

#E1-26125

The Medina County Environmental Action Association, Inc.

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DUANE WIEMERS
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June 23, 2017

Diana Wood
Office of Environmental Analysis
395 E Street SW
Washington, DC 20423

Re: Draft Resolution Plan Comments (DRP), Southwest Gulf Rail Spur
Finance Docket 34284

Dear Ms. Wood

The DRP as written, with only mitigation offered as a resolution, is not acceptable. It is inadequate and inappropriate in meeting the requirements of the nature of the proposed project. The aesthetic value of the Upper Quihi Rural Historic District (UQRHD) cannot exist with this DRP. It is therefore necessary that the DRP be revised, using a higher form of resolution – avoidance – if this district is to survive. Texas' Historic Districts are a tangible way for the public to experience our heritage, as a slogan of the Texas Historical Commission suggests "real places telling real stories." Following are comments and questions that support this statement

Vegetation and Landscaping

Vegetation and landscaping may be appropriate at the entry to Vulcan's quarry sites, however this remedy will not suffice for hiding 12-mile rail spurs. It is illogical to believe that four (4) mile-long trains, daily coursing through UQRHD could be adequately hidden, camouflaged, or disguised, and therefore not be distracting to anyone due to the factors of sight, sound, dust and vibration, caused by the train. Why would the suggested vegetation and landscaping be permitted as adequate resolution for the UQRHD when these factors were some of the prime reasons for moving the original SGR proposed route location out of lower Quihi many years ago?

Brochures

In addition, the assertion that some form of literature, brochure, or posting on the internet of the UQRHD's contents as a means of satisfactory resolution is instead just a weak attempt towards obtaining a final resolution plan. This is true when one realizes volumes have already been written about these districts settled by Henry Castro in the 1840's and 1850's. This current

information has been thoroughly researched and has been made public by many organizations including Texas Historical Commission, Medina County Historical Commission, Quihi/New Fountain Historical Society, MCEAA, HDR, Preservation Central, etc., not to mention numerous books written by expert historians and archeologists over the years. This information already exists, and is already available to the interested public. Therefore, the offer of writing a brochure is only a ploy by SGR (and its unnamed consultant) to get approval for ANY resolution plan. Regarding the use of Steinbach Haus in Castroville as a repository for artifacts of the UQRHD, the custodian has informed us that there is no available space. In addition, artifacts of the Quihi areas are of German origin and not Alsatian (French). See Steinbach Haus Brochure.

Engineering:

SGR has publicized in the local newspaper (see attached news article dated May 11) that detailed engineering designs for the proposed RR route are complete. However, there is no data regarding engineering in this DRP concerning how or where obtrusive features of the rail line such as fencing, berms, culverts, and bridges required by the rail spur would be located, and no assurance that these necessary structures for the rail line would not adversely affect historic structures by flooding, vibration, etc. (see Programmatic Agreement Page 5, Stipulation III, B 1) These are some of the concerns of local licensed, professional engineers who spoke to us at a recent public meeting (see attached notice) and wanted to see the engineering plans. They were quite concerned about potential flooding issues of the historic areas that were not addressed in the DRP. Hence, commentators have had no opportunity to comment on, or constructively criticize, the absent engineering design.

Additional Rail Customers

No information has been made public concerning where additional business(s) and railroad siding(s) would be located. Additional business is necessary to fulfill SGR's obligation as a common carrier. There is no information as to what type of business would be located along the proposed rail route, and what possible adverse effects, if any, the business and its necessary siding would have on the UQRHD. This issue must be addressed in the Final Resolution Plan.

Maintenance

It is important to note SGR has acquired property not only in the UQRHD, but in the Quihi Rural Historic District approximately 15 years ago as well, namely the Saathoff property on CR 353, and the original Schweers homestead on CR 365. And SGR has done nothing to maintain or preserve these properties, allowing them to suffer neglect. This is evidence that SGR cares little for historic preservation and only desires to get approval for a resolution plan without any required guarantees for future preservation of fragile irreplaceable architectural structures.

