

DIRECT TESTIMONY ON CCN AND EA

Q: Are you familiar with SHECO's CCN which includes the PBS&J Environmental Assessment?

A: Yes, I am.

Q: What is your opinion in regard to the accuracy of the document filed under Control Number 29705 Item Number 2 (The CCN + EA)?

A: I discovered numerous errors and omissions that would tend to distort and negate positive values associated with Route 1 and distort and inflate positive values associated with Route 9.

Q: Can you give me just an overview of what you consider the main problem with the document is?

A: The thing that puzzles me the most is the overall bias against all of the factors that the Legislature has asked to be considered in evaluating and comparing alternative routings.

Q: Please shed a little light on what you mean?

A: At this point I will give one blatant example of SHECO selecting the least desirable alternative. The rules require that "prudent avoidance" be given consideration and on page 12 of the CCN, it states that one of the "principal criteria" is "avoiding residential and commercial development". I have located 17 current "habitable structures" along Route 9 plus it and the other FM 980 routes are directly in the path of "residential and commercial development." Route 1, on the other hand encroaches upon not even one habitable structure and would go through cut-over timber land, abandoned sub-divisions that were never developed, cow pastures, clear-cuts, and cellulose plantations, in other words a routing that is the least likely to ever encroach upon habitable structures. On the contrary, someone would have to wittingly encroach upon the transmission line with a habitable structure sometime in the future. It would then be the developer who would not be prudent in avoiding the transmission line.

Q: Does the CCN require analysis of each habitable structure?

A: Yes. On page 15, the CCN states: "Provide a general description of each habitable structure and its distance from the centerline of the proposed project."

Q: Did the EA accomplish this task in an accurate manner?

A: No. Table 6-2 superficially lists only 10 out of 15 habitable structures located within 300' of the centerline of the proposed line or the current distribution line.

Q: Are the distances listed in the Table accurate?

A: No.

Q: How do you know for sure?

A: I used a Professional Series Rolatape to measure the distances from each habitable structure to the center line of the current distribution line and to the center line of FM 980 and created a Table (attached)

Q: Can you provide me with an example of lack of accuracy in Table 6-1?

A: Yes. As it is definitely possible to identify #21, I will use the commercial offices of Barbara D. Graves Real Estate. The distance listed in Table 6-1 is 180 feet. My measurement revealed that the building is only 21 feet from the center line of the distribution line and 82' from the centerline of FM 980. As SHECO claims that perhaps the main reason that it wants to run the transmission line is the existing easement associated with the existing distribution line, we should therefore assume that the transmission will be almost directly over Barbara Graves' office. If on the other hand SHECO flip-flops the transmission line across FM 980 and thus must acquire 100% new ROW, then the line would be 60 feet further away or 142 feet --not 180 feet as claimed by SHECO.

Q: While we are examining this table what about the accuracy of the listing of Land Use Features on Table 6-1?

A: There are numerous Land Use Features that were left off of the table entirely including Zwickey Creek Wildlife Sanctuary, The Holy Trinity Wilderness Cathedral, The Beaver and River Otter Sanctuaries, The Catahoula boulders associated with Native American Religious ceremonies, The Russell-Fritz Longleaf Pine Sanctuary that is also a designated Texas Historical Commission State Archaeological Landmark and a Texas Forest Service Aesthetic Management Zone Special or Unique Area as well as the FM 980 crossing in two places of The Texas Parks and Wildlife Prairie and Piney Woods Waterwood Trail. Also left off is the beautiful forested Waterwood Parkway crossing of FM 980 with its attractive rock and marble sign announcing the entrance to Waterwood. Grace Baptist Church is listed but not the 19th century log Chapel of the Nativity with its three bells, including a huge 1891 bell and the TPWD trail that leads to a rare rock waterfall set amongst ancient trees and a rock and boulder lined creek.

Q: Perhaps PBS&J wasn't aware of the existence of these special Land Use Features. Do you have any reason to believe that PBS&J was aware of the features missing from Table 6-1?

A: Yes, I know for a fact that I personally took both SHECO staff members and PBS&J staff members on tours of our Chapel, preserves and sanctuaries, as well as to The Holy Trinity Wilderness Cathedral. As I was attempting to show them the value of these features along FM 980 as opposed to the lack of features along Route 1, I made certain that they were made aware of current features, the foundation and plans for our Crystal

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Chapel, my observations of and other evidence of threatened and endangered species that would be negatively impacted on our preserves and our future plans for a school and environmentally friendly commercial development.

Q: Is there any PBS&J staff member who was invited to tour the Russell and Church properties who refused the invitation?

A: Yes.

Q: Who was that person?

A: Team leader, Rob Reid, who told me he had driven past our preserves and sanctuaries and didn't see anything worthy of protection.

Q: Did you explain to Mr. Reid about the "edge effect" and how the presence of young saplings and thick bushes along the roadway edges would obscure the internal environmental features?

A: I attempted to, but Mr. Reid was singularly disinterested other than in promoting routings along FM 980 at the public meeting held at Waterwood, and vowing that a 980 routing would happen no matter what.

Q: Are there any other items of concern, not listed on Table 6-1 or elsewhere in the EA that you can think of?

A: When we purchased our first 1,000 or so acres of Waterwood in 1998, included in the purchase was over ½ of the mile long airstrip planned and partially constructed that was to serve the planned city. In 2000, we purchased the other half of the airstrip so that it could be included in our future development plans. This airstrip is about 6,000 feet from Route 9.

Another item of extreme concern is the entrance to one of the most pristine Farm to Market Roads in Texas. The road, which we call Cathedral Drive goes ½ mile into the heart of The Holy Trinity Wilderness Cathedral. Route 9 would despoil the entrance to this entrance to our Cathedral. In addition it appears that the EA failed to even document the existence of FM 135 due to the fact that the EA only lists two FM crossings altogether when in fact there would be three along Route 9.

We have been in contact with Texas Highways about doing a cover story on the beauties of FM 980 along our preserves as well as the totally untouched beauty of FM 135. We cannot even imagine Texas Highways ever considering a feature blighted by a huge 138 kv transmission line.

Another feature not listed is the emergency helicopter landing pad between Bass Boat Village and the Waterwood Marina. I have already submitted a photograph of an

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emergency helicopter testing the landing site. This landing pad is only about ½ mile from FM 980.

Q: Do you see any other problem with the accuracy of Table 6-1?

A: Yes. Another thing that concerns me is that the table lists The Ethician Family Cemetery as being 40 feet away from Route 9, when in fact Route 9 would encroach into the cemetery itself along its entire length which would be a clear violation of State Law.

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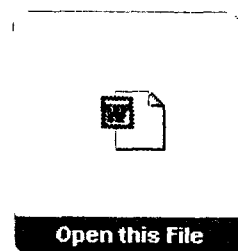
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Direct testimony per the RCW Recovery Plan attached.

We need someone with credentials who will back me up on this.

ghr

HAPPY NEW YEAR--BUT IT WILL BE HAPPY ONLY WHEN WE WILL HAVE SQUISHED SHECO

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DIRECT TESTIMONY ABOUT RCW RECOVERY PLAN

Q: Are you familiar with the Recovery Plan for the Red-Cockaded Woodpecker?

A: Yes I am.

Q: What does the plan say about the cause of the decline of the woodpecker?

A: On page 7, the plan states that the decline "was caused by an almost complete loss of habitat", and that "Longleaf pine ecosystems, of primary importance to the red-cockaded woodpeckers, are now among the most endangered systems on earth."

Q: Does a remnant Longleaf pine ecosystem survive on the Russell-Brize Westernmost Longleaf Pine Preserve and The Ethician Family Cemetery Perpetual Forest Preserve?

A: Yes.

Q: What does the plan say about the importance of cavities for the RCW?

A: On page 19 of the plan it states that cavities take a long time to construct and that habitat is often abandoned due to the loss of cavities. "Thus habitat lacking suitable cavities is poor quality, and habitat with existing, suitable cavities is high quality".

Q: Are there any RCW cavities on those properties?

A: Yes. Therefore we feel that our RCW habitat and Longleaf ecosystem is of high quality although in need of restoration.

Q: Have you done any work toward restoring the habitat and ecosystem.

A: I work on restoration at least five days a week for at least an hour or two either with my tractor, chain-saw, hand tools, or prescribed fire.

