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ENTERED
Office of Proceedings
October 8, 2019
Part of
Public Record October 8, 2019

Chairman Ann D. Begeman
Vice Chairman Patrick J. Fuchs
Member Martin J. Oberman
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423

Re: Comments on Texas Central Railroad's August 21, 2019 Response to STB's Request for Information
Finance Docket Number: FD-36025-0

Dear Chairman Begeman, Vice Chairman Fuchs, and Member Oberman,

On June 20, 2019, the Board of the STB issued a decision requesting specific additional information from Texas Central Railroad (TCR) in response to TCR's Petition to Reopen dated May 4, 2018. Prior to that the STB Board had ruled that the STB did not have jurisdiction over TCR's proposal, finding that it was a wholly intrastate project.

TCR's May 4, 2018 petition to reopen claims that a through ticketing agreement with Amtrak had totally changed the situation and that even though there is no physical connection with Amtrak, nor would there be a feasible means to do so, that the through ticketing agreement now made them a part of the interstate passenger rail network subject to STB jurisdiction.

It should be very obvious to everyone that TCR only wants STB jurisdiction as a means by which to claim that they have the power of eminent domain which they have been unsuccessful in achieving through the Courts in the State of Texas. I will leave it to others to explain the litany of court cases they have lost in Texas in an attempt to be recognized as a "railroad" or an "interurban electric Railway", with the power of eminent domain under Texas law.

I will attach my May 24, 2018 comments¹ for the benefit of the new Board Members that I submitted in response to TCR's Petition to Reopen in which the fallacy of TCR's claim of a "seamless" connection between TCR's HSR and Amtrak stations are discussed. However, I will point out that in TCR's current response to your request for additional information, that passengers would be responsible for handling all of their own luggage for the cross town transfer service between rail stations, and that the wait times between train arrivals and departures in Houston and Dallas would be a minimum of 90 minutes in each city. This is hardly either seamless, desirable or practical in terms of being part of the interstate rail system. My other comments concerning this through ticketing agreement with Amtrak remain unchanged in the light of their response to your requests for further information.

¹ Comments by Rick Welch in letter submitted May 24, 2018 in response to TCR's Petition to Reopen. STB file number 245793. Attached herewith as Appendix 1.

However, there are other issues that the Board should be aware of concerning TCR's proposal since the Board is responsible for ensuring not only that interstate transportation systems are economically viable but that they are consistent with "public convenience and necessity"² as well as safety.

Since the beginning when TCR filed a petition with the FRA for a Rule of Particular Applicability, which began the need for an Environmental Impact Study under NEPA regulations, neither TCR nor FRA have responded to, addressed or even acknowledged certain very important safety concerns that have been raised by local governments, corporations and individuals.

For example, it became clear during public committee hearings of the 86th Session of the Texas State Legislature concerning possible legislation of high speed rail, that other railroads in Texas have serious safety concerns about their low voltage signaling systems receiving electromagnetic interference from the high voltage (25 kilovolts) power supplies for the electric high speed rail when the HSR is run adjacent to their rails. Testimony was given by representatives for Union Pacific Railroad at a hearing on April 16, 2019, that such interference could affect freight railroad signaling and traffic control systems.

To quote the submitted testimony, *"Freight railroad signaling and traffic control systems – the systems that drive basic operating and safety functions, like gates at railroad crossings – depend on the absolute integrity of low voltage current that flows through our tracks."* *"Texas Central proposes to operate a high-voltage system in the 20 or so feet between the edge of Union Pacific's right-of-way and Houston's Hempstead Highway. This close proximity along more than twenty miles of existing freight operations creates a high risk of electromagnetic interference. TCR has not shown any progress toward addressing this fatal flaw."* *"These are concerns that we have raised with Texas Central more than four years ago, but they have not been addressed."*³

Other very serious safety concerns have also been raised during the FRA's implementation of the Environmental Impact Study process and which have gone completely unaddressed and ignored when the Draft Environmental Impact Study was released by the FRA in December, 2017. There is still no indication whatsoever that either TCR or the FRA intends to address these serious safety concerns.

For example, in the United States, the systems of interstate transport of energy resources through pipelines, both for oil, natural gas, and their various processed and highly volatile constituents, have been developed historically in the absence of substantial ignition sources along the pipeline routes. Regulations for the transport of natural gas and their constituents allow for the release of large volumes of those substances in emergency situations to prevent the over pressurization of the pipeline systems and the compressor stations that drive the flow of the product in large volumes. In fact, the regulations require at least yearly demonstrations that those emergency shut down procedures, including purging of natural gas from the pipelines and compressor stations, in order to make sure that the equipment and procedures are operating efficiently. Purging of natural gas to the atmosphere is also required when shutting down a pipeline for maintenance, repair, or modification.

The introduction of sources of ignition close to such facilities that may release large volumes of highly volatile gaseous products, either by accident or as required by either repair, maintenance, or to demonstrate emergency shut down procedures, poses serious risks to the health and safety of the public.

It is unrefuted that the 50+ year old Japanese high speed rail technology, using high voltage, 25kV overhead stationary catenary power supplies for the train's electric motors that propel them, throw sparks

² 49 U.S.C. § 10901(c)

³ Testimony of Brenda Mainwaring, Assistant Vice President of Public Affairs for Union Pacific Railroad. Attached herewith as Appendix 2.

and create a hazardous ignition source in the presence of releases of clouds of highly volatile gaseous substances. Yet, neither TCR nor the FRA have addressed these safety concerns in the NEPA EIS process, which is supposed to evaluate various alternative routes and their environmental impacts to human health and safety and the environment, in choosing the best alternative route. They still have not addressed these concerns years after they have been raised.

It was very telling, that in the FRA DEIS that was released in December of 2017, where the FRA listed all of the cooperating agencies that had been invited to be a part of the EIS process, that the PHMSA (Pipeline and Hazardous Material Safety Administration) had not been invited to be a consulting party. After all, the PHMSA is the regulatory, monitoring and enforcement agency over pipelines that transport hazardous energy resources and which regulates the safety aspects of pipeline transmission. As such, it has the most complete data on such hazardous facilities and their locations. Clearly, these safety concerns were negligently overlooked in the analysis of alternative routes, but worse than that, they have yet to be addressed and responded to despite myself and governmental agencies such as the Waller County Sub-Regional Planning Commission raising these serious safety concerns long before the DEIS was ever released.

Attached herewith as Appendix 3, are my comments⁴ to the FRA in response to the FRA's DEIS released in December, 2017. They go into some, but not all, of the details on some of these safety issues, including a specific concern involving a specific high pressure natural gas pipeline and its associated turbine powered compressor station located within 580 feet of the "preferred" route in Waller County, Texas.

While the FRA will ultimately have to deal with some of these safety issues in developing a Rule of Particular Applicability, whether or not the STB asserts jurisdiction, it is nonetheless one of STB's policy goals that transportation facilities and equipment operate without detriment to the public health and safety. In this case, TCR is requesting STB jurisdiction while at the same time requesting an exemption from a full application process, solely in an attempt to acquire eminent domain authority that has been denied to them in Texas courts.

It bothers me greatly when TCR claims "*Texas Central's through-ticketing arrangement with Amtrak, which includes a transfer service between stations, creates a 'practical continuity of movement' through the interstate rail network.*"⁵ In nearly all of their legal arguments the word practical is used. However, for the travelling public the discontinuity in rail travel using buses to travel long distances between stations where they must deal with transporting their own luggage and wait large amounts of time, is far from practical. If the STB finds that it is impractical as well, it cannot and should not consider TCR's proposal as part of the interstate rail network and should not assert jurisdiction.

If the STB asserts jurisdiction over this intrastate project on the flimsiest of spider web threads offered in TCR's replies that their project would be a seamless, convenient and necessary part of Amtrak's interstate rail network, it could well be a tragic mistake.

⁴ March 9, 2018 Reply of Rick Welch to the FRA's release of the December 2017 DEIS, herewith attached as Appendix 3. Appendices have been removed for file size transmittal purposes. Of interest here is this document's Section 3, "The Atmos Energy Pipeline Compressor Station Hazard."

⁵ PETITIONERS' RESPONSE TO THE SURFACE TRANSPORTATION BOARD'S REQUEST FOR ADDITIONAL INFORMATION, August 21, 2019, at 30.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Welch". The signature is written in a cursive, flowing style with a prominent initial "R".

Rick Welch

Cc: Parties of Record

Certificate of Service

I hereby certify that on this 8th day of October, 2019, I have served a copy of the foregoing comments upon each of the following parties of record listed below.

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Appendix 1

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May 24, 2018
Part of
Public Record

May 24, 2018

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you for your consideration.

Sincerely,



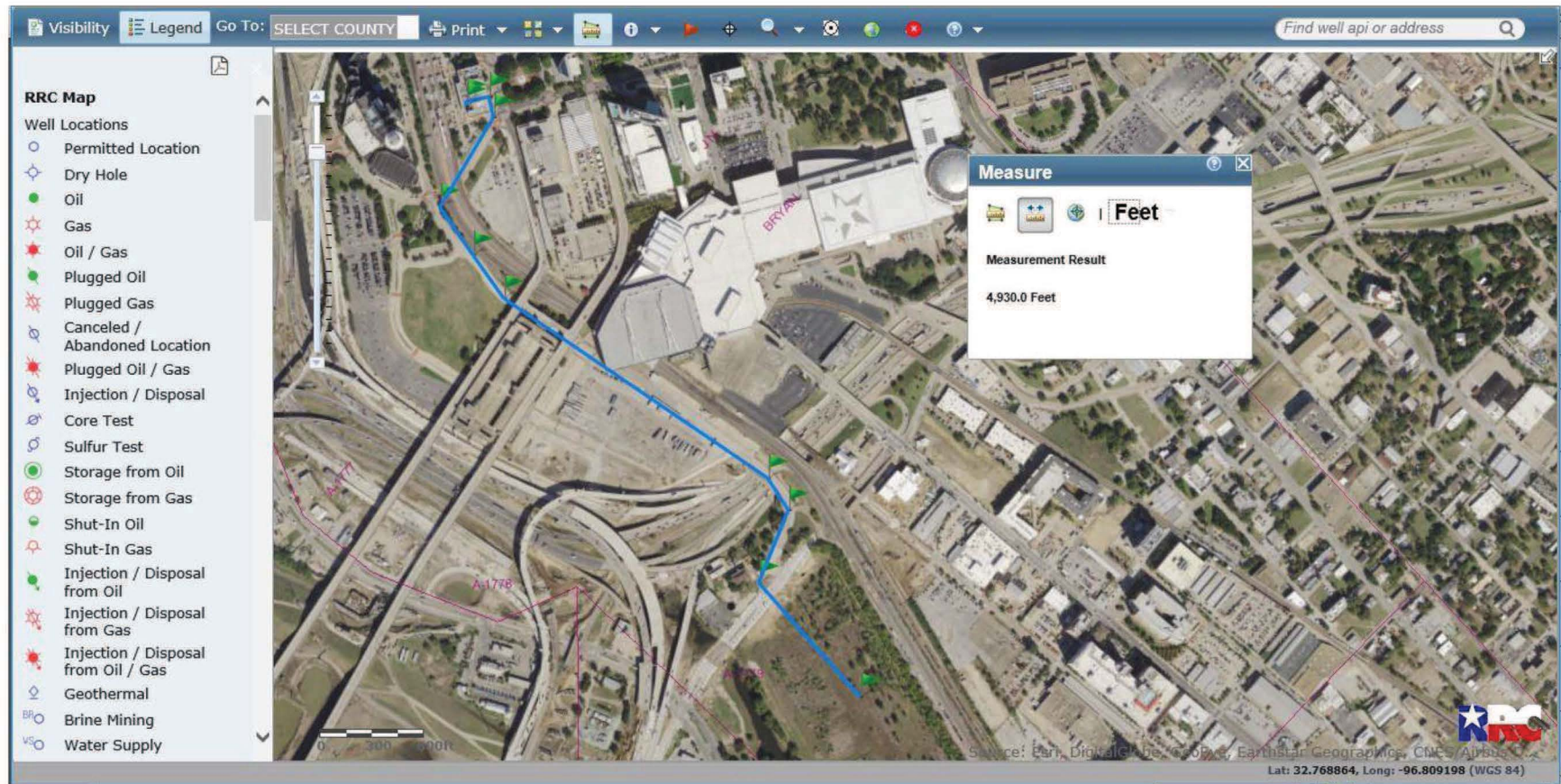
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Cc: Parties of Record

