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August 18, 2020

***Via Electronic Filing***

Hon. Blake Hawthorne, Clerk  
Supreme Court of Texas  
201 West 14th Street, Room 104  
Austin, Texas 78701

RE: Amended Amicus Curiae Letter re: *James Fredrick Miles v. Texas Central Railroad & Infrastructure, Inc. and Integrated Texas Logistics, Inc.*; Cause No. 20-0393

Dear Mr. Hawthorne, and to the Honorable Justices of the Supreme Court:

I represent Texas Farm Bureau ("TFB"). On behalf of TFB, I am submitting this brief Amicus Curiae Letter in connection with the cause noted above.

**Statement of Interest and Purposes.** TFB is a Texas Non-Profit Membership Corporation committed to the advancement of agriculture and prosperity for rural Texas, and rural Texans. TFB has over 500,000 member families, and it is associated by a uniform cooperative agreement with independent county Farm Bureau corporations in 206 different counties across the state.

The policies of TFB are derived from its members' own proposals, which originate within county Farm Bureaus and are ultimately approved by a majority vote at an annual statewide meeting. TFB's formally adopted and published "State Policies" address the critical need to provide common sense real property policies to protect land involved in agriculture, farming and ranching pursuits as well as those which support those endeavors.

TFB's State Policies address the critical importance for affording the maximum protection of land and water property rights of farmers and ranchers and all private landowners in Texas. TFB policies *oppose* the broadening of eminent domain rights, to results that are overly burdensome, unconstitutional, or potentially unfair to, the landowner, whether by judicial or legislative fiat.

TFB respectfully submits this Amicus Letter on behalf of its members considered policy views, and TFB will pay the fees incurred in the preparation thereof.

**This Cause Ought to be Accepted for Review.** The issue in this case are exceptional in scope and reach, and important to the citizens and landowners of this state. They are likely to affect rural landowners more directly and often, for practical reasons.

The claim of eminent domain power by private, for profit companies is a continual encroachment on the constitutional protections offered landowners by the Texas Constitution.

Texas Farm Bureau believes the issues presented here should be promptly addressed by this Court, including: (1) appropriate qualification for, and limitations of eminent domain power(s) granted

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to private entities; (2) whether the statutory basis relied upon by the Respondents here *really* supports the private use of eminent domain powers to take land or property interests from ordinary working landowners who value that property highly, including those in the farm ranch and rural communities, and (3) how the constitutional imperatives revisited in *Denbury I and II (Texas Rice Land Partners, Ltd. v. Denbury Green Pipeline-Texas, LLC*, 363 S.W. 3d 192 (Tex. 2012) (“*Denbury P*”) and *Denbury Green Pipeline-Tex. v. Tex. Rice Land Partners, LLC*, 510 S.W. 3d 909 (Tex. 2017) (“*Denbury IP*”) and their progeny) are to be applied in a consistent, fair and efficient manner in this and other settings – for instance – to require showing of an *actual* and realistic achievable public purpose, in order to support a private entity’s claimed right to use of eminent domain powers.

Our belief is that the process to authorize those extraordinary rights for a private company ought to be both stringent and clear from a legislative intent and regulatory oversight standpoint in order to meet constitutional requirements intended to protect Texas landowners.

This case presents those issues squarely, and they will recur in this setting as well as others where eminent domain rights are sought or to be exercised by private entities. It is therefore worthy of the attention of this Court, and TFB requests that the Court accept this case for review.

Sincerely yours,

**BEARD KULTGEN BROPHY  
BOSTWICK & DICKSON, PLLC**

/s/ Andy McSwain  
Andy McSwain

AEM:eb

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was forwarded to all counsel of record on August 18, 2020, by hand delivery, facsimile, certified mail, return receipt requested, email, or electronic service in accordance with the Texas Rules of Civil Procedure.

/s/ Andy McSwain  
Andy McSwain

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