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October 12, 2006

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
Washington, DC 20590

**Re: STB Finance Docket 34284, Southwest Gulf Railroad Company Construction and
Operation Exemption – Medina County, TX**

Dear Ms. Rutson:

This concerns your July 18, 2006 letter to Dawn Whitehead of the U.S. Fish and Wildlife Service (USFWS), which was posted on the STB's website several weeks ago. As relevant, we note that your letter advises USFWS that several mitigation measures will be recommended by SEA to address hydrological issues raised in this proceeding. While most of the described measures were set forth in the Draft EIS previously issued in this proceeding, one of them that was not addressed in the Draft EIS raises an issue that we wish to bring to your attention and that of USFWS, which we have copied on this letter. (We note that on July 24, 2006 USFWS indicated, by a notation placed on the copy of your letter which appears in the docket, that it would take no action in response to your letter.)

Specifically, your letter reports that SEA will recommend that SGR be required, in any STB decision allowing it to build its planned rail line along any alternative route, to "use Vulcan's existing water rights when using water from the Edwards Aquifer during construction, maintenance and operation of the rail line." The described purpose of this proposed mitigation measure is to ensure that the rail line does not adversely affect the total demand on the Edwards Aquifer, the quantity pumping limits of which are fixed by law.

SGR is not opposed to a mitigation measure that would address use of Edwards Aquifer water by its rail line, but notes that Vulcan may at some stage choose to buy water rights from entities or persons who hold such rights additional to its "existing" water rights. Such a transaction would not be unusual. Further, SGR may need at some stage to use the water obtained through such additional water rights purchased by Vulcan, *e.g.*, in the event that Vulcan's existing water rights are required for other uses. Accordingly, SGR respectfully suggests that any mitigation measure imposed with respect to the use of

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Edwards Aquifer water by SGR provide the flexibility that SGR may need to utilize Edwards Aquifer water obtained through water rights other than those currently held by Vulcan. Of course, the use of water rights acquired by Vulcan from some other entity would not result in any net increase in the draw on water from the Aquifer and thus would not in any way undermine the goal that SEA is apparently seeking to achieve.

We also note that SGR has previously advised SEA that it may seek to obtain water from sources other than the Edwards Aquifer. We trust that any mitigation measure that may be imposed will not impair SGR's flexibility to use water obtained from sources other than the Edwards Aquifer.

We appreciate your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David H. Coburn", with a long horizontal flourish extending to the right.

David H. Coburn

Attorney for Southwest Gulf Railroad

cc: Ms. Rini Ghosh, SEA
Ms. Jaya Zyman Ponebshek, URS
Ms. Dawn Whitehead, USFWS