

TEXAS CENTRAL'S HIGH-SPEED RAIL PROJECT AT A GLANCE

Who's promoting the project?

“Texas Central” is a group of affiliated private entities: Texas Central Railroad and Infrastructure, Texas Central Partners, Texas Central Railway, etc. Here is their [website](#). [Jack Matthews](#), [Drayton McLane](#), John Kleinheinz, and other wealthy individuals from DFW and Houston put up some of the seed money to get the project started.

Although they call themselves Texas Central and promote themselves as a Texas company, the project is really backed by the Japanese government. Texas Central is [partnered](#) with the [Japan Bank of International Cooperation](#), which appears to be Texas Central's current primary source of funding. Texas Central is also partnered with [Central Japan Railway Company](#) (known as JR Tokai), which [operates](#) the Tokaido Shinkansen bullet train line linking Tokyo with Osaka. Texas Central is planning to use JR Tokai's Shinkansen trainset technology for the project.

Where's the route?

The route covers approximately 240 miles from Dallas to Houston. Here are the [maps](#) showing the route through each of the 10 affected counties.

In Dallas, the [proposed station location](#) is close to the convention center, behind the Alamo Drafthouse. Texas Central has an [agreement](#) with Jack Matthews' company, Matthews Southwest, to serve as the development partner of the Dallas high-speed rail station and surrounding areas.

In Houston, the [proposed station location](#) is by the old Northwest Mall (closed down in 2017), which is about 9 miles from the city center. As a result, once passengers arrive by high-speed rail in Houston, they'll still be stranded much like arriving at Hobby. They'll have to rent a car or catch an Uber to get into town.

There will be one stop between Dallas and Houston in Grimes County. They're calling it the [Brazos Valley Station](#) and claiming it will service A&M students in College Station. However, if you look at a map, this makes no sense at all. A&M students who live in Houston are going to get in their cars and drive directly to College Station.

What about social justice? What groups will be impacted?

The project would disproportionately impact minority and low-income communities. Of the 135 total block groups studied by the FRA, [87 were identified as minority or low-income block groups](#). 63 of these 87 block groups (72%) are located in Dallas and Harris Counties. In Dallas County, 27 of the 30 block groups impacted by the project have minority or low-income communities (6 minority communities, 1 low-income community, and 20 identified as both).

The project would [displace](#) between 279 and 321 total residential, commercial, and community facility structures. Of those, 111 to 135 would be located within minority or low-income block groups. Homes would be displaced within each of these minority or low-income communities.

The Le May and Le Forge community, located between Illinois Avenue and Loop 12 in Dallas County, would be directly impacted by the project, [as at least 14 homes would be displaced](#). The neighborhood is part of the larger Cedar Crest neighborhood but it is isolated by utility and freight rail infrastructure. The project would further isolate this minority and low-income neighborhood from the rest of the Cedar Crest community. Only 20 homes would remain, and a portion of Le May and Le Forge Avenues would be adjacent to the Project's viaduct infrastructure, creating an impact to the cohesive character of the remaining part of this neighborhood.

In the Plantation Forest development located in Waller County adjacent to the CenterPoint high-voltage transmission line, [the project would displace approximately 12 homes](#). The project would intersect the community via embankment and transition to viaduct approaching Riley Road. Community cohesion impacts would occur through displacement of residents and relationships between neighbors.

Rural communities would also be disproportionately impacted. Due to the sheer size and nature of the embankments, fencing, and speed of the project, [family farms and ranches would be divided into "east" and "west" farms with endemic cross-access problems](#). Crops and cattle would be constricted to smaller areas, and farmers and ranchers would be unable to move farming and ranching equipment from one side to the other. This would restrict access to barns, pens, corrals, and water sources, requiring a farmer or rancher to divine new places to house and water their animals.

Is the project environmentally friendly?

No, for several reasons.

First, construction of the project will cause more pollution than it prevents because building a high-speed rail line and associated berms and crossings is very energy-intensive, creating an enormous carbon footprint. University of California Berkeley research concluded it would take 71 years for the California high-speed rail project to save enough greenhouse gasses to make up for the pollution caused during construction.¹ Building a so-called "green train" is not really green. For Texas Central's project, it could take up to 50 years of operations (at near capacity) just to counter the carbon footprint released during the massive construction phase. Additionally, [projections by the California Air Resources Board](#) bemoaned that the California high-speed rail would only account for 1.5% of California's goal for reducing emissions, and at a substantial cost.

Second, Texas Central's project will derive significant amounts of power from coal burning plants that rely on strip-mined, lignite coal. Texas Central has not even attempted to quantify the natural destruction caused by the additional strip-mining that will be need to meet its electricity demand.

