

We recommend you use an FTP application like FileZilla or WinSCP to connect and download/upload files. You can download FileZilla here: <http://filezilla-project.org/download.php>  
<http://sourceforge.net/projects/winSCP/>

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>>> Paul Kersey <[paul.kersey@powereng.com](mailto:paul.kersey@powereng.com)> 3/20/2013 4:25 PM >>>  
Mr. Underkishna,

Per our phone conversation today, I have attached the Google Earth .kmz files showing the locations of the proposed transmission lines. The final alignment has not been selected yet. These lines show all of the possible routes. The transmission line is shown as links. The actual locations of the transmission structures are not shown. As we discussed, the structures will consist of steel monopoles with an approximate foundation diameter of 6 feet.

I am interested in the hydraulic model data for the Lower Rio Grande Flood Control Project essentially between Penitas to the west and La Feria to the east. We discussed the 2003 report prepared by the IBWC and you indicated that you would check to see if a more recent model is available. I appreciate your assistance. If you have any questions please feel free to contact me.

Regards

Paul Kersey, P.E., LEED AP BD+C  
Civil Engineer  
208-288-6252

**POWER Engineers, Inc.**  
Energy • Facilities • Communications • Environmental  
[www.powereng.com](http://www.powereng.com)



## TECHNICAL DRAINAGE REPORT REQUIREMENTS FOR USIBWC REVIEW

### Cover Letter with Contact Information

#### Formal Drainage Report:

Purpose of Study

Location

Site Description (off-site and on-site drainage conditions, prominent drainage features such as levees)

FEMA Floodplains

Proposed Conditions

Methodology (hydrologic and hydraulic analysis for existing and proposed conditions with list of software used with version numbers)

Results and Discussion (discuss hydraulic impacts, compliance with criteria from relevant agencies)

Conclusions

List of References

#### Appendices containing the following:

**Figures:** Relevant figures such as vicinity map, soils maps, land use maps, drainage basin map, floodplain map, FEMA FIRM

Figures should preferably be in color, legible and convey technical information with prominent features labeled. Include multiple figures to convey information clearly if needed.

Relevant engineering drawings describing the proposed project

**Model Outputs:** Calculation tables, hydrologic model outputs, hydraulic model outputs. HEC-RAS Standard Table 1, profile plots, cross-section plots, HEC-RAS generated report. Storm drain calculations, scour and sediment calculations

**Reference Material:** Include relevant documents such as portions from criteria manuals, FEMA FIRM, FEMA FIS table for discharges, geotechnical reports, earlier drainage reports

**DVD:** Readme file describing DVD contents, hydrologic models, hydraulic models, spreadsheet calculations, effective FEMA models, GIS and CADD files, reference studies

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**From:** [Rozzell, Lara](#)  
**To:** [Anastacia Santos 6903](#)  
**Subject:** Fwd: NPS Comments on Loma Alta 345 kV Project  
**Date:** Tuesday, May 07, 2013 5:03:57 PM  
**Attachments:** [NPS Comments on Loma Alta 345 kV Project.pdf](#)  
[PAAL Transmission Line Attachment Photos.pdf](#)

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Hi Anastacia,

Here they are...your address was misspelled in the transmittal from earlier today.  
Please let us know if you have any questions.

Lara Rozzell  
Renewable Energy Specialist  
NPS Intermountain Region  
Office and cell: (303) 969-2527  
Email: [lara\\_r\\_rozzell@nps.gov](mailto:lara_r_rozzell@nps.gov)

----- Forwarded message -----

**From:** **IMR Regional Director, NPS** <[imr\\_regional\\_director@nps.gov](mailto:imr_regional_director@nps.gov)>  
**Date:** Tue, May 7, 2013 at 3:22 PM  
**Subject:** NPS Comments on Loma Alta 345 kV Project  
**To:** [anastacia.santos@powerseng.com](mailto:anastacia.santos@powerseng.com)  
**Cc:** Mark Spier <[mark\\_spier@nps.gov](mailto:mark_spier@nps.gov)>, Colin Campbell <[colin\\_campbell@nps.gov](mailto:colin_campbell@nps.gov)>, Tamara Whittington <[tammy\\_whittington@nps.gov](mailto:tammy_whittington@nps.gov)>, Patrick Malone <[Patrick\\_Malone@nps.gov](mailto:Patrick_Malone@nps.gov)>, Cheryl Eckhardt <[cheryl\\_eckhardt@nps.gov](mailto:cheryl_eckhardt@nps.gov)>, Lara Rozzell <[lara\\_r\\_rozzell@nps.gov](mailto:lara_r_rozzell@nps.gov)>, John Whitlock <[russ\\_whitlock@nps.gov](mailto:russ_whitlock@nps.gov)>, Vanessa Burge <[vanessa\\_burge@fws.gov](mailto:vanessa_burge@fws.gov)>, Pat Clements <[pat\\_clements@fws.gov](mailto:pat_clements@fws.gov)>, Stephen Spencer <[stephen\\_spencer@ios.doi.gov](mailto:stephen_spencer@ios.doi.gov)>

Please see attached.



IN REPLY REFER TO:  
L7617 (BMR-NR)

United States Department of the Interior  
NATIONAL PARK SERVICE  
INTERMOUNTAIN REGION  
12795 West Alameda Parkway  
P.O. Box 25287  
Denver, Colorado 80225-0287



MAY 07 2013

VIA ELECTRONIC COPY ONLY - NO HARD COPY TO FOLLOW

Anastacia Santos, Project Manager  
POWER Engineers, Inc.  
7600-B N. Capital of Texas Hwy., Suite 320  
Austin, TX 78731

Dear Ms. Santos:

Thank you for the opportunity to provide comments on the North Edinburg-Loma Alta 345 kilovolt (kV) Project. As the consultant who is preparing the Environmental Impact document (Application Question 29) on behalf of the applicant for a Texas Public Utilities Commission Certificate of Convenience and Necessity (CCN), we appreciate the role that you have in addressing National Park Service (NPS) comments and concerns. We understand the communities' growing need related to the existing and proposed power infrastructure. The information contained in this letter is intended to help you and the applicant with your project planning and to avoid or minimize any impacts to NPS resources.

#### Park Purpose and Values

In the immediate proposed project area, bounded on the west by Paredes Line Road and on the south by the Texas 550 Toll road, is the Palo Alto Battlefield National Historical Park (NHP). This NPS unit, designated by the U.S. Congress in 1978, preserves the site of the Palo Alto Battle in May 1846 and provides an understanding of the causes, events, and consequences of the U.S.-Mexican War.

Palo Alto Battlefield NHP has escaped the development that has swept across the lower Rio Grande Valley of Texas, and it retains much of the character of the resource in 1846. The NHP is comprised of a vast plain of razor-sharp cordgrass, bounded by dense thickets of mesquite, cactus and other thorny plants. The park preserves the landscape much as it was described by soldiers in dozens of letters and diary entries. The NPS protects this site, provides access to the battlefield over a network of trails, and stimulates public understanding of this nationally significant landmark. The visitor center, museum, and ranger lead programs interpret the story of the events which ultimately shaped the history of two nations.

Palo Alto Battlefield NHP is home to the Northern Aplomado falcon, which was listed as an endangered species in 1986. The Aplomado falcon is the only North American falcon species currently listed as endangered under the Endangered Species Act (ESA). The Peregrine Fund carried out an intensive reintroduction program in Deep South Texas during the late 1980's and 1990's. A vertical bar nesting platform remains within the legislative boundary of the park from

this program, and a breeding pair of Aplomado falcons have been known to use the nesting platform. We have included a few photos showing the park landscape and wildlife resources.

Additionally, the Palo Alto Battlefield National Historic Landmark (NHL) was established in 1960 long before the park was created. A NHL is afforded multiple protections through Section 110 of the National Historic Preservation Act related to noise, viewsheds, settings, character and sense of place among others. The boundary of the NHL extends further to the east and south than the park boundary. Several of the proposed transmission line routes cross through or adjacent to the NHL.

#### Concerns and Recommendations

The NPS is most concerned about the potential for impacts to the park's viewshed and to elements of the park's natural setting and visitor experience, such as the natural soundscape and night sky. The information provided below identifies NPS concerns and offers recommendations that would avoid or minimize impacts to NPS resources, as well as areas where the NPS requests additional information or analyses.

Although there are existing 138 kV transmission lines in near proximity to our west, south and northeast borders of the NHP and NHL, all of the proposed new transmission line routes would be visible from the park's overlook structure and from all or portions of all the trails in the park. The park is about to implement a Vegetation Management Plan to remove much of the invasive brush from the prairie of Palo Alto. Once completed, the viewshed horizons within the park will be much more expansive. Additionally, the park hopes to expand the existing trail system to the east to the tracts that are still in private ownership after acquisition of that land is complete. Power lines to the east, south and southeast will have a direct impact on the viewsheds and the resulting visitor experience in the park.

Our preference would be the selection of one of the proposed routes that bypasses the NHP and NHL entirely to minimize effects on the visitor experience and natural environment. Should this prove wholly impractical, the NPS is amenable to the proposed routes of 317 to 318 and then to 332 and on to 334 as identified on the North Edinburg-Loma Alta 345 kV Transmission Line Project map. We strongly recommend the 318 and 332 to 334 proposed routes be moved from the north side of the Texas 550 Toll road to the south side. This will ensure that the proposed route will bypass the NHP and NHL, helping to minimize visual impacts. This route (317 to 318, and 332 to 334) would also avoid impacts to the natural habitat east of the NHP where issues related to endangered species and provisions of the Migratory Bird Treaty Act might be of concern. We are opposed to the use of route 316, which we believe would constitute the largest impact to the visitor experience in the NHP.

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If a route is chosen that is visible from the NHP or NHL, the NPS requests ongoing cooperation with the design engineers to explore minimization approaches such as undergrounding of the lines, collocation on existing towers, or use of lower towers, monopoles, non-specular materials, and best practices for ground reclamation. Furthermore, the NPS assumes that this project would involve no ground disturbance on NPS and NHL lands during planning, construction, implementation of the proposal, or during the maintenance of the proposed transmission lines.

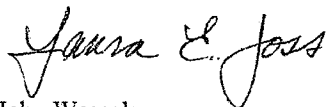
To better understand the potential for impacts to park visitors and their arrival experience, as well as the opportunities for optimal siting and potential mitigation strategies, the NPS requests visual and noise analyses be incorporated into the expected environmental impact study. Most park visitors enter and experience the battlefield from the southwestern corner. Additionally, we are mandated with protecting the night skies and would like to ensure that transmission line lighting discussions are initiated with the NPS prior to decision making.


The requested visual analysis should include a visibility analysis or viewshed study to identify NHP and NHL areas with potential visibility of the project. At minimum, the analysis should include photos and descriptions of the visual settings visitors experience at key park locations such as the visitor center, living history demonstration area, trails, and viewing platform. The requested noise analysis should be performed according to best practices defined in the Electric Power Research Institute (EPRI) *AC Transmission Line Reference Book—200 kV and Above, Third Edition* (or newer version) and according to an existing NPS guidance document for high voltage transmission line noise impact assessment. The NPS can provide the guidance document upon request.

#### Summary

In summary, we are concerned that the addition of higher voltage 345 kV lines will introduce additional visual intrusions into the park's viewshed, may impact the Northern Aplomado falcon, will generate higher levels of noise that may affect the park's soundscape, and has the potential to have cumulative impacts to the visitor experience at the battlefield (visitor center, trail, viewing platform and special events).

We would appreciate the opportunity to begin discussions with you regarding our concerns about this project. We would like to gain a better understanding of the effects and how we can minimize potential adverse effects to resources that are important to the NPS. At your earliest convenience, we would like to schedule a conference call so that we may begin these conversations. The NPS point of contact is Mark Spier, Superintendent of Palo Alto Battlefield NHP. He can be reached at [mark\\_spier@nps.gov](mailto:mark_spier@nps.gov) or (956) 541-2785 x 222.



 John Wessels

Attachment -- 1

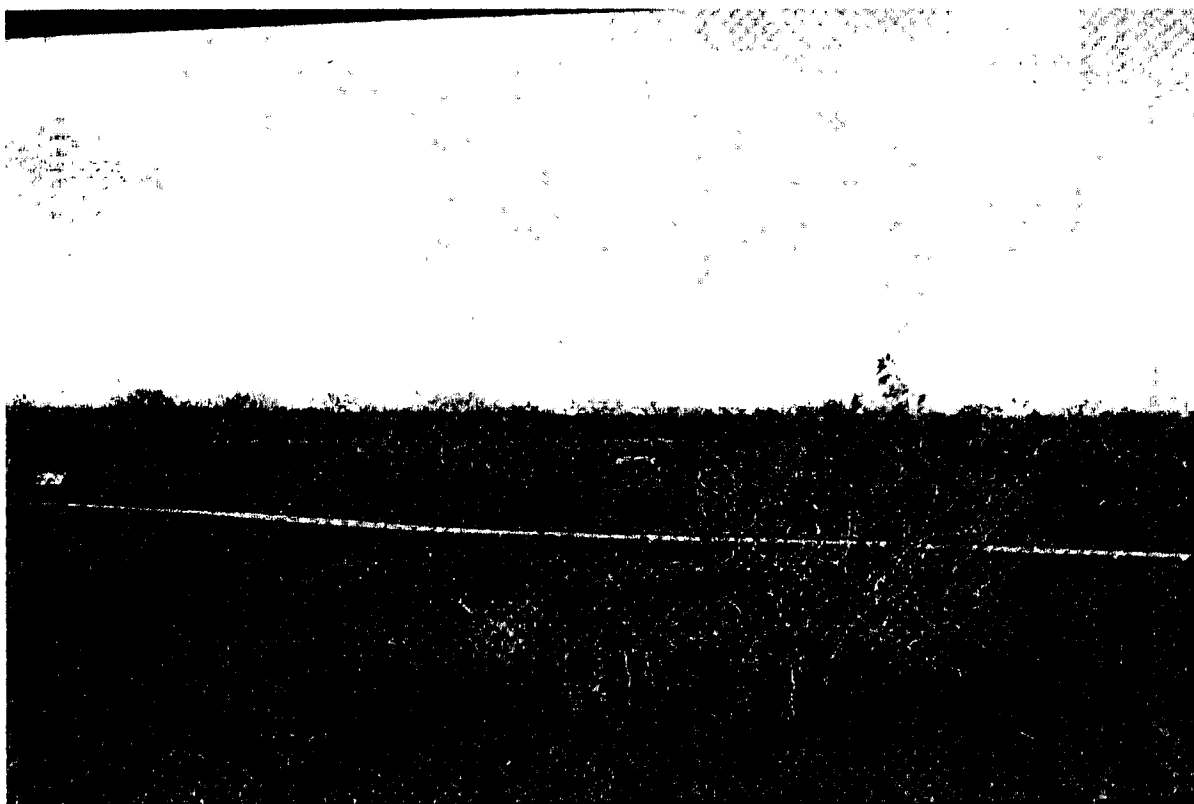
cc:

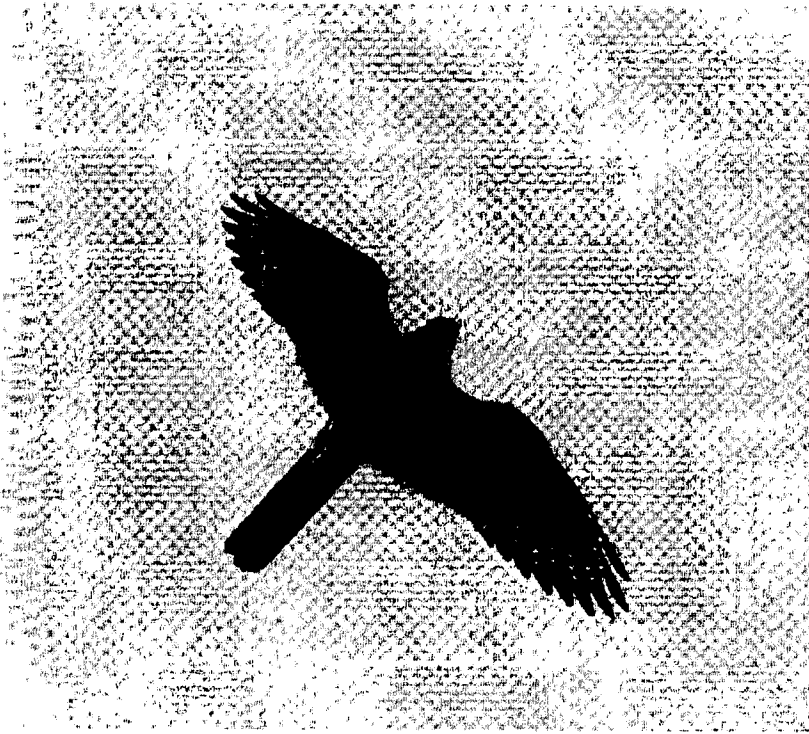
Mark Spier, Superintendent, Palo Alto Battlefield National Historical Park  
Colin Campbell, Deputy Regional Director, Operations, Intermountain Region  
Tammy Whittington, Associate Regional Director, Resource Stewardship and Science, Regional  
Science Advisor, Intermountain Region  
Patrick Malone, Assistant Regional Director for Natural Resources, Intermountain Region  
Cheryl Eckhardt, Environmental Compliance Specialist, Intermountain Region  
Lara Rozzell, Renewable Energy Specialist, Intermountain Region  
Russ Whitlock, Texas State Coordinator, Intermountain Region  
Vanessa Burge, Regional NEPA Coordinator, U.S. Fish and Wildlife Service  
Pat Clements, Biologist, U.S. Fish and Wildlife Service  
Stephen Spencer, Regional Environmental Officer, Department of the Interior





Views of natural and historic landscape from Palo Alto Battlefield National Historical Park trails and overlook.





Northern Aplomado falcons  
roosting and flying in Palo Alto  
Battlefield National Historical  
Park on April 16, 2013.



**From:** [Shock, Nadine - NRCS, Temple, TX](#)  
**To:** [Anastacia Santos 6903](#)  
**Subject:** RE: NORTH ENDINBURG-LOMA ALTA 345 KV TRANSMISSION LINE PROJECT  
**Date:** Tuesday, April 03, 2012 4 08 58 PM

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Thank you. We'll process and forward to you.

**From:** Anastacia Santos [mailto:[anastacia.santos@powereng.com](mailto:anastacia.santos@powereng.com)]  
**Sent:** Tuesday, April 03, 2012 4:05 PM  
**To:** Shock, Nadine - NRCS, Temple, TX  
**Subject:** RE: NORTH ENDINBURG-LOMA ALTA 345 KV TRANSMISSION LINE PROJECT

Ms. Shock,

This project will not be funded by a federal agency.

Anastacia Santos  
Project Manager  
7600-B N. Capital of Texas Hwy., Suite 320  
Austin, Texas 78731  
(512) 795-3700 ext. 6903 office  
(512) 585-3202 cell

**POWER Engineers, Inc.**  
Energy • Facilities • Communications • Environmental  
[www.powereng.com](http://www.powereng.com)

**From:** Shock, Nadine - NRCS, Temple, TX [mailto:[Nadine.Shock@tx.usda.gov](mailto:Nadine.Shock@tx.usda.gov)]  
**Sent:** Tuesday, April 03, 2012 2:08 PM  
**To:** Anastacia Santos 6903  
**Subject:** NORTH ENDINBURG-LOMA ALTA 345 KV TRANSMISSION LINE PROJECT

Ms. Santos

We received your FPPA request for the subject transmission line project. Which federal agency is funding the project? Thank you.

**Nadine P. Shock**  
**USDA - NRCS**  
**101 S. Main Street**  
**Temple, TX 76501**  
**Phone: (254) 742-9863**

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United States Department of Agriculture



Natural Resources Conservation Service

101 S. Main Street  
Temple, TX 76501-6624  
Phone: 254-742-9826  
FAX: 254-742-9859

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April 4, 2012

Power Engineers, Inc.  
509 N. Sam Houston Pkwy East  
Suite 200  
Houston, Texas 77060

Attention: Anastacia Santos

Subject: LNU-Farmland Protection  
Proposed North Edinburgh-Loma Alta 345 kV Transmission Line Project  
Hildago and Cameron Counties, Texas

We have reviewed the information provided in your correspondence dated March 30, 2012 concerning the proposed transmission line construction in Hildago and Cameron Counties, Texas. This review is part of the National Environmental Policy Act (NEPA) evaluation for Sharyland Utilities and Electric Transmission Texas. We have evaluated the proposed site as required by the Farmland Protection Policy Act (FPPA).

The proposed project may contain Important Farmland Soils; however, we do not normally consider the construction of transmission lines a conversion of Important Farmlands because the site can still be used after construction. We have completed a Farmland Conversion Impact Rating (form AD-1006) indicating the exemption. We urge you to use accepted erosion control methods during construction.

If you have any questions, please contact me at (254) 742-9855, Fax (254) 742-9859 or by email at [wayne.gabriel@tx.usda.gov](mailto:wayne.gabriel@tx.usda.gov).

Sincerely,

A handwritten signature in black ink that reads 'Wayne J. Gabriel'.