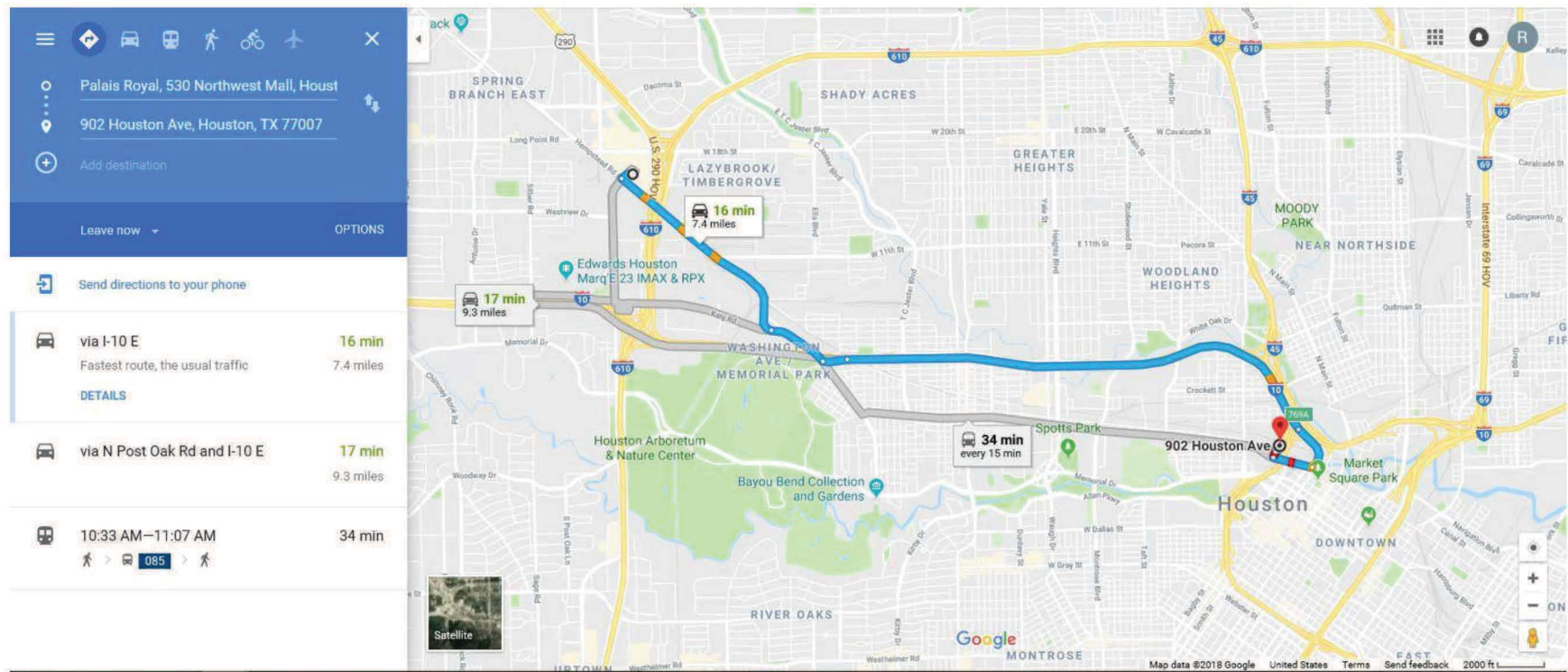
⁷ STB July 18, 2016 Decision Docket No. FD 36025, on TCR Petition for Exemption at 4, paragraph 1.

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

4



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



Certificate of Service

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

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Appendix 2



BUILDING AMERICA®

Testimony on HB 1986

Chairman Raney, Representative Leman, Committee members:

Thank you for the opportunity to testify on House Bill 1986. My name is Brenda Mainwaring. I'm the Assistant Vice President of Public Affairs for Union Pacific Railroad.

HB 1986 relates to the compatibility of railroad operations. I am here to provide some technical perspective on that point.

The proposed high speed passenger rail between Houston and Dallas is not merely incompatible with freight rail. It may substantially interfere with Union Pacific's ability to serve the freight transportation needs of Texas. These are concerns that we raised with Texas Central more than four years ago, but they have not been addressed.

Union Pacific is the largest freight railroad in Texas. Annually, we transport millions of tons of goods for Texas companies and consumers. We are committed to serving the citizens of Texas and supporting the Texas economy, now and in the future. The Texas Central proposal could prevent us from serving the freight needs of Texas.

Of greatest concern to Union Pacific, and a potentially fatal flaw to the proposed route, is the inherent electromagnetic interference between the low voltage current used by freight railroads and the high voltage current required for TCR's operation. Freight railroad signaling and traffic control systems – the systems that drive basic operating and safety functions, like gates at railroad crossings - depend on the absolute integrity of low voltage current that flows through our tracks.

Texas Central proposes to operate a high-voltage system in the twenty-or-so feet between the edge of Union Pacific's right-of-way and Houston's Hempstead Highway. This close proximity along more than twenty miles of existing freight operations creates a high risk of electromagnetic interference. TCR has not shown any progress toward addressing this fatal flaw. It must be addressed before any construction begins.

We also are concerned about public safety. In addition to the electromagnetic interference that could affect gates and lights at crossings, TCR proposes to build massive structures in the very limited space between Union Pacific and Hempstead Highway. Our engineers and safety experts fear that these structures will reduce motorists' ability to see and react to oncoming trains along the entire Hempstead Highway corridor.

Unfortunately, Texas Central's project could eliminate the preferred safety solution, which is grade separation of road and rail traffic. Roadway authorities use grade separations to enhance safety and to alleviate traffic delays that result from economic and demographic growth. TCR's proposed rail line could preclude the separation of road and railroad, even on the routes that Houston has identified as future

thoroughfares that will be needed to serve growing neighborhoods. This will be the case from the Beltway to the Grand Parkway along the Hempstead/290 corridor.

Finally, the proposed route would prevent rail service to future businesses because it would create a permanent obstacle that prohibits the freight railroad from reaching future industry. The area west of Houston is seeing tremendous growth in warehousing and industry. Those types of businesses frequently require rail transportation as an alternative option to trucks. TCR's failure to address future development in this area will be an impediment to economic growth, and will increase truck congestion in the region.

I want to be clear. It may be possible that all of these concerns can be addressed. But four years after raising our concerns with Texas Central, we still have seen little attempt at resolution. The proposal as it exists today is incompatible with freight rail operations. We are left with no option but to object to the project.

Thank you for your time.

Appendix 3

March 9, 2018

**Comments on the Release of the
Draft Environmental Impact Statement
by the Federal Railroad Administration on the
Dallas to Houston High Speed Rail Proposal by
Texas Central Railroad, et al.**

Rick Welch
25105 Kickapoo Rd.
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1) Violations in the NEPA EIS Process in the Selection of the HC-4 Route

The official National Environmental Policy Act Environmental Impact Statement (NEPA EIS) process began on June 25, 2014 with the publication of a Notice of Intent in the Federal Register. The Federal Railroad Administration (FRA) then held a series of six “Public Scoping” meetings, one each in Dallas, Navarro, Freestone, Brazos, Walker, and Harris Counties in October of 2014.

The failure to hold scoping meetings in all of the counties that would be heavily impacted by this project resulted in much public outcry and it took letters from many public officials to get the FRA to come back, extend the public scoping period and hold additional public scoping meetings in Leon, Ellis, Waller, Madison, Harris, and Grimes Counties in December of 2014.

The Public Scoping process and the deadline for Public Comment ended on January 9, 2015. After the end of the scoping process the FRA issued a report on August 10, 2015, titled “Corridor Alternatives Analysis Technical Report” in which the FRA announced that the preferred “corridor” was the Utility Corridor.

The report also stated that “a second screening analysis will be conducted. The second screening analysis will provide a more detailed evaluation of the range of potential location alignments near and within the Utility Corridor” and “the alignments screening analysis will evaluate the location alignments within this corridor to identify the Build Alternatives that will be the subject of the evaluation in the EIS.”

However, the alternative “alignments” were never released to the public, and the public never had an opportunity to review and comment on them before the preferred alternative alignments were actually chosen to go forward as the Build Alternatives to be evaluated in the DEIS.

In the case of Waller County, the scoping process only showed one detailed alignment through the county. Many people in Waller County who attended the scoping meetings and studied the various corridors and the route shown through Waller County (the utility corridor) determined that the route would not severely impact them and therefore did not comment during the scoping process.

Then, in November of 2015, two reports were issued. First, Texas Central released a report on November 5, 2015 titled “Step 2 Screening of Alignment Alternatives Report”, and then, the following day FRA released a report dated November 6, 2015 titled “Alignment Alternatives Analysis Report”. Up until these two reports were issued, there was no information released to the public on any possible alternative alignments within the utility corridor and no opportunity for the public to provide input and comments, yet when these two reports were released the final HC-4 route had already been selected as THE route through Waller County.

The newly affected people along this HC-4 route were denied their right to participation in the DEIS process, unlike those affected by the original HC-Base route.

