

EI - 18865

PACUACHE TILIJAYA COAHUILTECAN TRIBE OF TEXAS

Mission Indians San Juan Bautista Mission Anacacho Dacate Sacatsol
Mountains, Chotilapacquen Ona River, Elm Creek, Pilapaxam Pulapacxam
River, Nueces River and Rio Grande River.

Indigenous to Texas and Northeastern Mexico
Tribal Nation Inherit Sovereign Self Government
1690 Foundation

935 W. Silver Sands Dr. #2705 San Antonio, Texas 78216 phone (210)341-9275

Re; Docket No. C5-0003-SC-42-C Dos Republicas Coal Partnership for Permit No. 42A,
Attn: Docket No. FD 35554.

March 19, 2012

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

Dear Mr. Navecky,

The Pacuache Tiliyaya Coahuiltecan Tribe of Texas has been injured and will continue to be injured due to the wholesale destruction of our Coahuilteco Indian sacred sites located in and around the mine site 36 CFR 800.4a(a)(1)(iii), 25 U.S.C. 001 et seq, Native American Graves Protection and Repatriation Act.

The Dos Republicas Mine Company should not permitted to construct this mine which will destroy close to 100 archaeological sites around Elm Creek our sacred land Attachments of Map and inventory of archaeological sites shows the entire construction and total elimination and destruction of our Cultural Heritage of close to 100 archaeological sites Section 106 of the National Historic Preservation Act of 1966.

Each of these proposed railroad routes will have great destruction impact close to 100 archaeological sites the ones mark in RED will be destroy. Our Tribe joined in this matter The Coahuilteco Research Associates, which is an Indian Tribe and in 2007 they have been granted interested party status by the Federal Surface Transportation Board.

The Pacuache Tribe requests that a **full** Environmental Impact Statement (EIS) be **required and prepared for the Eagle Pass Railroad project**. The EIS will assess environmental impacts from the project and either insure that mitigation measures are prepared to address the identified impacts or acknowledge that there may be impact(s)

that **can not be mitigated.**

The construction of this mine will pollute the water supply for citizens of Eagle Pass, the pollution of Elm Creek and destruction of wild life with highly pollutant chemicals.

The Pacuache Tribe asks that a decision on this proposal be deferred until the final determination of the coal mine permitting is known.

Respectfully,



Pacuache Tribal Chief

ENCLOSED ATTACHMENTS
MINE MAP AND ARCHAEOLOGICAL
SITES

Table 1: Cultural Resource Sites Within or Near the Eagle Pass Mine Proposed Impact Areas

NRHP Eligibility Recommendations						
Site Number*	Survey		NRHP Testing		Future Mining Impacts	Regulatory Requirements
	EH&A 1981**	Uecker 1994	Uecker and Warren 1995	Inuegas 2005	Galindo et al. 2006	
41MV131	Not eligible		Not eligible		prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	None
41MV132	Not eligible		Not eligible		prehistoric open campsite-Elm Creek floodplain	None
41MV133	Unknown				prehistoric open campsite-upland flat	None
41MV134	Not eligible				prehistoric lithic scatter-upland flat	Phase I Evaluation
41MV135	Not eligible		Unknown	Eligible	prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Data Recovery***
41MV136	Unknown		Unknown	Eligible	prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Data Recovery***
41MV137	Not eligible		Unknown	Eligible	prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Data Recovery***
41MV138	Not eligible		Unknown	Eligible	prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Data Recovery***
41MV139	Unknown	Not eligible			prehistoric open campsite-hilly upland, secondary terrace of unnamed tributary of Elm Creek	None
41MV140	Not eligible				prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Phase I Evaluation
41MV141	Unknown		Unknown		prehistoric open campsite & historic brick & artifact scatter-primary terrace of unnamed tributary of Elm Creek	National Register Testing
41MV142	Not eligible		Not eligible		prehistoric open campsite-floodplain	None
41MV143	Not eligible		Not eligible		prehistoric open campsite-Elm Creek floodplain near border with hilly upland	None
41MV144	Not eligible		Unknown	Not eligible	prehistoric open campsite-Elm Creek floodplain	None
41MV145	Not eligible		Unknown	Not eligible	prehistoric open campsite-Elm Creek floodplain	None
					SP1, Diversion/Ditch	None

Table 1 (Cont'd)

NRHP Eligibility Recommendations						
Site Number*	EH&A 1981**	Survey		NRHP Testing		Regulatory Requirements
		Uecker 1994	Uecker and Warren 1995	Iruegas 2005	Galindo et al. 2006	
41MV146	Not eligible		Not eligible		prehistoric open campsite-Elm Creek floodplain	SP1 None
41MV147	Not eligible				prehistoric lithic procurement site-upland flat	Block C2 Phase I Evaluation
41MV148	Not eligible				prehistoric open campsite-upland terrace edge	Block C2, Diversion/Ditch Phase I Evaluation
41MV149	Not eligible				prehistoric lithic procurement site-upland terrace edge	Block C2, Diversion/Ditch Phase I Evaluation
41MV150	Unknown				prehistoric open campsite-floodplain terrace of unnamed tributary of Hediondo Creek	Not in Permit Area None
41MV151	Not eligible				prehistoric lithic procurement site-upland terrace edge	Not in Permit Area None
41MV152	Unknown				prehistoric open campsite-floodplain terrace of unnamed tributary of Hediondo Creek	Not in Permit Area None
41MV153	Not eligible				prehistoric open campsite-upland terrace edge	Not in Permit Area None
41MV154	Unknown				prehistoric open campsite-floodplain terrace of unnamed tributary of Hediondo Creek	Not in Permit Area None
41MV155	Not eligible		Not eligible		prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Block C1B None
41MV156	Unknown				prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Rail Loop Phase I Evaluation
41MV157	Unknown		Unknown		prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Rail Loop National Register Testing
41MV158	Unknown	Not eligible			prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Rail Loop None
41MV159	Unknown	Not eligible			prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Diversion/Ditch None
41MV160	Unknown	Unknown	Unknown	Eligible	prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Diversion/Ditch, Drainage Area Data Recovery***
41MV161	Unknown	Unknown	Unknown		prehistoric open campsite-primary terrace	Drainage Area National Register

Table 1 (Cont'd)

NRHP Eligibility Recommendations							Regulator Requirement
Site Number*	EH&A 1981**	Survey		NRHP Testing		Future Mining Impacts	
		Uecker 1994	Uecker and Warren 1995	Inuegas 2005	Galindo et al. 2006		Site Type and Location
41MV162	Not eligible					of unnamed tributary of Elm Creek	Phase I Evalu
41MV163	Not eligible					prehistoric open campsite–primary terrace of unnamed tributary of Elm Creek	Phase I Evalu
41MV164	Not eligible		Unknown	Eligible		prehistoric open campsite–primary terrace of unnamed tributary of Elm Creek	Data Recover
41MV165	Not eligible		Not eligible			prehistoric open campsite–primary terrace of unnamed tributary of Elm Creek	None
41MV166	Not eligible		Not eligible			prehistoric open campsite–primary terrace of unnamed tributary of Elm Creek	None
41MV167	Unknown	Not eligible				prehistoric open campsite–primary terrace of unnamed tributary of Elm Creek	None
41MV168	Not eligible		Not eligible			prehistoric open campsite–primary terrace of unnamed tributary of Elm Creek	None
41MV169	Not eligible					lithic procurement site–upland terrace edge	Phase I Evaluation*
41MV170	Not eligible		Not eligible			prehistoric open campsite–primary terrace of unnamed tributary of Elm Creek	None
41MV171	Not eligible		Not eligible			lithic procurement site–upland terrace edge	None
41MV172	Not eligible		Not eligible			prehistoric open campsite–Elm Creek floodplain	None
41MV173	Not eligible		Not eligible			prehistoric open campsite–Elm Creek floodplain	None
41MV174		Not eligible				prehistoric open campsite–Elm Creek floodplain	None
41MV175		Not eligible				prehistoric open campsite–Elm Creek floodplain	None
41MV176		Not eligible				prehistoric open campsite–Elm Creek floodplain	None
41MV177		Not eligible				prehistoric open campsite–Elm Creek floodplain	None