Q: Just how critical is the protection and preservation of cavity trees according to the plan?

A: On page 41, the plan states: "Each cavity tree is an important resource that must be protected..."

Q: Would Route 9 damage or destroy any RCW cavity trees on the preserves?

A: Yes. SHECO would bulldoze one cavity and hundreds of old-growth pines that provide the woodpecker with future cavity trees due to their age and the presence in several cases of red-heart fungus that makes cavity building easier for the birds.

Q: If a cavity tree appears to be abandoned is it no longer important to the recovery of the species?

A: The plan explains on page 72 the importance of checking for activity even if the cavity has been abandoned for five years.

Q: Do you think the cavities have been abandoned for more than five years?

A: No. There is evidence of relatively recent activity on one of the cavity trees that does not appear to be related to Pileated, Red-bellied, or Red-headed Woodpeckers. Furthermore, there is much recent activity on a cavity tree on adjoining property. In addition, there was evidence of a fresh RCW start hole on an ancient pine on our Chapel property.

Q: What else does the plan say about the importance of cavities and cavity trees?

A: On page 80, the plan states: "Loss of cavities and cavity trees was a primary cause of the decline of red-cockaded woodpeckers, and is a substantial threat currently."

Q: Why is the threat still significant since it appears that we are now focused on saving the bird from extinction?

A: Well, the plan on page 80 continues to explain the problem: "Today's forests simply do not contain sufficient numbers of mature and old growth trees for populations to remain stable or increase..."

Q: Do the Russell and Church preserves contain many of these old-growth trees essential to RCW survival?

A: Yes, we are protecting several thousand. Some of the oldest and finest and thus most important to RCW are located within 40' of SHECO's cleared 20' distribution and transmission line easement along FM 980.

Q: Would SHECO's plan to clear-cut an additional 40' along FM 980 hurt the chance of your program to restore the habitat and thus the population of RCW in Waterwood?

A: Yes, SHECO would kill over 80 rare old-growth pines along with a cavity tree on one acre alone.

Q: The average person would guess that there is plenty of habitat available on Federal and State Lands. Does the plan place any importance on RCW conservation on private preserves?

A: Absolutely! On page 119 of the plan it states: "Conservation of red-cockaded woodpeckers on privately owned lands is an important part of species recovery."

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Q: Are there any "community values" associated with protecting RCW on private lands?

A: Yes. On page 119, the plan goes on to state: "Red-cockaded woodpeckers on private lands have inherent ecological, cultural, and historical value."

Q: What does the plan say about mitigation?

A: On page 125 it states that private lands are the first priority for mitigation sites?

Q: Are your preserves available to receive woodpeckers in mitigation?

A: We would love to adopt woodpeckers that are threatened by logging or development.

Q: Would a permit be required before SHECO would be allowed to destroy a cavity tree?

A: According to page 276, #3, a permit would definitely be required, but since the tree is owned by the cemetery and we don't want it destroyed we can't understand how SHECO could even be granted a permit to destroy something that they don't even own. The permitting process is for developers or loggers who want permission to destroy cavity trees that are in their way. In this case no development is allowed by the terms of perpetual conservation easement.

Q: Does the plan offer say anything more about permitting required on private lands?

A: Yes. The plan is very specific about permit requirements on private lands: "Because of the potential for harass and/or harm under the definition of 'take' in the Endangered Species Act, the following activities require concurrence and/or a permit from the U.S. Fish and Wildlife Service...1. Removing and red-cockaded woodpecker cavity tree, through cutting, bulldozing, or any other activity...4. Constructing roads and utility rights-of-way within a cluster."

Q: What does the plan say about development within ½ mile of a cluster?

A: On page 294 the plan states that development "can" occur. "However, the level of development cannot reduce the available foraging substrate below the required standard of managed stability."

Q: What did David Lyter and Derek Green of PBS&J tell you about whether SHECO would be able to utilize Route 9, rather than Route 1, which is more than ½ mile away from the cavity trees?

A: One or the other, I can't remember which, told me not to worry because SHECO would be required to locate their line at least ½ mile away from our RCW cavity trees.

Q: Were you surprised when Route 9 was selected as the "preferred alternative".

A: I felt totally betrayed and "sucker punched".

Q: Do you think that SHECO's plans to destroy hundreds of old-growth pines along FM 980 would reduce the foraging habitat below critical levels of survival for the bird?

A: Yes I do.

Q: If "development" were allowed by the PUC, would SHECO still be able to clear an additional 40' according to the restrictions outlined in the plan?

A: I don't believe so as the plan clearly states on page 294 that "developments will strive to minimize clearing of rights-of-way..."

Q: Doesn't SHECO state that a 100' minimum ROW is required for 138 kv transmission lines?

A: SHECO states as such, but that makes no sense as Entergy in Walker County often utilizes much, much narrower ROW's for its similar lines including one ROW along one of my properties that is not more than 10' wide and another through forests measured at a total of 50'.

Q: What does the plan state about how to determine the presence or absence of activity?

A: On page 295, the plan states that several visits, especially in the proper season may be necessary to determine if a cavity or cluster is truly inactive.

Q: Did PBS&J follow the guidelines in the plan?

A: No. Two men came out for a couple of days which were not in the recommended season to look for RCW. I don't believe that they followed the guidelines except in a superficial way. However, since I was led to believe that I shouldn't worry about any FM 980 routing being acceptable I was not concerned.

Q: Do you believe that there has been any RCW activity during the last five years?

A: Absolutely. The plan on page 295 states that "if at least one cavity tree has fresh resin, the cluster is active."

Q: Have you seen fresh resin on one of the cavity trees in the Cemetery?

A: Yes and also on a start tree on the Chapel grounds as well.

Q: Are there any active clusters within a relatively short distance from the Cemetery?

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A: Yes. PBS&J told me about a recent sighting on an adjoining property. Recently I explored the area where the woodpecker was said to have been sighted and discovered three trees with fresh RCW activity.

Q: What does the plan say about the probable relationship between that active tree and the cemetery trees?

A: The plan on page 295 states that "active clusters nearby (within a few km, or mi) increase the probability that the cluster in question is active."

Q: Why does the season of investigation have any great importance in determining whether or not woodpeckers may be in the area?

A: On page 295, the states that "Red-cockaded woodpeckers may not spend as much time in the fall and winter on cavity and resin well maintenance...", and thus this factor should be considered in determining status of the bird.

Q: What else does the plan state about monitoring for RCW?

A: There is extensive guidance on page 296 that requires pretty extensive investigation over a long period of time "when it is not obvious that the cluster has been abandoned for a long time (several to many years)".

Q: Do you feel that SHECO's monitoring was adequate according to the requirements of the plan.

A: Definitely not.

Q: Do you feel that the woodpeckers will return even if they have left due to midstory encroachment or other factors causing a decline in habitat quality if the habitat is restored over time?

A: Yes, I do. And even if by chance the local remaining population is too small and inbreeding becomes a problem the plan still states that our habitat and cavity trees are extremely important for the re-introduction of the species or for mitigation.

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Cc : Carolyn Vogel <carolyn.vogel@lpwd.state.tx.us>, Karen Bautch <Karen.Bautch@cox-internet.com>

Subject : Re: Sam Houston Electric Cooperative Transmission Line

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Thank you very much for your positive response. I would love to take Ms. Bautch on a tour of our preserves and sanctuaries at any time. Good weather makes the visit much more enjoyable than bad. It is supposed to be cloudy tomorrow but around 70 degrees with no chance of rain. I will call her and see if she can come up tomorrow.

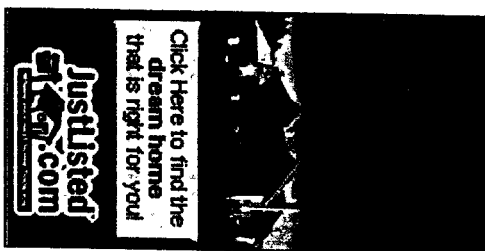
George

Kathy Boydston wrote:

Mr. Russell:

I apologize for not getting back to you on this project. Due to understaffing, the program has been several months behind on all our projects and reviews. I was out most of the month of November and part of December traveling so was unable to get back to you.