¹ Chester, Mikhail and Horvath, Arpad, *Life-cycle Assessment of High Speed Rail*, January 23, 2011, https://www.researchgate.net/publication/228621847_Life-cycle_assessment_of_high-speed_rail_The_case_of_California.

Third, Texas Central's supposed environmental benefits are misleadingly as they are based on comparisons of a completely full high-speed rail line and a Boeing 777. However, the airplanes that fly between Dallas and Houston are much smaller Boeing 737's, McDonnell Douglas MD 80 series-planes, Airbus A319 and A320 aircraft, or 50-75 seat regional jets. All of these aircraft emit significantly less carbon dioxide than a Boeing 777.² Moreover, Japanese trains operate with much higher passenger loads than the average Texas Central train is projected to carry. And, importantly, Texas Central has no real possibility of running its trains anywhere near capacity, which would negate any potential environmental benefit. Texas Central has provided no data to suggest that true environmental savings will take place, while all available data strongly suggests just the opposite.

How long will the 240-mile ride take?

Around 90 minutes allegedly, but that assumes top speeds at over 200 mph and doesn't include security screening. There will have to be TSA-level security due to terrorist and other threats. As just one example, in 2015, there was a suicide attack on a high-speed rail in Japan. The terrorist [immolated](#) himself, and smoke filled the train coach. The windows on a high-speed train can't be opened, and the doors can only open once the train fully stops, which takes several minutes. Any fire creates an imminent risk of death by smoke inhalation. Not to be overly dramatic, the point is you won't be able to hop on and off like it's a bus, so the "back and forth between Dallas to Houston in just 90 minutes" is misleading, to say the least.

How much will a ticket cost?

Nobody really knows, including Texas Central. Currently, its website [says](#) the following:

Ticket prices will be based on a variable pricing model, with consumer demand driving price fluctuations. Factors like how far in advance you purchase, what day, what time of day, which discounts you are eligible for, etc., will all influence the price. Furthermore, there may be different classes of service (think first class, business class, etc.) to offer price points for all travelers – regardless of budget. World class ridership studies have been done and continue to inform what travelers want to create a best-in-class experience.

More concisely: on the high end, tickets will be competitive with the cost of flying, and on the low end, they will be competitive with the cost of driving.

Texas Central [told](#) the Texas Department of Transportation to assume a \$108 one-way ticket price in analyzing ridership numbers. Texas Central's former CEO once [said](#), "We're a private company. It's going to cost as much as we can afford to charge you and you'll be willing to pay."

Although there is no hard data on ticket prices, it appears it won't be cheap.

² Laherty, Paul, *Calculating Airplane CO2 Emissions*, January 10, 2015, <https://paullaherty.com/2015/01/10/calculating-aircraft-co2-emissions/>.

Will the project be elevated or run on the ground?

Some of the project will be elevated on a concrete viaduct and the rest will run on a 20-foot-high earthen berm. The percentages of viaduct track versus land berm is unknown. Likewise, it is unknown which portions of the track (location-wise) will be on a viaduct or land berm. Texas Central's website [says](#) both options "provide for large and conveniently located underpasses or overpasses." Yet, to the public and in [depositions](#), Texas Central has refused to commit to providing each landowner an underpass or overpass to get to the other side of their property. They won't make that promise.

How much is the project going to cost to build?

In 2016, Texas Central [claimed](#) it would cost "over 10 billion dollars to construct."

In 2018, Texas Central [admitted](#) costs had risen to "approximately \$18 billion..."

The Federal Railroad Administration (FRA) [permitting dashboard](#) for the project estimates costs of \$19 billion.

Recently, in April 2020, Texas Central Chairman Drayton McLane [admitted](#) costs have now ballooned to at least \$30 billion. When asked about this new \$30 billion estimate, CEO Carlos Aguilar [commented](#) it was "a conservative estimate of 'all in' numbers."

Despite all these admissions, Texas Central still [claims](#) on its website the project "will cost more than \$12-billion to construct."

Does Texas Central have the money to build the project?

No, not even a fraction of it.

In 2016, Texas Central [admitted](#) it had less than 1% of the financing it needs for the Project.

As of August 2019, Texas Central [admitted](#) it had raised "over \$450 million dollars" in financing. This amount, which [includes](#) a \$300 million loan from the Japan Bank of International Cooperation, accounts for merely 1.5% of the project's estimated \$30B+ costs.

Recently, in March 2020, Texas Central [laid off](#) 28 employees, including executive level, public relations and field staff positions within the company.

If Texas Central doesn't have any money, who is going to pay for the project?

For years, Texas Central has [claimed](#) the project "is a private venture with private investors putting their capital at risk." In numerous state court lawsuits, it [swore](#) to courts that it will construct the project "with exclusively private financing." As recently as August 2019, Texas Central [swore](#) to a federal agency that the project will be "financed entirely by investors and entrepreneurs."