Regardless of which one of the STB approved routes SGR utilizes, the Final Resolution Plan must have a requirement for guaranteed maintenance of adversely affected historic properties, for

the duration of the railroad's existence. This maintenance agreement could be monitored by the State Historic Preservation office or another suitable entity, with monitoring reports due annually. The financial obligation for such maintenance performed and for reporting must be borne by SGR for the historic structures affected by the rail spur and its APE.

Pushing off Responsibility

To those of us with 18 years of experience and are familiar with this project, and who support the preservation of Texas' historic culture, it is clear the DRP, as written, is an attempt by SGR (and its unnamed consultants) that overlooks and seeks approval from responsible parties for SGR's mistakes in planning this project. If this draft resolution plan or the final resolution plan does not require avoidance, UQRHD aesthetic value will be lost. SGR will shift the responsibility for their gross mistake to the SHPO and ACHP, as well as the Surface Transportation Board.

Why Eastern Bypass Route chosen?

Before any resolution plan is accepted, a question that has existed for nearly 10 years and remains unanswered to this date, must be answered now. Why, when the 3 historic districts were recognized years ago as eligible for listing in the National Register by the Keeper, was a route selected by SGR that bisected a historic district eligible for the National Register? And why, especially since an approved route that, with minor alterations, would have fewer adverse effects than the currently proposed route, was not selected?

Local Public Support

In closing, we are submitting a Statement of Support of avoiding the UQRHD signed by members of the community at large, some who are leaders in their organizations, professional engineers, and others who desired to give us their input and support at a public meeting on June 13, 2017. They are united in their desire to request to avoid the UQRHD by using another route that would not bisect the UQRHD. This would allow SGR to have its rail spur and would preserve the aesthetic value of the UQRHD.

Better Route, Avoiding the District – Remedies

The Final Resolution Plan as required in the Programmatic Agreement must meet the requirements for the appropriate solution of the problem. See DRP May 30, 2017, page 3, General Approach to mitigation, C., last sentence; "Mitigation should be appropriate to the nature of the adverse effect and the significance of the resource, and be of comparable scope as the severity of the impact on the resource." As stated previously, the DRP is grossly inappropriate in meeting the requirements of the nature of this project.

Respectfully,

A handwritten signature in blue ink that reads "Robert T. Fitzgerald". The signature is written in a cursive style with a large, stylized 'R' and 'F'.

Dr. Robert T. Fitzgerald, President

MCEAA, Inc,

Enclosed:

Brochure: Steinbach Haus
News Article, Hondo Anvil Herald May 11, 2017
Meeting Notice
Statement of Support

CC: Charlene Dwin Vaughn, Advisory Council on Historic Places
401 F Street NW. Suite 308, Washington, D.C. 20001-2637

Mark Wolfe, Justin Kockritz, Sara Luduena, Casey Hanson Texas Historical Commission
P O Box 12276, Austin, TX 78711

MCAA hearing postponed

By William Hoover

ANVIL HERALD CORRESPONDENT

A hearing for an amicus brief supporting Texas property rights in a land-taking/condemnation appeal was postponed on Monday, May 8, after all parties gathered in the second floor courtroom of the Medina County Courthouse agreed to the delay.

The hearing was for the 38th District Court to consider allowing a Medina County Environmental Action Association amicus brief to be included in Richard Fournier's lawsuit challenging Southwest Gulf Railroad's compensations amount for his land, and the railroad's claimed common carrier status. MCEAA member Fournier is the lone holdout, from among 20 landowners who owned land along the proposed nine-mile rail route, who refused to agree to accept SGRR's compensation for condemnation of his land.

The proposed nine-mile SGRR, dubbed The Medina Line, would run from the Vulcan Materials quarry north of Quihi to a rail connection at the Union Pacific Line near Dunlay and US 90.

Vulcan's original timeline called for construction of the SGRR line to begin in 2016 with completion scheduled for 2018. But to date, construction has not begun.

