



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.

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A. The FRA Improperly Narrowed Corridor Alternatives

1. Federal Register Notice of Intent (NOI) to Prepare an Environmental Impact Statement for Dallas-Houston High Speed Passenger Rail Corridor

June 25, 2014, the Federal Railroad Administration (FRA) announced it would be preparing an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA), for a High Speed Passenger Rail Corridor between Dallas and Houston Texas (79 Fed. Reg. 36123). The proposed action that requires the FRA oversight and NEPA analysis is “for the impacts of constructing and operating a dedicated high-speed rail (HSR) system.” The project was proposed by a private company, Texas Central High Speed Railway (TCR), which was formed in 2009, for the purpose of bringing HSR to Texas.

The Notice stated that the EIS would “evaluate route alternatives for passenger rail,” and evaluate “alternatives for construction and operation of the Proposed Action consisting of a sealed HSR corridor.”

The notice committed that the EIS would address environmental issues of concern, including:

- a. Describing the purpose and need for the Proposed Action.*
- b. Describing the environment likely to be affected by the Proposed Action.*
- c. Identifying the reasonable alternatives that satisfy the purpose and need for the Proposed Action.*
- d. Describing the no-build or no-action alternative to serve as a baseline for comparison.*
- e. Describing the potential environmental impacts associated with the reasonable alternatives and mitigation to address significant impacts.*

Additionally, FRA committed that as a part of the EIS, it would study “the impacts of various alternative HSR route alignments,” including “shared corridors with other existing linear infrastructure corridors such as railroads, roads, and electric utility lines.”

Prior to the FRA’s announcement, there has been no analysis of potential rail corridors between Dallas and Houston pursuant to the National Environmental Policy Act. Although the Texas Rail Plan (2010) identified three potential corridors (BNSF, UPRR, 1-45), no NEPA analysis was prepared in conjunction with this plan. Therefore, prior to the FRA’s June 2014 announcement, no programmatic study had been prepared under NEPA to determine which of the numerous corridor alternatives would have the least impact on the human environment. This responsibility would need to be carried out by the Federal Rail Administration.

2. Scoping Report (April 2015)

The FRA initiated the scoping process for the purpose of defining and narrowing the scope of issues to be analyzed in the EIS. TCR had conducted its own screening process to determine the potential corridors that should be advanced for further analysis. The private company reviewed four primary corridors with nine variations. They evaluated the feasibility of each potential corridor based on “HSR design requirements, engineering and constructability challenges, and potential environmental constraints.” (Scoping page 3).

The four primary corridors consisted of the three studied in the Texas Rail Plan and a new corridor identified by TCR, the Utility Corridor. TCR ultimately recommended to FRA two corridors (BNSF Option 1 and Utility) for further study, eliminating two of the State’s Plan recommendations. FRA presented these two corridor options to the agencies and the public for input during the NEPA scoping process. (Scoping, page 4) (See also Attachment 1, Table 1)

Although NEPA requires coordination with local governments early in the process, no effort was made by TCR, FRA or the Texas Department of Transportation (Joint Lead Agency) to consider the local plans and policies of Waller County. No consideration or analysis was made as to how the local plans might restrict or impact the decision to carry forward or eliminate corridor alternatives for further study at this point in the FRA analysis process.¹

Additionally, the discussion in the scoping report is incomplete. The Council on Environmental Quality (CEQ) regulations governing implementation of NEPA requires that three types of actions, alternatives and impacts be evaluated in the EIS. (40 C.F.R. § 1508.28). There was no consideration of these elements during the scoping phase. Had the FRA at least discussed these elements in the Scoping Report, their focus may have changed. At the very least, the public and decisionmakers would have had better information from which to form its position.

3. Corridor Alternatives Analysis Technical Report (August 2015)

After releasing the Scoping Report, the FRA initiated an “independent” analysis of the potential corridor alternatives, the results of which were published in the Corridor Alternatives Analysis Technical Report (CAATR), August 2015, just four months later. At this stage, the FRA considered seven distinct corridor alternatives and transportation options, including the two recommended by TCR. Presumably, one would have expected the FRA to compare the seven corridors pursuant to NEPA and the 23 environmental criteria required under the FRA’s Procedures for Considering Environmental Impacts (64 Fed. Reg. 28545) since no NEPA analysis had been conducted prior on these corridors. However, they chose a different path, one that prioritized “meeting the economic viability determinations made by TCR,” (CAATR page 2) as a basis for eliminating several of the viable and reasonable alternatives that deserved equal analysis pursuant to NEPA.