Wayne Gabriel  
NRCS Soil Scientist

Attachment

| U.S. Department of Agriculture   |   |                   |  |   |   |                 |                   |
|--|---|-------------------|--|---|---|-----------------|-------------------|
| <b>FARMLAND CONVERSION IMPACT RATING</b>   |   |                   |  |   |   |                 |                   |
| <b>PART I</b> (To be completed by Federal Agency)  |   |                   |  | Date Of Land Evaluation Request February 29, 2012   |   |                 |                   |
| Name of Project North Edinburg-Loma Alta 345 kV Transmission Line  |   |                   |  | Federal Agency Involved Sharyland Utilities, Elec Trans Texas                                 |   |                 |                   |
| Proposed Land Use  |   |                   |  | County and State Hidalgo and Cameron Counties, TX   |   |                 |                   |
| <b>PART II</b> (To be completed by NRCS)   |   |                   |  | Date Request Received By NRCS April 3, 2012   |   |                 |                   |
| Does the site contain prime, unique, statewide or local important farmland?<br>(If no, the FPPA does not apply - do not complete additional parts of this form)      |   |                   |  | YES<br><input type="checkbox"/>   | NO<br><input checked="" type="checkbox"/> | Acres Irrigated | Average Farm Size |
| Major Crop(s)  | Farmable Land In Govt. Jurisdiction<br>Acres: % |                   | Amount of Farmland As Defined in FPPA<br>Acres: %      |   |   |                 |                   |
| Name of Land Evaluation System Used  | Name of State or Local Site Assessment System   |                   | Date Land Evaluation Returned by NRCS<br><b>4/4/12</b> |   |   |                 |                   |
| <b>PART III</b> (To be completed by Federal Agency)  |   |                   |  | Alternative Site Rating   |   |                 |                   |
| A. Total Acres To Be Converted Directly  |   |                   |  | Site A  | Site B                                    | Site C          | Site D            |
| B. Total Acres To Be Converted Indirectly  |   |                   |  |   |   |                 |                   |
| C. Total Acres In Site   |   |                   |  |   |   |                 |                   |
| <b>PART IV</b> (To be completed by NRCS) Land Evaluation Information   |   |                   |  |   |   |                 |                   |
| A. Total Acres Prime And Unique Farmland   |   |                   |  |   |   |                 |                   |
| B. Total Acres Statewide Important or Local Important Farmland   |   |                   |  |   |   |                 |                   |
| C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted  |   |                   |  |   |   |                 |                   |
| D. Percentage Of Farmland in Govt Jurisdiction With Same Or Higher Relative Value  |   |                   |  |   |   |                 |                   |
| <b>PART V</b> (To be completed by NRCS) Land Evaluation Criterion<br>Relative Value of Farmland To Be Converted (Scale of 0 to 100 Points)                           |   |                   |  |   |   |                 |                   |
| <b>PART VI</b> (To be completed by Federal Agency) Site Assessment Criteria<br>(Criteria are explained in 7 CFR 658.5 b. For Corridor project use form NRCS-CPA-106) |   |                   |  | Maximum Points  | Site A                                    | Site B          | Site C            |
| 1. Area In Non-urban Use   |   |                   |  | (15)  |   |                 |                   |
| 2. Perimeter In Non-urban Use  |   |                   |  | (10)  |   |                 |                   |
| 3. Percent Of Site Being Farmed  |   |                   |  | (20)  |   |                 |                   |
| 4. Protection Provided By State and Local Government   |   |                   |  | (20)  |   |                 |                   |
| 5. Distance From Urban Built-up Area   |   |                   |  | (15)  |   |                 |                   |
| 6. Distance To Urban Support Services  |   |                   |  | (15)  |   |                 |                   |
| 7. Size Of Present Farm Unit Compared To Average   |   |                   |  | (10)  |   |                 |                   |
| 8. Creation Of Non-farmable Farmland   |   |                   |  | (10)  |   |                 |                   |
| 9. Availability Of Farm Support Services   |   |                   |  | (5)   |   |                 |                   |
| 10. On-Farm Investments  |   |                   |  | (20)  |   |                 |                   |
| 11. Effects Of Conversion On Farm Support Services   |   |                   |  | (10)  |   |                 |                   |
| 12. Compatibility With Existing Agricultural Use   |   |                   |  | (10)  |   |                 |                   |
| TOTAL SITE ASSESSMENT POINTS   |   |                   |  | 160   |   |                 |                   |
| <b>PART VII</b> (To be completed by Federal Agency)  |   |                   |  |   |   |                 |                   |
| Relative Value Of Farmland (From Part V)   |   |                   |  | 100   |   |                 |                   |
| Total Site Assessment (From Part VI above or local site assessment)  |   |                   |  | 160   |   |                 |                   |
| TOTAL POINTS (Total of above 2 lines)  |   |                   |  | 260   |   |                 |                   |
| Site Selected:   |   | Date Of Selection |  | Was A Local Site Assessment Used?<br>YES <input type="checkbox"/> NO <input type="checkbox"/> |   |                 |                   |
| Reason For Selection:  |   |                   |  |   |   |                 |                   |
| Name of Federal agency representative completing this form:  |   |                   |  |   |   | Date:           |                   |
| (See Instructions on reverse side)   |   |                   |  |   |   |                 |                   |



REPLY TO  
ATTENTION OF  
Regulatory Branch

**DEPARTMENT OF THE ARMY**  
**GALVESTON DISTRICT, CORPS OF ENGINEERS**  
Corpus Christi Regulatory Field Office  
5151 Flynn Parkway, Suite 306  
Corpus Christi, Texas 78411-4318

April 23, 2012

SUBJECT: SWG-2012-00347 Determination

POWER Engineers, Inc.  
Attn: Anastacia Santos  
7600B North Capital of Texas Highway  
Austin, Texas 78731-1016

Dear Ms. Santos:

This concerns your March 30, 2012, letter, submitted on behalf of Sharyland Utilities, LP and Electric Transmission Texas, LLC, requesting a jurisdictional determination for proposed 345-kilovolt transmission line. The study site for the proposed project is located between the existing North Edinburg Substation, which is 3.3 miles northwest of Edinburg in Hidalgo County, and the existing Loma Alta Substation, which is located approximately 6.8 miles northeast of Brownsville, Cameron County, Texas, as shown on the attached vicinity map on one sheet.

Based on topographic maps and the information you submitted, we have determined that your proposed project may impact waters of the United States that are subject to U.S. Army Corps of Engineers jurisdiction under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. These waters could include, but are not limited to: the Brownsville Ship Channel, Arroyo Colorado, Resaca del Rancho Viejo, Resaca de los Cuates, and La Cruz Resaca. In addition, jurisdictional waters can include the tributaries, floodplain waters, and associated wetlands adjacent to the aforementioned waters of the U.S., as well as other waters in the project study area such as floodway and irrigation canals. A Department of the Army permit could be required for activities that would impact these waters.

Construction of aerial electric power transmission and distribution lines, and utility cable crossings over navigable waters of the U.S., like the Brownsville Ship Channel and portions of the Arroyo Colorado, where associated support structures are not to be located in these waters, may qualify for our General Permit SWG-2002-02392. Activities involving directional drilling of utility lines across navigable waterways may qualify for our General Permit SWG-1998-02413 for directional drilling. For trenching activities in non-tidal jurisdictional waters,

-2-

such as the aforementioned resacas and portions of the Arroyo Colorado, authorization may be granted by Nationwide Permit (NWP) 12, subject to pre-construction notification, and regional and state conditions. NWP 12 authorizes discharges of fill material for backfill or bedding of utility lines provided the site is restored to pre-construction contours. Material resulting from trench excavation may be temporarily sidecast, up to 3 months, into the adjacent areas provided the material is not placed in such a manner that it is dispersed by currents or other forces. The jurisdictional areas disturbed must be limited to the minimum necessary to construct the utility line. All heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize soil disturbance. Any exposed slopes or banks on river or stream crossings must be stabilized immediately upon completion of the utility line installation. Any additional activities in waters of the United States that do not fit the above parameters will need to be evaluated under our individual permit process. Information on these permits, and a permit application packet can be obtained from our web site at:

<http://www.swg.usace.army.mil/reg/permitapp/app.asp>. Once specific project plans are available for your project, we encourage you to contact our office to begin the permitting procedure.

This determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If the property owner or his tenant are USDA program participants, or anticipate participation in USDA programs, a certified wetland determination should be requested from the local office of the Natural Resources Conservation Service prior to starting work.

If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a combined Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the Southwestern Division Office at the following address:

Elliott Carman, Regulatory Appeals Officer  
Southwest Division USACE (CESWD-PD-O)  
1100 Commerce Street, Suite 831  
Dallas TX 75242-1317

Telephone: 469-487-7061; FAX: 469-487-7199



-3-

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, meets the criteria for appeal under 33 C.F.R. Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address within 60 days of the date of this letter. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

This approved determination is valid for 5 years from the date of this letter unless new information warrants a revision of the determination prior to the expiration date.

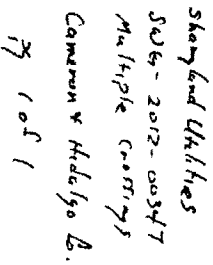
Please reference the determination number **SWG-2012-00347** in future correspondence pertaining to this subject. If you have any questions concerning this matter, please contact Mark Pattillo at the letterhead address or by telephone at 361-814-5847. Also, to assist us in improving our service to you, please complete the survey found at: <http://per2.nwp.usace.army.mil/survey.html>

Sincerely,



Lloyd Mullins, Supervisor  
Corpus Christi Regulatory Field Office

Enclosures



| NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND<br>REQUEST FOR APPEAL   |  |                         |
|---|--|-------------------------|
| Applicant: Sharyland Util. LP and Elec. Trans., Tex. LLC  |  | Determ.: SWG-2012-00347 |
| Date: 23 Apr 2012   |  |                         |
| Attached is:  |  | See Section below       |
|   | INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission) | A                       |
|   | PROFFERED PERMIT (Standard Permit or Letter of Permission)         | B                       |
|   | PERMIT DENIAL  | C                       |
| X   | APPROVED JURISDICTIONAL DETERMINATION                              | D                       |
|   | PRELIMINARY JURISDICTIONAL DETERMINATION                           | E                       |
| <p><b>SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <a href="http://www.usace.army.mil/CECW/Pages/reg_materials.aspx">http://www.usace.army.mil/CECW/Pages/reg_materials.aspx</a> or Corps regulations at 33 CFR Part 331.</b></p> <p><b>A: INITIAL PROFFERED PERMIT:</b> You may accept or object to the permit.</p> <ul style="list-style-type: none"> <li>ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.</li> <li>OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.</li> </ul> <p><b>B: PROFFERED PERMIT:</b> You may accept or appeal the permit</p> <ul style="list-style-type: none"> <li>ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.</li> <li>APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.</li> </ul> <p><b>C: PERMIT DENIAL:</b> You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.</p> <p><b>D: APPROVED JURISDICTIONAL DETERMINATION:</b> You may accept or appeal the approved jurisdictional determination (JD) or provide new information.</p> <ul style="list-style-type: none"> <li>ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.</li> <li>APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.</li> </ul> <p><b>E: PRELIMINARY JURISDICTIONAL DETERMINATION:</b> You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.</p> |  |                         |

|   |  |                         |
|---|--|-------------------------|
| <b>SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT</b>   |  |                         |
| <b>REASONS FOR APPEAL OR OBJECTIONS:</b> (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)   |  |                         |
|   |  |                         |
| <b>ADDITIONAL INFORMATION:</b> The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record. |  |                         |
| <b>POINT OF CONTACT FOR QUESTIONS OR INFORMATION:</b>   |  |                         |
| If you have questions regarding this decision and/or the appeal process you may contact:<br>Lloyd Mullins, Leader<br>U.S. Army Corps of Engineers<br>Corpus Christi Regulatory Field Office<br>5151 Flynn Parkway, Suite 306<br>Corpus Christi, Texas 78411-4318<br>Telephone: 361-814-5851   | If you only have questions regarding the appeal process you may also contact:<br>Elliott N. Carman, Appeal Review Officer<br>CESWD-PDS-O, 1100 Commerce Street, Ste. 831<br>Dallas, Texas 75242-1317<br>Telephone: 469-487-7061; FAX 469-487-7199<br>Email: <a href="mailto:elliott.n.carman@usace.army.mil">elliott.n.carman@usace.army.mil</a> |                         |
| <b>RIGHT OF ENTRY:</b> Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.  |  |                         |
| _____<br>Signature of appellant or authorized agent.  | Date: _____  | Telephone number: _____ |



POWER ENGINEERS, INC.

7600B N CAPITAL OF TEXAS HWY  
SUITE 320  
AUSTIN, TX 78731 USA

PHONE 512-795-3700

FAX 512-795-3704

March 14, 2013

(Via Mail)

ENERGY

FACILITIES

COMMUNICATIONS

ENVIRONMENTAL

Colonel Christopher W. Sallase  
Commander  
US Army Corps of Engineers - Galveston District  
P.O. Box 1229  
Galveston, Texas 77553-1229

Re: North Edinburg to Loma Alta 345 kV Transmission Line Project  
**Request for Preliminary Comments on Proposed Alternative Links for  
Transmission Line**  
SWG-2012-00347

Dear Colonel Sallase:

Electric Transmission Texas, LLC (ETT) and Sharyland Utilities, L.P. (Sharyland) will be filing an application with the Public Utility Commission of Texas (PUCT) to amend their Certificates of Convenience and Necessity (CCN) to design and construct a new 345-kilovolt (kV) transmission line in Hidalgo and Cameron counties, Texas. POWER Engineers, Inc. (POWER) is assisting ETT and Sharyland during the application process by analyzing alternative routes for the transmission line and obtaining all necessary permits and licenses required for the project.

The new transmission line will run from the existing North Edinburg Substation, which is located approximately 3.3 miles northwest of Edinburg and west of U.S. Highway 281, to the existing Loma Alta Substation located approximately 6.8 miles northeast of Brownsville and northeast of U.S. Highway 77. Between these endpoints, the new transmission line will be routed in the vicinity of the existing South McAllen Substation, located approximately 3.0 miles southwest of McAllen and south of U.S. Highway 83.

POWER sent a consultation letter to your office dated March 30, 2012 during the initial routing process to gather information about the project study area in order to develop alternative links. (A reply was received, dated April 23, 2012). Several proposed alternative links that will be included in the CCN application cross portions of the International Boundary and Water Commission (IBWC) Lower Rio Grande Valley Flood Control Project Right of Way (ROW). The PUCT will ultimately approve one route for the transmission line, and if the PUCT selects one of the routes crossing the IBWC ROW, then ETT and/or Sharyland will be required to obtain a license from the IBWC.

ETT, Sharyland, and POWER have met several times with personnel from the IBWC Mercedes Field Office in an effort to ensure the proposed floodway crossings by the new transmission line are consistent with the IBWC's guidelines. In certain areas, the structures supporting the transmission line might need to be placed near and/or within the floodway. These structures would be primarily single shaft steel poles (monopole) of double-circuit capable design, with use of lattice steel towers where appropriate or necessary.

POWER ENGINEERS, INC.

March 14, 2013  
Page 2

In addition to complying with the IBWC's guidelines, IBWC has stated that before it will issue a license, ETT and Sharyland must also contact and obtain letters of compliance from the Texas Historic Commission (THC), U.S. Fish and Wildlife Service (FWS), U.S. Army Corps of Engineers (USACE), the Texas Parks and Wildlife Department (TPWD), and the Texas Commission on Environmental Quality (TCEQ). These letters must concur with the proposed work and give clearance under the appropriate statutory provisions while noting any special conditions on the project. For the USACE, this includes clearance for a 404 permit, as needed.

ETT and Sharyland are not requesting any formal determination at this time. But as a preliminary step to aide in this process, POWER is requesting that USACE review the attached map sheets 1-9 showing the proposed alternative links that cross IBWC ROW and notify POWER of any preliminary comments or potential concerns with the proposed crossings. A table of each link with the corresponding sheet number that crosses the IBWC ROW is included below. If the PUCT approves a route that requires an IBWC license, ETT and Sharyland will send your agency additional information related to the IBWC ROW crossing(s) and formally request a letter of compliance from your agency.

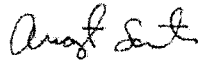
| LINKS WITHIN THE IBWC ROW |  |
|---------------------------|--|
| Sheet Number              | Link Numbers                                       |
| 1                         | 70, 84a, 84b, 84c, 85b                             |
| 2                         | 84a, 84b, 84c, 86, 88, 97, 98, 100, 101a, 104, 105 |
| 3                         | 104, 105, 108, 116, 118a, 118c, 125a, 352          |
| 4                         | 166, 184, 185, 187, 349a, 349b                     |
| 5                         | 187, 193b, 193c, 194, 195                          |
| 6                         | None   |
| 7                         | 193c, 194, 195, 197, 201, 210, 215, 217, 220       |
| 8                         | 210, 220, 221, 222                                 |
| 9                         | 290  |

POWER ENGINEERS, INC.

March 14, 2013  
Page 3

Thank you for your assistance with this proposed electric transmission line project. Please contact me by phone at 512-795-3700, extension 6903 or by e-mail at [anastacia.santos@powereng.com](mailto:anastacia.santos@powereng.com) if you have any questions or require additional information.

Sincerely,



Anastacia Santos  
Project Manager

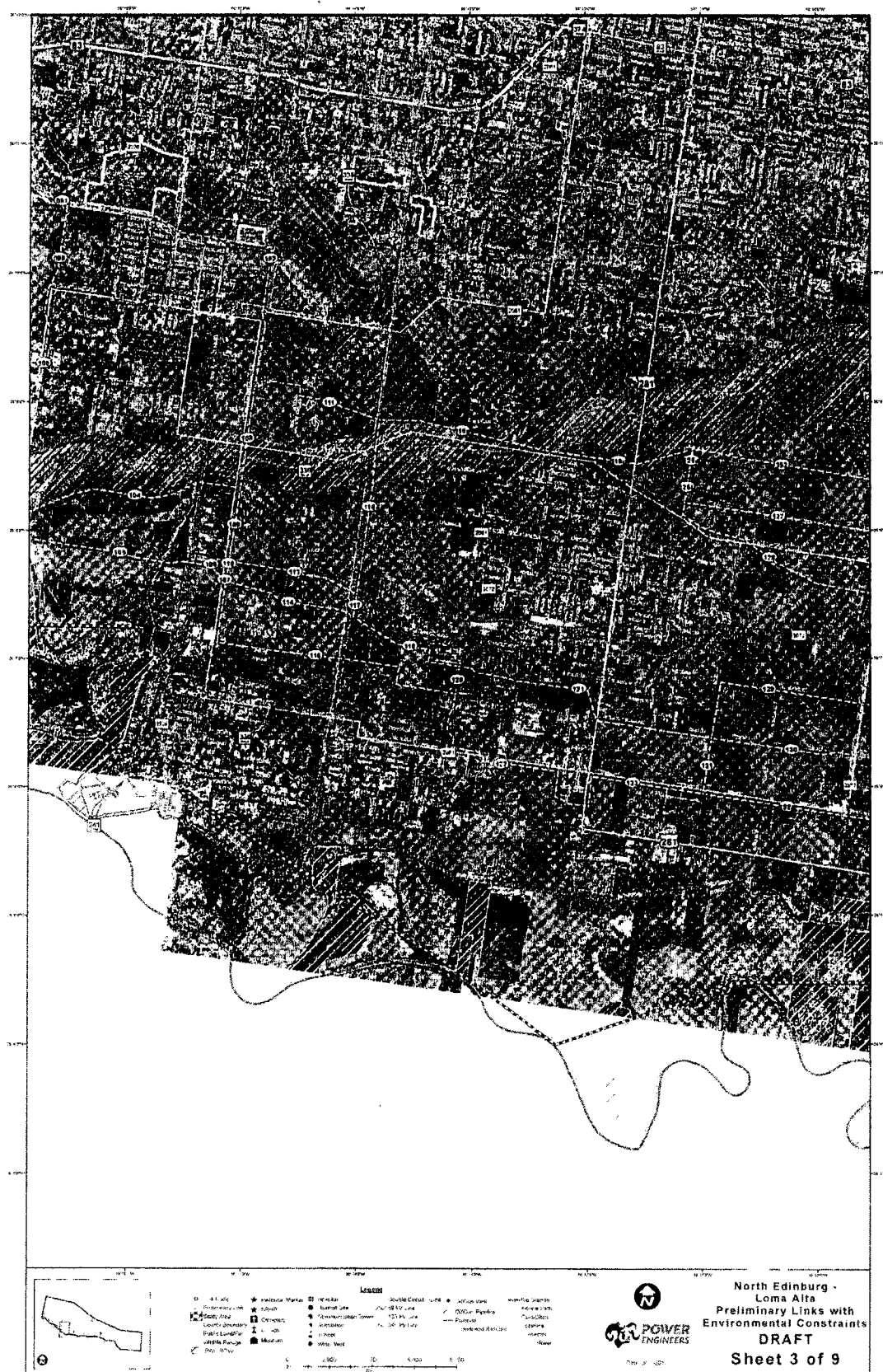
Enclosure(s): Map Set, Sheets 1-9

c: Don DeWolfe (Sharyland)  
Teresa Trotman (AEP)  
Randy Roper (AEP)  
Saul Barrera (IBWC)

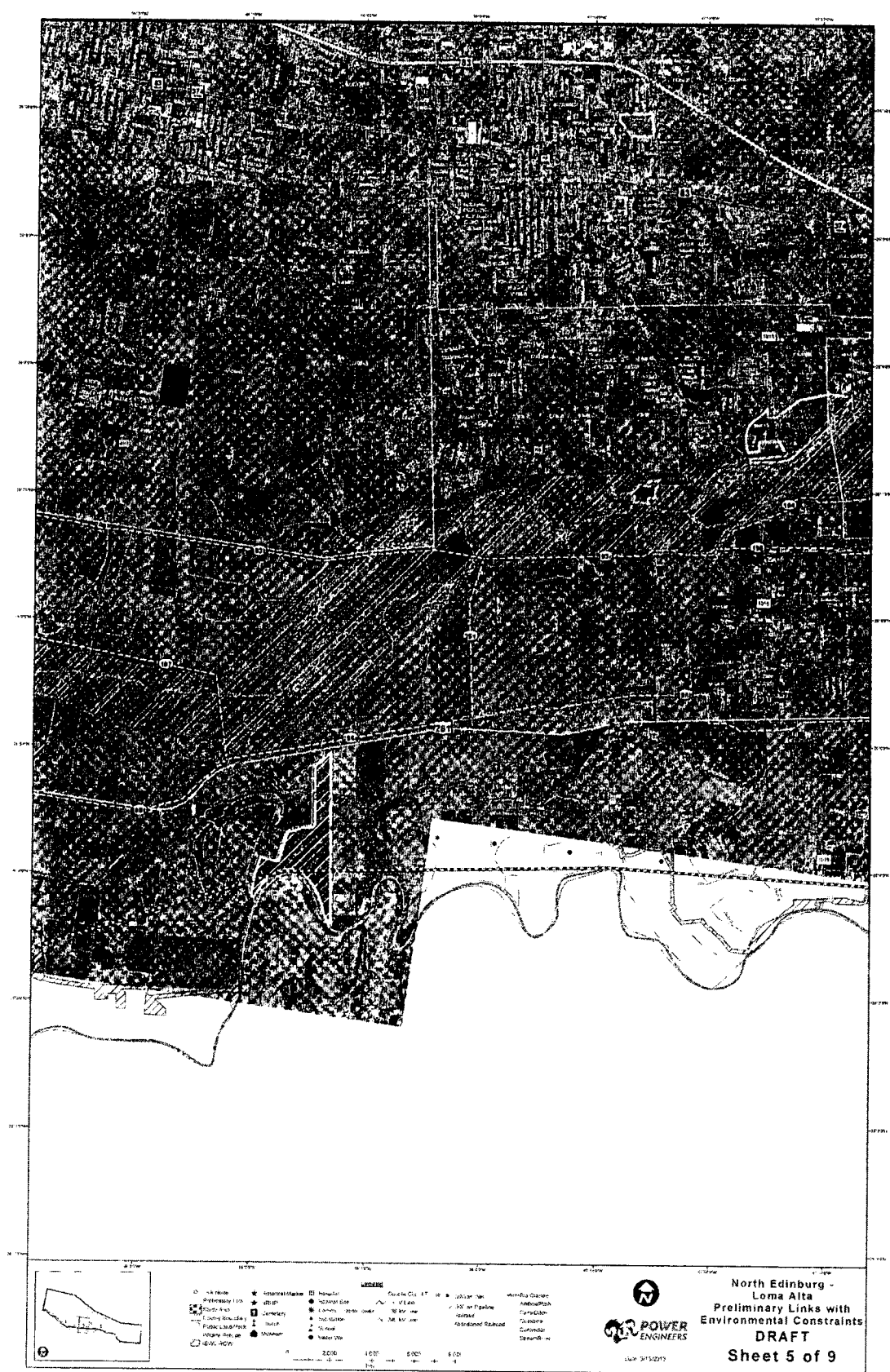
























**From:** Trant, Angela SWG  
**To:** Anastacia Santos 6903  
**Cc:** Pattillo, Mark E SWG  
**Subject:** Ett/Sharyland Utilities, Proposed Alternative Links for North Edinburg to Loma Alta 345 kV Transmission Line Project (UNCLASSIFIED)  
**Date:** Tuesday, March 26, 2013 1:05 18 PM

---

Classification: UNCLASSIFIED  
Caveats: NONE

This project has been given the tracking number SWG-2012-00347 and has been assigned to Mark Pattillo.

Please be advised that applications received in this office are assigned on a first-come, first-served basis. Once the application is assigned, please allow the project manager time to review your application. He will contact you if further information is required.

Please reference the above number on any future correspondence to this office.

Thank you.

US Army Corps of Engineers  
Regulatory Field Office  
5151 Flynn Parkway, Suite 306  
Corpus Christi, TX 78411-4318  
361-814-5847 phone  
361-814-5912 fax

To assist us in improving our service to you, please complete the survey found at  
<http://per2.nwp.usace.army.mil/survey.html>

Classification: UNCLASSIFIED  
Caveats: NONE



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**Region 6**

**1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733**

April 17, 2012

Anastacia Santos  
Power Engineers  
7600B N. Capital of Texas Hwy  
Suite 320  
Austin, TX 78731

**SUBJECT:** North Edinburg-Loma Alta 345 kV Transmission Line Project, Hidalgo and  
Cameron Counties

Dear Ms. Santos:


The Environmental Protection Agency (EPA) Region 6 has received your correspondence, dated March 30, 2012, regarding the information request. In accordance with the National Environmental Policy Act, and under Section 309 of the Clean Air Act, our agency is providing the following comments to assist you with the preparation of a draft Environmental Assessment. Please see the enclosed documentation for more details.

- study area contains many EPA regulated facilities
- study area contains portions of the 100 and 500 year floodplain
- study area contains federal and state parks
- study area contains many Federal threatened and endangered species; consult with U.S. Fish and Wildlife Service once a preferred route is selected
- study area contains place(s) on the National Register of Historic Places
- study area contains wetlands; consult with U.S. Army Corps of Engineers once a preferred route is selected
- study area contains many schools
- rare and/or sensitive habitats and/or vegetation complexes within study area
- study area contains minority and low-income populations

EPA recommends the new transmission line follow existing disturbed rights of way and roads to the extent practicable to reduce environmental impacts.

Please note that the proposed project may be subject to other federal, state, and local regulations. Thank you for your coordination and don't hesitate to contact John MacFarlane, of my staff, at 214-665-7491 or [macfarlane.john@epa.gov](mailto:macfarlane.john@epa.gov) should you have any questions or concerns regarding this letter.

Sincerely,

  
Rhonda Smith  
Chief, Office of Planning and  
Coordination

NEPAassist | US Environmental Protection Agency

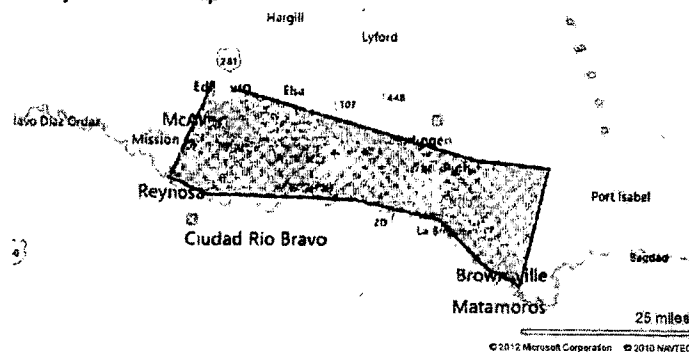
http://r6gis1.r06.epa.gov/NEPAVE/analysis\_gisst.aspx



http://r6gis1.r06.epa.gov/NEPAVE/analysis\_gisst.aspx

## NEPAassist

## Project Location Map



## Geographic coordinates:

## POLYGON

(-98.18893432617189,26.30919369486718,-98.29330444335838,26.105894746296165,-98.18992065429689,26.072583848922796,-97.855224609375,26.06149144425395,-97.61

|  |  |
|--|--|
| Project Area   | 686.16 sq mi   |
| Facility   |  |
| Within 100 meters of a hospital?   | yes  |
| Within 1000 meters of a hospital?  | yes  |
| Within 100 meters of a TRI facility?   | yes  |
| Within 1000 meters of a TRI facility?  | yes  |
| Within 100 meters of a regulated facility?   | yes  |
| Within 1000 meters of a regulated facility?  | yes  |
| Within 100 meters of an airport?   | yes  |
| Water  |  |
| Within 100 meters of a Wild and Scenic River?  | no   |
| Within an area over a Sole Source Aquifer?   | no   |
| Within the 100 year flood plain?   | yes  |
| Within the 500 year flood plain?   | yes  |
| Within 400 meters of an NAWI wetland?  | <a href="#">click here</a><br>May take several minutes |
| Within an NLCD wetland?  | yes  |
| Within 1000 meters of an NLCD wetland?   | yes  |
| Ecology  |  |
| Within a federal/state park or wildlife area?  | yes  |
| Within 1000 meters of a federal/state park or wildlife area?                               | yes  |
| Within a critical habitat area?  | no   |
| Within 1000 meters of a critical habitat area?   | no   |
| Within 100 meters of a REAP Composite area that is within the Top 10% highest scores?      | yes  |
| Within 100 meters of a REAP Diversity area that is within the Top 10% highest scores?      | no   |
| Within 100 meters of a REAP Rarity area that is within the Top 10% highest scores?         | yes  |
| Within 100 meters of a REAP Sustainability area that is within the Top 10% highest scores? | yes  |
| Other  |  |
| Within 100 meters of a place on the National Historic Register?                            | yes  |
| Within 1000 meters of a place on the National Historic Register?                           | yes  |
| Within 100 meters of a school?   | yes  |
| Within 1000 meters of a school?  | yes  |



## EJView

You are here: [EPA Home](#) [Compliance and Enforcement](#) [Environmental Justice](#) [EJView](#)

Statistics represent residential population, by Census Block Group, within a .5 mile buffer around feature of interest

[Economic](#) [Health](#) [Environmental](#)

### County and State Comparison Overview

|                     |               |                              |                |                                  |        |
|---------------------|---------------|------------------------------|----------------|----------------------------------|--------|
| Total Persons:      | 662044        | Land Area:                   | 97.6%          | Households in Area:              | 159459 |
| Population Density: | 778.41 /sq mi | Water Area:                  | 2.4%           | Housing Units in Area:           | 191363 |
| Percent Minority:   | 88.6%         | Persons Below Poverty Level: | 194036 (34.9%) | Households on Public Assistance: | 17070  |
| Percent Urban:      | 93%           | Housing Units Built <1970:   | 25%            | Housing Units Built <1950:       | 8%     |

### Race and Age\*

| Race Breakdown          | Persons (%)    | Age Breakdown                       | Persons (%)    |
|-------------------------|----------------|-------------------------------------|----------------|
| White:                  | 453052 (80.6%) | Child 5 years or less:              | 65566 (11.7%)  |
| African American:       | 2254 (0.4%)    | Minor 12 years and younger:         | 191514 (34.1%) |
| Hispanic Origin:        | 492056 (87.5%) | Adults 18 years and older:          | 370530 (65.9%) |
| Asian/Pacific Islander: | 3114 (0.6%)    | Seniors 65 years and older:         | 63103 (11.2%)  |
| American Indian:        | 2101 (0.4%)    | This space intentionally left blank |                |
| Other Race:             | 89720 (16.0%)  |                                     |                |
| Multiracial:            | 11803 (2.1%)   |                                     |                |

(\* Columns that add up to 100% are highlighted)

### Gender

| Gender Breakdown | Persons (%)    |
|------------------|----------------|
| Males:           | 268082 (47.7%) |
| Females:         | 293982 (52.3%) |

### Education

| Education Level (Persons 25 & older) | Persons (%)   |
|--------------------------------------|---------------|
| Less than 9th grade:                 | 99780 (33.5%) |
| 9th-12th grade:                      | 47752 (16.0%) |
| High School Diploma:                 | 61232 (20.5%) |
| Some College/2 yr:                   | 48436 (18.2%) |
| B.S./B.A. or more:                   | 41047 (13.8%) |

### Language

| Ability to Speak English   | Persons (%)    |
|----------------------------|----------------|
| Population Age 5 and Over: | 507475         |
| Speak only English:        | 90233 (17.8%)  |
| Non-English at Home:       | 417242 (82.2%) |
| Speak English very well:   | 224924 (44.3%) |
| Speak English well:        | 86915 (17.1%)  |
| Speak English not well:    | 54305 (10.7%)  |

| EJView | US EPA

[http://ofmpub.epa.gov/envjust/env\\_just\\_ejv.get\\_geom](http://ofmpub.epa.gov/envjust/env_just_ejv.get_geom)



EJView

You are here: [EPA Home](#) [Compliance and Enforcement](#) [Environmental Justice](#) [EJView](#)

Statistics represent residential population, by Census Block Group, within a .5 mile buffer around feature of interest

Social | Economic | Health | Environmental

| Income                  |                 |
|-------------------------|-----------------|
| Income Breakdown        | Households (%)  |
| Less than \$15,000:     | 49264 (30.9%)   |
| \$15,000 - \$25,000:    | 30162 (18.9%)   |
| \$25,000 - \$50,000:    | 45614 (28.6%)   |
| \$50,000 - \$75,000:    | 18736 (11.8%)   |
| Greater than \$75,000:  | 15484 (9.7%)    |
| Tenure                  |                 |
| Tenure Breakdown        | Households (%)  |
| Occupied Housing Units: | 159459 (100.0%) |
| Owner Occupied:         | 109455 (68.6%)  |
| Renter Occupied:        | 50004 (31.4%)   |

**TELEPHONE RECORD**

**DATE:** February 5, 2013 **TIME OF CALL:** 2:00 p.m.  
**TO:** Rafael Casanova, Project Manager **PHONE NUMBER:** (214) 665-7434  
**FROM:** Steve Hicks **C:**  
**TYPED BY:** Stacy Santos **PROJECT NUMBER:** 126120  
**CLIENT:** ETT/Sharyland  
**PROJECT NAME:** N. Edinburg to Loma Alta  
**SUBJECT:** EPA-Donna Reservoir and Canal Superfund Site  
EPA Site Number TX0000605363

**MESSAGE**

Steve Hicks of POWER discussed the known extent of the PCB contamination within the reservoir and canal. Mr. Casanova stated that all samples taken to date do not indicate any likelihood of contamination outside the reservoir or channel. The project is still in the Remedial Investigation and Feasibility Study phase. Additional sampling is scheduled within the reservoir and canal this month in an effort to locate the original source of the contamination. While it is not known if samples were taken down to groundwater level and if the groundwater was tested for possible leaching effects from the reservoir itself, Mr. Casanova did not indicate any concern for outside the reservoir/canal or for the groundwater as an exposure pathway. The primary issue is likely going to be associated with the risk assessment to people who consume the fish caught from the lake. Once the current phase of the project is completed a risk assessment will be completed.



**United States Department of the Interior**  
**FISH AND WILDLIFE SERVICE**  
Ecological Services - LRGV SubOffice  
Phone: (956) 784-7560 Fax: (956) 787-8338  
3325 Green Jay Rd  
Alamo, TX 78516  
September 10, 2012

Ms. Anastacia Santos  
Project Manager  
Power Engineers  
7600B N Capital of Texas Hwy  
Suite 320  
Austin, TX 78758-4455

Consultation No. 02ETCC00-2012-TA-0324

Dear Ms. Santos:

This responds to a letter received by email on August 20, 2012 by you (Power Engineers) that was sent to a different Ecological Service (Service) Office dated March 30, 2012 regarding the effects of the proposed construction of a new 345-kilovolt (kV) transmission line on species federally listed or proposed for listing as threatened or endangered occurring within Hidalgo and Cameron Counties, Texas. In addition, your project was evaluated with respect to wetlands and other important fish and wildlife resources.

It's the Service's understanding that Sharyland Utilities, L.P. (Sharyland) and Electric Transmission Texas, LLC (ETT) will be filing for a Certificate of Convenience and Necessity (CCN) with the Public Utility Commission of Texas (PUCT) to design and construct a new 345-kilovolt (kV) transmission line in a study area that includes the above counties. The Electric Reliability Council of Texas (ERCOT) has determined that this project is needed and is critical to the reliability of the electric system in the Lower Rio Grande Valley.

On August 28, 2012, we had a meeting at the Santa Ana National Wildlife Refuge where you and representatives from Sharyland Utilities (Don DeWolf-Project Manager and Paul Schulze-Vice President), American Electric Power (Randal Roper-Regulatory Case Manager) gave a presentation on the project to the Lower Rio Grande Valley National Wildlife Refuge (LRGV NWR) Manager (Bryan Winton) and Ecological Service (Ernesto Reyes-Fish and Wildlife Biologist).

The new transmission line will traverse from the existing North Edinburg Substation, which is located approximately 3.3 miles northwest of Edinburg and west of U.S Highway 281, to the existing Loma Alta Substation located approximately 6.8 miles northeast of Brownsville and northeast of U.S. Highway 77 via the existing South McAllen Substation vicinity located approximately 3.0 miles southwest of McAllen and south of U.S. Highway 83.

POWER Engineers, Inc. (POWER) is preparing an Environmental Assessment (EA) and Alternative Route Analysis for Sharyland and ETT to support their CCN application for the PUCT. POWER is gathering data on the existing environment and identifying environmental and land use constraints within the study area that will be used in the creation of an environmental and land use constraint map. POWER will identify potential alternative route segments that consider these environmental and land use constraints.

You are requesting for our agency/office to provide information concerning environmental and land use constraints or other issues of interest to our agency/office within the study area. As stated on your letter, the Service's input will be an important consideration in the evaluation of alternative routes and in the assessment of potential impacts of those routes. In addition, you would appreciate receiving information about any permits, easements, or other approvals by the Service that could affect this project, or if we are aware of any major proposed development or construction in the study area. Upon certification of a final route for the proposed project, ETT will identify and obtain necessary permits, if required, from the Service.

The Service can provide you with general federally-listed threatened and endangered species information and other wildlife management and natural resource concerns and recommendations based on the extent of this study area that covers two counties and different habitats. Once different route alternatives are considered with a preferred route, then, the Service can assess more specific impacts to threatened and endangered species and habitat, and provide specific recommendations to avoid and minimize impacts.

There are four federally-listed endangered plants (South Texas ambrosia, Star cactus, Texas ayenia, Walkers manioc) that occur in Cameron and Hidalgo counties with plants that could be found on federal, state and some private lands. Some private landowners have conservation agreements with Texas Parks and Wildlife Department, the Nature Conservancy, and the Service to protect these species. There are also many federal, state, and private lands that have not been surveyed for these endangered plants, so when ETT selects a preferred alternative, then the Service recommends endangered plant surveys to be conducted.

For future reference, we have developed the following guidelines for successfully conducting federally-listed plant surveys. A "qualified" plant surveyor should be someone who is not only a reputable botanist/biologist but preferably someone with past survey experience with the target plants and who is adept at identification of the plant communities of that particular county/area. This is necessary to ensure that surveys for listed plants are appropriate and reliable from a review standpoint ultimately resulting in saved time and effort for both the project sponsors and the Service. Survey personnel not familiar with Federally-listed species of concern should coordinate with someone who is and/or make an effort to become familiar with such species prior to the actual field survey. Final survey reports should be sent directly to the coordinating Service office from the actual surveyor(s). Survey results should, at a minimum, include 1) description of the target species, 2) a map indicating the exact areas that were surveyed (such as on a USGS topographic map), 3) the date(s) the survey(s) occurred, and 4) the weather conditions under which the survey(s) was/were conducted. In addition, we strongly recommend developing a list of plants/plant communities observed during the survey, as well as any other relevant information that will assist in a quick and reliable determination.

There are three National Wildlife Refuges found in Hidalgo and Cameron Counties that include Lower Rio Grande Valley, Santa Ana, and Laguna Atascosa National Wildlife Refuges. In the presentation given by your group showed some proposed transmission lines going through refuge lands which will require right-of-ways and agency clearances that will take considerable time to consider, process, and write a "Compatibility Determination". Compatibility determinations are documents written, signed and dated by the refuge manager and the regional chief of refuges that signify whether proposed or existing uses of national wildlife refuges are compatible with their establishing purposes and the mission of the National Wildlife Refuge System; there is no guarantee of ultimate approval, therefore, the LRGV NWR recommends avoidance of any new proposed transmission lines on Refuge lands. If there is an existing ROW line on refuge land that requires additional ROW, it will also require an easement and compatibility determination. There are also other conservation lands that require coordination and ROW permits from Texas Parks and Wildlife Department and The Nature Conservancy in Hidalgo and Cameron Counties.



Distributed along transmission lines right-of-ways (ROW), vegetation pleases the eye, protects against erosion, shelters wildlife, and provides pollination sources. Wild pollinators can provide important pollination services for many food crops. Wild bees in particular can significantly augment and sometimes even replace pollination services provided by the European honey bee. For some crops wild bees are even more effective pollinators than their honey bee cousins. By understanding the landscape and conservation needs of wild bees and other native pollinators like butterflies, humming birds, and other insects, ROW's can provide farmers and ranchers with wild pollinator habitat and enhance pollination services on their farms and ranches. Native pollinators have two basic habitat needs: a diversity of flowering plants and nesting sites. Many of these conservation efforts can be funded through cost-sharing and incentive payments made available through farm bill programs. Among these funding sources are Natural Resources Conservation Service programs such as the Environmental Quality Improvement Program and the Wildlife Habitat Improvement Program, as well as the Farm Service Agency Conservation Reserve Program (CRP) and the CRP State Acres for Wildlife Enhancement program. Carefully implemented vegetation management plans can also help make these transmission line ROW's more useful and attractive to wildlife by having native plants, forbs and low growing shrubs instead of invasive species like buffel grass, guinea grass, and other exotic species.

A vegetative buffer strip is an area of land maintained in permanent vegetation that helps control air, soil, and water quality along with other environmental problems, dealing primarily on land that is used in agriculture, and ROW's. Buffer strips trap sediment, and enhance filtration of nutrients and pesticides by slowing down runoff that could enter the local surface waters. The root systems of the planted vegetation in these buffers hold soil particles together which alleviate the soil of wind erosion and stabilize slopes providing protection against substantial erosion and landslides. Buffer strips can have several different configurations of vegetation found on them varying from simply native grass to combinations of grass, flowers, forbs, and shrubs. Areas with diverse vegetation provide better biodiversity among plants and animals.

