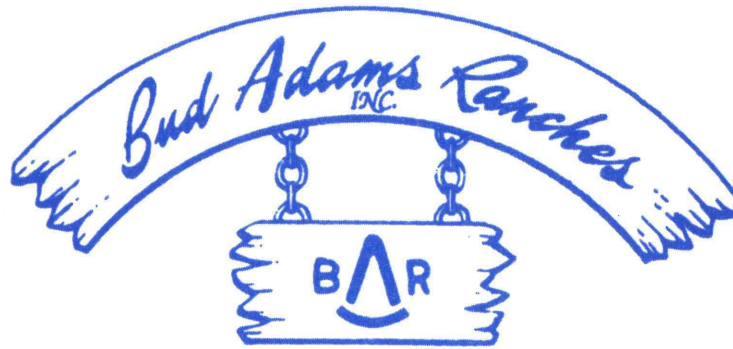


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May 15, 2020

Ronald Batory, Administrator
Federal Railroad Administration
1200 New Jersey Ave, SE
Washington, D.C. 20590

Dear Administrator Batory,

300627

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Office of Proceedings
May 15, 2020
Part of
Public Record

The FRA should immediately postpone all work on its proposed rules governing the operation of Texas Central Railway's high-speed rail system between Dallas and Houston, Texas. The current Draft Environmental Impact Statement filed with the FRA by TCR must be amended and released to the public for review and comments. It is my understanding, based on the FRA docket, that it intends to release a final DEIS with respect to this project before the end of June. If the FRA follows through with its calendar the public will be denied its right to review and comment on some of the most critical information the EIS should contain. A fair question would be why is the FRA allowing critical information to be hidden from public view? The DEIS the FRA is acting upon does not present any information on the following important issues.

1. Covid-19 has rendered obsolete the ridership projections and economic analysis contained in TCR's DEIS and upon which FRA relied to approve the project. Since the DEIS has not been amended to address Covid-19's possible impact on the economic viability of the project, the public is denied any opportunity to examine and comment on the economic advisability or viability of TCR's proposal. Businesses located in Dallas and Houston will be reexamining every policy and aspect of employee travel. Managers now have previously unprecedented abilities to determine which employees can be productive and efficient working from home, and virtual meetings have become commonplace.
2. TCR's DEIS which was submitted in December 2017, does not address any possible impact or concerns about flooding or other local transportation issues the train could pose considering the flooding caused by the storms Harvey (August 2017) and Imelda (September 2019). Even if the final EIS released by the FRA addresses these two storms the public has been denied the opportunity to review and access the adequacy of any information about the storms. Sixty-eight Houstonians died and 300,000 structures were damaged or destroyed by Harvey. Many structures are located in Northwest Harris County in areas that could be impacted by TCR's railroad. How can the FRA claim to have fulfilled its mission to the public if vital information about these

- storms is included in an EIS without the public's ability to review it? How does the public know if the FRA has adequate information to develop safety rules for the HSR as it passes through Northwest Houston and Harris County without an amended DEIS which discusses all of the possible impacts of these two storms? TCR has had over two years to amend its DEIS filing to address flooding issues raised by Harvey. If the final EIS approved by FRA addresses Harvey at all it will appear the information was hidden by TCR and FRA to prevent public examination and comment.
3. The FRA's records will show it has proceeded with working on this project even though the DEIS could not possibly comply with the Endangered Species Act (see Letter to Kevin Wright detailing the ESA problem). If the new EIS addresses the ESA deficiencies in the DEIS the public will have been denied the ability to review and comment. Texas Central could not do an environmental impact study for the original DEIS because TCR could not access 150 to 170 miles of the route. The fact TCR could not study the vast majority of the area its project would impact does not exempt TCR from complying with the ESA. Is it the position of the FRA that TCR is exempt from the ESA? Has subsequent ESA research been unintentionally or deliberately withheld from the public for review and comment?
 4. TCR currently is no longer a viable economic entity. The Japanese government has announced it will not fund any additional costs of the project. TCR has repeatedly stated that it will only use private funds. Has TCR changed its position and determined that the railroad will need to be publicly funded? An amendment to the DEIS should outline how the company proposes to find new investors, and this amendment should be made available for the public's review and comments.
 5. Large sections of the proposed route could at most only have been viewed from the air. The DEIS submitted by TCR does not indicate even aerial surveillance was conducted and reviewed. If information from aerial surveillance was conducted the public should have a right to review and comment on the results.
 6. I participated in the FRA public telephone comment meeting that it conducted on Wednesday, May 6. During this meeting, the issue of pipelines was raised by another caller. I was shocked to learn from the FRA officials on the call that the FRA has not even considered pipeline crossings as part of its efforts to formulate safety rules and issue a final EIS for TCR's proposed railroad route. I was horrified to learn from the FRA representatives that studying and analyzing how to protect pipelines during both construction and operation of TCR's HSR was not even considered. I took notes during the phone call, and my understanding of the FRA's position is that the FRA has no responsibility to ensure the HSR can be safely constructed or operated over any pipelines. FRA representatives claimed that pipeline safety is not their problem and FRA does not need to work or even consult with any other federal regulating agencies about safety issues with respect to the HSR's path. In fact, the FRA representatives originally tried to claim this was not a safety or of concern to the FRA because it was an infrastructure issue related to the HSR! FRA later retracted that statement. Does the FRA realize Texas has the largest pipeline infrastructure in the nation, with 469,737 miles of pipeline representing about 1/6 of the pipeline mileage of the entire United States? Attached to this letter is a map showing Texas pipelines.

Japan has only 3000 miles of pipeline, and I got the impression from the FRA's representatives that perhaps the FRA was relying on Japanese experience with the construction of its HSR to exclude pipeline impacts from consideration in a final EIS. Ruptures and explosions may not even be the most serious threat concerning the construction and operation of the train over pipelines. The greatest danger to the environment could come from small gradual leaks as the pipelines begin to fail under the weight of the berm required for the roadbed and the operation of the train.

Every member of the public, regardless of whether or not the citizen is for or against TCR's proposed railroad, has a fundamental right to be supplied the information detailed above and be given an opportunity to comment on the information. Is the FRA attempting to deny this information to the public? How can the public be confident the FRA cares about the public's safety or rights to critical information on any proposed rail project? Does the FRA want to hide this information from the public until a final EIS is issued? The public certainly has a right to review an updated and amended DEIS which discloses information about all of the issues listed above.

Sincerely,

A handwritten signature in dark ink, appearing to read 'W.R. Scofield', written in a cursive style.

W.R. Scofield
President

Attachments

cc: All Parties of Record

KSA INDUSTRIES, INC.

P.O. BOX 844
HOUSTON, TEXAS 77001

March 9, 2018

Kevin Wright
Environmental Protection Specialist
Federal Railroad Administration
1200 New Jersey Ave. SE, MS-20
Washington, D.C. 20590

The draft Environmental Impact Study (EIS) released to the public by Texas Central Railway (TCR) for its high-speed rail project is fatally deficient with respect to studying, protecting, and complying with the federal law of the Endangered Species Act. I attended a comments meeting held by the Federal Railroad Administration (FRA) on March 5th, 2018 at the Sheraton Brook Hollow in Houston, Texas which provided me with the opportunity to speak with an AECOM biologist that worked on TCR's draft EIS. The AECOM biologist had a poster board explaining that during the research work for the draft EIS, no endangered species had been found in the 240 miles (crossing ten Texas counties) that would be impacted by TCR's rail project. I told the biologist I had visited the Texas Parks and Wildlife website which gives a complete listing of documented endangered species in the ten Texas counties. Texas Parks and Wildlife lists a total of twelve endangered species that have habitat in the portions of these ten counties. These species include: the Houston Toad, Atwater's Prairie Chicken, the Whooping Crane (its migration route), and the Red Wolf. In addition, there are approximately 22 threatened species. I asked the biologist what fieldwork had been done to observe and document endangered and threatened species in the ten counties which would be impacted by the 240 miles of construction necessary to complete TCR's project. The biologist explained to me that very little fieldwork was completed before the draft EIS was published and released to the public and that AECOM was beginning to do actual field work and research on the impact the high-speed train would have on endangered and threaten species. Since the initial work done by AECOM found no endanger species, obviously a great deal of additional work will be required to complete an Environmental Impact Report which fully covers any impact on endangered species. The only logical explanation for why TCR did not find endangered or other protected species is their biologist didn't really look for any of these species.

TCR's EIS-DEIS is also fatality deficient, since the document does not specifically provide steps TCR will undertake to insure the protection of endangered or threaten species under Texas law. The Texas horned lizard is now a protected species, and, in Texas, it is illegal to take, possess, transport or sell them without a special permit. Habitat destruction is an illegal "taking" of a species. TCR's EIS must present specific information about their biologist's study of the Texas Horned Lizard and must also detail

how TCR will protect the Horned Lizard during construction and include how TCR will mitigate damage to their habitat. The Texas Horned Lizard is found in all ten counties and without a specific plan with respect to protecting the lizard, TCR's EIR does not comply with Texas law.

