

The Medina County Environmental Action Association, Inc.

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June 8, 2005

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
ATTN: Finance Docket No. 34284
1925 K Street, NW
Washington, DC 20423-0001

Re: Finance Docket 34284
Proposed Vulcan Materials/Southwest Gulf Railroad Rail Line
Medina County Texas

Dear Ms. Ghosh:

As per our conversation on June 1, 2005, MCEAA respectfully requests the STB to obtain more detailed information concerning the cut and fill data it had previously requested from Vulcan/SGR, on all 15 routes considered by the applicant.

This is the second time this data has been requested and to date Vulcan/SGR has not adequately submitted it. Vulcan/SGR's most recent reply to your agency's request (EI-1439, dated April 4, 2005) is lacking in many respects and cannot be verified without appropriate supporting data. Vulcan/SGR has ignored STB's response for data on all of the 15 routes and has given data on only 4 routes (the proposed and 3 alternates). In addition, the cut and fill data given by Vulcan/SGR on the Medina Dam alternative route ("MDR") is meaningless for reasons discussed below. For all of these reasons MCEAA doubts the validity of Vulcan/SGR's most recent data submission.

It is important to note that the public did not have this data available for evaluation during the comment period for the Draft Environmental Impact Statement ending January 10, 2005.

Cut and fill data submitted by the applicant to date is inadequate

We are critical of the manner utilized to determine the cut and fill data for many reasons.

First, in order to compute and then compare accurate volumes of the cut and fill needed between alternatives, the track base width, height and length of the cut or fill section must be determined for all routes. This would include the dimensions of any berms or earth massing

necessary to support the rail bed or track base. Also, the *location* of the cut and fill must be more clearly defined. None of this data is currently in the record, nor has it been provided by Vulcan/SGR.

The reason for requiring disclosure of this data is more than just a casual interest for information. The location of the cuts and fills directly affects the flooding patterns in the floodplain, thus affecting the lives and property of all within it. The agency controls this harm to the extent it controls the design and placement of the rail line, which it most certainly does in this construction licensing proceeding.

The process used by Vulcan/SGR to calculate the cut and fill data requested by STB, which it characterizes on page 6 of EI-1439 as “a rough approximation,” is poorly devised, inaccurate, and easily manipulated. It bears no relationship to the actual physical design characteristics of each alternative analyzed by the Draft EIS. It is an attempt to use the inertia of the agency’s licensing process to keep staff members from requesting the information necessary to complete their legally mandated task. This is not fair and cannot be tolerated, especially when important environmental impacts are at stake.

The agency has a duty to consider—and should, for very practical reasons consider—a properly designed Medina Dam alternative route

Turning to Vulcan/SGR’s criticism of the Medina Dam alternative route (“MDR”), MCEAA wishes to make it clear to the STB that Vulcan/SGR’s representation of this route is not the location suggested by MCEAA. Vulcan/SGR’s route variation is purposefully designed so it will be discarded by the STB. MCEAA’s variation of the MDR is a reasonable and feasible alternative for the agency to analyze. It is also a viable and defensible choice for the agency to select which would avoid many of the environmental impacts and public opposition brought on by Vulcan/SGR’s decision to co-locate two projects, a quarry and a rail line, so as to significantly alter the floodplain in area of the Quihi community.

MCEAA’s version of the MDR has been expressed verbally and in writing to the agency on many occasions, but was also presented graphically in the oversize set of maps submitted with MCEAA’s Draft EIS comments. This graphical presentation included detailed topographic maps comparing MCEAA’s version of the MDR with the one submitted to the agency by Vulcan/SGR. MCEAA’s version, which has to date not been analyzed by the agency, differs from the version analyzed and dismissed by Vulcan/SGR and the agency, in the following ways:

1. It is shorter and crosses fewer landowners’ properties.
2. It approaches the quarry site from the east rather than from the south, so that Vulcan/SGR’s purposely designed sharp turns at the quarry terminus are eliminated.

3. It requires less cut and fill. Vulcan/SGR's version has an eastward bulge going close to CR366 and goes close to the top of a hill that is 1057' high. Vulcan/SGR's version is also approximately

5000' longer. Whatever the accuracy of Vulcan/SGR's cut and fill data to date, MCEAA's version of the MDR will clearly require less cut and fill because it does not contain this mischaracterized routing.

4. It crosses FM 2676 at a safer location.

5. It crosses the Quihi Creek floodplain in its extreme northern portion in open farm country, thus avoiding significant floodplain impacts and eliminating much of the potential to exacerbate flood impacts.

6. It avoids the Elm Creek floodplain entirely, reducing cumulative downstream flood impacts on Quihi.

In short, MCEAA's version not only addresses all of the concerns Vulcan/SGR exhibited in its own self-evaluation of alternatives (and thus the agency's objections to Vulcan/SGR's version of the MDR that led to its dismissal from further consideration), but also addresses the primary environmental harms of concern to area residents.

MCEAA's variation of the Medina Dam alternative route, although approximately 2.5 miles longer than the applicant's preferred route through the Quihi area floodplains, offers the following advantages over the preferred and three proposed alternative routes previously suggested by Vulcan/SGR and compared in the Draft EIS:

1. The MDR is largely on a level plateau. According to USGS maps, it would enter the quarry at 930 feet and would terminate at Dunlay Acres Subdivision at an elevation of 965 feet. This avoids 90 to 95% of the Quihi Creek floodplain, and 100% of the Cherry Creek and Elm Creek floodplains. It also avoids significant amounts of the "necessary" cut and fill alleged by Vulcan/SGR.

2. It would avoid the Quihi valley basin which contains the entire historic Quihi area, thus preserving its visual aesthetic value, and thus eliminating the flooding potential, dust, noise, and vibration associated with the 400+ railroad cars per day that would traverse this area utilizing the proposed or any of the three alternative routes.

3. It crosses FM 2676 and CR 4516 at safer locations.

4. It crosses fewer county roads than any of the other proposed or alternative routes.

5. Because it is on a plateau, it would reduce the number of trestle bridges, culverts and berms required.

6. It would reduce the maintenance costs on the above structures, because they would be completely outside of or traverse much less of the floodplain.

7. It crosses land owned by quarry land lessors, their families, and Vulcan employees. These people support both the quarry and the rail project. The preferred route and 3 proposed alternatives do not cross land owned by any of the above individuals.

8. The southern rail terminus near Dunlay Acres Subdivision would be the same as Vulcan/SGR's proposed or alternative #3 route, and thus no new additional overpass over U.S. Highway 90 would be required.

Again, by any fair comparison with Vulcan/SGR's earlier submissions, MCEAA's version of the MDR addresses Vulcan/SGR's stated concerns. It therefore merits further analysis as a reasonable and feasible alternative route.

Further, as noted above, the applicant has prevented consideration of this version of the MDR by mischaracterizing it and by submitting vague, conclusory, and unsupported cut and fill data that bears no relationship to the physical design of any of the alternative routes. It then uses this mischaracterization and inadequate data to eliminate alternatives it dislikes by claiming "engineering difficulties." The agency cannot disclaim responsibility for the design and placement of the rail lines in a manner that allows the applicant to self-define the scope of alternatives in this manner.

This is particularly true here, where specific design parameters associated with the rail line and its support structures will control the environmental impact on the floodplain. The agency's clear duty to analyze the rail structure's impact on the floodplain necessarily guides its level of inquiry into what is a feasible alternative.

More to the point, this isn't about rejecting an alternative but considering one. There are no cost objections in this proceeding for a variety of reasons, not the least of which is the common financial control of SGR by Vulcan, and the fact that the quarry will serve as the rail line's sole customer. Financial feasibility is therefore limited only by the quarry (though attorney's for Vulcan/SGR have earlier stated on the record that even that may not be the limit; that the rail line may have a bottomless pocket to draw from). In addition Vulcan/SGR will depreciate the entire cost of the rail line in 8 years, deriving a substantial tax benefit, even though they anticipate the rail line will be in service for over 50 years. Cost is simply not an issue. What is left are the "engineering obstacles" which for the MDR are derived solely from Vulcan/SGR's mischaracterization of the route and the incomplete cut and fill data they have submitted.

The exclusion of fill volumes for rail line alternatives that traverse the floodplain biases the entire analysis

Perhaps the most seriously biased portion of Vulcan/SGR's cut and fill data submission concerns the placement of fill in the floodplain. In the cut and fill calculations completed by the applicant, the assumption was made that fill would not be placed in the floodplain. Because all of Vulcan/SGR's proposed routes traverse deep within the floodplain, this dramatically skews the comparison of cut and fill between the currently proposed alternatives and the MDR.

To suggest that the proposed alternatives will not use fill in the floodplain is to suggest that the rail lines will be built at ground level and will be unusable in any significant rainfall event of the type documented and submitted by MCEAA as evidence of regular flooding in the Quihi area. It would also suggest that the height of the bridges necessary at the rail line's stream crossings would be more on the order of a kitchen table than a major structure. Given the flood history of the area, that is absolutely ludicrous. "Waiting until the design stage" to obtain accurate design information, as suggested by the applicant, is merely a means of excluding this highly relevant design and placement information from the record and from required disclosure and analysis under NEPA.

The proposed Vulcan/SGR-preferred alternative crosses and encroaches on more mapped floodplain than any other proposed route (Draft EIS Fig. 3.3-7, page 3-25). Assuming for the moment that the mapped floodplain is accurate (an issue we have urged the agency to verify with modeling, given that the maps are over 25 years old), the preferred alternative will require more floodplain fill to keep it elevated and above the floodplain than any other route. This amount of fill, as with the other proposed alternatives, was specifically not considered and was specifically excluded by Vulcan/SGR when it provided cut and fill data to the agency. The applicant's purpose was clear: to create a disparity between cut and fill volumes for the floodplain-traversing routes near Quihi and more viable routes with fewer flood impacts to the east.

Therefore, "reasonable" cut and fill volumes for any alternative cannot be determined in reference to the incomplete and biased information the applicant has provided to date.

Conclusion

In conclusion, we urge the agency not to be seduced by Vulcan/SGR's rhetoric. Thus far, Vulcan/SGR has failed to fully comply with the agency's request for information in many areas, information vital to its decision-making process, mitigation requirements and laws. STB must not waver in carrying out its NEPA duties given by Congress and the people to disclose impacts to the environment.

STB must not be influenced by Vulcan/SGR's cries that "it will cost too much to study these projects in a timely and proper manner." If Vulcan/SGR had done the necessary research in the beginning of this project it might have not undertaken the project at all, and instead would have developed a quarry further west where the UP rail line and limestone are available in a less environmentally sensitive area. Alternatively, it would have approached the Quihi community in a more forthright manner and discussed real options for design and mitigation based on the analysis of harms that it had undertaken. It chose not to. And as the agency knows, the applicant's failure to do so does not excuse the agency from doing its duty. Now, the agency finds itself in an untenable position. If it attempts to save these connected action projects, in the exact manner designed by Vulcan/SGR, the agency will be the one seen as responsible for unnecessary and dire environmental consequences. These consequences can only be avoided with proper study and analysis of the environmental impacts of the proposed rail line and quarry.

Thanking you in advance, we await the receipt of the complete data requested, which we urge STB to include in the form of a Supplementary DEIS (SDEIS) for appropriate public comment.

Respectfully,

Dr. Robert T. Fitzgerald, President
MCEAA, Inc.

CC:

U.S. Congressman Henry Bonilla

Senator John Cornyn

Senator Kay Bailey Hutchison

Texas Agriculture Commissioner Susan Combs

Texas Senator Frank Madla

Texas Representative Tracy King

County Judge James Barden

County Commissioner, Pct. 1, Chris Mitchell

Texas Historical Commission, Larry Oaks, Executive Director

Tom Ransdell, Vulcan Materials

Tom Hill, President, SW Division, Vulcan Materials

Donald James, CEO, Vulcan Materials

Bill Denson, General Counsel, Vulcan Materials

David Donaldson, Public Relations, Vulcan Materials

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