¹ The Council on Environmental Quality (CEQ) regulations for NEPA requires that “Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts.” (40 C.F.R. § 1501.2) In cases where actions are planned by private applicants, the federal lead agency is to “consult early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.” (40 C.F.R. § 1501.2(d)(2))

“This report reflects FRA’s independent analysis and judgment in its capacity as the federal lead agency for the EIS. FRA undertook the Corridor Alternatives Analysis documented in this report in accordance with FRA procedures and generally accepted practices guiding the identification and evaluation of potential corridor-level alternatives. Because the Project is a private proposal by TCR, FRA’s alternatives evaluation documented in this report is premised primarily on complying with TCR’s technical requirements for the high-speed rail system and meeting the economic viability determinations made by TCR. FRA’s additional screening criteria are directly related to FRA’s role under NEPA: minimizing impacts to the natural and human environment.”
(CAATR page 2, emphasis added)

Although the FRA makes mention of considering the environmental criteria they are required to review under their own procedures and NEPA, a close look at what they examined reveals they selectively chose impacts to consider, and did not equally apply the analysis to each alternative. (Attachment 1, Table 3)

Four of the seven alternatives were found to fulfill the “Purpose and Need” for the project. The “Purpose and Need” is defined as:

“supports the purpose to provide economically viable high-speed (200 mph) safe and compliant passenger rail service competitive with air travel (90 minute travel time from terminal to terminal) using the N700-I Tokaido Shinkansen in a fully sealed and grade-separated Corridor.” (CAATR page 9)

The BNSF, UPRR, I-45 and Utility Corridors were all found to meet the projects “Purpose and Need.” At the very least, these should have been carried forward for a rigorous corridor level alternatives analysis as required by NEPA.

In fact, the FRA committed to doing so in the NOI to prepare the EIS. Factor “c,” identified above, states that they will be “Identifying the reasonable alternatives that satisfy the purpose and need for the Proposed Action.” It does not then add onto this statement, “and other factors the FRA determines appropriate.” If it did, it would be an unlawful statement because it would expressly violate the purposes and requirements of NEPA.²

² Additionally, the CEQ regulations require that when narrowing the scope of the issues for detailed study, the agency shall, “Identify and eliminated from detailed study the issues which are not significant or which have been covered by prior environmental review (Sec. 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.” (40 C.F.R. § 1501.7(3)) There is no discussion in the scoping or other reports as to why eliminating the other potential corridors from further study will not have a significant effect on the human environment. The FRA cannot answer this question because they did not examine the corridors from this perspective.

However, this is exactly the path the FRA pursued. Instead of a rigorous analysis of the four “build” corridor alternatives that met the purpose and need statement, the FRA conducted what it describes as a “Fine Screening Analysis.” It compared the four build alternatives based on their “physical characteristics,” “operational feasibility,” and six “environmental constraints.” The environmental constraints were:

1. Number of stream crossings
2. Acres of wetlands
3. Acres of floodplains
4. Number of historic properties and archaeological sites
5. Acres of parks and national Forest/national parks
6. Acres of managed habitat areas

There was no consideration of air quality, water quality, endangered and threatened species, land uses both existing and planned, impacts to the socioeconomic environment or minority populations, public health or safety, or many of the other 23 impacts required to be examined according to the FRA’s environmental procedures. (Attachment 1, Table 2 and 3)

Based on the FRA’s selective analysis during their fine screening process, they eliminated three of the primary build alternatives, leaving only one build corridor to examine pursuant to NEPA, the Utility Corridor. The Utility Corridor directly impacts Waller County.

One of the primary reasons for eliminating the I-45 Corridor was it passed through the National Forest, managed by the U.S. Forest Service.³ This decision, made without the required NEPA analysis, favors the federal landowner over the private landowner. It also favors saving trees over harming minority communities, conduct NEPA expressly prohibits. In fact, the primary purpose for NEPA is to ensure that potential impacts are compared equally and not selectively. The FRA’s analysis improperly resulted in carrying forward “one” build alternative corridor that cuts through Waller County, a county whose population is 52% minority.⁴

At the very least, the FRA should have carried forward the four corridor alternatives for a side-by-side comparison as to their potential impacts weighing equally the 23 environmental criteria

³ CAATR page 14: The I-45 Greenfield Corridor extends from north to south through the Sam Houston National Forest. The interstate right-of-way within the boundaries of the forest is narrow to maximize acreage within the forest. To widen the interstate right-of-way within the forest or locate the high-speed rail right-of-way adjacent to the interstate right-of-way would be anticipated to create significant impacts to recreation resources and managed habitat, as shown in Table 2. In comparison to the other potential corridor alternatives, the I-45 Greenfield Corridor has the potential for tremendous environmental impacts that would not be anticipated to result from any of the other potential corridor alternatives. Therefore, FRA eliminated the I-45 Greenfield Corridor from further consideration based on failure under the Environmental Constraints screening criterion.

⁴ 40 C.F.R. § 1501.2(c) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act. By carrying forward only one build corridor through Waller County, there is no other alternative being studied that would resolve the conflicts this project is causing for the County and its residents.

set forth in their procedures. However, instead, they selectively chose from that list to narrow the alternative down to the one preferred by TCR at the beginning of the project – the Utility Corridor.

4. Alignment Alternatives Analysis Report (November 6, 2015)

November 6, 2015, the FRA released their Alignment Alternatives Analysis Report (AAAR), just three months after selectively choosing the Utility Corridor as the only path for the proposed rail. Here, they examined 21 potential alignments within the Utility Corridor. In some sections of the corridor, only one alignment was identified, and in others, such as that which travels through Waller County, five potential alignments were considered (Hockley Geographic Group).

Again, it would be reasonable to assume that at the very least the FRA would compare the five alignments within the one corridor in Waller County, through the lens of NEPA and the 23 environmental criteria of their NEPA procedures. Remarkably, they did not.

First, they considered whether each alignment met the “purpose and need,” “alignment objectives,” and “design guidelines.” Four of the five alignments passed and were carried forward. Second, they considered 16 environmental concerns and incorporated cost and construction factors into the analysis to determine which of the four remaining alignments would be carried forward for analysis in the Draft EIS.

Understanding the methodology they used to eliminate alignments is challenging. They attempt to determine whether there is a “direct” or “indirect” impact for each environmental criterion. However, their application of “direct” and “indirect” impacts is quite different from that required under NEPA.⁵

FRA considered a “direct” impact if the action occurred in the 125 foot right of way (ROW). If a house resided inside this ROW, then the impact would be “direct” and recorded under the environmental criterion of “structures.” If an impact was outside the 125 foot ROW, but within 1,000 feet of the centerline, then it would be an “indirect” impact. Presumably, anything beyond the 1,000 foot area had no impact. So, even though the action may cause a cumulative impact and may have an indirect effect well beyond the 1,000 foot area, it was not considered.

⁵ 40 C.F.R. § 1508.8 "Effects" include: (a) Direct effects, which are caused by the action and occur at the same time and place. (b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

Additionally, the information they used to make these determinations was “desktop level research and data collection.” (AAAR Page 24). There were no field surveys or coordination with local governments to gather this information. If the data was not in a computerized source they reviewed, then it was not counted.

Further, each environmental criterion was then reduced to a number to represent the degree of the desktop accessed impact and given a ratio number between 1 and 4. Based on this number and a similarly calculated cost and construction factor number, a determination was made as to which alignments would be carried forward. It was a mathematical calculation, not an actual assessment of the impact. In Waller County, this resulted in narrowing the alternatives to be carried forward and finally to be analyzed pursuant to NEPA to one alignment within one corridor. (Attachment 1, Table 4 & 5)

Interesting to note, is that while the FRA initially considered 16 environmental criteria at this stage, they dropped four of these from early screening consideration. They were “community facilities, historic properties, hazardous materials and U.S. Census block groups with over 50 percent poverty population.” (AAAR Page 29). Their reasoning was that “they did not create any differentiation between the scoring of the potential route alternatives at this level of analysis. For example, this desktop level analysis did not identify any historic properties within the 125-foot buffer, (62.5 feet from the alignment centerline) although they are expected to be present.”

