

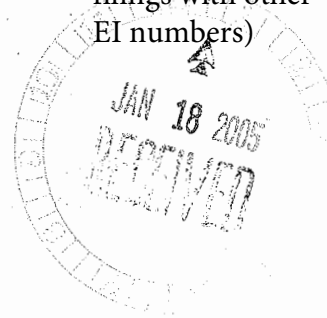


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

JAN 10 2005

EI-2859
(includes prior
filings with other
EI numbers)



EI-1313

Ms. Rini Ghosh
Project Manager
Surface Transportation Board (STB)
Case Control Unit
Washington, DC 20423

STB Docket No. FD 34284

Dear Ms. Ghosh:

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement (DEIS) for the proposed Southwest Gulf Railroad Company rail line construction in Medina County, Texas. The proposed rail line would extend seven miles from a loading track at the Vulcan Construction Company limestone quarry to the Del Rio Subdivision of the Union Pacific Railroad Company, near Dunlay, Texas.

EPA rates the DEIS as "EC-2," i.e., EPA has "**Environmental Concerns and Requests Additional Information in the Final EIS (FEIS).**" EPA has identified environmental concerns and informational needs to be included in the FEIS to complement and to more fully insure compliance with the requirements of NEPA and the CEQ regulations. Areas requiring additional information or clarification include: Spill Prevention, Containment and Countermeasures (SPCC) plan development, air quality, and the incorporation of recommendations to minimize rail line construction aquatic impacts at stream crossings.

Our classification will be published in the Federal Register according to our responsibility under Section 309 of the Clean Air Act, to inform the public of our views on proposed Federal actions. Detailed comments are enclosed with this letter which more clearly identify our concerns and the informational needs requested for incorporation into the FEIS. If you have any questions, please contact Mike Jansky of my staff at 214-665-7451 or by e-mail at jansky.michael@epa.gov for assistance.

EPA appreciates the opportunity to review the DEIS. Please send our office five copies of the FEIS when it is sent to the Office of Federal Activities, EPA (Mail Code 2252A), Ariel Rios Building, 1200 Pennsylvania Ave, N.W., Washington, D.C. 20460.

Sincerely yours,

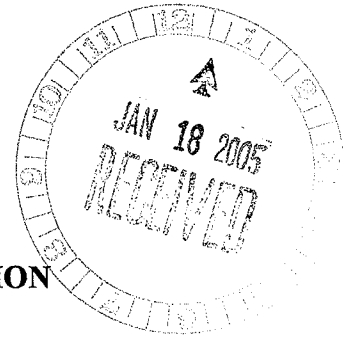
Bonnie Braganza, Acting Chief
Office of Planning and
Coordination (6EN-XP)

Enclosure

Internet Address (URL) • <http://www.epa.gov>

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**DETAILED COMMENTS
ON THE
SURFACE TRANSPORTATION BOARD
SOUTHWEST GULF RAILROAD COMPANY
PROPOSED RAIL LINE CONSTRUCTION AND OPERATION
IN MEDINA COUNTY, TEXAS
DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)**



Background

The Surface Transportation Board's Section of Environmental Analysis (SEA) has prepared a DEIS for the Southwest Gulf Railroad Company's proposed rail line in Medina County, Texas. The proposed seven mile long rail line would connect a proposed Vulcan Construction Materials limestone quarry and the Del Rio subdivision of the Union Pacific Railroad Company, near Dunlay, Texas. SEA prepared this DEIS pursuant to the provisions of the National Environmental Policy Act (NEPA) and related environmental regulations. The DEIS discusses the potential environmental impacts that may result from the construction and operation of the proposed rail line and includes SEA's preliminary recommendations for mitigating possible environmental effects.

The following comments are now offered for consideration in the development of the FEIS.

