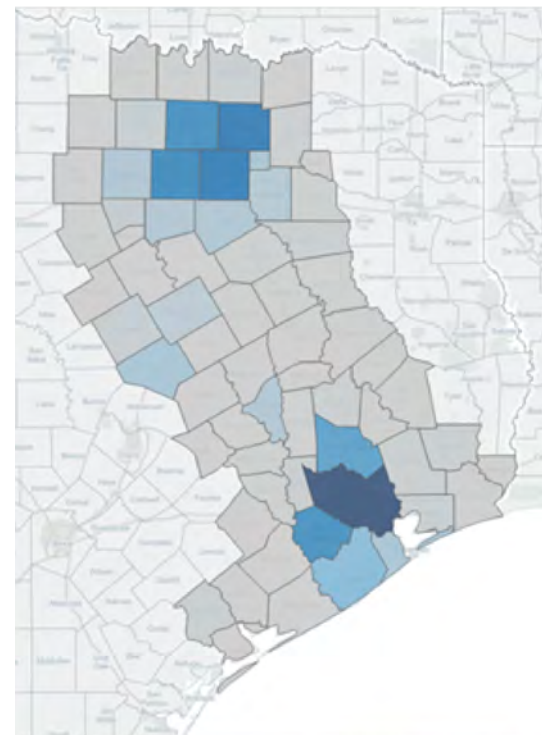
In summary, the research shows not only that Texans are excited by the prospect of the Texas Bullet Train, but also that they have a strong intention to use it for future journeys.

3. FUTURE MARKET DEVELOPMENT

The Texas Bullet Train is expected to launch in the early 2020s. As such, the forecast level of demand for high-speed trains must be based on the total number of long distance journeys we expect to be made between Greater Houston and North Texas for decades to come. To determine the expected size of the underlying travel market, three fundamental drivers of growth were analyzed: (i) population, (ii) economic activity, and (iii) journey costs.

POPULATION TRENDS WILL FAVOR TRAVEL MARKET GROWTH IN TEXAS

Simply put, more people living in the region means more journeys between the Greater Houston and North Texas. Forecasts estimate the population in the 66 relevant counties of the Houston-North Texas corridor to grow at 1.5% per year to 2050, almost twice the US national average. This will add an additional 11 million residents to the area by 2050, of which 9 million will reside in the urbanized areas of Greater Houston and North Texas. This will underpin significant growth to the underlying travel market.



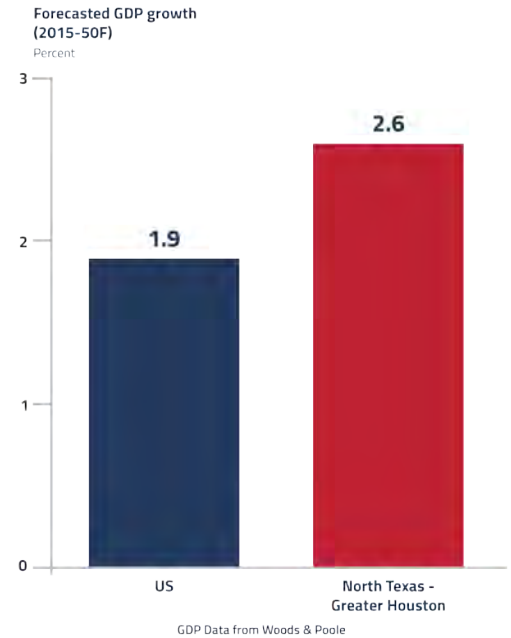
Population increase 2015-50F (thousands)

0 3,000

A STRONG TEXAS ECONOMY STIMULATES GROWTH IN THE TRAVEL MARKET

Changes in levels of economic activity will have a direct impact on travel across the region. Rising incomes are an important influence on demand for travel, not only because people with higher incomes tend to make more trips, but also because income levels influence decisions about which modes of travel to use.

Texas State GDP has been growing considerably faster than the US national average since 1997. Strong growth in levels of economic activity is expected to continue in the Greater Houston-North Texas region, with growth rates of 2.6% per year over the forecast period to 2050 (compared to 1.9% per year for the rest of the United States). This increase in wealth will support significant growth in the underlying travel market.

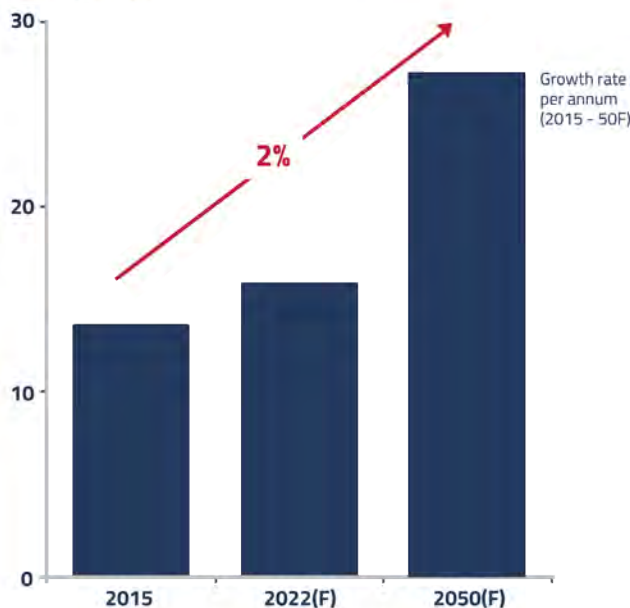


STEADY FUEL COSTS SUPPORT STEADY GROWTH OF THE TEXAS TRAVEL MARKET

Changes in journey costs will also have an impact on the travel market between Greater Houston and North Texas. Journey costs change with fuel prices and vehicle fuel efficiency. Underlying trends in the oil market suggest a steady increase in fuel prices in real terms throughout the forecast period, while improving technology and environmental regulations will drive significant improvements in vehicle fuel efficiency out to 2050. In combination, the changes in price and efficiency factors suggests fuel cost per mile is likely to remain relatively stable between 2015 and 2050 in real terms.

Forecasted growth of the travel market (2015-50F)

Millions of journeys



MORE THAN 27 MILLION JOURNEYS WILL BE MADE BETWEEN NORTH TEXAS AND GREATER HOUSTON IN 2050

As a result of the underlying trends in population, economic activity and journey costs, the size of the travel market between Greater Houston and North Texas is expected to grow at 2% per year over the forecast period, resulting in a total of just under 16 million journeys in 2022 and just over 27 million journeys in 2050.

4. PASSENGER DEMAND FOR THE TEXAS BULLET TRAIN

The Texas Bullet Train will drive growth in the travel market beyond trends in population, economic activity and journey costs, as it transforms transportation in Texas.

THE TEXAS BULLET TRAIN WILL STIMULATE NEW JOURNEYS ACROSS TEXAS

Research findings indicate many new journeys will take place, as the existence of the Bullet Train stimulates additional travel demand. Below are just a few representative examples of Texans describing how the Bullet Train could impact their lives:



This additional demand from new journey opportunities will increase the total size of the Texas travel market. Our estimates suggest that with the introduction of the Texas Bullet Train, the total number of journeys in the region, across all modes of travel, will rise from 13.7 million in 2015 to 31 million by 2050.

NEARLY 5 MILLION PASSENGERS ARE FORECAST TO USE THE BULLET TRAIN BY 2026 AND 10 MILLION PASSENGERS BY 2050

Bringing together end-to-end journey time analysis, primary market research on perceptions of high-speed trains, and long distance travel market size estimates, it is possible to develop estimates for future levels of demand for the Texas Bullet Train.

We forecast that following a ramp-up period in the mid-2020s, the number of journeys on the Texas Bullet Train will reach nearly 5 million, representing almost 25% of the total number of long distance journeys between Houston and North Texas. By 2050, the Texas Bullet Train's share of the total travel market is forecast to reach almost 30%, or over 10 million journeys.

TEXAS CENTRAL WILL DELIVER A SAFER, MORE PRODUCTIVE, FASTER AND MORE RELIABLE TRAVEL OPTION FOR TEXANS – AND HELP DRIVE THE TEXAS ECONOMY



CEO Tim Keith - Texas Central

Texas Central is a privately funded company. With a group of primarily Texan investors, Texas Central is poised to bring high-speed train service to the state with Lone Star entrepreneurial values in mind. This project is not backed by government grants and will not require taxpayer operating subsidies.

Taking a private-sector approach to financing this project changes everything, bringing real-world fiscal discipline to all decisions and careful scrutiny of economic models and timelines. Private projects have to demonstrate that

there is a viable market before a project is built. The market identified and described by this latest study demonstrates strong, pent-up demand for better travel options in Texas and demonstrates how the Bullet Train will make a significant impact on the Texas travel market. **Further, the number of riders forecast to use the Bullet Train will provide the basis for the long-term commercial success of this private venture.**

The project's financial and technical experts are developing the Bullet Train to maximize ridership and capital efficiency. Without the political constraints of a public endeavor, this project has much greater freedom with which to deliver these commercial objectives, compared with other lines around the world that have arbitrary political hurdles to overcome. In addition, management of the Texas Bullet Train will have far greater scope to adjust schedule, service and ticketing to improve the value delivered to customers which will drive commercial success.

By deploying world-class, proven technologies and cutting edge commercial strategies, we can expect the Texas Bullet Train to deliver more passengers over and above equivalent state-run ventures.

THE TEXAS BULLET TRAIN WILL TRANSFORM TRAVEL FOR TEXANS

The Texas Bullet Train will provide Texans with a faster, safer, more convenient and reliable alternative to driving or flying. Our research has illustrated that the Texas Bullet Train will not only save travelers time on their journeys, but Texans are already excited by the prospect of high-speed trains, and say they will make more journeys because of it. For all of these reasons, the Texas Bullet Train is set to transform travel in Texas and bring a new high-tech industry to the Lone Star State.



The majority of the Bullet Train line will be elevated on concrete viaducts which ensures the easy movement of people, wildlife, vehicles and equipment.



TEXAS CENTRAL
AMERICA'S BULLET TRAIN

ABOUT TEXAS CENTRAL

Texas Central Partners, LLC (Texas Central) is a private company bringing a transformational project to Texas that advances the economy, respects Texan values and keeps our state on track for future growth.

It is a Texas-based private company, employing a market-led approach to transportation infrastructure in Texas. Unlike other high-speed train projects, Texas Central is backed by private investors, not public grants or operating subsidies.

For more information, go to www.texascentral.com



ABOUT L.E.K. CONSULTING

L.E.K. Consulting is a global management consulting firm that uses deep industry expertise and rigorous analysis to help business leaders achieve practical results with real impact. L.E.K. helps clients make consistently better decisions, improve business performance and create greater shareholder returns.

Founded more than 30 years ago, L.E.K. has extensive experience in advising commercial railways, high speed train operators and governments across the Americas, Asia-Pacific, and Europe.

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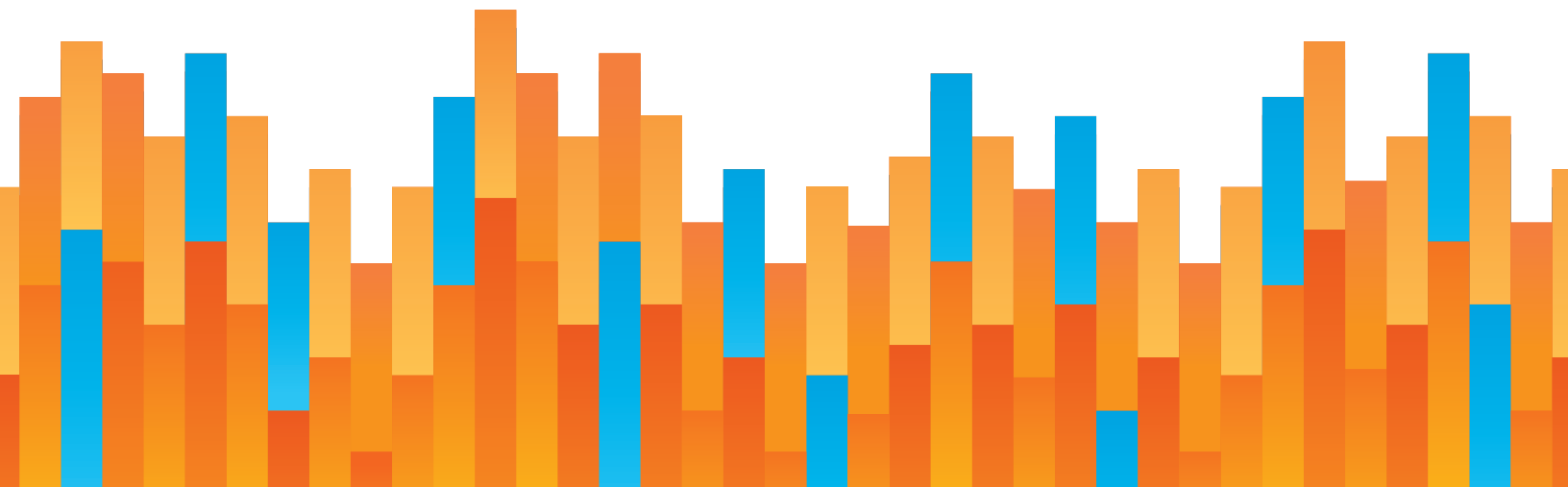
Exhibit P



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TEXAS HIGH SPEED RAIL REQUIRES CAUTION: AN UPDATED ANALYSIS

by Baruch Feigenbaum
March 2019





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PART 1

OVERVIEW

In 2017, I wrote the study “High Speed Rail in Texas: Caution Ahead,” which detailed concerns about Texas Central’s proposed Dallas-to-Houston privately financed high-speed rail line in Texas.¹ While I noted the potential advantages of private high-speed rail service, including project innovation, less susceptibility to political interests, and increased customer-oriented service, I also raised several cautions and concerns regarding Texas Central’s project. The dialogue I hoped for with Texas Central did not occur.

Over the past two years, Texas Central has continued work on the project, including commissioning an outside feasibility study. As a result, it is time to revisit the case for and against this proposed high-speed rail project.

This follow-up brief clarifies parts of the previous Reason report, analyzes new information regarding Texas Central’s ridership and cost numbers, and raises additional concerns regarding the project.

¹ Feigenbaum, Baruch. *Texas High Speed Rail: Caution Ahead*. Reason Foundation, 2017. Web. https://reason.org/wp-content/uploads/files/texas_high_speed_rail.pdf, 28, January 2019.

PART 2

TEXAS CENTRAL'S CRITIQUES OF OTHER HIGH-SPEED RAIL REPORTS

In addition to my report, there were five other peer-reviewed studies by transportation researchers analyzing the prospect of high-speed rail in Texas. In two of those studies—conducted by the Texas A&M Transportation Institute and the University of Texas—the researchers projected that high-speed rail between Dallas and Houston could require taxpayer subsidies of up to \$15 billion.²

Texas Central has stated that all of these studies (including mine) were out-of-date and did not include the private-sector innovations that Texas Central plans to use. While some of the studies were several years old and others focused on public-sector high-speed rail operations only, the studies raised legitimate concerns about ridership and cost that Texas

² Roco, Craig and Leslie Olson. "Policy and Financing Analysis of High Speed Rail Ventures in the State of Texas." Texas A&M Transportation Institute, September 2004. Web.
<https://static.tti.tamu.edu/swuttc.tamu.edu/publications/technicalreports/167150-1.pdf>, 28, January 2019;
"A Review of the Economic Feasibility of a Privately Financed High Speed Passenger, Rail System in Texas." University of Texas at Austin, 1992. 20-28. Print.

Central has failed to address. And, regardless of when the studies were conducted, some aspects of the project have not changed over time. For example, the project will always have to cover the approximately 240 miles between Dallas and Houston. And, the urban spatial structure characteristics of the two metro areas, including employment and population density and transit use, change very slowly.

After Texas Central released the results of its new study on ridership and cost projections (more details in Part 3), other researchers expressed concern. Matthew Glans of the Heartland Institute pointed out that successful high-speed rail requires cities with much denser population and employment than Dallas and Houston.³ Randal O'Toole of the Cato Institute wrote, "(H)igh speed rail proposals are high cost, high-risk megaprojects that promise little congestion relief, energy savings, or other environmental benefits."⁴ Wendell Cox, who has written several studies on high-speed rail, noted that there have been large cost overruns in other countries that have implemented high-speed rail.⁵ Finally, Travis Korson, a researcher at Frontiers for Freedom, questioned the company's financial projections. Korson pointed out that the combination of escalating construction costs and optimistic ridership estimates raises considerable doubt as to the long-term viability of the project.⁶ These researchers work for free-market think tanks, and are pre-disposed to support a privately funded high-speed rail line. Yet, they cast doubts on Texas Central's ridership projections and cost estimates.

Transportation researchers are not the only experts expressing concern. Alain LeRay of SNCF America (the U.S division of the French high-speed rail operator). said, "The whole thing is just a dream." He added, "That is not going to happen on private financing."⁷ Texas

³ Glans, Matthew. "High Speed Rail Won't Work in Texas." The Heartland Institute, 17 July, 2018. Web. <https://www.heartland.org/publications-resources/publications/research--commentary-high-speed-rail-wont-work-in-texas>, 18 January 2019.

⁴ O'Toole, Randal. "High Speed Rail The Wrong Road for America." Cato Institute, 31 October 2008, Web. <https://object.cato.org/pubs/pas/pa-625.pdf>, 18 January 2019.

⁵ Cox, Wendell. "EU Auditor High Speed Rail Criticisms: Lessons for North America and Australia. NewGeography, newgeography.com, 19, July 2018, <http://www.newgeography.com/content/006033-eu-auditor-high-speed-rail-criticisms-lessons-north-america-and-australia>, 18 January 2019.

⁶ Korson, Travis. "America's First Bullet Train is Already a Failure and It Hasn't Even Been Built." *The Hill*. 4 December 2017, thehill.com. Web. <https://thehill.com/opinion/technology/363141-americas-first-bullet-train-is-already-a-failure-and-it-hasnt-even-been>, 18 January 2019.

⁷ Leszczynski, Ray. "Rival Blasts Texas Bullet Train Firm's Private Funding Plan Saying it's Just a Dream." *The Dallas Morning News*, 18 September 2018, [dallasnews.com](https://www.dallasnews.com/news/transportation/2018/09/18/rival-texas-bullet-train-company-blasts-japanese-investment-says-high-speed-rails-private-funding-plan-just-dream). Web. <https://www.dallasnews.com/news/transportation/2018/09/18/rival-texas-bullet-train-company-blasts-japanese-investment-says-high-speed-rails-private-funding-plan-just-dream>, 18 January 2019.

Central responded to SNCF's skepticism with claims that SNCF is trying to build a parallel system in Texas and that a "French monopoly" does not understand how free-market capitalism works.

SNCF has some valid points. Of all the high-speed rail lines around the world, only two are profitable: Tokyo to Osaka and Paris to Lyon. All other high-speed rail lines received significant government subsidies for construction, and most also receive operating subsidies.⁸ Experts think that a high-speed rail line serving the densely populated, transit-friendly northeast corridor cities of Boston, New York City and Washington could cover its operating costs without government subsidies. A direct line between Los Angeles and San Francisco might also be able to cover its operating costs. But neither could possibly cover its capital costs from its own revenues.

As a result, virtually all high-speed rail experts are-skeptical that a high-speed rail line connecting the low-density, car-friendly metro areas of Dallas and Houston could be profitable without substantial public subsidies for capital and operations. SNCF also raises legitimate concerns regarding Texas Central's sources of and ability to obtain funding.

Transportation writers for local magazines and newspapers have also expressed concerns. Ray Leszczynski from the *Dallas Morning News* has suggested that Texas Central's plans may not be financially viable.⁹ The *Houston Chronicle* has detailed how rural Texas lifestyles are being disrupted for a project that will only serve urban Texas residents.¹⁰ The *Dallas Observer* has pointed out issues related to Texas Central's reliance on Railroad and Rehabilitation Improvement Financing (RRIF) loans (discussed in Part 4).¹¹ In addition to these major outlets, local newspapers have also questioned the project's viability.

⁸ Peterman, David, John Fritelli and William Mallett. "The Development of High Speed Rail in the United States: Issues and Recent Events." Congressional Research Service. *fas.org*. 20 December 2013. Web. <https://fas.org/sgp/crs/misc/R42584.pdf>, 18 January 2019.

⁹ Leszczynski, Ray. "Here is What is Ahead for the Proposed Houston-to-Dallas High-Speed-Rail Including Potentially Traumatized Butterflies." *The Dallas Morning News*. 31 August 2018, [dallasnews.com](https://www.dallasnews.com/news/transportation/2018/08/31/ahead-proposed-houston-dallas-high-speed-rail-including-potentially-traumatized-butterflies), Web. <https://www.dallasnews.com/news/transportation/2018/08/31/ahead-proposed-houston-dallas-high-speed-rail-including-potentially-traumatized-butterflies>, 18 January 2019.

¹⁰ Begley, Dug. "Bullet Train Opponents List Fears Over Houston-Dallas Line." *Houston Chronicle*. 30 January 2018, [houstonchronicle.com](https://www.houstonchronicle.com/news/transportation/article/Bullet-train-opponents-show-in-force-to-list-12538407.php). Web. <https://www.houstonchronicle.com/news/transportation/article/Bullet-train-opponents-show-in-force-to-list-12538407.php>, 18 January 2019.

¹¹ Nicholson, Eric and Diana Wray. "Will a Dallas-to-Houston Bullet Train Revolutionize Texas?" *Dallas Observer*, 18 August 2015, [dallasobserver.com](https://www.dallasobserver.com/news/on-the-line-will-a-dallas-to-houston-bullet-train-revolutionize-texas-7501328). Web, <https://www.dallasobserver.com/news/on-the-line-will-a-dallas-to-houston-bullet-train-revolutionize-texas-7501328>, 18 January 2019.

PART 3

TEXAS CENTRAL'S CLAIMS ARE NOT WELL SUPPORTED

Texas Central has not been shy about criticizing studies from other transportation researchers. Yet its own study, written by an anonymous author at a global management consulting firm, L.E.K., has a number of its own problems. (Texas Central has not released the entire study but has made public the cost and ridership numbers.)

According to the L.E.K. study, 90% of the 16 million people living in the Dallas-Houston high-speed rail service area would save at least one hour on their journey times, as compared to air or automobile.¹² Also, the L.E.K. study claims 71% of frequent travelers and 49% of non-travelers would probably or definitely use its high-speed rail on their next trip between metro Dallas and metro Houston. (Texas Central does not define a non-traveler, but it appears to be a person who does not currently travel between the two cities, but decides to make the trip because of the train.) Based on these and a number of other assumptions, L.E.K. estimates that its project will attract five million annual trips by 2025

¹² "Transforming Travel in Texas." *texascentral.com*. Texas Central, 2016. Web.
<http://www.texascentral.com/wp-content/uploads/2016/11/Ridership-Brochure.pdf>, 30 January 2019.

and 10 million annual trips by 2050, which would comprise 30% of the total trips between the metro areas.

Let's start with the study's methodology: L.E.K. did not release any information on planned ticket prices. And Texas Central does not provide any details either. On its website, Texas Central states that "on the high end, tickets will be competitive with the cost of flying, and on the low end, they will be competitive with the cost of driving." It is impossible to accurately project ridership without estimating ticket price. For instance, if L.E.K.'s study estimates a ticket price of \$50, when the actual price proves to be around \$200, the ridership projections will be severely inflated.

Second, L.E.K. used "stated preference" surveys to sample residents. Stated preference is the weakest analytical method in predicting traveler's patterns. Most researchers do not use it. Because people are not the best judge of their future transportation choices, transportation engineers conduct detailed modeling before construction of a roadway or transit line. The modeling uses past behavior to predict how people will travel in the future. The modeling also takes into account other factors such as improvements in highway capacity, airport capacity, and technology, which impact people's travel habits.

There's another problem with stated preference surveys: even when people know their travel patterns, they are not always honest in surveys. Studies of carpooling (two or more people sharing a ride from home to work) show that commuters routinely overstate the amount that they carpool, because it is considered a societal good (carpooling reduces congestion and greenhouse gas emissions).

The best and most accurate method of determining ridership is through quantitative modeling. This modeling includes the use of travel diaries or smartphone applications to monitor which modes commuters use. The activity pattern data are then analyzed via a travel-choice simulation model. Quantitative models also examine planned and future improvements in transportation networks. Because experience shows that the largest share of high-speed rail passengers switch from air travel or conventional rail, analyzing changes to these transportation modes is crucial in accurately estimating potential ridership.

A less ideal approach (although better than stated preference) is a strengths/weaknesses/opportunities/threat (SWOT) analysis. Although SWOT lacks a quantitative metric, it can identify potential ridership levels. By comparing tradeoffs, a

SWOT analysis examines the effect of additional airport gate capacity on ridership, or how train station proximity within a quarter-mile of a rail line increases ridership.

Another option—revealed preference—is better than stated preference because the technique draws statistical inferences from known behavior to generate more-accurate responses. Revealed preference can be used to inform a four-step travel demand model, although the results can be inaccurate.

Accurate modeling is essential to building and implementing a successful project. From what little is revealed of L.E.K.'s actual methodology, it is difficult to judge how L.E.K.'s cost and ridership numbers were actually estimated.

In the L.E.K. study, Texas Central makes two other claims that are difficult to take seriously. First is the claim that 90% of passengers in the service area will save an hour on their trip, as compared to flying or driving. Some passengers traveling from *downtown* Dallas to *downtown* Houston may save around an hour, but not most travelers. As Part 5 details, downtown Dallas and Houston have a small percentage of the region's residences and jobs. Travelers in the Dallas and Houston suburbs would have to travel up to an hour by car or transit to get to and then from the train station, reducing or altogether eliminating any time savings.

The relevant trip times must be measured door-to-door, not station to station. Texas Central's claimed travel time savings also depends upon a lack of security screening. However, any high-speed rail service will obviously need some type of security screening, thus further reducing the travel time savings. Even the privately financed higher-speed rail service in Florida—Brightline—has security screening in its stations. Finally, Texas Central assumes there will be no increase in highway or airport capacity between Dallas and Houston over the next 30 years. It is essential to compare all modes in the future, rather than comparing, for example, today's air travel to high-speed rail in 2050.

Second, by forecasting five million riders in 2025 and 10 million by 2050, Texas Central is both overstating initial ridership and assuming an unusually high passenger growth rate. Given Texas Central's challenges in acquiring land, obtaining funding and the necessary governmental approvals, not to mention the time needed to construct the project, service will not likely begin until 2025. Rail ridership tends to build gradually from year to year. Assuming rail service begins in 2025, Texas Central's projection of five million passengers in that year is 4.5 times our forecast of 1.1 million passengers. Also, Texas Central assumes

a 4% passenger growth rate per year, which is on the high end, especially given the mature, low-cost aviation market between Dallas and Houston. A 2.5% growth rate is more realistic. Assuming a 2.5% growth rate, Texas Central's 2050 projection of 10 million passengers is five times our forecast of two million passengers.

PART 4

THE FINANCING RISK

Texas Central continues to say that it will privately finance the construction of its high-speed rail line. Granted, financing mega-projects—those costing over \$500 million—is the most realistic way to pay for them. Similar to taking out a mortgage loan to buy a house, using revenue bonds to pay for a mega-project over the long term is a sensible way to pay for such a major project.

But if Texas Central plans to finance the project with loans from the government, taxpayers will need protections in place in case the company defaults. Texas Central is planning to seek a loan from the federal government’s Railroad Rehabilitation and Improvement Financing (RRIF) program. But, as explained below, RRIF loans lack the needed taxpayer safeguards.

Created under the Transportation Equity Act for the 21st Century (TEA-21), the RRIF program can support up to \$35 billion in loans and loan guarantees.¹³ Yet, unlike the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program, there are limited taxpayer protections for RRIF loans other than the requirement that recipients pay a credit risk premium.

¹³ “Railroad Rehabilitation and Improvement Financing.” United States Department of Transportation Build America Bureau. *transportation.gov*, 2019. Web. <https://www.transportation.gov/buildamerica/programs-services/rrif>, 24 January 2019.

In 2015, Reason Foundation recommended four changes to the RRIF program to give it taxpayer protections comparable to TIFIA:

- 1) restrict loans to 33% of the project's budget;
- 2) require that the project's senior debt carry an investment grade rating;
- 3) require that the loan recipient document the existence of a revenue stream dedicated to retiring the RRIF and other loans; and
- 4) require that, in bankruptcy, the RRIF loan moves to equal status with the primary debt (the "springing lien" provision).

Unfortunately, none of these provisions were adopted.

The problem with the RRIF program is that it encourages loan applications from risky, speculative projects. With respect to Texas Central's project, there is concern that an RRIF loan could serve as the primary or sole source of funding, unlike a TIFIA loan that provides supplemental gap-closure financing. In fact, a similarly speculative rail project, XpressWest, applied for a \$5.5 billion RRIF loan, which was between 80% and 100% of the project's estimated budget.¹⁴ The FRA rejected XpressWest's application, but only after lobbying by members of Congress.

Since the RRIF program does not have sufficient taxpayer protections, there is a significant risk that Texas Central would default on a RRIF loan. The default on such a large loan would be a real burden on taxpayers.

¹⁴ Cox, Wendell. "The Xpress High Speed Rail Line from Victorville to Las Vegas: A Taxpayer Risk Analysis." Reason Foundation, 2012. Web. <http://demographia.com/xpresswestreport.pdf>, 4 February 2019.

PART 5

THE PROJECT ASSUMPTIONS

As discussed in my initial report, Texas Central's revenue projections are based on questionable assumptions, several of which are detailed below:

#1 Switch from Car to Rail: Texas Central assumes that between 60% and 99% of travelers driving between Dallas and Houston will switch to high-speed rail. The highest previous percentage anywhere in the world is 18% (on a Spanish high speed rail line).¹⁵ Texas Central predicts that more than 14,600 cars will be removed from I-45. My earlier report calculated that the occupants of 14,769 cars could make the trip via train. As a result Texas Central is forecasting a diversion rate of 99%.¹⁶ Air or high-speed rail travelers are generally high-income people who choose these modes because of their speed. Automobile travelers are typically middle-income people who choose to travel by car because they want to make a stop along the way, take a more individualized route, have several people in the car (each of whom would need a rail ticket), or are headed to a destination in the suburbs or outside the metro area where they would continue to need transportation. Similar to bus travelers, car

¹⁵ Feigenbaum, Baruch. "High Speed Rail in Europe and Asia: Lessons for the United States." Reason Foundation, 2013. Web. <https://reason.org/policy-study/high-speed-rail-in-europe-and-asia/>, 4 February 2019.

¹⁶ Feigenbaum, Baruch. *Texas High Speed Rail: Caution Ahead*. Reason Foundation, 2017. Web. https://reason.org/wp-content/uploads/files/texas_high_speed_rail.pdf, 28, January 2019.

travelers are unlikely to switch to high-speed rail. For all other high-speed rail lines, either the majority of travelers have switched from conventional rail or air travel, or are new, induced riders. Very few switched from driving to high-speed rail. Even though the Dallas-to-Houston corridor lacks conventional rail, Texas Central's ridership projection is three to four times higher than what we would consider to be an optimistic ridership projection.

#2 Low-Cost Air Service: The two most financially successful high-speed rail lines in the world, Tokyo-Osaka and Paris-Lyon, had limited airline competition. Tokyo-Osaka had limited air service because there was no airport near Osaka. As for the Paris-Lyon line, the high-cost government-owned mainline carrier, Air France, provided air service at the time, and it was looking to cut back service in the corridor to focus on international destinations.

In Texas, the aviation market is very different. Both Dallas and Houston have lower-cost air travel options through Southwest Airlines and airports that are easily accessible for business travel (Dallas Love Field and Houston Hobby). These cities also have flights to and from suburban Houston Intercontinental and Dallas-Fort Worth International airports. While Southwest is not as low-cost as Allegiant, Frontier or Spirit, it prioritizes the Dallas-to-Houston corridor, offering daily flights every 30 minutes, starting at less than \$100 for advance purchase, and \$200 for purchase less than one week in advance.¹⁷ The low-cost and frequency of air travel in Dallas and Houston greatly reduces the number of passengers who will switch to rail.

#3 Employment and Population Densities: Successful high-speed rail lines rely on high population and employment densities near rail stations. Most high-speed rail passengers take transit or rideshare services (Uber/Lyft) to rail. Very few drive to rail stations. Neither Dallas nor Houston has high employment or population density; in fact, they are two of the least densely populated major urban areas in the world.

In contrast, the Northeast Corridor, with New York City at its center, is the best-suited high-speed rail corridor in the country. Approximately 35% of jobs (1.7 million) in New York are within two miles of downtown.¹⁸ Houston and Dallas, in comparison, have only 140,000 and 130,000 jobs within two miles of downtown, respectively. And population densities are even weaker, with 70,000 people living within two miles of downtown Houston and 40,000

¹⁷ Prices found by using Southwest Airlines' website for travel two months in advance and less than one week in advance. The website address is www.southwest.com

¹⁸ Todorovich, Petra and Yoav Hagler. "High Speed Rail in America." America 2050, 2011. Web. www.america2050.org/pdf/HSR-in-America-Complete.pdf, 4, February 2018.

living within two miles of downtown Dallas. These paltry figures, which rank 36th and 143rd in the nation, respectively, are dwarfed by New York City, with 520,000 people within two miles of downtown. In general, U.S. population densities are very low by international standards. No U.S. city has a population density per mile close to London (14,600) or Tokyo (11,400). But New York's population density at 4,500 people per mile is still significantly higher than Dallas and Houston both at 2,800.

#4 Extent of Local Transit Usage: Transit, and particularly rail usage, is one of the most accurate indicators of high-speed rail success. Most high-speed rail lines rely on a network of heavy (high-capacity) rail to funnel passengers to stations. Dallas and Houston have limited (low-capacity) light-rail that cannot funnel passengers as effectively. Many destinations in Dallas and Houston require a rental car, taxi or rideshare (Uber/Lyft) to reach the destination. Sixty percent of commuters use transit in Tokyo and 25% use it in Paris.¹⁹ In both Dallas and Houston, it is less than 5%.

#5 Conventional Rail Network: The largest source of high-speed rail passengers is conventional rail service between the cities in question. European and Asian countries with successful high-speed rail built these lines to relieve congestion on convention rail. In contrast, there is no conventional rail service between Dallas and Houston. No country in the world has built a high-speed rail line between a city-pair (similar to Dallas to Houston) lacking conventional rail. Both Japan and France have far more rail km per capita (more rail per person, at 13.9 and 21.7, respectively) than the U.S. (33.5).²⁰ Travelers are far more likely to use rail in these countries than they are in Texas.

#6 Automobile Culture: U.S. automobile ownership is considerably higher and less costly than in both Europe and Japan. When the Japanese and French high-speed rail lines were built, automobile ownership was below 25% in Japan and approximately 40% in France.²¹ Today, both France and Japan have a per capita car ownership rate of around 50%. Dallas and Houston have car ownership rates of 90%. Car ownership is important, because regions with higher car ownership rates tend to be more suburban, making it more convenient to fly than take the high-speed rail. Finally, residents less familiar with transit are far less likely to take high-speed rail.

¹⁹ Feigenbaum. "High Speed Rail in Europe and Asia."

²⁰ Ibid.

²¹ Ibid.

PART 6

CONCLUSION

Texas Central has not addressed the primary concerns raised in the peer-reviewed studies with credible data. While Texas Central is free to pursue a truly privately funded high-speed rail project, there are significant concerns regarding the project's feasibility that must not be overlooked, since taxpayer funds may be put at risk (through RRIF loans). The primary areas of concern are the following:

- Texas Central's lack of transparency regarding its project's details;
- Texas Central's challenges in acquiring right-of-way and limited funding/financing, both of which appear to be the cause of mounting delays in the project's timetable;
- Texas Central's use of a management consulting firm—L.E.K.—to estimate ridership for a transportation mega-project, rather than a company with expertise in traffic and revenue studies;
- Texas Central's suggestion that 60% to 99% of Dallas-Houston travelers will switch from car to high-speed rail, when the highest diversion rate anywhere else in the world is 18%;
- Texas Central's potential pursuit of RRIF loans, which could provide funding for more than 50% of the project's estimated \$20 billion capital cost, despite the RRIF program's lack of taxpayer safeguards; and
- Texas Central's failure to account for numerous factors indicating that the project could fail financially, including the presence of low-cost airline flights between

Dallas and Houston, lack of conventional rail travel between those cities, low employment and population densities.

We continue to encourage Texas policymakers and stakeholders to closely monitor this project. There is a significant probability that if this project is built and put into operation, Texas Central will default on its loans, require a taxpayer bailout, or both. This would be a devastating outcome for Texas, its residents, taxpayers, and proponents of private high-speed rail in the United States.

ABOUT THE AUTHOR

Baruch Feigenbaum is assistant director of transportation policy at Reason Foundation, a non-profit think tank advancing free minds and free markets. Feigenbaum has a diverse background researching and implementing transportation issues, including revenue and finance, public-private partnerships, highways, transit, high-speed rail, ports, intelligent transportation systems, land use and local policymaking.

Feigenbaum is involved with various transportation organizations. He is a member of the Transportation Research Board Bus Transit Systems and Intelligent Transportation Systems Committees. He is vice president of Programming for the Transportation and Research Forum Washington Chapter, a reviewer for the *Journal of the American Planning Association (JAPA)* and a contributor to *Planetizen*. He has appeared on NBC Nightly News and CNBC. His work has been featured in the *Washington Post* and *The Wall Street Journal*.

Prior to joining Reason, Feigenbaum handled transportation issues on Capitol Hill for Representative Lynn Westmoreland. He earned his master's degree in transportation from the Georgia Institute of Technology.

Exhibit Q

REPORTER'S RECORD
VOLUME 1 OF 1 VOLUMES
TRIAL COURT CAUSE NO. 2016-52516

TEXAS CENTRAL RAILROAD & INFRASTRUCTURE	)	IN THE DISTRICT COURT
	)	
	)	
PLAINTIFF,	)	
	)	
VS.	)	HARRIS COUNTY, TEXAS
	)	
	)	
CALVIN V. HOUSE	)	
	)	
	)	
DEFENDANT.	)	333RD JUDICIAL DISTRICT
	)	

TEMPORARY INJUNCTION HEARING

On the 23rd day of September, 2016, the following
proceedings came on to be heard in the above-entitled and
numbered cause before the Honorable Joseph J. "Tad" Halbach
Jr., Judge presiding, held in Houston, Harris County, Texas;

Proceedings reported by computerized stenotype machine.

1 THE WITNESS: I'm not offended.

2 THE COURT: I'm just trying to save as much time
3 as we can. Just don't go Matlock on the witness. You got to
4 go back to your chairs.

5 All right. You may proceed.

6 SHAUN McCABE,

7 having been first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. ANDERSON:

10 Q. Mr. McCabe, can you hear me and see me okay?

11 A. I can.

12 Q. Obviously you and I know each other, but would you
13 please state your full name for the record and for the benefit
14 of the Court, please.

15 A. Shaun McCabe.

16 Q. And Mr. McCabe, since we're going to do it this way,
17 the Judge has read the briefs, but I'd like for you to give the
18 Judge and the Court and the audience a 10,000-foot overview of
19 TCRI's project that's bringing us before the Court today,
20 please.

21 A. TCRI, the project, is a private led initiative to
22 bring high-speed rail to the United States, and more
23 specifically to the Dallas Fort -- the Dallas -- the Houston --
24 within the Dallas to Houston corridor. It's a 205-mile-an-hour
25 train. It culminates 51 years now of work over in Japan and it

1 is the safest train in the world. Unparallel to safe they
2 celebrated their 51st year without a passenger fatality as a
3 result of railroad operations, and so we endeavor on this as a
4 private led initiative. It's approximately 240 miles long and
5 looked to break ground in '18.

6 Q. Mr. McCabe, we're going to talk a little bit more
7 about the project kind of as we go through this. How long have
8 you been with the project?

9 A. Four years.

10 Q. Okay. And in what capacity are you involved with the
11 project?

12 A. I head up their -- the first three years I headed up
13 their engineering and regulatory initiatives and then about a
14 year ago I handed off the majority of the engineering.

15 Q. Mr. McCabe, what's your specific role with TCRI?

16 A. Vice president.

17 Q. Okay. And as vice president I guess you just told
18 us, if I would have been listening to your answer instead of
19 looking at my question, you just told us what your basic job
20 responsibilities were, correct?

21 A. That's correct.

22 Q. Okay. Mr. McCabe, when did TCRI come into being?

23 A. I believe it was formed in December of 2012.

24 Q. If I just --

25 MR. ANDERSON: Guys, if I just tell you what

1 A. Which question?

2 Q. Has the project collapsed?

3 A. No, the project has not collapsed.

4 Q. Okay. Now, as far as losing financing, you've
5 already told us in your deposition you don't have the
6 finance -- any financing secured for the project. You've
7 raised less than one percent of what you need, true?

8 A. Financing for the construction?

9 Q. Right.

10 A. We have not raised, correct.

11 Q. And financing to buy the train cars, is it, right?

12 A. Correct.

13 Q. The financing to acquire the land hasn't been
14 acquired yet, right?

15 A. Well --

16 Q. I know you're working on it, but there's nothing
17 under contract, true?

18 A. We have 200-plus option contracts we've paid on and
19 have executed.

20 Q. Right. But you don't have the money yet to execute
21 the options, you just put a deposit down, true?

22 A. That's correct.

23 Q. Okay. So in June you told us we might lose our
24 financing. What we know is you still don't have your
25 financing, true?

REPORTER'S CERTIFICATE

THE STATE OF TEXAS)
COUNTY OF HARRIS)

I, Marisol Ramos, Official Deputy Court Reporter in and for the 333rd District Court of Harris County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

I further certify that the total cost for the preparation of this Reporter's Record is \$451.50 and was paid by The Beckham Group.

WITNESS MY OFFICIAL HAND this the 30th day of September, 2016.

/s/Marisol Ramos

Marisol Ramos, Texas CSR 8140
Expiration Date: 12/31/2016
Official Deputy Court Reporter
333rd District Court
201 Caroline
Harris County, Texas
Houston, Texas 77002

Exhibit R

BAKER BOTTS LLP

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OPEN RECORDS DIVISION

Derek McDonald
TEL: 512.322.2667
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derek.mcdonald@bakerbotts.com

02-570728-15

574227

June 2, 2015

VIA HAND DELIVERY

The Honorable Ken Paxton
Office of the Attorney General
Open Records Division
Price Daniels Building
209 W. 14th Street, 6th Floor
Austin, TX 78701

Re: Public Information Act Request No. 570728 regarding Texas Central High-Speed Railway, LLC

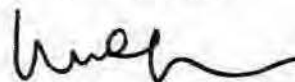
Dear General Paxton:

On March 20, 2015, Mr. Frank Reilly, an attorney at Potts and Reilly, LLP, requested information contained in the files of the Texas Department of Transportation ("TxDOT"). Mr. Reilly's final request, revised by agreement with TxDOT, asked for all information related to Texas Central High-Speed Railway, LLC ("TCR") or a proposed high-speed rail route from Harris County to Dallas County from January 1, 2009 to present, excluding news clips. On May 5, 2015, TxDOT requested a decision from your office regarding whether certain documents determined by TxDOT to be responsive are excepted from disclosure under the Texas Public Information Act. TCR received notice of Mr. Reilly's request on May 18, 2015.

TCR supports TxDOT's claims of exception and opposes the release of certain information submitted to TxDOT under a claim of confidentiality. TCR's information that is the subject of this brief includes trade secret and confidential commercial or financial information. Such information is exempt from disclosure under the Texas Public Information Act. The enclosed brief provides specific detail in support of this position. As required by law, a copy of this letter and a redacted copy of the supporting brief are being provided to Mr. Reilly.

If you have any questions, please call me at (512) 322-2667.

Very truly yours,



Derek McDonald

Enclosure

cc: Sarah Parker, Associate General Counsel, TxDOT (w/out enclosure)

Brief in Support of Texas Central High-Speed Railway LLC's Position that Certain Confidential Materials in the Files of the Texas Department of Transportation Are Protected from Disclosure under the Texas Public Information Act

I. Introduction

On March 20, 2015, Mr. Frank Reilly, an attorney at Potts and Reilly, LLP, requested information under the Texas Public Information Act ("TPIA") pertaining to Texas Central High-Speed Railway, LLC ("TCR") and contained in the files of the Texas Department of Transportation ("TxDOT"). Mr. Reilly clarified his request for the final time on April 24, 2015. TxDOT requested a formal decision from the Open Records Division of the Office of the Attorney General ("OAG") on May 5, 2015, then submitted a brief to the OAG and notified TCR on May 15, 2015. The OAG assigned number PIR #570728 to TxDOT's request.

Mr. Reilly requested inspection of anything connected to TCR or a high-speed rail route from Harris County to Dallas County from January 1, 2009 to present, excluding news clips. While some responsive information contained in TxDOT's Exhibit E, submitted to the OAG, is public information that can be disclosed, other information must not be released. Specifically, ridership projections and associated cost assumptions

must not be disclosed because this is trade secret and/or confidential commercial or financial information of TCR.

II. TCR's Response is Timely

As a threshold matter, TCR's brief is timely. TCR seeks to prevent disclosure of documents that contain confidential information excepted from disclosure by law. The TPIA requires TCR to file a brief in support of its position not later than the tenth business day after the date of receipt of notice of a TPIA request. TCR received notice of Mr. Reilly's request on May 18, 2015. Given the May 25, 2015 Memorial Day holiday, the tenth business day after the date of receipt of notice is June 2, 2015. Thus, this brief is timely.

III. Background and Summary

TCR is facilitating the construction of a high-speed passenger rail line between Dallas and Houston by securing environmental and technological regulatory approvals that will be necessary in future stages of the project. Because the construction and operation of a high-speed rail system will require various federal regulatory approvals, an Environmental Impact Statement ("EIS") for the project is being conducted by the Federal Railroad Administration ("FRA") and TxDOT pursuant to the National Environmental Policy Act ("NEPA"). The FRA and TxDOT are jointly acting as lead agencies in the preparation of an EIS. For this reason, TxDOT has requested from TCR and TCR has submitted information relevant to its proposal.

Thus, ridership projections and associated cost estimates are excepted from disclosure under Section 552.110(a) of the TPIA because this information constitutes a trade secret. This information is also excepted from disclosure as confidential commercial or financial information under Section 552.110(b) of the TPIA.

IV. Sections that Do Not Contain Trade Secret or Confidential Commercial or Financial Information

As an initial matter, TCR is no longer claiming that the following sections are proprietary and confidential, and these sections may be released to Mr. Reilly:

- Cover Page
- Section 1 - Project Overview
- Section 2 - Review of Previous Studies
- Section 3 - Travel Market Assessment
- Section 10 - Peer Review
- Appendix A - Station Area Market Analysis
- Appendix B - SAM-V2 Mode Choice Model
- Appendix C - Potential Road Closures and Conflicts

V. TCR's Trade Secret and Confidential Commercial or Financial Information Is Excepted from Public Disclosure

A. Confidential Trade Secret Information

Section 552.110(a) of the TPIA provides that “[a] trade secret obtained from a person and privileged or confidential by statute or judicial decision” is excepted from the disclosure requirements of the TPIA.² Protection from disclosure under Section 552.110(a) of the TPIA requires TCR to make a *prima facie* case that the information at issue is trade secret under the Restatement of Torts.

1. The “Trade Secret” Criteria

The Texas Supreme Court has adopted the definition of “trade secret” from the Restatement of Torts, section 757, which holds a trade secret to be:

¹

² Tex. Gov’t Code § 552.110(a).

[A]ny formula, pattern, device, or compilation of information used in one's business, and which gives him an advantage over competitors who do not know or use it. It may be a formula for a chemical compound, a process of manufacturing, treating, or preserving materials, a pattern for a machine or other device, or a list of customers. It differs from other secret information in a business...in that it is not simply information as to a single or ephemeral event in the conduct of the business...A trade secret is a process or device for continuous use in the operation of the business...[It may] relate to the sale of goods or to other operations in the business, such as a code for determining discounts, rebates, or other concessions in a price list or catalogue, or a list of specialized customers, or a method of bookkeeping, or other office management.³

To evaluate an assertion of trade secret protection, the courts and OAG use the following criteria:

- (1) the extent to which the information is known outside of TCR;
- (2) the extent to which it is known by employees and others involved in the business;
- (3) the extent of measures taken by TCR to guard the secrecy of the information;
- (4) the value of the information to TCR and its competitors;
- (5) the amount of effort or money expended in developing the information; and
- (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.⁴

TCR is not required to satisfy all six factors; the Texas Supreme Court has recognized that trade secrets "do not fit neatly into each factor each time."⁵ In addition, other circumstances could also be relevant to the trade secret analysis. Thus, these factors are to be weighed in the context of the surrounding circumstances.⁶ If a *prima facie* showing is made that the information at issue constitutes a trade secret, then TxDOT must withhold the information from the requestor.

2. Application of the "Trade Secret" Criteria

The sections identified in Section IV do not constitute trade secret information; however, the remainder contains information that satisfies the criteria for trade secret under the Restatement. In particular, information revealing ridership projections,

are trade secrets that may not be disclosed.

a) TCR's Ridership Projections Constitute Trade Secret Information

TCR's ridership projections

³ Restatement of Torts § 757 cmt b. (1939); see *Hyde Corp. v. Huffines*, 314 S.W.2d 763, 776 (Tex. 1958), *cert. denied*, 358 U.S. 898 (1958).

⁴ Restatement of Torts § 757 cmt b. (1939).

⁵ *In re Bass*, 113 S.W.3d 735, 740 (Tex. 2003).

⁶ *Id.*

Although some values in
have been supplanted by more recent analyses, TCR continues to rely upon
ridership projections in making strategic plans and in seeking financing.

Ridership projections

Because it forms the basis of its business, the precise combination and optimization of factors contributing to projected ridership is closely guarded, even within TCR. The confidentiality is protected by non-disclosure agreements. Additionally, as a general matter, when asked for public ridership information, TCR discloses only general estimates and does not separately disclose categories of projected riders. TCR defends its proprietary information against those who seek to use open records processes to gain its confidential, trade secret information.

This combination of factors goes to the heart of TCR's business of providing high-speed rail services: this is TCR's product formula, no different from the formula for a chemical compound traditionally recognized as trade secret. Without investing in a similar study, the ridership information contained in could not be easily duplicated by others. Because this "compilation of information" regarding projected ridership is used in every TCR business decision and financing effort, this information meets the definition of "trade secret" under the Restatement and is not subject to disclosure under the TPIA.

b)

Are Trade Secret Information

In addition to ridership projections,

This information is precisely the type of trade secret information that TCR relies upon continuously in its promotion of the project.

are not related just to a single, ephemeral event. Rather, these inputs are used repeatedly in evaluating the viability of the high-speed rail project.

will become public if high-speed rail is brought to Texas, at the moment, underlying its ridership projections only after significant time and expense; absent public disclosure, this information could not easily be duplicated by others. and estimates contained in

For this reason, are extremely valuable to TCR.

TCR seeks to

As detailed above, TCR has made a *prima facie* showing that constitute trade secret information that would be highly valuable to TCR's competitors and that must be protected under the TPIA.

B. Confidential Commercial or Financial Information

Section 552.110(b) of the TPIA states, "Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from the requirements of Section 552.021 [(the disclosure requirements)]." Section 552.110(b) requires a

specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from release of the information at issue.⁷

1. Application of the Confidential Commercial or Financial Information Exception

The trade secret information identified above is also excepted from disclosure under TPIA Section 552.110(b) because it constitutes confidential commercial or financial information that, if disclosed, would cause substantial competitive harm to TCR. In particular, the ridership projections and associated cost estimates contained in

TCR is a private company currently seeking private funding to provide new and much-needed transportation infrastructure to two of Texas' largest—and growing—metro areas. are outdated. For that reason alone, any information disclosed from the would be highly misleading and put TCR at a competitive disadvantage relative to the airline industry. But additionally, because of the sensitivity of investors during the funding process, disclosing outdated ridership projections or cost estimates would jeopardize TCR's ability to obtain funding, precluding TCR from competing against an airline industry that has attempted to defeat previous high-speed rail projects. This information must therefore be protected from disclosure under Section 552.110(b) of the TPIA.

a) TCR's Ridership Projections and Associated Cost Estimates Constitute Confidential Commercial or Financial Information

Disclosure of the confidential commercial or financial information contained in would cause TCR substantial competitive harm.

Since TCR has not yet begun service, competitors would have ample opportunity to use this information to undercut TCR's pricing before TCR even enters the market.

Within the next six months, TCR anticipates finishing its current round of funding and seeking additional funding from private sources. This is a critical moment for any business, particularly for one, like TCR, offering a new technology for the state of Texas. True, ridership

⁷ See Tex. Att'y Gen. ORD No. 661 at 5-6 (1999).

projections may eventually become public through the EIS.

But, at this point, these numbers are still changing as TCR optimizes its business strategy. Releasing sensitive information would provide the airline industry with an opportunity that TCR would have to address. If ridership projections and are disclosed, TCR will be placed at a disadvantage both in its imminent funding process and in its future ability to compete with airlines for potential customers.

The OAG has found that substantial competitive harm exists when the release of “financial information would allow a competitor to approach the company’s customers with a more lucrative financial arrangement, undercut [the entity’s] pricing, and offer bonuses or other incentives [the entity] could not match.”⁸ Here, the airlines would be afforded just such an opportunity. The competitive risk to TCR is far from speculative:

Should the airlines gain access to TCR’s ridership projections, the airlines will be able to undercut TCR’s pricing before TCR even begins service.

As a private company and a new venture, releasing information to the public poses critical timing questions. If ridership projections from are kept confidential until finalized as part of the EIS or other public disclosure, TCR will have time to solidify its funding. TCR will also have time to anticipate and address opposition from competitors in the airline industry.

If the ridership projections and cost estimates described in this brief are released, TCR’s confidential information will become available to competitors like Southwest Airlines. Furthermore, once released, there is nothing to prevent Mr. Reilly from using or disseminating this information as he pleases. Because TCR actively relies on the confidential business information contained in to evaluate project feasibility and obtain funding, this information must remain confidential until TCR can disclose this information, in context, as part of the EIS or other public document. Because untimely disclosure of potentially outdated ridership projections and will cause TCR substantial competitive harm, this information should be protected under Section 552.110(b) of the TPIA.

VI. Conclusion

For the reasons outlined above, TCR has made a *prima facie* case that the ridership projections and associated cost estimates contained in TxDOT’s version of are trade secrets excepted from disclosure under the TPIA. In addition, are also excepted from disclosure because this information is confidential commercial or financial information that, if released, would cause TCR substantial competitive harm.

⁸ See, e.g., Tex. Att’y Gen. ORD No. 10987 (2005).

Exhibit S

CAUSE NO. 16-0137CV

JAMES FREDRICK MILES,

Plaintiff,

VS.

**TEXAS CENTRAL RAILROAD &
INFRASTRUCTURE, INC.,**

Defendant,

**INTEGRATED TEXAS LOGISTICS,
INC.,**

Intervenor.

IN THE 87th DISTRICT COURT

FILED

CASSANDRA NOEY, DISTRICT CLERK
LEON COUNTY, TEXAS

MAY 07 2019

BY

LEON COUNTY, TEXAS

FINAL JUDGMENT

After considering Plaintiff's Amended Motion for Summary Judgment, Defendant and Intervenor's Amended Motion for Partial Summary Judgment, the responses, the replies, the evidence, and the arguments of the parties, the Court finds that Plaintiff's Amended Motion for Summary Judgment should be **GRANTED** and Defendant and Intervenor's Amended Motion for Partial Summary Judgment should be **DENIED**.

It is therefore **ORDERED** that the Court **GRANTS** Plaintiff's Amended Motion for Summary Judgment;

It is further **ORDERED** that the Court **DENIES** Defendant and Intervenor's Amended Motion for Partial Summary Judgment;

It is further **ORDERED, ADJUDGED AND DECREED** that Texas Central Railroad & Infrastructure, Inc. is not a Railroad Company or Interurban Electric Railway Company.



It is further **ORDERED, ADJUDGED AND DECREED** that Integrated Texas Logistics, Inc. is not a Railroad Company or Interurban Electric Railway Company,



It is further **ORDERED** that Texas Central Railroad & Infrastructure, Inc.'s claims against Plaintiff are dismissed with prejudice;

It is further **ORDERED** that Integrated Texas Logistics, Inc.'s claims against Plaintiff are dismissed with prejudice.

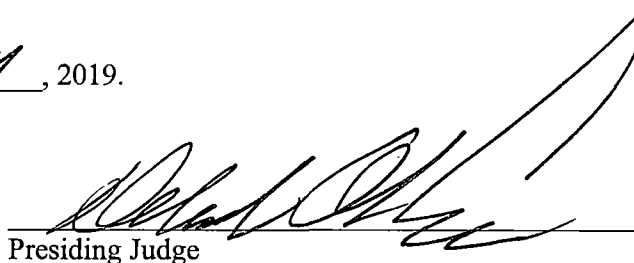
It is further **ORDERED** that, in accordance with TEX. CIV. PRAC. & REM. CODE § 37.009, Plaintiff be awarded 100,000⁰⁰ for his costs and reasonable attorney's fees incurred to date.

It is further **ORDERED** that Plaintiff be awarded conditional attorney's fees in the amount of 25,000⁰⁰ for any appeal to the Waco Court of Appeals.

It is further **ORDERED** that Plaintiff be awarded conditional attorney's fees in the amount of 15,000⁰⁰ for any appeal to the Texas Supreme Court.

All relief not granted is denied. This is a final, appealable judgment.

SIGNED this 7 day of May, 2019.



Presiding Judge

FILED
CASSANDRA NOEY, DISTRICT CLERK
LEON COUNTY, TEXAS

MAY 07 2019

BY C. Noey

Exhibit T

CAUSE NO. 98668

TEXAS CENTRAL RAILROAD &
INFRASTRUCTURE, INC., AND
INTEGRATED TEXAS LOGISTICS,
INC.

Plaintiffs,

V.

RONNY CALDWELL,

Defendant.

§ IN THE 40TH JUDICIAL DISTRICT COURT

§

§

§

§

§

§

§

§

§

ELLIS COUNTY, TEXAS

**VERIFIED FIRST AMENDED PETITION AND APPLICATION FOR
INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

Texas Central Railroad and Infrastructure, Inc. ("TCRI") and Integrated Texas Logistics, Inc. ("ITL") (collectively, "Plaintiffs") plan to construct the first high-speed passenger train in the United States. As railroad companies and electric railways, Plaintiffs have the absolute statutory right to examine and survey real property to determine the most advantageous route for the train, which will run between Dallas and Houston. Under the law, Plaintiffs are not required to provide notice to landowners or to seek permission for surveying. That said, Plaintiffs respect private property rights, are responsible corporate citizens, and intend to establish a good working relationship with landowners. For these reasons, TCRI has previously sought written permission from landowners before entering any property to conduct the examination and surveying activities needed to determine the most advantageous route for the train.

By refusing to grant Plaintiffs permission to enter his property, Defendant Ronny Caldwell ("Defendant") has denied that TCRI and ITL have the statutory right to enter his property. At this time, TCRI and ITL have finalized a plan to proceed with surveys and examinations along the Project route and have determined that the safest, and most prudent course of conduct, is to secure a

PARCEL TX-LE-066.320**CAUSE NO: 16-0137CV**

JAMES FREDRICK MILES,	§	IN THE 87th DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC.	§	LEON COUNTY, TEXAS
	§	
Defendant,	§	
	§	
and	§	
	§	
INTEGRATED TEXAS LOGISTICS, INC.,	§	
	§	
Intervenor.	§	

**DEFENDANT AND INTERVENOR’S AMENDED
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendant Texas Central Railroad & Infrastructure, Inc. (“TCRI”) and Intervenor Integrated Texas Logistics, Inc. (“ITL”) file this Amended Motion for Partial Summary Judgment (“Motion”) and would respectfully show the Court as follows:

SUMMARY OF THE ARGUMENT

TCRI and ITL are Texas corporations chartered for the purpose of constructing and operating a high-speed passenger train between Houston and Dallas. These undisputed facts, along with the efforts undertaken by TCRI and ITL in preparation for constructing the passenger railway, are sufficient to deem TCRI and ITL each a “railroad company” and an “interurban electric railway company” under Texas law. This matter of statutory interpretation is ripe for determination by summary proceedings. For these reasons, as set forth in detail

PARCEL TX-LE-066.320

CAUSE NO: 16-0137CV

JAMES FREDRICK MILES,

Plaintiff

V.

**TEXAS CENTRAL RAILROAD &
INFRASTRUCTURE, INC.**

Defendant

and

**INTEGRATED TEXAS LOGISTICS,
INC.,**

Intervenor

IN THE 87th DISTRICT COURT

LEON COUNTY, TEXAS

**TCRI'S FIFTH AMENDED ANSWER, VERIFIED COUNTERCLAIM, AND
APPLICATION FOR INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT¹**

TO THE HONORABLE JUDGE OF SAID COURT:

Texas Central Railroad and Infrastructure, Inc. (“TCRI”) and Integrated Texas Logistics, Inc.² (“ITL”) plan to construct the first high-speed passenger train in the United States. As railroad companies and electric railways, TCRI and ITL have the absolute statutory right to examine and survey real property to determine the most advantageous route for the train, which will run between

¹ On April 26, 2017, the Court entered an order abating this action until such time as TCRI made a final decision regarding the alignment of its proposed rail line. The draft environmental impact statement was released on December 8, 2017. At this time, TCRI renews its request to survey and examine Plaintiff's property, and this matter is ripe for adjudication.

² Integrated Texas Logistics, Inc. was created out of an abundance of caution after Miles alleged that TCRI did not have eminent domain powers as an electric railway. While TCRI and ITL believe this argument is without merit, as discussed in their declaratory judgment action below, ITL was created to erase any question as to ITL's authority to enter onto and survey the Property, as well as other properties related to the Project. ITL's Original Verified Petition in Intervention and Application for Injunctive Relief was filed on May 4, 2018.

CAUSE NO. 18-C-3883

TEXAS CENTRAL RAILROAD &	§	COUNTY COURT AT LAW NO. 1
INFRASTRUCTURE, INC., AND	§	
INTEGRATED TEXAS LOGISTICS,	§	
INC.	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
RONNY CALDWELL,	§	
Defendant.	§	OF ELLIS COUNTY, TEXAS

**PLAINTIFFS' AMENDED
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiffs Texas Central Railroad & Infrastructure, Inc. ("TCRI") and Integrated Texas Logistics, Inc. ("ITL") file this Amended Motion for Partial Summary Judgment ("Motion") and would respectfully show the Court as follows:

SUMMARY OF THE ARGUMENT

TCRI and ITL are Texas corporations chartered for the purpose of constructing and operating a high-speed passenger train between Houston and Dallas. These undisputed facts, along with the efforts undertaken by TCRI and ITL in preparation for constructing the passenger railway, are sufficient to deem TCRI and ITL each a "railroad company" and an "interurban electric railway company" under Texas law. This matter of statutory interpretation is ripe for determination by summary proceedings. For these reasons, as set forth in detail below, the Court should grant TCRI and ITL's Motion and enter an order declaring that TCRI and ITL are railroad companies and interurban electric railway companies under Texas law.

CAUSE NO. 98533

TEXAS CENTRAL RAILROAD &
INFRASTRUCTURE, INC., AND
INTEGRATED TEXAS LOGISTICS,
INC.

Plaintiffs,

v.

WILLIAM H. GETZENDANER JR., as
Trustee of the GETZENDANER TRUST,

Defendant.

§ IN THE ____TH JUDICIAL DISTRICT COURT
§
§
§
§
§
§
§
§
§
§
§ ELLIS COUNTY, TEXAS

**VERIFIED ORIGINAL PETITION AND APPLICATION FOR
INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

Texas Central Railroad and Infrastructure, Inc. ("TCRI") and Integrated Texas Logistics, Inc. ("ITL") (collectively, "Plaintiffs") plan to construct the first high-speed passenger train in the United States. As railroad companies and electric railways, Plaintiffs have the absolute statutory right to examine and survey real property to determine the most advantageous route for the train, which will run between Dallas and Houston. Under the law, Plaintiffs are not required to provide notice to landowners or to seek permission for surveying. That said, Plaintiffs respect private property rights, are responsible corporate citizens, and intend to establish a good working relationship with landowners. For these reasons, TCRI has previously sought written permission from landowners before entering any property to conduct the examination and surveying activities needed to determine the most advantageous route for the train.

By refusing to grant Plaintiffs permission to enter his property, Defendant William H. Getzendaner, Jr., as Trustee of the Getzendaner Trust, ("Defendant") has denied that TCRI and ITL have the statutory right to enter his property and has refused permission to do so. At this time, TCRI

Exhibit U

From: No-Reply@eFileTexas.gov
Sent: Friday, May 4, 2018 6:00 PM
To: Patrick McShan
Subject: Notification of Service for Case: 16-0137CV, MILES, JAMES FREDRICK VS. TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC. for filing Counter Claim/Cross Action/Interpleader/Intervention/Third Party, Envelope Number: 24390020



Notification of Service

Case Number: 16-0137CV
Case Style: MILES, JAMES FREDRICK VS.
TEXAS CENTRAL RAILROAD &
INFRASTRUCTURE, INC.
Envelope Number: 24390020

This is a notification of service for the filing listed. Please click the link below to retrieve the submitted document.

Filing Details	
Case Number	16-0137CV
Case Style	MILES, JAMES FREDRICK VS. TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC.
Date/Time Submitted	5/4/2018 5:58 PM CST
Filing Type	Counter Claim/Cross Action/Interpleader/Intervention/Third Party
Filing Description	Integrated Texas Logistics, Inc.'s Verified Petition in Intervention and Application for Injunctive Relief
Filed By	Lori Kruse
Service Contacts	Other Service Contacts not associated with a party on the case: Monte James (mjames@jw.com) Susan Ayers (sayers@jw.com) Robert Neblett (rneblett@jw.com) Glenn A. Sodd (leandra@dawsonsodd.com) Richard Scott Wilson (scott@cannonandwilson.com) Blake L. Beckham (blake@beckham-group.com) Michael Patrick McShan (patrick@beckham-group.com)

	William Jason Sodd (jason@dawsonsodd.com) Robert B. Neblett (rneblett@jw.com) Joe B. Cannon (joe@cannonandwilson.com) Jody Sodd McSpadden (andrea@dawsonsodd.com) Brad Anderson (banderson@jw.com) Faith Johnson (flowry@jw.com)
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Document Details	
Served Document	Download Document
This link is active for 15 days.	

Exhibit V

PARCEL TX-LE-066.320**CAUSE NO: 16-0137CV**

JAMES FREDRICK MILES,	§	IN THE 87th DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
TEXAS CENTRAL RAILROAD & INFRASTRUCTURE, INC.	§	LEON COUNTY, TEXAS
	§	
Defendant,	§	
	§	
and	§	
	§	
INTEGRATED TEXAS LOGISTICS, INC.,	§	
	§	
Intervenor.	§	

**DEFENDANT AND INTERVENOR’S AMENDED
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendant Texas Central Railroad & Infrastructure, Inc. (“TCRI”) and Intervenor Integrated Texas Logistics, Inc. (“ITL”) file this Amended Motion for Partial Summary Judgment (“Motion”) and would respectfully show the Court as follows:

SUMMARY OF THE ARGUMENT

TCRI and ITL are Texas corporations charted for the purpose of constructing and operating a high-speed passenger train between Houston and Dallas. These undisputed facts, along with the efforts undertaken by TCRI and ITL in preparation for constructing the passenger railway, are sufficient to deem TCRI and ITL each a “railroad company” and an “interurban electric railway company” under Texas law. This matter of statutory interpretation is ripe for determination by summary proceedings. For these reasons, as set forth in detail

asserts jurisdiction over TCRI, TCRI will become subject to the exclusive and plenary jurisdiction of the STB. STB will have to authorize the Project's construction and operation.^{67,68} Importantly, TCRI is not required to be actively transporting passengers or have trains running on tracks to fall under the STB's jurisdiction. That is because the STB, like the Texas Legislature, recognizes that construction and operation of a railroad requires a wide range of antecedent activities before a single passenger rides on a train. **We expect the STB to assert jurisdiction over the Project this summer.**

- f. *TCRI and ITL are conducting on-the-ground surveys and entering option agreements to purchase right-of-ways.*

TCRI and its affiliates have done more than engage regulators and retain contractors. As of the filing of this Motion, TCRI has obtained over 4,000 signed survey permission forms from landowners—many of whom are Mr. Beckham's clients—granting TCRI the right to enter the landowners property and conduct surveying activities for the purpose of constructing the railroad. *Id.* ¶ 8. Using the over 4,000 signed survey permit forms, TCRI has conducted over 2,000 surveys and examinations to ensure that the routes will support the Project. Kelly Decl. ¶¶ 6, 8, 11. Railroad companies must engage in these types of activities before they acquire right of way, build a railroad, or put a train on a track. *Id.* ¶¶ 6–12. The Texas Legislature has recognized as much, and has specifically granted railroads the power to “make an examination and survey for the company's **proposed** railway, to be performed as necessary to select the most advantageous route for the **proposed** railway”⁶⁹

Furthermore, TCRI is actively entering into voluntary option agreements to secure the right to purchase right-of-way needed to construct the railroad, and, as of the filing of this

⁶⁷ TCRI anticipates that the STB will decide whether it has jurisdiction over the Project this summer.

⁶⁸ *See id.* § 10901(a).

⁶⁹ Tex. Transp. Code § 112.051(a) (emphasis added).

Exhibit W

CAUSE NO. 98668

TEXAS CENTRAL RAILROAD &	§	IN THE 40 TH JUDICIAL DISTRICT COURT
INFRASTRUCTURE, INC., AND	§	
INTEGRATED TEXAS LOGISTICS,	§	
INC.	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
RONNY CALDWELL,	§	
Defendant.	§	ELLIS COUNTY, TEXAS

PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiffs Texas Central Railroad & Infrastructure, Inc. ("TCRI") and Integrated Texas Logistics, Inc. ("ITL") file this Motion for Partial Summary Judgment ("Motion") and would respectfully show the Court as follows:

SUMMARY OF THE ARGUMENT

TCRI and ITL are Texas corporations chartered for the purpose of constructing and operating a high-speed passenger train between Houston and Dallas. These undisputed facts, along with the efforts undertaken by TCRI and ITL in preparation for constructing the passenger railway, are sufficient to deem TCRI and ITL each a "railroad company" and an "interurban electric railway company" under Texas law. This matter of statutory interpretation is ripe for determination by summary proceedings. For these reasons, as set forth in detail below, the Court should grant TCRI and ITL's Motion and enter an order declaring that TCRI and ITL are railroad companies and interurban electric railway companies under Texas law.

SUMMARY JUDGMENT EVIDENCE

In support of this Motion for Summary Judgment, TCRI and ITL attach and incorporate by reference for all purposes the following summary judgment evidence:

nature, could be used to deny a railroad the ability to conduct some part of its operations or to proceed with activities that the Board has authorized.”⁶⁹

By virtue of the Amtrak through-ticketing agreement, the Project will be part of the interstate rail network. Therefore, the Project falls under the STB’s jurisdiction. When the STB asserts jurisdiction over TCRI, TCRI will become subject to the exclusive and plenary jurisdiction of the STB. STB will have to authorize the Project’s construction and operation.⁷⁰ Importantly, TCRI is not required to be actively transporting passengers or have trains running on tracks to fall under the STB’s jurisdiction. That is because the STB, like the Texas Legislature, recognizes that construction and operation of a railroad requires a wide range of antecedent activities before a single passenger rides on a train. **We expect the STB to assert jurisdiction over the Project in the near future.**

f. TCRI and ITL are conducting on-the-ground surveys and entering option agreements to purchase right-of-ways.

TCRI and its affiliates have done more than engage regulators and retain contractors. As of the filing of this Motion, TCRI has obtained over 4,000 signed survey permission forms from landowners—many of whom are Mr. Beckham’s clients—granting TCRI the right to enter the landowners property and conduct surveying activities for the purpose of constructing the railroad. Kelly Decl. ¶ 8. Using the over 4,000 signed survey permission forms, TCRI has conducted over 2,000 surveys and examinations to ensure that the routes will support the Project. *Id.* ¶¶ 6, 8, 11. Railroad companies must engage in these types of activities before they acquire right-of-way, build a railroad, or put a train on a track. *Id.* ¶¶ 6–12. The Texas Legislature has recognized as much, and has specifically granted railroads the power to “make

⁶⁹ *Franks Inv. Co. LLC v. Union Pac. R.R. Co.*, 593 F.3d 404, 410 (5th Cir. 2010).

⁷⁰ *See id.* § 10901(a).

CAUSE NO. 18-C-3883

TEXAS CENTRAL RAILROAD &	§	COUNTY COURT AT LAW NO. 1
INFRASTRUCTURE, INC., AND	§	
INTEGRATED TEXAS LOGISTICS,	§	
INC.	§	
Plaintiffs,	§	
	§	
v.	§	
	§	
RONNY CALDWELL,	§	
Defendant.	§	OF ELLIS COUNTY, TEXAS

**PLAINTIFFS' AMENDED
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiffs Texas Central Railroad & Infrastructure, Inc. ("TCRI") and Integrated Texas Logistics, Inc. ("ITL") file this Amended Motion for Partial Summary Judgment ("Motion") and would respectfully show the Court as follows:

SUMMARY OF THE ARGUMENT

TCRI and ITL are Texas corporations chartered for the purpose of constructing and operating a high-speed passenger train between Houston and Dallas. These undisputed facts, along with the efforts undertaken by TCRI and ITL in preparation for constructing the passenger railway, are sufficient to deem TCRI and ITL each a "railroad company" and an "interurban electric railway company" under Texas law. This matter of statutory interpretation is ripe for determination by summary proceedings. For these reasons, as set forth in detail below, the Court should grant TCRI and ITL's Motion and enter an order declaring that TCRI and ITL are railroad companies and interurban electric railway companies under Texas law.

rail, among other things.⁶⁶ In the ICCTA, Congress expressly provided that the STB’s authority over rail transportation is exclusive.^{67,68} Thus, when a project falls within STB jurisdiction, federal law preempts any “state or local permitting or preclearance that, by its nature, could be used to deny a railroad the ability to conduct some part of its operations or to proceed with activities that the Board has authorized.”⁶⁹

By virtue of the Amtrak through-ticketing agreement, the Project will be part of the interstate rail network. Therefore, the Project falls under the STB’s jurisdiction. When the STB asserts jurisdiction over TCRI, TCRI will become subject to the jurisdiction of the STB. STB will have to authorize the Project’s construction and operation.⁷⁰ Importantly, TCRI is not required to be actively transporting passengers or have trains running on tracks to fall under the STB’s jurisdiction. That is because the STB, like the Texas Legislature, recognizes that construction and operation of a railroad requires a wide range of antecedent activities before a single passenger rides on a train. **We expect the STB to assert jurisdiction over the Project in the near future.**

6. *TCRI and ITL are conducting on-the-ground surveys and entering option agreements to purchase rights-of-way.*

TCRI and its affiliates have done more than engage regulators and retain contractors. As of the filing of this Motion, TCRI has obtained over 4,000 signed survey permission forms from landowners—many of whom are Mr. Beckham’s clients—granting TCRI the right to enter the

⁶⁶ *Id.* § 10501(b).

⁶⁷ *See, e.g., id.* (agency has exclusive jurisdiction over “transportation by rail carriers” and the “operation...of spur, industrial, team, switching, or side track, or facilities, even if the tracks are located, or intended to be located, entirely in one State.”).

⁶⁸ *N.Y. Susquehanna & W. Ry. Corp. v. Jackson*, 500 F.3d 238, 242 (3d Cir. 2007) (recognizing that “[r]ailroading . . . is historically the subject of federal regulation.”)

⁶⁹ *Franks Inv. Co. LLC v. Union Pac. R.R. Co.*, 593 F.3d 404, 410 (5th Cir. 2010).

⁷⁰ *See id.* § 10901(a).

Exhibit X



Comments of Texans Against High-Speed Rail to the Dallas to Houston High-Speed Rail Draft Environmental Impact Statement

Submitted March 9, 2018 to the Federal Railroad Administration

Via electronic mail to:

Kevin Wright, kevin.wright@dot.gov
Michael Johnsen, michael.johnsen@dot.gov
Paul Nissenbaum, paul.nissenbaum@dot.gov
Federal Railroad Administration
1200 New Jersey Avenue SE, MS-20
Washington, D.C. 20590

Texans Against High Speed Rail (TAHSR) submits this comment to the Draft Environmental Impact Statement (DEIS) for Texas Central Railroad's (TCRR) Dallas to Houston High-Speed Rail (the "Project") prepared by the Federal Railroad Administration (FRA). TAHSR is a not-for-profit organization whose members include citizens, landowners, farmers, ranchers, business owners, interested organizations, and elected officials who share TAHSR's core belief of combating the abuse of eminent domain for private economic use, and preventing unnecessary government subsidies. In addition to its goal of protecting private property rights and maintaining efficient modes of transportation, TAHSR seeks to protect the environment along the affected corridor through preservation of farmland and community interests, enhancement of wildlife, protection of waters, wetlands, and endangered and protected species, and recognition of the rural lifestyle.

I. Introduction.

Congress designed the National Environmental Policy Act (NEPA), in the words of the United States Supreme Court, to prevent an agency from doing something uninformed, rather than something unwise.¹ Unfortunately, it appears the FRA is about to do both.

First, the FRA is about to do something uninformed. Specifically, while both the FRA and TCRR admit that properties along the affected corridor must be surveyed in order to properly assess the Project's environmental impacts, approximately 35% of the total lineal mileage and at least 47,000 acres of affected property has not yet been surveyed. Without these on-the-ground surveys, the FRA's environmental assessment is, by

¹ *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 351 (1989).

definition, uninformed. It should therefore come as no surprise that the DEIS inadequately addresses or altogether ignores numerous material impacts. In spite of the incomplete data contained in the DEIS, TAHSR will attempt to address these deficiencies in this comment.

Moreover, not a single local, state, or federal regulatory agency or authority has conducted any independent analysis of the Project's economic viability. Instead, those who stand to lose their property to TCRR, along with thousands of Texans whose lives and communities will be forever impacted, have been left to take TCRR at its word that the Project will succeed financially. The real shame is the FRA is letting TCRR get away with this instead of requiring full transparency and conducting its own, independent economic analysis. Until the FRA does so, it cannot make an informed assessment of the Project's environmental impacts, and the public cannot play an informed role.

Second, the FRA is about to do something unwise. Put simply, TCRR has greatly exaggerated the Project's ridership projections while underestimating its costs, a sure-fire recipe for financial disaster. Given that all objective, verifiable data reveals that the Project will fail spectacularly, the FRA's regurgitation of TCRR's economic propaganda has been a tough pill for Texans to swallow.

Regarding the issue of economic viability, the FRA should also consider that TCRR has raised, in cash, less than 1% of its estimated construction costs. In truth, TCRR's financing pressures have been driving its hurry-up approach from day one—a \$20 billion tail wagging this dog of a Project. Even more concerning is TCRR's admission that it plans

to [aggressively pursue federal loans](#).² If the FRA continues to blindly accept TCRR's representations regarding the Project's viability, it should expect a similar result to the high-speed rail calamity in California, where costs have [ballooned from \\$33 billion to over \\$67 billion](#),³ with passenger service [pushed back to 2029](#).⁴

Before proceeding any further, TAHSR respectfully requests that the FRA do its job, start its environmental assessment over, and take a good faith, "hard look" at this Project as required under NEPA.

II. Because the FRA was forced to rely heavily on aerial and outdated maps, the DEIS is based on incomplete information.

TCRR has not established that it possesses eminent domain authority under Texas law.⁵ Consequently, TCRR has only been able to survey private property by obtaining owner consent. This has proven to be a difficult task given the vocal, coordinated opposition to the Project along the corridor. In fact, thousands of landowners have denied survey access. As a result, TCRR (and, in turn, the FRA) has been forced to rely on aerial and outdated maps with respect to properties where access has been denied.

Other agencies, such as the Surface Transportation Board, have attempted to substitute aerial surveys and stale data for actual on-the-ground surveys, due to limited

² <http://www.star-telegram.com/opinion/opn-columns-blogs/other-voices/article88543642.html>.

³ <https://www.nbcbayarea.com/news/local/Cost-Climbs-by-28-Billion-For-California-Bullet-Train-469628553.html>.

⁴ <https://www.usnews.com/news/best-states/california/articles/2017-11-15/bullet-train-project-delays-environmental-review-timeline>.

⁵ See pages 19-20 below.

access to rural, private property.⁶ Regardless of the circumstances, reliance on such data does not satisfy the requisite “hard look” under NEPA.⁷

A. In forty landowner injunction lawsuits, TCRR swore that it must obtain on-the-ground surveys in order to provide the FRA with the information it needed to complete the DEIS.

In counties along the affected corridor and throughout Texas, TCRR filed verified lawsuits against landowners seeking injunctive relief.⁸ Specifically, TCRR requested that landowners be enjoined from interfering with TCRR’s access to property “for the purposes of conducting examinations and surveys.”⁹ In these lawsuits, TCRR swore that it *must* have surveys or the planning and other preliminary activities associated with the Project “cannot continue.” TCRR swore further that without a survey it would be impossible to determine the feasibility of construction “given the natural and cultural resources that may exist” on the property and, as a result, the Project “will be indefinitely suspended.”

In addition, TCRR swore that the FRA and the U.S. Army Corps of Engineers had requested “the physical inspection of the routes being considered” for the Project “in order to obtain the information to satisfy the environmental review and permitting process.” TCRR also swore that it was told by the FRA that it must “walk the [property] and inspect it for various types of flora and fauna” and “dig 2’ x 2’ x 2’ holes...in order to inspect...for potential archeological/historical artifacts.” TCRR swore further that without surveys it

⁶ *N. Plains v. STB*, 668 F.3d 1067, 1085-87 (9th Cir. 2011).

⁷ *Id.*

⁸ The case styles and locations of TCRR’s lawsuits are detailed in the chart attached as Exhibit A.

⁹ See, e.g., Exhibit B, sworn pleadings and affidavits from *Texas Central Railroad and Infrastructure, Inc. v. Calvin V. House*, Cause No. 2016-52516, in the 333rd Judicial District Court, Harris County, Texas.

“would be unable to provide information needed by FRA and Army Corps to conduct the evaluations needed to select the most advantageous route and minimize impacts on cultural resources, environmental conditions, wetlands, or other features.” TCRR concluded by swearing that without these on-the-ground surveys, “there will be no Project.”

TCRR’s sworn statements make clear that it must conduct on-the-ground surveys of affected property in order to provide the FRA with the information it needs for its environmental assessment. Yet, TCRR did not survey these properties, dig holes on these properties, or walk them to inspect for flora and fauna. In fact, TCRR dropped all of its remaining lawsuits despite having failed to obtain surveys of the properties at issue.

B. Notwithstanding TCRR’s lawsuits and constant harassment of landowners, a vast amount of affected property has not been surveyed.

Based on information obtained through lawsuits, at public meetings, and directly from landowners, TAHSR has determined that TCRR failed to perform surveys on a vast amount of affected property. Due to the sheer magnitude of property yet to be surveyed, there is no question that the DEIS is based on incomplete information. Regarding identification of properties that have or have not been surveyed, TAHSR has purposely erred on the side of caution. In all likelihood, the amount of property yet to be surveyed is much higher. Subject to this qualification, TAHSR sets forth its conclusions below:

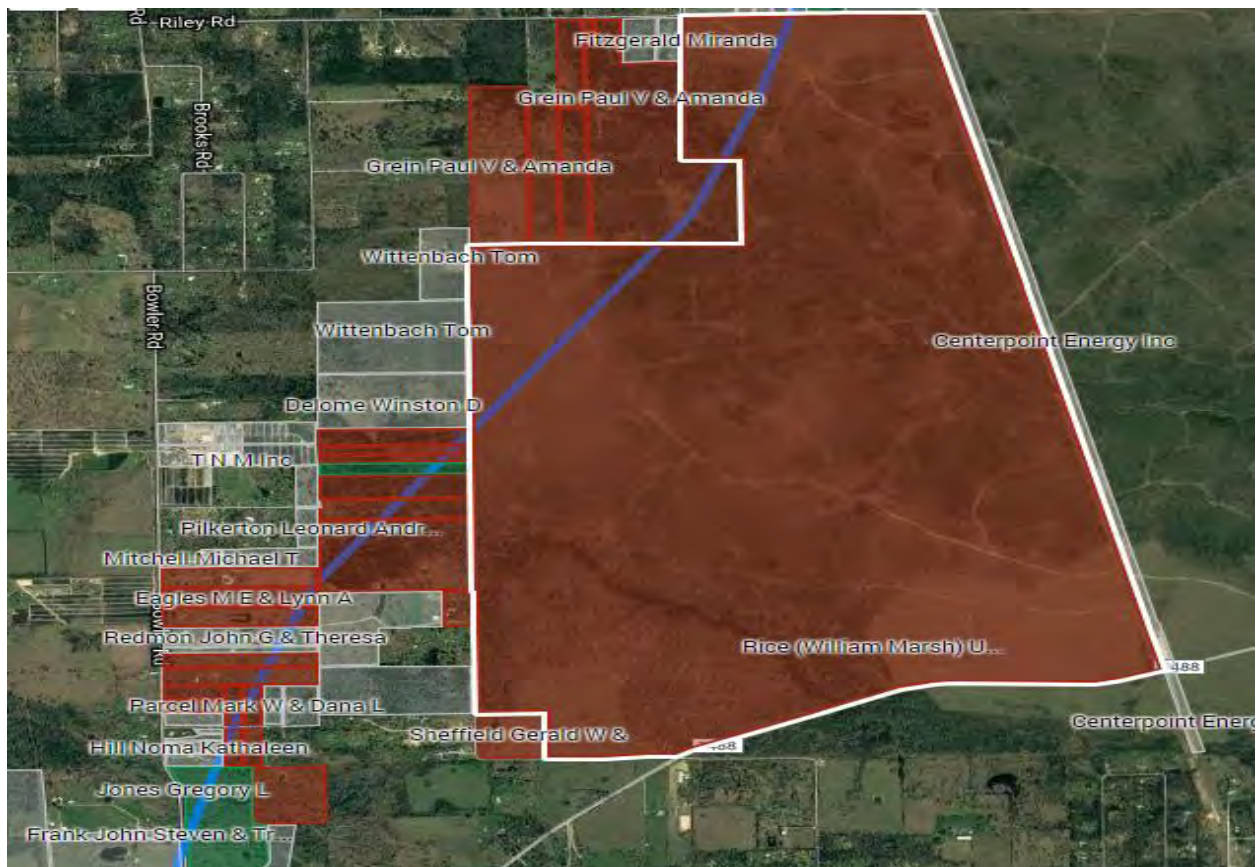
1. Total lineal mileage and acreage.

The FRA has failed to conduct on-the-ground surveys on approximately 35% of the lineal mileage along the proposed right-of-way. In other words, the FRA has not set foot on over 80 miles of property directly on the route where TCRR intends to build its Project.

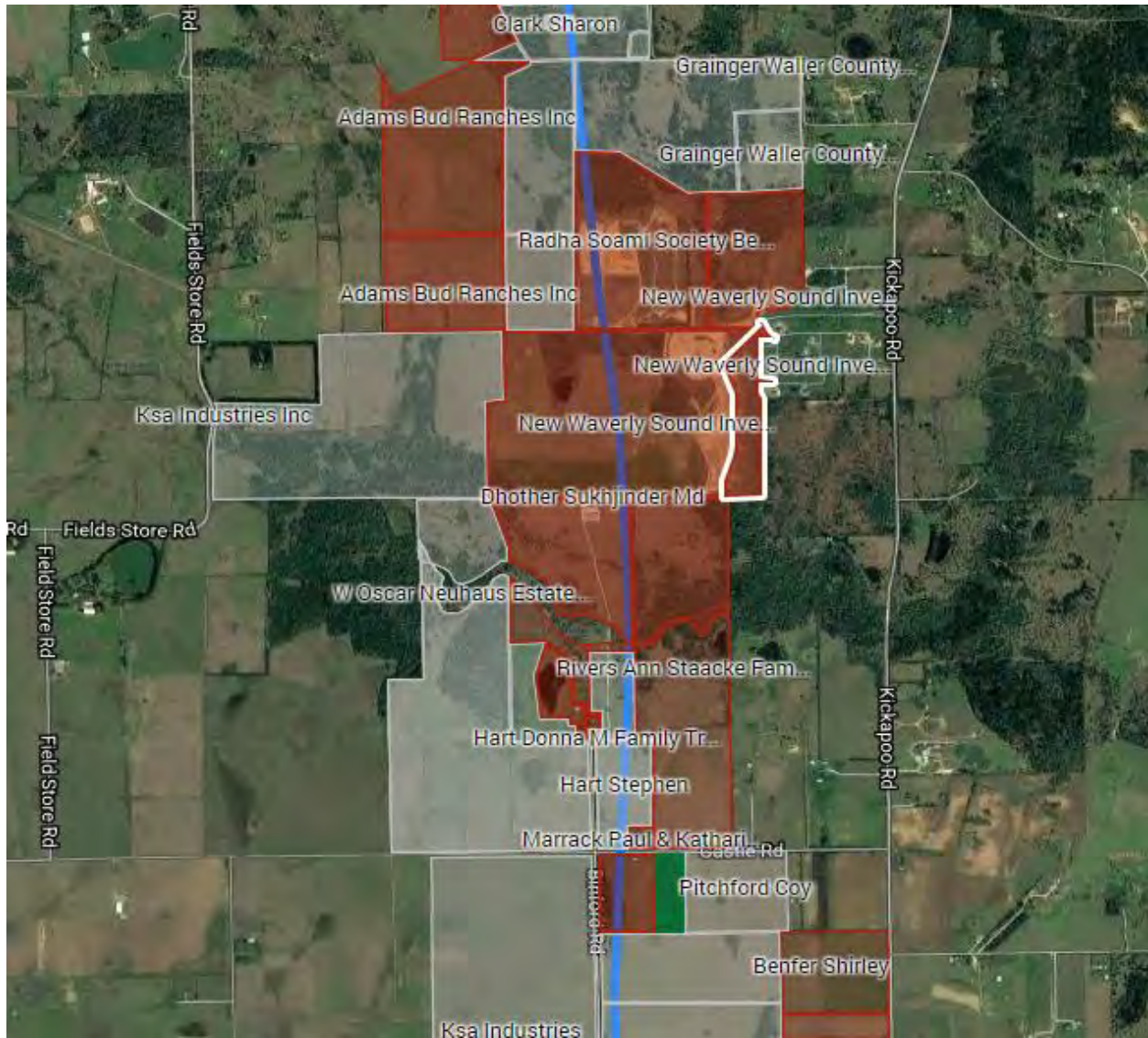
In addition to the property directly on the proposed right-of-way, the FRA must conduct on-the-ground surveys on adjacent and other affected property. The FRA has failed to survey at least 47,000 acres (73.5 square miles) of total affected property.

2. *Waller County.*

In Waller County, TCRR failed to survey 63% of the lineal mileage and over 3,800 acres of affected property.¹⁰ Examples showing the vast amount of acreage in Waller County left to be surveyed are shown below. The blue line is the projected right-of-way. Red parcels have not been surveyed. Green parcels have been surveyed. White parcels may or may not have been surveyed.



¹⁰ Exhibit C (Waller County overview).

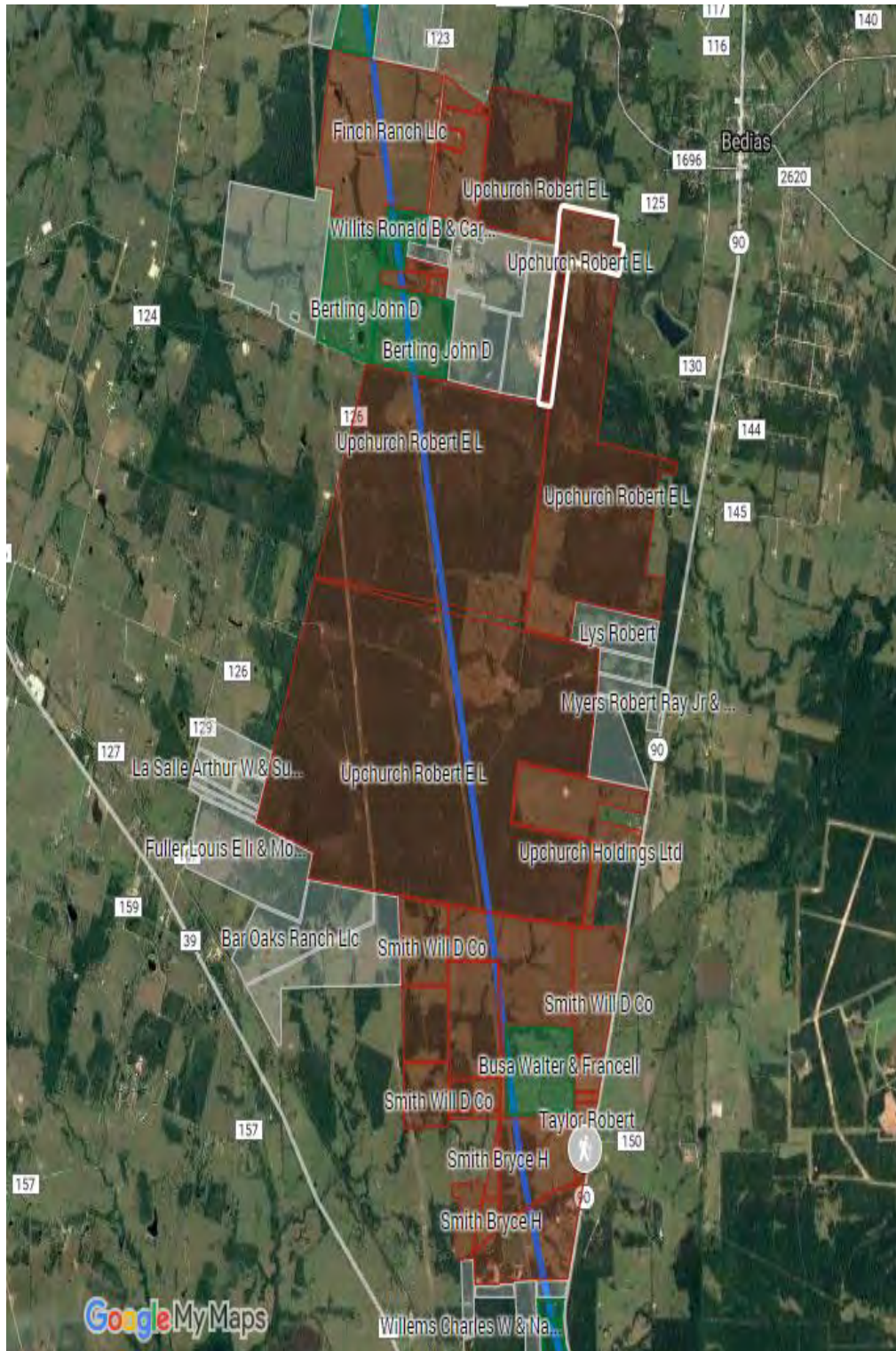


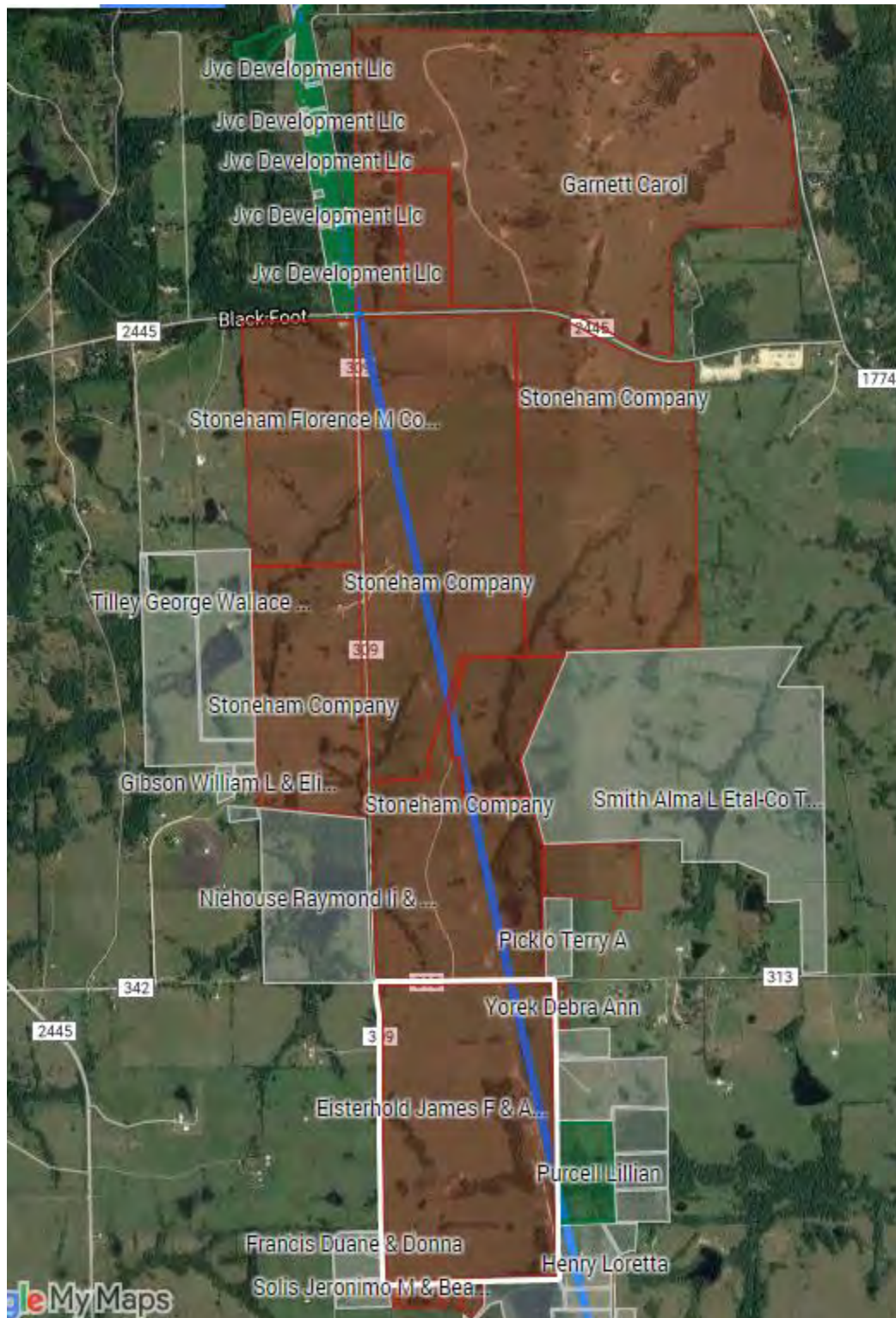
3. *Grimes County.*

In Grimes County, TCRR failed to survey approximately 57% of lineal mileage and over 15,000 acres of affected property.¹¹ This accounts for more than 10% of the total affected property along the 240-mile corridor. Examples of Grimes County property that has not been surveyed are shown below.

¹¹ Exhibit C (Grimes County overview).

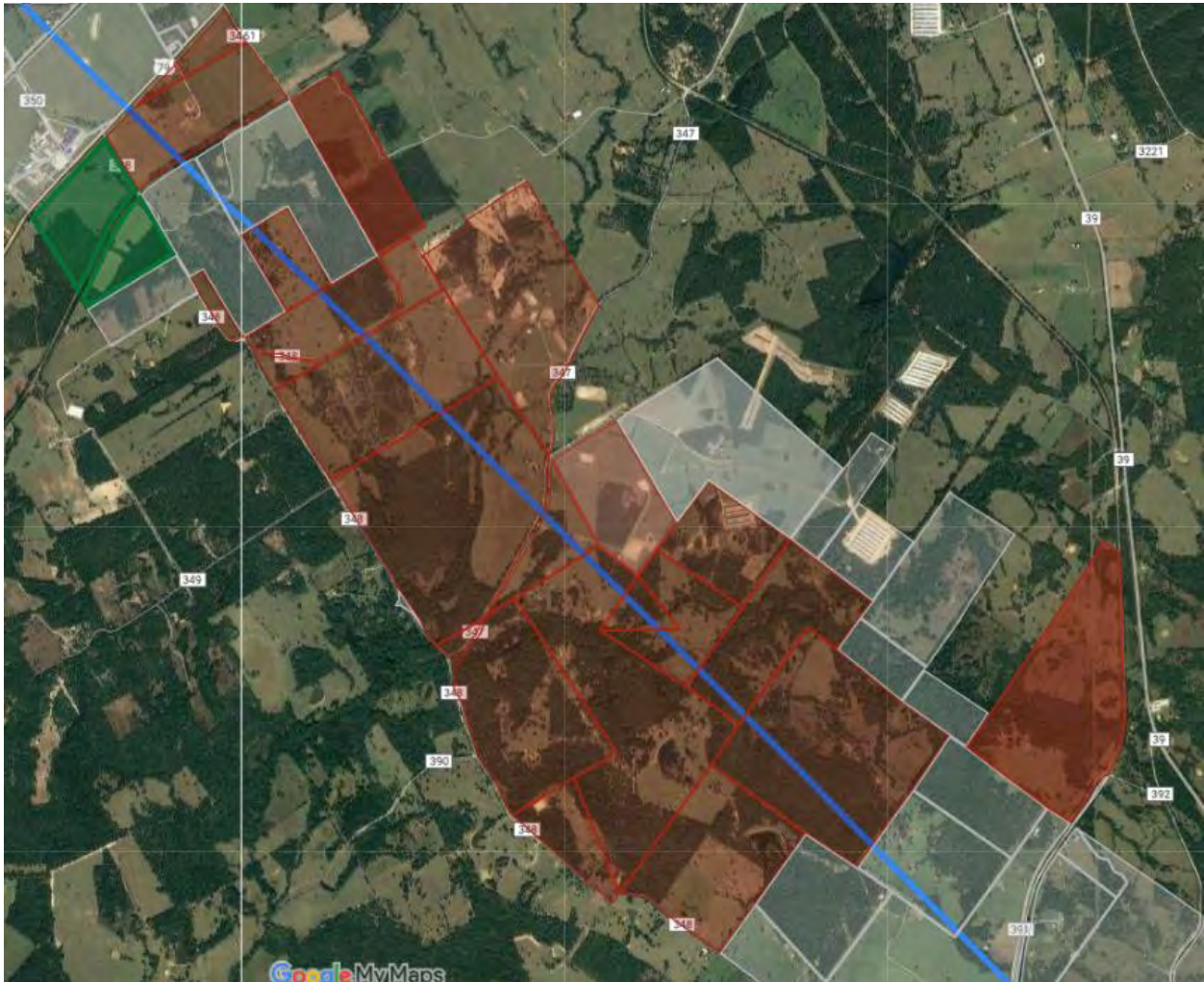






4. *Leon County.*

In Leon County, TCRR failed to survey approximately 46% of lineal mileage and over 6,600 acres of affected property.¹² An example showing the vast amount of acreage in Leon County that has not been surveyed is below.

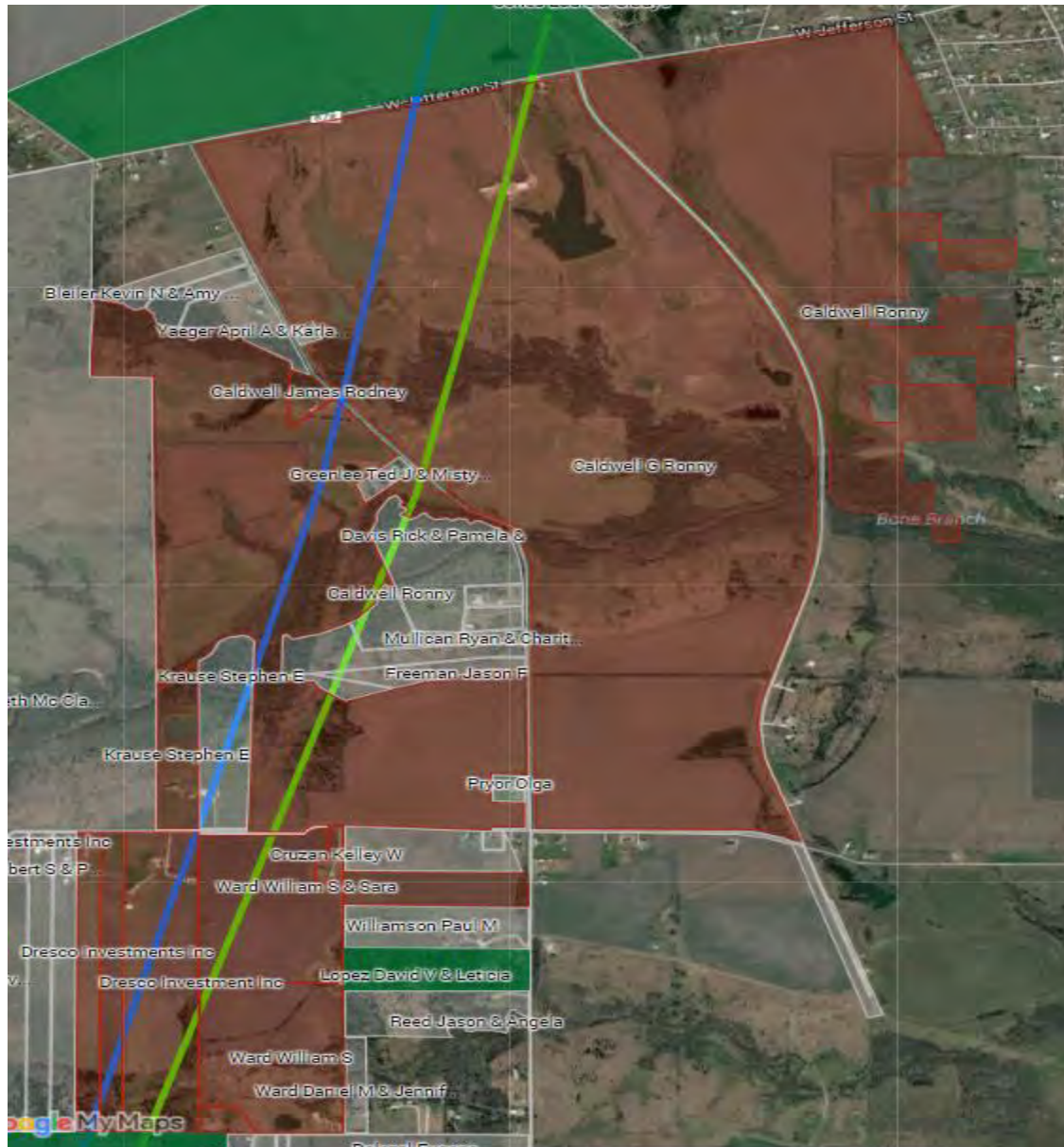


One of the properties yet to be surveyed belongs to Jim Miles, a Leon County landowner who has challenged TCRR's claim of eminent domain authority. Neither TCRR nor the FRA will set foot on Mr. Miles' property prior to resolution of his lawsuit.

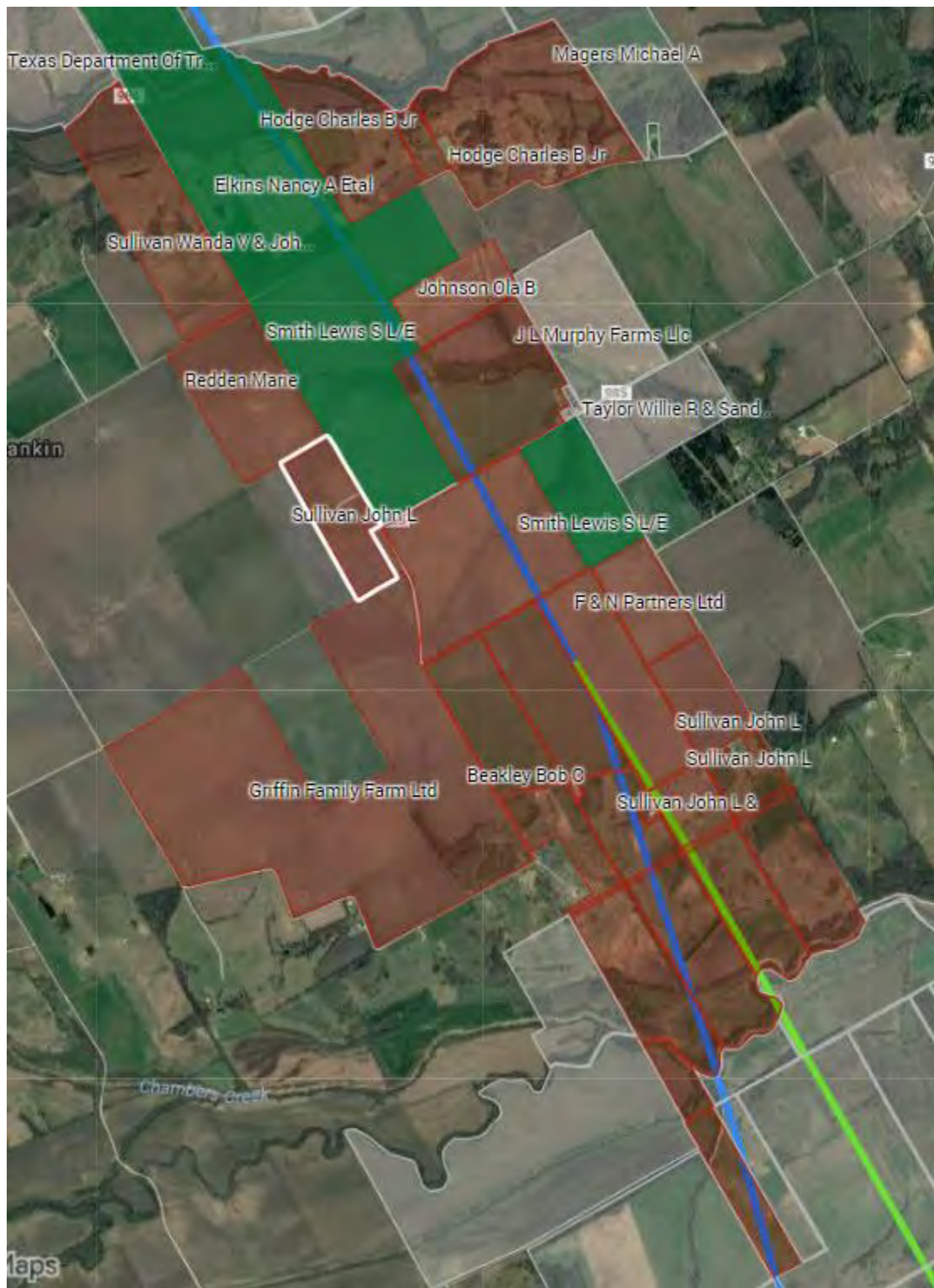
¹² Exhibit C (Leon County overview).

5. *Ellis County.*

In Ellis County, TCRR failed to survey approximately 26% of lineal mileage and over 7,274 acres of affected property.¹³ Examples showing the vast amount of acreage in Ellis County that has not been surveyed are shown below.

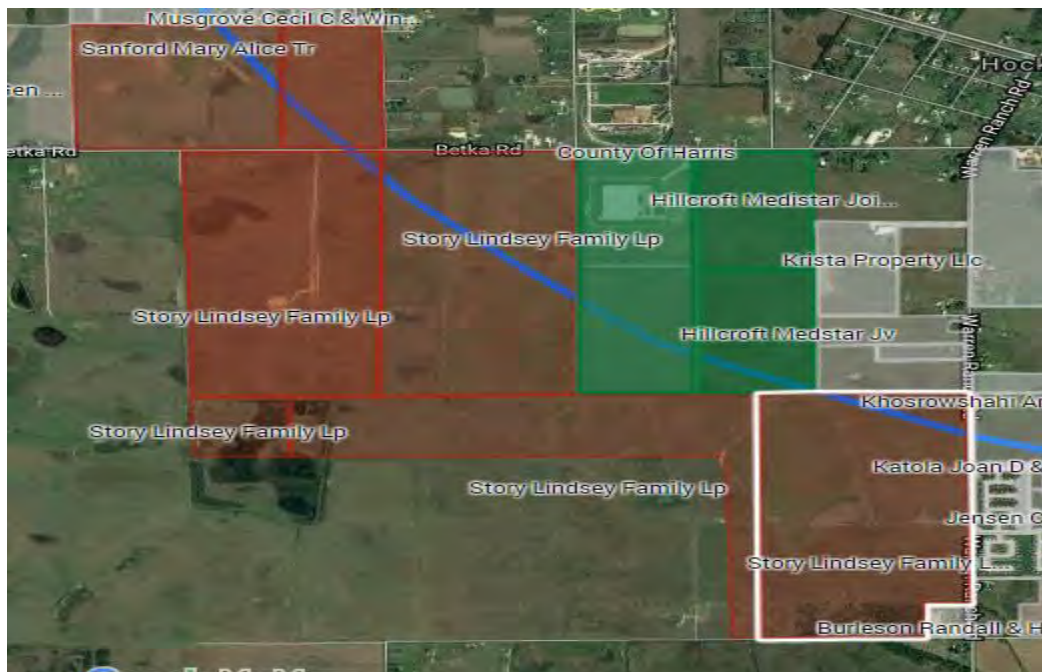
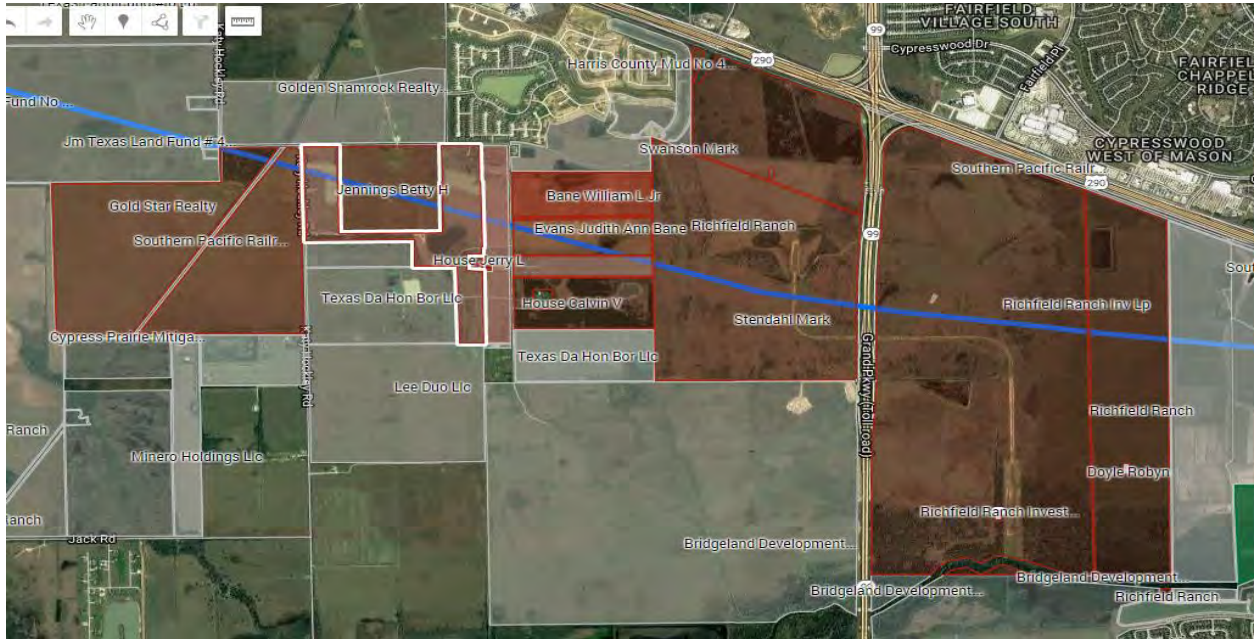


¹³ Exhibit C (Ellis County overview).



6. *Harris County.*

In Harris County, TCRR failed to survey approximately 23% of lineal mileage and over 6,619 acres of affected property.¹⁴ A few examples are shown below:



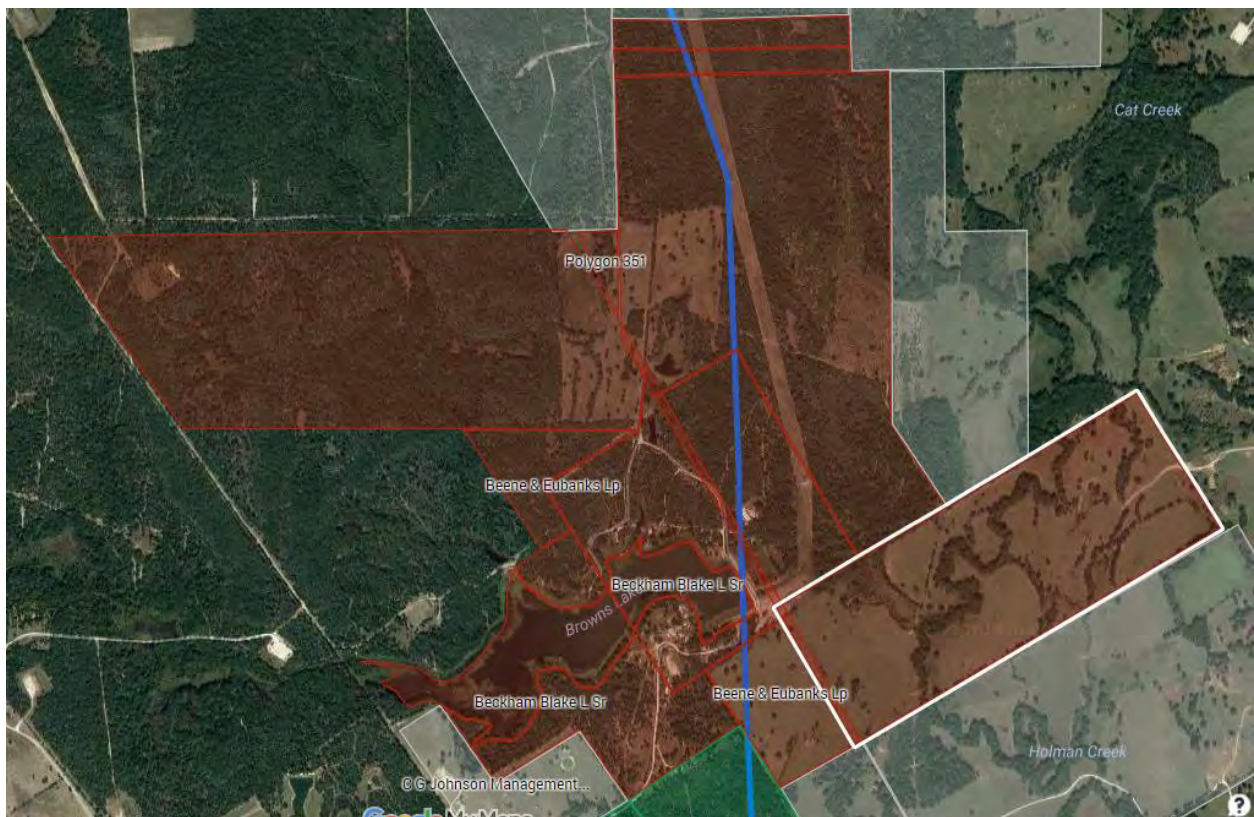
¹⁴ Exhibit C (Harris County overview).

7. *Madison County.*

In Madison County, TCRR failed to survey approximately 21% of lineal mileage and 2,100 acres of affected property.¹⁵

8. *Limestone County.*

In Limestone County, TCRR failed to survey approximately 11% of lineal mileage and over 1,900 acres of affected property.¹⁶ Examples are shown below:



One of the Limestone County properties shown above contains wetlands home to the Houston Toad, a federally-protected endangered species.¹⁷

¹⁵ Exhibit C (Madison County overview).

¹⁶ Exhibit C (Limestone County overview).

¹⁷ See pages 77-81 below.

9. *Freestone County.*

In Freestone County, TCRR failed to survey approximately 10% of lineal mileage and 1,900 acres of affected property.¹⁸

10. *Navarro County.*

In Navarro County, TCRP failed to survey approximately 9% of lineal mileage and over 1,783 acres of affected property.¹⁹

C. The FRA's environmental assessment is based on outdated maps.

According to maps contained in the DEIS, it appears that the FRA has based its assessment on stale data. Two examples are shown below.

The DEIS contains the following map on Sheet 507 of Project Footprint Segment 5:



¹⁸ Exhibit C (Freestone County overview).

¹⁹ Exhibit C (Navarro County overview).

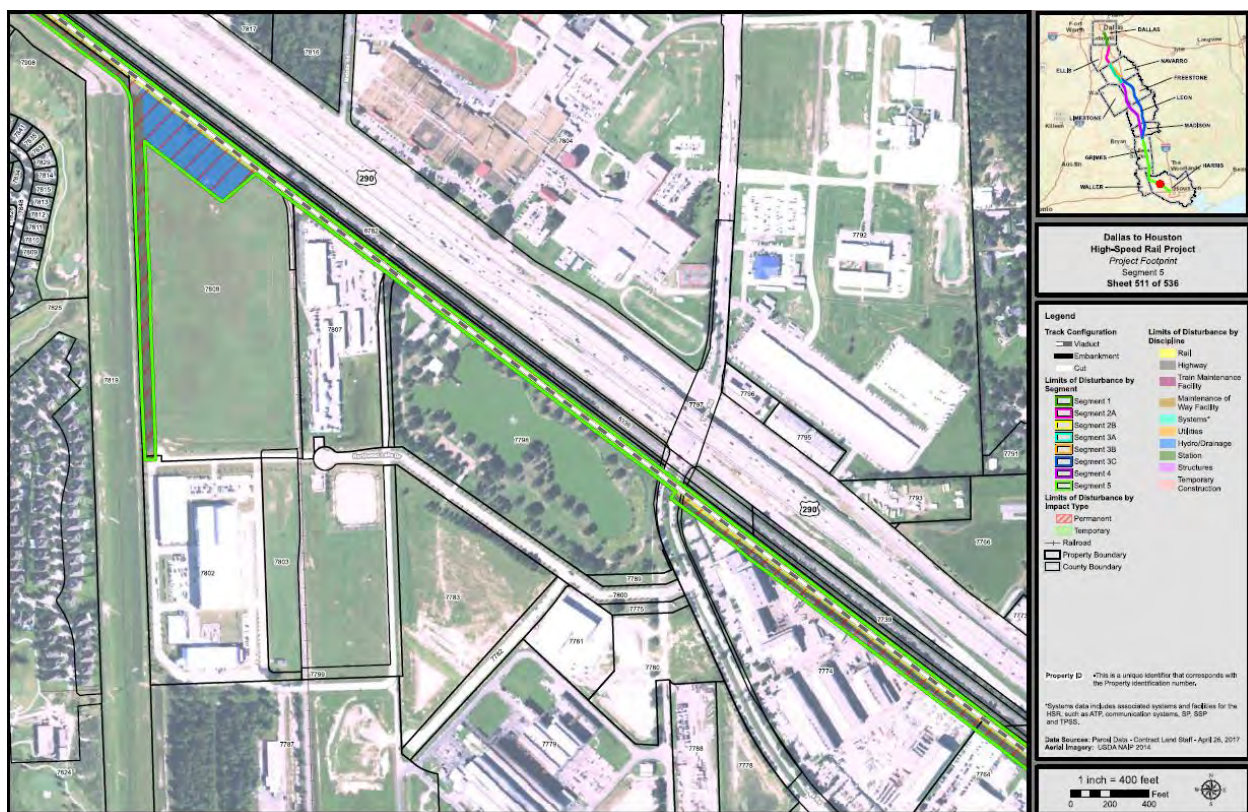
The paved roadway running north/south through the middle of the map is Fry Road, with an apartment complex neighboring to the east. The projected permanent right-of-way is identified by red stripes, with the temporary right-of-way outlined in green. Heading southeast from the apartment complex along the projected right-of-way, one should notice the vast amount of acreage consisting of raw land.

Compare the map above from the DEIS with a current map of the same property:



Fry Road is located in the upper left-hand corner of the map, with the same apartment complex to the southeast. However, this current map reveals another apartment complex situated along the projected right-of-way in the area where nothing but raw land is shown on the outdated DEIS map.

As another example, the DEIS contains the following map on Sheet 511 of Project Footprint Segment 5:



The large body of water surrounded by trees located in the center of the map directly along the projected right-of-way.

Compare the map above from the DEIS with a current map of the same property:



Notice the large body of water from the outdated DEIS map has been replaced with a large building.

The DEIS is filled with countless other examples like the two above, proving that the FRA's assessment is based on outdated maps and stale data. In order for the FRA to perform the requisite "hard look" at the Project's environmental impacts, it must first identify the existence and location of all residences and structures that will be impacted.

D. Although the FRA admits that additional surveys must be conducted, TCRR does not have the legal right to conduct the remaining surveys.

At the public hearings recently held along the affected corridor, FRA representatives admitted that additional properties must be surveyed in order for the FRA to complete its environmental assessment. However, the FRA has ignored two key facts: (1) TCRR does

not have the legal right to conduct on-the-ground surveys on private property absent owner consent, and (2) the remaining surveys concern properties whose owners have already told TCRR, time and time again, that they will not consent to a survey. For the reasons explained below, this roadblock is not likely to be overcome soon, if ever.

In order for TCRR to access private property to conduct surveys, it must qualify as a “railroad company” under the Texas Transportation Code. That issue—whether TCRR is a railroad company with the power of eminent domain—is the subject of pending, but stayed, litigation in Leon County, Texas. Even TCRR Vice President David Hagy admitted that the eminent domain issue “is in dispute.”²⁰ Given that it could take years for the litigation to end, the FRA’s decision to proceed with its assessment is imprudent. Moreover, when a court ultimately determines that TCRR does not have eminent domain authority, the FRA will have wasted an extraordinary amount of time and resources.

E. There has been no coordination with rural county governments regarding the impacts of the Project on their communities.

Soon after TCRR began promoting its Project, the following counties and agencies requested coordination and planning meetings with TCRR: Ellis County, Navarro County, Freestone County, Limestone County, Leon County, Grimes County, Madison County, Waller County, the Leon County Sub-Regional Planning Commission, the Waller County Sub-Regional, and the Ellis County Sub-Regional Planning Commission.

²⁰ABC 13, *8 sheriffs say they weren't consulted on Texas High Speed Rail emergency plan* (Mar. 1, 2018), <http://abc13.com/traffic/high-speed-rail-emergency-plan-never-vetted-by-sheriffs/3161771/>.

After refusing these requests for years, TCRR sent a letter to the counties on January 12, 2018, several weeks after the FRA published the DEIS and just days before the scheduled public comment hearings.²¹ TCRR told the county judges that it “would like to set up a meeting with you and key members of your staff and [TCRR’s] technical and environmental team.”²² TCRR stated that it would like to discuss the following issues: specific road/rail intersections, planned rerouting or rebuilding of county facilities, plans to minimize road runoff and drainage, plans to accommodate community development, plans to accommodate emergency vehicle access and school bus routes, emergency management coordination and preparedness.

None of these critical issues had been previously addressed from a county perspective. The counties responded that this was the first request by TCRR for actual coordination and that they would need additional information in order to engage in a productive conversation.²³ TCRR has not responded. As a result, there has been no coordination with the rural counties regarding critical issues impacting their communities.

F. The FRA refused to extend the comment period to allow adequate time for the public to review the DEIS and voice their concerns.

In addition to TAHSR, several other concerned parties requested an extension of the public comment period, including the following: United States Representative Kevin Brady, Texas State Senator and Transportation Committee Chairman Robert Nichols, Leon

²¹ Exhibit D.

²² *Id.*

²³ *See, e.g.,* Exhibit E.

County Judge Byron Ryder, Madison County Judge Butch McDaniel, Grimes County Judge Joe Fauth, Ellis County Judge Carol Bush, Navarro County Judge H.M. Davenport, Limestone County Judge Daniel Burkeen, Freestone County Judge Linda Grant, and Waller County Judge Trey Duhon.²⁴

TAHSR, along with these other parties, provided the FRA with numerous good faith reasons why an extension of the comment period was reasonable and necessary under the circumstances. For simplicity, TAHSR includes this non-exclusive list of the reasons communicated by the parties to the FRA:

- The FRA published the DEIS on December 22, 2017, the Friday before Christmas. On the same date, the Army Corps published its request for two wetland permits. As a result, valuable time for public comment was lost over the Christmas and New Year's holidays;
- The initial deadline for the comment period for both the FRA and Army Corps environmental reviews was February 20, 2018. The FRA and Army Corps agreed to a minor, 15-day extension of the deadline, to March 9, 2018, in spite of the fact that all interested parties had requested extensions of at least 45 days;
- The truncated comment periods for both the DEIS and Army Corp notice ran concurrently;
- The DEIS is a 5,600-page document with over 300 Tables and Figures filled with highly technical data;
- The FRA was responsible for a confusing, unorganized public comment hearing notice process. Changes to public hearing locations and times were not adequately and uniformly communicated;
- On January 18, 2018, Kevin Wright of the FRA sent a letter describing in detail the various changes in times and locations related to the public hearings. Notably, AECOM distributed a list of the time and locations of public meetings. Then, in the January 2018 edition of On Track, the Dallas to Houston high-speed rail newsletter,

²⁴ See, e.g., Exhibit F.

stakeholders were notified of changes in venues and address corrections. None of these changes was reflected on the FRA's website until weeks later;

- Numerous commenters have reported delivery failures after attempting to submit their comments via email to the FRA. These failures were reported as recently as March 8;
- This “kickback” issue regarding public comments was not limited to email submissions. Numerous commenters also reported delivery failures after attempting to submit their comments via the FRA's online portal as recently as March 9;
- The public hearings in several counties were held in locations with inadequate capacity, such as elementary schools. Numerous citizens were denied entry;
- In Harris County, citizens waited outside hearing before being denied entry;
- The FRA waited several weeks before scheduling an additional meeting in Harris County held on March 5. As a result, attendees of the March 5 meeting were allowed only four days to submit their comments;
- In Madison County, the public hearing reached capacity and citizens were denied entry. Madison County requested that another meeting be held to allow for all citizens to comment, but the FRA refused to hold another public hearing;
- The FRA “doubled-up” the public hearings, meaning that two hearings were held on each night in neighboring counties. As a result, owners of property in multiple counties were unable to attend hearings in each county where they own land;
- The federal government shutdown limited access to the FRA and further disrupted and truncated the public comment period;
- TAHSR was initially promised answers to several central questions related to the DEIS to allow for a more informed and thorough review. Subsequently, FRA officials refused to answer those questions; and
- This Project is the first of its kind in the U.S. The Project will erect a 240-mile electrified wall across Texas, permanently impacting eleven counties, thousands of private property owners and citizens along with the communities in which they live.

Given these circumstances, the FRA's refusal to grant a reasonable extension of the public comment period is indefensible.

III. At TCRR’s direction, the FRA removed economic viability from the “Purpose” of the Project.

Under NEPA, the FRA “bears the responsibility for defining at the outset the objectives of an action.”²⁵ With respect to this responsibility, the FRA “must look hard at the factors relevant to the definition of purpose.”²⁶ Those factors, as announced by TCRR at the outset, are:

- Is the Project safe?
- Is the Project reliable?
- Is the Project economically viable?

Yet, the DEIS contains no “look” at economic viability, let alone a “hard look.” The FRA removed this factor from the DEIS entirely, choosing instead to accept TCRR’s exaggerated, unsupported claims regarding economic viability without further inquiry.

A. In March 2015, TCRR told stakeholders that the Project must be “economically viable” in order to meet its purpose.

On March 22, 2015, TCRR issued a *Step 1 Screening of Corridor Alternatives Report* (“Screening Report”) to all stakeholders along the affected corridor.²⁷ In the Screening Report, TCRR told stakeholders that advancing the Project will require, among other things, a favorable Record of Decision resulting from the Environmental Impact

²⁵ *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991).

²⁶ *Id.*

²⁷ TCRR’s *Step 1 Screening of Corridor Alternatives Report*, <http://www.texascentral.com/wp-content/uploads/2015/09/Step-1-Screening-of-Corridor-Alternatives-Report.pdf> (last visited Mar. 9, 2018).

Statement (EIS) as required under NEPA.²⁸ TCRR acknowledged that “[o]ne requirement of the EIS effort will be evaluation of *all* reasonable alternatives,”²⁹ which would necessarily include the “No Build Alternative.”

Moreover, TCRR stated: “The purpose of the privately proposed Project is to provide reliable, safe, and economically viable passenger rail transportation using proven high-speed rail technology.”³⁰ In order to achieve this objective, TCRR told stakeholders that the Project must meet certain criteria, including economic viability:

- Economic: achieve a favorable return on investment when weighing expected ridership and revenue against estimated project capital investments, project delivery schedule, and long-term operations and maintenance expense.

The Screening Report also included answers to frequently asked questions. In the FAQ section, TCRR’s former CEO Tim Keith stated, “[a]dditionally, the FRA must carry forward potential corridor alternatives that meet the Project’s purpose and need, which includes the requirement that the project be ‘economically viable.’”³¹

B. In April 2015, the FRA announced that it would take TCRR at its word that the Project is economically viable.

In April 2015, the FRA released its *Dallas to Houston High-Speed Rail Environmental Impact Statement Scoping Report* (“Scoping Report”).³² In the Scoping Report, the FRA stated that through the screening process, TCRR determined that “the

²⁸ Screening Report at 1.

²⁹ *Id.* (emphasis added).

³⁰ *Id.* at 5.

³¹ *Id.* at Frequently Asked Questions p. 5.

³² *Dallas to Houston High-Speed Rail Environmental Impact Statement Scoping Report*, <https://www.fra.dot.gov/eLib/Details/L16346> (last visited Mar. 9, 2018).

Project is feasible and economically viable from Dallas to Houston.”³³ TCRR estimated ridership of “12,000 passengers per day,”³⁴ which totals 4.38 million passengers per year.

In the “Comments on Proposed Purpose and Need” section, the FRA admitted that it “is not responsible for verifying TCRR’s ridership forecasts” and that it “does not maintain financial information on TCRR.”³⁵ As such, the FRA could not answer the following questions in the Scoping Report:

- “Why does TCRR think people will ride this train?”
- “What ridership data is TCRR using?”
- “What will the Project cost and who will get the profit?”

Even though TCRR had just told stakeholders that the Project must be economically viable to achieve its purpose, the FRA stated that those issues “are not directly applicable to the NEPA process and should be addressed directly to TCRR on their website.”³⁶

C. In August 2015, the FRA endorsed TCRR’s claims that there was a “need” for the Project and that it would be “profitable.”

On August 10, 2015, the FRA released its *Dallas to Houston High-Speed Rail Project Corridor Alternatives Analysis Technical Report* (“Technical Report”).³⁷ In the Technical Report, the FRA listed a number of “constraints” related to travel between Dallas

³³ Scoping Report at 4.

³⁴ *Id.* at 9.

³⁵ *Id.* at 18, 27.

³⁶ *Id.* at 28.

³⁷ *Dallas to Houston High-Speed Rail Project Corridor Alternatives Analysis Technical Report*, <https://www.fra.dot.gov/eLib/Details/L16978> (last visited Mar. 9, 2018).

and Houston on the I-45 corridor.³⁸ The FRA concluded, “[a]s a result of these constraints, combined with the distance between the two metropolitan areas and potential ridership demand, TCRR identified an opportunity to develop a profitable privately-financed and operated high-speed passenger rail system.”³⁹ According to the FRA, the traffic issues along the I-45 corridor that the Project potentially addresses represented “identification of the typical ‘need’ for a FRA Project, which FRA usually addresses through service-level corridor planning.”⁴⁰ Much like in its Scoping Report, the FRA accepted TCRR’s representations that the Project will be “profitable” and that there is a “need” for it, instead of conducting its own, independent evaluation of these critical issues.

D. In the DEIS, the Project’s purpose no longer includes providing “economically viable” transportation.

The FRA states that the purpose of the Project “is to provide the public with reliable and safe high speed passenger rail transportation between Dallas and Houston.”⁴¹ In a mere footnote, the FRA concedes that “[a]n initial version of the Project Purpose included economic viability. As the Project developed and through coordination with cooperating agencies, FRA determined that economic viability is an objective of TCRR, not a component of the Project Purpose.”⁴² This statement is false. That is not what happened.

³⁸ Technical Report at 4.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ DEIS at 1-5.

⁴² *Id.* at n. 3.

In March 2015, TCRR told stakeholders that the Project’s purpose included providing “economically viable” transportation. A month later, in April 2015, the FRA announced that TCRR had determined that “the Project is feasible and economically viable from Dallas to Houston.” The FRA’s removal of economic viability was not based on any “development” or “coordination with cooperating agencies.” Rather, the FRA simply accepted TCRR’s representation that the Project is economically viable, and promptly removed that criteria from its DEIS analysis altogether.

IV. By removing economic viability, the FRA has defined the Project’s purpose such that rejection of the No-Build Alternative was a mere formality.

Why TCRR directed the FRA to remove economic viability from its analysis is clear. If the defined purpose of the Project is to provide “safe, reliable, and economically viable passenger rail transportation,” as TCRR represented to stakeholders, and the FRA determined that the Project is not economically viable, then the No-Build Alternative is a reasonable alternative that must be closely evaluated. Likewise, under this scenario, none of the Build Alternatives could meet the Project’s purpose, and there would be no Project. On the other hand, if the purpose is only to provide safe, reliable transportation, all of the Build Alternatives are in play, and the No-Build Alternative can be dismissed out of hand. In short, with the FRA’s help, TCRR stacked the deck.

By failing to conduct its own independent analysis of economic viability, the FRA failed to meet its requirements under NEPA. Specifically, the FRA failed to explain the nature of the relationship between creating environmental impacts in the short-term (through construction of a 240-mile-long, 40-foot-high electrified wall across east Texas)

and the long-term public productivity to be gained by the Project (through safe, reliable, and economically viable passenger rail transportation). Instead, the FRA has merely accepted TCRR's representations at face value.

V. The DEIS is based on misleading economic assumptions: all objective, verifiable data reveals that the Project is not financially feasible.

The EIS for this Project must serve two functions. First, it ensures that the FRA will take a hard look at the environmental impacts of the Project. Second, it ensures that relevant information is available to the public so that citizens may play a role in the decision-making process. To serve these functions, it is essential that the EIS not be based on misleading economic assumptions.⁴³

Misleading economic assumptions can defeat the first function of an EIS by impairing the FRA's consideration of the adverse environmental effects of the Project.⁴⁴ NEPA requires the FRA to balance the Project's economic benefits against its adverse environmental effects.⁴⁵ The use of inflated economic benefits in this balancing process may result in approval that would not have otherwise occurred due to the Project's adverse environmental effects. Similarly, misleading economic assumptions can also defeat the second function of an EIS by skewing the public's evaluation of the Project.

In addition to defeating the main functions of an EIS, misleading economic assumptions can lead to disastrous environmental consequences. The FRA must

⁴³ *Hughes River Watershed Conservancy v. Glickman*, 81 F.3d 437, 446 (4th Cir. 1996).

⁴⁴ *Id.*; *South La. Env't'l. Council, Inc. v. Sand*, 629 F.2d 1005, 1011–12 (5th Cir. 1980).

⁴⁵ *Id.*; *Calvert Cliffs' Coordinating Comm. v. United States Atomic Energy Comm'n*, 449 F.2d 1109, 1113 (D.C. Cir. 1971).

understand and consider that if this Project fails, the affected communities will be left with a hulking or half-built rail facility scarring the countryside while it slowly rusts away.

A. Although TCRR has admitted on numerous occasions that it will pursue federal loans, the DEIS misleads the public into believing that TCRR is not seeking public funding.

The DEIS contains the following TCRR statement: “As this is a privately developed project, we are not seeking public funding.”⁴⁶ However, TCRR’s prior statements contradict this claim. In 2014, TCRR entered into a Memorandum of Understanding with the FRA that specifically states that TCRR “may submit applications to the [FRA] for loans.”⁴⁷ On other occasions, TCRR has admitted that it may rely on other taxpayer-subsidized Transportation Infrastructure Finance and Innovation Act loans, Railroad Rehabilitation and Improvement Financing loans and potentially Transportation Investment Generating Economic Recovery and other federal funding.⁴⁸ Former Ambassador Ron Kirk, a TCRR advisor and spokesman, conceded that TCRR *will aggressively pursue these federal loans*.⁴⁹ As such, the DEIS misleads the public into

⁴⁶ DEIS at Appendix F, Section 8, Construction Cost Estimate and Schedule, page 8.

⁴⁷ Exhibit G.

⁴⁸ See, e.g., Eric Nicholson, *Texas Central Railway’s Fuzzy Definition of ‘Privately Financed,’* DALLAS OBSERVER (Aug. 11, 2015) <http://www.dallasobserver.com/news/texas-central-railways-fuzzy-definition-of-privately-financed-7479867>.

⁴⁹ Brandon Formby, *Biden calls Dallas-Houston bullet train beginning of new transportation era in America*, THE DALLAS MORNING NEWS (Nov. 18, 2015) <http://transportationblog.dallasnews.com/2015/11/as-biden-addresses-infrastructure-spending-in-dallas-lawmakers-grapple-with-funding-in-d-c.html/>.

believing that the Project will be funded exclusively with private financing. Since taxpayers will be at risk, the FRA should disclose this fact as part of the public comment process.

B. Common sense dictates that TCRR's ridership projections are greatly exaggerated.

In the DEIS, the FRA adopted TCRR's projection of 4.4 million passengers per year by 2026, the year the Project is expected to commence service. This annual total equates to 12,394 passengers per day. By comparison, 2,685 passengers flew from Dallas to Houston per day from 2015 Q3 through 2017 Q2.⁵⁰ Even assuming that TCRR could divert *all* airline passengers, TCRR must also convince nearly 10,000 Dallas to Houston vehicle travelers—each and every day—to take its the high-speed train.

The heavily trafficked Union Station in Washington, D.C., which has been in service since 1907, currently serves approximately 5 million passengers annually,⁵¹ including a large number of daily commuters who transfer to the subway to get to work along with travelers headed to BWI Airport. TCRR's Project will serve neither of these constituencies. In Philadelphia, 30th Street Station currently transports approximately 4.3 million passengers annually.⁵² Given these statistics and the fact that there is no existing customer base for its Project, the notion that TCRR will achieve its 4.4 million annual ridership projection, or anything remotely close to it, is pure fantasy.

⁵⁰ U.S. Department of Transportation's Domestic Airline Consumer Airfare Reports (last visited Mar. 9, 2018), <https://www.transportation.gov/office-policy/aviation-policy/domestic-airline-consumer-airfare-report-pdf>.

⁵¹ AMTRAK NATIONAL FACTS, <https://www.amtrak.com/national-facts> (last visited Mar. 6, 2018).

⁵² *Id.*

C. Infrastructure experts from the Reason Foundation concluded that the Project will “fail spectacularly.”

The Reason Foundation is a non-partisan think tank whose public policy research “promotes choice, competition, and a dynamic market economy as the foundation for human dignity and progress.”⁵³ According to its website, Reason produces “rigorous, peer-reviewed research and directly engages the policy process.”

One of Reason’s transportation infrastructure experts, Baruch Feigenbaum, published a study in 2013 titled *High-Speed Rail in Europe and Asia: Lessons for the United States*.⁵⁴ In his study, which examined the prospects for high-speed rail in the U.S., Feigenbaum noted that only two high-speed rail lines in the world are profitable: Paris-Lyon in France and Tokyo-Osaka in Japan. Feigenbaum concluded that most U.S. high-speed rail lines would “lose substantial amounts of funds. Only the Northeast Corridor could potentially break even.”

In 2017, after a thorough analysis of TCRR’s Project, the Reason Foundation released a report titled *Texas High Speed Rail: Caution Ahead* that included both a summary⁵⁵ and 65-page detailed analysis⁵⁶ of its conclusions. The following table displays an overview of Reason’s concerns with TCRR’s Project:

⁵³ <https://reason.org/>.

⁵⁴ Baruch Feigenbaum, *High-Speed Rail in Europe and Asia: Lessons for the United States*, REASON FOUNDATION (May 2013), https://reason.org/wp-content/uploads/2013/05/high_speed_rail_lessons.pdf.

⁵⁵ Baruch Feigenbaum, *Texas High Speed Rail Requires Caution*, REASON FOUNDATION (Feb. 6, 2017), https://reason.org/wp-content/uploads/files/texas_high_speed_rail.pdf.

⁵⁶ *Id.*

Table 1: Summary of Concerns with Texas High-Speed Rail Plan		
Concern	Details	Impact
Cost v. Ridership	Successful high-speed rail lines have been built in countries when and where land is cheaper and easier to acquire, construction costs are cheaper, and ridership is much higher.	Major
No Existing Passenger Rail Service	More than 2/3 of high-speed rail passengers have come from existing transit service. Without existing conventional rail service, a larger share of passengers must come from air and passenger vehicles.	Major
Airport Proximity to Downtown	Both Dallas and Houston have airports located within seven miles of downtown. High-speed rail has been successful in cities where airports are far or challenging to get to from downtown.	Major
Limited Transit Service	Both Dallas and Houston have limited rail transit networks. Houston has just redesigned its bus network, but the cities' transit networks are not designed to funnel passengers downtown. In cities with successful high-speed rail, five to 12 times more people were transit users than in Dallas and Houston.	Moderate
Low Population Density	Dallas ranks 143rd in population within 2 miles of downtown and Houston ranks 36th. Most high-speed rail services rely on travelers who live downtown because it is more convenient for those living outside of downtown to fly.	Moderate
Low Employment Density	Dallas ranks 16th in employment within 2 miles of downtown and Houston ranks 15th. High-speed rail lines cater to downtown employees since it is more convenient to take the rail line than fly.	Moderate
Car Ownership	Car ownership rates are 25%–50% higher in Dallas and Houston than in cities with successful high-speed rail. Car ownership affects not just the number of travelers who drive, but also the density and spatial structure of a city.	Minor

Based on its review of “verifiable data from U.S. and Texas public and private transportation services, historic data taken from worldwide high-speed rail operations, and the unique land use and transportation characteristics of the Dallas to Houston corridor,” Reason estimated TCRR’s 2035 annual ridership at 1.4 million passengers. According to Reason, TCRR’s “ridership projection of 4 to 5 million annual passengers is not grounded in reality.” Reason stated that TCRR’s overstated projections are symptomatic of “demand exaggeration” and that “to the best of our knowledge and despite repeated requests, [TCRR] has not provided any objective or verifiable data to support its projections.” With respect to costs, Reason believes that “actual construction costs may exceed \$20 billion.”

Reason concluded its analysis with several stern warnings related to the Project. First, Reason cautioned that “Texas elected officials, lenders, investors and taxpayers should demand full disclosure and pay close attention to the details because we do not believe that Texas Central can build the rail line without significant public subsidies.”

Second, Reason commented that although it strongly supports privately constructed high-speed rail, it cannot support TCRR’s Project. According to Reason, “[i]n spite of their large and growing populations, *Dallas and Houston are poster children for big cities where high-speed rail has no chance of succeeding without public funding unless land use and transit patterns change dramatically.*”

Third, Reason conceded that it truly hopes high-speed rail becomes a reality in the U.S., preferably through private development and implementation. However, Reason is concerned that TCRR’s Project “*will fail so spectacularly that privately financed U.S. high-speed rail lines may never be given a second chance.*”

Back in 2008, a [Reason Foundation review of the California high-speed rail plan](#) called its ridership projections “the most unrealistic projections produced for a major transport project anywhere in the world.”⁵⁷ Unfortunately, those words fell on deaf ears. A decade later, California finds itself mired in a boondoggle with no end in sight. Reason is sounding the alarm again. The FRA must heed this warning and conduct its own economic analysis before allowing TCRR to permanently alter the Texas environmental landscape.

⁵⁷ Wendell Cox, Joseph Vranich and Adrian Moore, *The California High-Speed Rail Proposal: A Due Diligence Report*, POLICY STUDY NO. 370, REASON FOUNDATION (Sep. 2008), <https://reason.org/wp-content/uploads/files/1b544eba6f1d5f9e8012a8c36676ea7e.pdf>.

D. Based on a report issued by the Texas Department of Transportation, TCRR's ridership projections and cost estimates are misleading.

In 2013, the Texas Department of Transportation (TxDOT) issued its *Texas Statewide Ridership Analysis Report Statewide Analysis Model – Version 2.5*.⁵⁸ TxDOT, an agency with decades of experience analyzing massive infrastructure projects, forecasted 2035 annual ridership between 1.7-2.7 million passengers for TCRR's Project. As for costs, TxDOT estimated upfront capital costs of \$18.3 billion.

E. The former Chief Maglev Scientist of the FRA concluded that the Project is destined for "certain failure."

John T. Harding, PhD, former Chief Maglev Scientist for the FRA, performed an analysis of TCRR's projections compared with facts contained in TxDOT's report.⁵⁹ Much like the Reason Foundation and TxDOT, Dr. Harding concluded that TCRR's ridership projections are greatly exaggerated, to the tune of almost six times that of his projections, which he based on objective, verifiable data.

Dr. Harding ran a financial feasibility scenario in which he gave TCRR the full benefit of the doubt. Using TCRR's own projections and cost estimates, Dr. Harding believes that by 2035 its Project will run an annual loss of \$250 million. To clarify, this *quarter billion-dollar deficit* occurs after 15 years of operation, when the Project should be running at or near optimal levels. Based on his analysis, Dr. Harding determined that there appears to be no reasonable likelihood that TCRR could repay its investment, much less

⁵⁸ Texas Department of Transportation, issued its *Texas Statewide Ridership Analysis Report Statewide Analysis Model – Version 2.5* (2013), <https://ftp.dot.state.tx.us/pub/txdot-info/rail/rail-ridership-report-1213.pdf>.

⁵⁹ Exhibit H, Verified Statement of John T. Harding.

cover operating costs, with a realistic appraisal of ridership. In fact, he concluded that the Project is destined for “certain failure.”

F. The FRA blindly adopted TCRR’s unsupported conclusions regarding economic impacts.

At page 3.14-25, the FRA begins its discussion of the Project’s economic impacts by stating: “TCRR reported that it would pay a total of \$2.5 billion in taxes to state and local jurisdictions by the year 2040.” Instead of referencing a study or some research or analysis, the FRA references only the “Facts” section of TCRR’s website, which coincidentally does not contain any study, research or analysis either. Since the publication of the DEIS, TCRR has actually refuted some of the information contained in the DEIS.⁶⁰

Along these same lines, the FRA states that “ticket sales could generate between \$15 billion and \$39 billion in sales tax for the state plus \$5 billion in local tax revenue.”⁶¹ These are the same figures TCRR has been touting for years, without any supporting research or data. In fact, according to the Texas Comptroller’s Office, Texas does not have a sales tax on transportation. On numerous occasions, TAHSR requested clarification regarding this multi-billion-dollar issue from both the FRA and its consultant AECOM. The FRA, through representative Kevin Wright, declined to reply to the inquiry.

Finally, the FRA states: “All Economic Analysis Areas would experience positive sales and use tax growth for all Build Alternatives.”⁶² There is absolutely no data to support

⁶⁰ <https://www.texascentral.com/2018/02/01/rumors-making-the-rounds-learn-the-facts/>.

⁶¹ DEIS at 3.14-19.

⁶² *Id.* at 3.14-30.

this conclusion. In fact, as previously explained, all objective, verifiable proves the opposite outcome to be true. In sum, the FRA's entire assessment of the Project's economic impacts is predicated solely on TCRR's unproven word. Such a baseless, empty analysis of the Project's impacts does not satisfy NEPA's "hard look" requirement.

VI. The public has not been allowed to play an informed role in the decision-making process due to TCRR's lack of transparency.

On its website, TCRR promises that this Project will be "an example of how big things can be done *in a transparent way*, the right way."⁶³ As will be shown, TCRR has broken its promise. TCRR's lack of transparency, which the FRA has sanctioned through its regurgitation of TCRR's representations in the DEIS, has prevented the public from engaging in the comment process on an informed basis. TAHSR respectfully requests that the FRA hold TCRR to its word and require full disclosure of all information related to the Project as part of the environmental review process.

A. The FRA should make TCRR disclose its feasibility studies.

In early 2013, TCRR's main partner, the Japan Bank for International Cooperation, commissioned a High-Speed Rail Feasibility Study to be conducted on the Project. The Feasibility Study contains TCRR's ridership projections and fare estimates, among other data. TCRR disclosed the Feasibility Study to both TxDOT and the FRA. Yet, TCRR refuses to release this critical data to the public.

TAHSR sought disclosure of the Feasibility Study through an open records request to TxDOT. TCRR intervened to prevent TxDOT's release of the Feasibility Study,

⁶³ <https://www.texascentral.com/facts/>.

claiming to the Texas Attorney General that the projections “may eventually become public through the EIS.”⁶⁴ In a subsequent state court lawsuit brought by TAHSR, TCRR intervened again and fought for over two years to prevent disclosure. TAHSR also submitted a Federal Open Information Act (FOIA) request for the Feasibility Study, but the FRA responded that it “is currently experiencing a high number of FOIA requests and is addressing backlogged requests with all due diligence on a first-in, first-out basis.”⁶⁵

In 2016, TCRR appointed LEK Consulting to conduct a new ridership study. LEK increased TCRR’s ridership projections to a shocking 5 million annual passengers by 2025 and 10 million annual passengers by 2040.⁶⁶ Just like the 2013 study, TCRR has refused to release LEK’s ridership study to the public.

B. The FRA should make TCRR disclose all studies supporting the Project’s alleged tax revenue and economic benefits.

The only document TCRR has every mentioned as support for its grossly inflated alleged economic benefits is a report created by Insight Research Corporation titled *Texas Central’s High Speed Rail Corridor and Related Private Development Houston to Dallas/Fort Worth, Texas* (the “Insight Report”). In fact, TCRR relied on the Insight Report in its verified petition filed before the Surface Transportation Board (STB).⁶⁷ Yet, TCRR refuses to release the Insight Report to the public, and it does not appear the FRA has seen it either. There is no mention of the report in the DEIS.

⁶⁴ Exhibit I.

⁶⁵ Exhibit J.

⁶⁶ <http://www.texascentral.com/wp-content/uploads/2016/11/Ridership-Brochure.pdf>.

⁶⁷ Exhibit K.

Before the STB, TCRR’s counsel stated that TCRR refuses to produce the Insight Report because it contains “certain proprietary, commercially sensitive information, the public disclosure of which would be highly prejudicial to Texas Central.”⁶⁸ To be clear, on the one hand TCRR claims that the report bolsters its argument that the Project will result in billions of economic benefits to the public—the very same benefits regurgitated by the FRA in the DEIS. On the other hand, TCRR claims public disclosure of the report would be highly prejudicial.

The FRA should not allow TCRR to continue hiding behind these baseless, inconsistent excuses. Rather, the FRA should require that TCRR disclose the Insight Report, along with any other studies allegedly supporting its claim of economic benefits, so that the public may play an informed role in the EIS process. The FRA must ensure that the alleged benefits are not merely disinformation being used to window-dress the Project.

C. The FRA should make TCRR disclose all source data allegedly supporting its cost estimates.

Regarding costs, TCRR has steadfastly refused to produce any objective, reliable data in support of any of its constantly changing cost estimates.⁶⁹ In doing so, TCRR has ignored repeated requests for source documentation supporting projected construction costs. In truth, it seems TCRR is plucking these estimates out of thin air. The FRA should

⁶⁸ Exhibit L.

⁶⁹ In its petition seeking exemptions from certain regulations, TCRR swore to the STB that the total construction cost is “estimated to be over \$10 billion.” Ex. K. Likewise, in verified petitions filed in Texas state courts, TCRR similarly swore to that “[t]his state of the art Project is expected to cost over 10 billion dollars to construct.” Ex. B. TCRR later increased this estimate to \$12 billion in public statements, but only after being repeatedly challenged on its initial lowball estimate of \$10 billion. To date, TCRR has yet to admit that costs will ultimately exceed \$20 billion, double the amount it swore to less than two years ago.

require a comprehensive accounting of construction costs, backed by objective, reliable data from independent experts.

TCRR has yet to provide an operating plan, operational or maintenance data, or any estimates of annual operating and maintenance (“O&M”) costs. Not only will TCRR have to pay back massive construction loans and service the high-risk interest returns to its investors, it will also have to cover substantial O&M costs in order for the Project to be financially feasible. The FRA should require TCRR to produce its operating plans, estimated O&M costs, and all supporting data, so that the information may be made available to the public for review and comment.

D. The FRA should make TCRR disclose its business plan and financial information.

TCRR has not disclosed even a rudimentary business plan, even though it has admitted in sworn pleadings that such a plan exists.

With respect to financial information, not only has TCRR admitted that it has secured less than 1% of the financing it needs to construct the Project,⁷⁰ it has failed to disclose how (or when) it expects to raise the remaining \$20 billion needed for construction. Without assurance that sufficient funding is in place, it is premature for the FRA to proceed with its assessment. TCRR should first be required to demonstrate the extent to which funds for financing are now available, and a timeline regarding when remaining funds will be acquired. The public has a right to review this information as part of the comment process to ensure that Texans are not left saddled with a half-built project.

⁷⁰ Exhibit M.

VII. The DEIS fails to adequately address alternatives to the Project.

NEPA requires the FRA to study, develop, and describe appropriate alternatives to the Project.⁷¹ The range of alternatives is essential to “sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public.”⁷² The FRA must “rigorously explore and objectively evaluate all reasonable alternatives.”⁷³ “The existence of a viable but unexamined alternative renders a [draft] EIS inadequate.”⁷⁴

By limiting itself to considering only the alternate routes for the Project, the FRA has improperly limited the scope of its alternative analysis to a single, predetermined outcome: where to build the Project. A proper alternatives analysis under NEPA requires the FRA to examine other, less environmentally damaging alternatives. Here, those alternatives include other companies’ proposals to build high-speed rail serving Dallas and Houston, interoperative use of existing railroad facilities, and use of railroad technologies other than the 50-year-old Shinkansen technology proposed for this Project. And, this analysis must include a thorough examination of the environmental impacts and benefits of not building the Project—the No-Build Alternative.

A. The FRA failed to adequately analyze the No-Build Alternative.

A critical component of any EIS, and a requirement under NEPA,⁷⁵ is careful examination of the no-action alternative (here, the No-Build Alternative): what would the

⁷¹ 42 U.S.C. § 4332(2)(E); 40 C.F.R. § 1508.9; *see also* 43 C.F.R. § 46.310.

⁷² 40 C.F.R. § 1502.14.

⁷³ *Id.*

⁷⁴ *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1038 (9th Cir. 2008).

⁷⁵ 40 C.F.R. § 1508.25(b)(2).

environmental impacts be if the Project is not constructed? The FRA failed to analyze the No-Build Alternative, stating that it simply would not accomplish the purpose of the proposed action—the construction of a high-speed rail. By disregarding the No-Build Alternative at the outset (apparently assuming that the Project must be constructed), the FRA failed to present the decision-maker with vital information on which to compare the environmental impacts with the impacts and benefits of not constructing it. The DEIS presents environmental impact information only on alternative routes for the Project, and not on the reasonable alternative of not constructing the Project at all.

The FRA improperly used the No-Build Alternative as a baseline for the alternative railroad routes A through F rather than comprehensively and independently analyzing it as NEPA requires. But even in describing this baseline, the DEIS fails to take into account important disruptions and innovations already underway in the transportation industry, particularly with regard to autonomous vehicles, which will affect safety, reliability, and speed of travel in the Dallas-Houston corridor and across the country. According to automotive and assembly consultants at McKinsey and Company, “autonomous vehicles represent a major innovation for the automotive industry,”⁷⁶ but the DEIS does not even mention them or their possible impacts with respect to the No-Build Alternative. Instead, the DEIS assumes erroneously that by 2025, when this Project is slated to come on line, Interstate 45 will carry vehicles just like those it carries today—ignoring the enormous

⁷⁶ Michele Bertoncello & Dominik Wee, *Ten Ways Autonomous Driving Could Redefine the Automotive World*, (June 2015), <https://www.mckinsey.com/industries/automotive-and-assembly/our-insights/ten-ways-autonomous-driving-could-redefine-the-automotive-world>.

changes in vehicle configuration and traffic engineering that autonomous and self-driving vehicles will bring. The DEIS discusses historic and current fatality statistics for rail, automotive, and air travel,⁷⁷ but fails to consider that autonomous vehicles, which consumers and freight companies will be using by 2040, may reduce accidents by up to 90% and save the economy about \$190 billion.⁷⁸

The FRA did not adequately consider the No-Build Alternative, especially as it relates to new types of vehicles that will utilize existing and planned infrastructure. The No-Build Alternative, according to the DEIS, “would not provide congestion relief, improve safety on the IH-45” or “meet current and future transportation needs.” This is mere conjecture without a discussion of future technologies that will soon be on the existing and planned roads between Dallas and Houston.

B. The FRA failed to analyze the alternative of interoperative use of existing facilities.

The DEIS failed to analyze, as an alternative to the Project, a high-speed rail under the European model. These models can operate on existing rights-of-way and would share infrastructure with existing trains and rail lines in urban areas. Using the European model, there would be no need for constructing exclusive rights-of-way in urban areas, reducing many of the negative impacts on the environment, including the human environment. By failing to consider the European model alternative, the FRA did not comply with NEPA.⁷⁹

⁷⁷ DEIS at 1-12.

⁷⁸ Bertonecello, *supra*.

⁷⁹ 42 U.S.C. § 4332(2)(C).

That the FRA did not consider using the European model as an alternative is inexplicable, considering that the FRA has recognized that the European model would have fewer impacts on the environment in a rulemaking expected to be final in June 2018.⁸⁰ The proposed rule, Passenger Equipment Safety Standards Amendments (RIN: 2130-AC46), would add a new tier of passenger equipment safety standards (Tier III) to facilitate the safe implementation of nationwide, interoperable high-speed passenger rail service at speeds up to 125mph on shared tracks and up to 220mph on exclusive rights-of-way.⁸¹

The European model would allow a Dallas-to-Houston high-speed rail to make interoperative use of about 100 miles of existing track in existing right-of-way, rather than building an entirely new 240-mile track in an entirely new, sealed corridor across presently undisturbed Texas countryside. The environmental impacts of the European model, which is capable of using existing facilities for much of the route, has far less impact on the environment—both natural and human. Moreover, this system could be deployed far more quickly and economically, just as Amtrak is currently doing in the Northeast Corridor (expected to be up and running by 2021 and fully deployed by 2022).⁸²

Instead, the only technology alternative analyzed in the DEIS is the electric-powered passenger rail system based on Central Japan Railway Company's N700 Tokaido

⁸⁰ U.S. DEP'T OF TRANSP., *January 2018 Report on Significant Department of Transportation Rulemakings* (2018), <https://www.transportation.gov/regulations/report-on-significant-rulemakings> (last visited March 6, 2018).

⁸¹ Passenger Equipment Safety Standards Amendments, 81 Fed. Reg. 88,006 (Dec. 6, 2016) (to be codified at 49 C.F.R. pts. 236 and 238).

⁸² AMTRAK NATIONAL FACTS, <https://www.amtrak.com/national-facts> (last visited March 6, 2018).

Shinkansen technology. This would require a fully sealed right of way, 100-feet wide,⁸³ which the FRA has rejected the use of in other contexts for several reasons.

First, constructing sealed, exclusive rights-of-way would unnecessarily impact urban environments. This is especially pertinent because the tracks would run between Dallas and Houston, two of the larger and faster growing urban populations in the U.S.⁸⁴

In its notice of proposed rulemaking for the safety amendments the FRA stated:

Specifically, the proposed rule would generate cost savings benefits by enabling high-speed rail operators to avoid new right-of-way acquisition and infrastructure construction for dedicated rail lines in dense urban areas. Instead it would allow such trains to travel on existing, non-dedicated rail lines but at slower speeds than permissible for travel on dedicated rail lines.⁸⁵

As the DEIS notes, comments at public scoping meetings have raised issues with impacts to property value, landowner rights, communities, land use, and noise and vibrations.⁸⁶ Failing to consider an alternative that can run on both shared and exclusive track ignores the concerns the FRA is already aware of and has sought to minimize in the safety standard amendments.

Second, the Japanese model would cost more and disturb more property rights in these urban environments. In its Regulatory Impact Analysis, the FRA estimated that modifying a \$50 million European Trainset to meet Tier III regulations would cost

⁸³ DEIS at ES-1.

⁸⁴ U.S. CENSUS BUREAU, CB16-81, *Five of the Nation's Eleven Fastest-Growing Cities are in Texas*, *Census Bureau Reports* (2016), <https://www.census.gov/newsroom/press-releases/2016/cb16-81.html> (last visited March 6, 2018).

⁸⁵ 81 Fed. Reg. 88,008.

⁸⁶ DEIS at ES-4.

\$310,000, while modifying a \$50 million Japanese trainset would cost roughly \$4.7 million.⁸⁷ An alternative that utilizes both existing shared tracks and new exclusive tracks would reduce the need for purchasing land in urban environments, which is more expensive than rural land. Or the purchases would be of cheaper land in economically disadvantaged neighborhoods. The Executive Summary to the proposed rule's Regulatory Impact Analysis also said this favored using existing track.

This benefit is especially attractive to railroad operators that provide service in areas with high population density because right-of-way acquisition and new railroad construction is significantly more expensive and complex. This alternative would increase the probability that new services are introduced and reduce the need for new construction in densely populated areas.⁸⁸

Third, using the Japanese model would contravene the forthcoming rule and lead to a mismatch of track that inconveniences passengers and manufacturers. As the FRA noted in the notice of rulemaking, the proposed rule “would help avert a potential patchwork in the U.S. passenger rail fleet that would perpetuate the current unattractiveness of the U.S. passenger equipment market to manufacturers.”⁸⁹ If the Japanese system is used for this Project, its trains and railways will stand apart from, rather than integrate with, future high-speed rail projects and routes consistent with the alternative in the forthcoming final rule.

Finally, safety benefits would accrue by using existing shared tracks in urban environments. Existing railway rail infrastructure and rights-of-way would be improved to

⁸⁷ Passenger Equipment Safety Standards Amendments, Regulatory Impact Analysis, Executive Summary at 9 (Nov. 2016).

⁸⁸ *Id.* at vi (Executive Summary).

⁸⁹ 81 Fed. Reg. 88,008.

accommodate the operation of high-speed trains, according to the notice of proposed rulemaking for the amendments, which would benefit all rail travel on these tracks.⁹⁰

By failing to consider the European model as an alternative to the proposed Japanese model, the FRA failed to comply with NEPA and its DEIS is inadequate.

VIII. The DEIS fails to identify and adequately address the environmental impacts of the Project.

A. The DEIS fails to identify and address noise and vibration impacts.

1. *The DEIS assumes that screening distances used to analyze impacts of ordinary rail are sufficient for high-speed rail.*

The DEIS states that procedures from its guidance manual were applied for establishing the extent of the Study Area.⁹¹ Consequently, the FRA limited its screening distances to 1,300 feet for noise impact and 275 feet for vibration. According to the FRA, these distances “are based on assumptions for the HSR operations and existing environment.”⁹² However, the FRA did not disclose the “assumptions” it relied on. Instead, the FRA merely concluded that, “[b]eyond these distances, no impacts would occur.”⁹³ The FRA provided no data or other support for this conclusion.

The FRA’s undisclosed assumptions are critical to the noise and vibration analysis because TCRR’s Project is the first of its kind in the United States. In fact, TCRR is in the process of seeking a Rule of Particular Applicability relating to its proposed high-speed

⁹⁰ *Id.*

⁹¹ DEIS at 3.4-5.

⁹² *Id.*

⁹³ *Id.*

rail, which will exceed speeds of 200mph. Obviously, the stark differences between the configurations of a high-speed rail and an ordinary passenger rail line will result in unique noise and vibration impacts. The FRA guidance manual is not designed to assess such differences. As such, the DEIS does not even mention, let alone assess, this possibility.

2. *The FRA did not base its noise and vibration assessment on the Shinkansen N700 system that TCRR intends to use for its Project.*

The DEIS states that in order to conduct a proper assessment the FRA must consider each sub-source noise component with each component that is defined in terms of a noise generating mechanism. For example, propulsion, wheel-rail and aerodynamics should all be encompassed in a detailed noise assessment. In the 2012 FRA study, the FRA relied on data related to several high-speed trains, but there is no data or assessment for the Shinkansen N700 train system. In section 5 of the DEIS, the FRA laid out what should be included in a detailed noise analysis.

In order to properly assess noise and vibrations impacts of this Project, the FRA must base its assessment on the actual Shinkansen system. However, in Appendix F of the DEIS, TCRR states that the Shinkansen N700-series trainset would be modified and adapted to fit the regulatory and environmental conditions in the proposed corridor. TCRR claims that the system's design and aerodynamic features have evolved from the original Shinkansen design.⁹⁴ Yet, the FRA made no attempt to assess the modification nor does the DEIS indicate whether those modifications were assessed in determining the noise and vibration impact.

⁹⁴ DEIS at Appx. F at 2.1.

3. The FRA has underestimated the noise impact of the Project.

In Table 3.4-12, the FRA states that the Project will produce only 47 decibels within 125 feet of the track. According to the FRA, the Project will not result in severe noise impacts on residential homes. However, in an article published by the BBC in 2011, a group opposing the construction of the high-speed train in England estimated that a train going 155 MPH would create 85 decibels 82 feet from the track.⁹⁵ Additionally, a report published by the High-Speed Rail Authority in California projected that a train going 106 MPH would create 71 decibels 150 feet from the track, and 83 decibels at 220 MPH.⁹⁶

Regardless of the extent the FRA has underestimated the decibel levels, the fact is the Project will cause substantial noise pollution, especially in the eight rural counties where the Project does not make stops. Many of these counties and communities rely on livestock and agricultural use of their land.⁹⁷ The noise pollution and vibrations created by construction and operation of the Project will negatively affect the agricultural use and possible result in panic flight of livestock (causing death or injury). The DEIS provides no answer to the cattle raisers who are trying to figure out how to herd cattle through a 14-foot pipe with a 200 MPH train zooming by. In the public hearings, the FRA and TCRR refused to take any responsibility for potential injury, death or damages due to panic flight of livestock. The DEIS is silent on this critical issue as well.

⁹⁵ BBC News, *How loud will the new high-speed train be?* (Feb. 28, 2011), <http://www.bbc.com/news/magazine-12596619>.

⁹⁶ Cal. High-Speed Rail Authority, *High-Speed Train Fact Sheet* at 8 (Aug. 23, 2010), http://www.hsr.ca.gov/docs/programs/eir_memos/Proj_Guidelines_SoundFactSht.pdf.

⁹⁷ See pages 72-77 below.

4. *The FRA failed to assess the impact of noise and vibration on soil composition.*

In its analysis, the FRA did not assess how unique soil composition plays a significant role in noise and vibration assessments. However, there are several studies that show material impacts on soil and soil composition caused by high-speed train noise and vibrations.

For example, in a 2014 study published by *Soil and Dynamics Earthquake Engineering*, researchers found that the tools used to assess noise and vibration for high-speed trains were insufficient.⁹⁸ The study looked at models used by the Norwegian Geotechnical Institute, Brahrekazemi, and the FRA. Researchers concluded that all assessment tools used by the institutions were insufficient to gauge the correct noise and vibration measurements.⁹⁹ They found that as train speed increased so did the levels of vibrations.¹⁰⁰ The limitations of the vibration model used by the FRA ignores the effect of soil composition in wave propagation. “This omission is high relevant because the soil properties have been shown to contribute significantly to the levels of ground vibrations generated by railway tracks, particularly in the free field. Thus, ignoring soil properties is likely to reduce the accuracy of a prediction model.”¹⁰¹ In order for the DEIS to have assessed noise and vibration, accurate assessment tools must be employed.

⁹⁸ Connolly, D.P. et al., *Assessment of Railway Vibrations Using An Efficient Scoping Model*, 58 *Soil Dynamics and Earthquake Engineering* 37, 37-47 (2014), <https://www.sciencedirect.com/science/article/pii/S0267726113002662>.

⁹⁹ *Id.* at 38.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

As another example, a case study done in Portugal found that soil type, rock layers, soil laying, depth to water table, and frost depth all relate to vibrations due to trains.¹⁰² None of these factors are identified or sufficiently addressed in the DEIS. The study emphasized the necessity of accurate vibration measurements, concluding that without such measurements damage could result from vibrations.

5. *The FRA used outdated assessment tools.*

The DEIS states that the FRA used Project information provided by TCRR, including a TCRR report titled *Texas High Speed Rail Revised Draft Conceptual Engineering Report*.¹⁰³ This report is not included within the DEIS and does not appear to have been disclosed for public review and comment.

In addition, the FRA states it relied on “sound data gathered in Japan for the Tokaido Shinkansen N700-A train” from 2012.¹⁰⁴ Yet, there is no discussion regarding the propriety of using sound data gathered in Japan to assess the noise and vibration impacts on the unique land characteristic in rural Texas.

Further, the FRA relied on the *High-Speed Ground Transportation Noise and Vibration Impact Assessment* (2012) and the *Transit Noise and Vibration Impact Assessment* (2006) to analyze field noise and vibration.¹⁰⁵ However, both manuals are out

¹⁰² Monteiro M., *Vibrations Induced by Trains. Case Study: Extension of Track Platform of Gare do Oriente* (2009), https://fenix.tecnico.ulisboa.pt/downloadFile/395139464839/Abstract_ManuelMonteiro.pdf.

¹⁰³ DEIS at 3.4-5 n.2.

¹⁰⁴ *Id.* at 3.4-5.

¹⁰⁵ *Id.*

of date and employ the wrong analysis tool. Therefore, the DEIS assessment is based on stale data. In a 2017 study, researchers found that the American technique of using five noise sources was not appropriate for considering train speeds over 250-300 km/h.¹⁰⁶ In addition, the researchers concluded that it is impossible to consider train design features, such as train noise, using the American technique.¹⁰⁷

6. *The FRA failed to consider many affected land uses in its assessment of noise and vibration impacts.*

The DEIS describes the three levels of noise impact: No Impact, Moderate Impact, and Severe Impact.¹⁰⁸ With respect to Severe Impact, the DEIS states that, “if a next door neighbor begins to use a leaf blower or chain saw, it would likely disrupt normal conversation and be highly annoying.”¹⁰⁹ According to the FRA, Severe Impacts “should be avoided if possible. Noise mitigation should be applied for severe impacts wherever feasible.”

It is impossible for the FRA to properly assess the potential Severe Impacts on the properties it has not surveyed. Put another way, the FRA cannot merely assume that the Project will not “disrupt normal conversation and be highly annoying” given that it has no intimate knowledge of the specific characteristics and land uses of the affected properties. In fact, there are many yet-to-be-surveyed properties where there is a high likelihood of

¹⁰⁶ Ivanov, N.I. et al., *The Problem of High-Speed Railway Noise Prediction and Reduction*, 189 *Procedia Engineering* (2017), <https://www.sciencedirect.com/science/article/pii/S1877705817322117>.

¹⁰⁷ *Id.*

¹⁰⁸ DEIS at 3.4-8.

¹⁰⁹ *Id.*

Severe Impacts based on unique land use characteristics. The following are a few examples:

- Cotton Mesa Trophy Whitetail Hunting Lodge in Navarro County has been selectively breeding trophy whitetails for the past thirty years. It has 4,200 acres of premium whitetail deer habitat;¹¹⁰ and
- The House Estate is one of the premier wedding facilities in Texas, set on 18 acres in Harris County and centered around an 1890's Victorian mansion.¹¹¹

Regarding impacts to wildlife (mammals and birds) and domestic animals (livestock and poultry), the FRA states that the DEIS addresses these impacts based on the “noise exposure limits” for domestic and wildlife animals (100dBA) shown in Table 3.4-4.¹¹² However, there is no explanation of how these impacts were addressed or what tests or analyses, if any, were performed.

Without citation to any studies or supporting data, the FRA states that the noise exposure limits for train operating at maximum speeds of 205 MPH “would only be exceeded with 15 feet from the HSR tracks.”¹¹³ According to the FRA, no animals will be within this fenced-in area at grade and, where the HSR is elevated, “noise levels would be reduced by shielding either below the viaduct or within the culvert.”¹¹⁴ The FRA merely

¹¹⁰ COTTON MESA TROPHY WHITETAIL, <http://www.cottonmesawhitetail.com/about-us/> (last visited Mar. 9, 2018).

¹¹¹ THE HOUSE PLANTATION, <http://thehouseestate.com/> (last visited Mar. 9, 2018).

¹¹² DEIS, p. 3.4-9, 3.4-10.

¹¹³ *Id.* at 3.4-36.

¹¹⁴ *Id.* at 3.4-37.

concluded—in this single paragraph—that “noise impact on wildlife will not be significant.”¹¹⁵ This assessment falls well short of the requisite “hard look” under NEPA.

7. *The DEIS ignores the noise and vibration impacts caused by high-speed rail trains crossing paths.*

The FRA ignores a noise impact unique to this Project, *i.e.*, the scientifically proven “slapping” or popping noise resulting from air flow between two passing high-speed trains.¹¹⁶ Rather than assess the noise impact of two high-speed trains passing each other at close proximity, the DEIS records noise levels for one passing train on one rail.¹¹⁷

8. *The DEIS contains no clear specifications or requirements related to noise and vibration mitigation.*

At page 3.4-60, the DEIS states that “TCRR shall investigate the application of sound barriers at affected locations where feasible” and “TCRR shall seek input from the impacted landowners and local jurisdictions on barrier types and designs.” The DEIS continues, “[w]here sound barriers are not practical, TCRR shall evaluate and install building sound insulation treatments where feasible.” In other words, the FRA acknowledges that TCRR has not investigated the feasibility of sound barriers or sought input from landowners or county governments. Additionally, if barriers are not a feasible mitigation measure, the FRA acknowledges that TCRR has not conducted any feasibility analysis regarding alternative insulation treatments. As a result, if it is later determined that

¹¹⁵ *Id.*

¹¹⁶ Kumar, Vdit, et al, *Aerodynamics and FlowField Induced by 2 Trains Passing By Each Other FDM/FVM* (2015), https://www.slideshare.net/udit_suraj/aerodynamics-and-flow-field-induced-by-2-hst-trains-passing-by-each-otherusing-fvm.

¹¹⁷ DEIS at 3.4-35.

noise impacts exceed acceptable levels, the FRA is merely speculating that 1) there are feasible mitigation measures, and 2) TCRR will be able to coordinate with landowners and county governments in order to install any such measures.

B. The DEIS fails to identify and address the Project's impact on hazardous materials and solid waste.

The FRA's NEPA procedures for considering environmental impacts direct the agency to consider "*any* impacts due to hazardous materials."¹¹⁸ The DEIS is inadequate because it improperly classifies some hazardous waste sites near the high-speed rail project as low-risk when they are in fact high-risk sites. According to the DEIS, moderate and high-risk sites require further investigation into potential soil or groundwater contamination.¹¹⁹

The Wyman-Gordon Forgings site at 10825 Telge Road in Houston, Texas is one such site that the DEIS improperly classified as low risk.¹²⁰ The site produces closed-die forgings used mainly for aerospace applications and extruded pipe.¹²¹ The DEIS describes the site's environmental contamination and enforcement history as Industrial Hazardous Waste: "Inactive corrective action. Completed workload in 2014. LPST [Leaking

¹¹⁸ Procedures for Considering Environmental Impacts, 64 Fed. Reg. 28,550 (May 26, 1999) (emphasis added).

¹¹⁹ DEIS at 3.5-6.

¹²⁰ *Id.* at 3.5-21.

¹²¹ ENVT'L PROT. AGENCY, Region 6 Compliance Assurance and Enforcement Division, Inspection Report for Wyman-Gordon Forgings, Inc. at 2 (June 27-28, 2017).

Petroleum Storage Tank]: Final concurrence issued, case closed in 1996. RCRA: Active SQG. Site had seven emergency responses and ten NOVs that have all been resolved.”¹²²

However, according to the Environmental Protection Agency’s (EPA) Toxics Release Inventory, 2,032 pounds of chemical releases were reported for the site in 2012.¹²³ Chromium, cobalt, copper, acids, hydrogen fluoride, lead, manganese, nickel, and nitric acid were among the chemicals released.¹²⁴ Moreover, 915 pounds of chemical releases were reported at this site in 2008¹²⁵ and 876 pounds of chemical releases were reported in 2016.¹²⁶ The Toxics Release Inventory’s Risk-Screening Environmental Indicators, EPA’s screening-level model that analyzes factors that contribute to human health risk, scored the site roughly 40,000 times higher than the U.S. median for primary metals in 2015.¹²⁷

The DEIS states that workloads related to the site are complete, notices of violation have been resolved, and the site is complying with federal solid waste requirements. But a June 2017 EPA Region 6 inspection found multiple concerns with the Wyman-Gordon facility.¹²⁸ Among approximately a dozen concerns raised by the EPA, the agency said the

¹²² DEIS at 3.5-21.

¹²³ ENVT’L PROT. AGENCY, Toxics Release Inventory, Facility Profile Report for Wyman-Gordon Forgings, LP, 10825 Telge Road (2012).

¹²⁴ *Id.*

¹²⁵ ENVT’L PROT. AGENCY, Toxics Release Inventory, Facility Profile Report for Wyman-Gordon Forgings, LP, 10825 Telge Road (2008).

¹²⁶ ENVT’L PROT. AGENCY, Toxics Release Inventory, Facility Profile Report for Wyman-Gordon Forgings, LP, 10825 Telge Road (2016).

¹²⁷ ENVT’L PROT. AGENCY, Toxics Release Inventory, RSEI for Wyman-Gordon Forgings LP, 10825 Telge Road (2015).

¹²⁸ ENVT’L PROT. AGENCY, Region 6 Compliance Assurance and Enforcement Division, Inspection Report for Wyman-Gordon Forgings, Inc. at 5 (June 27-28, 2017).

requirements of its National Pollutant Discharge Elimination System (NPDES) permit are not being followed and accurately submitted. The sampling does not represent discharges of many of the substances listed above from the facility.¹²⁹

Three Schools are located north of the Wyman-Gordon site, the proposed railway segment, and Highway 290.¹³⁰ The DEIS fails to discuss how, if the Wyman-Gordon site is disturbed, students at Cy-Fair High School, Arnold Middle School, and Lamkin Elementary School will be impacted by exposure to airborne toxics, contaminated soil, and groundwater from this site. And the inadequacy of this analysis casts doubt on the thoroughness of the FRA's investigation and discussion of other hazardous waste sites along the affected corridor.



¹²⁹ ENVT'L PROT. AGENCY, Region 6 Compliance Assurance and Enforcement Division, Inspection Report for Wyman-Gordon Forgings, Inc. at 5 (June 27-28, 2017).

¹³⁰ See map (schools in yellow).

C. The DEIS fails to adequately analyze the Project's impact on wetlands and waterways.

Wetlands provide invaluable ecological functions such as filtration of pollutants, habitat for aquatic and amphibious species, and flood attenuation. While admitting that the Project will destroy or significantly impact critical wetland areas, the DEIS fails to analyze or discuss the functions and values these wetlands provide, how those functions and values will be impaired by the Project, and what (if any) mitigation of these adverse wetlands effects will be mitigated. In essence, the DEIS seems to assume that wetlands protection is the role of the Army Corps and that the FRA, as the lead agency, may ignore wetlands impacts in preparing the DEIS. That assumption is wrong. NEPA provides no exceptions; it requires the FRA to analyze all significant impacts on the human environment—including wetlands impacts.

The DEIS states nebulously that its goal is to avoid wetland disturbance, and that future actions will be implemented with the assistance of the Army Corps to avoid and minimize impacts. The DEIS makes clear that it is unknown at this point what the nature and extent of those impacts will be, although the DEIS recognizes that between 100.9 and 106.2 acres of wetlands will be permanently impacted, depending on which project alternative is selected.¹³¹ The DEIS, however, provides no substantive analysis regarding the Project's impact on those wetlands, offering instead only general descriptions. For example, in section 3.7 the FRA states:

Permanent impacts would occur for the placement of culverts, viaduct support structure and within the permanent footprint of access roads, stations,

¹³¹ DEIS at 3.7-52.

MOWs, TMFs and where any of the Build Alternatives would be on embankment. Short-term impacts would include grading and temporary fill from construction access, staging and laydown areas. Operational impacts to waters of the U.S. would be limited to maintenance of culverts or bridges, and ongoing vegetation maintenance within the permanent HSR ROW.¹³²

The DEIS has no other qualitative descriptions of the Project's impacts on wetlands. The DEIS instructs readers to review Appendix E, Waters of the U.S. Technical Memorandum, for a more detailed breakdown of the impacts. However, Appendix E is merely 113 pages of charts that show where the estimated impacts to streams, wetlands, and waterbodies in each county will occur.¹³³ The charts do not describe how the crossings will actually affect the wetlands.¹³⁴ Because the DEIS does not specify the actual impacts the Project will have on wetlands, the DEIS is inadequate.

The DEIS states that TCRR has applied to the Army Corps for two Section 404 permits, but the Army Corps has not yet determined if it will issue those permits.¹³⁵ Because the Project is not water-dependent, it does not qualify for such permits. The DEIS's assumption that the Corps will issue Section 404 permits, allowing discharge of dredge or fill material into waters of the U.S., is thus purely speculative.

Equally problematic is the fact that the DEIS includes no discussion of which portions of the Project will impact U.S. waters (requiring Section 404 permits). Instead, the DEIS states, “[w]here avoidance of impacts to waters of the U.S., including wetlands,

¹³² *Id.* at 3.7-30.

¹³³ *Id.* at 3.7-29.

¹³⁴ *Id.* at Appx. E.

¹³⁵ *Id.* at 3.7-48.

would not be practicable, TCRR shall obtain an Individual Permit from the appropriate USACE districts (Fort Worth and Galveston) prior to initiating construction.”¹³⁶

In addition, the DEIS fails to analyze what impacts on what wetlands might be allowed if a Section 404 permit is issued. That is, what wetlands functions and values might be destroyed or impaired, and what (if any) mitigation of those impacts the Army Corps might require. The DEIS thus improperly truncates all analysis of wetlands impacts.

Instead of analyzing wetlands impacts, the DEIS clarifies that its mitigation plans will be developed sometime in the future, which makes issuance of a final EIS premature:

To facilitate the development of the mitigation plan, TCRR shall evaluate the ecological condition of jurisdictional streams and wetlands, of waters of the U.S. that would be impacted by the HSR system using the Texas Rapid Assessment Method (TXRAM) Version 2.0 in the Fort Worth District and the Hydrogeomorphic (HGM) Model in the Galveston District. The results of the assessments shall then be used for calculating the change in function and compensatory mitigation requirements associated with USACE authorized activities.

During the USACE review of the draft mitigation plan, TCRR shall continue to revise and refine the mitigation plan as part of the **WW-CM#4: CWA Section 404, Individual Permit**. The mitigation plan shall include sufficient detail to demonstrate measures taken to avoid, minimize and mitigate the aquatic functions that would be lost or impaired as a result of any of the Build Alternatives. Pending USACE approval, a final mitigation plan for wetlands and waters of the U.S. will be adopted by FRA as a part of the Final EIS.¹³⁷

In short, the FRA made no attempt to analyze the Project’s impact on waters and wetlands, assuming incorrectly that this is the Corps’ job. NEPA does not exempt wetlands from the environmental impacts that must be evaluated in the EIS, including this one.

¹³⁶ *Id.* at 3.7-49.

¹³⁷ *Id.* at 3.7-50 (citations omitted) (emphasis in original).

D. The DEIS fails to adequately assess the Project's impact on flood plains and drainage.

Under NEPA, the FRA must consider flood hazards and flood plain management.¹³⁸ Specifically, if an alternative will affect a base flood plain, the DEIS must discuss: “any risk associated with each such alternative; the impacts on natural and beneficial flood plain values; the degree to which the alternative supports incompatible development in the base flood plain; and the adequacy of the methods proposed to minimize harm.”¹³⁹ The DEIS fails to adequately address these factors, particularly as they relate to the Houston metropolitan area.

According to the DEIS, the proposed rail project will impact 606 acres of the 100-year floodplain and 46 acres of the 500-year flood plain.¹⁴⁰ But the DEIS fails to discuss the nature and effect of these impacts—and what they will mean for local flooding and flood management. Particularly in the Houston area, where catastrophic flooding has occurred several times in recent years, the impairment of flood plains and flood management operations is a critical environmental impact that NEPA does not allow the DEIS to ignore.

The DEIS fails to present a clear picture of the changing Houston-area landscape and flood challenges. A National Oceanic and Atmospheric Administration (NOAA) analysis of rainfall trends suggests baseline standards used for flood plain regulations,

¹³⁸ Procedures for Considering Environmental Impacts, 64 Fed. Reg. 28,545 at 28,550 (May 26, 1999).

¹³⁹ *Id.*

¹⁴⁰ DEIS at 3.8-13.

control projects, and flood zone maps underestimate the amount of rainfall during storms that cause floods.¹⁴¹ The DEIS does not consider increased rainfall during storms in the Houston area. Moreover, the DEIS does not take into account, or even mention, the frequency or intensity of flooding events in the area, such as those caused by Hurricane Harvey, Tropical Storm Allison, the “Tax Day” Flood, or “Memorial Day” Flood, and whether the railway project is designed to withstand such events. It also fails to discuss whether the railway will, as a result of rainfall increases during storm events, contribute to flooding in Harris County and Houston.

The agency’s favored route would also include 332 stream crossings via bridge or viaduct, 100 of which are in Federal Emergency Management Agency (FEMA) high risk flood zones.¹⁴² The DEIS fails to analyze how these crossings will impact the ability of these streams to carry floodwaters. The DEIS also fails to analyze the impacts of possible flooding or washout of these crossings.

The DEIS states that TCRR will obtain floodplain development permits and use best management practices during construction, such as erosion and sedimentation controls.¹⁴³ But the DEIS fails to specify those best management practices by segment, nor does it specify the environmental impacts remaining after implementing those practices and complying with issued permits. Moreover, the DEIS does not explain how the railroad will

¹⁴¹ NAT’L OCEANIC & ATMOSPHERIC ADMIN., NOAA ATLAS 14: PRECIPITATION-FREQUENCY ATLAS OF THE UNITED STATES, Volume 11 Version 1: Texas, (2017), https://hdsc.nws.noaa.gov/hdsc/pfds/PFDS-Texas/tx_peer_rev.html.

¹⁴² DEIS at 3.8-20.

¹⁴³ *Id.* at 3.8-31.

obtain those permits in the multiple counties that have passed resolutions stating they will not issue building permits for the Project.

The DEIS states that the project will abide by the City of Houston Ordinance, “Rules and Regulations for Chapter 19, Guidelines Houston City Code: Floodplain,” which requires special flood hazard areas to be elevated by 12 inches above the base flood elevation,¹⁴⁴ but the DEIS does not explain how this will prevent flooding. Although the DEIS says the Project will abide by the city ordinance, that is not sufficient evidence to show that the Project will not cause flooding. To make a fully informed decision, the DEIS should present scientific evidence and studies showing that the Project will not impose a greater risk of flooding in Houston—a city that could not afford such a risk prior to Hurricane Harvey and certainly cannot do so now.

Finally, the DEIS fails to identify or discuss the flood impacts of constructing an elevated dirt berm that will block the natural sheet flow across the land and channel large quantities of water along the berm’s base. The DEIS must analyze the nature and quantities of channeling these flood waters along the sealed rail corridor if it is to adequately describe the environmental impacts of the Project.

E. The DEIS fails to identify and address the Project’s impact on public utilities and energy.

In California, the high-speed rail authority attempted to use its EIS to suggest that high-speed rail will produce large energy savings. The authority went so far as to claim that energy savings from operating the rail system would repay the energy cost of

¹⁴⁴ DEIS at 3.8-6.

construction in just five years. However, Projections by the California Air Resources Board bemoaned that the California High-Speed Train would only account for 1.5% of California's goal for reducing emissions, and at a substantial cost.¹⁴⁵ Any assessment of energy usage must also account for improvements to the energy efficiency of cars and planes. If cars and planes become more fuel-efficient, then the energy payback period for high-speed rail rises. The FRA took none of these factors into account.

In truth, building a so-called "Green Train" is not really green. The Project will derive significant amounts of power from coal burning plants that rely on strip-mined, lignite coal. The FRA has not even attempted to quantify the natural destruction caused by the additional strip-mining that will be need to meet its electricity demand. While rail can offer lower energy usage than highway or air travel, that is only the case when it runs at or near capacity.¹⁴⁶ In all likelihood TCRR's Project will never run at capacity.

1. The FRA overestimates energy savings.

The DEIS states that 2014 CAFE standards were used to calculate fuel and energy savings.¹⁴⁷ In addition, the FRA used TCRR's exaggerated ridership projections to calculate the fuel and energy savings resulting from the reduction in vehicle passengers. Based on these calculations, the FRA estimates that "annual" energy savings will be over 9.33 MMBTUS.

¹⁴⁵ CALIFORNIA AIR RESOURCES BOARD, *Climate Change Proposed Scoping Plan* at 56 (2008), http://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf.

¹⁴⁶ Environmental Protection Agency, *California Environmental Quality Act and National Environmental Policy Act, Environmental Impact Statement*.

¹⁴⁷ DEIS at 3.9-5.

For a number of reasons, the FRA's estimate is inflated. First, CAFE standards are likely to increase in the future and therefore cars will become more fuel efficient. Second, the FRA offers no explanation regarding its determination that the Project will consume 1.59 MMBTUs annually. No studies are referenced as support for this figure. Third, at page 3.9-14-15, the FRA relies on stale data in setting forth Texas's 2013 energy consumption by use, instead of the following recent data:

- Residential: 13.15%;
- Commercial: 12.34%;
- Industrial: 50.08%; and
- Transportation: 24.42%.

Similarly, the FRA references an outdated ERCOT reports at pages 3.9-19 and 3.9-20, even though updated versions are available.¹⁴⁸ Finally, at page 3.9-21, the FRA relies on outdated Texas Electricity Generation Estimates, instead of available updated estimates.¹⁴⁹

2. The DEIS fails to adequately assess the energy and utilities impacts for the No-Build Alternative.

The FRA concludes that under the No-Build Alternative, “[t]here would be no direct impacts to existing utilities because no construction activities would take place. There

¹⁴⁸ ELECTRIC RELIABILITY COUNCIL OF TEXAS, *Report on Existing and Potential Electric System Constraints* (2017), http://www.ercot.com/content/wcm/lists/89476/2016_Constraints_and_Needs_Report.pdf, http://www.ercot.com/content/wcm/lists/89476/2016_Long_Term_System_Assessment_for_the_ERCOT_Region.pdf (last visited Mar. 9, 2018).

¹⁴⁹ U.S. ENERGY INFO. ADMIN., *Texas State Profile and Energy Estimates*, <https://www.eia.gov/state/?sid=TX> (last visited Mar. 9, 2018).

would be no additional service demand placed on these utilities.”¹⁵⁰ There is no discussion of the costs of moving utilities that interfere with the Project. This is a glaring omission. The FRA must consider the cost of building new utilities and new oil and gas wells. Moreover, the DEIS lacks any in-depth cost-benefit analysis of the No-Build Alternative.

3. *The DEIS contains many unsupported conclusions related to public utilities and energy.*

The FRA states that “[u]tility realignment and/or protection methods, for construction or post-construction purposes, typically would not negatively impact the effectiveness of the utility infrastructure.”¹⁵¹ No evidence is presented to support this conclusion. Nor is there any discussion of the negative impacts to existing utility infrastructure. For instance, if the construction harms the utility enough to where it does not make economic sense to keep it running, then construction of the Project will negatively impact the utility.

Furthermore, the FRA states that TCRR will construct and operate an on-site water treatment system to treat wastewater from the construction of the Project.¹⁵² This is no small task. The FRA does not explain how wastewater will be gathered and transported to the treatment site. Nor does the FRA describe the quality of the water to be treated or specifications including bacteria level as measured by an ATP test, salinity level as measured by the quantity of total dissolved solids, the quantity of total suspended solids,

¹⁵⁰ DEIS at 3.9-23.

¹⁵¹ *Id.* at 3.9-25, 3.9-32.

¹⁵² *Id.* at 3.9-29.

turbidity, the quantity of hydrogen sulfide, the quantity of iron, and the quantity of other constituents required to fully describe the quality of the incoming water. The DEIS does not contain any explanation of the treatment process or equipment required, including type of process, the type and quantity of chemicals required, size and type of water filters to be used, size and type of tanks to be used, and any other equipment and techniques to be used. Moreover, the FRA fails to discuss the costs of any such processes or equipment.

The FRA claims that construction power usage will not require significant additional capacity or result in peak demand.¹⁵³ However, the FRA does not disclose usage and demand levels employed to make this conclusion.

F. The DEIS fails to adequately address all measures needed to mitigated the impact on aesthetic and scenic resources.

The DEIS admits that the project will harm residents' views of rivers and open landscapes when driving on IH-45 northbound toward Dallas due to the height of the viaduct.¹⁵⁴ Despite acknowledging the reduction in the view when on IH-45, the DEIS does not consider using buffer zones to minimize the reduction in the view.

Overall, the DEIS lacks sufficient analysis of buffer zones required to mitigate impacts of the HSR proposal on aesthetic and scenic resources in pristine areas of the State. While the DEIS identifies locations where natural tree buffer zones already exist,¹⁵⁵ the discussion of adding additional buffer zones in the mitigation section focuses only on the

¹⁵³ *Id.* at 3.9-30.

¹⁵⁴ *Id.* at 3.10-59.

¹⁵⁵ *Id.* at 3.10-29.

cities of Houston and Dallas.¹⁵⁶ That discussion is limited to: “[i]ntegrate trees and landscaping into the station streetscape where possible to soften and buffer the appearance of guideways, columns and elevated stations.”¹⁵⁷ The DEIS includes no discussion of using buffer zones in rural areas despite acknowledging that rural agricultural and pasture land are the primary terrain of the Build Alternatives.¹⁵⁸ Additionally, the DEIS does not state how wide of a buffer zone the Project will create. The final EIS must include information regarding the locations, potential use, and size of buffer zones in rural areas in order to provide the FRA with sufficient information to make an informed decision.

The DEIS also does not adequately analyze the impact nighttime lighting will have on rural communities. Section 3.10.6.1 of the DEIS identifies nighttime lighting as a potential issue in rural communities, but the mitigation section simply asserts that “[p]rior to operations, TCRR shall develop an operational lighting plan that shall outline required nighttime lighting limits to safely operate the system.”¹⁵⁹ TCRR must establish its lighting plan before the publication of the final EIS. Otherwise, the Final EIS will not adequately analyze the Project’s impact on rural communities.

Finally, the DEIS says that existing vegetation will be maintained but it does not adequately discuss how TCRR will decide how much vegetation will be maintained.¹⁶⁰ The DEIS claims that “TCRR’s LID approach shall minimize impacts by locating the HSR

¹⁵⁶ *Id.* at 3.10-113.

¹⁵⁷ *Id.* at 3.10-112.

¹⁵⁸ *Id.* at 3.10-3.

¹⁵⁹ *Id.* at 3.10-115.

¹⁶⁰ *Id.* at 3.10-113.

system adjacent to existing utilities and highways in order to limit impacts to undeveloped areas and avoid wildlife habitat fragmentation.”¹⁶¹ The DEIS includes no estimate of how much of the project actually can be built adjacent to existing utilities, so the FRA has no clear estimate of what impacts this project will have on scenic resources.

Because the DEIS does not include buffer zone mitigation analysis for rural terrain or an estimate of the amount of track that can be built adjacent to existing utilities, the DEIS does not adequately analyze ways to mitigate the Project’s impacts on scenic lands.

Finally, the DEIS fails to consider the impacts the Project will have on properties where visual and noise impacts negatively affect the property’s use, value, and appeal, along with the human environment. The Project will traverse otherwise quiet, peaceful, and visually-pleasing tracts where these attributes are integral to the property’s land use, value, and overall environment. Failing to survey all properties has resulted in an assessment of low to moderate impacts, rather than severe. In short, the FRA has underestimated the aesthetic and scenic resource impacts, thus rendering its assessment inadequate.

G. The DEIS fails to identify and address the Project’s impact on transportation networks and roadways.

The Project’s proposed 240-mile-long right-of-way, a sealed corridor, will bisect the ten Texas counties through which it passes. While the DEIS states that viaducts will be used to accommodate existing roadways, the DEIS utterly ignores the fact that construction of the railroad embankment will freeze in place the existing road network, obstruct future community development of roadways and transportation networks like

¹⁶¹ *Id.*

school bus routes and bike paths. This gross oversight renders the DEIS entirely inadequate under NEPA.

The DEIS fails to address the insurmountable physical and jurisdictional issues surrounding roads in the counties through which it is proposed to be constructed. The DEIS describes a number of possible configurations for railway and road intersections, such as road under railway, road over railway, relocation of existing road, rerouting of existing road, and closure of road.¹⁶² Depending on the alternative selected by the FRA, between 231 and 237 roads would be crossed by the high-speed railway and between 147 to 246 roads would be impacted.¹⁶³ The DEIS correctly notes that the Texas Department of Transportation and various counties are responsible for roadway crossings, but its discussion is incomplete because it fails to recognize the powers counties and county Commissioners Courts exercise under the Texas Transportation Code¹⁶⁴—and that many of the counties have adopted resolutions stating they will not permit the road-crossing construction described in the DEIS.

In Texas, the Commissioners Court oversees the construction and maintenance of all public roads. It “may make and enforce all necessary rules and orders for the construction and maintenance of public roads.”¹⁶⁵ Moreover, the Commissioners Court “may exercise general control over all roads, highways, and bridges in the county.”¹⁶⁶ The

¹⁶² *Id.* at 3.11-5.

¹⁶³ *Id.* at 3.11-73.

¹⁶⁴ TEX. TRANSP. CODE ANN. § 251.001.

¹⁶⁵ TEX. TRANSP. CODE ANN. § 251.003(1).

¹⁶⁶ TEX. TRANSP. CODE ANN. § 251.016.

DEIS is silent as to the effect of these provisions, and how the described project can be built if and when the Commissioners Court exercises this control over county roads.

Importantly, several counties have already passed resolutions stating that they will not close, abandon, vacate or alter any county road to accommodate the Project.¹⁶⁷ The counties resolved further that all county roads must be maintained for use by the traveling public at all times during and after construction.¹⁶⁸ Although these resolutions were sent to the FRA, they are not reflected in the DEIS.

Along with several other county judges along the affected corridor, Navarro County Judge H.M. Davenport, Jr. has voiced his concerns over jurisdictional issues in the DEIS to the FRA. For example, Navarro County has more than two dozen roadway crossings considered in the DEIS, including fifteen entries for local roads.¹⁶⁹ The DEIS also states that 45 roads, both public and private, would be permanently impacted by the Build Alternatives.¹⁷⁰ On Feb. 26, 2018, the Navarro County Commissioners Court passed a resolution that it intends “to decline to discontinue, abandon, close, vacate or alter a county road in connection with the proposed” project.¹⁷¹ The DEIS fails to discuss how the Project can be built in the face of this opposition. Nor does it discuss which environmental impacts of the required route changes might be. The passage of these county resolutions constitutes a material change to the design assumptions included in the DEIS, assumptions that are

¹⁶⁷ *See, e.g.*, Exhibit N.

¹⁶⁸ *Id.*

¹⁶⁹ DEIS at 3.11-17, 18.

¹⁷⁰ *Id.* at 3.11-43, Table 3.11-42.

¹⁷¹ Navarro County Commissioners Court Resolution No. 102-2018 (Feb. 26, 2018).

inconsistent with county law. As a result, it is impossible for stakeholders to evaluate the impacts based solely on the data currently in the DEIS.

In addition, the DEIS discussion of roadways and transportation fails to comply with NEPA, which requires the FRA to consider whether the Project will be consistent with state and local laws. “Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law,” according to NEPA regulations.¹⁷² Until the FRA reconciles the conflict between the proposed project and local law, the EIS will not comply with NEPA.

H. The DEIS fails to identify and address the Project’s impact on land use.

The Project will adversely impact cattle and other livestock, agricultural operations, and farmers and ranchers. The DEIS fails to adequately address a number of significant issues in this regard. The FRA states that the Project, “would not result in a significant impact or loss to crop yields, livestock numbers or the state agricultural economy.”¹⁷³ This false statement is the result of the FRA’s failure to conduct an adequate assessment of the Project’s impact on land use. Agricultural operations, especially cattle-raising and other related operations, will be significantly impacted.

The DEIS states the total market value of agriculture is more than \$25 billion.¹⁷⁴ This estimate merely reflects cash receipts for agricultural commodities, such as livestock. When the significant upstream and downstream sectors of the industry are accounted for,

¹⁷² 40 C.F.R. 1506.2(d)

¹⁷³ DEIS at ES.20.

¹⁷⁴ *Id.* at 3.13-27.

the agricultural industry in Texas is valued at over \$100 billion. The FRA must take into account the full economic impact of the Project on the agriculture industry. Otherwise, the loss in value of Texas agriculture is unknown and the DEIS is inadequate.

Texas has experienced a decline in agricultural lands as those lands are converted to non-agricultural use. The Project will only accelerate this decline. While the DEIS appears to account for the actual acreage that will be taken for the physical components of the Project, the DEIS fails to account for the loss of agricultural lands due to hardships placed on current and future owners of property that will be indirectly impacted by people traversing their land, excess noise, and the unsightly Project. The FRA must assess these indirect impacts.

The DEIS also ignores the fact that the Project will render adjacent property relatively useless. Many Texans in the agricultural industry will be unable to conduct their operations efficiently due to future uncertainties. The FRA should conduct a study of land loss for specific tracts within the Study Area.

The majority of counties that the Project will cross through have significant agricultural operations, including cattle. As the DEIS states, livestock contribute significantly to the viability of rural economies. While the study uses 2012 Agricultural Census data, more recent 2017 USDA County Estimates indicate that the 10-county study area is home to more than 582,000 head of cattle. The DEIS attempts to show how the Project would not have a significant impact on agriculture. However, it fails to provide support for this claim. Importantly, the DEIS completely disregards the microeconomic impact on individual producers, animals and communities. Until the FRA conducts an

extensive microeconomic analysis on the impact to affected producers and rural communities, the DEIS is grossly inadequate.

A memo published by the High-Speed Rail Authority in California shows that a train going 106 MPH would create 71 decibels 150 feet from the track and a train going 220 MPH would create 83 decibels 150 feet from the track. According to the DEIS, the FRA's analysis of noise impact often occurred at distances in excess of 200 feet from the nearest rail.¹⁷⁵ The FRA's measurement of noise levels does not provide any information on how animals and their caretakers close to the track will be impacted by Project's noise.

According to the National Institute of Health's National Institute on Deafness and Other Communication Disorders, noise-induced hearing loss can occur in humans from long or repeated exposure to sounds at or above 85 decibels. Ranchers working near the tracks may regularly be exposed to such noise levels. The DEIS does not provide any information for the impact on ranchers in such proximity to the rail line.

Cattle are greatly affected by what they hear. In fact, they are able to hear a much wider range of sound frequencies than humans, 16 to 40,000 Hz in cattle, compared to 12,000 to 15,000 Hz in humans. The DEIS does not provide adequate analysis of the noise frequency and level to which livestock will be regularly exposed. Table 3.4-4 appears to arbitrarily set a noise exposure limit for livestock and wildlife despite the report's own assertion that "for animals, the effects are not easily determined."

¹⁷⁵ DEIS at Table 3.4-12.

For cattle, intermittent sounds can be particularly stressful, especially if they are sudden and at a loud volume. A train passing every 30 minutes could have a significant impact on cattle by way of added stress and changed routine. It may also inhibit, due to noise stress, the grazing of otherwise viable pasture land. This is likely to reduce productivity in weight gain and will thus have a detrimental effect on the overall economic productivity of ranchers in the area impacted by high-speed rail noise. In fact, in a court decision that reached the Minnesota Supreme Court, *Poppler vs. Wright Hennepin Cooperative Electric Association*, such an impact on lost productivity due to nuisance and change of routine in livestock resulted in an award of significant damages. The FRA must adequately assess the impact of noise and vibration to health and productivity specific to livestock operations in the Study Area.

There will also be significant issues regarding how landowners access, use, and maintain their land after the Project is built. This is especially important for agricultural uses, as these landowners depend on their land for their livelihoods and that of their families. The DEIS appears to simply accept TCRR's scheme for allowing landowners to access portions of their property separated by the rail line without further analysis. TCRR has no requirement nor oversight to ensure that it will work with impacted landowners to provide whatever access to bifurcated property necessary. TCRR has merely stated that all landowners will have a pass-through, but this promise is nowhere in writing.

TCRR has proposed the implementation of "animal crossings" within the raised-berm portion of the Project. Their engineering drawings, presented in Appendix G of the DEIS, demonstrate that these "crossing plans" are little more than box culverts. In addition,

the proposed dimensions of these culverts are not sufficient to allow for continued agricultural operations on the separated portion of property.

The animal crossing plans proposed by TCRR include several types and sizes of culverts for different types of animals, separating large and small species. For small animals, the plans call for a six-and-half-foot square culvert with a ledge on which animals may cross. If a landowner does not have large animals, such as cattle, on the property at the time of construction, this effectively curtails the landowner's ability to ever raise such large animals on the separated portion of the property, as the dimensions are not sufficient to allow for their easy passage. The size also does not allow for even a pickup truck, a vehicle that is essential to caring for all manner of livestock, to pass.

The Ford F-250 is a prime example of a common vehicle used on cattle ranches. From the factory, it measures 80 inches wide by 82 inches tall. This is two inches wider and four inches taller than the proposed culvert. The culvert design for large animals is larger at 23 feet wide by 11.5 feet tall. However, it too faces similar limitations. Ranchers frequently supplement cattle grazing with hay, and pastures are also regularly used to grow hay that is baled and stored for use during drought or winter. Both of these activities require the use of farm tractors. Large tractors often used in these jobs come dangerously close to the culvert height. A 2016 John Deere 8400 is almost 11 feet tall, while others easily eclipse its height, especially with implements attached. Even a simple hay cutter, a supplemented instrument that is necessary for bailing hay, poses a significant concern in relation to the proposed crossing dimensions: the cutter far exceeds cab height when folded for transport. This size of culvert could also prevent the landowner or future landowners from

repurposing their land from a livestock operation to a row-crop operation, which often requires even larger equipment.

Finally, the DEIS does not adequately account for regular flooding and waterlogged soil within the proposed crossings. These considerations are essential as a rain event may strand livestock on one side of the tracks without sufficient access to food, care or clean drinking water. Further, deep mud within a crossing may imperil the lives of cattle and other animals should they become stuck.

Regardless of the type of animal crossing employed, the DEIS is unclear as to how and when these types of crossings will be implemented and by what standards their use will be overseen to prevent irreparable damage to current and future land uses. The FRA should conduct a more thorough review of these animal crossing plans and provide specific recommendations to mitigate the impact on animal and human access to land separated by the rail line on a tract specific basis.

I. The DEIS fails to adequately analyze threats to endangered and protected species and migratory birds.

NEPA regulations direct agencies to prepare “to the fullest extent possible” a DEIS “concurrently with and integrated with environmental impact analyses and related survey and studies required by the Fish and Wildlife Coordination Act, National Historic Preservation Act, and Endangered Species Act . . .”¹⁷⁶

The DEIS is procedurally flawed. According to the DEIS, the FRA is currently undertaking an informal consultation with the United States Fish and Wildlife Service

¹⁷⁶ 40 C.F.R. § 1502.25(a) (citations omitted).

(FWS) to identify any other federally-listed species through future and presence/absence surveys.¹⁷⁷ If the FRA discovers any other listed species, it will submit a Biological Assessment (BA) for approval. If the FWS approves the BA, it will issue a Biological Opinion and Incidental Take Statement. This procedure falls short of NEPA's requirement to conduct an analysis "concurrently with and integrated with" surveys and studies required by the Endangered Species Act. If the survey is incomplete, the FRA should complete the survey and then include it in the DEIS.

The habitat fragmentation analysis is also inadequate. As the DEIS notes, the all-build alternatives "would result in the direct loss of wildlife habitat, increase habitat fragmentation and contribute to impediments of the movement of wildlife across the landscape."¹⁷⁸ The DEIS contains data for habitat fragmentation by segment and alternative and then breaks them down by grassland and shrub/woodland.¹⁷⁹ The DEIS does not, however, specifically address habitat fragmentation for the endangered Houston Toad in Leon County. "Habitat loss and fragmentation continues to occur throughout the species' range," FWS wrote in its November 2011 review of the Houston Toad.¹⁸⁰ The FWS further notes that "[t]his habitat loss has been recorded as preceding population declines in at least

¹⁷⁷ DEIS at 3.6-66.

¹⁷⁸ *Id.* at 3.6-60.

¹⁷⁹ *Id.* at 3.6-61-62.

¹⁸⁰ U.S. FISH & WILDLIFE SERV., *Houston Toad 5-Year Review: Summary and Evaluation* (2011), https://www.fws.gov/southwest/es/Documents/R2ES/HoustonToad_5-yr_Review_Nov2011.pdf.

two counties.”¹⁸¹ Yet, the DEIS fails to describe what effects this habitat fragmentation will have on this and the many other species in the path of the Project.

The Texas Parks and Wildlife Department (TPWD) has also recognized that habitat fragmentation negatively affects the Houston Toad.¹⁸² The TPWD reported that “[o]ther linear features such as pipelines and transmission lines can create barriers between foraging, hibernating, and breeding sites, especially if native vegetation has been removed.”¹⁸³ The DEIS makes no specific findings as to fragmentation and the Houston Toad. Instead, the DEIS directs the construction contractor to have mowing height restrictions within Houston Toad habitat and remove vegetation from potential toad breeding sites.¹⁸⁴ However, these are measures to be taken during the construction of the railway. There is no discussion as to how the railway, a permanent structure, would impact the endangered Houston Toad and cause habitat fragmentation.

The DEIS also notes that the Project could potentially impact migratory birds by disrupting their roosting and nesting habitat, but the DEIS does not adequately discuss this issue. The DEIS identified “one type of animal assemblage, identified as a ‘rookery,’ that is located within the EIS Study Area,” but fails to go on to describe the impact of the railroad project on this rookery. “Rookeries, or breeding grounds of colony-forming species, are important in an ecosystem as they are home to migratory and resident wading

¹⁸¹ *Id.*

¹⁸² TEX. PARKS & WILDLIFE DEP’T, *Houston Toad*, <https://tpwd.texas.gov/huntwild/wild/species/htoad/> (last visited March 7, 2018).

¹⁸³ *Id.*

¹⁸⁴ DEIS at 3.6-70-71.

birds and shorebirds.” The DEIS concluded that “[r]emoval of, or disturbance to the habitat during the bird nesting season (February 1 to September 15) could result in effects on nesting species that are protected by the MBTA.” Further, “[s]uch effects would have a noticeable effect on wildlife, including sensitive species, but could be reduced by the use of best management practices.”¹⁸⁵ However, the DEIS does not provide any detail as to what those best management practices might be. Nor does the DEIS describe the adverse impacts on the presently quiet and undisturbed countryside home to these migratory birds.

In addition, the DEIS fails to identify or discuss the effects of the Project on an important endangered species, the golden-cheeked warbler, whose habitat includes Dallas County.¹⁸⁶ Listed under both the federal and Texas endangered species acts, this bird migrates throughout Central and Southern Texas, to Central America, and back. And the species is particularly jeopardized by fragmentation of its habitat.¹⁸⁷

Additionally, the Texas Park and Wildlife website lists six bird species under the section on Migratory Routes of Selected Species.¹⁸⁸ Those species are: Eastern Kingbird, Scarlet Tanager, Canada Warbler, Ruby-Throated Hummingbird, Bobolink, and Purple Martin.¹⁸⁹ The maps listed on that website show all six species as having a migration pattern

¹⁸⁵ DEIS at 3.7-28.

¹⁸⁶ *Golden-Cheeked Warbler*, U.S. FISH AND WILDLIFE SERVICE, <https://ecos.fws.gov/ecp0/profile/speciesProfile.action?spcode=B07W> (last visited Mar. 9, 2018).

¹⁸⁷ 55 Fed. Reg. 52, 18844 (May 4, 1990) (to be codified at 50 CFR Part 17).

¹⁸⁸ *Migratory Routes of Selected Species*, TEXAS PARKS & WILDLIFE, <https://tpwd.texas.gov/huntwild/wild/birding/migration/routes/> (last visited Mar. 9, 2018).

¹⁸⁹ *Id.*

that goes through the eastern half of Texas.¹⁹⁰ All six species will therefore likely be impacted by the Project.¹⁹¹ Yet, the DEIS fails to discuss the impact on these species.

Finally, the Ruby Throated Hummingbird can specifically be found in the eastern edge of the Post Oak Savannah and Blackland Prairie and in the fringes of South Texas,¹⁹² including Brazos County.¹⁹³ Therefore, the Project will likely interrupt the Ruby Throated Hummingbird's migration pattern from Southern Mexico to Southern Canada. In addition, the Purple Martin's breeding grounds include all of Texas except for the Trans Pecos regions and the western Panhandle.¹⁹⁴ The Project would certainly disrupt some of the Purple Martins' migration route. Without adequately examining the impacts of the Project on these and other migratory birds, the DEIS does not meet the requirements under NEPA.

J. The DEIS fails to identify and address the Project's impact on soils and geology.

In the DEIS, the FRA suggests that any impacts of the Project on soil erosion can be mitigated. However, the FRA did not survey a vast amount of affected property. Consequently, the DEIS does not include coal mines in its soils and geology analysis. The delicate nature of coal mines necessitates a more thorough assessment.

¹⁹⁰ *Id.*

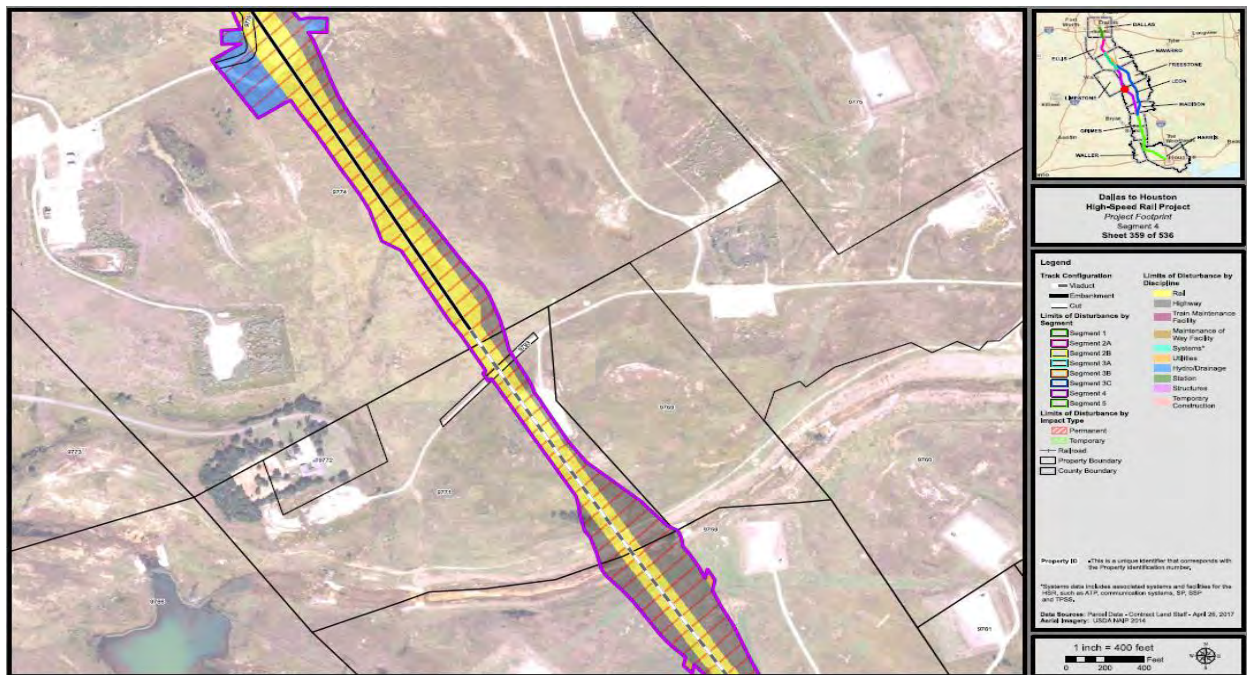
¹⁹¹ The DEIS does not address the likelihood of collisions with migratory birds.