Had they assessed these impacts closer, particularly those which fall within the category of social justice, and also looked beyond the 1,000 foot zone, they would have had to report to the public and decision makers that the impact to Waller County was significant. They would have also had to report that anywhere they placed the rail in Waller County was going to impact a community that was over 50% minority.

Had they properly compared the four build alternatives that met the purpose and need statement pursuant to NEPA, they would have had to compare and analyze whether the impact to minority communities was significant alongside their premature decision that the impact to the national forest was significant. It is conceivable that the public and other federal decisions makers would have called for a different preferred corridor.

The FRA should pull back now, and prepare a programmatic EIS that analyzes the four build alternatives pursuant to NEPA. Once this analysis is completed, then they should begin a segment-by-segment alignment analysis, also pursuant to NEPA.

B. The FRA is Preparing an EIS to Justify Decisions Already Made

The primary purpose of an EIS is an “action-forcing device” to be used to “plan actions and make decisions. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.” (40 C.F.R. § 1502.1)

A record of decision issued by the FRA approving the rail project at the end of the EIS process will authorize the private company to begin the actions necessary to build the rail, including the condemnation of private land in Texas. A “No Build” decision would prevent the rail from being constructed. Until the Dallas to Houston High Speed Rail project receives this environmental clearance, no landowner should be harmed, impacted, or be forced to allow TCR to physically occupy his land.

A critical principle of NEPA is that the analysis should not be prepared for the purpose of justifying an outcome. The analysis needs to be unbiased, impartially prepared, equally weighing all the impacts in such a way as to ensure the purposes for the act are fulfilled – that man and nature exist in productive harmony. The CEQ regulations specifically prohibit the type of statement preparation the FRA has pursued.

40 C.F.R. § 1502.2 (f) Agencies shall not commit resources prejudicing selection of alternatives before making a final decision (Sec. 1506.1). (g) Environmental Impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

And;

40 C.F.R. § 1502.5 ... The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made (Secs. 1500.2(c), 1501.2, and 1502.0)

And;

40 C.F.R. § 1506.1 (a) Until an agency issues a record of decision as provided in Sec. 1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would: (1) Have an adverse environmental impact; or (2) Limit the choice of reasonable alternatives.

(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in paragraph (a) of this section, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved.

(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action ... (3) will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.”

The FRA has violated these provisions. Instead of preparing a programmatic EIS analyzing the four build alternative corridors that passed the purpose and need test, the FRA has selected one corridor and a specific alignment within this corridor before conducting the required NEPA analysis.

Landowners near the Utility Corridor and selected alignment have been harmed. TCR is actively surveying the 1,000 foot impact area and landowners have been threatened with court action if they refuse to allow TCR access to the private land.

Development in Waller County has all but stopped as investor's are on hold waiting to see which parcels of land will be impacted. The FRA's actions to this point have had an adverse environmental impact, have limited the choice of reasonable alternatives, and have prejudiced the ultimate decision on the program.

The heart of the environmental impact statement is the discussion of alternatives. Because the FRA has improperly selected one build alternative, it has failed to provide the meaningful comparative assessment necessary for proper decisionmaking. "Based on the information and analysis presented in the sections on the Affected Environment (Sec. 1502.15) and the Environmental Consequences (Sec. 1502.16) it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public." (40 C.F.R. § 1502.14)

There is nothing for decisionmakers and the public to "compare" the analysis to. The FRA is offering only one build alternative to be compared against "no action." How futile will the "affected environment" and "environmental consequences" discussion be to ensuring an informed decision? Of course, it is not futile if the intent from the beginning of the proposal was to build a High Speed Rail System in the Utility Corridor. This approach, whether intentional or not, is clearly unlawful under the provisions of NEPA.

Two of the four build corridor alternatives were eliminated because it would have required negotiations with freight rail companies, the BNSF and UPRR alternatives. However, the FRA has said they will consider reassessing these if restrictions on the Utility corridor make this necessary. (AAAR page 3). What this means is that negotiations with the freight rail companies are possible, and reasonable. The pro's and con's of doing so should be examined equally alongside the other two alternatives, not eliminated at the outset of the project and, therefore, improperly preferring that alternative originally identified and recommended by the private company.

So, the FRA eliminated two alternatives because it would be difficult to negotiate with Freight Rail companies, eliminated one alternative because it would impact the national forest, in favor of impacting primarily rural landowners. This decisionmaking process not only reveals the FRA's bias against rural landowners, but also their ignorance as to the unique land uses and irreversible and irretrievable commitment of resources in rural Texas.

C. Local Significant Impacts to Waller County and WCSRPC's Jurisdiction Must be Resolved

As has been noted above, the FRA has a duty through the EIS process to work to resolve the conflicts a proposed project will cause to local communities.

“Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act.” (40 C.F.R. § 1501.2(c))

The remedy provided through NEPA when conflicts cannot be resolved is to develop appropriate alternatives that avoid these conflicts. In the event this needs to be stated again, the FRA should have prepared a corridor level analysis pursuant to NEPA whereby it could have studied an alternative that resolved the conflicts imposed on Waller County.

Additionally, the FRA is required to discuss in the statement how the agency is going to reconcile the proposed action with the local plans.

“To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.” (40 C.F.R. § 1506.2(d))

Again the burden falls on the federal agency to “reconcile” its proposed action with the conflicts imposed on the community.

Numerous impacts and conflicts were discussed in the coordination meeting held last February that will need to be identified in the Draft EIS and the action the FRA will be taking to reconcile these conflicts. To date, there has been no effort by the FRA to contact our Commission in order to determine what reconciliation would be sufficient, even the FRA has been noticed of these concerns through the meeting with TXDOT.

Some of these issues are discussed below, but by no means covers every issue. This does provide some of the most critical and important impacts to our community we are currently aware of that need to be resolved prior to any further action on development of an EIS.

1. Emergency Services

Mr. Gary Ferguson, Director of the Waller Harris Emergency Services District No. 200 (District), spoke about how the High Speed Rail (HSR) will divide the district down the middle cutting off access to 25 roads. These roads are used for emergency vehicles that now service the District and provide an 8-minute response time. The HSR will disrupt this service and increase the response time to dangerous and unacceptable levels.

Also, the District is currently planning for an expected increase of residents due to the construction of the Daikon Goodman manufacturing plant. However, it is prevented from carrying out its planning responsibilities in a sufficient manner because the potential of a proposed HSR through the District creates too many unknowns. For instance, if the HSR path does go through the District, whether or not the train will be elevated above grade or raised up 12 to 18 feet with no underpasses, changes every element of the District plans. The District cannot properly move forward and plan sufficiently because of the FRA's actions.

The District is funded with ad valorem taxation and any diminution of value due to the HSR will cause a tax increase to cover expenses and budgets. Each fire department costs \$4.5 million for the building, equipment and staffing. An ambulance costs \$300,000 and staff is needed 24/7 for 365 days. New fire stations and emergency services will be needed should the HSR divide the District. However, currently the District cannot prepare for this and other needs because of the FRA's actions.

Right now, the District has 10 fire departments and will need more if the HSR is built. The District is also very concerned with catastrophic accidents that may occur from an HSR accident. Hundreds of ambulances, life flights, and emergency services will be needed and the District will not be able to handle this type of emergency. This will place an undue burden on the District. To date there has been no discussion with the FRA as to how they will resolve these conflicts.

2. Economic Development Impacts on the City of Waller

Mr. John Isom, Director of the City of Waller Economic Development Corporation discussed how the City of Waller was stunned when it discovered the HC-4 Route through the City's ETJ had been chosen with no opportunity for public input or comment.

The City of Waller has a population of approximately 2,400 people and is located in both Waller and Harris counties. The City is a general law city under the 5,000 threshold and is limited in growth strategies compared to home rule cities. This means it is important to maximize the development of the geographical area available to the city. The HC-4 Route passes through the City's extraterritorial jurisdiction and through the planned Waller Town Center.