In April 2020, Texas Central [admitted](#) it intends to rely on funding “from President Trump’s infrastructure stimulus through the Department of Transportation.” CEO Carlos Aguilar [confirmed](#) the project “could require some stimulus money, but we don’t know yet.”

In addition to stimulus money, Texas Central has [repeatedly admitted](#) it will “aggressively” seek [Railroad Rehabilitation & Improvement Financing](#) loans from the U.S. Department of Transportation, which are rarely repaid. This, of course, is also public money.

In short, taxpayers are going to pay for the project if Texas Central is allowed to move forward.

Is the project financially feasible?

No. Virtually all infrastructure experts who have analyzed the project [agree](#) a high-speed rail line connecting the low-density, car-friendly metro areas of Dallas and Houston could not be profitable without massive public subsidies.

Only [two high-speed rail lines](#) in the world are profitable: Paris-Lyon in France and Tokyo-Osaka in Japan. The rest require massive government subsidies.

Texas Central [projects](#) 6 million annual passengers by 2029. To be clear, this means 6 million one-way trips per year, either from Dallas to Houston or vice versa. That’s 16,438 passengers per day.

By comparison, on average 2,529 passengers [flew](#) between Dallas and Houston per day during 2017 Q1 -- 2018 Q4. This is an apples-to-apples comparison (one-way trips including all airports in Dallas and Houston) based on public data from the U.S. Department of Transportation. And, this number of daily air travelers has steadily declined over the past few years, even before COVID. If Texas Central were to somehow convince every single air traveler to divert to its high-speed rail, it would still need 13,900 more passengers, each and every day, to meet its projections.

Another comparison: the heavily-trafficked Union Station in Washington, D.C., [serves](#) approximately 5 million Amtrak passengers annually. In Philadelphia, 30th Street Station [transports](#) approximately 4.3 million Amtrak passengers annually.

The Texas Department of Transportation, an agency with decades of experience analyzing massive infrastructure projects, [forecasted](#) 2035 annual ridership between 0.7-2.7 million passengers.

The [Reason Foundation](#), a non-partisan think tank, published a study [High-Speed Rail in Europe and Asia: Lessons for the United States](#) in which one of its experts concluded that most U.S. high-speed rail lines would “lose substantial amounts of funds. Only the Northeast Corridor could potentially break even.”

In 2017, the Reason Foundation released a report on Texas Central’s project titled *Texas High Speed Rail: Caution Ahead*. It included both a [summary](#) and 65-page [detailed analysis](#). After estimating annual ridership at 1.4 million passengers, Reason stated Texas Central’s ridership projection “is not grounded in reality.” This chart summarizes the Reason Foundation’s concerns:

Table 1: Summary of Concerns with Texas High-Speed Rail Plan

Concern	Details	Impact
Cost v. Ridership	Successful high-speed rail lines have been built in countries when and where land is cheaper and easier to acquire, construction costs are cheaper, and ridership is much higher.	Major
No Existing Passenger Rail Service	More than 2/3 of high-speed rail passengers have come from existing transit service. Without existing conventional rail service, a larger share of passengers must come from air and passenger vehicles.	Major
Airport Proximity to Downtown	Both Dallas and Houston have airports located within seven miles of downtown. High-speed rail has been successful in cities where airports are far or challenging to get to from downtown.	Major
Limited Transit Service	Both Dallas and Houston have limited rail transit networks. Houston has just redesigned its bus network, but the cities' transit networks are not designed to funnel passengers downtown. In cities with successful high-speed rail, five to 12 times more people were transit users than in Dallas and Houston.	Moderate
Low Population Density	Dallas ranks 143rd in population within 2 miles of downtown and Houston ranks 36th. Most high-speed rail services rely on travelers who live downtown because it is more convenient for those living outside of downtown to fly.	Moderate
Low Employment Density	Dallas ranks 16th in employment within 2 miles of downtown and Houston ranks 15th. High-speed rail lines cater to downtown employees since it is more convenient to take the rail line than fly.	Moderate
Car Ownership	Car ownership rates are 25%–50% higher in Dallas and Houston than in cities with successful high-speed rail. Car ownership affects not just the number of travelers who drive, but also the density and spatial structure of a city.	Minor

[More](#) from Reason: “Dallas and Houston are poster children for big cities where high-speed rail has no chance of succeeding without public funding unless land use and transit patterns change dramatically.” Reason [concluded](#) the project “will fail so spectacularly that privately financed U.S. high-speed rail lines may never be given a second chance.”

The Texas Department of Transportation (TxDOT), an agency with decades of experience analyzing massive infrastructure projects, also concluded Texas Central’s ridership projections are grossly inflated. TxDOT [forecasted](#) 2035 annual ridership between 0.7 - 2.7 million passengers.

