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The Medina County Environmental Action Association, Inc.

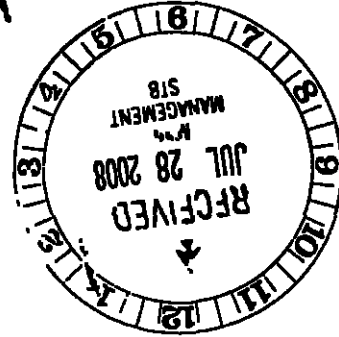
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July 17, 2008

Honorable Anne K Quinlan
Acting Secretary
Surface Transportation Board
395 E Street SW
Washington, DC 20423

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Office of Proceedings
JUL 28 2008
Part of
Public Record



Re: Finance Docket 34284
Southwest Gulf Railroad

Dear Secretary Quinlan

This letter is written to respond to Southwest Gulf Railroad (SGR) attorney David Coburn's letter of July 16 2008. Please allow me to give you some additional background information. From the very outset of our learning about these proposed projects, MCEAA has freely volunteered time, information and comments on these projects to the Surface Transportation Board's SEA and Medina County Commissioners Court (MCCC), as well as other agencies. During this time, we have brought before these agencies much important data that SGR was either unaware of or was deliberately withholding from these agencies.

I would like to give you a few examples. SGR failed to obtain floodplain maps for its original Proposed Route and three alternatives. This was noted by their project manager at a public meeting held in Hondo in 2003. At this meeting MCEAA displayed floodplain maps that SGR did not have, and aided SGR in obtaining copies. Also, SGR had publicly stated that they were totally unaware of the historic heritage of the Quihi area, which their original Proposed Route would have divided with a railroad, power line, and bridge. It was MCEAA that had to bring to SEA's attention a route that avoided the historical area and the flooding potentials. This route SGR had admittedly previously discarded, stating falsely to SEA that this route would require greater cuts and fills than the Proposed Route. This was proved false by SEA's studies. In addition, SGR failed to bring to SEA's attention that the so-called MCEAA Medina Dam route would pass through the properties of two of the proposed quarry land lessors families, the Weiblens and the Wurzbachs.

In regard to Mr. Coburn's accusation that MCEAA's membership was being disingenuous concerning the MOU, I would like to set the record straight. Prior to appearing on Medina County Commissioners (MCCC) agenda, MCEAA's members had unanimously supported an MOU that would properly require Vulcan/SGR to fund road and rail crossing upgrades made necessary by the proposed quarry and rail line. (It should be noted that SGR representatives had made verbal commitments to the county commissioners and others that SGR would pay for the needed road and rail crossing upgrades.) The type of MOU advocated by MCEAA would be patterned after an

agreement the Texas Department of Transportation had already informed SGR they must comply with. This document states that if a rail permit crossing State Highway FM 2676 was given, the type of crossing will be determined when the location of the crossing is made. In addition, if this rail crossing initially was determined to be at-grade, and subsequent conditions warranted during the 50-year time span this rail line utilized that a grade separation was necessary due to various conditions (such as auto/train crashes, increased train traffic or increased road traffic, etc.) that SGR would then have to pay for construction of a grade separation crossing or would have to cease operations over FM 2676.

If one takes the time to read the entire article noted the Hondo Anvil Herald, April 2008, not just parts taken out of context, MCEAA's purpose becomes clear. First, if no permit for a rail line is given, an MOU with Vulcan would have to address the impact of 850 trucks daily (1700 round trips). This MOU would obviously be different should 85% of the material be shipped by rail. Secondly, if a route such as the Modified Eastern Bypass Route (Weiblen modification of SGR's Eastern Bypass Route) was permitted and selected, a grade separation crossing over CR 4516 would be immediately required to insure safety of the traveling public. This is because this rail crossing is located at a T-intersection between CR4516 and CR4643, according to maps submitted for this route by SGR. Without an overpass, this would be a very dangerous rail crossing, compounded by the fact that there is poor visibility due to a curve as CR 4516 descends into the Quihi valley to the west. Mr. Coburn's July 7 correspondence to the STB notes this is the route currently favored by SGR. If the initial MOU, as it appeared on the April 28, 2008, agenda of the MCCC, was executed, this dangerous crossing would have been at-grade, and the taxpayers of Medina County would have to pay for the needed overpass later, after accidents/deaths had occurred. It should be noted that the courtroom was filled on this date, with standing-room-only attendees overflowing into the hallway. Not one person spoke in favor of the original MOU. After listening to numerous comments, County Judge Jim Barden asked for further input from MCEAA members and their attorneys, for drafting a new MOU. This document was promptly created and given to the County Judge and Commissioners in a five working-day period, so that the MOU could be acted upon promptly at the next Medina County Commissioners Court session, on May 12, 2008. Since then, it should be noted that over 200 signed petitions requesting an MOU that would be dealing with future required conditions that would be paid for by Vulcan/SGR, were presented in subsequent sessions of the MCCC (See enclosed petition)

It is MCEAA's opinion that the delay in arriving at an MOU lies at SGR's doorstep. This is because SGR refuses to fulfill its rightful responsibilities to the Medina County citizens to construct safe roads and rail crossings made necessary by their proposed projects. They would rather sign an MOU based on current conditions and defer any needed upgrades, the cost to be paid for later by Medina County taxpayers.

SGR from the very get-go has tried to mislead STB into unwittingly doing its bidding. It has constantly criticized any and all input submitted by MCEAA. It is SGR's opinion that the people most affected by these projects have no say in this matter. I would like to briefly summarize proof of this statement. To begin with, in November 2002, SGR requested a waiver to the required six month pre-filing notice to the public of their application to the STB for a rail line. This waiver was granted. Following this, SGR insisted that the SEA not require an EIS, that an environmental assessment was all that was necessary. During the early phases of the proposed quarry and railroad projects, there was not adequate research of EITHER of the proposed projects, as evidenced by the Draft EIS that was subsequently deemed inadequate by the SEA, who then required a Supplemental DEIS. In spite of this, SGR clung to a Proposed Route that was riddled

with problems. SGR
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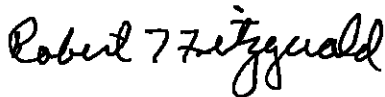
offered a half-million dollar 'grant' to the Texas Historical Commission (rejected) and a \$75K 'grant' to Medina County Historical commission, but only if the Proposed Route (through the Quihi Historic District, through the floodplain) was given to them. SGR desired this route because it was the shortest and most direct, disregarding the terrain crossed and the harmful environmental impacts to flooding and historic resources.

We believe the SEA has done an excellent job in their Final EIS. Some disagreements with them remain however. The foremost of these is their failure to recognize the fact that these two proposed projects are connected actions, not cumulative impacts. The fact is that this rail line would not exist without the quarry, and the quarry would not exist without the rail line because it would not be profitable.

For nine years MCEAA has done its utmost to educate ourselves and the public and pass on the information about the impacts of these projects, ask questions, report facts and submit comments, as initially requested by the SEA at the public meeting held in Hondo in 2004. We believe that we have made many and valuable positive contributions to the STB and other agencies which aided them in making their decisions. .

MCEAA's organized purpose is to preserve the health, homes and heritage of the area. Since MCEAA's founding in January, 2000, this organization has invested much in research performed by environmental, hydrological, and biological engineers, in legal consultations, in attending numerous seminars and workshops, attending meetings of and communicating with every agency involved, and in networking with other state and national organizations involved in similar issues, to determine what impacts the Vulcan/SGR project would have to the environment. MCEAA has been the recipient of awards, praise and admiration of area citizens, elected officials at federal, state and local levels, and area and state historical, and environmental organizations. Frequently it is said that if this project is opened, it will be done in a much safer manner because of the efforts of MCEAA. Should a permit be issued for a rail line, MCEAA feels that mitigation measures pertaining to state and county roads must be included to insure the safety of the traveling public.

Sincerely,



Robert T. Fitzgerald

Encl. Petition Form

cc- All parties of Record (3)

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VIA Regular Mail

Page 4

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and

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Washington, DC 20423-0001

VIA REGULAR MAIL AND
ELECTRONIC FILING

MBEAA, Inc., for your Home, Health, and Heritage

Date:

Dear Judge Barden and /Commissioner Ulbrich:

The future safety of Medina County's traveling public is in your hands. The Memorandum of Understanding (MOU) you are about to sign with Vulcan Materials (VMC)/Southwest Gulf Railroad (SGR) addresses the road upgrades that are required by the proposed quarry and railroad . It will determine the type of roads and railroad crossings Medina County will have in the vicinity of the quarry for the next 50 years. You will have this one and only opportunity to guarantee the safety of Medina County's traveling public. Therefore, we urge you, Medina County Commissioner's Court (MCCC), to adopt the MOU as drafted for Medina County by the Gardner Law Firm.

As you can see, this document is not only flexible, but it also is fair. Its main purpose is to provide for the necessary improvements and future upgrades of some of Medina County's roads and railroad crossings used by gravel trucks and SGR's trains, when criteria developed by experts at the Texas Department of Transportation and the federal level are met during the life of these projects.

Importantly, this MOU requires VMC/SGR to fund these improvements, which are directly related to the presence of quarry train and truck traffic. Additionally, it provides MCCC, when necessary, to use legal action to obtain improvements when warranted without bearing legal costs.

We are asking you as our elected representatives to adopt this MOU as written. To not do so, we believe, would be an act of discrimination by MCCC. Be aware, we are only seeking the same treatment as afforded us by TXDOT.

Sincerely,

Name _____

Address _____

Individual Comments: