



SURFACE TRANSPORTATION BOARD

[Docket No. FD 36652]

Green Eagle Railroad, LLC—Construction and Operation Exemption—in Maverick County, Tex.

On December 14, 2023, Green Eagle Railroad, LLC (GER), a noncarrier subsidiary of Puerto Verde Holdings (PVH), filed a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct and operate approximately 1.335 miles of new, double-tracked common carrier rail line in Maverick County, Tex. (Line). The Line would extend from a bridge (Bridge) crossing the U.S.-Mexico border over the Rio Grande to connect with Union Pacific Railroad Company (UP) at about milepost 31 of UP's Eagle Pass Subdivision and route rail and commercial motor vehicle (CMV) traffic around the urban center of the City of Eagle Pass, Tex. According to GER, rail traffic moving across the border between the City of Eagle Pass, Tex., and Piedras Negras, Coahuila, Mex., currently crosses a single-tracked bridge connecting to a rail line owned and operated by UP and also utilized by BNSF Railway Company (BNSF) via trackage rights on the U.S. side and to a rail line owned by the Mexican federal government with rail operations concessioned to Ferrocarril Mexicano, S.A. de C.V. (Ferromex) on the Mexican side. (Pet. 2.) GER seeks to enter into agreements with UP and BNSF for this traffic to move to the Line after construction. (*Id.* at 7.)

On March 13, 2024, the Board instituted a proceeding under 49 U.S.C. 10502(b). Green Eagle R.R.—Constr. & Operation Exemption—in Maverick Cnty., Tex., FD 36652, slip op. at 1 (STB served Mar. 13, 2024). Then, on March 29, 2024, pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321-4370m-11, the Board's Office of Environmental Analysis (OEA) issued a notice of intent to prepare an

environmental impact statement (EIS) and invited public comment. Green Eagle R.R., FD 36652 (STB served Mar. 29, 2024). OEA issued another notice on July 8, 2024, informing the public of the availability of the Final Scope of Study (Final Scope) for the EIS. Green Eagle R.R., FD 36652 (STB served July 8, 2024). OEA issued a Draft EIS on March 14, 2025, analyzing the potential environmental impacts of the Line and requesting public comments.

A Final EIS, which responded to the substantive comments received on the Draft EIS, was issued on August 6, 2025. The Final EIS recommends environmental conditions to avoid, minimize, or mitigate the potential environmental impacts of the proposed construction and operation of the Line.

On January 30, 2026, the Board served a decision directing GER to file a supplemental brief to answer questions so that the Board could fully assess the proposal under the exemption criteria of section 10502. See Green Eagle R.R., FD 36652 (STB served Jan. 30, 2026).

After considering the rail transportation policy (RTP) at 49 U.S.C. 10101, including how the potential environmental impacts may implicate that policy, the Board will grant GER's petition for exemption, authorizing GER to construct and operate over the Southern Rail Alternative (OEA's environmentally preferred alternative), subject to the environmental mitigation measures in the attached Appendix.

BACKGROUND

GER explains that the Line is part of PVH's Puerto Verde Global Trade Bridge project (Project), a proposal to create a new trade corridor for freight traffic and CMVs extending from Eagle Pass across the U.S.-Mexico border and approximately 17.79 miles into the Mexican State of Coahuila. (Pet. 1.) In addition to the Line, other components of the Project corridor include the GER line in Mexico connecting to Ferromex at the Ferromex Rio Escondido Yard; a new CMV roadway running parallel to the railroad

tracks in the U.S. and Mexico; the Bridge, which would cross the Rio Grande River with two spans to carry the railroad tracks and CMV roadway; and customs inspections facilities, including a customs control tower between the Line and CMV roadway to allow for combined multimodal cargo inspection. (Id. at 1-2, 6.) GER further states that it has discussed the Project with UP and BNSF and seeks to enter agreements with the carriers to shift their cross-border traffic to the Line. (Id. at 7.) GER expressly represents that it would not begin construction of the Line absent such agreements. (GER Suppl. 7.)

According to GER, the purpose of the construction and operation of the Line as part of the larger Project is to “develop an economically viable solution to meet the needs for border infrastructure improvements that will increase safety and facilitate crucial binational trade between the United States and Mexico.” (Pet. 2.) GER notes that the project addresses issues identified in the Texas Department of Transportation’s 2021 Texas-Mexico Border Transportation Master Plan (BTMP), which analyzed capacity at the border and provided recommendations to ease congestion. (Id. at 3-5, 7.) The BTMP found that the Eagle Pass Port of Entry is already heavily used, with use projected to increase. (Id. at 3.) However, according to GER, the current infrastructure is not well-suited for the projected increased use, as the single-tracked border crossing limits train speeds and freight capacity and prevents simultaneous two-way operations, thus negatively impacting the economy. (Id. at 3-5.) In addition, GER notes that insufficient security infrastructure has impacted rail service. (Id. at 4.) GER states that rail traffic moving across the border at Eagle Pass currently crosses a single-tracked bridge connecting to a line owned by UP on the U.S. side and owned by the Mexican federal government and operated by Ferromex on the Mexican side.¹ (Id. at 2.) On the U.S.

¹ BNSF also operates on the U.S. side of the line via trackage rights obtained as a condition of the UP-Southern Pacific merger. See Union Pac. Corp.—Control & Merger—S. Pac. Rail Corp., 1 S.T.B. 233, 410-11, 562 (1996).

side, this traffic now traverses nine at-grade rail crossings in the City of Eagle Pass.²

(Id.) As noted above, GER says that its proposed construction and operation of the Line is not viable without agreements with UP and BNSF to shift their traffic to the Line, and GER informs the Board that it will not begin construction absent such agreements.

(Env't Comment EI 34039, GER Letter 5; GER Suppl. 7.)

GER states that its Line would bypass the current at-grade crossings in the City of Eagle Pass by creating a new, double-tracked corridor with zero at-grade crossings between the interchange point with UP and the Bridge. (Pet. 5-6.) GER explains that the Project corridor is designed to be constructed and operated “under the theory that a moving train is a safe train,” so the Line, like the rest of the Project, will be fully fenced, monitored, and patrolled, allowing continuous movement across the border. (Id. at 6-7, 14-15.) The petition notes that from September 19-23, 2023, UP and BNSF had to embargo service at Eagle Pass because Ferromex temporarily suspended service due to migrants climbing aboard railcars and suffering injuries or fatalities. (Id. at 4.) GER also says it will provide U.S. Customs and Border Protection (CBP) and the Mexican National Customs Agency (ANAM) with equipment to conduct non-intrusive inspections of all rail cars crossing the border. (Id. at 6-7.) GER notes that it intends to utilize international train crews to limit train stops at the border. (Id. at 6.) The petition states that the Line, as part of the larger Project, will result in a safer, more efficient border crossing for rail traffic that facilitates competition with the Canadian Pacific Kansas City Railway (CPKC) Port of Entry at Laredo, Tex., mitigates congestion and other negative economic impacts, eases burdens on the nearby communities, and reduces the risk of any security- or safety-related events that could impact rail service and trade. (Id. at 4-5, 14-16.)

² Of the nine public at-grade crossings, two are currently closed to vehicular traffic. (Final EIS 1-2 n.3.)

GER argues that its proposed line qualifies for an exemption under section 10502 because an application for construction and operation authority under 49 U.S.C. 10901 is not necessary to carry out the RTP; an exemption would promote several provisions of the RTP; and requiring an application is not necessary to protect shippers from an abuse of market power and construction and operation of the Line is limited in scope. (Pet. 11-17.)

Under Executive Order 13867, presidential permits are required for the construction and operation of certain facilities and land transportation crossings at the U.S. borders. Exec. Order No. 13867, 84 Fed. Reg. 15,491-93 (Apr. 10, 2019). The Executive Order states that it is intended to streamline the presidential permitting process and facilitate the expeditious delivery of advice to the President to promote cross-border infrastructure. Id. After an application is received by the Secretary of State, the Secretary advises the President whether the issuance of a presidential permit would serve the foreign policy interests of the United States. Id. PVH, with Maverick County, Tex., as its public entity sponsor, applied for a presidential permit for this Project to the Secretary of State in October 2023, (Pet. 11), and a presidential permit was granted on May 31, 2024. See Authorizing Maverick Cnty., Tex., to Construct, Maintain, & Operate a Vehicular, Pedestrian, & Rail Border Crossing near Eagle Pass, Tex., at the Int'l Boundary Between the U.S. & Mex. (Presidential Permit), 89 Fed. Reg. 48,247-50 (May 31, 2024).

The Board has received letters supporting GER's petition from U.S. Senators John Cornyn and Ted Cruz; then-U.S. Representative Tony Gonzales; Texas State Representative Eddie Morales, Jr.; and Maverick County Judge Ramsey English Cantú. (See Hon. Cornyn & Hon. Cruz Letter, Feb. 16, 2024; Hon. Gonzales Letter, May 24, 2024; Hon. Morales Letter, Jan. 16, 2024; Hon. Cantú Letter, Jan. 18, 2024.) The Eagle Pass Housing Authority (EPHA) submitted a comment urging the Board to "conduct due

diligence” regarding “minimizing noise, vibration and possible chemical spills.” (See EPHA Letter, Apr. 30, 2024.)

UP filed comments opposing GER’s petition for exemption on August 25, 2025. UP argues that the Board should deny GER’s petition and require a full application if GER wants to proceed with its proposal. In contrast with GER’s expressed optimism in working with UP and BNSF, UP states that it “has no intent to discontinue using its border crossing at Eagle Pass.” (UP Comment 10.) UP also questions the Project’s financial and operational viability in the event both crossings are used, and it disputes that the petition shows that the Line serves the public interest or meets the criteria for an exemption under section 10502. (Id. at 10-15.) UP argues that GER simply seeks to insert itself as an additional rail carrier in the middle of existing UP-Ferromex and BNSF-Ferromex cross-border routes, rather than creating a new, competitive, more efficient option for shippers. (Id. at 12.) According to UP, this proposal “would raise rail transportation costs and reduce service quality” because every cross-border movement with GER would require three rail carriers rather than two, thereby weakening UP’s and BNSF’s ability to compete with CPKC’s cross-border operations in Laredo, Tex. (Id. at 12-13.)

The Board also received comments opposing the petition from the Eagle Pass Border Coalition (EPBC) on September 8, 2025. EPBC posits that the Board’s EIS is inadequate, arguing that it did not include adequate mitigation, consider cumulative impacts, or adequately consider impacts to water quality, wetlands, flood risk, aquatic ecosystems, air quality, traffic, and noise resulting from GER’s proposal. (See EPBC Comment.) EPBC also argues that the Board should require GER to file a full application, (id. at 14), and that the Line is not in the public interest (id. at 5, 11-12).

GER responded to UP’s comments and EPBC’s comments on September 15, 2025, and September 22, 2025, respectively. In its response to UP, GER argues that a

full application is not necessary and that the Board should grant its petition. GER maintains that the Line would serve the public interest because it resolves problems cited in the BTMP, because there is a Congressional presumption that construction projects are in the public interest, and because GER's presidential permit was granted, confirming that the proposal is in the foreign policy interests of the United States. (GER Reply 3-5, Sept. 15, 2025.) GER also reiterates that the proposed Line construction satisfies the criteria for an exemption because it is consistent with the RTP. (Id. at 7-16.) In response to EPBC, GER argues that EPBC does not adequately demonstrate its interest in this proceeding, unduly expands the scope of issues raised by conflating the Board's NEPA obligations with separate applicant obligations under the Clean Water Act, and fails to argue any of the factors for requiring an application instead of a petition for exemption. (GER Reply 6-9, Sept. 22, 2025.) GER also argues that the EIS took the "hard look" required by NEPA. (Id. at 10-14.)

On January 30, 2026, the Board served a decision directing GER to file a supplemental brief so that the Board could fully assess the proposal under the exemption criteria of section 10502. See Green Eagle R.R., FD 36652 (STB served Jan. 30, 2026). The Board asked questions regarding the effect this proposal might have on shippers and shipping costs, the status of the proposed line in Mexico and the line that connects Ferromex to the UP-owned bridge at Eagle Pass, the status of negotiations or discussions with UP and BNSF, and GER's previous representation that it "would be unable to construct and/or operate" the Line if it were "unable to attract all cross border rail traffic. (Id. at 3-4 (quoting Env't Comment EI 34039, GER Letter 5).) The Board also invited UP and BNSF to respond to the first three questions and directed them to clarify where their respective crew changes currently take place. (Id. at 4.)

GER, UP, and BNSF each made supplemental filings in response to the Board's order on February 13, 2026.³ GER describes the current track in Mexico connecting Ferromex to UP's bridge⁴ and states that it has no information at this time as to any plan in Mexico to decommission that track. (GER Suppl. 4-5.) GER notes that it has had preliminary discussions with UP and BNSF, which are protected by non-disclosure agreements, (id. at 5-6), and responds that its "vision is to operate like other port and terminal operators that manage congested areas," and that "[I]ike other port and terminal operators, GER would provide neutral service to interchange partners and carload customers such that no competitive harm would arise from GER's operations," (id. at 1). GER states that it expects the impact on shipping costs to be negligible because the proposal is a value-add for shippers and could potentially be offset by grants, and that if all rail traffic currently crossing the border at Eagle Pass shifts to GER, it would be because GER reached agreements with UP and BNSF to shift their traffic and utilize the infrastructure GER proposes to build, thus negating any potential competitive harms or operational challenges that may otherwise arise. (Id. at 1-2.) The proposal, according to GER, is intended to address current and potential operational harms identified in the BTMP and improve overall efficiency at the border. (Id. at 2.) Furthermore, GER again represents that it "would not start building the Proposed Line absent agreements from UP and BNSF to shift their traffic to the Proposed Line post-construction." (Id. at 7.)

³ On March 23, 2026, GER filed a letter providing updates regarding funding for the Project and discussions with the City of Eagle Pass. On April 10, 2026, Judge Cantú filed a further update on behalf of Maverick County. On April 13, 2026, the City of Eagle Pass replied to GER's March 23 letter, stating, among other things, that on April 7, 2026, the Eagle Pass City Council determined that it would not enter into a memorandum of understanding with PVH regarding a proposed partnership along with Maverick County.

⁴ GER and UP describe the current line in Mexico differently: GER describes it as single-track mainline with operational sidings and storage track (GER Suppl. 4-5), while UP states that the line is double tracked (UP Suppl. 4).

UP, in its supplement, argues that GER's proposal to construct and operate the Line would harm shippers because GER is not proposing to construct enough track to hold an average train clear of the yard in the United States between the Bridge and the connection point with UP and because the proposal increases the number of carriers required to complete the cross-border movement, thus increasing complexity and cost without increasing the number of independent routing options for shippers. (UP Suppl. 4-5.) According to UP, GER recently reinitiated discussions with UP, but has still not resolved UP's operational concerns. (Id. at 2.) UP also contends that the current line in Mexico has ample capacity to support cross-border operations and that UP is continuing to enhance its operations on the current line within the United States. (Id. at 3-4.) UP informs the Board that it "began using international crews on November 20, 2025, which allowed it to shift most crew changes from the [current] bridge to Clark's Park Yard," that it plans to construct a new lead at the north end of Clark's Park Yard, and that it anticipates the construction of a second main line from the border to begin as early as 2028. (Id. at 3.)

BNSF responds that its crew changes occur on the current bridge and that it has been participating in preliminary discussions with GER and providing comments regarding certain design aspects that have been shared with BNSF. (BNSF Suppl. 1-2.) BNSF states that it is important BNSF has equal access to the Line and that the preliminary plans shared by GER with BNSF indicate that GER intends to provide equal access to BNSF and UP. (Id. at 2.)

DISCUSSION

Rail Transportation Policy Analysis. The construction and operation of new railroad lines require prior Board authorization, either through a certificate under 49 U.S.C. 10901 or, as requested here, an exemption under 49 U.S.C. 10502 from the prior approval requirements of section 10901. "In either case, the [statute] expresses a

clear presumption in favor of approving railways.” Seven Cnty. Infrastructure Coal. v. Eagle Cnty., 605 U.S. 168, 194 (2025) (Sotomayor, J., concurring); see also N. Plains Res. Council v. STB, 668 F.3d 1067, 1091-92 (9th Cir. 2011) (agreeing that there is a statutory “presumption for construction”); Mid States Coal. for Progress v. STB, 345 F.3d 520, 552 (8th Cir. 2003) (same). Section 10901(c) directs the Board to grant rail construction proposals unless it finds the proposal “inconsistent with the public convenience and necessity.” 49 U.S.C. 10901(c); see Mid States, 345 F.3d at 552 (quoting current 49 U.S.C. 10901(c)); Alaska R.R.—Constr. & Operation Exemption—a Rail Line Extension to Port MacKenzie, Alaska, FD 35095, slip op. at 5 (STB served Nov. 21, 2011) (addressing the Board’s construction exemption process), aff’d sub nom. Alaska Survival v. STB, 705 F.3d 1073 (9th Cir. 2013).

Under section 10502(a), the Board shall, to the maximum extent consistent with Title 49, subtitle IV, part A, exempt a transaction when the Board finds that:

(1) application of a statutory provision is not necessary to carry out the RTP of 49 U.S.C. 10101; and (2) either (A) the proposal is of limited scope, or (B) application of the provision is not necessary to protect shippers from an abuse of market power. Congress thus has directed the Board to exempt a rail construction proposal from the requirements of the full application process—even if significant in scope—so long as the application of section 10901 is not necessary to carry out the RTP and not needed to protect shippers from market power abuse. See Alaska Survival, 705 F.3d at 1082-83; Vill. of Palestine v. ICC, 936 F.2d 1335, 1337, 1340 (D.C. Cir. 1991).

Proceeding type. According to UP, the Board should deny GER’s petition and require it to file an application if GER wants to move forward with its project. (UP Comment 14.) UP argues that the Line would impose costs on UP, BNSF, and shippers for a line that would be duplicative, inefficient, and financially infeasible, rendering the Line unsuitable for consideration under section 10502. (Id.) UP argues that the Line

would undermine the RTP, citing 49 U.S.C. 10101(3)-(5), (9), and (14). (UP Comment 12-15.)

UP points to Board statements regarding the benefits of eliminating interchanges and claims that by inserting a duplicative line and a third carrier into the current cross-border route at Eagle Pass, GER would raise transportation costs and reduce service quality. (UP Comment 12-14.) According to UP, this would weaken UP's and BNSF's ability to use Eagle Pass to compete with CPKC's Laredo crossing. (Id. at 13.) UP further argues that GER will increase costs for UP and shippers because GER is not constructing sufficient infrastructure to avoid disruptions to rail traffic. (Id. at 13-14.) UP contends that the duplicative nature of the Line and the additional costs would be inconsistent with the section 10101(9) policy of encouraging honest and efficient management of railroads. (Id. at 14.) UP claims that the Line would undermine sections 10101(3)-(5) because the viability of the Line depends on UP and BNSF agreeing to move their Eagle Pass traffic to the Line, but UP states it will not agree to do that. (Id. at 13-14.) UP argues that the current route provides sufficient capacity, but that UP has plans for infrastructure and operational improvements regardless. (Id. at 14.) Finally, citing section 10101(14), UP argues that the Line would undermine energy conservation because, while GER's route between its proposed connection to Union Pacific's line and the border will be shorter than Union Pacific's route between the same point and the border, GER's proposed route between the connection and Ferromex's Rio Escondido Yard is longer than Union Pacific's current route, resulting in a net increase in fuel consumption. (Id.) Similarly, EPBC argues that the Board should require a full application "and address water quality, air quality and human health risks."⁵ (EPBC Comment 14.)

⁵ GER argues that EPBC does not adequately demonstrate its interest in this proceeding. (GER Reply 6, Sept. 22, 2025.) EPBC states that it is a non-profit

As discussed below, the Board has sufficient information in the record to consider GER's petition and conclude that an exemption is warranted under section 10502(a). See Townline Rail Terminal—Constr. & Operation Exemption—in Suffolk Cnty., N.Y., FD 36575, slip op. at 6-8 (STB served Nov. 15, 2023). As a threshold matter, if GER is unable to negotiate an agreement with UP, presumably one that addresses UP's concerns regarding operational issues, transfer costs, and competition, the Line will not be built. GER has repeatedly stated that construction and operation of the Line is not viable without agreements with UP and BNSF to shift their traffic to the Line, and GER has explicitly stated that it will not begin constructing the Line absent such agreements. (Env't Comment EI 34039, GER Letter 5; GER Suppl. 7.) OEA's environmental and historic review accordingly relied on GER's representation that the rail traffic at Eagle Pass would be rerouted to GER's proposed Line for this proposal to come to fruition. (See Final EIS at O-2; Env't Comment EI 34039, GER Letter 5.) In addition, GER stated in its presidential permit application that the Bridge "will connect directly to [the Libramento Norte] bypass to reroute commercial vehicle and freight rail traffic outside of urban areas," (Pet., Ex. B at 45), and the presidential permit mandates that "[t]he permittee shall make no substantial change" to the operations authorized by the permit without approval from the President, Presidential Permit, Art. 12.

The Board considers GER's repeated on-the-record statements that it will not construct and operate the Line without reaching agreements with UP and BNSF as

organization that "works to ensure a future in which frontline communities are no longer isolated or voiceless from state or federal decision making that affect our home, where we have an active role in the evolution of our community and preservation of our culture." (EPBC Comment 1). The Board will permit EPBC to participate in this proceeding given its uncontested role in advocating for communities potentially affected by the Line. See City of Phila.—Pet. for Declaratory Ord., FD 36768, slip op. at 5 (STB served Sept. 24, 2025) (explaining that "intervention is discretionary" and denying participation due to lack of interest (citing Knauf Fibre Glass GmbH v. Alton & S. Ry., NOR 39739 (ICC served May 9, 1986))); see also 49 C.F.R. 1101.2(d).

material to GER's proposal. The Board has relied on this representation in its assessment of the petition and record below. In the event GER seeks to change its proposal with regard to whether it would construct the Line without an agreement from both UP and BNSF, GER is obligated to inform the Board prior to commencing construction so that the Board may assess the changes and take any appropriate action. The Board will also require GER to file a status report in six months on the progress of the Project, followed by annual status reports thereafter. Those status reports must include updates on the progress of negotiations with UP and BNSF.

Under these circumstances, requiring an application would not have resulted in a different analysis of the issues raised by EPBC and UP. As noted above, a clear presumption exists in favor of construction projects, whether an applicant seeks Board authorization by filing an application under section 10901 or, as GER has done, by filing a petition for exemption under section 10502. See Seven Cnty., 605 U.S. at 194 (Sotomayor, J., concurring); N. Plains, 668 F.3d at 10901-92; Mid States, 345 F.3d at 552. Section 10901(c) directs the Board to grant construction authority for proposals that are not deemed "inconsistent with the public convenience and necessity." See Mid States, 345 F.3d at 552 (emphasis omitted). Here, through its petition, GER has demonstrated that its proposal serves the public interest, if carried out subject to the environmental conditions imposed by the Board. In addition, as the record shows, an extensive environmental review was conducted by OEA in its preparation of an EIS—the level of environmental review that the Board has often conducted in rail construction projects, regardless of whether the applicant files an application under section 10901 or a petition for exemption under section 10502. That process included a thorough analysis of the potential environmental issues and a reasonable range of alternatives for the Line (given GER's representations) and included ample opportunity for public participation and input.