Edwards Recharge Zone:

The rail line project is located, in part, on the Edwards aquifer recharge zone. After reviewing the documents, EPA offers the following comments to strengthen the Final Statement:

1. The boundary between the Edwards aquifer recharge zone and the transition zone should be shown on the detailed maps as well as the small-scale maps, and in particular should be included on Figure 4.17-1. Please incorporate into the Final EIS.
2. EPA concurs with the SEA recommendation (p. 4-32) of a condition requiring development of and compliance with a Spill Prevention, Containment and Countermeasures (SPCC) Plan. The Plan should be site-specific and should include a map showing recharge features in the Edwards aquifer recharge zone in the vicinity of the rail line, and indicate measures to protect ground water from contamination through those features. Please incorporate into the Final EIS.
3. The document should contain more information on the fueling and maintenance areas which will be located outside the recharge zone (e.g. storage and management of fuel, thickness of confining layer there, and safeguards against drainage of spills onto the recharge zone). Please discuss in the Final EIS.

Mitigation of Wetland and Aquatic Stream Crossing Impacts

The project involves construction of a rail line for seven miles to transport limestone from a proposed rock quarry to a Union Pacific rail line for shipment to markets in the Houston area and other areas. It appears the impacts to aquatic areas will be mainly from stream crossings. Since there will be several stream crossings and we have no site specific information, we can only make general recommendations to minimize impacts of construction on streams and riparian areas. Our recommendations are as follows:

1. We recommend span bridges where possible to minimize impacts to stream. This should certainly be done for all perennial streams.
2. Where channel work is necessary, precautions should be taken to avoid channel degrading from head-cutting. For example, grades at the culverts and bridges should remain at their existing levels.
3. If a series of box culverts is installed to carry high flows, one culvert should be lower than the others to handle frequent flows (i.e. "bankfull" or less), with other culverts at higher elevations for less frequent events.
4. Plan the route and design crossings to avoid the need to cut off meanders and channelize streams reaches.
5. Minimize impacts to the riparian corridor, especially forested areas. For example, do not clear the entire right-of-way through the riparian area or floodplain. Only clear what is needed for construction and access.
6. Minimize impacts to the creek banks (soil and vegetation). Stabilize and replant disturbed banks with native vegetation as soon as construction at that point is finished.
7. All best management practices should be used to minimize erosion of banks and bare soil, and reduce siltation of streams. Bare soil should be stabilized and revegetated as soon as possible. Hay bales and silt fences should be inspected and repaired as needed after each rainfall event that creates runoff. All silt fences should be parallel to contours. Long and steep slopes need multiple rows of fencing.
8. Wetlands or forested floodplain should not be used for staging or storage areas or for borrow areas.

Air Quality

We have reviewed the DEIS to assure compliance with applicable conformity regulations

per 58 FR 63214. Medina County, Texas is in attainment for all National Ambient Air Quality Standards; therefore , general conformity regulations do not apply. However, any demolition, construction, rehabilitation, repair, dredging or filling activities have the potential to emit air pollutants. EPA recommends best practices be implemented to minimize the impact of any air pollutants. Furthermore, construction, and waste disposal activities should be conducted in accordance with applicable local, state and Federal statutes and regulations.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

#E1-2818
RG

January 29, 2007

Rini Ghosh
Case Control Unit
Surface Transportation Board
Washington, D.C. 20423

Dear Ms. Ghosh

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality Regulations (CEQ) for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Supplemental Environmental Impact Statement (DSEIS) for the proposed construction and operation exemption of Southwest Gulf Railroad Company. The proposed rail line would extend approximately seven miles from a proposed Vulcan Construction Material's LP limestone quarry to the Del Rio subdivision on the Union Pacific Railroad Company, near Dunlay Texas.

EPA classified your DSEIS and proposed action as "LO," i.e., EPA has "Lack of Objections" to the proposed alternative. Our classification will be published in the Federal Register according to our responsibility under Section 309 of the Clean Air Act, to inform the public of our views on proposed Federal actions.

