



Public Notice

**U.S. Army Corps
Of Engineers**

Galveston District

Permit Application No: _____

Date Issued: _____

Comments _____

Due: _____

SWG-2014-00412

31 March 2020

30 April 2020

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

PURPOSE OF PUBLIC NOTICE: To inform you of refinements to a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. The U.S. Army Corps of Engineers (Corps) is not the entity proposing or performing the proposed work, nor has the Corps taken a position, in favor or against the proposed work.

AUTHORITIES: This public notice is being issued as a supplement to the application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA), and for water quality certification under Section 401 of the CWA, to discharge dredged or fill material into Waters of the United States (US), associated with the construction of the Dallas to Houston High Speed Rail (DHHSR) Project.

Subsequent to issuance of the project's original Public Notice, on 22 December 2017, the applicant proposed refinements to the project limits of disturbance. The refinements were proposed in response to public and stakeholder comments to the original notice, to address constructability reviews completed by the applicant, and to comply with the requirement for the applicant to avoid and minimize impacts to waters of the US.

The entire project route extends from Dallas to Houston, in Texas. Project refinements proposed in Dallas, Ellis, Navarro, Freestone, Limestone, Leon, Madison and Grimes counties are being evaluated by the Fort Worth District Corps, and are disclosed in Public Notice SWF-2011-00483. The Public Notice can be found on their website: <http://www.swf.usace.army.mil/Media/Public-Notices/>.

Project refinements proposed in Waller and Harris counties are being evaluated by the Galveston District Corps, and are disclosed in this notice. Both the Galveston and Fort Worth District Public Notices are being distributed to adjacent landowners of both the original and refined alignment to support widest disclosure.

The Federal Railroad Administration (FRA), is the lead Federal agency for the proposed project. The FRA is preparing an Environmental Impact Statement (EIS) for the proposed DHHSR. The status of their review, and other project related information can be found on their website: <https://railroads.dot.gov/current-environmental-reviews/dallas-houston-high-speed-rail/dallas-houston-high-speed-rail>. The Corps accepted FRA's invitation to become a Cooperating Agency in the development of the EIS for the project.

APPLICANT: Texas Central Railroad, LLC
1409 South Lamar Street, Suite 1022
Dallas, Texas 75215
Telephone: 214-736-1605
POC: Dr. Carlos F. Aguilar

AGENT: Freese and Nichols, Inc.
4055 International Plaza, Suite 200
Fort Worth, Texas 76109
Telephone: 214-217-2209
POC: Mr. Fredrick Zarate Jr.

LOCATION: The entire project will extend from Dallas, Texas, to Houston, Texas. The portion of the proposed project being reviewed by the Galveston District is located in various wetlands and waterbodies, extending from the northeast corner of Waller County, south into Harris County, and terminating at the northwest corner of the 610 Loop, between SH 290, and Interstate 10.

LATITUDE & LONGITUDE (NAD 83):

Start (Entering Waller Co): Latitude: 30.24164 North; Longitude: -95.86793 West
End (Harris Co Terminus): Latitude: 29.80611 North; Longitude: -95.46703 West

PROJECT DESCRIPTION: The applicant's stated purpose for the proposed project is to construct and operate an efficient, reliable and safe alternative mode of transportation between the cities of Dallas and Houston, Texas, that would add transportation capacity in the corridor to meet increasing travel demands and provide an additional travel mode.

Overall Project Description: The proposed project involves construction of approximately 240 miles of rail line from Dallas County to Harris County, in Texas. An intermediate station, the Brazos Valley Station, is proposed near Roans Prairie, in Grimes County. The proposed dedicated rail corridor would include two parallel rail lines, maintenance and utility facilities, and temporary staging areas. Travel times of approximately 90 minutes are proposed between Dallas and Houston, using trains capable of traveling in excess of 205 miles per hour.

Proposed Project Refinements: Changes to the proposed project, within the USACE Galveston District, include:

1. Elevating approximately 8 miles of rail segment, to address concerns related to flooding, drainage pattern alterations, and impacts to WOTUS.
2. Relocating the Houston Transit Maintenance Facility northward, away from the Katy Prairie historic range, due to changed land conditions, new development, and needed grade separation to account for the City of Houston Major Thoroughfare and Freeway Plan.
3. Horizontal realignment, near Castle Road, to avoid a potential historic resource.
4. Elimination of road-over-rail crossings, where practicable, to reduce the project construction footprint, and to reduce road closures and realignments.

Updated Project Impacts: A comparison of impacts to waters of the US (WOTUS), in the Galveston District, is provided in the table below. Impacts disclosed in the 2017 Public Notice, compared to WOTUS impacts associated with the currently proposed refinements, and the net differences are all reported.

