

**BEFORE THE
SURFACE TRANSPORTATION BOARD (STB)**

**Finance Docket No. 36025
TEXAS CENTRAL RAILROAD AND
INFRASTRUCTURE, INC. &
TEXAS CENTRAL RAILROAD, LLC AUTHORITY
TO CONSTRUCT AND OPERATE PASSENGER
LINE BETWEEN DALLAS, TX AND HOUSTON, TX**

**Negatively Impacted Private Property Land/ Homeowner's
Response in Opposition to Petitioner's Response to Surface
Transportation Board's Request for Additional Information
Dated June 20, 2019 Referencing Texas Central's May 4,
2018 Petition to Reopen Proceeding**

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This is to advise that I and my family, as Private Property Land/Homeowners in Madison County, are 100% Against the Texas Central Railway/Partners (TCR/P) proposed High Speed Rail between Houston and Dallas, TX

I would like to take the opportunity to point out a few items that have not been addressed before the Surface Transportation Board (STB) to date.

The Federal Railroad Administration (FRA) knows that there is another viable option on the table as opposed to the Texas Central Railroad/Partners (TCR/P) HSR Dallas to Houston Project. There is already another transportation corridor that has an approved EIS that extends from Oklahoma to Corpus Christi. As described at the <https://www.fra.dot.gov/P0716> website, "the 850 mile Texas-Oklahoma Passenger Rail Study Corridor (TOPRS) extends from Oklahoma City in the North through Dallas, Fort Worth, Austin, and San Antonio to destinations in south Texas including Laredo, Corpus Christi, and Brownsville". What this means is that there is already a route that has been approved, that follows a transportation corridor, as opposed to trying to run a transportation corridor down a utility corridor.

Let's consider another fact. There is an Amtrak report: The Amtrak proposal for High-Speed Passenger Rail in the Northeast Corridor In Response to the FRAs Notice of Request for Proposals (Federal Register Document FRA-2016-0014) Dated August 31, 2016, which shows two figures: Figure 3 and Figure 4 which show the Peak Period Congestion on National Highway System (2002 and 2035). In both figures, the congestion is not between Houston and Dallas, it is between Houston and San Antonio. The point of this is that TCR/P and the FRA knows there is an alternative on the table they haven't made the public aware of or fully explored. The TOPR Corridor does meet a demonstrated need as opposed to the TCR/P project which has not shown a need. Another way of thinking about this is that the TCR/P project is a "solution" looking for a problem that doesn't exist. The TOPR project already has an approved EIS. The only addition that would need to be made is adding a Houston to San Antonio route. As mentioned, this would avoid burdening the state of Texas with two routes into Dallas when they already know that the Houston to Dallas route is not the issue.

Another issue that has continued to plague TCR/P is the fact that the public has continuously asked to see TCR's ridership and financial projections, to which TCR/P has always responded with "we don't have to divulge that as we are a private company". Does it really make sense to anyone that is sensible that a company that purports to be for the public good and passes itself as a transportation company would purposely withhold information that is of paramount importance when dealing with a project of this magnitude?

As a matter of fact, the TxDot Statewide Ridership Report dated December of 2013 stated:

Dallas/ Fort Worth to Houston and Dallas/ Fort Worth to San Antonio Corridors

The preliminary ridership results as produced in the cost effectiveness analysis and probability analysis tasks showed the forecasted ridership for the Dallas/ Fort Worth to

Houston corridor to be significantly lower than some of the other core express service corridors evaluated, such as the Austin to Houston and Dallas to San Antonio corridors. However, these results were further analyzed, since the Dallas/ Fort Worth to Houston corridor has an overall higher number of intercity travelers (all modes combined) than the other corridors. It was determined that the highly competitive nature of air service within the Dallas/ Fort Worth to Houston corridor, with two major airports at each terminus and approximately 50 flights per day in each direction at fares nearly equal to the federal mileage rate, would require the assumptions for high speed rail service in that corridor would need to be modified to be more competitive with the air service. As a result, an optimized run was performed for the Dallas/ Fort Worth to Houston corridor to better reflect the likely characteristics of potential high speed rail service in that corridor. The characteristics utilized in the optimized model run were based on publicized assumptions being used by the Texas Central Railway, the private consortium currently pursuing high speed rail between Dallas/ Fort Worth and Houston, which consisted of the modifications listed below.

- Removed station stop at College Station
- Reduced fare to 80% of average airfare (\$108 between Dallas and Houston)
- Increased average travel speed to 160 mph to produce an approximate trip time of 90 minutes between Dallas and Houston

and:

The estimated capital costs also changed for the modified Dallas/ Fort Worth to Houston corridor, since removing the College Station stop allowed for a more direct route and reduced the route length (reduced capital cost) and the revised ridership forecast required additional trainsets to provide the required capacity (increased capital cost). The estimated annual operating and maintenance costs were also revised to account for the additional trainsets, and therefore train miles, that would be required by the increased ridership". (TxDOT 73).

If the above information from TxDOT is taken at face value, it would appear that in order to make the project more attractive, a lot of unknown variables had to be adjusted. I point out that these variables are unknown, due to the fact that once again, TCR/P claims their ridership information is proprietary and as a private company, they are not required to divulge it. This should be an enormous red flag to any impartial party, especially as the above information directly states that the station stop at College Station was removed as it "allowed for a more direct route and reduced the overall route length (reduced capital cost)". If that is the case, why is the mid-stop route in the DEIS? Another way to look at it is that it is always easy to achieve your goal, especially when you arbitrarily move the goal posts.

This is further supported by the Reason Foundation Policy Brief 139, titled Texas High Speed Rail: Caution Ahead, dated February 2017:

Texas Central has released several different sets of ridership projections. Initially, Texas Central projected annual ridership of four million passengers by 2035. More recently, Texas Central upped this projection to five million annual passengers by 2025. Table 3 shows our ridership forecast for Texas Central's project. High-speed rail ridership comes from many different modes including conventional rail, aviation, personal automobile, buses and "induced travel." (Feigenbaum 5).

and:

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Table 3: Texas Central Project: Estimated Ridership from Different Sources					
Travel Mode	2015 Usage (one-way trips)	Growth Rate	2035 Total Passengers	Diversion Rate %	2035 Ridership (one-way trips)
Conventional Rail	0	N/A	0	N/A	0
Aviation	1,242,142	1.6%	1,706,261	42%	716,630
Personal Automobile	9,709,441	0.5%	10,727,918	5%	536,396
Bus	291,470	3.0%	526,427	4%	21,057
Induced	N/A	N/A	N/A	10%	127,408
Total Ridership	11,243,053		12,960,606		1,401,491

Sources: Aviation, U.S. Department of Transportation Consumer Airfare Report; Personal Automobile, Texas Department of Transportation Average Annual Daily Traffic Volume Maps 2015; Bus, Ridership statistics of Megabus, Bolt, Greyhound.

As shown in the table, based on our analysis we estimate Texas Central's 2035 annual ridership at 1.4 million passengers. Our estimate is supported not only by public data and thorough research of U.S. and international rail systems, but also by the Texas Department of Transportation's December 2013 Statewide Ridership Analysis Report of Texas Central's Project, in which it projected 2035 annual ridership of 0.7 to 2.7 million annual passengers. Creating an accurate ridership projection is critical because exaggerated ridership projections lead to revenue shortfalls, financial difficulties and, ultimately, taxpayer subsidies. Regarding costs, Texas Central has estimated capital construction costs between \$10 billion and \$12 billion. We believe this estimate is significantly understated. For our analysis, we erred on the side of caution. We gave Texas Central the benefit of the doubt by deliberately choosing the minimum costs for line construction, train and land acquisition, and station development. Our capital cost estimate is \$17.8 billion, although we believe actual construction costs may exceed \$20 billion. The Texas Department of Transportation, which projects multiple major transportation infrastructure project costs each year, estimated up front capital costs of \$18.3 billion for Texas Central's project. (Feigenbaum 6).

At this point, I would like to draw a parallel between the troubled California HSR project and the Dallas to Houston HSR project. There is a Fox.com article (California Bullet Train Project on Track to Blow Through Billions of More Dollars by Barmini Chakraborty dated 31 August 2018) that highlighted the California high speed train project and stated that due to cost overruns, it was

due to be over \$100 billion dollars by the time it is complete. That's billion with a "B". The article and an embedded video accompanying the article stated that two of the reasons for the overrun were due the increased cost of land acquisition and the need to move utilities. These are two things that will happen here in Texas if this project goes through. I reached out to the Dallas office of the United States Army Corps of Engineers (USACE) where a representative specifically told me about having to move utilities. When I asked what kind of utilities, they said both power and pipeline. This fact is also contained in the DEIS itself:

“Relocation of a utility may also necessitate additional land or easement acquisition or temporary facilities. Additional land requirements for relocation could encroach on existing residential areas or sensitive habitat areas. The final utility crossing decisions would be determined on a case-by-case basis by the utility provider during final design. Construction activities for relocations and/or protective actions would result in scheduled and/or accidental interruptions of utility services.” (4.3.2.2.1 Utilities Dallas to Houston High Speed Rail DEIS Main Text III page 427-428). This is all well and good, but there is NO input or collaboration from ANY utility provider in the entire DEIS. This is especially problematic when you consider that "As discussed in Section 4.4.3.3, the length and location of any new electrical utility connections cannot be determined. The cumulative impacts of these separate utility projects would be determined and mitigated by third party utility providers and evaluated through an independent environmental clearance process coordinated through the Texas Public Utility Commission." (Dallas to Houston High Speed Rail DEIS Main Text III page 449). Once again, this is all well and good, except that the Texas Public Utility Commission (PUC) nor any other utility provider has provided collaboration on this project or the flawed DEIS.