Dr. Ray Telfair, the staff person that reviewed the transmission line project has since retired from the Department and was just recently replaced with a younger more enthusiastic biologist. Her name is Karen Bautch and she is now working out of the Texas Parks and Wildlife Department (TPWD) office in Athens. Her number is 903-675-4447. I have faxed her the project information and description and let her know that you might be calling her. If you would like her to visit the site with you, I urge you to contact her and set up a time. She has only recently started with TPWD but she is very energetic, knowledgeable and willing to work to find the answers.



At the time Dr. Tellair reviewed the project, we were given only general information regarding where the proposed route would be, and no specific information at all regarding alternative routes. We also did not have access to information on what properties were under conservation easements. Since this project was reviewed, TPWD developed an internal website that shows where most of the conservation easements in Texas are located. Only in the last month were my program staff given access to that website due to the fact that we review projects across the state that could impact these easements.

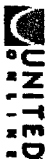
Again, I apologize for not getting back with you sooner. If you have any other questions, please do not hesitate to call myself at 512-389-4638 or Karen at the number listed above.

Kathy Boydston

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23 December 2004

Attn: Mr. Thomas, Tribal Chairman
 Alabama-Coushatta Tribe

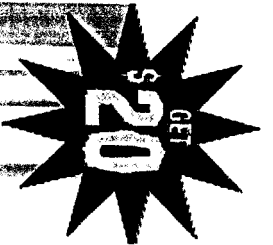
Subject: SHECO routing of 138 kv transmission line

Dear Mr. Thomas,

Thank you for taking time to visit with me by phone concerning an
 impending threat to a 131 acre Texas State Archaeological Landmark in
 San Jacinto County.

My 93 year-old father and 89 year-old mother cashed in their life
 savings in order to protect this special area and adjoining lands from
 desecration. The Texas Historical Commission voted to accept a
 perpetual conservation easement that should protect the landmark but in
 fact, it turns out that Texas statutes protecting our archaeological
 heritage have no teeth.

Sam Houston Electric Cooperative (SHECO) is obsessed with cutting a huge



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swath along the entire length of the landmark which would destroy what I consider to be one of the most significant sacred ceremonial areas in E. Texas in order to build a massive 138 kv transmission line.

I had long suspected that an outcrop of 35 million year old Catapoula boulders that rise above Pool Creek on this site had special significance related to the heavens and the seasons.

Low and behold, my theory turned out to be correct. On the evening of the Winter Solstice, the setting sun shown directly through a fissure between two boulders, thus marking the beginning of Winter and announcing the end of the waning days. This annual event would have had profound significance to Native American peoples, especially those whose lives depended on the success of the next season's crops.

SHECO is totally insensitive to our heritage, both natural and archaeological because the route they want to utilize would damage 7.2 miles of FM 980, one of the most beautiful drives in E. Texas. In addition it would damage Texas' first "green cemetery", Texas' only Beaver and River Otter Sanctuaries, The Holy Trinity Wilderness Cathedral, The Chapel of the Nativity, the Westernmost Longleaf Pine Sanctuary, a Texas Forest Service Prairie and Piney Woods Trail, a Perpetual Forest Sanctuary and the Zwicky Creek Wildlife Sanctuary.

There is an alternate route (Route 1) available to SHECO that would pass mostly through clear-cuts, cow pastures, an abandoned pipeline right-of-way, and would not harm any known natural or archaeological feature. Route 1 is actually 7/10 mile shorter than the route that would destroy the ceremonial site.

The routing case, styled Docket 29705, is now before the Public Utility Commission of Texas. I believe that if the Alabama-Coushatta Tribe would take a strong position in support of the protection of our Native American Cultural Heritage, and ask the PUC to require SHECO to run their transmission on alternate Route 1, then we may be able to save this irreplaceable Native American Religious Ceremonial site from being bulldozed.

I would love to take you on a tour of our Sanctuaries so that you can see first-hand what our family is trying to protect for the benefit and enjoyment of future generations.

Thank you very much for your kind attention to this important matter.

George H. Russell

2900000

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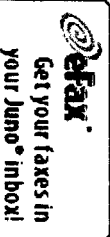
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To: KLR@CYBERCLONE.NET, David Bezanson-NAPA <napa@texas.net> eefritz <eefritz@hotmail.com> Gaudily Marine Service <quality@eastex.net>, George Russell <gh@cyberclone.net> Kelso King <kelsoking@aol.com> "B. Mannchen" <brandtshnfbt@juno.com>
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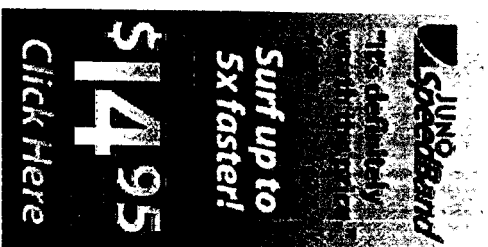
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1. I spent much of yesterday following Route 1, especially where it parallels, 980 while avoiding our refuges.
2. There are numerous small adjustments that could be made which would make Route 1 even better.
3. Beginning at the Staley substation the line should follow the Entergy 138 west a few hundred feet before heading south. By making this adjustment, intervenor Blake Kellum's pond could be avoided .
4. The route could then either head across \$800 per acre plantations or head down the open pipeline right of way until a couple of hundred yards from the entrance to Mr. Capers Cemetery. Then it could follow a woods road that parallels the pipeline ROW, thus being far enough away from the cemetery as to be unobtrusive.



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5. The crossing of Pool Creek would not damage wetlands or Lake Livingston as would the 980 Routing at Pool Creek at this point is just a trickle except in wet weather.
6. The line would then enter a large clearcut cow pasture until arriving at the "beauty strip" that lines Waterwood Parkway. This would avoid cutting the Waterwood subdivision in two as would the 980 route and avoid all human habitations and future habitations as the Jacinto Investments 6,000 acres is in the process of deplattling the old undeveloped subdivisions and resigning from the MUD District.
7. Directly across the Parkway the line would enter a 60 to 70' cleared roadway from an abandoned subdivision and travel down that roadway for 3/10 mile. Where the roadway turns a narrower wood's road continues on to the South for about 2/10 mile. The use of current cleared ROW would save having to clear a new pathway through the plantations.
8. From this point there are literally dozens of possible variations in routing through clear-cuts, pastures, county roads etc. to reach Point Blank.
9. I talked to Charlie Pierce whose wife is President of the Mt. Capers Cemetery Board. He says that she gave copies of my letter to all Board Members and that they are refusing to sign any further documents that Blake Kellum has asked them to sign. Someone did place survey stakes in such a manner as to make it seem that the power line would cross right through the middle of the cemetery. I suspect that the stakes were placed there because of a survey of 226 acres that borders the Molpus plantations but that the stakes were conveniently used by Kellum to frighten the cemetery folks into temporarily joining him.
10. I called SHECO Board Member Robert Leisner after having made two unsuccessful trips to Cold Spring to visit with him. He was quite polite but quite unwilling to come of a field trip so that he could see for himself the truth, rather than rely on what his staff has been telling him. He finally agreed to call Kyle Kuntz and see if he would be willing to meet with me along with him. I emphasized creating a "win-win" rather than a multi-year adversarial position between me and SHECO. I told him that I would be an ally rather than an adversary if SHECO would push Route 1. We ended out conversation in the same friendly way that it began. (I literally kissed his butt and stroked his ego as best I could while attempting to get him to respond positively to my invitation)
11. My father called is former student and SHECO Board President, Truitt Thompson. Thompson said he could not visit until after Christmas.

12.. I paid \$20 for a 1 month membership in a map service and ordered an aerial photo of the area. The photo appears to be more up to date than the SHECO photo but it is undated. It does show how much of the area has been clear-cut and converted to cow pastures. From my print-out of the photo one cannot distinguish between cut-over forest land, relatively pristine forest, or plantations. Perhaps the 20x30 photo I ordered for an additional \$50 will show better. \$70 for a more up to date color aerial photo is far better than \$1,000 for a copy of SHECO's out of date black and white photo. They could have spent \$70 instead of \$1,000, which is further proof of the waste of rate payer's money.

13. I have taken quite a bit of video footage. The last set of photos I sent were from video. I will print out some more today and send them to David F.

14. If necessary, I can produce a live-action video if David F. thinks that would be beneficial to the cause. That would cost several thousand extra \$\$ and lots of time so I don't want to waste money but don't mind doing it if it will help insure an win.