However, within the TCR November 5 report it is stated that TCR completed the Step 2 screening of alternative alignments in June, 2015, and indeed many of the appendices in the report are dated June 25, 2015. Given the fact that TCR did not release this Step 2 screening report to the public until November 5, and the FRA issued its Final report the following day, with the HC-4 route firmly chosen, it appears as if TCR and FRA colluded to hide these alternative alignments from the public for the purpose of denying newly affected persons the right to study and provide useful information and public comment on them until the release of the DEIS nearly two and a half years later when the public comment period for the DEIS opened.

Meanwhile, in the intervening time period between the release of the November, 2015 reports and the December, 2017 release of the DEIS, the FRA steadfastly refused to coordinate with any local governmental entities, officials or sub-regional planning commissions as authorized and required under Texas Local Government Code Chapter 391. And even went so far as to instruct TxDOT, a co-leading agency, to refuse coordination as well. This will be discussed in the next section.

The whole manner in which this EIS process has proceeded violates the National Environmental Policy Act (NEPA) and its intent. The choosing of final routes for a project without providing a scoping process for those routes violates the rights of the citizens to public participation in the scoping process. It also leads to a result that is so dangerously flawed that if those routes would have been considered in the scoping process, they never would have passed.

It is clear and transparently obvious that the DEIS was written to support a predetermined route and not to properly evaluate in an honest way the possible alternatives and their true impacts to come to an intelligent and informed decision. Such an attempt to “paper up” a predetermined choice is a violation of NEPA and has led to other violations.

For this reason, the only viable decision that can be reached in the Final EIS is the NO BUILD option.

2) Failure to Coordinate with the Waller County Sub-Regional Planning Commission

The Waller County Sub-Regional Planning Commission (WCSRPC) was formally created under the authority of Texas Local Government Code Chapter 391 in 2008. Its members include Waller County, the Cities of Waller, Hempstead, Prairie View, Pine Island, Pattison, and Katy, and the Waller Independent School District, the Brookshire Katy Drainage District, and others.

As a legally formed governmental entity it has the right to request coordination with other governmental agencies on projects that affect the Commission's long term planning for the region. Section 391.001(c) of the Texas Local Government Code expressly provides that agencies shall, to the greatest extent feasible, coordinate planning with sub-regional planning commissions to ensure effective and orderly implementation of state programs at the regional level.

WCSRPC has repeatedly requested coordination from the FRA and TxDOT (as co-lead agency) on the TCR high speed rail project. The FRA has steadfastly refused any such coordination with WCSRPC, despite the requirements of NEPA. Reluctantly, TxDOT agreed to appear at a WCSRPC coordination meeting on February 9, 2016.

At the February 9, 2016 coordination meeting, WCSRPC presented numerous concerns to TxDOT officials on detrimental impacts that the HSR proposal would have on the Waller regional area and WCSRPC's long term planning. The legislative intent of the whole NEPA EIS process is to lay out different alternatives, identify impacts presented by the various alternatives, and to use those in decision making on choosing the best and least impactful alternative. However, the FRA has violated the intent of the process in developing the DEIS.

By choosing a new route through Waller County (HC-4) in November of 2015 as the final route without even making that route known to the public and local governmental entities and before the DEIS has even been released, makes the necessity of coordination with local governments all the more critical before the DEIS is finalized.

After the February 9 meeting, WCSRPC requested further coordination with TxDOT and again requested FRA coordination, feeling that it was vital that the concerns raised in the first meeting be analyzed and compared to other alternatives and that the process be reinitiated to fully take into account all issues so that a proper and informed decision could be made.

On May 6, 2016, WCSRPC sent a letter to TxDOT to formally summarize the issues raised in the February 9th meeting and to point out the violations of the NEPA EIS process and request further coordination with TxDOT and FRA.

In response, on May 13, 2016, TxDOT sent a letter to WCSRPC that states in part **"FRA has indicated that until the DEIS is released, they will not participate in any coordination meetings, and has requested that TxDOT also refrain from participating. Thus, FRA**

and TxDOT will not be able to attend WCSRPC's upcoming coordination meeting."

It is simply unheard of, for not only a federal agency to refuse coordination with local government as required under NEPA, but to direct a state agency to violate state law requiring the state agency to coordinate. (Section 391.009(c) of the Texas Local Government Code)

WCSRPC was simply left with no other alternative than to file suit against TxDOT, which they did on October 26, 2016, to compel TxDOT to comply with their statutory obligation to coordinate. And, on January 5th, 2017, Judge Karin Crump in Travis County District Court signed an order granting WCSRPC's Motion for Partial Summary Judgment and ordering TxDOT to further coordinate planning, to the greatest extent feasible, with WCSRPC with respect to the high speed rail.

This led to a second coordination meeting with TxDOT on May 15, 2017. However, having participated in the meeting myself, it was clear that the TxDOT officials there were not there to coordinate in any meaningful way. They were unwilling or unable to provide any information on what FRA was doing in response to the information and concerns that WCSRPC had provided during the first meeting. While further concerns were raised and updated information was presented to the TxDOT officials, it seemed apparent that TxDOT really knew nothing about the actual process that FRA was following concerning its requirements under NEPA.

Since TCR had representatives at the meeting, and TxDOT was unable to provide any feedback on the issues raised, a request was made to the TCR representatives to address some of the issues, which was immediately and rather rudely denied.

There is no question that the Waller County area, and I'm sure others, have been harmed by this high speed rail proposal and the manner in which it has been pursued. Developments have been put on hold now for an extended period, property values have been lowered, land owners, at great cost to themselves, have been intimidated and actually sued by Texas Central, illegal surveys have been performed, WCSRPC, at great cost, has had to pursue legal action to compel TxDOT to comply with their statutory obligations, and the harm to this area goes on and on.

Simple common sense justice demands that federal and state agencies comply with the letter and intent of the laws that govern how such projects are evaluated. This has not happened in this case and because of that even more harm will be done as justice will continue to be sought on this project.

Not a single mention of the specific concerns and warnings of hazardous and deleterious impacts raised during the WCSRPC coordination meetings are even mentioned or addressed in the DEIS. Until such time as a proper and programmatic evaluation of all of the proposed alternatives is undertaken, the FRA has no other justifiable choice other than to select the NO BUILD option for the Final EIS.

3) The Atmos Energy Natural Gas Pipeline Compressor Station Hazard

Perhaps the biggest problem on a project of this scale and magnitude with not following the requirements of the NEPA EIS process and fully coordinating early on with local governmental entities and the public is that potentially serious hazardous situations may go undiscovered until such a time when it may well be too late. Such is the case here.

The HC-4 route was selected by TCR and the FRA as the final route without any local input. There was no public notice that such a route was being considered and there was never any opportunity for local input from the public or local governmental entities on factors that would weigh heavily against this route.

There are two large high pressure natural gas pipelines that run through this area. One is owned by Spectra Energy and runs from the southwest to the northeast and the other is owned by Atmos Energy. The Atmos pipeline runs largely north and south and parallels the HC-4 route over a long distance through Harris and Waller Counties. Where the two pipelines intersect is a pipeline compressor station belonging to Atmos Energy which boosts the pressure in the Atmos pipeline to keep the natural gas flowing in the pipeline. This pipeline is a 30 inch diameter pipeline that operates at a nominal pressure of close to 1,000 psig.

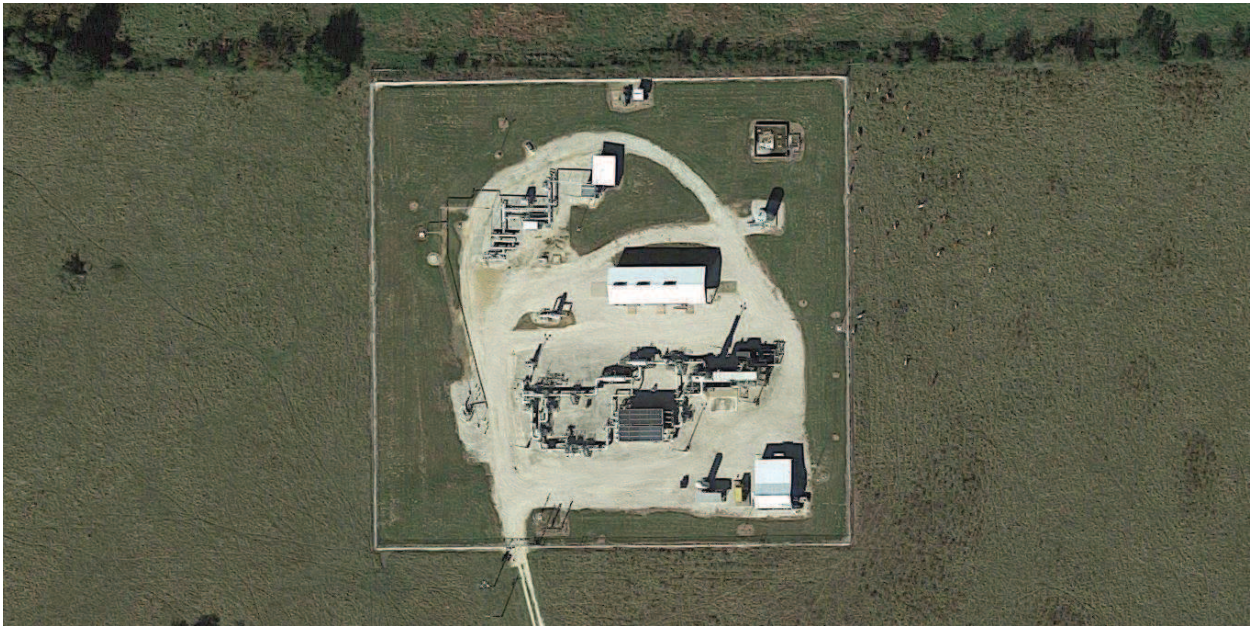


Figure 3-1. Aerial view of the Atmos Natural Gas Pipeline Compressor Station off Binford Road in Waller County. (See Figure 4-1 in the next section for map location)

Natural gas pipeline compressor stations are inherently dangerous and complex facilities. However, the public for the most part is unaware of their existence, unless you happen to live within about a mile of one, in which case it will likely not be very long before you become aware it. They typically are very noisy in operation because they utilize very high

horsepower engines to operate the compressors.

The Atmos compressor station, which is accessed off of Binford Road in Harris County but is actually located in Waller County, utilized three reciprocating engines up until 2007 when they replaced those with a turbine engine. I live almost exactly a mile away from it and I remember hearing the rumble of the reciprocating engines on quiet nights but never really knew what it was. I remember thinking that it sounded like the diesel locomotive engines and freight train noise that I used to hear as a child during the winter when the wind was blowing from the north and I lived about one mile south of the railroad tracks that paralleled the Katy Freeway in Houston.

But, this was somewhat different, and when they switched to the turbine powered compressors in 2007, there were several incidents that occurred that gave me quite an education on natural gas pipeline compressor stations.

The three incidents occurred on May 24, May 30, and June 11 of 2007. All three incidents resulted in unplanned accidental releases of large volumes of natural gas resulting from the opening of overpressure relief valves.