HC-4 passes through the Delta Troy Interests, a 990-acre tract being held for housing and commercial development. HC-4 also passes within 4,000 feet of the Daikin/Goodman facility currently under construction, a heating and air conditioning, \$410 million facility that will be 4.2 million square feet in size, the largest industrial facility under one roof in the State of Texas, and employ 4,000 people in 2016 and 6,000 by 2018.

The City is part of a Greater Houston Partnership task force to support Daikin/Goodman in their effort to bring their key suppliers to the Waller area. It is estimated that the suppliers will add another 2-4,000 employees. There is concern that the HSR will create a barrier between Waller and the Goodman facility and cause the city to lose much needed tax base from these suppliers.

The barrier will cause suppliers to locate to the east of the HSR in the unincorporated area, causing a proliferation of onsite water and wastewater facilities rather than using city utilities, resulting in a much less efficient usage of land and resources.

Goodman Manufacturing has stated their position on the HSR route HC-4 this way: “..., we would be concerned with any route that disrupts Waller plans to provide Goodman employees (residents and non-residents) with support services such as housing and retail options.”

Waller Town Center (WTC) is a joint venture being marketed by Cullinan Properties, a national developer operating in Illinois, Missouri, Georgia, and Texas. The WTC is an integral part of the City’s development strategies to reach retailers. The Texas Legislature created a municipal management district (MMD) specifically for this development. The 462-acre project is a \$280 million investment that will include a power center, lifestyle walkable retail, entertainment, hotel/conference centers, medical facilities, and housing.

The City has a retail “leakage” of \$352 million in our primary trade area and \$584 million in our secondary trade area. The WTC is critical to the City’s closing this leakage. This build out investment would double the City’s property valuation and could potentially double the City’s sales tax revenue. This would allow the City to decrease its tax rate while improving City services.

HC-4 slices through this entire planned WTC project impacting 500 housing units delaying our residential growth and retail development creating extremely significant negative impacts on the economic development plans for the City of Waller.

Waller City Council has opposed the HSR project in Resolution 2016-6, passed on January 25, 2016. The Resolution addresses the fact that HC-4 was selected without public comment as the single route through Waller County, splitting the WTC creating significant detrimental impacts on the City’s retail strategy and destroying the economic value of the City, and negatively impacting both property values and development opportunities.

One more major impact will be on the Hewlett Packard Data Center facility, which houses 1,500 servers that will be within 1,000 feet of the HC-4 route. When notified of the route, HP’s management team and legal department stated: “*Hewlett Packard Enterprise is currently not in a position to approve or disapprove the proposed route...However...the proposed route would appear to have very serious negative impacts on our property and our critical data center operations at the property. If we determine that is the case, then we would have no choice, but to vigorously oppose this proposed route.*”

3. Waller ISD Impacts

Mr. Danny Twardowski, Superintendent, Waller Independent School District (WISD), stated how he and his Board were never contacted or notified about the route being chosen. In fact,

HC-4 splits the District in half. It is also located immediately behind one of the schools in WISD), which is totally unacceptable.

WISD encompasses 328 square miles in Region 4 of the District. It has 6,600 children and has added over 320 students in 2016 and over 700 in the past two years. WISD has a five to seven percent growth rate and is expected to double in size over the next 10 years.

For planning purposes of the District, we now need to know if the train track is going to be elevated, on grade, or subterranean. We need to know for our bus routes and safety of our students. The potential division of our District will cause our buses to travel many more miles, creating wear and tear on our equipment, which will need more maintenance and care.

WISD derives 45% of its funding from ad valorem taxation. Any diminution of property values will have a direct and negative impact on the future growth of our school district. With Daikin/Goodman coming to our community, those 6,000 employees will have children who will need to attend school and WISD would like for them to attend their District, but the District cannot make the appropriate plans for future growth and economic development around the HSR because of the many unknowns regarding the HSR. People are scared and are now not willing to move into the area for fear that the train will destroy their property values. This is a major issue for the school district and future planning. The FRA has already harmed the District by selecting this alignment without proper NEPA analysis.

Last November, WISD passed a Bond to build four new schools. Without knowing any details about the HSR, WISD cannot purchase land, make plans or know which routes to choose to transport their students. Some of their children are medically fragile and cannot be transported easily or for long periods of time. The HSR now creates significant issues that need to be resolved. WISD also plans on building a new satellite transportation facility, but without more information, cannot purchase land, make plans, or be as efficient with the public's tax dollars.

These conflicts must be resolved by the FRA before any additional environmental studies are released.

4. Other Community Impacts

Mr. T.J. Johnson, president of the Waller County Advocacy Group (WCAG) discussed numerous impacts on Waller County, which, according to government statistics, is one of the fastest growing counties in the nation. Impacts on the County include:

- **High Speed Ground Transportation Noise and Vibration Impact Assessment** by the FRA dated September, 2012 states that vibrations affect "sensitive" buildings like Concert Halls, television stations, recording studios, theaters and buildings like the Hewlett Packard facility where they house 1,500 servers. With up to 96 trains per day, this will cause significant impacts to HP, as well as, directly affect the viability and economic stability of the region. Ms. McNeely stated that the FRA was studying this very issue and would include it in the Draft Environmental Impact Statement. We ask

that HP be directly contacted so that impacts to their facility will be taken into account and any conflicts resolved prior to the final report being issued.

- **Quality of Life** issues include people living within noise and vibration distance, as well as, sight, particularly if the train track is elevated. Depending on location and height of track, there will be loss of disposable income for the increase in travel time because people will not want to live within five to ten miles of the train track causing them to spend more time driving longer distances. Mr. Johnson estimates quality of life spent driving behind the wheel of their vehicles will be reduced by 5,000 man-hours per year for residents in Waller County and cost an additional loss of disposable income up to \$3 million.
- **Katy Prairie Conservancy** – provides essential habitat for migratory birds and is designated as a **Global Important Bird Area**. A 200 MPH train barreling past this migratory bird sanctuary is going to cause bird collisions and accidents. This is also where important **wetlands** exist that will be irectly affected by a HSR corridor.
- **Kickapoo Preserve** – a high-end development for 500 new homes for Daiken/Goodman employees has begun construction with a detention pond. The developer learned about the HC-4 route and has decided to stop all development until further knowledge of the train and its route is known. (See map).
- **Saddle Creek Forest, Plantation Forest, Oak Hallow, Remington Forest and Six Pines** – all developments for nearly 500 homes, 50 of which have already been built with four or five more in the works are all now cancelled because of the route. The HC-4 route travels right through the developments and destroys the economic viability of them and the value of everyone’s property. Also, within these developments are four horse riding trails that the train will cross. This will destroy any viability of the equestrian facility and create dangerous situations for anyone riding in the area, especially children.
- **G & W Water** is the supplier of potable water for northern Waller county and southern Grimes County. They have funding approved and finalized to build a water tower and the train route falls directly on top of it.
- **Woodhaven Subdivision** was the area where three new schools were to be constructed, but that’s on hold because of the HC-4 route.

5. Waller County Economic Partnership

Mr. Vince Yokum, Executive Director of the WCEP, a non-profit tasked with assisting the County to bring development, jobs and investment raised the following issues:

- Future road and thoroughfares through the northern portion of the County where the train is going to cut through. Dozens of roads are planned, but none will be able to be completed if the train cuts through stifling all development.

- Local Environmental Impact include the Spring Creek Watershed where five creeks will cross the track of the HSR. This watershed will be directly impacted by the train and the track depending on how it's built. Tropical Storm Allison proved that if any impediments to water flow occur through the watershed, the area will experience major flooding and damage to property if the track is not properly studied and engineered.
- Recreational and Sport duck hunting will be directly affected by any noise, vibration and possible 96 trains running through the area. The route cuts through the north end of one of the major wetlands in the region where duck hunting is vital to the economy and where water fowl and their hunting will be diminished, if not destroyed by a high speed train.

6. Economic Obsolescence

Mr. Don Garrett, a real estate broker, discussed the economic reality of a train coming through the community. He referred to this as Economic Obsolescence.

Using government studies, he explained how if anyone lived within 300 to 500 feet of the train, they're what he called the "Walking Wounded." In other words, the value of your land/home would be destroyed. The noise factor alone would do that. He likened it to living next to a freeway or in the flight path of an airport.

