



July 6, 2015

Ms. Sarah Feinberg
Acting Administrator
Federal Railroad Administration
1200 New Jersey Ave, SE
Washington D.C. 20590

Via Certified Mail, Ret. Rec. Req.

Dear Ms. Feinberg,

I appreciate your April 27, 2015 letter responding to our request dated November 14, 2014, to begin formal coordination with the Federal Railroad Administration on the Dallas to Houston High Speed Rail Environmental Impact Statement (EIS). One of the two routes proposed for further analysis by Texas Central Rail, a private corporation and partner with you in this project, will create a new corridor through our planning area, creating significant local impacts.

It should be noted that your letter refers to our Commission as a “public stakeholder.” This is incorrect. We are a political subdivision of the state of Texas, with planning authority made up of elected representatives *of* the public. We are not a public stakeholder, but rather a local government with jurisdictional planning authority. State and Federal law recognize this distinction, which is why there is a separate and distinct process of coordination set forth in statute to ensure conflicts with local governments are resolved.

In July of 2008, the Waller County Sub-Regional Planning Commission (WCSRPC) was formed for the purpose of planning the future development of our community, including the planning of transportation systems within our jurisdiction. Members of our Commission include elected representatives from as well as the County of Waller. As a statutorily created planning commission under Texas State Law¹, we have the unique authority and expertise to ensure that all projects within our jurisdiction, whether city, county, state or federal, work together for the benefit of the people of Waller County.

¹ Local Government Code, Chapter 391, Regional Planning Commissions

Under Texas law, Section 391.009(c) requires all state agencies to “coordinate planning with commissions (WCSRPC) to ensure effective and orderly implementation of state programs at the regional level.” This directive for state agencies, such as the Texas Department of Transportation, to coordinate their plans with WCSRPC does not conflict with their responsibility to plan for improved transportation from a statewide perspective, in fact, it enhances their efforts. By planning regional projects in close coordination with planning commissions such as ours, federal and state agencies can develop an efficient and safe transportation system that benefits the local communities as well as those passing through our jurisdiction.

The National Environmental Policy Act (NEPA)² also requires coordination³ with local governments during the preparation of the environmental analysis of a project, such as the Dallas to Houston High Speed Rail (DHHDR). This places a specific duty on your agency to coordinate directly with our Commission.

Additionally, throughout NEPA and the Council on Environmental Quality (CEQ) regulations, there are specific requirements placed on the lead agency to ensure that impacts to local governments are thoroughly analyzed and conflicts with local plans resolved.⁴ The purpose of the NEPA study is *not* to approve a federal action, but rather to identify how that action may impact the “human environment.”⁵ In essence, the purpose for this environmental study is to determine, in part, its impact to the WCSRPC community.⁶ As the state designated planning authority for this area, it is necessary to coordinate with us to ensure you are fully informed of our current and future plans as well as the potential impacts your project will create in our area for the purposes of completing a legally sufficient environmental study.

² 42 U.S.C. §4331 *et seq.*

³ 43 U.S.C. §4331(a) “It is the continuing policy of the Federal Government, *in cooperation with State and local governments*, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, *in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.* (b) In order to carry out the policy set forth in this Act, *it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may —*”

⁴ See 40 C.F.R. §1501.1(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;”

See also 40 C.F.R. §1502.16, “It shall include discussions of: (c) Possible conflicts between the proposed action and the objectives of Federal, regional, State and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned;” and,

See 40 C.F.R. § 1506.2(d) “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.”

⁵ 42 U.S.C. § 4332(2)(C);

⁶ NEPA requires you to assess the environmental impacts on the “locale” and not just from a regional perspective. 40 C.F.R. §1508.27(a).

In the Scoping Report released April of this year for the DHHSR environmental study, you state the next step in the NEPA process is to prepare the Project's Purpose and Need statement and identify a reasonable range of alternatives. Specifically, you point out the need to coordinate with our Commission prior to identifying the alternative alignments.

“FRA will also undertake coordination and consultation with federal and state agencies, local government and Metropolitan Planning Organizations (MPO). Tribal governments, and the Section 106 consulting parties prior to identifying the alternative alignments to be evaluated in the Draft EIS.” (DHHSR Scoping Report, page 24)

Although we would have preferred to coordinate with you early in the process to avoid potential conflicts with the two routes already identified to be carried forward, we are prepared to discuss these alternatives and their impact on our community as soon as possible. To this end, we renew our request to meet with you and have set aside the days of **August 3, 10, 17, or 24 of 2015** for these discussions. It is our hope that one of these dates will work with your schedule so we can begin working through these critical issues.

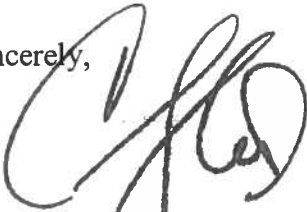
Although NEPA requires that local governments with jurisdiction or special expertise be invited to participate as a “cooperating agency,” we are not requesting this involvement, nor would such a relationship be appropriate. As an elected body of the public, our discussions and decisions must be made in public meetings with a quorum present. Coordination is the appropriate vehicle for us to convey our plans and policies to you and to give you the opportunity to meaningfully work with us to resolve possible conflicts. More importantly, it is good business to do so. It would demonstrate the FRA's willingness to foster an open, strong and productive working relationship with our Commission.

Only a small portion of the proposed routes cross into our jurisdiction, which may be the reason your agency has not met with us to discuss potential conflicts with our existing infrastructure and future plans. However, the placement of a High Speed Rail corridor in the eastern part of our jurisdiction will have significant impacts on our community. Unfortunately, these impacts are not identified in your scoping report, nor do we anticipate that the public comment process can sufficiently convey these issues to you. Hence, it is important that we meet and share our concerns face to face.

Please let us know by Friday, July 24, 2015, which of these dates will be most convenient with your schedule, or, if necessary, please suggest a date in the near future that would be workable. It is important, however, that our viewpoint be fully discussed and concerns aired sooner rather than later in order to avoid delays in this process.

I look forward to hearing from you and meeting you and your team in person.

Sincerely,

A handwritten signature in black ink, appearing to read 'Trey Duhon', written over the word 'Sincerely,'.

Trey Duhon, President
Waller County Sub-Regional Planning Commission