Fournier was one of five landowners along the SGRR route whose land was under a restrictive covenant entered into by a group of area landowners. The covenant sought to prohibit the construction

of the nine-mile railroad across their lands.

In his appeal, Fournier asks the court to determine if SGRR is a true common carrier intended to serve the public and/or unaffiliated parties. If the court finds SGRR is a common carrier, the appeal asks the award be recalculated to include the value of the restrictive covenants put on the land prohibiting rail construction.

The amicus brief argues Fournier is entitled to discovery of facts regarding SGRR's right to take land and facts relating to land valuation. If there is a dispute of the facts, Fournier is entitled to a trial before a fact finder to determine:

1) Whether the proposed Vulcan/SGRR rail line satisfies the public use test for common carriers seeking to exercise eminent domain authority under Texas law; and

2) Whether the award must be vacated and recalculated because it fails to separately apportion the value of a restrictive covenant.

But on Monday, Judge Camille Dubose informed the audience of around 50 attendees in the second floor courtroom that there would be no hearing on the amicus brief on that day.

"The parties have conferred on the case and have agreed to reset this hearing," said the judge. "The hearing will be reset to take care of some procedural issues."

"When the hearing is reset, I'm sure the attorneys involved will provide you with notice so you can appear at the sitting," Dubose told

land owners.

After leaving the courtroom, both parties commented on the pending legal challenge.

SGRR spokesman Scott Burnham insisted that compensation for Fournier was the only outstanding legal issue before the court and said Vulcan/SGRR was on track to begin construction of The Medina Line railroad later this year.

"Detailed engineering required for the project is complete and construction bids for the project are being evaluated," he said. "The only remaining step in the process is for the court to determine the compensation owed for the easement across the final property."

"We proposed they postpone the hearing to address the procedural issues," said MCEAA spokesperson Alyne Fitzgerald. "This is really good for us. Time has always been on our side. Mr. Burnham is always saying SGRR has all their engineering done and they are ready to start construction, but the Surface Transportation Board permit to build this rail is conditional on all this other stuff being completed, such as the cultural resource study. And it has not been performed yet."

"They say they have all this gravel ready to haul, but they have not turned a spade," she added. "They don't even have a rock crusher ready."

"Back in 1999, when we first started on this, they said the railroad would be completed in 18 months," noted MCEAA Founder Robert Fitzgerald.

Notice to all Citizens interested in Preserving Medina County's History

Resolution Plan Meeting

Tuesday June 13 @ 7:00 pm

Quihi Bethlehem Lutheran Church

Fellowship Hall, FM 2676

This meeting will inform Medina County Citizens of Southwest Gulf Railroads (SGR) Medina Line Draft Resolution Plan, which is required by the U.S. Surface Transportation Board (STB). The final plan must be approved by various state and federal agencies before any railroad construction can begin. Public comments are important and are considered by these agencies for possible incorporation in the Final Resolution Plan. You are encouraged to attend and learn SGR's proposals to deal with the unique, irreplaceable properties in the Upper Quihi Rural Historic District, and how these plans will affect the UQRHD eligibility for the National Register of Historic Places.

***Sponsored by the Medina County
Environmental Action Association***

Produced by the Castroville Area Economic Development Council

The mission of the Castroville Area Economic Development Council (CAEDC) is to support, stimulate and develop a vibrant local economy while promoting and conserving our heritage and natural environment.

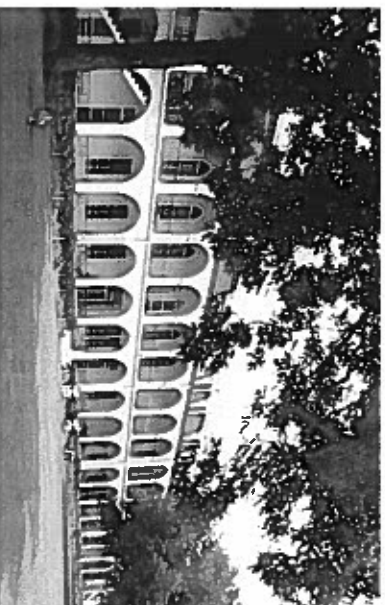
The CAEDC created this landmark pamphlet to promote the buildings and sites in Castroville, Texas that have been recognized officially as national, state, or local landmarks, or that officially have been determined to be historically or architecturally significant, and therefore, are eligible for such listing.