On May 24, 2007 an overpressure relief valve opened at 3:25 am and released high pressure natural gas for approximately two hours before they could shut it off. On May 30, 2007, the same thing happened and released natural gas from 8:20 pm to 10:10 pm. Then again, on June 11, 2007, an overpressure relief valve opened at 9:00 pm and high pressure natural gas was released until 10:35 pm when they were able to shut it off.

Each event was incredibly noisy as you can imagine with natural gas at a pressure of near 1,000 psig was released. From my house, which is one mile away, it sounded as if the pipeline had ruptured. The length of the events, given that noise level even a mile away, were extremely concerning. During the first incident, since the Spectra Energy pipeline runs across a corner of my property, I had emergency phone numbers to call and when I did there was a lot of confusion and it turned out not to be their pipeline, but rather the Atmos Energy pipeline compressor station, which I had previously been unaware of.

By the time the third event happened I had Atmos' phone number and an explanation of what had happened on the prior incidents. After the third event I began asking tougher questions and followed up with them. They explained that the overpressure relief valves were being replaced and their systems modified and offered to give me a tour of the compressor station. I took them up on their offer and toured the plant including the control room where their SCADA (Supervisory Control and Data Acquisition) systems were located.

After that there were no more incidents involving such an alarmingly loud noise, other than the noise of the exhaust of the turbine engine which was considerably louder than the prior reciprocating engines they had replaced. They did eventually install devices to reduce the noise from the turbine exhaust.

However, on August 9, 2011, while working in my open sided horse barn in the morning, I suddenly smelled what I remember un-odorized natural gas to smell like. (I used to work in an industrial plant that utilized natural gas and industrial use distribution is not odorized.) The smell lingered for nearly half an hour despite a rather brisk steady breeze. Since the wind was directly from the direction of the compressor station, I called them. They were quite surprised but said that they were in the process of performing an Emergency Shutdown (ESD) procedure as a demonstration that their ESD system was functional as required by Federal regulations and that they had just completed the demonstration.

It is the Pipeline and Hazardous Material Safety Administration (PHMSA) that regulates natural gas pipelines and compressor stations. PHMSA regulations require that all compressor stations have ESD systems in place that will, in the event of an emergency, totally shut down the operation of the compressor station and blowdown all of the high pressure natural gas within the station, venting it to the atmosphere. In addition, it is required that each compressor station, at least once each year, perform an ESD procedure to verify the functionality of the system.

Again, the plant manager for the compressor station was surprised that I was able to smell the natural gas as he had always told me during the previous incidents in 2007 that natural gas was much lighter than air and that such releases were not dangerous because the natural gas would rise quickly in the atmosphere. So, how was I able to detect that they were releasing natural gas in the absence of the type of noise that was associated with the now replaced overpressure relief valves?

Were the weather conditions just right considering the strong steady breeze? Was there a temperature inversion that hindered the gas from rising? Or, perhaps, were there some other reason. Again, my place is a mile away, a considerable distance for the gas to travel along the ground.

The answer, while weather conditions could certainly play a large part, lies in the nature of natural gas itself. Natural gas, as it comes from the well, be it associated or unassociated with oil, is composed of approximately 70 to 90% methane (which has a relative density compared to air of 0.55), and 0 to 20% of various mixtures of ethane (rel. density of 1.04), propane (rel. density of 1.52) and butane (rel. density of 2.01), along with other gases in smaller amounts including carbon dioxide and hydrogen sulfide.

The natural gas is collected through gathering pipeline systems from nearby wells and processed to separate the methane from these other gases, and because of their easy compressibility into fluids, the ethane, propane and butane, once removed are generally transported to their particular uses as liquids through what are known as natural gas liquids pipelines. The remaining "pipeline quality" natural gas is then transported through high pressure transmission pipelines to distribution points where it is distributed to the end users and odorized for residential users.

However, pipeline quality natural gas is not generally 100% methane and can contain up to

10% ethane, 5% propane, and 2.5% butanes, pentanes and heavier volatile hydrocarbons, as well as small amounts of carbon dioxide, nitrogen and other gases. While the methane is lighter than air (at standard conditions roughly 0.55 times the weight of air) and may generally dissipate upward, the ethane, propane, butanes and heavier volatile gases are heavier than air and would generally tend to sink to ground level.

The ethane component (at 1.04 times the weight of air) is somewhat buoyant, does not have a tendency to rise, and can be carried long distances by the wind. The heavier propanes, butanes and heavier volatile hydrocarbon gases would tend more to hug the ground, but may not travel as far a distance before dissipating into an un-explosive mixture with air.

The upper and lower limits of explosive percentage mixtures with air are different for each of the gases. For example, methane, when combined with air, is only flammable or explosive when the concentration by volume is between 5 and 15 percent. Outside of that range, it is either too lean or too rich to burn.

For ethane, the explosive range is between 3 and 12.4 percent. However, for propane, butane, pentane and the heavier volatile gases, the explosive range continues to dip into lower and lower concentrations as the molecular weight increases and the tendency to hug the ground increases. So, it is not such a simple thing to simply say that natural gas is lighter than air and large releases pose no hazard!

In fact, the reason I was able to smell the natural gas release on August 9, 2011, was quite possibly due to the ethane component and the winds that morning along with the other lower level contaminants in the gas which rendered it detectable by the nose.

Modeling of the dispersion of a complex mixture of explosive gases, with some lighter and some heavier than air, under high pressure, high volume and under different weather conditions is an almost impossible task and determining the distance over which such releases may pose a serious hazard is equally difficult.

But, it is undeniable that natural gas transmission pipelines and their appurtenances are hazardous and have many accidents and incidents each year. The PHMSA makes the details and summaries of these incidents available on their website.

For instance Figure 3-2 shows the number of incidents, fatalities, injuries, and total cost of natural gas transmission pipelines for all states for the years 1998 through 2017. These figures do not include natural gas gathering pipelines, processing facilities or distribution pipelines.

Likewise, Figure 3-3 shows the number of incidents, fatalities, injuries, and total cost of natural gas transmission pipelines for the state of Texas for the years 1998 through 2017. Again, these figures do not include natural gas gathering pipelines, processing facilities or distribution pipelines.

PHMSA Pipeline Incidents: (1998-2017)
Incident Type: Significant **System Type:** GAS TRANSMISSION **State:** ALL **Offshore Flag :** ALL

Calendar Year	Number	Fatalities	Injuries	Total Cost Current Year Dollars
1998	51	1	11	\$57,984,906
1999	37	2	8	\$21,556,825
2000	54	15	16	\$22,331,705
2001	50	2	5	\$17,329,631
2002	56	1	4	\$29,913,386
2003	70	1	8	\$54,151,150
2004	63	0	2	\$37,884,483
2005	111	0	5	\$346,405,256
2006	78	3	3	\$40,339,444
2007	75	2	7	\$57,307,978
2008	73	0	5	\$279,430,648
2009	73	0	11	\$58,219,042
2010	79	10	61	\$661,616,245
2011	84	0	1	\$132,014,798
2012	62	0	7	\$57,395,262
2013	71	0	2	\$51,469,824
2014	77	1	1	\$53,013,669
2015	78	6	16	\$57,973,777
2016	56	3	3	\$57,062,217
2017	67	3	3	\$31,968,181
Grand Total	1,365	50	179	\$2,125,368,427

Figure 3-2. Gas Transmission Pipeline Statistics for All States 1998-2017

PHMSA Pipeline Incidents: (1998-2017)
Incident Type: Significant **System Type:** GAS TRANSMISSION **State:** TEXAS **Offshore Flag :** ALL

Calendar Year	Number	Fatalities	Injuries	Total Cost Current Year Dollars
1998	10	1	3	\$2,988,818
1999	9	0	5	\$2,357,072
2000	9	1	1	\$4,737,820
2001	6	0	0	\$1,266,870
2002	6	0	2	\$1,128,554
2003	12	0	1	\$18,661,609
2004	12	0	0	\$2,170,390
2005	12	0	2	\$109,247,673
2006	12	0	0	\$3,184,500
2007	16	0	1	\$4,742,278
2008	8	0	1	\$3,389,729
2009	13	0	3	\$10,353,882
2010	11	1	9	\$3,746,520
2011	8	0	0	\$36,966,915
2012	6	0	0	\$1,684,401
2013	5	0	0	\$9,212,345
2014	12	1	0	\$3,158,607
2015	11	0	0	\$5,221,791
2016	8	2	1	\$20,246,083
2017	8	0	0	\$2,906,819
Grand Total	194	6	29	\$247,372,674

Figure 3-3. Gas Transmission Pipeline Statistics for Texas 1998-2017

These statistics are staggering and even more so if you were to include natural gas gathering pipelines, processing facilities and distribution pipelines. While the vast number of spectacular incidents involving explosions that garner wide media attention are caused by pipeline ruptures due to mechanical failure, poor welds or outside excavators hitting the pipeline, other incidents have been caused by outside ignition sources igniting natural gas releases whether those releases were intentional or unintentional.

The more than 50 year old technology of the proposed Texas Central high speed rail poses a serious and hazardous ignition source for any intentional or unintentional natural gas releases. The train operates on electricity using overhead catenary power lines and train mounted pantographs that slide along the overhead wires to provide power to the electric motors which drive the train. The operating voltage of the catenary system is 25,000 volts.

These trains, travelling over 200 mph, inherently throw sparks as the pantographs slide along the overhead catenary wires. Weather conditions such as rain or freezing weather increase the amount of sparking that occurs. This 25 kV sparking cannot be eliminated.

The only mention of electrical sparking in the DEIS has to do with a simple statement of electrically connecting the two pantographs on each trainset to help reduce sparking for the purposes of limiting nuisance noise. There is no mention of it being a possible ignition source for volatile gases and no mention of, nor any consideration given to, avoiding placing the route of the train away from possible sources of releases of large volumes of natural gas.

In fact, while there are listings of oil and gas pipelines larger than 12 inches in diameter that the train route would either cross or closely parallel, there is absolutely no mention of gas pipeline compressor stations, underground natural gas or natural gas liquids storage facilities, natural gas processing facilities, or any other possible source of releases of large volumes of explosive gases.

Even more disturbing, in Section 9.3.1 of the DEIS where Federal Agency involvement is discussed, it lists the Federal agencies that were invited to participate in the DEIS process. It lists only the following agencies as having been invited:

- U.S. Environmental Protection Agency (EPA)
- U.S. Army Corps of Engineers, Fort Worth and Galveston Districts (USACE)
- U.S. Fish and Wildlife Service (USFWS)
- Federal Aviation Administration (FAA)
- Federal Highway Administration (FHWA)
- Federal Transit Administration (FTA)
- Surface Transportation Board (STB)
- U.S. Department of Homeland Security (DHS)
- U.S. Forest Service (USFS)
- Federal Emergency Management Administration (FEMA)
- U.S. Coast Guard (USCG)
- U.S. Department of Housing and Urban Development (HUD)

There was no invitation extended to PHMSA to participate despite the PHMSA being the Federal agency that regulates oil and gas pipelines, maintains the accident and incident reporting databases, and provides inspections and enforcement over hazardous facilities such as natural gas pipeline compressor stations, underground natural gas or natural gas liquids storage facilities, natural gas processing facilities, and others.

This is a serious fatal flaw in the DEIS. It represents a serious lack of due diligence, reckless disregard for safety, and gross negligence.

The PHMSA, as the regulatory agency responsible for overseeing such dangerous facilities as those mentioned above has all of the data on where such pipelines, compressor stations, underground storage facilities, and processing facilities are located.

Natural gas liquids (NGL) pipelines and storage facilities are equally if not more dangerous than compressor stations. Natural gas liquids are the ethanes, propanes, butanes, and heavier hydrocarbon gases that are removed from natural gas as it comes from the well. Being easily compressible into a liquid, that is their normal state for transport and storage. But, in their gaseous form they are heavier than air, and so if an NGL leak occurs, they quickly vaporize into a gas which stays low to the ground.

On April 7, 1992, a leak at an NGL underground salt dome storage facility near Brenham, TX caused an explosion when someone attempted to start their vehicle. Three people were killed, 21 people were severely injured, almost all of the buildings within a three square mile area were destroyed, and over \$9 million of damage was done. The blast rattled windows more than 130 miles away and seismological recordings at three Texas Universities within 75 miles recorded tremors between 3.5 and 4.0 on the Richter scale. The National Transportation Safety Board (NTSB) final report¹ on the accident revealed some interesting things.

The primary components of the NGL in that accident were propane (33%), ethane (33%) and Butane (14%). There were actually at least three different explosions that happened in quick succession. The NTSB analysis concluded that as the NGLs vaporized, the individual components separated and formed a vapor cloud that flowed over the undulating landscape. The lighter ethane gas formed a cloud over the heavier volatile gases which spread into the lower lying areas. When the vehicle was started, it ignited the heavier gases and the resulting explosion ignited the higher cloud of ethane, which in turn ignited pockets of the heavier gases in other lower lying areas.

This accident is important to study because it not only shows that outside ignition sources can trigger catastrophic explosions of natural gas and their component gases, but that the individual volatile gas components can separate and layer and ignite each other.

¹ NTSB Publication PB93-916502, NTSB/PAR93/01, "Pipeline Accident Report – Highly Volatile Liquids Release from Underground Storage Cavern and Explosion, Mapco Natural Gas Liquids, Inc., Brenham, Texas, April 7, 1992". Report dated November 4, 1993.

Texas Central Rail and the FRA have totally failed to consider any such hazardous facilities in the preparation of the DEIS and the fact that the electrical sparking from the catenary electrical power supply for the train represents an outside ignition source for either intentional or unintentional releases of volatile gas plumes. Again, this is a fatal flaw in the DEIS process.

The failure to include the PHMSA as a partner in the planning of possible routes for this train is made all the worse by the FRA's refusal to coordinate with local governments including Counties, Municipalities, Emergency Service Districts, Sheriff Offices, local sub-regional planning commissions under Chapter 391 of the Texas Government Code, etc.

The chosen HC-4 route through Waller County is within 580 feet of the Atmos Energy natural gas pipeline compressor station off of Binford Road. This is a recipe for disaster as such compressor stations may undergo ESDs at any unknown time, blowing down and releasing large volumes of natural gas, as well as the required ESD demonstrations at least once a year. Such an accident caused by the outside ignition source of the train could have catastrophic consequences, made even worse by the fact that a new public roadway is being proposed between the tracks and the compressor station. This is simply unacceptable.

While the Waller County Sub-Regional Planning Commission did have two coordination meetings with TxDOT officials, the second one of which required a lawsuit by WCSRPC to obtain, the FRA refused all attempts at coordination by WCSRPC. Nonetheless, the issue of the close proximity of the Atmos compressor station to the chosen HC-4 route was brought to the attention of the TxDOT officials at both meetings.

Yet, despite this issue, and others, being raised at those two meetings, none of them are addressed in the DEIS. This is another serious fatal flaw in the DEIS, representing a lack of due diligence, reckless disregard for safety and gross negligence.

Had TCR and the FRA not violated the entire intent of the NEPA process by selecting the HC-4 route through Waller County before announcing that such a route was even being considered, perhaps this situation would not have occurred as it relates to the Waller County Atmos compressor station. However, how many other compressor stations, natural gas processing facilities, underground storage facilities, etc. are in close proximity to this 240 mile long route? No one knows at this point and that is a fatal flaw.

At this point, with the DEIS having been released without any considerations of these issues, and the only alternatives in the Waller County area being the build or no build option, the only conclusion that can be reached is that the NO BUILD option must be chosen in the Final EIS.

4) Historical and Cultural Resource Impacts

The unpublished and, and ultimately chosen route (without any opportunity for public involvement), for this project in this area, namely the HC-4 route, impacts historical and cultural resources that date back to way before the Independence of Texas from Mexico. Long before Texas' Independence from Mexico, European settlers began coming to Texas to settle. Those early settlers, in their excursions to the interior of the state from the Gulf of Mexico, and the excursions of Mexico into the state, utilized long established Indian trails that had been used for eons before that.

Those very early Spanish, Mexican and European settlers carved those Indian trails into early roads for horse and wagons, and eventually major stagecoach routes, which further established the longevity of these early trails throughout the history of Texas all the way up to the invention and use of automobiles, when improved roads were required.

In many cases, the old stagecoach roads were improved into automobile roadways, in others, new routes were found in order to ease the construction of such improved roads or to create more up to date local routes.

Then, as now, the roads provided a magnet for development, be it business or residential.² Stagecoach Inns, post offices, general stores, and small towns developed around the major roads of the time.

One such very historically famous roadway is the Houston Washington Anderson road that ran from Harrisburg before Houston was created, to Washington on the Brazos and to Anderson. This road played a hugely important role in the development of Texas but has largely been lost since the invention and use of the automobile.

Yet, it is shown on old maps dating back to at least 1842 and probably earlier. Portions of the following maps showing this road are located in Appendix A-1:

- a) 1842 Map of Spring Creek County³
- b) 1853 Map of Texas by J. De Cordova⁴
- c) 1858 Map of Grimes County
- d) 1879 Map of Waller County

² Unlike this high speed rail proposal which only stops in one location as it makes its way across the state between Houston and Dallas and provides no economic benefit to the vast majority of the public affected by its development and who would bear the detrimental effects to those counties in between.

³ The northern portion of Waller County has an interesting history. It was originally a portion of Montgomery County organized in 1837, then in 1841 a portion of Montgomery County and Harris County was split off to create Spring Creek County for political reasons, however the Texas Supreme Court ruled that such political "judicial" counties were unconstitutional and so a year later it reverted back to Montgomery County. Then, in 1846, it became part of Grimes County and finally a part Waller County when it was created in 1873 from parts of Grimes and Austin Counties. The roadway is labeled Washington and Houston Road on this map.

⁴ This map shows the entire route of the road all the way down through Harrisburg to the San Jacinto Battleground.

e) 1880 Map of Waller County⁵

In Waller County, the Houston Washington Anderson road crosses Spring Creek from Harris County going north and turning to the northwest as it continues towards Washington on the Brazos. It branches after crossing into current day Grimes County with one branch going to Anderson, which later became the Grimes County seat.

This road evolved into a major stagecoach and mail route but was essentially abandoned when the new improved roads were built to accommodate automobiles. It became long lost to the rest of the State but the landowners who passed the land where the road went through down through generations of their family, the stories of how things were, of buildings, general stores, and small communities⁶ that sprung up around the road, were also passed down, although many of the specifics tended to get lost.

Later generations began to become aware that the history was being lost and local historians and historical societies began to write down the stories being told by the old-timers. Compilations of such stories were published by local historical societies and that prompted those interested to begin to do historical research to fill in the gaps of locations and time periods. People, even from out of state, doing family genealogical research also provided much new information on local history.

The bottom line is that the exact location and importance of the Houston Washington road through the area of Waller County, where the HC-4 route was chosen, is only now being nailed down through courthouse research of titles, deeds and land grants and now that the road's location is known, the opportunity for archeological research to pinpoint the exact locations of historical importance along it is being jeopardized by this HC-4 route which severely impacts a large portion of this road through Waller County.

Figure 4-1 is a map that I have been working on to document the location of the Houston Washington road through this area for a period of several years and which I have revised to reflect further information that I have recently received.

⁵ This map, a year after the previous one attempts to reconcile the discrepancies in previous maps between the alignments and extents of individual land surveys along the border between Waller and Harris Counties. It should be noted that among all these maps, those land surveys along the border vary quite a bit.

⁶ Two such communities that existed in the area of the HC-4 routed were the towns of Joseph and Harvester.

