



May 6, 2016

VIA U.S. Mail. Return Receipt Requested

Mr. Dan Harmon
Interim Rail Division Director
Texas Department of Transportation
Rail Division
125 East 11th Street,
Austin, Texas 78701

**RE: Discussion of Impacts in Waller County and the Federal Rail
Administrations Failure to Analyze Potential Corridors for the Dallas to Houston
High Speed Rail, Pursuant to the National Environmental Policy Act.**

Dear Director Steavens,

Thank you for you and your staff's participation in our Waller County Sub-Regional Planning Commission's coordination meeting this past February 9, 2016. As a follow up to that meeting, this letter has been prepared to summarize the specific local impacts that the Dallas-Houston High-Speed Rail Project will have on our local businesses, community, and landowners. It is also intended to point out some of the key violations that have occurred in the preparation of the forthcoming Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA).

As discussed in the meeting, there is clear evidence that the Federal Rail Administration (FRA) has improperly selected one build alternative (Utility Corridor) and one alignment (HC-4) through Waller County without conducting the necessary comparative analysis of alternatives pursuant to NEPA. Specifically, we are requesting that your agency call upon the FRA to step back and conduct a programmatic EIS for the four build corridors (BNSF, UPRR, I-45, Utility) that met the "Purpose and Need" of the project identified in the Corridor Alternatives Analysis Technical Report (August 2015).

Doing so is the only way that the FRA can fulfill its responsibility to advance an alternative that resolves the conflicts the project creates in Waller County. (40 C.F.R. § 1501.2(c)). Some of these conflicts were brought to your attention during the meeting and are again noted in this letter. As was pointed out, the mere fact that you have improperly drawn a line for a preferred

alignment has already harmed our community. Developers are forced to look outside of Waller County for housing and commercial sites to support the 4,000 plus jobs expected from the Daikin/ Goodman manufacturing site currently being constructed in our area. The expected growth and development opportunities that would greatly benefit every resident, especially our minority community, are being forced to consider other locations.

Members of our Commission have received a form letter dated January 7, 2016, from the U.S. Department of Transportation, Federal Rail Administration requesting we provide “information concerning environmental and land use constraints including current or proposed land development projects, city projects, or other issues of interest to Waller County within the study area.”

It goes on to state: “This information will be used by FRA and AECOM in the assessment of impacts documented in the Draft EIS and the evaluation of alignment alternatives.” Please note that there is only one build corridor and one alignment carried forward by the FRA for study pursuant to NEPA in Waller County. It is disingenuous to ask us at this late date for information that should have been considered at the corridor level stage of the analysis. However, we do hope that providing you this information will demonstrate the need to step back and prepare a programmatic corridor level EIS.

To that end, we would also appreciate it if you would ensure this letter is reviewed by the proper representatives performing the EIS, including Ms. Sarah Feinberg at the Federal Rail Administration, Mr. Tim Keith, CEO, Texas Central Partners, Ms. Melissa McNeely, Rail Projects Manager, Texas Department of Transportation and Lt Gen Joe Weber, Executive Director.

Let me also remind you that our Waller County Sub-Regional Planning Commission (Commission) is a formally created entity under the state of Texas Local Government Code 391. Members of our WCSRPC include the City of Waller, Prairie View, Pine Island, Hempstead, Pattison, Brookshire, Katy, Waller Independent School District and Hempstead Independent School District. We are not a “public stakeholder” as stated by the Federal Rail Administration.

The National Environmental Policy Act (NEPA) requires the Federal Rail Administration and your agency, as the joint lead agencies, to coordinate with our local government planning commission. At the same time, as a local government entity formed under Texas Code 391, the Texas Department of Transportation is required to coordinate with us under Section 391.009(c). As a statutorily created planning commission under Texas State law, we have the unique authority and expertise to ensure that all projects within our jurisdiction, whether city, county, state or federal, work together for the benefit of the people of Waller County.

As we discussed during the meeting, your agency and the FRA have failed to coordinate with our planning commission prior to selecting the Utility Corridor and H-4 alignment through Waller County. Had we met early in the process, as required under NEPA and requested numerous times by our Commission, we could have provided you and your staff with these important impacts creating a much more complete and sufficient analysis. We do, however, believe you

and your staff's participation in our first coordination meeting was a good first step in rectifying this deficiency, and we appreciate your willingness to discuss these issues with our Commission.

It is our expectation that as a result of these efforts, the FRA will provide us with a reasonable explanation as to why it failed to perform a corridor level analysis pursuant to NEPA, or, preferably with a decision that they will stop current work on the selected alignment Draft EIS in order to step back and prepare a proper corridor level EIS. At the end of our meeting we asked that you bring a representative from FRA to our next coordination meeting so that the federal agency has an opportunity to address our concerns. We would like to set a date for that meeting and ask that you contact us by Monday, May 23, 2016, with a meeting date for the month of June that works with your schedule and that of the FRA's.

Further, as of the writing of this letter, it has come to our attention that Texas Central Railroad and Infrastructure, Inc. and its affiliates (hereinafter collectively TCRI) have filed two petitions with the Surface Transportation Board (STB) requesting exemptions from certain railroad regulations, and they are seeking an expedited review and approval to commence land acquisition through the use of Eminent Domain prior to the determination of the final alignments and prior to the completion of a valid environmental analysis, all done without any notice to affected landowners, municipalities, and counties, and such expedite review foreclosing any opportunity for public comment. I am enclosing a copy of WCSRPC's Preliminary Comments in Opposition to Petition for Exemption and Petition for Clarification. This action offends basic tenets of due process and as such, we are also requesting, as a matter of coordination, that TXDOT officially oppose any such efforts to avoid policies and procedures that are intended to protect the general public and Texans' land from an abuse of authority and what would amount to an illegal condemnation of their property. Private property rights in Texas should be respected above all else.

Please let us know if you have any questions about the information provided. We look forward to working with you and setting our next meeting date.

Sincerely,

Trey Duhon
President