Buffer strips are very important for providing habitat for many species of wildlife in a landscape dominated by open farm lands in the Rio Grande Valley where over 90% of the dense woodlands have been cleared. With much of the land open on farms and ROW's having a corridor or habitat patch allows a safe-haven for animals to move between different ecosystems or cleared lands. Buffers are also helpful in conserving biodiversity especially those that are rare or endangered species like the endangered ocelot and jaguarundi found in these two counties. Loss of brush habitat, fragmentation, loss of connectivity, and road mortality are the major impacts to ocelot and jaguarundi recovery.

Regarding other important fish and wildlife resources, please keep in mind that many bird species protected under the Migratory Bird Treaty Act nest in these areas. As the Federal agency responsible for the protection of migratory birds, the Service recommends that any disturbance to vegetation even potentially associated with this project avoid the general nesting period of March through August and have a trained biologist with bird identification experience survey the areas proposed for disturbance be surveyed first for nesting birds, in order to avoid the inadvertent destruction of nests, eggs, etc. and ultimately the Migratory Bird Treaty Act which is in effect all months of the year. Bird surveys will have to be conducted before construction begins in certain places in the counties where Aplomado Falcons are found in the area.

There is an Avian Protection Plan (APP) document prepared by The Edison Electric Institute's Avian Power Line Interaction Committee (APLIC) and the Service issued on April 2005 to minimize adverse impacts to protected avian species on power lines. The public expects utilities to deliver cost-effective reliable energy and the Service to protect and enhance trust resources. Working in a partnership to benefit both the birds and the electric utility industry, the APP Guidelines were developed in a joint collaborative way.

The APP Guidelines presented in the document are intended to serve as a "tool box" from which a utility can select and tailor components applicable to its specific needs. These guidelines are intended to be used in conjunction with APLIC's *Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996 and Mitigating Bird Collisions with Power Lines: The State of the Art in 1994*, or the most current editions of these documents, which contain more detail on construction design standards and line siting recommendations.

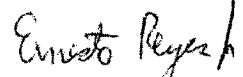
These "guidelines" are been distributed electronically. While the introductory of the document are printed, the remainder of the "tool box" is electronic. The APP Guidelines and current information on related issues can be downloaded from Avian Power Line Interaction Committee (APLIC) (<http://aplic.org>) and Edison Electric Institute (EEI) (<http://eei.org>) websites.

The Service needs for your agency to make a determination of "**No Effect**" which means that the project will not affect federally listed species, "**May Affect, but is not likely to adversely affect**", which the project will have some impacts, but conservation measures will avoid, or minimize impacts, or "**Is Likely to Adversely Affect**" the species which will have major impacts to endangered species that cannot be avoided or minimized and formal consultation should occur.

A list of federally threatened and endangered species is attached for your project assessment to those species. We appreciate the opportunity to provide pre-planning information and look forward to providing any further assistance and working with you once a route has been selected to complete the Section 7 Endangered Species Act Consultation on this important project to benefit the community.

If we can be of further assistance, please contact Ernesto Reyes at the above letterhead and telephone number.

Sincerely,



Ernesto Reyes Jr.  
Senior Fish & Wildlife Biologist  
For  
Allan M. Strand  
Field Supervisor

cc:  
Field Supervisor, U.S. Fish and Wildlife Service, Corpus Christi, TX  
Bryan Winton, LRGVNR Manager, Alamo, TX

Attachment: Endangered Species List

Federally Listed as Threatened and Endangered Species of Texas

January 26, 2012

County-by-County lists containing species information is available at the U.S. Fish and Wildlife Service's (Service), Southwest Region, web site <http://www.fws.gov/southwest/es/EndangeredSpecies/lists>.

This list represents species that may be found in counties throughout the state. It is recommended that the field station responsible for a project area be contacted if additional information is needed.

DISCLAIMER

This County by County list is based on information available to the U.S. Fish and Wildlife Service at the time of preparation, date on page 1. This list is subject to change, without notice, as new biological information is gathered and should not be used as the sole source for identifying species that may be impacted by a project.

**Cameron County**

|                          |           |   |
|--------------------------|-----------|---|
| Brown pelican            | (DM)      | <i>Pelecanus occidentalis</i>             |
| Green sea turtle         | (T)       | <i>Chelonia mydas</i>                     |
| Gulf Coast jaguarundi    | (E)       | <i>Herpailurus yagouaroundi cacomitli</i> |
| Hawksbill sea turtle     | (E w/CH±) | <i>Eretmochelys imbricata</i>             |
| Kemp's Ridley sea turtle | (E)       | <i>Lepidochelys kempii</i>                |
| Leatherback sea turtle   | (E w/CH±) | <i>Dermochelys coriacea</i>               |
| Loggerhead sea turtle    | (T)       | <i>Caretta caretta</i>                    |
| Northern aplomado falcon | (E)       | <i>Falco femoralis septentrionalis</i>    |
| Ocelot                   | (E)       | <i>Leopardus pardalis</i>                 |
| Piping plover            | (T w/CH)  | <i>Charadrius melodus</i>                 |
| South Texas ambrosia     | (E)       | <i>Ambrosia cheiranthifolia</i>           |
| Texas ayenia             | (E)       | <i>Ayenia limitaris</i>                   |
| West Indian manatee      | (E)       | <i>Trichechus manatus</i>                 |
| Red-crowned parrot       | (C)       | <i>Amazona viridigenalis</i>              |

**Hidalgo County**

|                          |     |   |
|--------------------------|-----|---|
| Gulf Coast jaguarundi    | (E) | <i>Herpailurus yagouaroundi cacomitli</i> |
| Northern aplomado falcon | (E) | <i>Falco femoralis septentrionalis</i>    |
| Ocelot                   | (E) | <i>Leopardus pardalis</i>                 |
| Star cactus              | (E) | <i>Astrophytum asterias</i>               |
| Texas ayenia             | (E) | <i>Ayenia limitaris</i>                   |
| Walker's manioc          | (E) | <i>Manihot walkerae</i>                   |
| Red-crowned parrot       | (C) | <i>Amazona viridigenalis</i>              |

**From:** [Ernesto\\_Reyes@fws.gov](mailto:Ernesto_Reyes@fws.gov)  
**To:** [Anastacia\\_Santos.6903](mailto:Anastacia_Santos.6903)  
**Subject:** Realty Contact at the Regional Office in Albuquerque, NM  
**Date:** Thursday, October 18, 2012 9:25:45 AM

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Anastacia,

It was a pleasure to see you again in Brownsville at the public meeting and hope you are feeling better. Here are the contacts for Realty: [Rick\\_Jones@fws.gov](mailto:Rick_Jones@fws.gov) and phone number (505) 248-7417 (Regional Realty Officer) or you can contact [Barbra\\_Rose@fws.gov](mailto:Barbra_Rose@fws.gov) and phone number (505) 248-7412. Hope this helps in getting in contact. When you get the time, please send me the aerial photos with the Refuge tracts overlaying the project.

Thanks,

Happy travellings,

Ernesto

**From:** [Perez, Chris](#)  
**To:** [ddewolfe@sharyland.com](mailto:ddewolfe@sharyland.com)  
**Cc:** [Riesley Jones](#), [Anastacia Santos](#), [6903](#), [Bryan Winton](#), [brsmith1@aep.com](mailto:brsmith1@aep.com)  
**Subject:** Re: U.S. Fish & Wildlife Services Meeting  
**Date:** Thursday, January 03, 2013 2:24:09 PM  
**Attachments:** [340 FW 3. Rights-of-Way and Road Closings, Fish and Wildlife Service Manual, U.S.pdf](#)  
[603FW1 AppropriateUsesPolicy.pdf](#)  
[603FW2 Compatibility Policy.pdf](#)

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Mr. DeWolfe:

It is our understanding that the proposed project would involve the installation of electric transmission lines across refuge tracts such as the Ranchito Tract, Cameron County, TX. On December 7, 2012, we met with Anastacia Santos of Power Engineers, Teresa Trotman of AEP, and Barry Smith of ETT, in which we lined out our policies, regulations, and procedures for new rights-of-way and modifications of existing rights of way. For your convenience, I will include this information.

However, based on our last meeting regarding this project, it was not determined a new right of way or placement within an existing right of way was needed for the project. This should clarify issues or concerns you may have.

The granting of rights-of-ways and/or easements across National wildlife refuges is outlined in pertinent part both in regulation and policy (Fish and Wildlife Service Manual, Part 340 FW 3.1-3 15; 603 FW1-Appropriate Refuge Uses; and 603 FW2-Compatibility). Copies of these documents are attached for your information and review.

In summary, before any new uses such as rights of way are granted on refuge lands, we must first evaluate such uses for their "appropriateness" and if determined appropriate; they must then be evaluated for "compatibility" with the Refuge System mission or refuge purposes. Therefore, with respect to the proposed electric transmission line project as it may involve the Lower Rio Grande Valley National Wildlife Refuge, we would like an opportunity to meet with you again to discuss your specific project plans before they are finalized. Of course, we would encourage any alternatives that would not involve the need to acquire new rights-of-way across refuge lands as these uses are usually not determined to be an appropriate refuge use and involve a fairly complicated and lengthy environmental review/assessment process. Nonetheless, depending on the complexity of the proposed project, this process may take weeks or months to complete. In-person meetings and onsite visits are highly recommended. They will facilitate effective and responsive communication and timely completion of all required refuge review processes. Please also keep in mind that further coordination and compliance with other federal resource mandates (e.g., through our Ecological Services Field Offices) may be required.

Has it been decided that a request for a new right(s) of way is needed for this project?

On Thu, Jan 3, 2013 at 11:30 AM, Winton, Bryan <[bryan\\_winton@fws.gov](mailto:bryan_winton@fws.gov)> wrote:  
A meeting in Albuquerque has been arranged by the Sharyland ETT company that has met with us proposing to cross the Ranchito Tract is set for next Thursday, January 10 at 10am Central Time. The company has already made a trip to Albuquerque to speak with Rick Jones in person. We may want to give Rick a call prior to the 10th meeting to develop a unified approach/plan for this meeting. We have the conference call call-in information below. I hope everyone copied here can participate.



**603 FW 1**  
***Appropriate Refuge***  
***Uses***

New  
Date July 26, 2006  
Series Refuge Management  
Part 603 National Wildlife Refuge  
System Uses  
Originating Office: Division of Conservation  
Planning and Policy

**PDF Version**

**1.1 What is the purpose of this chapter?** This chapter provides a national framework for determining appropriate refuge uses. In addition, this chapter provides the policy and procedure for refuge managers to follow when deciding if uses are appropriate on a refuge. This policy also clarifies and expands on the compatibility policy (603 FW 2.10D), which describes when refuge managers should deny a proposed use without determining compatibility. When we find a use is appropriate, we must then determine if the use is compatible before we allow it on a refuge.

