

E1-2639
R21

January 9, 2007

Ms. Rini Ghosh
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Received
1/10/07

Re: STB Finance Docket No. 34284
Southwest Gulf Railroad Company
Construction and Operation Exemption
Medina County, Texas

Dear Ms. Ghosh,

I reside in the Castroville West Subdivision, which is located at the southeast corner of County Road 4516 and County Road 4643. This subdivision is in very close proximity to the SGR's Modified Medina Dam Route, the Eastern Bypass Route and the MCEAA Medina Dam Alternative Route.

The Castroville West Subdivision is a deed restricted subdivision in which the people that reside here have taken pride in their properties and conformed to the restrictions since the subdivision was formed. According to their Declaration of Restrictions for the Castroville West Subdivision (Please see Attachment "A"), as filed in the Medina County Records Volume 219, Page 839, a train rail system that would cross properties within the subdivision boundaries would be a direct violation of Declaration 3:

"No noxious or offensive trades, services or activities shall be conducted on any Tract, nor shall anything be done thereon which may be or become an annoyance or nuisance to the owners of other Tracts within the Property by reason of unsightliness, excessive emission of fumes, odors, glare, vibration, gases, radiation, dust liquid waste, smoke or noise, or which shall increase the fire hazards of adjoining properties."

The above stated routes traverse both County Roads 4516 and 4643. These two crossings are in very close propinquity to each other and the probability that both roads could be blocked at any one given time is almost a certainty. If there were to be an emergency situation such as the need for medical services or the fire department, my home could not be reached in a reasonable amount of time. My home could burn to the ground before the fire department could arrive or a member of my family could die due to the delay in the response time of the medical service units.

Another major concern not addressed is that County Road 4516 has grown to be a very heavily traveled thoroughfare for a barely two lane, pot hole ridden, county road. The idea

that the proposed train would cross at an unlighted area of the road where there is an abrupt left curve, while simultaneously dropping 50-75 feet in elevation and completely blocking the driver's visibility scares me. I drive this road on a daily basis and have seen and heard of many horrible wrecks, some that have resulted in deaths. Two bad wrecks recently occurred at this very curve during 2006. This proposed crossing would make conditions on this road even worse and the number of reported wrecks is sure to increase. My daughter will be turning sixteen and begin driving in less than three years. I shudder at the fact that she will have to contend with the added hazards the proposed rail line will bring.

In the Supplemental Draft Environmental Impact Statement, it states that my home will not be impacted by the 'noise and vibration' emitted from the train. I strongly disagree with the stated findings. I can clearly hear the existing train that follows the Highway 90 rails, which are approximately 1.5 miles from my home. By stating this fact, how can you stand behind the findings in your report? In addition, was it considered that my home fronts County Road 4516, the point at where the proposed trains will cross and therefore will blow their horn with greater intensity and for longer periods of time to warn the crossing traffic?

As a child, my parent's home was located across from a rail line. The noise from the train was loud and disruptive both during the day and especially at night. I am a hard working professional that needs sufficient sleep to ensure a productive day. The above noted proposed train routes will cause sleepless periods during the night and as a result hinder my productivity during the day. In addition, we like to entertain family and friends at our house. Having a train interrupt our gatherings will be disruptive, annoying, embarrassing and destroy the atmosphere that we value as part of living in the country.

There are many other concerns that have already been brought to your attention by other concerned property owners. These include, but are not limited to, dust and train emissions, the destruction of the economic livelihood of the area farmers and the devaluation of property. In conclusion, as the Supplemental Draft Environmental Impact Statement suggests, the most feasible route would be the original Proposed Route that crosses the fewest roadways and private property.

Thanks you for taking the time to read this letter and considering some of the very serious concerns that I have for my property and my family.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carl K. Eisenhauer', with a stylized, flowing script.

Carl K. Eisenhauer

CC: Mr. Rick Perry, Governor of Texas

69218

AMENDED
DECLARATION OF RESTRICTIONS FOR
CASTROVILLE WEST SUBDIVISION

STATE OF TEXAS §
 §
COUNTY OF MEDINA §

This declaration is made this the 7th day of April, 1994, by NOONER-ZERR, INC, hereinafter called "Declarant". This declaration amends and supersedes the original Declaration of Restrictions filed of record under Clerk's File No. 63639, Volume 200, Page 840 - 844, of the Official Records of Real Property of Medina County, Texas —

The Declarant is the present record title holder of certain real property situated in the County of Medina, State of Texas, more particularly described as Tracts 1 through 5, 7, 8, and 10 through 20 of CASTROVILLE WEST SUBDIVISION, a subdivision in Medina County, Texas, according to map or plat thereof recorded in Volume 7, Page(s) 227 - 228 of the Official Records of Real Property of Medina County, Texas. Such property hereinafter referred to as the "Property" or the "Tracts".