[John T. Harding, PhD](#), the former Chief Maglev Scientist of the FRA, [said](#) the Project is destined for “certain failure.” He concluded that Texas Central’s ridership projections are greatly exaggerated, to the tune of almost six times that of his projections. Using Texas Central’s own projections and cost estimates (which, at the time of his analysis, were much more conservative), Dr. Harding [found](#) that by 2035 Texas Central will run an annual loss of at least \$250 million.

High-speed rail works where you have densely populated city centers on each end, full of people who don’t own cars and rely on public transit. In many instances, an existing train line will be overcrowded or outdated. The old train is replaced with a shiny new high-speed rail. When this happens, there is an existing customer base. The notion that Texas Central can just plo

speed rail down in Texas (where it is cheap to own a car, everybody owns one, and nobody uses public transit) and people will divert to it at the projected levels is pure fantasy.

If Texas Central has support for its ridership and job numbers, why won't it share its purported studies with the public?

According to Texas Central, two studies support its ridership numbers. The first, prepared by [The Louis Berger Group](#) in 2013, was provided to TxDOT pursuant to a [non-disclosure agreement](#). In response to TAHSR's open records request for the Louis Berger study, TxDOT refused to produce it. Instead, TxDOT sought an opinion from the Texas Attorney General, who agreed TxDOT could withhold the study from disclosure. TAHSR then [sued](#) TxDOT and the Texas Attorney General in Travis County and [moved for summary judgment](#) to force disclosure of the document. Texas Central [intervened](#) in the lawsuit to protect the Louis Berger study from public disclosure. Ultimately, the court sided with Texas Central, TxDOT, and the Texas Attorney General, and allowed the Louis Berger study to be withheld from public disclosure.

As [suggested](#) by Texas Monitor's Steve Miller, Texas Central wants the best of both worlds: "Texas Central is asking to use government powers to build its railroad, but also asserting a private company's privilege of denying public requests for records about its project – a privilege that may become problematic for taxpayers if Texas Central wins the right to take land in an 11-county stretch through the center of Texas."

Texas Central's second purported ridership study was prepared by [L.E.K. Consulting](#). According to the Reason Foundation, the [L.E.K. study](#) was "written by an anonymous author at a global management consulting firm" and "has a number of its own problems." In any event, Texas Central has refused to disclose the L.E.K. study to the public as well.

For years, Texas Central has boasted that the project will create jobs and generate billions in tax revenue. On its website, Texas Central [claims](#) the project will "inject an estimated \$36 billion in economic benefits over its first 25 years" and "create an estimated 10,000 direct jobs per year during construction and more than 1,500 direct permanent jobs when the train is fully operational."

The source for these claims is an [executive summary report](#) created by Insight Research Corporation in October 2015 titled *Texas Central's High Speed Rail Corridor and Related Private Development Houston to Dallas/Fort Worth, Texas* which summarizes Insight's "economic impact analysis." Yet, Texas Central refuses to disclose the full analysis to the public.

How much private property will be affected?

Over 15,000 acres (all new right-of-way), according to the [most recent environmental impact statement](#) released May 2020. This chart shows how much property will be impacted:

Table ES-12: Summary of Land Use Impacts per Build Alternative

Characteristic	Area of Potential Impacts						
	ALT A	ALT B	ALT A	ALT D	ALT A	ALT F	
Regional and Local Land Use Plans	No conflict	No conflict	No conflict	No conflict	No conflict	No conflict	
Existing Land Use							
Conversion (acres)	Temp	2,553.4	2,532.9	2,393.2	2,592.4	2,571.9	2,432.3
	Perm	6,619.8	6,814.0	7,295.6	6,610.0	6,804.1	7,285.7
Special-Status	Temp	1,710.8	1,690.4	1,459.8	1,719.4	1,699.0	1,468.5
Farmland Conversion (acres)	Perm	3,534.5	3,764.3	3,573.4	3,483.5	3,713.3	3,522.3
	Indirect	847.5	888.2	697.3	815.6	856.2	779.2
Primary Structure Displacements (within LOD and 50 feet)	Commercial	42	42	65	42	42	65
	Residence	235	255	239	249	269	253
	Community Facilities	2	2	3	2	2	3
Estimated Permanent Parcel Acquisitions		1,731	1,814	1,789	1,764	1,847	1,822
Estimated Temporary Parcel Acquisitions		272	277	259	271	276	258
Estimated Total Structure Acquisitions (Primary and Secondary)	Agriculture	196	223	196	203	230	203
	Commercial	12	12	18	12	12	18
	Community Facilities	0	0	0	0	0	0
	Cultural/Civic Resources	2	2	1	2	2	1
	Oil and Gas	12	12	17	12	12	17
	Residence	49	50	51	52	53	54
	Transportation and Utilities	0	0	1	0	0	1

Source: AECOM 2019

What’s the deal with the eminent domain fight and where does it stand?

