



DEPARTMENT OF THE ARMY
FORT WORTH DISTRICT, CORPS OF ENGINEERS
P.O. BOX 17300
FORT WORTH, TEXAS 76102-0300

EI-18849

February 29, 2012

Planning, Environmental, and Regulatory Division
Regulatory Branch

SUBJECT: Project Number SWF-2012-00076, Eagle Pass Railroad, LLC – Proposed Rail Line Construction and Operation – Maverick County, Texas

Mr. Dave Navecky
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001
ATTN: Docket No. FD 35554

Dear Mr. Navecky:

Thank you for your letter received February 6, 2012, concerning the proposal by Eagle Pass Railroad, LLC to construct and operate a new rail line located in Maverick County, Texas. This project has been assigned Project Number SWF-2012-00076. Please include this number in all future correspondence concerning this project.

Under Section 404 of the Clean Water Act the U. S. Army Corps of Engineers (USACE) regulates the discharge of dredged and fill material into waters of the United States, including wetlands. USACE responsibility under Section 10 of the Rivers and Harbors Act of 1899 is to regulate any work in, or affecting, navigable waters of the United States. Based on your description of the proposed work, and other information available to us, we have determined this project will involve activities subject to the requirements of Section 404 and Section 10.

We are unable to determine from the information you provided whether Department of the Army authorization will be required. However, we have determined that areas subject to Section 404 and Section 10 regulation, such as the Rio Grande River, as well as other waters of the U.S. including wetlands; resacas; on-channel ponds; perennial, intermittent, and ephemeral streams; and abandoned pits and mines, occur within the proposed project area. Mechanized land clearing, preparation of staging areas, temporary storage of construction material, installation of culverts, bridges, and their approaches, and constructing temporary and permanent road crossings are examples of railroad construction activities that may require Department of the Army authorization where they occur in waters of the United States.

If a Department of the Army permit is required, the project may be authorized by one or more general permits such as Nationwide Permit 14 for Linear Transportation Projects. For work to be authorized by general permit it must comply with the specifications and conditions of the permit. Projects that would not meet the specifications and conditions of a general permit may require authorization by individual permit.

Important cultural resources are known to occur in the vicinity of the project area. Federally listed endangered species, including Gulf Coast jaguarundi (*Herpailurus yagouaroundi cacomitli*) and ocelot (*Leopardus pardalis*) are known to occur in Maverick County. Please consider the potential effects of this proposed action on cultural resources and endangered species in your planning efforts. For additional information about endangered and threatened species, please contact the U. S. Fish and Wildlife Service.

We encourage the applicant to avoid and minimize adverse impacts to streams, wetlands, and other waters of the United States in planning this project. When more detailed information about the project is available, the applicant should provide us with a suitable map of the proposed project area showing the location of proposed discharges, the type and amount of material (temporary or permanent), if any, to be discharged, and plan and cross-section views of the proposed project. If the applicant meets the terms and conditions of Nationwide Permit 14 for Linear Transportation Crossings, they may find the application template for this permit useful. This fillable template is available at the following web address:

<http://www.swf.usace.army.mil/pubdata/environ/regulatory/permitting/applicationforms/index.asp>

Please note that it is unlawful to start work without a Department of the Army permit if one is required.

Thank you for your interest in our nation's water resources. If you have any questions concerning our regulatory program, please refer to our website at <http://www.swf.usace.army.mil/regulatory> or contact Mr. Frederick Land at the address above or telephone (817) 886-1729.

Please help the Regulatory Program improve its service by completing the survey on the following website: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



for Stephen L. Brooks
Chief, Regulatory Branch