		WOTUS Impacts 2017 (No Refinements)			WOTUS Impacts 2019 (With Refinements)			Difference in WOTUS Impacts			
		Temp	Perm/ Conv	Total	Temp	Perm/ Conv	Total	Temp	Perm/ Conv	Total	
Galveston District	Wetlands (acres)	Emergent	8.15	56.16	64.31	18.85	5.77	24.62	+10.70	-50.39	-39.69
		Scrub-Shrub	-	0.94	0.94	-	1.52	1.52	-	+0.58	+0.58
		Forested	-	1.38	1.38	-	6.27	6.27	-	+4.89	+4.89
		<i>Total</i>	<i>8.15</i>	<i>58.48</i>	<i>66.63</i>	<i>18.85</i>	<i>13.56</i>	<i>32.41</i>	+10.70	-44.92	-34.22
Ponds (acres)	<i>Total</i>	<i>1.71</i>	<i>7.32</i>	<i>9.03</i>	<i>3.54</i>	<i>2.24</i>	<i>5.78</i>	+1.83	-5.08	-3.25	
Streams (linear feet)	Ephemeral	4,333	8,094	12,427	2,942	1,019	3,961	-1,391	-7,075	-8,466	
	Intermittent	1,354	2,632	3,985	2,236	634	2,870	+882	-1,998	-1,115	
	Perennial	567	1,460	2,027	1,041	272	1,313	+474	-1,188	-714	
	<i>Total</i>	<i>6,253</i>	<i>12,186</i>	<i>18,439</i>	<i>6,219</i>	<i>1,925</i>	<i>8,144</i>	-34	-10,261	-10,295	

Temp = Temporary, Perm = Permanent, Conv = Conversion

The project plan sheet overview is attached in 4 sheets. Detailed project plans are available upon request, by contacting the Corps. Contact information is listed at the end of this notice.

AVOIDANCE AND MINIMIZATION (RELATED TO PROJECT REFINEMENTS): The applicant has implemented refinements to their preferred alignment alternative, where practicable, to avoid and minimize impacts to waters of the US, including: elimination of some permanent access roads, or conversion to unpaved maintenance-of-way paths, use of open-bottom culverts to minimize impacts to streams, optimized placement of detention basins, as well as temporary construction, and minimization of viaduct and utility crossing widths. Much of the applicant's preferred alignment plan will include elevated rail on viaducts (pier and beam), parallel to existing utility rights-of-way, to further avoid and minimize impacts to waters of the US.

As a result of the refinements, impacts to wetlands have been reduced by 34.22 acres, impacts to open water have been reduced by 3.25 acres, and impacts to streams have been reduced by 10,295 linear feet.

MITIGATION: Compensatory mitigation for aquatic resource impacts is required for single and complete crossings of waters of the US that exceed 0.1 acre of wetland and/or 300 linear feet of stream. To offset unavoidable adverse impacts to waters of the US, in Waller and Harris Counties, the applicant proposes to purchase in-kind credits from an approved mitigation bank or banks, based on the impact locations and credit availability. If adequate credits are not available, the permittee would provide permittee-responsible mitigation.

NOTES: This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the CWA.

OTHER AGENCY AUTHORIZATIONS: The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management Program.

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a

public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

NATIONAL REGISTER OF HISTORIC PLACES: The majority of the alignment for the proposed Dallas to Houston High Speed Rail Project has not been investigated for the presence of Historic Properties or other cultural resources. However, initial background research has resulted in the identification of numerous resources that could be eligible for inclusion in the National Register of Historic Places. The Corps has determined the jurisdictional areas have a high probability for containing unrecorded Historic Properties and are requiring the applicant conduct an investigation to identify any unrecorded Historic Properties. The applicant is proposing the development of a Programmatic Agreement for phased identification and treatment of Historic Properties and other cultural resources. The Corps is evaluating information submitted by the applicant and contained in the FRA's Draft EIS, which includes FRA's current identification of adverse effects to Historic Properties, to inform our determination of effects to cultural and historic resources. The Corps is also an invited Signatory to the proposed Programmatic Agreement.

THREATENED AND ENDANGERED SPECIES: The Corps has reviewed the U.S. Fish and Wildlife Service's latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in Waller and Harris counties where the Houston toad (*Bufo houstonensis*), Texas Prairie Dawn (*Hymenoxys texana*), West Indian manatee (*Trichechus manatus*), Least tern (*Sterna antillarum*), Whooping crane (*Grus americana*), Texas fawnsfoot (*Truncilla macrodon*), Piping plover (*Charadrius melodus*) and Red knot (*Calidris canutus rufa*) are known to occur or may occur as migrants. The Houston toad, Texas Prairie Dawn, Whooping crane and Least tern are endangered species. The West Indian manatee, Red knot and Piping plover are threatened species. The Texas fawnsfoot is a candidate species. The Corps is not the lead Federal agency but is evaluating information submitted by the applicant and contained in the FRA's Draft EIS to inform our determination of effects to listed species. FRA has initiated formal consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Programs of the Corps, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENTS: The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an EIS pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period, any person may make a written request for a public hearing, setting forth the particular reasons for the request. The District Engineer will determine if the reasons identified for holding a public hearing are sufficient to warrant that a public hearing be held. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this public notice must reach this office on or before **30 April 2020**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should reference our file number, **SWG-2014-00412**, and should be submitted to:

Policy Analysis Branch
Regulatory Division, CESWG-RDP
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3869 Phone
409-766-3931 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS