



Kirkpatrick & Lockhart Nicholson Graham LLP

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EG

AB 439-6X  
585-1X

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April 21, 2006

**FIRST CLASS MAIL**

Ms. Victoria Rutson  
Chief, Section of Environmental Analysis  
Surface Transportation Board  
Room 504  
1925 K Street, N.W.  
Washington, DC 20423

**RE: Docket No. AB-439 (Sub-No. 6X)  
Dallas Area Rapid Transit – Abandonment Exemption – In Collin  
County, Texas**

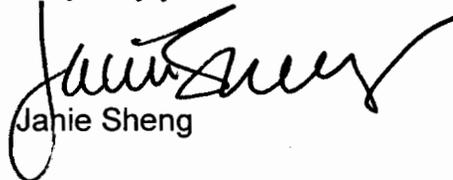
**Docket No. AB-585 (Sub-No. 1X)  
Dallas, Garland and Northeastern Railroad – Discontinuance  
Exemption – In Collin County, Texas**

Dear Ms. Rutson:

Enclosed please find a letter from the Department of the Army with regards to the above-referenced matters.

Please do not hesitate to contact me if you have any questions.

Very truly yours,



Janie Sheng

Enclosure



**DEPARTMENT OF THE ARMY**  
FORT WORTH DISTRICT, CORPS OF ENGINEERS  
P. O. BOX 17300  
FORT WORTH, TEXAS 76102-0300

REPLY TO  
ATTENTION OF

April 4, 2006

Planning, Environmental, and Regulatory Division  
Regulatory Branch

SUBJECT: Project Number 200500623

Mr. Edward J. Fishman  
Kirkpatrick & Lockhart Nicholson Graham  
Suite 200  
1800 Massachusetts Avenue, Northwest  
Washington, District of Columbia 20036-1221

Dear Mr. Fishman:

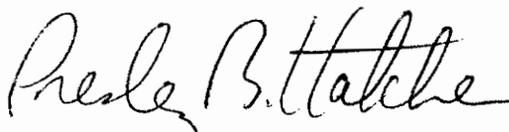
Thank you for your letter of November 4, 2005, concerning a proposal by Dallas Area Rapid Transit to abandon approximately 8.85 miles of railroad line between approximately milepost 281.65 in the City of Plato and approximately milepost 290.5 in the City of Allen, Collin County, Texas. This project has been assigned Project Number 200500623. Please include this number in all future correspondence concerning this project. Failure to reference the project number may result in a delay.

We have reviewed this project in accordance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. Under Section 404, the U.S. Army Corps of Engineers (USACE) regulates the discharge of dredged and fill material into waters of the United States, including wetlands. The USACE responsibility under Section 10 is to regulate any work in, or affecting, navigable waters of the United States. Based on your description of the proposed work, other information available to us, and current regulations and policy, we have determined that this project will not involve any of the above activities. Therefore, it will not require Department of the Army authorization under the above laws. However, it is incumbent upon you to remain informed of any changes in USACE Regulatory Program regulations and policy as they relate to your project.

The USACE based this decision on a preliminary jurisdictional determination (JD) that there are waters of the United States on the project site. This preliminary JD is valid for a period of no more than five years from the date of this letter unless new information warrants revision of the delineation before the expiration date. It is incumbent upon the applicant to remain informed of changes in the Department of the Army regulations.

Thank you for your interest in our nation's water resources. If you have any questions concerning our regulatory program, please contact Ms. Kelly Allen at the address above or telephone (817)886-1732.

Sincerely,

  
for Wayne A. Lea  
Chief, Regulatory Branch

Enclosure

# NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Dallas Area Rapid Transit

File Number: 200500623

Date: April 4, 2006

Attached

See section below

|                                     |  |   |
|-------------------------------------|--|---|
| <input type="checkbox"/>            | INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission) | A |
| <input type="checkbox"/>            | PROFFERED PERMIT (Standard Permit or Letter of Permission)         | B |
| <input type="checkbox"/>            | PERMIT DENIAL  | C |
| <input type="checkbox"/>            | APPROVED JURISDICTIONAL DETERMINATION                              | D |
| <input checked="" type="checkbox"/> | PRELIMINARY JURISDICTIONAL DETERMINATION                           | E |

**SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/inet/functions/cw/cecwo/reg/> or Corps regulations at 33 CFR Part 331.**

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **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.
- **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 © 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.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **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.
- **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.

**C: PERMIT DENIAL:** 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.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved jurisdictional determination (JD) or provide new information.

- **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.
- **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.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** 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.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (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.)

**ADDITIONAL INFORMATION:** 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.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Ms. Kelly Allen at (817)886-1732

If you only have questions regarding the appeal process you may also contact:

Mr. Jim Gilmore at (214) 767-2457

**RIGHT OF ENTRY:** 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.

\_\_\_\_\_  
Signature of appellant or authorized agent

Date:

Telephone number: