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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 9, 2018

CERTIFIED MAIL

Mr. Stephen Brooks, Division Chief
U.S. Army Corps of Engineers
Regulatory Division CESWF-EV-R
P.O. Box 17300
Fort Worth, Texas 76102-0300

RECEIVED
MAR 12 2018
By

Attention: Mr. Darvin Messer

Re: USACE Permit Application No. SWF-2011-00483

Dear Mr. Brooks:

As described in the Joint Public Notice (JPN) dated December 22, 2017, the applicant, Texas Central Railroad, LLC, proposes the Dallas to Houston High Speed Rail (DHHSR) Project, to provide an alternative travel mode and help meet public transit demand. The railway would allow travel speeds up to 205 miles per hour in a sealed corridor with travel times of approximately 90 minutes between the two Texas cities. The proposed railway parallels existing electric power transmission lines, roadways, and utility right-of-ways.

The DHHSR Project spans the Fort Worth and Galveston Districts of the U.S. Army Corps of Engineers (USACE). The Fort Worth District's portion is approximately 189 miles in Dallas, Ellis, Navarro, Freestone, Limestone, Leon, Madison, and Grimes counties in Texas. The Galveston District's portion consists of an additional 51 miles in Waller and Harris counties (Permit Application No. SWG-2014-00412). For the complete 240-mile project, impacts to waters of the U.S. (WOUS) include 152,342 linear feet (LF) of streams, of which 91,969 LF are permanent, and 167.3 acres of pond/wetland impacts, of which 134.11 acres are permanent. According to the Draft Environmental Impact Statement (DEIS), watersheds in the project area include the Brazos, Navasota, San Jacinto, and Trinity river basins.

According to the Fort Worth District's JPN, the WOUS impacts in that district include 133,903 LF of streams, of which 79,783 LF are permanent, while the pond/wetland impacts include 91.64 acres, of which 68.31 acres are permanent. To offset WOUS impacts, the applicant proposes to purchase in-kind credits from an approved mitigation bank within the Upper Trinity watershed. The applicant proposes permittee-

The applicant provided a completed Tier II 401 Certification Questionnaire and Alternatives Analysis Checklist (Tier II Checklist) dated December 19, 2017. The Tier II Checklist included the project's purpose and need, WOUS, Alternatives Analysis, and Mitigation Plan. In addition to the information contained in the JPN, Tier II Checklist, and DEIS, the following information is needed for review of the proposed project. Responses to this letter may raise other questions that will need to be addressed before a water quality certification determination can be made.

1. Title 30, Texas Administrative Code (TAC), Chapter 279.11(c)(1), states that "No discharge shall be certified if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, ..." The Texas Commission on Environmental Quality (TCEQ) recommends clear span bridges or open bottom box culverts for all stream crossings. This helps to ensure that the hydrological regime and existing aquatic habitats are maintained for freshwater mussels, macroinvertebrate assemblages, and fish spawning/foraging passages. Practicable alternatives are preliminarily assumed to exist, but the applicant does have the opportunity to clearly demonstrate that no practicable alternatives exist.

2. If the aquatic resources cannot be avoided, appropriate and practicable steps should be taken to minimize potential adverse impacts (30 TAC §279.11(c)(2)). Please have the applicant provide more detailed information on what options were considered to minimize impacts and why they were eliminated. As stated in the Tier II Checklist, the applicant identified *Alternative A* as the least environmentally damaging practicable alternative, in which approximately 60 percent of the railway will be elevated and enclosed in viaducts. Please have the applicant provide additional supporting information to aid in TCEQ's review of the applicant's minimization efforts.

3. There are discrepancies between the WOUS impacts given in the public notice and those given in additional information provided by the applicant in Document 5, Attachment G, "Summary of ...impacts....". Please have the applicant clarify these discrepancies and clarify which units (acres or LF) are used for each WOUS type.

4. Mitigation of impacts is considered for ". . .all unavoidable adverse impacts that remain after all practicable avoidance and minimization has been completed . . ." (30 TAC §279.11(c)(3)). The applicant proposes two types of mitigation for which more details are needed. Please have the applicant provide, in tabular form, the mitigation credits to be purchased and their availability, for each bank. Please also have the applicant provide a detailed PRM plan for TCEQ review.

5. Please have the applicant provide a copy of the wetland delineations, ecological assessments (e.g., TXRAM worksheets), site photos and other relevant baseline information to better evaluate the proposed mitigation. Please have the applicant address and consider mitigation for potential secondary and cumulative impacts such as flow alterations that may affect the overall hydrology of the impacted watersheds.

6. Please have the applicant provide the impacted stream names in the Plan Drawings legends. Alternatively, the applicant may provide a separate table that cross-references the impacted stream name/segment with its corresponding Plan Drawing number (ex: DT-02001).

The TCEQ appreciates the opportunity to comment and looks forward to receiving and evaluating other agency or public comments. The TCEQ's comments pertaining to the Galveston District's portion of the DHHSR Project located in Waller and Harris counties (SWG-2014-00412) are provided in a separate letter. Please provide any agency comments, public comments, as well as the applicant's comments, to Dr. Mary Anne (Mimi) Wallace of the Water Quality Division MC-150, P.O. Box 13087, Austin, Texas 78711-3087. Dr. Wallace may also be contacted by e-mail at *Mimi.Wallace@tceq.texas.gov*, or by telephone at (512) 239-4604.

Sincerely,

David W. Galindo, Director
Water Quality Division
Texas Commission on Environmental Quality

DWG/MAW/sc

ccs: Mr. Carlos Aguilar, Texas Central Railroad, LLC, 1409 South Lamar Street, Suite 1022, Dallas, Texas 75215
Mr. Fredrick Zarate, Jr., Freese and Nichols, Inc., 2711 North Haskell Avenue, 33rd Floor, Dallas, Texas 75204

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