Table 1 (Cont'd)

NRHP Eligibility Recommendations						
Site Number*	Survey		NRHP Testing		Future Mining Impacts	Regulatory Requirements
	EH&A 1981**	Uecker 1994	Uecker and Warren 1995	Inuegas and Inuegas 2005	Galindo et al. 2006	
41MV178		Not eligible			prehistoric open campsite-Elm Creek floodplain	Block D1 None
41MV179		Not eligible			prehistoric open campsite-Elm Creek floodplain	Block D1, Diversion/Ditch None
41MV180		Not eligible			prehistoric open campsite-Elm Creek floodplain	Haul Road None
41MV181		Not eligible			prehistoric open campsite-Upland terrace of Elm Creek	Haul Road None
41MV182		Unknown	Not eligible		prehistoric open campsite-Elm Creek floodplain	None None
41MV183		Unknown	Not eligible		prehistoric open campsite-Elm Creek floodplain	Haul Road None
41MV184		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	Block A1 National Register Testing
41MV185		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	Block A1, Diversion/Ditch, Drainage Area National Register Testing
41MV186		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	Block A1, Diversion/Ditch, Drainage Area National Register Testing
41MV187		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	Haul Road, Drainage Area National Register Testing
41MV188		Unknown	Not eligible		prehistoric open campsite-Elm Creek floodplain	Block A1 None
41MV189		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	Block A1 National Register Testing
41MV190		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	Block A1, Drainage Area National Register Testing
41MV191		Not eligible			prehistoric open campsite-Elm Creek floodplain	Haul Road None
41MV192		Not eligible			prehistoric open campsite-Elm Creek floodplain	Block A2 None
41MV193		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	Block A2 National Register Testing

Table 1 (Cont'd)

NRHP Eligibility Recommendations						
Site Number*	Survey		NRHP Testing		Future Mining Impacts	Regulatory Requirements
	EH&A 1981**	Uecker 1994	Uecker and Warren 1995	Iruegas and Iruegas 2005	Galindo et al. 2006	
41MV194		Unknown	Not eligible		prehistoric open campsite-Elm Creek floodplain	Block A1 None
41MV195		Unknown	Not eligible		prehistoric open campsite-Elm Creek floodplain	Diversion/Ditch None
41MV196		Not eligible			prehistoric open campsite-Elm Creek floodplain	Block A1 None
41MV197		Not eligible			prehistoric open campsite-Elm Creek floodplain	Block A1 None
41MV198		Not eligible			prehistoric open campsite-Elm Creek floodplain	None None
41MV199		Unknown	Unknown		historic cattle ranching camp-Elm Creek floodplain	None National Register Testing
41MV200		Not eligible			prehistoric open campsite-Elm Creek floodplain	None None
41MV201			Unknown		prehistoric open campsite-Elm Creek floodplain	Haul Road National Register Testing
41MV202			Unknown		prehistoric open campsite-Elm Creek floodplain	Block A1, SP6 National Register Testing

* Sites with numbers highlighted in red have been cleared by the Texas Historical Commission and may be impacted by mining activities.

** Recommendations set aside by THC following standards revisions (THC 1981)

*** Data recovery in progress in 2007 and 2008 by PBS&J. Fieldwork has been completed and an interim report has been submitted to THC. Clearance for mining activities is anticipated.

In the conclusions of their survey report (Uecker 1994), CAR recommended no further investigations at sites 41MV139, 41MV158, 41MV159, 41MV167, 41MV174–41MV181, 41MV191, 41MV192, 41MV196–41MV198, and 41MV200. Of the remaining sites, CAR recommended Phase I investigation at sites 41MV131, 41MV132, 41MV135–41MV138, 41MV141–41MV146, 41MV155, 41MV157, 41MV164–41MV166, 41MV168, and 41MV170–41MV173. Finally CAR recommended National Register of Historic Places (NRHP) eligibility testing at sites 41MV160, 41MV161, 41MV182–41MV190, 41MV193–41MV195, and 41MV199. Sites 41MV133, 41MV134, 41MV140, 41MV147, 41MV148, 41MV149–41MV154, 41MV156, 41MV162, 41MV163, and 41MV169, previously recorded by EH&A, were not considered in CAR's recommendations because they were outside of the then-proposed mine area (see Table 1).

In 1993, ACI conducted limited subsurface investigations at 37 sites (Uecker and Warren 1995) including 41MV131, 41MV132, 41MV135–41MV138, 41MV141–41MV146, 41MV155, 41MV157, 41MV160, 41MV161, 41MV164–41MV166, 41MV168, 41MV170–41MV173, 41MV182–41MV190, 41MV193–41MV195, and 41MV199. Two additional sites, 41MV201 and 41MV202 were also located during survey investigations but were only subjected to surface inventories. ACI recommended 21 of these sites for NRHP eligibility testing including 41MV135–41MV138, 41MV141, 41MV144, 41MV145, 41MV157, 41MV160, 41MV161, 41MV164, 41MV184–41MV187, 41MV189, 41MV190, 41MV193, 41MV199, 41MV201, and 41MV202 (see Table 1).

ACI also conducted a cultural resources survey of a proposed access road for Marston & Marston, Inc. in 1994. The road route crossed sites 41MV157 and 41MV168. No NRHP contributing elements were observed in the portions of the two sites within the proposed route right of way (Houk and Warren 1994).

In 2005, GTI Consultants conducted NRHP eligibility testing investigations for NAC at site 41MV164 (Iruegas and Iruegas 2005) and later at sites 41MV135–41MV138, 41MV144, 41MV145, and 41MV160 (Galindo et al. 2006). The two investigations concluded that sites 41MV144 and 41MV145 were not eligible for listing in the NRHP and that sites 41MV135–41MV138, 41MV160, and 41MV164 were eligible for listing in the NRHP and thus warranted archaeological data recovery to mitigate adverse impacts of the proposed mining activities.

In 2006 and 2007, PBS&J consulted with the THC and submitted to that agency a plan for archaeological data recovery at sites 41MV135–41MV138, 41MV160, and 41MV164 discussed above. After receiving THC concurrence, PBS&J implemented the plan in June 2007. This Data Recovery Plan and THC concurrence letter are included as Appendices 125-2 and 125-3 of this document respectively. Data recovery investigations at the six sites have been completed, and an interim report of these investigations has been submitted to the THC requesting clearance to impact the six sites. Completion of the analysis and draft report of investigations is anticipated in November 2008. Also in 2007, PBS&J developed a cultural resources treatment plan for the Eagle Pass Mine which is attached to this document as Appendix 125-4

CONCLUSION

Known cultural resource sites within the Eagle Pass Mine that are currently protected and require further investigation are listed in Table 2 and their location is shown in Figure 125 (2)-1. They include 41MV141, 41MV157, 41MV161, 41MV184, 41MV185–41MV187, 41MV189, 41MV190, 41MV193, 41MV199, 41MV201, and 41MV202 where testing is required to determine NRHP eligibility; and sites 41MV134, 41MV140, 41MV147–41MV149, 41MV156, 41MV162, 41MV163, and 41MV169 where Phase I resurvey investigation is required. Additionally, all areas within the present mine that are outside of CAR's 1992 survey area, shown on Figure 125 (2)-1, including areas examined during EH&A's 1981 study, require cultural resources survey and evaluation prior to mining impacts.

Table 2: Protected Sites Within or Near the Eagle Pass Mine Proposed Impact Areas

NRHP Eligibility Recommendations						
Site Number	EH&A 1981*	Survey		NRHP Testing		Regulatory Requirements
		Uecker 1994	Uecker and Warren 1995	Inuegas 2005	Galindo et al. 2006	
41MV134	Not eligible					
41MV135	Not eligible		Unknown		Eligible	prehistoric lithic scatter on upland flat Block B Haul Road, Diversion/Ditch, Drainage Area Phase I Evaluation Data Recovery**
41MV136	Unknown		Unknown		Eligible	prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek Block B, Haul Road, Diversion/Ditch Data Recovery**
41MV137	Not eligible		Unknown		Eligible	prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek Drainage Area Data Recovery**
41MV138	Not eligible		Unknown		Eligible	prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek Diversion/Ditch, Drainage Area Data Recovery**
41MV140	Not eligible					prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek Diversion/Ditch Phase I Evaluation
41MV141	Unknown		Unknown			prehistoric open campsite/historic brick & artifact scatter-primary terrace of unnamed tributary of Elm Creek Diversion/Ditch, Drainage Area National Register Testing
41MV147	Not eligible					lithic procurement site-upland flat Block C2 Phase I Evaluation
41MV148	Not eligible					prehistoric open campsite-upland terrace edge Block C2, Diversion/Ditch Phase I Evaluation
41MV149	Not eligible					lithic procurement site-upland terrace edge Block C2, Diversion/Ditch Phase I Evaluation
41MV156	Unknown					prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek Rail Loop Phase I Evaluation
41MV157	Unknown		Unknown			prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek Rail Loop National Register Testing
41MV160	Unknown	Unknown	Unknown		Eligible	prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek Diversion/Ditch, Drainage Area Data Recovery**
41MV161	Unknown	Unknown	Unknown			prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek Drainage Area National Register Testing
41MV162	Not eligible					prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek Railroad Phase I Evaluation
41MV163	Not eligible					prehistoric open campsite-primary terrace Block C1B Phase I Evaluation

Table 2 (Cont'd)

NRHP Eligibility Recommendations						
Site Number	Survey		NRHP Testing		Future Mining Impacts	Regulatory Requirements
	EH&A 1981*	Uecker 1994	Uecker and Warren 1995	Inuegas 2005	Galindo et al. 2006	
41MV164	Not eligible		Unknown	Eligible	of unnamed tributary of Elm Creek prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Data Recovery**
41MV169	Not eligible				prehistoric open campsite-primary terrace of unnamed tributary of Elm Creek	Phase I Evaluation*
41MV184		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	National Register Testing
41MV185		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	National Register Testing
41MV186		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	National Register Testing
41MV187		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	National Register Testing
41MV189		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	National Register Testing
41MV190		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	National Register Testing
41MV193		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	National Register Testing
41MV199		Unknown	Unknown		historic cattle ranching camp-Elm Creek floodplain	National Register Testing
41MV201		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	National Register Testing
41MV202		Unknown	Unknown		prehistoric open campsite-Elm Creek floodplain	National Register Testing

* Recommendations set aside by THC following standards revisions (THC 1981)

** Data recovery in progress in 2007 and 2008 by PBS&J. Fieldwork has been completed and an interim report has been submitted to THC.

125 (2) (A) The description shall be based on all available information, including, but not limited to, information from the State Historic Preservation Officer and from local archeological, historical, and cultural preservation agencies.

The bibliography contained in this Section contains references to a wide variety of known data sources.

125 (2) (B) The Commission may require the applicant to identify and evaluate important historic and archeological resources that may be eligible for listing on the National Register of Historic Places, through:

125 (2) (B) (i) collection of additional information;

The Eagle Pass mine has worked closely with both the RCT and the THC in order to identify and evaluate any known historic or archaeological resources and will continue to do so in the future (see Appendix 125-1).

125 (2) (B) (ii) conduct of field investigation; or

The Eagle Pass mine has worked closely with both the RCT and the THC in order to identify and evaluate any known historic or archaeological resources and will continue to do so in the future (see Appendix 125-1).

125 (2) (B) (iii) other appropriate analyses.

The Eagle Pass mine has worked closely with both the RCT and the THC in order to identify and evaluate any known historic or archaeological resources and will continue to do so in the future (see Appendix 125-1).

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NOTE FROM THE SURFACE TRANSPORTATION BOARD

The subject letter from Mary Torres included an attached map. The map provides the location of archaeological sites at Dos Republicas Coal Partnership's proposed Eagle Pass Coal Mine and along a proposed rail line corridor. This map has been omitted from this Web site posting because of the sensitive nature of archaeological site locations.