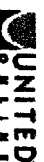
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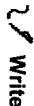
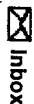
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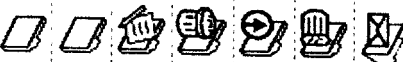
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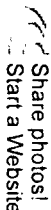
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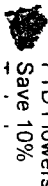
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RESPONSE TO DOCUMENT 138 RFI TO GHR

- 2-1 The deed records are public records and readily accessible to SHECO. If SHECO will answer our similar RFI's and provide us with the requested deed information we may do likewise.
- 2-2 Not necessary. 40' ROW allows for conservation easement without notifying SHECO as conservation is compatible with guy lines and trimming of dead trees as provided in the language of the easement.
- 2-3 Not applicable as in 2-2.
- 2-4 Officers were previously identified. RFI is unconstitutional and none of SHECO's business.
- 2-5 All Who's Who volumes are available to SHECO in any major public library.
- 2-6 Mr. Frederick knows the status better than I. As far as I know, Mr. Frederick represents WIA as my donation to WIA is now earmarked for Mr. Frederick rather than our previous attorney who has now turned against us.
- 2-7 WIA opposes any FM 980 routing and requests Route 1 or a variant thereof.
- 2-8 Same as above. A resolution from the Sierra Club was sent to Ms. Maas.
- 2-9 www.txcountydata.com is not an official San Jacinto County governmental website. It is not subject to any statutory requirement to be accurate. Deeds are in the public record in the courthouse in Cold Spring.
- 2-10 I was aware of the evident distribution line and the evident cleared ROW as well as the evident guy wires and stumps of dead trees that were cut by SHECO with my concurrence that would have endangered the lines. The language of the 20' distribution line and transmission line easement and the 40' trim easement confirms the legal and appropriate usage by SHECO over the course of the last 25 years or so.
- 2-11 Not applicable as the language in the easement clearly limits SHECO's activities on the two easements. The abandonment is the fictional claim by SHECO that they have other than a "trim easement" in the 40' "trim easement". If they had any other belief, it was in their heads and since it was never utilized it was abandoned. Had SHECO had the right to clear 25+ years ago they would have cleared at that time.
- 2-12 That information is available at www.ethicianfamilycemetery.org.
- 2-13 ??? Please clarify the RFI. SHECO has clearly failed to trim dead trees and limbs in that the data finally submitted in our RFI's clearly indicates that many of the so-called "tree caused outages" were in fact dead trees falling on distribution lines which is clear proof of SHECO's failure to monitor their lines. Dead trees normally only fall after having been dead from 2 to 5 years in my experience.
- 2-14 ??? Please provide the question and response for a response to this RFI.
- 2-15 If SHECO would like to pay for video or copies and photos then I might provide them with pre-payment. The request is over burdensome in any event and the photos were taken under the auspices of my "press privileges" and thus not subject to demands by SHECO.
- 2-16 Denied. SHECO has consistently failed to provide us with the materials we have asked for in our RFI's. David Frederick is copied with my messages and he can provide copies of any pertinent communications if he so desires.
- 2-17 The easements I am aware of are a road and distribution line easement to Emerald Point, an Entergy and SHECO easement from FM 980 toward Lake Livingston

through The Holy Trinity Wilderness Cathedral, a shared private road easement behind the Country Club, a road easement down Rox Run, a SHECO UNDERGROUND easement down Fox Run that I granted, an Altel easement down Fox run that I granted and a narrow SHECO easement behind The Chapel of The Nativity. I can't remember any other easements. None of this RFI has any bearing on the case at hand. Just more SHECO harassment.

