

David H. Coburn
202 429 8063
dcoburn@steptoe.com

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
202 429 3000 main
www.steptoe.com



April 24, 2018

VIA E-MAIL

Ms. Diana Wood
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Re: STB Finance Docket No. 34284, Southwest Gulf Railroad Company

Dear Ms. Wood:

I am writing to respond to the concerns raised in the recent letter from the Medina County Environmental Action Association, Inc. (MCEAA) regarding the status of certain mitigation measures. That letter was forwarded to us by your office on April 3, 2018.

First, we want to assure the STB and THC that Southwest Gulf Railroad Company (SGR) remains in full compliance with the mitigation requirements set forth in the Board's Final Decision (STB Served Dec. 18, 2008), the requirements of the Programmatic Agreement (PA), and the Final Resolution Plan. On a quarterly basis, as required by Mitigation Measure No. 80 in the Board's Final Decision, SGR has been submitting progress reports on its compliance with the 81 mitigation measures imposed on SGR as a condition to its construction and operation of the rail line. The most recent quarterly report was submitted on March 29, 2018. Further, as required by the Final Resolution Plan, on April 23, 2018 SGR submitted a mitigation status report to STB and THC that provides the status of all mitigation required by that Plan. As noted in the status report, the majority of the mitigation measures laid out in the Resolution Plan are complete, and the remaining few are underway.

With regard to specifics, MCEAA refers to Mitigation Measure 51 from the Final Decision, which provides:

During rail construction, SGR shall replace mature trees at a 3:1 ratio and shall monitor these replacement trees to ensure a survival rate of 80 percent. If the removal of old timber trees is unavoidable, SGR shall replace old timber trees at a ratio of 10 trees for each one lost and shall monitor these replacement trees to ensure a survival rate of 80 percent.

SGR is well aware of this requirement, and will be replacing trees according to the required ratios. SGR undertook a preliminary tree inventory in 2017 prior to construction. Once construction nears completion, SGR will undertake an additional tree survey so that the final survey results can be compared with the pre-construction data. Once a final determination is made of the number of mature trees and old timber trees removed during construction, SGR will finalize a tree replacement plan, purchase the necessary trees according to the required ratios, and begin planting replacement trees.

It is also important to note that tree replacement is best undertaken after major construction activity is complete in order to avoid potential impacts to the new plantings from construction activity. Further, tree planting must be done in the correct season for the local climate and tree species, generally early fall, in order to ensure the best possible survival rate. Therefore, while MCEAA is correct in its observation that SGR has not yet begun tree replacement along the line, that is by design so that SGR will have the final tree survey results, can avoid construction impacts to new plantings, and can undertake planting in the proper season. SGR will provide a final accounting of the trees removed and replaced after construction is complete.

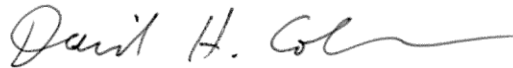
MCEAA also questions the status of the vegetative buffer plans required by the Resolution Plan. MCEAA quotes the STB's cover letter to the Resolution Plan as stating:

Within 12 months of initiating construction, SGR shall submit landscaping plans to STB and SHPO showing details of the plant material that will be installed in the vegetative buffers at sites HDR-AR-02, HDR-AR-04, HDR-AR-10, and HDR-AR-11.

In response, SGR notes that it has developed a vegetative buffer plan for the required sites, which was submitted to the STB and THC for review on April 23, 2018. Please note that construction of the SGR line began on September 1, 2017, so SGR is well within the 12 month timeframe provided for submitting those plans.

In sum, SGR remains in compliance with the mitigation measures set forth in the Board's Final Decision, as well as the PA and Resolution Plan. Please let us know any additional questions regarding the status of mitigation for the SGR project.

Sincerely,



David H. Coburn

Cynthia Taub

Attorneys for Southwest Gulf Railroad Company

cc: Bill Martin, THC
Casey Hanson, THC
Sara Luduena, THC