The possible negative impacts and any mitigation requirements that are needed to protect and preserve all endangered species with habitats along TCR's 240-mile corridor is one of the most important parts of the EIS. This will allow both experts and the public to review and submit comments to the FRA with respect to this project. This opportunity will effectively be denied unless a second draft EIS is prepared for proper review. The current draft EIS should never have been approved for release unless all work necessary with respect to endangered or threatened species had been completed. This is one of numerous deficiencies of TCR's draft EIS which should require the preliminary draft to be rejected by the FRA.

If the FRA properly completes the tasks it has been assigned by Congress and the President, the FRA should immediately notify TCR that the company must issue a draft EIS that can be properly reviewed by all interested parties. The FRA should refuse to accept any EIS-DEIS submitted by TCR until TCR takes its legal obligations to protect threatened or endangered species seriously, and until TCR produces a preliminary EIS which others can examine and submit comments to the FRA.

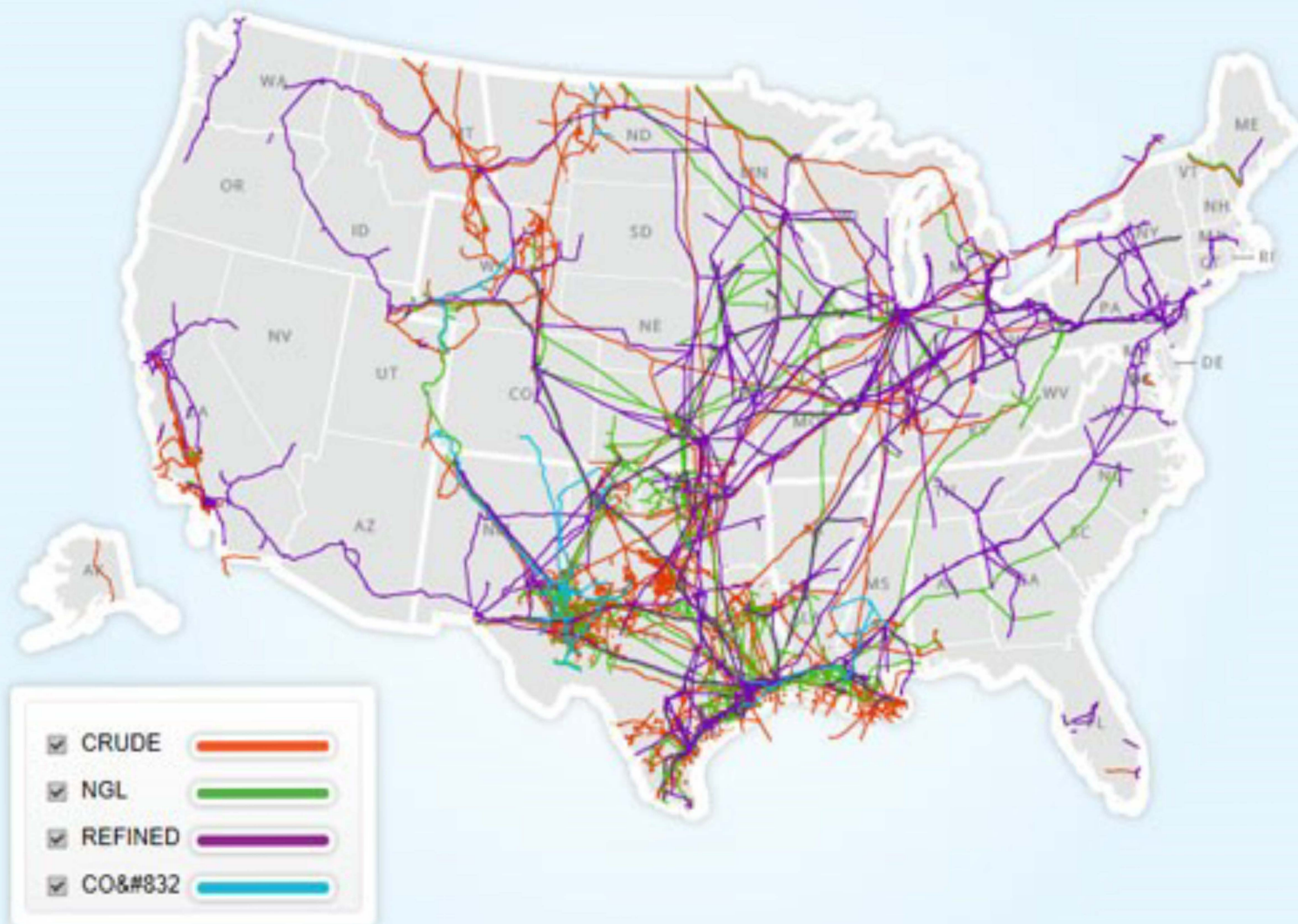
Regards,



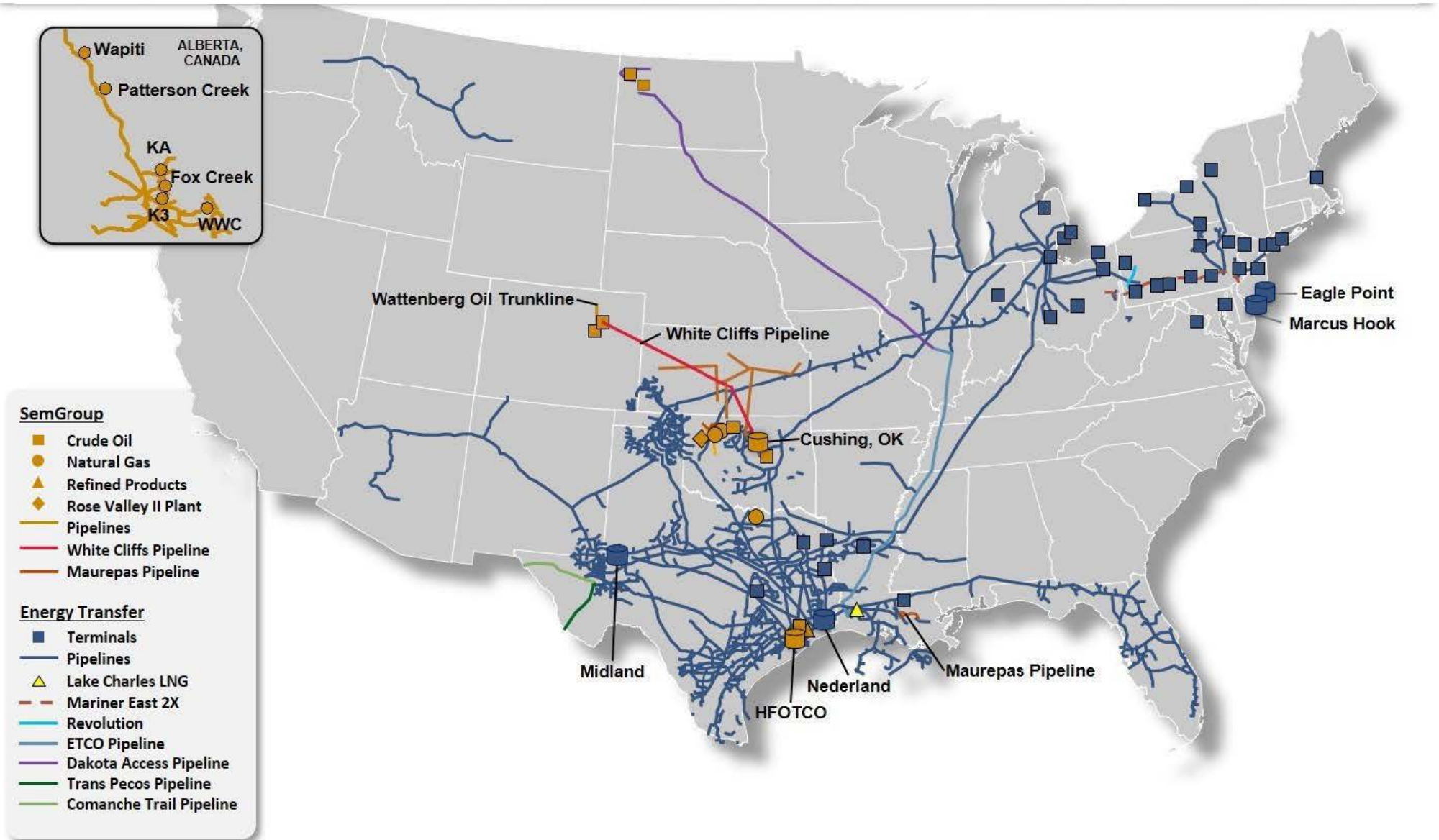
William R. Scofield

President

CC: Paul Nissenbaum
Rep. Pete Olson
Rep. Kevin Brady
Rep. Michael McCaul
Sen. John Cornyn
Sen. Ted Cruz
Texans Against High Speed Rail



Source: American Energy Mapping (AEM) 2013



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