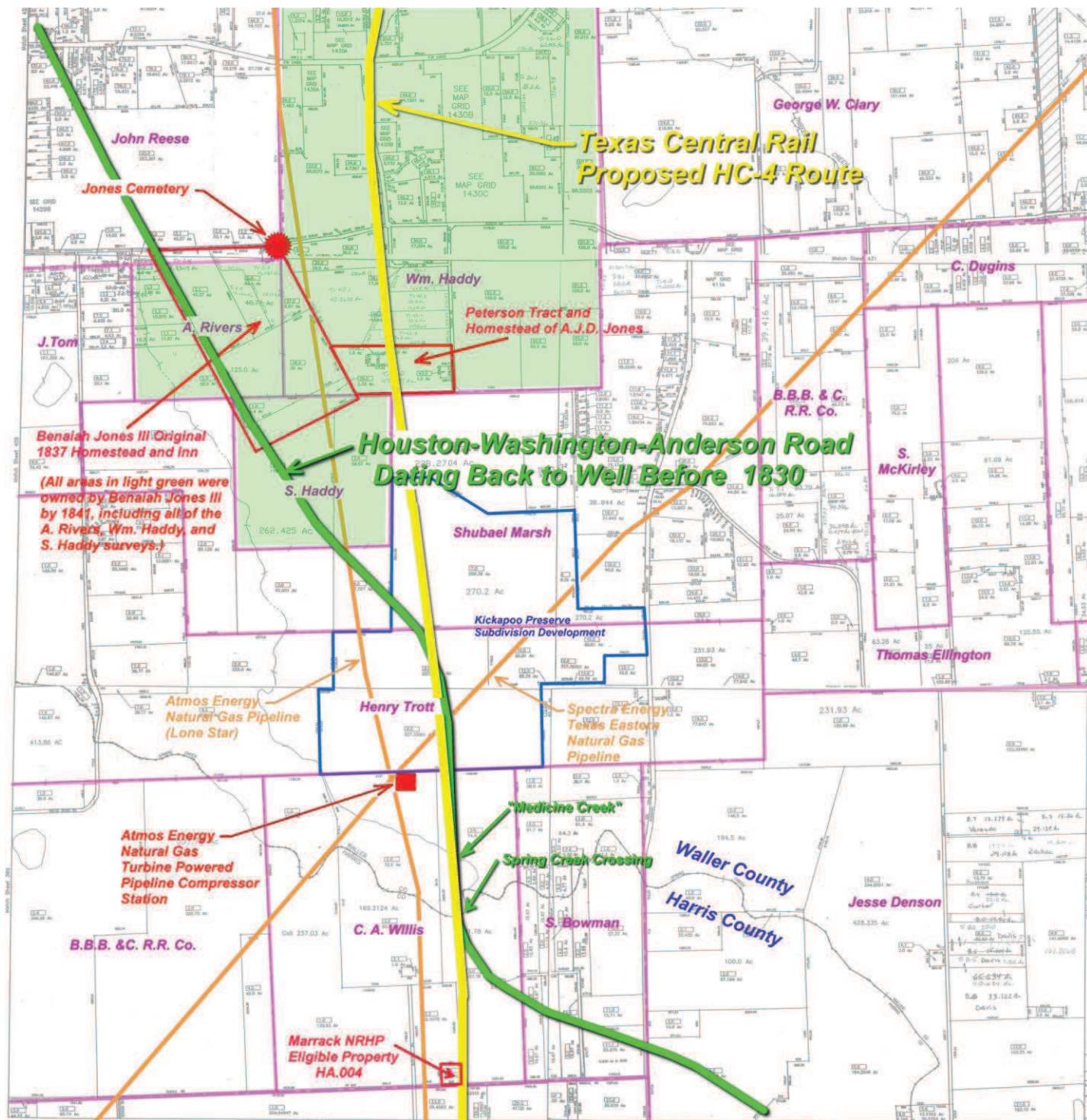


Figure 4-1. Map of Area of HC-4 Route near Harris/Waller County Border
(Lines in light purple delineate Original Texas Land Surveys)

I have lived in this area for 22 years and had long been aware of many of the stories in the local Waller County Historical Society publications of a man by the name of Benaiah Jones III, often referred to as “Yankee Jones”. He was born in 1795 in Massachusetts and was a pioneer who travelled and helped to settle areas of Michigan and Ohio before travelling to Texas when news of the day anticipated that Texas would win their independence from Mexico. The stories told of an Inn that he ran along a stagecoach road in what is now Waller County, but little more was known of him other than a cemetery on Joseph Road where he and many of his family were buried.

After development of the Kickapoo Preserve Subdivision began in 2008, large numbers of feral hogs were displaced and began damaging large areas of surrounding properties. While hunting for feral hogs on a friend’s property which spans Spring Creek to the south of the subdivision development I became aware of a location on the creek that appeared to be a very well-worn crossing with sloping ramps on both sides. Spring Creek in that area is very deep and has very steep banks, and this crossing is the only place on the property where you can get from one side to the other. In remembering the stories of the Benaiah Jones Inn, I began to wonder whether this could be a stagecoach crossing leading to the Inn.

I began researching old maps that might show stagecoach roads and eventually came up with the examples shown in Appendix A-1. That is when I began working on the map in Figure 4-1 as a way to correlate the old maps with current maps and roadways. The base map that I used was a Waller County Appraisal District map from the mid 1980’s which showed boundaries of the original land surveys, roads and individual tracts. Using the original land surveys from the old maps, I transferred the stagecoach road location to my base map, however, in the area of the border between Waller and Harris Counties (Spring Creek), this was made difficult because of the discrepancies of the locations of those original land surveys between each of the historical maps and none of those maps accurately portrayed the actual route of Spring Creek itself.

Most of the maps portrayed the stagecoach road crossing Spring Creek near the boundary between the C.A. Willis and S. Bowman surveys, but the locations of those surveys don’t match their locations on the current maps, with the current maps showing a west to east offset in location that roughly equals the offset in the boundary line between the western boundary of Harris County with the eastern boundary of Waller County as shown in the 1880 map shown in Appendix A-1(e). This west to east offset would place the stagecoach road crossing well within the C.A. Willis survey and near the exact location of the crossing on my friend’s property that we had noted while hunting feral hogs.

An older local resident, Versia Halcrow, whose great, great grandfather was Silas Bowman, a land surveyor who was paid in land now known as the Silas Bowman survey⁷ for his services, has many great stories of the area. Around 1895, her grandfather bought additional land in the area. Ms. Halcrow, who was born around 1931 and raised on that property has shared many stories told to her by her great grandmother about the old road where peaceful Indians travelling along it would see her home and approach asking only for water. Ms.

⁷ This is just to the east of the C.A. Willis survey along Spring Creek and adjoining Kickapoo Road’s west side.

Halcrow also relayed the following story. A medicine man/snake oil salesman was being chased in his wagon by people whom he had swindled and he crashed the wagon with all of his wares at a small creek that the road crossed. She was told this story by her family elders because she used to collect small bottles that she found along Spring Creek that had floated downstream from the crash site. She said that everyone in the area called the smaller creek “Medicine Creek” because of the story of that incident.

While there are a number of tributaries to Spring Creek in the area, once my friend and I realized that the crossing we found on his family’s property was likely the old stagecoach road, we did some preliminary metal detecting in the area. Heading north across Spring Creek, a short distance away is another crossing of a smaller tributary to Spring Creek. In this area we found many unidentifiable pieces of iron, old bullet casings, bullets, other artifacts, and many pieces of small glass bottles there. So, while this tributary is un-named on any charts that we can find, we feel confident that we found the “Medicine Creek” of Ms. Halcrow’s childhood stories.

Further evidence of the Houston Washington road through this area is found in an archeological report⁸ that was done in 2010 as part of an application for a Section 404 permit from the U.S. Corps of Engineers for the Kickapoo Preserve Subdivision development directly to the north.

The archeological survey consisted of 280 shovel tests and 11 backhoe trenches over the 500 acre property and lasted 33 days in late 2009. A total of 239 artifacts were found and four archeological sites were identified, 41WL30 through 41WL33.

All four of the sites contained prehistoric artifacts including arrowheads and pieces of arrowhead points. Two of the sites contained both prehistoric and historic artifacts. The historic artifacts dated back to the mid to late 1880’s, including many square nails and pieces of fired brick. One of the historic sites had evidence of the presence of a buried historic feature near the site center, thought to possibly be a hand dug well or cistern. In several places in the report mention is made of old abandoned dirt roads that were apparent in some areas but faded out in others.

The recommendations for both of the historic sites contained these comments, “*this site exhibits the potential for future research, and thus may be eligible for inclusion on the National Register of Historic Places. Consequently, we recommend that further investigations be conducted at the site in order to determine its significance and potential eligibility for the National Register of Historic Places.*” It is unclear to me whether any further archeological investigations were ever done but the development of the tract continued and still continues today.

This report provides further evidence of the early settlement along and near the Houston Washington road, and would indicate that many such sites probably exist along its path

⁸ Driver, David 2010 “*A Cultural Resource Survey of a 500 Acre Tract on Kickapoo Road, Waller County, Texas*” Report of Investigations Number 567, Moore Archeological Consulting, Inc., Houston, Texas.

through the area.

Much information on the life of Benaiah Jones, and his history in this area, is contained in the book “Benaiah Jones III, American Frontiersman”, written by Robert M. Powers, Jr., Second Edition, 2003.⁹ This book was originally published in 1980 and is as comprehensive a history as I’ve been able to find on a fascinating historical character with an amazing story.

Benaiah Jones began his travels to Texas in 1834 upon hearing of the likely independence of that territory from Mexico. He arrived in Texas in 1837 shortly after the battle of San Jacinto, the formation of the Republic of Texas and the organization of the area into Montgomery County by the Congress of the Republic of Texas. Looking for land to settle, he found it in this area along the stagecoach road and purchased a land grant of one labor (177 acres) from Antonio Rivers in 1837. Within three years he had also acquired the Samuel Haddy labor, and the 1/3 league of Wm. Haddy, giving him at a minimum 1,830 acres by the end of 1841.

Here he built his farming and ranching homestead and built an Inn to service the stagecoach road. He travelled to Texas with his eldest son, Croesus Benaiah Jones (first of eight children from his first marriage in Ohio), and was later joined by several others. Here in Texas, he married again and had six children from his second wife.

The exact location of his stagecoach Inn is not currently known, however it seems likely that it would be located in either the Antonio Rivers survey or the Samuel Haddy survey, but, it is known that Benaiah also owned other lands in the area, the extent of which have yet to be fully documented. Most of the Wm. Haddy 1/3 league was either sold to several of his Ohio sons from his first wife who came to Texas or inherited by his Texas children from his second wife after his death in 1861.

Recently, new information on Benaiah Jones III has arisen which provides even more information on the exact location of the Houston Washington road in the area to the north of the Kickapoo Preserve Subdivision development. A descendent of Benaiah who lives in the nearby area by the name of Michael Lee, who is currently running for Justice of the Peace of Precinct Two of Waller County, has provided me with images of documents that he has researched dating back to 1837 concerning the procurement of the A. Rivers survey and which includes the field notes of a survey performed of that labor of land dated March 31, 1838.¹⁰

These field notes of the 1838 survey specifically reference and call out the location of what

⁹ Robert M. (Monty) Powers is a great, great grandson of Benaiah Jones who lives in Jonesville, Michigan, a town founded and developed by Benaiah Jones after leaving his birthplace in Massachusetts and before he travelled to Texas. The book was published by Don Coe, another of Benaiah’s great, great grandsons from Benaiah’s Texas family. I have spoken with both on the phone, although Monty is now very old.

¹⁰ These documents are contained in Appendix A-2. They are scans of the actual original documents. The original one labor land grant was bought from A. Rivers on September 18, 1837, surveyed on March 31, 1838, and patented in what was Montgomery County at that time, on August 18, 1848. A signed Power of Attorney is also included memorializing Benaiah Jones’ ownership of the Samuel Haddy and William Haddy surveys as well. Other documents show that Jones’s acquisition of the two Haddy surveys occurred in 1841.

the surveyor called the Houston road as being 270 varas¹¹ west of the southwest corner of the Wm. Haddy survey, along the southern boundary of the A. Rivers survey, and 100 varas east from the northwest corner of the A. Rivers survey along its northern boundary. This matches the historical maps perfectly and there is no discrepancies between those maps on the boundaries or location of the A. Rivers or Wm. Haddy surveys.

This leaves no doubt as to the exact location of the Houston Washington road through the A. Rivers survey, and that Benaiah Jones acquired that land by 1838. Once the location of the Houston Washington Anderson road was pinpointed, there is also no doubt that the HC-4 route chosen for the HSR project directly impacts at least a mile of this historic stagecoach road, including the exact crossing at Spring Creek, and a much greater area of the early development associated with it that has tremendous local and State historical value.