Declarant is desirous of subjecting the Property and each Tract therein to the covenants, conditions, restrictions and reservations hereinafter set out to insure the proper use and appropriate development and improvement of said Property and each Tract.

The Property and each Tract therein is hereby made subject to the following conditions, covenants, restrictions and reservations, all of which shall be deemed to run with the Property and each and every Tract or parcel thereof to insure the proper use and appropriate development and improvement.

Conditions, Covenants, Restrictions and Reservations:

1. The Property and each Tract shall be used solely for residential purposes as follows:
 - A. On Tracts One (1) through Thirteen (13) mobile homes shall be permitted for a period of two (2) years from the date a mobile home is moved on to said Tracts. Two (2) years from date a mobile home is moved on to any of said Tracts, no mobile home shall be permitted to remain on said Tracts One (1) through Thirteen (13). Thereafter, any residence located on said Tracts must consist of a single family, site built structure.
 - B. On Tracts Fourteen (14) through Twenty (20) mobile homes or single family, site built structures are permitted subject to requirements contained in 2(C) below.

C. Declarant specifically reserves the right, until June 1, 2020, to vary the permitted use of any tract notwithstanding these restrictions, should Declarant deem it in the best interest of the Property to grant such variance.

2. A. No building or structure shall be erected or constructed on any Tract until the building plans, specifications, plat plans and external design have first been approved, in writing, by the Declarant, or by Declarant's nominee.
- B. All building on any Tract must be completed not later than twelve (12) months after laying the foundation and have at least 800 square feet of living space. All buildings must be completely enclosed from the ground level to the lower portion of the exterior wall to maintain a neat appearance, and to remove from view posts or piers.
- C. No mobile home older than seven (7) years from ~~date~~ of its original manufacture shall be moved onto any Tract for living purposes. The living area of all mobile homes shall contain a minimum of 720 square feet. All mobile homes moved onto the property shall be tied down and skirted. Regulations governing mobile homes, as may be established by Declarant shall be complied with.
- D. No used material may be stored on any Tract. In the event any materials are stored upon any Tract which are in the opinion of Declarant in violation of this provision, Declarant shall notify the owner of such Tract, by mail, of such violation, and if the violation is not corrected and the subject material removed within ten (10) days of the mailing of such notice, Declarant shall have the right to remove such material from the Tract, to dispose of such material and to charge the owner of the Tract with removal costs and expenses. It is further provided that Declarant shall not be liable to the owner of such Tract for any damages for the removal of such material.
- E. No building or structure constructed on any Tract shall be occupied or used until the exterior thereof is completely finished in accordance with the plans and specifications previously approved, and any structure or part thereof which is constructed with lumber shall be finished with not less than two coats of paint or stain.
- F. No outside privies shall be installed and/or maintained on any Tract, and all plumbing for waste shall be connected to a sanitary sewer or septic tank in accordance with State, County and local laws, rules and regulations. The owner of any Tract shall, before any work is done pertaining to the location of building and utilities on such Tract, obtain the approval for such location of such utilities and/or buildings from the Declarant and the local Department of Health, if applicable.
- G. No building shall be located on any Tract nearer to the front Tract line (adjacent to public roads) closer than 100 feet, or nearer to any side or rear

Tract line closer than 25 feet. Additionally, areas between such set-backs and the Tract lines shall not be cleared of all trees.

- H. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the plat of the Property. No utility company, water district, political subdivision or other authorized agency or entity utilizing such easement shall be liable for any damage done by them or their agents, employees or servants, to shrubbery, trees or flowers, or to other property belonging to the owner of any Tract in any case where such shrubbery, trees or flowers are located within such easements.
 - I. All culvert pipes placed in ditches on any Tract shall conform to County specifications.
 - J. No motor home or travel trailer shall be occupied as a residence on any tract herein for a period to exceed two years.
- 3. No noxious or offensive trades, services or activities shall be conducted on any Tract, nor shall anything be done thereon which may be or become an annoyance or nuisance to the owners of other Tracts within the Property by reason of unsightliness, excessive emission of fumes, odors, glare, vibration, gases, radiation, dust, liquid waste, smoke or noise, or which shall increase the fire hazard of adjoining properties.
 - 4. No swine of any kind shall be raised, bred or kept on any Tract except where the animal is to be kept as a 4-H project. A maximum of four (4) head may be kept for such projects.
 - 5. No Tract shall be used or maintained as a dumping ground for rubbish or trash. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators and other equipment for the storage of or disposal of such material shall be kept in a clean, sanitary condition. No "junk" cars or wrecking yards shall be located on any Tract.
 - 6. No truck, bus or trailer shall be left parked in the street or road in front of any Tract except for construction and/or repair equipment while a Tract is being built upon or repaired in the immediate vicinity. No truck, bus, boat or trailer shall be parked on the driveway or any portion of any Tract in such a manner as to be visible from any public street or road for more than seventy-two (72) continuous hours.
 - 7. No professional business or commercial activity to which the general public is invited shall be conducted on any Tract, nor shall any firing range be maintained on any Tract.
 - 8. No Tract may be subdivided without the consent of Declarant.
 - 9. No Tract shall be used for public or private road purposes, and no public or private road shall be built to extend through any Tract without the consent of the Declarant.

