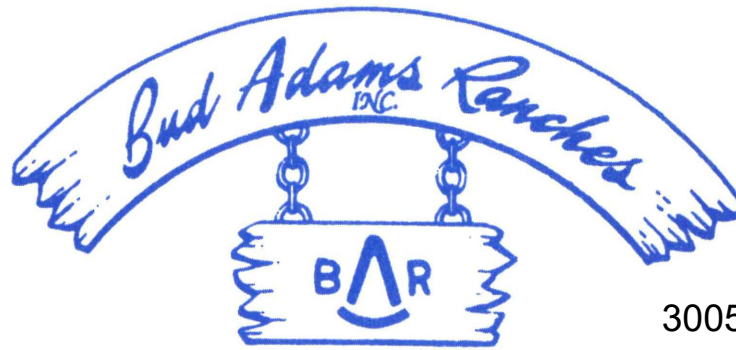


*BAR I RANCH
Waller, Texas 77484*

*BAR V RANCH
Buckholts, Texas 76518*



April 29, 2020

300582

U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

*P.O. Box 844
Houston, Texas 77001
(713) 881-3400*

ENTERED
Office of Proceedings
April 30, 2020
Part of
Public Record

Subject: SWF-2011-00483 and SWG-2014-00412

Ladies and Gentlemen:

I am the president of Bud Adams Ranches Inc. (BAR), which is a landowner impacted by Texas Central Railway's (TCR) proposed high-speed rail project (HSR). I am submitting this comment in regard to the certification and permitting activities being performed by the US Army Corps of Engineers (USACE) & Texas Commission on Environmental Quality (TCEQ) for the HSR (# SWF-2011-00483 & # SWG-2014-00412).

I am concerned that the Army Corps would certify any project before adequate surveying and engineering work has been completed to assess the flooding impact that TCR's proposed HSR project could create along its proposed route through Northwest Harris County. My concerns are documented in an opinion editorial published in the Washington Times on March 9, 2020; a copy of which is attached to ensure it is part of the public record.

It is incredible that the Army Corps would certify this portion of TCR's proposed route without requiring updated engineering and surveys of the Harris County portion of the route for many reasons. TCR filed its Environmental Impact Report with the FRA on December 15, 2017, which is less than 4 months after Hurricane Harvey struck Houston, Texas. Hurricane Harvey caused catastrophic levels of flooding along large portions of TCR's route through Harris County in August of 2017. TCR did not control or have access to this portion of its route after the flooding from Hurricane Harvey. Therefore, TCR could not possibly have completed the necessary reengineering and surveying of the portion of the route affected by Harvey in the aftermath of the hurricane.

The only safe and prudent course of action for the Army Corps to take is to demand that all engineering and survey work along the proposed route through Harris County be updated. The Corps should demand an amended EIS, documenting this work, to be filed with FRA before the route is certified.

Please record this comment in the administrative record.

Sincerely,

A handwritten signature in black ink, appearing to read "W.R. Scofield". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

W.R. Scofield
President

Enclosure
CC: All Parties of Record

Texas high-speed rail threatens endangered species, habitats and flood plains

The flawed Texas high-speed rail project

By Randy Scofield - - *Monday, March 9, 2020*

ANALYSIS/OPINION:

[Houston](#), Texas — The proposed Texas high-speed rail project is under increasing threat of federal agency rejection due to significant public hazards, financial non-viability, and now newly revealed environmental regulatory and flooding concerns. It may not survive 2020.

The original proposal was announced in 2015 at a projected cost of \$10 billion, to be privately raised with no state or federal support. The projected cost has since risen to at least \$20 billion. The project developer has announced it will seek billions of dollars in federal government assistance through taxpayer-backed loan guarantees and credit assistance.

The developer is woefully under-capitalized for either the [Federal Railroad Administration](#) (FRA) or the Surface Transportation Board to assume jurisdiction over the project. The company originally was capitalized with \$110 million from private investors and \$40 million from the Japanese government. In 2018, the Japanese government extended a \$300 million interest-bearing loan via a Cayman Island offshore account just to keep the company afloat.

The project is proposed to cut diagonally across the Texas coastal floodplain which has suffered nine major floods in just the past decade. Most recently, Hurricane Harvey inflicted \$125 billion in damage and triggered \$15 billion in direct federal flood relief. The project developer has not yet had access to adequately survey the route across the floodplain or conduct sufficient studies documenting how its elevated structures will impact effective flood control plans and protect residents' lives during future storms.

The proposed project would be built on a 240-mile route connecting [Houston](#) to Dallas. As much as 1,000 square miles of Texas land could be impacted and fall under federal regulatory jurisdiction during the construction and operation of the rail system. Currently, the developer is unable to legally access about 70 percent of the land impacted by the project, as most landowners along the route oppose the project and have denied access to their land. The developer's private consultants and U.S. Fish & Wildlife Service (FWS) field office personnel have been unable to survey or assess most of the land to identify or protect endangered or threatened species and their habitats.

The [FRA](#) is currently reviewing the draft Environmental Impact Statement (EIS) required under the National Environmental Policy Act (NEPA) because the project must "avoid, minimize and mitigate impacts to the human and natural environment."

The Texas Parks and Wildlife Department lists 145 endangered or threatened species of mammals, birds, amphibians, reptiles and plant life that are likely to be adversely affected along the proposed 240-mile high-speed rail route, which cuts directly across the migratory path of whooping cranes, bald eagles and numerous other migratory bird species.

A Biological Assessment including consultation with the FWS must be completed before the project can begin the permitting process. FWS is tasked with approving plans to protect federal endangered or threatened species and insuring there will be suitable habitat under the Endangered Species Act (ESA), as well as the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

FWS is required to authorize any taking of species during project construction and after its completion. A taking is defined as harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing and collecting listed species. The project must not jeopardize the continued existence of an endangered or threatened species or destroy or adversely modify designated critical habitat. The criminal penalties for killing an endangered species can be as serious as a year in prison and \$50,000 in fines, and civil penalties can range up to \$25,000 per violation.

No major construction project in the United States with such significant land impact can essentially ignore and bypass FWS jurisdiction. The Center for Biological Diversity, the Audubon Society, Defenders of Wildlife and other leading environmental organizations have taken notice.

To date, the [FRA](#) and the high-speed rail developer have been informed during public comment of the developer's failure to comply with federal species identification, assessment and protection as required under ESA and NEPA, yet [FRA](#) has not rejected the utterly inadequate draft EIS. According to the federal permitting dashboard, [FRA](#) anticipates it will conclude its review of the entire draft EIS by July 2020. How it proposes to do so without first approving the legally-mandated federal protection of endangered and threatened species is a regulatory mystery.

Questions about public safety, investor indifference and flood resilience already bedevil this flawed project. The only viable solution is to reject the incomplete draft EIS currently under [FRA](#) review and require that a second draft EIS include the necessary ESA protections for endangered and threatened species and their critical habitat. Otherwise, the [FRA](#) will be setting a very dangerous and negligent precedent for all future federal project approvals.

- *Randy Scofield is president & COO of KSA Industries Inc., a diversified holding company in [Houston](#), including automobile dealerships, ranching operations and an NFL team.*

<https://www.washingtontimes.com/news/2020/mar/9/texas-high-speed-rail-threatens-endangered-species/>

Certificate of Service

I, Cheri Morgan, certify that I have this 29th day of April 2020 served copies of the foregoing letter upon all parties of record in this proceeding, by email or U.S. mail.

/s/ *Cheri Morgan*

Cheri Morgan
Executive Assistant
17 South Briar Hollow Lane
Houston, TX 77027

Date: April 29, 2020