There’s been protracted litigation for over four years, in more than 40 lawsuits spread all over Texas. However, the legal issue is fairly simple.

The Transportation Code has separate definitions for a “high-speed rail,” “railroad company,” and an “interurban electric railway. There is no dispute Texas Central qualifies as a “high-speed rail.” The problem however, for Texas Central, is the Texas Legislature chose *not* to vest high-speed rails with eminent domain authority. As a result, Texas Central claims it is a railroad and an interurban electric railway, both of which do possess full eminent domain powers. In doing so, Texas Central gave itself two bites at the eminent domain apple.

A “[railroad company](#)” is defined as a railroad incorporated before September 1, 2007 or “any other legal entity operating a railroad.” Since Texas Central incorporated in 2012, the sole issue is whether Texas Central is “operating a railroad.”

Landowners’ legal argument has been and remains simple: it is undisputed Texas Central has no trains, no tracks, no stations, and has never transported passengers or freight anywhere. Thus, based on the plain and common meaning of the terms, Texas Central is not “operating a railroad.” Rather, it is merely a promoter of a high-speed rail it hopes to operate at some point in the future.

Texas Central, on the other hand, claims it began “operating a railroad” immediately upon incorporation.

17 The answer says: TCRI contends that it is
18 operating a railroad today.
19 But I would like to just ask you the
20 question as it's written here: On what day do you claim
21 TCRI began operating a railroad?
22 A. The day that it was incorporated as a railroad.

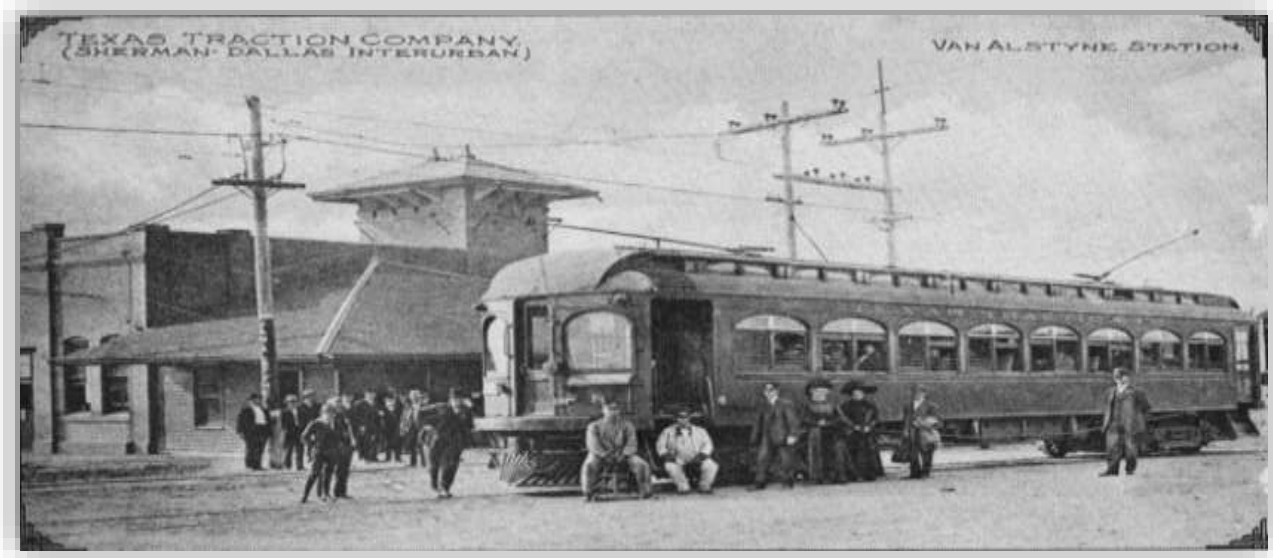
According to Texas Central, once it filled out its papers in which it self-declared to be operating a railroad, and paid the \$300 filing fee, it was immediately vested with eminent domain authority.

Texas Central also claims it is “operating a railroad” because it is doing all the things a railroad company does at this stage of its existence. In other words, Texas Central argues, “look at all this money we’ve spent and activities we’ve completed, of course we’re a railroad company.”

Finally, Texas Central claims it qualifies as a “railroad company” because it “will be operating” a railroad in the future. In essence, Texas Central has made every possible, contrived argument to distract from the undisputed fact that they are not presently “operating a railroad.”

As for an [“interurban electric railway,”](#) it is defined as “a corporation chartered under the laws of this state to conduct and operate an electric railway between two municipalities in this state.” The [interurban electric railway industry](#) in Texas was in place by 1913. Interurbans operated as rail service between large cities and surrounding rural towns as an alternative to horse-drawn buggies. By 1941, only two remained; both ended service in 1948. Here are photos of interurbans:





Here is [Texas Central's bullet train](#), the “first high-speed passenger train in the U.S.,” which will employ “state-of-the-art Shinkansen technology” to run at speeds “approaching 200 mph”:



For a variety of reasons, many of which may appear obvious, landowners argue Texas Central does not qualify as an interurban, a mode of transportation that has been extinct in Texas for over 70 years. Regardless of what Texas Central’s incorporation papers say, they have no intention of constructing or operating an interurban electric railway.

At the trial court in Leon County, landowner Jim Miles prevailed. The trial court [ruled](#) that Texas Central and its newly-formed affiliate, Integrated Texas Logistics, Inc. (ITL), were *not* railroads or interurbans under Texas law. Texas Central appealed.

Texas Central’s appeal started in Waco but was transferred to Corpus Christi. Landowner Miles lost on appeal. The Corpus Christi panel [reversed](#) the trial court ruling, finding that both Texas Central and ITL are railroads and interurbans with eminent domain authority under Texas law.

The eminent domain issue is now before the Texas Supreme Court. Miles filed his [Petition for Review](#) on July 31, 2020. Texas Central filed its [Response](#) on August 28. Miles filed his [Reply](#) on September 21, 2020.

On October 16, 2020, the Texas Supreme Court [requested](#) full briefing on the merits. Miles filed his [Brief on the Merits](#) on December 10, 2020. Texas Central filed its [Response Brief on the Merits](#) on December 28, 2020. Miles filed his [Reply Brief](#) on January 25, 2021.

The [Texas and Southwestern Cattle Raisers Association](#), [Texas Farm Bureau](#), [French train company SNCF](#), the [eight impacted counties between Dallas and Houston](#), and [other landowners](#) filed amicus briefs in support of Miles.

Where does the State of Texas stand on the project?

Texas understands that this project is headed for a repeat of the ongoing high-speed rail disaster in California, where costs have [ballooned](#) from \$33 billion to over \$100 billion with no end in sight. In 2017, the Texas Legislature passed a [law](#) prohibiting the use of *any* State funds for private high-speed rail. That law remains in effect today.

What's the deal with the option contracts that were deeded to the Japan HSR company in the Cayman Islands?

Texas Central has what it calls an [Option Purchase Program](#). Essentially, Texas Central offered to purchase all or a portion of certain landowners' property along the route. In exchange for a 4% down payment of the total purchase price, Texas Central would retain right to exercise its option to purchase the property until a date certain (most of the options expired on December 31, 2018 or 2019). In many instances, the property to be purchased encompassed just a sliver of the landowner's entire property. Texas Central offered over market value for this sliver, and agreed to pay the 4% down payment shortly after execution of the option. According to many landowners, Texas Central told them they might as well go ahead and sell since Texas Central had eminent domain and could take their property forcibly if necessary.

Although Texas Central offered over market value for the amount of property to be purchased, the purchase price did not compensate the landowner for the devaluation to the remainder of the property. In an eminent domain proceeding, the landowner would be entitled to recover compensation for this devaluation in addition to the fair market value of the property to be taken.

Below are a few examples of Texas Central's proposed option contracts. In each example, the property would be bisected by the project, thus resulting in significant devaluation to the remainder of the property not being purchased. If these landowners would have agreed to these option proposals, Texas Central would have been able to avoid having to pay a substantial amount of money to compensate for the devaluation to the remainder.

	County	Right-of-way to be purchased	Offer price	Down payment	Total acreage
<u>Example #1</u>	Grimes	20.562 acres	\$423,742	\$16,950 (4%)	591 acres
<u>Example #2</u>	Madison	16.868 acres	\$137,135	\$5,485 (4%)	200 acres
<u>Example #3</u>	Limestone	10.214 acres	\$83,761	\$3,350 (4%)	98 acres
<u>Example #4</u>	Leon	16.542 acres	\$208,562	\$8,342 (4%)	200 acres
<u>Example #5</u>	Grimes	20.705 acres	\$390,222	\$15,609 (4%)	605 acres

Although Texas Central was able to pay the 4% down payments on the purchase price, it did not have the money to close. As a result, in 2018, the [Japan Bank for International Cooperation](#), a public financial institution and export credit agency wholly owned by the Japanese government, [created a special purpose vehicle](#), Japan Texas High-Speed Railway Cayman LP, to loan \$300 million to Texas Central. At the time, Texas Central [told](#) the press it would “use the funds to move ahead on permitting, design and engineering, as well as other preliminary work needed to launch construction during 2019.” In fact, Texas Central used the money on loan from the Japanese government to close on its option contracts. To date, it has closed on more than 100 of them.

Based on a series of recently recorded real property transactions in counties along the affected route, it appears the Japanese government required Texas Central to put up the land as collateral for the sizeable loan. In each county ([Leon](#), [Waller](#), [Madison](#), [Harris](#), [Grimes](#), Dallas, Ellis, etc.), Texas Central filed a “Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing” relating to property owned by Texas Central in that county. The beneficiary of these Deeds of Trust is an offshore entity named “Japan Texas High-Speed Railway Cayman GP (in its Capacity as General Partner of the Japan Texas High-Speed Railway Cayman LP),” and the named Trustee is [Dallas-based attorney Keenan Kolendo](#). Texas Central did not disclose the existence of this offshore beneficiary to any of the landowners it convinced to sign an option contract. Nor did it disclose its plans to use the property purchased through the option contracts to secure a loan from the Japanese government.

The Deeds of Trust were executed by the debtor and property owner (Texas Central), to a trustee (attorney Keenan Kolendo), who will hold the property in trust for the creditor (Japan Texas High-Speed Railway). Although the Deeds of Trust do not convey actual title to the offshore Japanese entity, the security interest can quickly and easily be converted to full legal and possessory title without judicial foreclosure if Texas Central defaults on its loan payments.

Given its [ongoing](#) and [widely-reported financial struggles](#), Texas Central will likely default on its loan. Or, Texas Central could simply choose to intentionally default in order to put the property into the hands of its Japanese backers. In either event, upon default and foreclosure of the Deeds of Trust, the Japanese government will own *all* of the property subject to them. Although Texas Central [claims](#) it works “hand-in-hand with landowners” and deals “in good faith in a fair and respectful process,” it did not disclose this scheme to landowners at the negotiating table.

During the 2019 legislative session, Texans Against High-Speed Rail worked with numerous state officials to introduce bills designed to protect Texas landowners from Texas Central’s option contract scheme. For example, [House Bill 1367](#) gave landowners who signed option contracts under the threat of eminent domain the right to get their property back from Texas Central if it was used for something other than the proposed high-speed rail project, or if the project was cancelled. Had this bill been enacted into law, landowners would now be in a position to reacquire their property if Texas Central defaults on its loan or cancels the project. As it stands, however, upon default the property will be transferred to the Japanese government to be used for some other purpose, and the landowners will have no means of getting it back.

How does Texas Central treat landowners?

Poorly. Texas Central [sued](#) more than 100 landowners in over 40 cases in 6 different counties in an attempt to find some court, somewhere, to endorse their legal arguments and grant them eminent domain authority. Texas Central has bullied landowners into selling their property through option contracts under the threat of eminent domain. They’ve pulled stunts like [this](#). In the last legislative session, they swore to legislators they wouldn’t exercise options on property until they had all their money and permits, which was a [lie](#). This recent [article](#) talks about other stunts they’ve pulled, including sending threatening letters to landowners on the Friday before a July 4 holiday weekend. The article also features Jim and Barbara Miles, the landowners whose eminent domain lawsuit is headed to the Texas Supreme Court.

Numerous other impacted landowners have submitted statements, including sworn declarations, regarding their interactions with Texas Central. Here are a few examples: [Gene Whitesides declaration](#); [Ron Richards declaration](#); [Christie Parker declaration](#); [Christie Parker trespass declaration](#), [August Lander statement](#), [Donovan Maretick declaration](#); [Annitta Dobbs statement](#).

Does Texas Central have approval to construct the project?

No. In 2016, Texas Central sought permission from the [Surface Transportation Board](#) (STB), the federal agency that authorizes the construction of new interstate railroads. Texas Central has [admitted](#) it cannot begin construction without STB approval. The STB [denied](#) jurisdiction over the project because it doesn’t cross any state lines, finding “it would be constructed and operated entirely within the State of Texas and would not be part of the interstate rail network.”

In 2018, Texas Central [petitioned](#) the STB to reopen the proceeding and assert jurisdiction over the project.

On July 16, 2020, the STB [granted](#) Texas Central’s petition to reopen and asserted jurisdiction over the project. However, the STB denied Texas Central’s petition for exemption. As a result, Texas Central will have to file a full application prior to receiving a permit to construct. In that application, Texas Central will be required to disclose the sources of its financing and how much financing it has secured to date. The full application process will take years to complete. Here is [a more detailed explanation](#) of the ramifications of the recent STB decision.

At the state level, Texas Central has not sought or received approval to construct the project, nor is such approval ever likely to be granted. In 2017, the State of Texas [enacted](#) legislation prohibiting any state funds from being used to pay for planning, construction or maintenance, security, promotion, or operation of the project.

At the local level, 8 of the 10 affected counties have already [passed](#) resolutions stating they will not close, abandon, vacate or alter any county road to accommodate Texas Central’s project. These counties also passed resolutions requiring Texas Central to provide proof of eminent domain authority prior to surveying, constructing, or performing any work on county property.