10. Declarant hereby advises the Public and owners of all Tracts within the Property that the County Road which provides access to the Property has a "low water" crossing which is subject to flooding and may impair access for short periods at various times.

The conditions, covenants, restrictions and reservations herein contained shall run with the land and shall be binding upon and inure to the benefit of the Declarant and the owners of every Tract within the Property. These condition, covenants, reservations and restrictions may be enforced by Declarant acting for himself, or any owner of any Tract within the Property. An owner may prosecute proceedings at law or in equity against any person or persons violating or attempting to violate any condition, covenant, restriction or reservation herein contained. Violation of any condition, covenant, restriction or reservation herein contained shall give the Declarant the right to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these conditions, covenants, restrictions or reservations, to enjoin and/or to prevent them from doing so, to cause such violation to be remedied and/or to recover damages for said violation and attorney's fees and costs of suit. All remedies provided herein or at law or in equity shall be cumulative and not exclusive. The failure of the Declarant to enforce any of the conditions, covenants, restrictions or reservations herein contained shall in no event be deemed as a waiver of the right to do so in the future, or a waiver of the right to enforce any other condition, covenant, restriction or reservation, and Declarant shall not be liable to any party for failure to enforce any condition, covenant, restriction or reservation.

This Declaration and every provision hereof, and every covenant, condition, restriction or reservation contained herein shall continue in full force and effect for a period of twenty-seven (27) years from date hereof, and shall thereafter be renewed automatically for periods of ten (10) years, unless and until terminated as hereinafter provided. This Declaration or any provision hereof or any covenant, condition, restriction or reservation contained herein may be terminated, extended, modified or amended as to the whole property or any portion thereof, during the initial term of this Declaration, with the written consent of the holders of the fee title to sixty-five percent (65%) in number of the Tracts within the Property subject to these restrictions. Such termination, extension, modification or amendment shall be immediately effective upon recording a proper instrument, in writing, executed and acknowledged by such fee title holders in the office of the County Clerk of Medina County, Texas.

Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant to any person, corporation or association which may assume any or all of the duties and powers of Declarant hereunder, upon any such person, corporation or association evidencing its consent, in writing, to accept such assignment. The term "Declarant" as used herein shall include all such assignees, their respective heirs, successors and assigns. If at any time Declarant has died and not made such an assignment as above provided, a successor Declarant may be appointed by the holders of the fee title of sixty-five percent (65%) of the Tracts within the Property. Such appointment shall be evidenced by and effective upon recording such appointment, in writing, executed and acknowledged by the required fee title holders in the office of the County Clerk of Medina County, Texas.

At such time as "Declarant" shall no longer own any of the tracts, the rights, powers and reservation of Declarant herein shall be automatically assigned to the existing property owners of tracts herein or to their successors and assigns.

All of the conditions, covenants, restrictions and reservations contained in this Declaration shall be construed together. But, if at any time it shall be held that any one of the said conditions, covenants, restrictions and/or reservations or any part thereof is invalid, or for any reason becomes unenforceable, no other condition, covenant, restriction and/or reservation or any part thereof shall be affected thereby or otherwise impaired.

The terms and provisions contained in this Declaration shall be binding and inure to the benefit of the Declarant and the owners of all Tracts located within the Property, and their respective heirs, successors, personal representatives and assigns.

Jerry M. Perkis and wife, Denise L. Perkis as the owners of Tract 6 and Judge E. Sandusky and wife, Camille M. Sandusky, as the owners of Tract 9, hereby accept and approve the amended declaration of restrictions and agree to be bound by the provisions contained herein.

EXECUTED this the 7th day of April, 1994.

NOONER-ZERR, INC.

BY:

Steve Zerr, President

Jerry M. Perkis
Jerry M. Perkis

Denise L. Perkis
Denise L. Perkis

Judge E. Sandusky
Judge E. Sandusky

Camille M. Sandusky
Camille M. Sandusky