Mr. Garrett explained how bankers and appraisers heavily discount property values in situations like this, which destroys the market value of all properties. Because of this loss in value, ad valorem taxation will decrease causing WISD to lose \$3.6 million in annual revenue, \$1.8 million will be lost to the Municipal Management District discussed in No. 2 above, the City of Waller will lose \$1.3 million and property tax collected by the county appraiser will be reduced by between \$279,000 to \$1.6 million annually from developments that will be ruined by the train passing through or near them. Nobody wants to see or hear a high speed train near their home or business.

The HSR will prevent the highest and best use of hundreds of properties throughout Waller and Harris Counties where the area is experiencing some of the fastest growth in the state. He requested the appraisers of the HSR look into what he calls Economic Obsolescence because it's going to cause people to lose value in their property, valuation of property to cause lower taxes collected and school districts, cities, emergency services and all public entities will lose income reducing the services that are provided to the citizens who pay the taxes.

7. Historical Impacts

Mr. Rick Welch and Tom Gleason discussed historical significant locations and objects and cultural resources within Waller County and the location where the rail is selected to traverse.

Mr. Welch told of Benaiah "Yankee" Jones, III, born in Massachusetts in 1795 and moved to Texas in the 1830's to early 1840's. He ended up in the area that is now northeast Waller County where he bought 1,100 acres. On this land, he built a stage coach Inn that became a

famous stage coach route that is still visible today in the Kickapoo Preserve. Jones and his family are also buried on the family cemetery located in the Kickapoo Preserve. HC-4 runs right over this land and very close, if not directly over this old Inn and Stage Coach site and cemetery.

When Kickapoo Preserve was established, they were required to perform an archeological survey, which produced the "Kickapoo Archeological Survey Report of April, 2010." For this report, the developer was required to obtain an Army Corps of Engineers Section 4 Permit. This report revealed four archeological sites and two pre-historic/historic sites considered for inclusion in the National Register of Historical Places.

Mr. Welch has historical maps indicating historical boundaries, roads, stage coach routes, written historic interviews of "old timers," and all the historical sites on the Kickapoo Preserve. These documents show where the sites were for historical Stage Coach Road that was created between the 1830's and 1840's that came from in the original town of Harrisburg (now Houston) and went northwest through Mr. Jones' land.

These are all historical sites that should not be destroyed by the HSR.

8. Public Safety

Mr. Tom Gleason discussed the Atmos Energy Turbine Powered Natural Gas Compression Station, which uses a jet engine to pressure up to a 30 inch natural gas pipeline between Waxahachie and Katy Texas. The pipeline is pressured up to 930 psi and was installed in 2006.

There have been at least three known accidental releases of natural gas:

May 24, 2007 – 18,000 lbs released,
May 30, 2007 – 20,000 lbs released, and
June 11, 2007 – unknown quantity

On August 9, 2011, there was a planned Emergency Shutdown Simulation that released thousands of pounds of gas that Mr. Gleason and other neighbors experienced over a mile away.

It turns out that Atmos has to perform emergency simulations twice a year creating potential hazardous situations, especially with an electric train traveling nearby. What would happen during one of these accidental or planned events should a train traveling 200 mph ignite the natural gas and cause a catastrophic accident?

This will cause an unprecedented catastrophe with tremendous loss of life, damage to private property and environmental destruction to Waller County or any other county should this occur.

The train adds the ignition source to an already volatile and potentially dangerous scenario that creates an unacceptable risk to the health, safety and welfare of our community and local residents, as well as, the passengers on the train should an explosion occur.

Summary

The FRA has failed to properly study the four build corridors that met the purpose and need test pursuant to NEPA, and by so doing caused considerable harm to Waller County and unresolved conflicts. Development in Waller County has all but stopped as investor's are on hold waiting to see which parcels of land will be impacted. Local governments have put plans on hold, jeopardizing properly preparing for their communities future. The FRA's actions to this point have had an adverse environmental impact, have limited the choice of reasonable alternatives, and have prejudiced the ultimate decision on the program.

The only way the FRA can properly resolve these conflicts is to start the process over by preparing a programmatic EIS that begins with a comparative analysis of the four build corridors pursuant to NEPA.