The natural rock crossing by the Medina River near the Landmark Inn has long been a way station for people traveling through Texas. Cesar Monod bought property from Henri Castro around 1849 and built a one-story structure and detached kitchen. The main building served as his personal residence and a store for travelers. In 1853 John and Rowena Vance purchased this property and it became known as the Vance Hotel. George Louis Haass and Laurent Quintie later built a grist mill on this property and diverted water from the Medina River to power the mill. Joseph Courand bought the mill in 1897 and the Vance Hotel property in 1899, expanding the milling complex to include a steam-powered gin. Jordan T. Lawler bought the entire property in 1925 and converted the mill to generate electricity around 1927, which provided Castroville's electricity until 1935. This property is now owned by the Texas Historical Commission and used as a bed and breakfast.



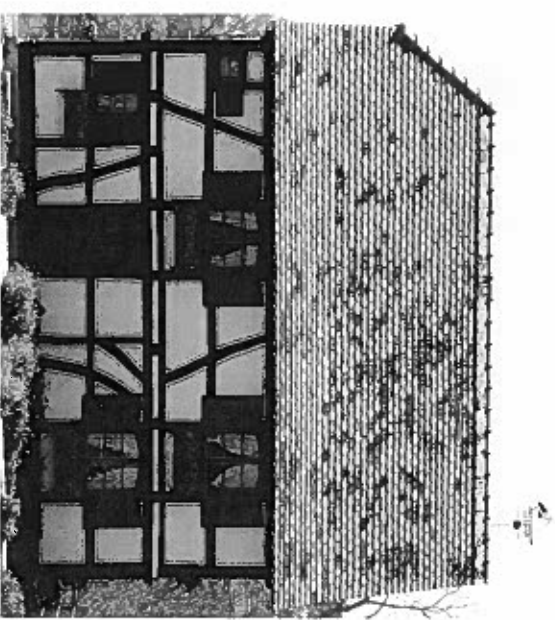
This property is one of the two adjoining properties deeded to George Louis Haass by Henri Castro in 1847. The log cabin was likely used by Mr. Haass as temporary quarters during construction of the adjacent stucco house. It is the only intact one room log cabin in Castroville.



In 1866 Bishop Dubuis, the second bishop of Texas, traveled to Europe hoping to recruit Sisters from a non-cloistered order that could open parish schools. Sisters St. Andrew Felin and Alphonse Boegler, of the Convent of the Sisters of Divine Providence, volunteered to work in the foreign land. They arrived in Castroville in 1868 and set to work immediately. By 1873 the large building, their first convent, was nearly completed. This building has served many purposes and many people. It now is a retreat center which was named in honor of Father John Martin Moye, founder of the CDP.

CASTROVILLE, TEXAS
WHERE TEXAS MEETS FRANCE

HISTORICALLY LANDMARKED AND SIGNIFICANT PLACES



The Steinbach Haus Visitors Center
100 Karm Street
Castroville, TX 78009

Phone 830-538-9838

The Steinbach Haus Visitors Center, shown in page 1, was originally built in Wahlbach, Alsace, France, between 1618 and 1648 by the Steinbach family. They lived in the house until 1988 when it was taken apart, the timber numbered and stored. In 1998 it was donated to the citizens of Castroville, Texas and shipped over in a cargo container. The Alsatians came over for the next few years in the spring to rebuild the house according to their customs, and it was finally finished in 2002. It now serves as the City's Visitor's Center and Museum to show what life was like several hundred years ago in Alsace, France.



Henri Castro "Empresario", the founding father of Castroville, was born in 1786 in Landes, France, to a prominent Portuguese family. As a young man he served in Napoleon's guard. He was married to Arnelia Mathias in 1813. In 1842 he was successful in obtaining a land grant from the Republic of Texas—if he would introduce and settle at least 600 families and/or single men to the area. Castro energetically recruited colonists from Alsace and France, and by 1844 had 700 colonists ready to take possession of their promised land grants.

As the town of Castroville was being laid out, Henri Castro selected an entire block of land for his homestead. He had a stone house built on his property in 1845. This house has had several owners since Mr. and Mrs. Castro leeded it to their adopted son, Lorenzo, in 1861. It currently serves as the Castroville Cottages Bed & Breakfast.

When Medina County was organized in 1848, Castroville was designated the county seat, and it retained that status until 1892 when the county seat was transferred to Hondo, 16 miles west. The first stone courthouse was completed in September 1854 and was used until 1878 when this building was constructed. In 1915 the building was converted into a public school for the Castroville area. The Civilian Conservation Corps renovated the building in 1939, adding two side wings and the exterior staircase. The original exterior plaster was removed from the building, exposing the limestone. The City of Castroville has since purchased the property from the school district for administrative offices.



This small church stands on the grounds of the Moya Retreat Center. It was the first stone Catholic Church built in Medina County and west of San Antonio. When settlers arrived in 1844 they quickly began constructing a building of "earth and wood" with the help of Jean-Marie Odin, first bishop of Texas, who visited after the first colonists arrived at the site to establish the town of Castroville. The formal dedication was conducted on November 9, 1846 by Bishop Odin. The church is now used for Mass only on special occasions, but is open to the public.



The Medina River at The Landmark Inn State Historical Site.

STATEMENT OF SUPPORT FOR AVOIDANCE OF THE UPPER QUIHI RURAL HISTORIC DISTRICT BY THE SGR RAIL SPUR

We the undersigned do not agree with and cannot accept the Draft Resolution Plan as written. We support avoidance for the Upper Quihi Rural Historic District, and utilizing an alternative STB-approved Route, in the Final Resolution Plan in order to preserve the eligibility of the Upper Quihi Rural Historic District for the National Register of Historic Places:

NAME	CITY	NAME	CITY
Dr. Robert (Bud) Fitzgerald	Castroville	Bruce Kennedy	Mico, TX
Ang Nimrod	Hondo	Belinda Nuedel	Hondo, TX
Madalyn Schott	Helotes	Robert J. Mayne	Hondo, TX
Jay Schott	Helotes	Tom Stricker	Hondo TX
Scott Corwood	San Antonio	Carol Strickland	Hondo, TX
Alayne Fitzgerald	Castroville, TX	Marian Wunth	
Jacqueline Conrad	San Antonio	Leonard H. W. Zornette	
L B Boyl	Quili, TX	Stanley Meyer	Hondo, TX
Margaret Mayne	Hondo, Tex	Stephen Schur	"
Joyce M. Landrum	Quili	Mike Beem	Hondo, TX
Margaret Fisher	Quili	Mary Beers	Hondo, TX
Duane Wieman	Hondo	Marti Munner	Hondo TX
Richard Oefinger	S.A. TX	Karin Schuyt	Castroville, TX

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NAME	CITY	NAME	CITY
Lynette Stewart	Quihi	Arlene Smith	Castroville, TX
Mary Fay Simon	Quihi	Ken Smith	Hondo TX
Alisa, Jekel	Quihi	Meg Conner	Castroville, TX
Christa	Hondo	Ruth M. Davis	Hondo, TX
Debra Hall	Hondo	Kay Walden	Mico, TX
William Bradley	Quihi	Patrick Conner	Castroville, TX
Upland, W. B.	Quihi	Nora Winkler	Castroville, TX
Charles Winkler	Hondo	Lester R. Landrum	Hondo
Lori Bradley	Hondo		
Evelyn G. Winkler	Hondo		
Joe Bahr	Quihi		
R. R. S. J.	Hondo		
John Chappell	Hondo		