Given this framework and a record that shows the benefits of the Line, a formal application is not required and would be inconsistent with Congress's directive that the Board exempt such proposals to the maximum extent consistent with Title 49, subtitle IV, part A.

Analysis under section 10502. As noted above, the Board must exempt a proposed rail line construction when it finds that application of the provisions of section 10901 is not necessary to carry out the RTP and not needed to protect shippers from market power abuse. Based on the record here, the Board concludes that the proposed construction qualifies under section 10502 for an exemption from the prior approval requirements of section 10901.

First, construction and operation of the Line would help meet the needs of the public by fostering and enhancing the development and continuation of a sound rail transportation system with effective competition between rail carriers and other transportation modes and would help ensure sound economic conditions in transportation and cooperation between carriers. 49 U.S.C. 10101(4), (5). Although, as UP contends, GER's proposal to construct and operate the Line would increase the number of carriers required to complete the cross-border movement and might create additional operational complexity, (UP Comment 7-11), GER has repeatedly represented that it would not construct the Line without reaching agreement with UP and BNSF for their Eagle Pass traffic to move to the Line post-construction. The Board believes both Class Is have ample experience in railroad management and the capabilities to negotiate cooperative deals with other carriers in advance of their own interests and can refuse to enter agreements with GER if operational issues cannot be resolved.

Further, any additional operational complexity could be offset by other beneficial features of the Line that would improve safety, security, capacity, and fluidity at Eagle Pass, thus addressing concerns identified in the BTMP. Capacity and fluidity would be

enhanced by double-tracking, the absence of at-grade crossings, and the use of international crews that would not need to stop on the Bridge. Moreover, safety and security at Eagle Pass would be improved through GER's plans to fence, monitor, and patrol the Project premises and operate trains continuously so they need not stop on the Bridge. GER also proposes to provide CPB and ANAM with equipment to conduct non-intrusive inspections of all rail cars crossing the border, further enhancing these benefits. These benefits could make Eagle Pass a more attractive option for shippers and improve competition with CPKC's crossing at Laredo.

Although UP alleges that shipping rates might be impacted due to GER's costs of building and operating costs, those concerns are speculative⁶ and could, in theory, apply to any construction project. GER has indicated that it continues to seek financing options, including grants, to minimize impact on shippers and that Board approval of the Line is critical to that effort.⁷ (GER Suppl. 3.) GER further notes that the Line offers the possibility of better cross-border service at Eagle Pass if it is ultimately built and operated in cooperation with the Class Is, believing that the improved speed, consistency, fluidity, and security could ultimately contribute to lower total logistics costs by reducing in-transit inventory carrying costs, damaged or stolen goods, and production disruptions. (Id.) Moreover, with the goal to enhance competition with Laredo, plus GER's stated intention to provide a neutral service that provides a value-add for shippers, the Board expects the Line could be attractive for shippers given the new potential benefits. On top of these potential benefits, the Board notes the Project, having received a presidential

⁶ GER states that project costs could be offset by U.S. and Mexico infrastructure grants. (GER Suppl. 2-3.)

⁷ GER also represents that it would not construct the Line without obtaining agreement from UP and BNSF to move their Eagle Pass traffic to the Line post-construction.

permit, has been reviewed for its service in the foreign policy interests of the United States. See Exec. Order No. 13867.⁸

Second, the Line would also promote the operation of transportation facilities and equipment without detriment to public health and safety. 49 U.S.C. 10101(8). In addition to the Line's above-noted safety and security improvements, there would be minimal environmental impacts—and in some cases, environmental benefits—with the final environmental mitigation conditions recommended by OEA, as explained below. And by reducing the travel distance within the United States, number of stops, and idle time, the Line would increase energy efficiency, thereby encouraging and promoting energy conservation.⁹ 49 U.S.C. 10101(14); (Final EIS 3-50).

Third, exempting the proposed construction and operation from the requirements of section 10901 would promote the RTP by minimizing the need for regulatory control over the rail transportation system and reducing regulatory barriers to entry. 49 U.S.C. 10101(2), (7). Other aspects of the RTP would not be adversely affected.

Consideration of the proposed construction and operation of the Line under section 10901 also is not necessary to protect shippers from an abuse of market power.¹⁰ As explained, the Line could improve shippers' competitive options by expanding rail capacity and providing a more efficient rail crossing at Eagle Pass to better compete with the CPKC Laredo Port of Entry. GER expects to provide neutral interchange service to

⁸ The Board need not consider UP's argument that the Line will not be financially viable if less than all cross-border traffic moves to the Line post-construction, (UP Comment 10-11), because GER has represented that it will not start construction without agreements with UP and BNSF to shift all their Eagle Pass traffic. As discussed above, the Board considers this representation material to the proposal.

⁹ While UP argues that additional mileage on the Mexican side of the proposed route will undermine energy conservation, the Board's jurisdiction is limited to the Line itself and its effects. 49 U.S.C. 10501(a)(2)(F).

¹⁰ Given this finding regarding the lack of need for shipper protection, the Board need not determine whether the transaction is limited in scope. 49 U.S.C. 10502(a)(2).

UP and BNSF, and again, the Line will not be built without those carriers' agreement.¹¹ Furthermore, the Board's predecessor, the Interstate Commerce Commission, has previously explained, "[i]n determining whether regulation is necessary to protect shippers from an abuse of market power, a significant consideration is whether the participating shippers actually seeking transportation are concerned about an abuse of market power." Rail Gen. Exemption Auth.—Pet. of AAR to Exempt Rail Transp. of Selected Commodity Groups, 9 I.C.C.2d 969, 973 (Sept. 17, 1993). No shippers have opposed GER's petition, let alone expressed any concern about a carrier potentially abusing its market power here.

Environmental Analysis. NEPA requires federal agencies to examine the environmental impacts of proposed federal actions and to inform the public concerning those effects. See Balt. Gas & Elec. Co. v. Nat. Res. Def. Council, 462 U.S. 87, 97 (1983). Under NEPA and related environmental laws, the Board must analyze environmental impacts prior to deciding whether to authorize the construction of a new rail line as proposed, deny the proposal, or grant it with conditions (including environmental mitigation conditions). Lone Star R.R.—Track Constr. & Operation Exemption—in Howard Cnty., Tex., FD 35874, slip op, at 4 (STB served Mar. 3, 2016). The Board has "substantial discretion" in assessing the facts relevant to its environmental review and the relevant impacts. Seven Cnty., 605 U.S. at 181. It also has "broad latitude" to "draw a 'manageable line'" regarding the scope of its inquiry. Id. at 182

¹¹ In response to questions about the possible removal or decommissioning of the rail line in Mexico connecting Ferromex to the UP International Railroad Bridge at Eagle Pass, see Green Eagle R.R., FD 36652, slip op. at 3-4 (STB served Jan. 30, 2026), GER confirmed "Mexico's strategic desire to reroute rail traffic away from the city center and along the path proposed by the GER corridor." (GER Suppl. 5.) The Board's analysis of the Project could be impacted should the Ferromex line in Mexico be removed or decommissioned, or planned for removal or decommissioning, which would leave UP and BNSF with no choice but to agree to shift their traffic to GER and/or to keep their traffic on GER. Should such removal or decommissioning occur, the Board would consider reopening this proceeding to assess whether further Board action is warranted.

(citing DOT v. Pub. Citizen, 541 U.S. 752, 767 (2004)). NEPA does not require that the Board evaluate potential environmental effects arising from “future or geographically separate projects,” “particularly” those over which the Board does not “exercise regulatory authority.” id. at 186-89; see also id. at 186-87 (“Importantly, the textually mandated focus of NEPA is the ‘proposed action’—that is, the project at hand—not other future or geographically separate projects that may be built (or expanded) as a result of or in the wake of the immediate project under consideration.”) (citing 42 U.S.C. 4332(2)(C)).

Moreover, while NEPA prescribes a process that must be followed, it does not mandate a particular result. See id. at 177 (citing Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989)). Nor does NEPA otherwise impose any “*substantive* constraints on the agency’s ultimate decision to build, fund, or approve a proposed project.” Id. at 180 (emphasis in original); see also Robertson, 490 U.S. at 350-51. Rather, in making such decisions, the Board may “weigh environmental consequences as [it] reasonably sees fit under its governing statute and any relevant substantive environmental laws.” See Seven Cnty., 605 U.S. at 173, 177 (citing Robertson, 490 U.S. at 350).

There has been a thorough environmental and historic review here. On March 29, 2024, OEA published a Notice of Intent to Prepare an EIS and a Draft Scope of Study (Draft Scope) in the Federal Register and requested comments. 89 Fed. Reg. 22,204. During the subsequent comment period, OEA held three public meetings¹² and met with

¹² At each meeting, simultaneous translation and interpretation from English to Spanish and Spanish to English was provided. In addition, throughout the EIS process, all written materials were made available in both English and Spanish. Any comments received in Spanish were translated and addressed as appropriate.

relevant federal, state and local agencies to discuss the scope of the Project.¹³ After considering all comments received, OEA published a Final Scope in the Federal Register on July 8, 2024. 89 Fed. Reg. 55,995. Among other things, the Final Scope identified the purpose and need of the Project, summarized the comments received on the Draft Scope, and explained that, in addition to the No-Action Alternative, the EIS would evaluate two build alternatives.

OEA issued the Draft EIS on March 14, 2025. See Green Eagle R.R., FD 36652 (STB served May 20, 2025). The Line itself in the United States is the only part of the Project that requires licensing authority from the Board. However, because GER and PVH intend to construct and operate the Line and the associated CMV facility as a single port of entry for freight rail and CMV traffic, and because other federal agencies are relying on the Board's environmental review to meet their own environmental review requirements, the EIS analyzed the effects of constructing and operating the associated CMV facility along with the Line.¹⁴ The Draft EIS considered a No-Action Alternative and two build alternatives, the Southern Rail Alternative (GER's preferred alignment) and the Northern Rail Alternative. (Draft EIS 2-6.) Under either of the build alternatives, the Project itself would not generate new or additional traffic but would eliminate traffic going through downtown Eagle Pass by rerouting it from the UP mainline to the Line. (Id. at 2-15.) Both alternatives include approximately 1.3 miles of secure, double-tracked rail line extending from the existing UP mainline to the Bridge, as

¹³ The U.S. Coast Guard participated in the environmental review as a cooperating agency, and multiple other agencies participated as consulting agencies, including U.S. Fish and Wildlife Service (FWS), the International Boundary and Water Commission, the U.S. Department of State, and the U.S. Army Corps of Engineers.

¹⁴ Although the EIS analyzed the effects of constructing and operating the associated CMV facility, the Board lacks the jurisdiction to require mitigation for that facility. (Draft EIS 4-1.)

well as the associated CMV facility, which would be constructed in a flat area of undeveloped farmland. (Id. at 2-8 to 2-18, 3-85.)

The Draft EIS identified and evaluated the potential environmental impacts that the alternatives would have on freight rail safety, grade crossing safety, grade crossing delay, noise and vibration, air quality, energy, cultural resources, biological resources, water resources, land use, visual quality, roadway capacity, roadway safety, topography, geology, soils, hazardous waste sites, and socioeconomics. (Id. at 2-21, 3-1 to 3-2.) Overall, OEA concluded that the two build alternatives would have similar impacts. OEA ultimately concluded that the Southern Rail Alternative would be the environmentally preferable option, noting that the potential impacts of that alternative would be similar to, or less than, those of the Northern Rail Alternative, except for visual impacts. (Id. at 2-21 to 2-22.) OEA determined that the lesser impacts of the Southern Rail Alternative on noise and water resources would compensate for its greater visual impacts. (Id.)

OEA concluded that the environmentally preferred Southern Rail Alternative would provide beneficial impacts on freight rail safety, grade crossing safety and delay, air quality, and energy. (Id. at 3-7, 3-10, 3-13, 3-48, 3-50.) In particular, as noted above, relocating all freight traffic from the UP mainline to the Line would have a beneficial impact on grade crossing delays because current delays at all existing public at-grade crossings in Eagle Pass would be eliminated. (Id. at 3-13.) The Southern Rail Alternative would impact species listed or proposed for listing under the Endangered Species Act: the Texas hornshell (a mussel species listed as endangered), the Mexican fawnsfoot (a proposed endangered mussel species) and the monarch butterfly (a proposed threatened species). (Id. at 3-65.) Accordingly, OEA coordinated with FWS and developed two mitigation measures that it recommends to ensure compliance with

Section 7 of that Act (16 U.S.C. 1536), as well as the Migratory Bird Treaty Act (16 U.S.C. 703-712). (See Draft EIS 3-65, 4-3.)

OEA found that operation of the Southern Rail Alternative would cause severe noise impacts to three noise receptors in the vicinity of the Barrera Street Bridge. (Id. at 3-34.) However, with OEA's recommended noise mitigation measures, there would be no severe noise impacts.¹⁵ (See id. at 3-42, 4-2.) Furthermore, because the Southern Rail Alternative would reroute rail traffic out of downtown Eagle Pass, it would eliminate existing severe noise impacts to 1,980 receptors. (Id. at 3-42.) OEA also found that the Southern Rail Alternative would have minor impacts on water quality due to ground disturbance during construction. (Id. at 3-77 to 3-78.) Finally, in consultation with the Texas State Historic Preservation Officer (SHPO), OEA determined that the Southern Rail Alternative and the associated CMV facility would have no adverse effect on National Register of Historic Places-eligible properties, as none are present in the Project's Area of Potential Effects. (Id. at 3-54.) However, because archeological resources may be present deep underground in the floodplain, OEA recommends mitigation requiring GER to conduct archeological surveys prior to constructing the Bridge piers and to provide a construction monitoring plan.¹⁶ (Id. at 3-54, 4-2 to 4-3.)

On August 6, 2025, OEA issued a Final EIS. OEA received 104 written and verbal comments on the Draft EIS from 92 unique commenters, and OEA responded to

¹⁵ During the EIS process, GER stated that it intends to install 20-foot-high noise barriers on both sides of the tracks between the inspection facility and the western end of the Stormwater Channel Bridge, except on the Barrera Street Bridge and the U.S. 277 Bridge. (Final EIS 3-34.) OEA determined that the gaps in the noise barriers on those two bridges would cause severe impacts to three noise receptors along the Southern Rail Alternative. (Id.) Given the severe impacts to those noise receptors, OEA recommends mitigation requiring GER to install noise barriers on both sides of both bridges as well. (Id. at 3-34, 4-2.)

¹⁶ OEA also concluded that the Line and the associated CMV Facility would have no impact or minimal impacts on the following resource areas: Topography, Geology, Soils, and Hazardous Waste Sites; and Socioeconomics. (Final EIS App. I & L.)

all substantive comments in the Final EIS. (See Final EIS, App. O.) Where appropriate, OEA clarified information and explained its analyses contained in the Draft EIS. (See id.) For example, several commenters claimed that the Draft EIS unreasonably assumed all freight traffic via Eagle Pass would use the Line. (See id. at O-2 to O-3, O-6 to O-7.) OEA responded, noting GER's representation that it would not construct or operate the Line if it is unable to attract all cross-border freight traffic moving through Eagle Pass, which GER has since reiterated. (Id. at O-2 (citing Env't Comment EI 34039, GER Letter 5); see also GER Suppl. 7.) Therefore, OEA reasonably analyzed the Line based on the assumption that GER would move all freight traffic at Eagle Pass between Mexico and the U.S. (Final EIS at O-3.) And, as discussed above, GER's representation is material to its proposal and to the Board's analysis, such that GER is obligated to inform the Board prior to construction if there are developments that change this representation. In response to a comment about impacts from the portion of the Project that would be located in Mexico, OEA explained that the scope of the Project over which the Board and other federal agencies have jurisdiction is the portion within the United States and, as a result, an analysis of impacts within Mexico is unlikely to yield information that would be useful to the Board's decision-making process. See Seven Cnty., 605 U.S. at 183. OEA further noted that Mexico has its own environmental permitting processes to which the Project would be subject. Ultimately, none of the comments required additional analysis or substantive changes to the Draft EIS. (Final EIS at S-5.)

As noted above, after OEA issued the Final EIS, EPBC filed a comment challenging the adequacy of the EIS. (See EPBC Comment.) Much of EPBC's concerns relate to the U.S. Army Corps of Engineers' (USACE) and the Texas Commission on Environmental Quality's (TDEC) permitting and certification processes under Sections 404 and 401 of the Clean Water Act (CWA) (33 U.S.C. 1341 and 33 U.S.C. 1344), which EPBC conflates with the requirements of NEPA. (See EPBC Comment 3-7, 9-11, 13-

14.) As explained in the EIS, these processes are separate from the Board's NEPA and approval processes. (Final EIS at 1-3 to 1-5, 3-66, 4-1, O-15 to O-19.) GER would be required to complete the permitting processes and execute any reasonable permitting requirements of other agencies, including USACE and TDEC, pursuant to their regulatory schemes. (Id. at 1-5, 3-69, 3-72, 3-74, 4-1.) Further, OEA addressed potential impacts to water resources in the Final EIS and found that these impacts would not be significant and would be minimized due to existing regulatory requirements. (See id. at 2-25, 3-66 to 3-78, O-17 to O-19 (addressing water quality impacts and the location within the 100-year floodplain but still finding minimal impacts).)

The remainder of EPBC's comment largely reiterates issues that were already raised during the environmental review process and addressed in the EIS.¹⁷ (See id. at 3-95 (addressing past, present, and reasonably foreseeable future projects and actions that might have impacts that could combine with the impacts of the Line); 2-22, 2-24 to 2-25, 3-54 to 3-66, 4-3 (addressing potential impacts to ecosystems, including on plant communities and wildlife habitat in the portion of the Rio Grande watershed affected by the Line and recommending mitigation); 3-42 to 3-48, App. H, O-5, O-12 to O-13 (addressing impacts on air quality, finding only temporary, localized, and below *de minimis* impacts from construction-related emissions and reduced operation-related emissions); 3-27 to 3-42, 4-2, App. G, O-11 to O-12 (addressing noise impacts and recommending mitigation); 3-15 to 3-22, App. E, O-11 (addressing and finding no impacts to roadway capacity with the installation of a traffic signal); 1-1 to 1-3, 2-7, O-6 (explaining how the Line would serve the stated purpose and need); 1-7, O-7 to O-8 (concluding that additional public meetings were not warranted or required by NEPA).)

¹⁷ EPBC also claims that the Line is not in the public interest. (EPBC Comment 5, 11-12.) This issue relates to the transportation merits of the Line and is addressed above.

OEA determined whether mitigation would be necessary to address potential impacts resulting from the Line, and contrary to EPBC's claims, the recommended mitigation measures are reasonable and adequate. (Id. at 4-2 to 4-3.)

After reviewing the entire environmental record, the Board is satisfied that OEA has appropriately examined the potential environmental impacts associated with the proposed construction and operation of the Line. The EIS (Draft and Final) adequately identified and assessed the environmental impacts of the Line, carefully considered a reasonable range of alternatives (including the No-Action Alternative), and recommended mitigation measures to avoid or minimize potential environmental impacts. Accordingly, the Board will adopt the analysis and conclusions made by OEA in the EIS, including OEA's final recommended environmental mitigation measures set forth in the Appendix to this decision. For the reasons explained in the EIS, the Board finds that the Southern Rail Alternative—OEA's environmentally preferred alternative—best satisfies the purpose and need for the Line while minimizing potential impacts on noise and water resources when compared to the Northern Rail Alternative. The Board's exemption will be granted for the Southern Rail Alternative, as indicated below.

CONCLUSION

Construction and operation of the Line in the manner presented by GER would offer shippers a more fluid freight rail option crossing the U.S.-Mexico border, which would increase safety and security. These improvements may, in turn, encourage competition with other border crossings, foster strong economic conditions in transportation and enhance the development and continuation of a sound rail transportation system. In light of GER's material representation that it will not begin construction absent agreements with UP and BNSF to shift their Eagle Pass traffic to the Line post-construction, shippers will be protected from the potential operational issues that might result from adding another carrier to the traffic pattern at issue here. Those

agreements will also help ensure shipper access to each interchange partner. And with OEA's final recommended mitigation, any potential environmental impacts will be minimized.

After carefully considering the transportation merits and environmental issues, the Board, considering the entire record, finds that GER's petition for exemption under section 10502 should be granted. The Board is authorizing construction and operation of OEA's recommended environmentally preferred alternative—the Southern Rail Alternative—as proposed, subject to compliance with the environmental mitigation measures in the Appendix.

It is ordered:

1. Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 10901 GER's construction and operation of the Southern Rail Alternative for the above-described Line.
2. The Board adopts the environmental mitigation measures set forth in the Appendix to this decision and imposes them as conditions to the exemption granted here.
3. GER must file a status report as directed by October 22, 2026, then annually thereafter.
4. Notice will be published in the Federal Register.
5. Petitions for reconsideration must be filed by May 12, 2026.
6. This decision is effective on the date of service.

Decided: April 22, 2026.

By the Board, Board Members Fuchs, Hedlund, and Schultz.

Eden Besera,

Clearance Clerk.

APPENDIX

Noise

MM-Noise-01. GER shall install noise barriers on both sides of the proposed U.S. 277 and Barrera Street bridges to address the severe noise impacts on three receptors that OEA identified. (See Final EIS, Receptors 38, 41, and 42 in *Chapter 3, Affected Environment and Environmental Consequences, Figure 3.6-5.*)

Cultural Resources

MM-Cultural-01. Prior to drilling piles for new bridge piers on the rail line, GER shall conduct additional archaeological surveys via deep mechanical trenching of floodplain areas in the Area of Potential Effects to confirm the presence or absence of deeply buried archaeological deposits.

MM-Cultural-02. GER shall prepare and provide to OEA a construction monitoring plan no later than 30 days prior to the start of construction of the rail line and abide by the provisions of the plan, including any revisions by OEA, during rail construction activities. The plan shall address the following:

1. Training procedures to familiarize construction personnel with the identification and appropriate treatment of historic properties;
2. Monitoring of rail construction activities by a qualified professional archaeologist;
3. Provisions for the unanticipated discovery of archaeological sites or associated artifacts during construction activities, including procedures for notifying OEA and the Texas Historical Commission (THC) or Tribal Historic Preservation Officer (THPO), pursuant to 36 CFR 800.13(b), in the event of an unanticipated discovery; and
4. Provisions for complying with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001-3013) and other applicable federal, state, and

local laws and regulations in the event of an unanticipated discovery of unmarked human remains during rail construction activities.

Biological Resources

MM-Biological-01. To ensure compliance with Section 7 of the Endangered Species Act (16 U.S.C. 1536), GER shall implement the conservation, minimization, and mitigative measures developed with the U.S. Fish and Wildlife Service (USFWS) during the Section 7 consultation process for the protection of the federally listed or proposed threatened and endangered species that could be affected by the rail line, as stipulated in the letter from USFWS to OEA dated June 16, 2025, and the biological assessment prepared by OEA. (See Final EIS, App. K.)

MM-Biological-02. To ensure compliance with the Migratory Bird Treaty Act (16 U.S.C. 703-712), GER shall clear vegetation in preparation for construction of the rail line before or after the breeding bird nesting season to avoid inadvertent removal of active nests (i.e., nesting adults, young, or eggs). If clearing is required during nesting season, GER shall consult with OEA and USFWS on appropriate nest survey methods for that area prior to any clearing or construction activities.

[FR Doc. 2026-08098 Filed: 4/23/2026 8:45 am; Publication Date: 4/24/2026]