EPA appreciates the opportunity to review the DSEIS. We request that you send our office one (1) copy of the Final SEIS at the same time that it is sent to the Office of Federal Activities (2251A), EPA, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20044.

Sincerely yours,

Michael P. Jansky, RE
Regional EIS Coordinator



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March 15, 2007

Michael P. Jansky, PE
Regional EIS Coordinator
U.S. Environmental Protection Agency Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

VIA CERTIFIED MAIL
RRR #7006 0810 0003 8431 2920

Dear Mr. Jansky:

Re: U.S. Surface Transportation Board Finance Docket No. 34384
Southwest Gulf Railroad – Construction and Operation – Medina County, TX
Comments on the Supplemental Draft Environmental Impact Statement

We noticed the letter from you (EI-2818.pdf) commenting on the recent Supplemental Draft Environmental Impact Statement (SDEIS) in this proceeding on behalf of EPA Region 6. That letter states a “lack of objection to the proposed alternative.” The SDEIS, however, did not reanalyze the proposed alternative but analyzed various eastern alternatives, two of which it then deemed “environmentally preferable.”

EPA’s comments as to “the proposed alternative” require clarification as to whether you were referring to those routes deemed “environmentally preferable” in the SDEIS or some other route that was not analyzed in the SDEIS and which it would not have been appropriate to comment on at that time.

We believe your lack of objection was with respect to the two eastern routes deemed “environmentally preferable.” Our clients, the Medina County Environmental Action Association, concur with the Surface Transportation Board’s finding in the SDEIS that of the routes proposed and analyzed to date, those two are the most “environmentally preferable” alternatives.

We do not believe that you intended to comment on other routes that were not analyzed in the SDEIS or intended to contradict the SDEIS by not discussing the environmentally preferable alternatives but instead discussing another alternative in isolation. This is particularly true given the fact that Bonnie Braganza, the acting chief of your office, submitted detailed comments (EI-1313.pdf, attached) on the original routes analyzed in the DEIS describing numerous issues that should be addressed in the Final EIS. It is unclear how, after the SDEIS analyzed new routes and deemed two of them environmentally preferred, you could then state a lack of objection to one of the original routes analyzed in the DEIS when this information requested by your agency had not yet been provided in the Final EIS.

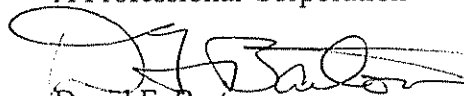
To be clear: the "proposed route" is a term of art describing the applicant's proposed route which was only analyzed in the DEIS. New eastern routes were analyzed in the SDEIS, which you commented on. Two of those eastern routes were selected as environmentally preferred relative to the DEIS, but with the exception of a noise analysis, no new analysis was undertaken for the original DEIS routes in the SDEIS. The SDEIS contained no new information responsive to Ms. Braganza's comments on the DEIS.

We apologize for being blunt, but if there is a time to state a lack of objection to the "proposed route" in this proceeding it is after all the information has come out in the Final EIS, not before, and not in response to a document (the SDEIS) which provided no new analysis for the proposed route. We believe you intended to state a lack of objection to the routes the SDEIS analyzed and deemed environmentally preferable. Otherwise, either your agency's DEIS comments were meaningless or the SDEIS comment reflects a blatant political statement unsupported by the document itself, which casts doubt on your agency's process and on whether the document was even read. We do not allege the EPA's EIS review process or your review in particular to have such flaws and are more inclined to believe that you meant to state a lack of objection to only the two environmentally preferred routes in the SDEIS at this time.

The opportunity to comment on other routes will arise after the publication of the Final EIS in this proceeding. Please in the interim clarify or correct your agency's comments on the SDEIS, or else they will be of little value to the parties.

Very Truly Yours,

THE GARDNER LAW FIRM
A Professional Corporation



David F. Barton

**COUNSEL FOR PARTY
MEDINA COUNTY ENVIRONMENTAL
ACTION ASSOCIATION**

cc:

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