Does Texas Central have approval to operate the project?

Not unless it modifies its Shinkansen trainsets. Although the FRA has regulations in place to address equipment, track, operating practices, and other factors for existing, conventional rail systems, the Shinkansen trainsets Texas Central plans to use for its HSR do not meet existing safety and crashworthiness standards established for passenger use in the U.S. The FRA estimates costs of \$4.7 million per trainset to modify the Shinkansen equipment to meet its standards, but Texas Central has stated publicly it will not make these modifications.

As a result, Texas Central petitioned the FRA for a Rule of Particular Applicability (“RPA”), which entails a highly detailed and technical process. Simply put, Texas Central asked the FRA to create an “alternative regulatory approach” to allow operation of its proposed HSR as envisioned.

On April 16, 2016, Texas Central submitted its rulemaking petition (*i.e.*, its application for an RPA), in which it proposed comprehensive safety requirements for application of the Shinkansen technology. The FRA granted Texas Central’s rulemaking petition on August 30, 2019 and published a notice of proposed rulemaking (“NPRM”) on March 10, 2020. According to the FRA, the NPRM proposed safety standards to enable safe operations of Texas Central’s HSR and an alternate method for safety oversight.

On September 10, 2020, the FRA issued a Final Rule that contains an RPA, which establishes safety standards for the Project, and a record of decision (“ROD”), signifying approval of the Final Environmental Impact Statement (“Final EIS”) prepared for the Project.

Are the FRA’s actions being challenged in court?

Yes. On April 14, 2021, Texans Against High-Speed Rail, landowners, and impacted counties filed a federal court lawsuit in the Western District of Texas, Waco Division, against the FRA and US Department of Transportation, under the Administrative Procedures Act (“APA”) and National

Environmental Policy Act (“NEPA”). In the [92-page complaint](#), plaintiff detail numerous violation of both the APA and NEPA, and seek to vacate the FRA’s issuance of the RPA.

When is construction and passenger service supposed to begin?

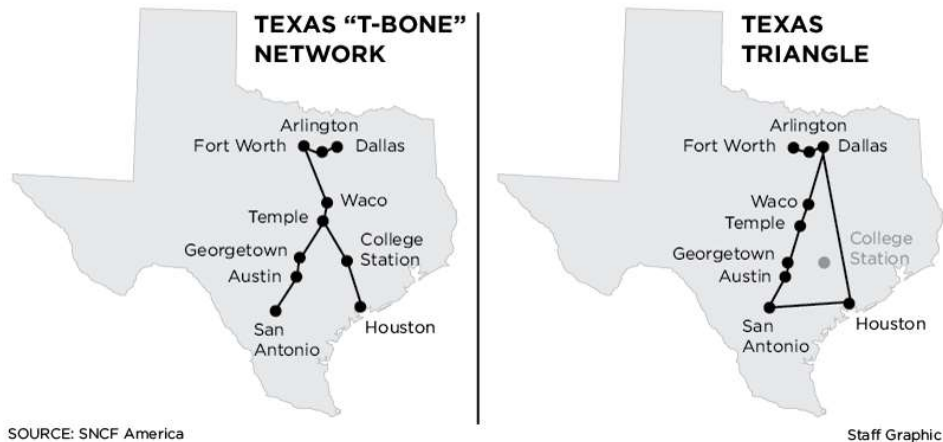
In 2016, Texas Central [swore](#) to a federal agency that its “business plan calls for it to begin construction in 2017... and to initiate passenger service in 2021.” That same year, it [swore](#) to numerous state courts that its project will “take over four years to build, and will ultimately provide world class transportation when it goes into service in late 2021.” Year after year, Texas Central has repeated this false claim—that construction is imminent—to ease its investors’ concerns, and to trick landowners into believing they have no choice but to give in to threats and demands.

Currently, Texas Central’s website [says](#) “Work is progressing every day to build the Texas high-speed train... we could begin construction as early as 2020.” For numerous reasons, many of which should be apparent from this document, Texas Central cannot begin construction this year. Although Texas Central continues to claim the project is “[shovel-ready](#),” it is not.

Are there other, more feasible high-speed train proposals for Texas?

Yes. SNCF, France’s national railway company, has [proposed](#) a Texas T-Bone “[higher speed](#)” rail system. At lower speeds, it could wind its way along existing railroad right-of-way.

High-speed rail options



Instead of tearing up 240 miles of private rural property, SNCF’s proposal would merely require the slight widening of existing right-of-way. SNCF’s proposal would cost about half as much per mile to build. Its entire, 480-mile T-bone network could be built at a cost just slightly higher than a single leg of the 763-mile “Texas Triangle” Texas Central is proposing.