I have asked one question repeatedly during the last five years. That question is: Can TCR build their track bed or their viaduct pylons over an existing pipeline? I have been told by TCR representatives that “we can, and it is done all the time”. To me, this is a bold statement as it should make TCR directly liable for any pipeline damages or in the worst case, any impact to the environment or public safety due to pipeline damage. In my case in particular, TCR/Ps alignment diagrams found in the DEIS clearly show that their track bed will be directly on top of the pipelines that traverse my property. When I mentioned that fact to TCR/P representatives, they stated that the portion of track on my property would be on their viaduct system. In point of fact, the alignment diagram in the DEIS shows that the viaduct will not start until after the track bed crosses the pipeline on my property. Nowhere in the DEIS does it show that TCR coordinated with anyone concerning the need to move utilities, especially the Federal Energy Regulatory Commission (FERC), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Public Utility Commission of Texas (PUC) which is required for a project of this nature and magnitude. I initially reviewed the DEIS and checked the document three additional times. At no point in the document does the FERC, PHMSA, or PUC appear at all, much less as a part of any planning effort. I would like to ask again, does it make sense that

TCR/P which purports itself as being a transportation company would fail to account for something as important as mandated coordination with three key governmental agencies? At the very least, this shows a fundamental disconnect between governmental agencies and the company trying to build this project. Namely, the company has stated they will build on top of pipelines and the government agency states that they will have to relocate those assets. At this point, I have to ask how TCR/P and the FRA can move from a fatally flawed DEIS to a finalized Environmental Impact Statement (EIS) without addressing these glaring omissions, errors, and misleading facts? Following this logic path, how can the STB consider granting any kind of oversight if the company attempting to build this project as well as a federal agency, namely the FRA, chooses to ignore these facts? If the aforementioned is not enough to cause concern, perhaps the next fact is. A new rule was instituted by the PHMSA on 1 October 2019 as highlighted in the article titled Age Catching Up to North American Natural Gas Transmission Lines, Report Finds dated 2 October 2019 by Jeremiah Shelor. This new rule states that it "will require operators to verify the integrity of "grandfathered" pipelines built before 1970 that were previously exempted from certain testing requirements" and "As of 2018, at least half of the more than 300,000 total miles of U.S. gas transmission lines were installed prior to 1970, PHMSA data show" (Shelor 2). One can assess that in the interest of safety, these tests will have to be carried out prior to any relocation or construction. The fact that PHMSA has published the new rule clearly shows there is a concern about the integrity of the pipelines in question and public safety in general. The point is, regardless of whether or not the viaduct system or the berm will be used to cross pipelines or if the lines are moved, is that a potential exists due to the new construction, that pressures will be placed on the walls of the existing pipelines. If too much pressure is placed on a pipe, the chance for a rupture is created with another September 9, 2010 California event being the result. Clearly, the stakes are simply too high to ignore this issue.

TCR/P has also stated numerous times that the counties and cities of Houston and Dallas will stand to benefit from the taxes generated from their project. It must be noted for the public record that the Texas state comptroller's office has confirmed that a sales tax cannot be collected on a transportation ticket of this nature. I now ask, If TCR/P is truly a company that focuses on transportation issues, how did they not get the core of their business model right? At the very least when they told the counties and cities they would share in the tax revenue, it was misleading and at the very worst, it is incompetence of the highest magnitude.

In closing, I would like to review the fact that the STB denied TCR/Ps initial petition in July of 2016. I would submit that even though TCR/P claims it now has a through ticketing agreement with Amtrak, nothing has changed since 2016. I would like to pose this question: If TCR/P was indeed a transportation company or a rail company intent on providing a service for the public good, wouldn't they have accounted for a lack of an agreement over three years ago? I am surprised that Amtrak even entered into an agreement with an organization that withholds information (proprietary ridership data), hasn't completed their planning phase (as proven by the

hole ridden DEIS), and refuses to act in good faith (continuing to publically state they have eminent domain when they do not). If the STB determines that it will take jurisdiction in this case, I would ask that the STB require TCR/P to complete a full application. It is the only way to ensure project transparency. If TCR/P wishes to build their project, they should not have any objections or reservations in completing a full application.

I certify that I have this day served copies of the document upon the Parties of Record in this proceeding, by U.S. Mail or E-mail. [by method of service consistent with 49 C.F.R. 1104.12(a)].

/s/Gene P. Whitesides October 7, 2019
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