¹⁹² Robert C. Tweit, *Ruby-Throated Hummingbird*, TEXAS A&M AGRILIFE EXTENSION, 2008, <https://txtbba.tamu.edu/species-accounts/ruby-throated-hummingbird/>.

¹⁹³ *Post Oak Savannah and Blackland Prairie Wildlife Management*, TEXAS PARKS & WILDLIFE, https://tpwd.texas.gov/landwater/land/habitats/post_oak/.

¹⁹⁴ James D. Ray, *Purple Martin*, Texas A&M AgriLife Extension, 2002, <https://txtbba.tamu.edu/species-accounts/purple-martin/>.

As previously stated, the FRA has not surveyed over 46% of lineal mileage along the proposed right-of-way in Leon County. A portion of this unsurveyed property contains an old coal mine, shown at DEIS Appx. D, Project Foot Print Set 4 of 5, Sheets 359-60.



Approximately 1.2 lineal miles of the Project's proposed right-of-way passes through this coal mine. The mining company dug at least 300 feet into the ground to mine coal. Around 18 years ago, the property was filled in with dirt in an effort to stabilize the soil. However, the soil remains unstable. As an example, when ranchers attempted to run cattle on the property, the cattle sank into the soil, broke legs, and died. Needless to say, the property cannot support the infrastructure needed for the Project, whether that be a land berm or elevated structure. Despite these facts, the DEIS contains no explanation as to how TCRR expects to build its Project on this unstable soil.

K. The DEIS fails to adequately address the Project's impact on greenhouse gas emissions.

In its mere fifteen page discussion of the Project's impact on greenhouse gas (GHG) emissions, the FRA summarily concludes that "the Build Alternatives would have a small, but long-term positive effect on GHG emissions."¹⁹⁵ In reaching this conclusion, the FRA failed to properly assess the Project's impact on GHG emissions.

1. The FRA's estimate of the Project's net impact on GHG emissions is grossly inaccurate.

The FRA estimates the maximum total annual construction period GHG emissions for the years 2018-2021 by combining the annual GHG emissions (in million metric tons) for Off-Road Construction Equipment, On-Road Construction Vehicles, and Locomotive Hauling.¹⁹⁶ Yet, TCRR's "Summary Schedule" indicates that civil construction activities

¹⁹⁵ DEIS at 3.21-10.

¹⁹⁶ *Id.* at 3.21-9.

are not scheduled to begin until mid-2019.¹⁹⁷ As such, the FRA’s calculation of the annual GHG construction period emissions is inaccurate. Rather than attempting to estimate annual construction period GHG emissions (a methodology hindered by obvious pitfalls), the FRA must estimate GHG emissions for the total construction period.

With respect to estimating “net GHG operational impacts,” the FRA added operation emissions to vehicle emissions reduction.¹⁹⁸ The FRA calculated vehicle emissions reductions using an EPA model and TCRR’s ridership estimates and assumptions. In short, the FRA first used TCRR’s ridership numbers to estimate how many travelers will switch from car to high-speed train. Next, the FRA plugged those estimates into the EPA model to calculate annual vehicle emissions reduction. As for operation emissions, the FRA relied on power consumption information provided by TCRR.

As demonstrated above, the FRA’s assessment is flawed on the front and back end. First, its construction period GHG emissions estimate is inaccurate. Second, its “net GHG operational impacts” figure is inaccurate because it is predicated on TCRR’s exaggerated ridership projections. Therefore, the FRA’s conclusion that the “long-term impact on the Build Alternatives would be beneficial” is the result of two inaccurate data points. In order to properly assess the Project’s impact on GHG emissions, the FRA must base its analysis on *total* construction period GHG emissions and *realistic* ridership projections.

¹⁹⁷ *Id.* at Appx. F: Dallas to Houston High-Speed Rail Final Draft Conceptual Engineering Report – FDCEv7 - Set 2 of 2.

¹⁹⁸ *Id.* at 3.21-3.

2. *The FRA has drastically underestimated the Project's impact on GHG emissions impacts.*

Based on information provided by TCRR, the FRA states that of the Project's estimated 5 million passengers, 3.7 million passengers (74%) will be diverted from vehicle travel to high-speed rail.¹⁹⁹ This is pure fantasy. The Reason Foundation concluded that by 2035 TCRR could reasonably expect to divert 536,000 Dallas to Houston vehicle travelers (a mere 5% of the 10.7 million total travelers).²⁰⁰

In addition, the FRA concluded that the Build Alternatives operation emissions would result in a long-term net reduction of GHG emissions that would offset the construction emissions *within less than 2 years at full operation*.²⁰¹ Here again, this is pure fantasy. Researchers at the University of California at Berkeley concluded that it would take *71 years* for high speed rail to save enough greenhouse gas emissions to negate the emissions from construction of the California high-speed rail.²⁰²

3. *The FRA's VMT calculation is grossly inaccurate.*

The emissions reduction calculations for CO, NO_x, VOC, PM₁₀, PM_{2.5}, SO₂ and CO₂ are inaccurate, including with respect to the DFW and HGB nonattainment areas. IT appears that the FRA has doubled the Vehicle Miles Traveled (VMT) used in the calculation of removed emissions. DEIS Appx. E, p. 36-37 shows:

¹⁹⁹ *Id.* at 3.14-30.

²⁰⁰ Baruch Feigenbaum, *Texas High Speed Rail Requires Caution*, REASON FOUNDATION (Feb. 6, 2017), <http://reason.org/news/show/texas-high-speed-rail-caution> (click link for detailed analysis).

²⁰¹ DEIS at 3.21-11.

²⁰² Mikhail Chester and Arpad Horvath, *Life-cycle assessment of his speed rail: the case of California* (2010), <http://iopscience.iop.org/article/10.1088/1748-9326/5/1/014003/meta>.

7,200,000 passengers/year X 89% car share = 6,408,000 passengers using car

6,408,000 passengers/1.2 passengers/car = 5,340,000 cars/year

Table E3.2-10: Assumed Trip Distances

Trip	Distance (miles)
City center-City-Center	239
Assume round trip	478

Source: AECOM, 2016

The round trip distance and calculated cars/year were used to calculate the vehicle miles traveled (VMT) that would have been traveled in the absence of the HSR as follows:

Round trip distance X cars/year = VMT

Table E3.2-11: Calculated VMT

Metro Share of VMT	VMT	
	ISL	FSL
Dallas VMT	730,057,145	1,194,638,721
Houston VMT	829,816,507	1,357,881,279
Total VMT avoided	1,559,873,652	2,552,520,000

Source: AECOM, 2016

Since the 7.2 million passengers assumes 7.2 million one-way trips, using *roundtrip* distance to calculate VMT appears to be incorrect. The correct calculation would be one-way distance X cars/year = VMT: 239 X 5,340,000 = 1,276,260,000 VMT removed. The VMT removed is also used to calculate the gallons of gasoline saved, resulting in a doubling of this figure in the DEIS: 81.5 million gallons instead of 40.8 million gallons.

L. The DEIS fails to adequately address the Project's impact on public safety and security.

1. The DEIS does not contain any plans for public safety and security.

At multiple county meetings, public hearings, and to the press, TCRR has told the public its Project will not have any invasive security procedures like Transportation Safety

Administration (“TSA”) airport security, which cause long lines for passengers. However, TCRR has not disclosed what level of security, if not TSA-level, it will employ.

In the DEIS, the FRA states that “TCRR will prepare a System Security Plan (SSP) that will document processes for mitigating and/or eliminating the security threats, vulnerabilities, and risks identified through TCRR’s Preliminary Hazards Analysis and Final Hazards Analysis.”²⁰³ In making this statement, the FRA admits that no such plan has been prepared. In addition, the FRA’s analysis is restricted to the state and national level. It did not consider any worldwide data. Had it done so, it would have encountered critical information regarding safety and security.

From January 2004 through July 2008, there were 530 terrorist attacks worldwide against passenger rail targets, resulting in more than 2,000 deaths and 9,000 injuries.²⁰⁴ The TSA considers passenger railroads to be high consequence targets in terms of potential loss of life and economic disruption as they carry large numbers of people in a confined environment, offer the opportunity for specific populations to be targeted at particular destinations, and often have iconic structures such as TCRR’s Project.²⁰⁵ Between 1970 and 2012 there were 33 high-speed rail attacks worldwide, killing 32 people.²⁰⁶

²⁰³ DEIS at 3.16-38.

²⁰⁴ U.S. Government Accountability Office, *Technology Assessment: Explosives Detection Technology to Protect Passenger Rail* (July 2010), <http://www.gao.gov/assets/310/307828.pdf>.

²⁰⁵ Polunsky, Steven, *Will Texas Trains Have Japanese Cops?*, Medium (July 26, 2015), <https://medium.com/homeland-security/will-texas-japanese-trains-have-japanese-cops-c265cdaff82#.gghs81ifk>.

²⁰⁶ Jenkins, Brian M., Kouzub, Chris, et al, *Formulating a Strategy for Securing High-Speed Rail in the United States* (March 2013), <http://transweb.sjsu.edu/PDFs/research/1026-securing-US-high-speed-rail-brief.pdf>.

More recently, in 2015, an Islamic terrorist attacked a high-speed train while in transit between Belgium and France.²⁰⁷ The terrorist had knives, pistols, high-powered assault rifles, and a bottle of gasoline. The attack was intended to be a mass arson and murder. In response to this attack, Belgium is instituting increased baggage checks, and the European Union is considering introducing metal detectors and body scans at all train stations. Additionally, in July 2015 there was a suicide attack on the high-speed rail in Japan.²⁰⁸ The terrorist immolated himself, and smoke filled the train coach. The windows on a high-speed train cannot be opened, and the doors can only open once the train fully stops, which takes several minutes. Any fire creates an imminent risk of death by smoke inhalation for the passengers in that coach. Indeed, a female passenger was choked to death by smoke from the fire. TCRR misleadingly claims that there has never been a fatality on Japan's high-speed rail, when in this attack alone, there were two. Experts in train transportation safety in Japan have admitted that there are blind spots in the security system on its high-speed and have proposed changes in risk management and security checks.²⁰⁹

Given the current state of terrorism, the FRA must require TCRR to present a comprehensive safety and security plan *before* proceeding further.

²⁰⁷ Chrisafis, Angelique, *France train attack: Americans overpower gunman on Paris express*, The Guardian (Aug. 22, 2015), <http://www.theguardian.com/world/2015/aug/21/amsterdam-paris-train-gunman-france>.

²⁰⁸ Associated Press, *Fatal fire on Japan's bullet train, airtight as a plane, reveals lax security, other lapses*, (July 4, 2015), <http://www.foxnews.com/world/2015/07/04/fatal-fire-on-japan-bullet-train-airtight-as-plane-reveals-lax-security-other.html#>.

²⁰⁹ Yamaguchi, Mari, *Bullet trains get rude wake-up call*, The Japan Times (July 4, 2015), <http://www.japantimes.co.jp/news/2015/07/04/national/bullet-trains-get-rude-wake-up-call/#.V0yIHVdZHts>.

2. *The FRA did not consult with local law enforcement regarding impacts on emergency response issues.*

On March 1, 2018, a coalition of eight Texas sheriffs whose counties are along the affected corridor held a press conference to announce that they were never contacted in regards to any emergency plans involving the Project.²¹⁰ The sheriffs are concerned that road detours caused by construction could affect emergency response times. For example, Grimes County Sheriff Don Sowell said, “I take particular exception to the Federal Railroad Administration saying response times increased due to detours during construction to be within acceptable limits. I don’t find that acceptable because I haven’t had any conversations with anybody.”

3. *The FRA does not even mention Hurricane Harvey in its safety and security assessment.*

Hurricane Harvey, a Category 4 hurricane, hit Texas on August 25, 2017. It had a diameter of 280 miles with winds of 130 mph during its first landfall. Harvey dumped a record-breaking 51 inches of rain in parts of Texas. Texas Governor Greg Abbott activated the entire Texas National Guard, bringing the total number of deployed Guardsmen to roughly 12,000. Harvey caused \$125 billion in damage according to the National Hurricane Center, more than any other natural disaster in U.S history except Hurricane Katrina. It affected 13 million people from Texas through Louisiana, Mississippi, Tennessee, and Kentucky. At least 88 people died from the storm.

²¹⁰ ABC 13, *8 sheriffs say they weren't consulted on Texas High Speed Rail emergency plan* (Mar. 1, 2018), <http://abc13.com/traffic/high-speed-rail-emergency-plan-never-vetted-by-sheriffs/3161771/>.

Without justification, the FRA does not even mention it in the DEIS. In Table 3.16-3, Safety and Security Hazards Inventory, the FRA lists tropical storms and hurricanes for the years 2000-2015. As a result of excluding Harvey from its inventory, the FRA determined the average property damage in Harris County from hurricanes to be \$45 million per event, and \$1.7 billion for tropical storms. These averages are extremely misleading given the monumental damage caused by Harvey.

M. The DEIS fails to adequately address the Project's impact on parks and recreation.

The DEIS fails to adequately address the impacts to the El Camino Real de Los Tejas National Historic Trail. Although recognizing it as a trail system, the FRA failed to evaluate the temporary and permanent impacts to the trail. Instead, the FRA merely concluded that a lack of integrity to the trail precipitates a finding of “no impact.”

The DEIS fails to address the permanent impacts to seasonal hunting within the Lake Bardwell property. Section 3.17.5.2.3 of the DEIS discusses the temporary impacts and concludes “construction activities could serve as a deterrent to wildlife.” Noticeably absent is any discussion related to the permanent impacts the Project will have on wildlife availability and preservation for hunting. The affected region along the corridor consists of prime hunting land. Deer and other wildlife are not going to come anywhere near the train, assuming hunting is allowed at all. The DEIS does not adequately address this issue.

N. The DEIS fails to adequately address the Project's impact on minority and low-income neighborhoods and populations.

NEPA requires that the DEIS describe all significant impacts on the human environment, including the environmental justice impacts affecting minority communities.

Executive Order 12898 requires the FRA to identify and address the disproportionate adverse effects that its programs may have on minority and low-income populations.²¹¹ While the FRA identified minority and low-income communities that would likely be adversely affected by the Project and pursued outreach activities to cater to these communities, this was not enough to protect the unique aspects of those communities. The Project will therefore disproportionately impact the well-being of minority and low-income populations by intersecting these communities with the high-speed rail and by failing to adequately reach out to and engage with these communities in advance. The DEIS also fails to adequately assess the impacts on community growth, cohesion, and character.

Given that the FRA hosted a listening session in only four communities identified as being adversely affected,²¹² it is not surprising that the DEIS fails to adequately discuss impacts on minority communities. These sessions were held in 2016.²¹³ The FRA failed to acknowledge that community members may not have received notice of these meetings, or that they simply did not attend due to disinterest in the program or community engagement, lack of time due to employment or child care obligations, or other reasons. In low-income populations, there is a higher propensity that individuals must work multiple jobs to make ends meet, and those individuals would not have been able to attend the listening sessions. In addition, one listening session was attended by a majority of people who are not even

²¹¹ Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 Fed. Reg. 7629 (Feb. 11, 1994).

²¹² DEIS at 3.18.3.3. Notably, FRA did not conduct listening sessions with every EJ block it identified as being adversely impacted.

²¹³ *Id.*

members of that particular community, and the majority of attendees at another session were not familiar with the program.²¹⁴ The DEIS simply does not demonstrate adequate concern for the particular attributes of minority and low-income communities.

The DEIS correctly states that many of these minority and low-income communities are also linguistically diverse, with more proficiency in Spanish than English.²¹⁵ This language barrier presents problems with community outreach, listening sessions, and gathering feedback. Although listening sessions offered translation services,²¹⁶ important information is often lost in translation. And, when materials were offered in Spanish only,²¹⁷ this required a Spanish-speaking citizen to first be familiar with the issues in English before they could know to request information in Spanish. These citizens, unless they have English-speaking acquaintances who will inform them about the Project's impacts, are completely in the dark about how the Project will impact their lives.

Moreover, while listening sessions may be an effective means of engaging with an average community, this may not be the best approach with minority and low-income populations, who may be working multiple jobs and have limited resources. Information was sent to food banks and mailed out,²¹⁸ but if an individual is only receiving information from TCRR itself, this individual is only hearing one viewpoint and loses the exposure to multiple viewpoints that may be expressed at a listening session. Mailing information is

²¹⁴ *Id.*

²¹⁵ *Id.* at 3.18.4.

²¹⁶ *Id.* at 3.18.3.3.

²¹⁷ *Id.*

²¹⁸ *Id.*

better than nothing, but it does not allow the community members to engage in a dialogue and have their voices heard. The FRA could air televised debates so that individuals who cannot attend sessions may listen to the countering viewpoints on the Project. The FRA could also host online listening sessions so that community members may participate more conveniently, yet still have their voices heard.

Furthermore, the DEIS fails to adequately address the project's impact upon community character and cohesion. In the DEIS, "community character is defined by a community's geographic location, typology, diversity, and spatial location of physical structures (including transportation and/or utility infrastructure and residential structures), general population density, general aesthetic and visual appearance (including green and or open/recreational space), and general assessment of land uses."²¹⁹ Cohesion is reflected in the neighborhood's ability to function and be recognized as a singular unit.²²⁰ Community cohesion is a function of density and can be a concern, particularly in urban and suburban areas where a transportation infrastructure can create a localized barrier between a residential community and social or commercial resources.²²¹ Although the DEIS mentions impacts to community character and cohesion, the discussion is limited to two pages and does not address many of the adversely impacted neighborhoods and communities as described below.

²¹⁹ DEIS 3.14-22.

²²⁰ *Id.*

²²¹ *Id.*

In Dallas County, the neighborhoods are a mix of urban and suburban developments and semirural/farming communities. Urban neighborhoods are primarily located in the City of Dallas along the Build Alternatives from downtown Dallas to approximately Ledbetter Drive. Near downtown, the neighborhood is composed of multi-family apartments, some commercial services, industrial buildings, vacant lots and large parking lots. South of downtown Dallas, the Study Area is characterized by urban single-family residential areas buffered by industrial uses adjacent to the Trinity River. Established urban single-family communities are also located south and east of the Trinity River. Following the IH-45 corridor southeast, industrial uses and floodplains serve as a buffer to many residential neighborhoods. Suburban communities exist from Ledbetter Drive to IH-20 within the City of Dallas. The Study Area within the cities of Hutchins, Lancaster, and Wilmer are primarily comprised of semi-rural, agricultural communities.²²²

The DEIS fails to address the environmental impact on lower economic communities, such as southeast Dallas. The FRA admits that minority communities will be affected by the implementation and operation of the Project.²²³ However, the DEIS fails to adequately assess the widespread impact on these communities' growth, displacement, and obvious disparate treatment. Apparently, these communities have been left to accept the destruction of their neighborhoods in exchange for a promise of jobs and revenue that the

²²² DEIS at 3.14.4

²²³ *Id.* at 3.18-3.

Project will allegedly create. These alleged benefits do not outweigh the negative impacts of the Project on the impacted communities.

Building the Project directly through the middle of the community will cut the community in half, resulting in two different communities. A similar situation occurred with the construction of Interstate 345 in Dallas, which ultimately destroyed a south Dallas community and devastated its residences.²²⁴ The highway project destroyed the community's cohesion and erased its common cultural and historical heritage. To this day on either side of the interstate there are two different facial compositions and two different growth rates. The promise of jobs and development did not sustain either of these newly formed communities.

Much like the I-345 highway, this Project will destroy community growth and cultural and historical heritage, and require redistricting of local government. The DEIS does not consider these impacts. In order to adequately address the environmental impacts of the Project, the DEIS must assess the impacts on the minority and low-income communities in southeast Dallas.

Moreover, the Project will displace thousands of residents who do not have anywhere to migrate. The FRA failed to consider this impact. The DEIS merely states that since public housing will not be impacted, the residents would not need assistance.²²⁵ In fact, the overwhelming majority of affected residents are underrepresented minorities that

²²⁴See Caitlin Clark et al., *Why We Must Tear Down I-345 D Magazine*, <https://www.dmagazine.com/publications/d-magazine/2014/may/why-we-must-tear-down-interstate-345/> (last visited Mar. 6, 2018)

²²⁵DEIS at 3.18-15.

do not have the funds to relocate or make a living in another part of the city. The vague, unsupported promise of “jobs” is not a solution to this impact.

Furthermore, all six Build Alternatives break up communities of underrepresented minorities in Dallas. The FRA has ignored this clearly disparate treatment of low-income and minority communities.

O. The DEIS fails to adequately address the Project’s impact on community growth and employment.

The FRA failed to assess the Project’s impact on several communities, towns, cities, and neighborhoods along the affected corridor, including the following:

- Dallas: southeast Dallas (previously discussed);
- Navarro: Corsicana, Richland, and Barry;
- Freestone: Fairfield and Teague;²²⁶
- Limestone: Communities around Lake Limestone;²²⁷
- Leon: Jewett;²²⁸ and
- Waller: City of Waller.²²⁹

If the Project is constructed through these communities, accessibility to these communities will be restricted. Specifically, the placement of the Project will result in

²²⁶ Exhibit O, Affidavit of Freestone County Judge Linda Grant.

²²⁷ Exhibit P, Affidavit of Limestone County Judge Daniel Burkeen.

²²⁸ Exhibit Q, Affidavit of Leon County Judge Byron Ryder.

²²⁹ Exhibits R, Affidavit of Waller County Judge Trey Duhon.

irreparable harm to the character and cohesion of these communities. This disruption will directly impact community growth and employment.

Moreover, these communities will also incur severe adverse economic impacts. In particular, the Project will result in a decrease of sales tax revenue and forced reallocation of community budgets for relocation and rerouting of county roads.

First, nearly all the rural counties rely heavily on sales tax as a main form of revenue.²³⁰ Many stores, businesses, hotels, and motels in these counties generate vast amounts sales tax revenue, which the counties rely on for community growth and development. The Project would result in a decrease of revenue for the community businesses (gas stations, general stores, hotels, motels). Without this revenue, community growth and employment will be decimated.

Second, construction of the Project would require relocation of county roads, an expensive task that cannot be funded by the counties.²³¹ TCRR will not commit to covering the costs required to remedy the disruptions to the county road system caused by the Project.²³² Nor has TCRR committed to fund future expenses in the event a county road needs to cross the Project. Such a crossing could easily exceed \$1 million per crossing, an expense the counties cannot afford.²³³

²³⁰ *See, e.g.*, Exhibits O, P, Q, R.

²³¹ *Id.*

²³² *Id.*

²³³ *Id.*

Furthermore, each of the rural counties has passed or intends to pass a resolution prohibiting TCRR from crossing any county road without a permit.²³⁴ TCRR has yet to coordinate with the counties regarding such crossings.²³⁵ TCRR has never applied for a permit in compliance with any such resolution.²³⁶ Unless and until TCRR commits to financially responsible for all negative financial impacts to the counties, no permits will be granted.

P. The DEIS fails to adequately address the Project’s impact on children’s health and safety.

The DEIS fails to adequately describe the impacts the noise and vibration of the proposed high-speed railroad operation will have on the health of children in schools, daycare and homes near the proposed rail corridor—particularly those who have learning disabilities. In addition to NEPA’s requirement that the EIS adequately describe these impacts on the human environment, Executive Order 13045 also requires federal agencies to “make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children” and to “ensure that their policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.”²³⁷

²³⁴ *Id.*

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ Protection of Children From Environmental Health Risks and Safety Risks, 62 Fed. Reg. 19885 (Apr. 21, 1997).

The DEIS acknowledges that fumes and hazardous materials may impact children's health and safety because of schools in the area where the rail would be constructed,²³⁸ but the DEIS fails to consider the impact that the noise and vibrations of high-speed rail operations will have on those children. Children are "more susceptible than adults to a range of environmental factors," such as noise.²³⁹ Children are especially impacted by factors like noise because they do not have control over their environments, like where they go to school, or what train may be adjacent to their school.²⁴⁰

Noise has proven to affect children's cognitive performance,²⁴¹ negatively impacting their education. One study showed that children taught in a classroom where railway noise could be heard demonstrated a lower reading level than the control group.²⁴² Exposure to such noise can also impact speech perception, especially in children. Children in schools near noisy transportation have also shown elevated blood pressure and cortisol levels, indicating environmental-induced stress.²⁴³

²³⁸ DEIS at 3.14.5.2.4.

²³⁹ National Institute of Public Health of Denmark, *Health effects of noise on children and perception of the risk of noise*, Statens Institut for Folkesundhed, 9 (Marie Louise Bistrup, ed., 2001), <http://www.si-folkesundhed.dk/upload/health-effects-noise-children.pdf>.

²⁴⁰ *Id.* at 10; see also Steven A. Stansfeld & Mark P. Matheson, *Noise pollution: non-auditory effects on health*, British Medical Bulletin (Dec. 1, 2003), <https://academic.oup.com/bmb/article/68/1/243/421340>.

²⁴¹ Stansfeld & Matheson, *supra* note 4.

²⁴² *Id.*; Ron Chepesiuk, *Decibel Hell: The Effects of Living in a Noisy World*, U.S. National Library of Medicine National Institutes of Health (Jan. 2005), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1253729/>.

²⁴³ Gary M. Evans & Elena Bilotta, *Environmental Stress*, <https://courses.cit.cornell.edu/dea150/files/2016%20files/Evans%20and%20Bilotta%20Environmental%20Stress.pdf> (last visited Mar. 7, 2018).

Q. The DEIS fails to adequately address the impacts that electromagnetic fields will have on heart patients or facilities sensitive to EMFs.

The powerful electric currents used to power the Project can interfere with the operation of sensitive medical equipment, including heart pacemakers. Yet the DEIS gives only passing reference to EMF impacts on those whose lives depend on proper operation of their pacemakers, while providing even less analysis of the medical and other public facilities that lie within impact range of the proposed route. The DEIS identifies five facilities that it calls “EMF sensitive receptors,” but it does not describe how those facilities will be impacted by the project. Those facilities include: Fruitdale Park, Trinity River Greenbelt Park, Northern Cypress Medical Center, Panda Path School, and Weiser Airport.²⁴⁴ The DEIS must include a specific analysis of how those medical and other public facilities—“sensitive receptors”—will be impacted by the Project.

In addition, the DEIS does not fully analyze how long a patient with an older model pacemaker can be exposed to electromagnetic fields before the EMFs cause a possibly fatal malfunction of their pacemaker. The DEIS states that the EMFs generated “may be of sufficient magnitude to impact operation of a few older-model pacemakers; in such cases, the older-model pacemakers may revert to an asynchronous pacing while in the presence of the HSR system.”²⁴⁵ But the DEIS does not describe how many pacemaker-carriers will be adversely impacted by this project or how many will die or suffer serious medical consequences. While the DEIS argues that “[c]ardiovascular specialists do not consider

²⁴⁴ DEIS at 3.15-10.

²⁴⁵ *Id.* at 3.15-12.

prolonged asynchronous pacing to be a problem,”²⁴⁶ it fails to cite any study or source for this assertion. Given the life-or-death consequences of a pacemaker malfunction, the mere say-so of the FRA that such malfunctions are no problem is insufficient to provide the decisionmaker a hard look at the health consequences of EMFs generated by this Project.

Additionally, the DEIS includes references in multiple sections to traction facilities,²⁴⁷ but it does not address the potential harm that traction power facilities may pose to heart patients. In contrast, the EIS for the California High-Speed rail project concluded that “EMF levels above the recommended limits for employees with implanted medical devices could exist inside traction power facilities and emergency power generators.”²⁴⁸ The California EIS determined that workers with implanted medical devices would not be allowed near traction power facilities.²⁴⁹ Given that the suggested remedy in California was to prohibit workers with implanted medical devices from entering those facilities, this DEIS is inadequate because it does not include analysis of how the EMFs generated by traction power facilities will impact people with heart conditions or the environment more generally.

The DEIS provides inadequate analysis of how the EMFs generated by the Project will impact heart patients and the public facilities it identifies as “sensitive receptors” of

²⁴⁶ *Id.* at 3.15-12.

²⁴⁷ *Id.* at 3.15-11; 3.16.-21.

²⁴⁸ California High-Speed Train Project EIR/EIS Merced to Fresno Section Electromagnetic Fields and Electromagnetic Interference at 3.5-15 (http://www.hsr.ca.gov/docs/programs/merced-fresno-eir/final_EIR_MerFres3_5Electromag.pdf).

²⁴⁹ *Id.*

EMFs. As a result, the DEIS does not provide sufficient information for the FRA to make an informed final decision on whether to approve the Project.

R. The FRA failed to consider mitigation costs in the context of economic viability.

In light of the removal of economic viability from the criterion, the FRA should explore all potential environmental mitigation measures, regardless of their cost. Examples include but are not limited to the following:

- noise and vibration barriers, including insulation to residences;
- light pollution mitigation such as specialty lighting or shields;
- tunneling 100% of the Project;
- elevating 100% of the Project at 15' AFG, 20' AFG, 30' AFG;
- station locations in each county along the affected corridor;
- sight impact mitigation such as tree mitigation programs;
- construction of independent green-energy power source such as solar panels; and
- structured pass-through tunnels on each property minimum 20' wide and 20' tall, and minimum 80' wide at all public and private roads.

Finally, the impacts of a partially constructed Project, or fully constructed but bankrupt Project, must be evaluated at regular intervals during system operation.

S. The FRA must consider additional public comments.

Attached as Exhibit S is a spreadsheet containing hundreds of comments submitted by citizens and landowners impacted by the Project. These comments have been organized according to the following issue codes:

- Air quality (AQ)
- Water quality (WQ)
- Noise and Vibrations (NV)
- Hazardous materials and solid waste (HZ)
- Waters and Wetlands (W)
- Flood Plain Hazardous and Flood Plain Management (FP)
- Utilities and Energy (EN)
- Aesthetics and Scenic Resources (AE)
- Transportation and Scenic Resources (TR)
- Land Use (LA)
- Endangered and protected species (ES)
- Soils and geology (SG)
- Greenhouse Gas Emissions (GG)
- Public safety and security (PS)
- Parks and Recreation (PR)
- Cultural Resources (CR)
- Minority and Low-Income Populations (MP)
- Community Growth and Employment (CG)

TAHSR requests that the FRA review and address these additional comments and concerns before proceeding further with its final assessment of the Project.