This area is ripe with history and archeological sites from the mid to late 1880's that are in jeopardy of being lost, along with their history, by this HC-4 route. A prime example is what I have labeled as the Peterson Tract to the north of the Kickapoo Preserve Subdivision. This tract is owned by the children of Olen and Mavis Peterson. The children are now older but their parents acquired the land back in the 1930's, unfortunately they are no longer living. When Olen Peterson was a child his family moved to Waller County and he became schoolyard and lifelong friends with Alton McWilliams.

Alton McWilliams was a great grandson of Benaiah Jones, his mother being Mattie Edna Jones McWilliams, who was a daughter of Benaiah's son Andrew Jackson Davis Jones (born in 1851). The Peterson tract was owned by Andrew Jackson Davis Jones (AJD Jones) which was his homestead on property next to his father Benaiah's property. AJD Jones owned a block of 134 acres and his daughter, Mattie Edna Jones McWilliams lived in a house near the northern boundary of that 134 acres directly in the path of HC-4, as is the current smaller Peterson tract. Olen Peterson built a house near the eastern boundary of the current Peterson tract where he and his wife Mavis lived for the remainder of their lives. Their children built houses on this tract as well which are also in the path of HC-4.

Mavis Peterson, Olen's wife, was a member of the Waller County Historical Society and because of her and her husband's friendship with Alton McWilliams, knew much of the history of Benaiah Jones. She wrote many articles that appeared in WCHS publications concerning Benaiah and the general history of the area.

It is unknown where the exact location of AJD Jones' house was, but it is thought to be near the vicinity of the Peterson children's homes. They have unearthed entire horse drawn plows on the tract and, and while overgrown now, they remember remnants of an old dirt road towards the western side of the property. That road would have likely been the road between AJD's home and his father Benaiah's.

¹¹ A vara is a Spanish measurement of distance, one yard is equal to 1.08 Spanish varas. Spanish measurements were the accepted units of land distance measurements back then, just as a labor of land is equal to 177.04 acres and one league (or sitio) is equal to 4,428.4 acres.



Figure 4-2. 1940 Aerial Photo of Peterson Tract

The earliest aerial photographs available, courtesy of the Waller County Historical Society, are from 1940. Figure 4-2 is a 1940 aerial photo of the area of the Peterson tract. Shown are the larger original AJD Jones 134 acre property, the current Peterson tract, and the homes of Olen Peterson and Mattie Edna Jones McWilliams.

The Petersons sold the northern portion of the 134 acre tract and it has been developed into smaller rural farm/residential tracts. Mattie Edna Jones McWilliams house is no longer there but the AJD Jones home, if its location is found, would no doubt reveal interesting evidence of life in the last quarter of the 1800's and add to the history of the area.

Further to the north in the Wm. Haddy survey, not entirely shown on my map, is 406 acres that Benaiah Jones sold to his first son from his first marriage in Ohio, Croesus B. Jones. Croesus was born in 1820 and accompanied his father in his travels to Texas. Benaiah sold this 406 acres in the northwest corner of the Wm. Haddy survey to Croesus on February 22, 1851 and it is likely that if Croesus had not already built a house for himself there, that he did so soon after purchasing it. Research has not yet been done on the exact location of that, (which would be several decades older than the AJD Jones site), but as the HC-4 route goes through that area, it is very possible that it would impact that site as well.

Benaiah Jones and his family represent one of the earliest European families to settle in and develop this immediate area. So much research and history has already been written about him yet there is much more to learn. Because of his unique and very interesting story, it has great historical fascination and great opportunity to be utilized for economic advantage for the area.

The amount of impact to these historical sites, as well as a more than mile long section of the Houston Washington Anderson road itself, simply cannot be mitigated.

Yet, just south of the Houston Washington road and the Benaiah Jones area, is another historical building which is actually recognized in the DEIS as being eligible for the National Register of Historic Places. This is the resource designated as HA.004 at 29702 Castle Road and it is shown on my map as well. This old residential structure was built around 1911, is well preserved and taken care of, and represents a unique style of architecture of the period. This would be totally destroyed as well by the HC-4 route.

Adding to the importance of the Houston Washington Anderson road is the fact that this road was, at least in part and in this area, used by General Sam Houston and his army on his trek from the Bernardo Plantation and Donoho's Place across what is now Waller County on his way to the Battle of San Jacinto.

While the exact path that Sam Houston and his army took from Donoho's to the McCarley survey where they camped for the night is unknown, it is thought by many that he used a road referred to as the Groce-Rankin road which is said to have run along Spring Creek to the west of the crossing of the Houston Washington road of Spring Creek. The Groce-Rankin road is not shown on any of the historical maps that I can find, but if this is true he would have joined with the Houston Washington road where it crossed to the south side of Spring Creek and continued the short distance to McCarley's where they camped. There is no doubt that the campsite was on the Houston Washington road. The following day they headed further east along the Houston Washington road south of Spring Creek some three miles to the Abraham Roberts survey where the famous "fork in the road" is located.

In the days prior to this, the Republic of Texas Ad Interim Government fled Washington on the Brazos and no doubt used the Houston Washington road on their way to Harrisburg, including the portion that will be obliterated by the HC-4 route.

The historical maps and other historical documentation on the Houston Washington road included in these comments, is irrefutable. Yet, the manner in which the FRA has conducted the NEPA EIS process in selecting the HC-4 route has deprived the public from being able to provide useful comments and information on these important historical and cultural resources until now. The historical significance and value of these resources is substantial and would be lost and this should not be allowed. Since the only options available in this area is either the build or no build options, the NO BUILD option is the only viable and reasonable choice.

5) County road closures, crossings and lack of consideration for Waller County Major Thoroughfare Plan.

After studying the list of roads between US 290 going north along the planned route to the Waller County Grimes County border, and looking closely at how each road would be affected, there is no doubt that the construction of the high speed rail through this area will have severely detrimental impacts to the landowners and residents in the area.

I will attempt to discuss some of the issues but given the time constraints to reply by the March 9 deadline for comments, I cannot cover them all.

I will start with Castle Road. Castle Rd is a two lane county road running east and west and the proposed route will cross it at station HN1 1882+30. At this location it is proposed that the cut will be required and that Castle Rd would be reconstructed as an overpass over the railway. This is the location where the historical property listed as HA.004, listed as being eligible for inclusion in the National Register of Historical Places in the DEIS, and owned by Paul and Kathy Marrack would be destroyed.

Directly to the east and adjacent to the Marrack property is a large tract of approximately 182 acres that spans Spring Creek with 108 acres to the south of the creek and 74 acres to the north of the creek. I will refer to this as the ASR Tract and it is the same tract which I mentioned in section 4 concerning historical resources where my friend and I were hunting feral pigs and where the historical Houston Washington Anderson stagecoach road crosses Spring Creek. The only access to this property is a gate on Castle Rd directly adjacent to the Marrack property.

According to the drawings in the DEIS, the ramps of the Castle Rd overpass would extend to the east of the railway almost all the way to the eastern boundary of the ASR tract, making access through the current gate impossible. A new access to the property would have to be constructed on lower wetter ground at the base of the ramp at the southeast corner of the property. Furthermore, the existing private roadway from the existing entrance north through the property, including large portions of the historic stagecoach road and creek crossing would be destroyed by the railway leaving no roadways on the property.

The railway through here has a proposed new public road on its west side but that provides no access to the ASR tract because in the areas where it is proposed to be viaduct, the clearance underneath it is not great enough for equipment, trailers and tractors to pass underneath. This leaves the entire 74 acres to the north of Spring Creek totally un-accessible and landlocked, making it not only worthless, but a major financial tax burden. The only access to that 74 acres is the old historic stagecoach road creek crossing which the railway goes right over the top of. There is no other private road on the property and no other location where the creek can be crossed. This private road is not even mentioned in the DEIS. This is unacceptable and another indication of sloppy work and a lack of due diligence.

Further to the north, in the area of Joseph and Hegar Roads and FM 1488, another

unacceptable situation exists. Joseph Rd, just west of where it crosses Hegar Rd will be closed. This is at station HN1 2042+65. Joseph runs east and west, is a county road, and runs for a distance of approximately 8.1 miles. It is a major alternative route to the heavily travelled FM 1488. The DEIS lists this as a reroute instead of a closure, however a closer look reveals that this is not a reroute but rather a major detour that makes no sense.

In order to traverse the approximately 300 feet of Joseph Rd that the railway right of way would take, a detour going north to FM 1488 along Hegar Rd, where a U-turn would have to be made under the railway, and then back south to Joseph would need to be made, a total distance of 1.2 miles. Traffic attempting to make the U-turn at FM 1488 would cause serious problems to the flow of traffic on FM 1488 itself. This would add many, many minutes and would have a major impact on emergency response times in the area and create a nightmare for residents and local businesses. Parts of Hegar Rd itself would be closed and even more land would have to be taken to accommodate the new roads on either side of the railway.

This is an exceptionally poor design and results from the simplistic and incredibly hasty manner in which the HC-4 route was just a line drawn on a map and then chosen as THE route without any notification of the public or governmental entities and emergency responders and no proper evaluation of impacts as required under the NEPA process. And, then, trying to deal with the consequences of that action as the details of the design goes forward. This literally is no way to run a railroad and FRA should be ashamed of allowing TCR, a group of investors with no railroad experience, much less high speed rail experience, to have proceeded as they have.

Further to the north, a private road at station HN1 2152+75 is listed in the DEIS table of roads as being rerouted. However, upon inspection of the actual drawings, this is a complete closure as the railway is on an embankment there and there are no reroutes or new private roads proposed. This totally isolates and land locks a large portion of the property that the railway crosses. This is yet another example of numerous errors and conflicts between what the narrative of the DEIS says and the actual design, as shown on the drawings. Yet another is Foxwood Drive at HN1 2304+80, which in the narrative table of roads is listed as a reroute, but is in fact a closure.

And then there is Riley Road, an extremely complex location where Riley Rd would have to be elevated over the Railway. Such an overpass at this location would be almost impossible to adequately design for a number of different reasons and from the plans in the DEIS, it doesn't appear as if they have dealt with all of the issues. Certainly, the limits of disturbance as they are shown are totally inadequate. It appears as if they are working with very outdated aerial photographs throughout the DEIS and a lot of development has occurred in many areas that are not taken into account. That is certainly the case here.

First, the overpass would have to have adequate distance on either side of the railway for ramps, but it is complicated due to the three nearby intersections of Riley Rd with Saddle Creek Forest Parkway, Lazy Ridge Rd and Plantation Dr., all of which are in very close proximity to where the railway would cross Riley Rd. Second, there are numerous private

driveways in between these intersections to private properties that have not been accounted for in the design. Third, this is the area where the railway will be passing underneath several high voltage transmission lines and just recently this past year a new one was added alongside the previously existing ones creating a much wider right of way for the railway to traverse under. And fourth, G&W Water Supply just recently completed a large new public water supply well and large elevated water tower within the area of the limits of disturbance which cannot be adequately dealt with other than abandonment.

It is unclear how all of this would be dealt with, but it is yet another example of shoddily and hastily drawing a line on a map and then trying to deal with it in the design phase instead of doing a proper analysis of the impacts as required by the NEPA process.

The lack of doing a proper NEPA analysis on the alignment alternatives, once the corridors were considered, and retaining other corridor alternatives and performing alternative alignment analysis on those as well, is inexcusable.

The effects on emergency response times for fire, police and medical emergency vehicles as well as the effects on school bus routes will no doubt be raised by many other people. But, the lack of coordination with the public and local governmental entities and regional planning authorities, despite the pleading of such local governmental entities to the point of needing to file lawsuits to attempt to be able to coordinate, has caused real harm, not only because of the cost involved, but because of the design that results from such lack of coordination which in no way minimizes any detrimental impacts (the whole intent of the NEPA EIS process). Despite all of the attempts at coordination, not a single change has been made in the route through the Waller County area and none of the issues raised were even addressed in the DEIS.

The costs to the counties of this method of proceeding is tremendous. As with most counties I'm sure, considerable resources and time has been spent in future planning on a whole host of issues, including future road expansion. Waller County has spent considerable time and money in developing a Major Thoroughfare Development Plan and the lack of coordination in taking into account the future expansion of roadways and growth in the counties in designing such a railway is inexcusable and exceedingly costly to the counties.

The Waller County Major Thoroughfare Development Plan can be accessed at the following link under the "Maps" tab. <http://www.co.waller.tx.us/page/County.Engineer> At least four major thoroughfares in the plan will be blocked from future construction due to this railway. Major thoroughfares that will be badly needed for future growth of the county.

It should be obvious that coordination with local governmental entities is a necessity in designing such a high speed rail proposal and it is required by NEPA. Yet, the manner in which this process has been allowed to proceed has done nothing to minimize impacts.

For all of these reasons, the FRA must conclude that the NO BUILD option should be chosen in the Final EIS.

6) Financial Viability

It is of the utmost importance that a project of this magnitude, which will displace so many Texans from their homes and properties and have severe detrimental impacts to those larger tracts that it may bisect, and have further detrimental effects on property values and nuisance noise and vibration to those adjacent properties or those unfortunate enough to only have part of their land taken, that it be self-sustaining financially and not create a burden on all taxpayers.

It is inconceivable that this project can even come close to being profitable or breaking even. There have been many high speed rail projects built around the world and the history of such projects is that they can't pay for themselves except in very certain special exceptions. Of all of the high speed rail projects that have been completed only two are profitable and one comes close to breaking even, as spelled out in report put out in February of 2017 by the Reason Foundation titled "High Speed Rail in Texas – Caution Ahead".

The full detailed report can be accessed at the link labeled "[here](#)" at this link:

https://reason.org/issue_brief/texas-high-speed-rail-requires-caution

The analysis in this report is well sourced and is actually written by a supporter of high speed rail in the U.S. but believes that this project in Texas by TCR will fail so spectacularly that high speed rail may never be given another chance in the U.S. in the northeast where it actually might have a better chance of success in the future.

In fact it is hard to believe that TCR is continuing to pursue this project, assuming they have honest intentions, considering the abysmal record of the high speed rail project that has started construction in California. But then, TCR has not been able to develop a reputation for honesty here in Texas.

Their actions simply do not match their words, intimidating landowners into signing option to buy agreements, threatening to sue landowners if they refuse to allow access to their property to conduct surveys, actually suing landowners claiming their right to eminent domain authority, then having to non-suit dozens of lawsuits when the courts refused to recognize that they have eminent domain authority when the first lawsuits came to trial.

Financial viability boils down to population density, need, demand, construction and operational costs, ridership, and ticket price. The Reason Foundation report is the most well-known of the outside analysis that have been done, but not even TCR can point to an outside report that indicates that the project will do anything other than be a total financial failure.

Yet at the same time, TCR, as a private corporation hides their own financial viability and ridership studies from the public under the guise of proprietary information which if released, would offer "competitors" an unfair advantage. This is nonsense. The DEIS states that TCR has reported that they expect between 5.0 and 7.2 million one way riders per year. The Reason Foundation report estimates an average of 1.4 million and their reasoning for coming

up with this number appears to be much more realistic based on existing high speed rail systems in operation.

I'm not going to go through all of the points raised in the Reason Foundation report other than to address ticket price. The estimations concerning construction costs, operational costs, and ridership studies are all based on existing high speed rail projects that have been completed in other countries. However, the Reason Foundation report used TCR's early modelling of ticket prices to be 80% of average airline tickets and came up with an average cost of a one way ticket to be \$89.

In the DEIS however, while TCR claims to not have set any ticket prices, they use as an argument on how much tax revenue the project may provide, statements that ticket prices would be the same as average airline ticket prices (not 80%) and came up with an average one way price of \$199. So, I will use that.

The Reason Foundation report analysis came to the conclusion that the TCR HSR project would lose more than 537 million dollars a year and lose over a 40 year time period a total of 21.5 Billion dollars.

Figure 6-1 is the table from that report that gives a summary of the cost and revenue, updated by changing only the ticket price from \$89 to \$199. The \$199 ticket price numbers are reflected in red. Even when well more than doubling the ticket price, the losses are still staggering.

Table 19: Summary of Cost and Revenue (with 5% simple interest)		
	Total	Yearly
Capital Cost	\$17.8B	\$445M
Interest Rate (Simple 5%)	\$0.9B	\$22M
Total Capital Cost	\$18.7B	\$467M
Operations and Maintenance Costs	\$8.8B	\$220M
Total Costs	\$27.5B	\$687M
(\$199 Ticket Price vs. \$89)		
Ticket Revenue	\$5B \$11.2B	\$124.73M \$278.6M
Value Capture	\$1B	\$25M
Total Revenue	\$6B \$12.2B	\$149.73M \$303.6M
Project Gap	-\$21.5B -\$15.3B	-\$537.27M -\$383.4M

Figure 6-1. Reason Report numbers with updated ticket price of \$199 (in red) vs. \$89.

Very early on when TCR first started touting this project, both stations were supposed to be in the downtown areas of Houston and Dallas, and the justification for the project was that the main ridership would be business people operating in the downtown areas travelling back and forth on business. The convenience of travelling several city blocks to the train station for a 90 minute ride to the other city was the main appeal.

However, it proved to be too costly to run the train to the downtown area and hence the whole business model of operation has morphed. In Houston, Hobby Airport would actually be closer and easier to get to from downtown Houston than TCR's train station at the three options in the DEIS. Suddenly, the trip to the train station was no longer a much shorter more convenient trip than the trip to the airport. You'd still be facing the same traffic problems and the actual travel time on the train would still be longer by 45 minutes to an hour. And, now the cheaper cost that was promised has now morphed into being about the same at best.

What none of these reports take into consideration is that the overall need for business travel is declining because of so many new means of higher tech communications. The growth of video conferencing over the internet is constantly growing with new technology and ease of use and is gaining much wider spread acceptance. Services like cloud based data storage and Dropbox offer ways to collaborate on one active document by many at once from long distances.

Rather, the reason for travel will more and more be driven by the need for personal contact and interaction, and is shifting towards maintaining relationships with family and friends and away from business needs, and for those travelers, travel by their own personal vehicle will likely never transition to the high cost and very minor time savings provided by the high speed rail once you consider travel to the train station, going through security which will likely need to be close to as intensive as air travel, and then the cost of renting vehicles at the destination to get around. The cost/benefit ratio will always be on the side of automotive travel.

This is 50 year old technology trying to be imported into the U.S. by Japanese interests to bolster the Japanese economy and is being promoted by opportunists trying to get rich off of Japanese investments, and who will be long gone with their profits when this whole thing collapses leaving either a horrible scar on the lives of so many, as well as a permanent scar on a great portion of the Texas landscape, or, leaving taxpayers to forever subsidize the financially failed project on the faulty reasoning of "it's too big to fail".

There are too many promising new technologies on the horizon to carelessly let this project continue to ruin so many lives of honest hardworking Texas landowners.

The NO BUILD option simply must go forward as the choice in the Final EIS.

7) Conclusion: No Build Alternative is the Only Viable Option.

Texas Central Railroad was started in 2009 and has been pursuing this dream of a high speed rail system between Dallas and Houston since then. Now, in March of 2018 we find ourselves in a situation where a Draft Environmental Impact Statement has been released, a final route of the train has been selected and yet you simply have to ask yourself several major questions.

First and foremost, is it acceptable to run a high speed electric train which uses an overhead catenary system operating at 25,000 volts, with constant electrical sparking to supply power to the train, in close proximity to dangerous natural gas and natural gas liquids facilities that may, and often do, release large volumes and clouds of extremely volatile gases at any time?

I think that the vast majority of people who know anything about natural gas pipeline compressor stations, natural gas fractionation, processing, and other such facilities would laugh at the question and probably compare it to playing Russian roulette. Running the train within a tenth of a mile of such a facility is foolhardy and dangerous and to not even have considered such matters after nine years of planning is a serious fatal flaw in the whole Environmental Impact Statement process.

Second, is it acceptable to preselect a route and then use the NEPA EIS process to justify that route? It is clear from looking at the DEIS that that is exactly what happened, at least in the case of the HC-4 route through the Waller County and northeast Harris County areas.

It is not at all clear why any alternative alignments in what was called the “Hockley Geographic Group” in the alignment alternatives report, were needed other than the fact that the original route, HC-Base, ran through a very wealthy area and private country club and the number of comments during the scoping period revealed that there was considerable money willing to be spent to fight the train.

So, sometime between the close of the scoping period on January 9, 2015 and sometime in June of 2015, four other alignments through the area were hastily drawn up, and the HC-4 route chosen, without any notification to the public or opportunity for any outside involvement. And, it is clear that this occurred during a five and a half month period before the corridor alternatives report and announcement of the choosing of the Utility corridor as the preferred route was even announced on August 10, 2015. None of the four new alternatives through the area were even publicly made known until November 6, 2015, approximately five months after the alternative alignment screening ended in July, 2015.

There was no proper NEPA process followed for the selection of the alignment alternatives and it is readily apparent that the various alignment alternatives were simply lines drawn on a map and one selected without any investigation into the true impacts that each alternative alignment would actually have.

Meanwhile, the FRA was refusing pleas from local governmental entities seeking to provide

input in the process and directing state agencies to violate state law with regards to coordination.

The whole NEPA EIS process that has been followed in this case is improper and fatally flawed. Yet, here we are at the end of the very short public comment period on the DEIS, with the remainder of the process left to be a Final EIS report evaluating the build alternatives in the DEIS and recommending a final decision.

It is imperative and incumbent upon the FRA to evaluate all public comments and address them fully in the Final EIS. So far, the FRA has refused any coordination with local governmental entities and authorities and now is well past the time when such coordination should begin.

The only possible alternative that the FRA can choose at this point is the NO BUILD option.