**1.2 What does this policy cover?** This policy applies to all proposed and existing uses in the National Wildlife Refuge System (Refuge System) only when we have jurisdiction over the use. This policy does **not** apply to:

**A. Situations Where Reserved Rights or Legal Mandates Provide We Must Allow Certain Uses.** For example, we usually will not apply this policy to proposed public uses of wetland or grassland easement areas of the Refuge System. The rights we have acquired on these areas generally do not extend to control over such public uses except where those uses would conflict with the conditions of the easement.

**B. Refuge Management Activities.** Refuge management activities are designed to conserve fish, wildlife, and plants and their habitats and are conducted by the Refuge System or a Refuge System-authorized agent to fulfill a refuge purpose(s) or the Refuge System mission. These activities fulfill refuge purpose(s) or the Refuge System mission and we base them on sound professional judgment. Refuge management activities are fish and wildlife population or habitat management actions including, but not limited to: prescribed burns, water level management, invasive species control, routine scientific monitoring, law enforcement activities, and maintenance of existing refuge facilities. We consider State fish and wildlife agency activities refuge management activities that are not subject to this policy when they:

- (1) Directly contribute to the achievement of refuge purpose(s), refuge goals, and the Refuge System mission, as determined by the refuge manager in writing,
- (2) Are addressed in a document such as a Regional memorandum of understanding or a comprehensive conservation plan (CCP), or
- (3) Are approved under national policy

**1.3 What is the policy regarding the appropriateness of uses on a refuge?** With the exception of 1.3 A. and 1.3 B. below, the refuge manager will decide if a new or existing use is an appropriate refuge use. If an existing use is not appropriate, the refuge manager will eliminate or modify the use as expeditiously as practicable. If a new use is not appropriate, the refuge manager will deny the use without determining compatibility. Uses that have been administratively determined to be appropriate are:

A. Six wildlife-dependent recreational uses. As defined by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act), the six wildlife-dependent recreational uses (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) are determined to be appropriate. However, the refuge manager must still determine if these uses are compatible.

B. Take of fish and wildlife under State regulations. States have regulations concerning take of wildlife that includes hunting, fishing, and trapping. We consider take of wildlife under such regulations appropriate. However, the refuge manager must determine if the activity is compatible before allowing it on a refuge.

#### 1.4 What are the objectives of this chapter?

A. Refuges are first and foremost national treasures for the conservation of wildlife. Through careful planning, consistent Refuge Systemwide application of regulations and policies, diligent monitoring of the impacts of uses on wildlife resources, and preventing or eliminating uses not appropriate to the Refuge System, we can achieve the Refuge System conservation mission while also providing the public with lasting opportunities to enjoy quality, compatible, wildlife-dependent recreation.

B. Through consistent application of this policy and these procedures, we will establish an administrative record and build public understanding and consensus on the types of public uses that are legitimate and appropriate within the Refuge System.

#### 1.5 What are our statutory authorities for this policy?

A. **National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, 16 U.S.C. 668dd-668ee (Administration Act).** This law provides the authority for establishing policies and regulations governing refuge uses, including the authority to prohibit certain harmful activities. The Administration Act does not authorize any particular use, but rather authorizes the Secretary of the Interior to allow uses only when they are compatible and "under such regulations as he may prescribe." This law specifically identifies certain public uses that, when compatible, are legitimate and appropriate uses within the Refuge System. The law states "... it is the policy of the United States that ... compatible wildlife-dependent recreation is a legitimate and appropriate general public use of the System ... compatible wildlife-dependent recreational uses are the priority general public uses of the System and shall receive priority consideration in refuge planning and management; and ... when the Secretary determines that a proposed wildlife-dependent recreational use is a compatible use within a refuge, that activity should be facilitated ... the Secretary shall ... ensure that priority general public uses of the System receive enhanced consideration over other general public uses in planning and management within the System ...". The law also states "[i]n administering the System, the Secretary is authorized to take the following actions: [i]ssue regulations to carry out this Act." This policy implements the standards set in the Administration Act by providing enhanced consideration of priority general public uses and ensuring other public uses do not interfere with our ability to provide quality, wildlife-dependent recreational uses.

B. **Refuge Recreation Act of 1962, 16 U.S.C. 460k (Recreation Act).** This law authorizes the Secretary of the Interior to "... administer such areas [of the System] or parts thereof for public recreation when in his judgment public recreation can be an appropriate incidental or secondary use." While the Recreation Act authorizes us to allow public recreation in areas of the Refuge System when the use is an "appropriate

incidental or secondary use," the Improvement Act provides the Refuge System mission and includes specific directives and a clear hierarchy of public uses on the Refuge System.

**C. Alaska Native Claims Settlement Act, 43 U.S.C. 1601-1624.** Activities on lands conveyed from the Refuge System under section 22(g) of the Alaska Native Claims Settlement Act are not subject to this policy, but are subject to compatibility (see 603 FW 2).

**D. Other Statutes that Establish Refuges, including the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) (16 U.S.C. 410hh - 410hh-5, 460 mm - 460mm-4, 539-539e, and 3101 - 3233; 43 U.S.C. 1631 et seq.).**

**E. Executive Orders.** We must comply with Executive Order (E.O.) 11644 when allowing use of off-highway vehicles on refuges. This order requires that we: designate areas as open or closed to off-highway vehicles in order to protect refuge resources, promote safety, and minimize conflict among the various refuge users; monitor the effects of these uses once they are allowed; and amend or rescind any area designation as necessary based on the information gathered. Furthermore, E.O. 11989 requires us to close areas to off-highway vehicles when we determine that the use causes or will cause considerable adverse effects on the soil, vegetation, wildlife, habitat, or cultural or historic resources. Statutes, such as ANILCA, take precedence over Executive orders.

#### **1.6 What do these terms mean?**

**A. Appropriate Use.** A proposed or existing use on a refuge that meets at least one of the following four conditions.

- (1) The use is a wildlife-dependent recreational use as identified in the Improvement Act.
- (2) The use contributes to fulfilling the refuge purpose(s), the Refuge System mission, or goals or objectives described in a refuge management plan approved after October 9, 1997 the date the Improvement Act was signed into law.
- (3) The use involves the take of fish and wildlife under State regulations.
- (4) The use has been found to be appropriate as specified in section 1.11.

**B. Native American.** American Indians in the conterminous United States and Alaska Natives (including Aleuts, Eskimos, and Indians) who are members of federally recognized tribes

**C. Priority General Public Use.** A compatible wildlife-dependent recreational use of a refuge involving hunting, fishing, wildlife observation and photography, or environmental education and interpretation.

**D. Quality.** The criteria used to determine a quality recreational experience include

- (1) Promotes safety of participants, other visitors, and facilities.
- (2) Promotes compliance with applicable laws and regulations and responsible behavior



- (3) Minimizes or eliminates conflicts with fish and wildlife population or habitat goals or objectives in a plan approved after 1997.
- (4) Minimizes or eliminates conflicts with other compatible wildlife-dependent recreation.
- (5) Minimizes conflicts with neighboring landowners.
- (6) Promotes accessibility and availability to a broad spectrum of the American people.
- (7) Promotes resource stewardship and conservation.
- (8) Promotes public understanding and increases public appreciation of America's natural resources and our role in managing and protecting these resources.
- (9) Provides reliable/reasonable opportunities to experience wildlife
- (10) Uses facilities that are accessible and blend into the natural setting.
- (11) Uses visitor satisfaction to help define and evaluate programs.

**E. Wildlife-Dependent Recreational Use.** As defined by the Improvement Act, a use of a refuge involving hunting, fishing, wildlife observation and photography, or environmental education and interpretation.

#### **1.7 What are our responsibilities?**

**A. Director.** Provides national policy for deciding the appropriateness of uses within the Refuge System to ensure such findings comply with all applicable authorities.

#### **B. Regional Director.**

- (1) Ensures refuge managers follow laws, regulations, and policies when making appropriateness findings
- (2) Notifies the Director about controversial or complex appropriateness findings.

#### **C. Regional Chief.**

- (1) Makes the final decision on appropriateness when the refuge supervisor does not concur with the refuge manager on positive appropriateness findings.
- (2) Notifies the Regional Director about controversial or complex appropriateness findings.

#### **D. Refuge Supervisor.**

- (1) Reviews the refuge manager's finding that an existing or proposed use is appropriate when that use is not a wildlife-dependent recreational use or is not already described in a refuge management plan approved after October 9, 1997.
- (2) Reviews the refuge manager's finding that an existing use is not appropriate outside the CCP process

(3) Refers an appropriateness finding to the Regional Chief if the refuge supervisor does not concur with the refuge manager. Discusses nonconcurrence with the refuge manager for possible resolution before referring the finding to the Regional Chief

(4) Notifies the Regional Chief about controversial or complex appropriateness findings.

(5) Reviews documentation at least annually for refuge uses found not appropriate and forwards the documentation to Refuge System Headquarters for inclusion in a database of refuge uses

**E. Refuge Manager.**

(1) Decides if a proposed or existing use is subject to this policy.

(2) Makes a finding as to whether a use subject to this policy is appropriate or not appropriate.

(3) Consults with State fish and wildlife agencies, as well as the refuge supervisor, when a request for a use could affect fish, wildlife, or other resources that are of concern to a State fish and wildlife agency.

(4) Documents all findings under this policy in writing as described in section 1.11A(3).

(5) Refers to the refuge supervisor all findings of appropriateness, both positive and negative, for any proposed use which is not a wildlife-dependent recreational use or which is not already described in a refuge CCP or step-down management plan approved after October 9, 1997. The refuge supervisor's concurrence is required for new uses found to be appropriate and existing uses found not appropriate outside the CCP process. The refuge supervisor periodically reviews other findings for consistency.

**1.8 What is the relationship between appropriateness and compatibility?** This policy describes the initial decision process the refuge manager follows when first considering whether or not to allow a proposed use on a refuge. The refuge manager must find a use is appropriate before undertaking a compatibility review of the use. This policy clarifies and expands on the compatibility policy (603 FW 2.10D(1)), which describes when refuge managers should deny a proposed use without determining compatibility. If we find a proposed use is not appropriate, we will not allow the use and will not prepare a compatibility determination. By screening out proposed uses not appropriate to the refuge, the refuge manager avoids unnecessary compatibility reviews. By following the process for finding the appropriateness of a use, we strengthen and fulfill the Refuge System mission. Section 1.11 describes the appropriateness finding process. Although a refuge use may be both appropriate and compatible, the refuge manager retains the authority to not allow the use or modify the use. For example, on some occasions, two appropriate and compatible uses may be in conflict with each other. In these situations, even though both uses are appropriate and compatible, the refuge manager may need to limit or entirely curtail one of the uses in order to provide the greatest benefit to refuge resources and the public. See the compatibility policy (603 FW 2.11G) for information concerning resolution of these conflicts

**1.9 How are uses considered in the comprehensive conservation planning process?**