- 2-18 Public Records are readily available to SHECO. Ricky Harold can easily go to the Courthouse and review the records. This question has no bearing on the case at hand.
- 2-19 Huntsville High School 1963; Louisiana State University A&M 1967, BA in Geography, Anthropology, Cultural Ecology, Latin American Area Studies, Romance Languages 1967; Ph.D. program candidate in Anthropology, University of Colorado under NDEA Fellowship with field research in Cultural Ecology in Toledo District, British Honduras, 1968. (terminated due to Viet Nam War truncating graduate studies to one year); ROTC and graduate studies in French and Geography, SHSU, 1969-1970. Officer US Army, 1970-1974. Executive Producer of +/- 1,000 educational filmstrips and videos, many in areas of ecology and environmental education, as CEO, Educational Video Network, 1974-present.
- 2-20 The Universal Ethician Church owns one 10 acre tract at that location. It presently houses THE CHAPEL OF THE NATIVITY and the foundation to THE CRYSTAL CHAPEL that is within 300 feet of the centerline of Route 9. We have plans for the Chapel and will build when funds are donated. We also have another 10 acre tract at that location that is slated for school for local residents. The 10 acres will either be developed as a private school or be donated to the Coldspring Independent School District. It is adjacent to a 131 acre natural area which will be utilized for educational purposes by the school children. We also have a 26 acre commercial site at that location that will be developed for retail and professional use. These tracts would be severely damaged by a Route 9 line. The health and welfare of the school children would be seriously compromised by a line that could emit up to 34 milligauss of EMF such as the SHECO line along FM 3126.
- 2-21 A developer made an offer for all of our properties, none of which were offered for sale, in an amount that we estimated to be around \$3,000,000 less than our investment. We of course rejected the offer. The developer agreed to fight against SHECO and Route 9 along with the Joe Nocito, owner of the Country Club and Golf Course, and WIA. As such we donated \$1,000 to WIA to help pay the developer's attorney who was supposed to be fighting in our common interests. The developer subsequently made other attempts to purchase some of our properties but was unhappy with our restrictions to protect the environment so negotiations ceased.
- 2-22 Phil Palmer and I have been discussing the proper development of this tract, which was left out of the Ethician Family Cemetery original tract of 110 acres for the past six years. There are to be native green buffer setbacks, a 50% native green space requirement, and a requirement to design around all mature Longleaf Pines and Longleaf Pine natural regeneration. These requirements were presented to the interested developer who did not want to adhere to the restrictions. My personal development plans although not secret are proprietary information.

030068

- 2-23 A map of various development options is available to be viewed at my home in Waterwood. Other maps are the proprietary property of The Herman Group and must be obtained through their attorney. Matt Landrau, and golf course architects employed by Waterwood National are also the proprietary holders of golf course development plans on the acreages in question.
- 2-24 Kenneth L. and Marjorie Russell are owners of part of the property in question as well as George H. and Suzanne B. Russell, and a third party owner between the Russell tracts and Palmetto Creek
- 2-25 Our family restrictive covenants require that the existing 50' roadways through the 151 acre tract be utilized to serve as corridors to reach the third-party tract that was clear-cut several years ago and could easily be developed into an 18 hole golf course without any serious negative environmental impact. The 50' roadways could also be utilized to serve as fairways without harming the old-growth native forest gene pools.
- 2-26 The 23,000 Texans are members of the Lone Star Sierra Club, all of whom are authorized to visit and enjoy our preserves and sanctuaries. I keep no records of how many of these members live in the study area.

Most of these questions are pure B.S. and have nothing to do with the situation in question other than to harass me.

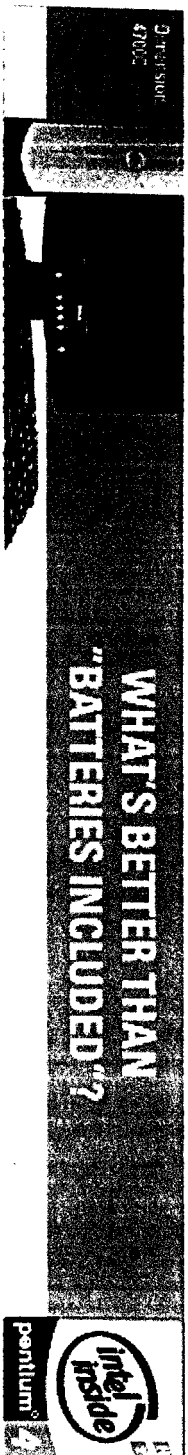
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Excellent letter of support for which we are extremely grateful. As the Administrative Law Judge is supposed to rule on the adequacy of the SHECO preferred alternative which is the one that would damage our preserves, on the 30th, perhaps it would be a good idea to forward the TOS letter to Ms. Mass via e-mail with a notation that "hard copy will follow".

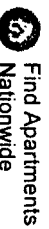
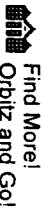
Once again, thank you for your concern for our bird habitat.

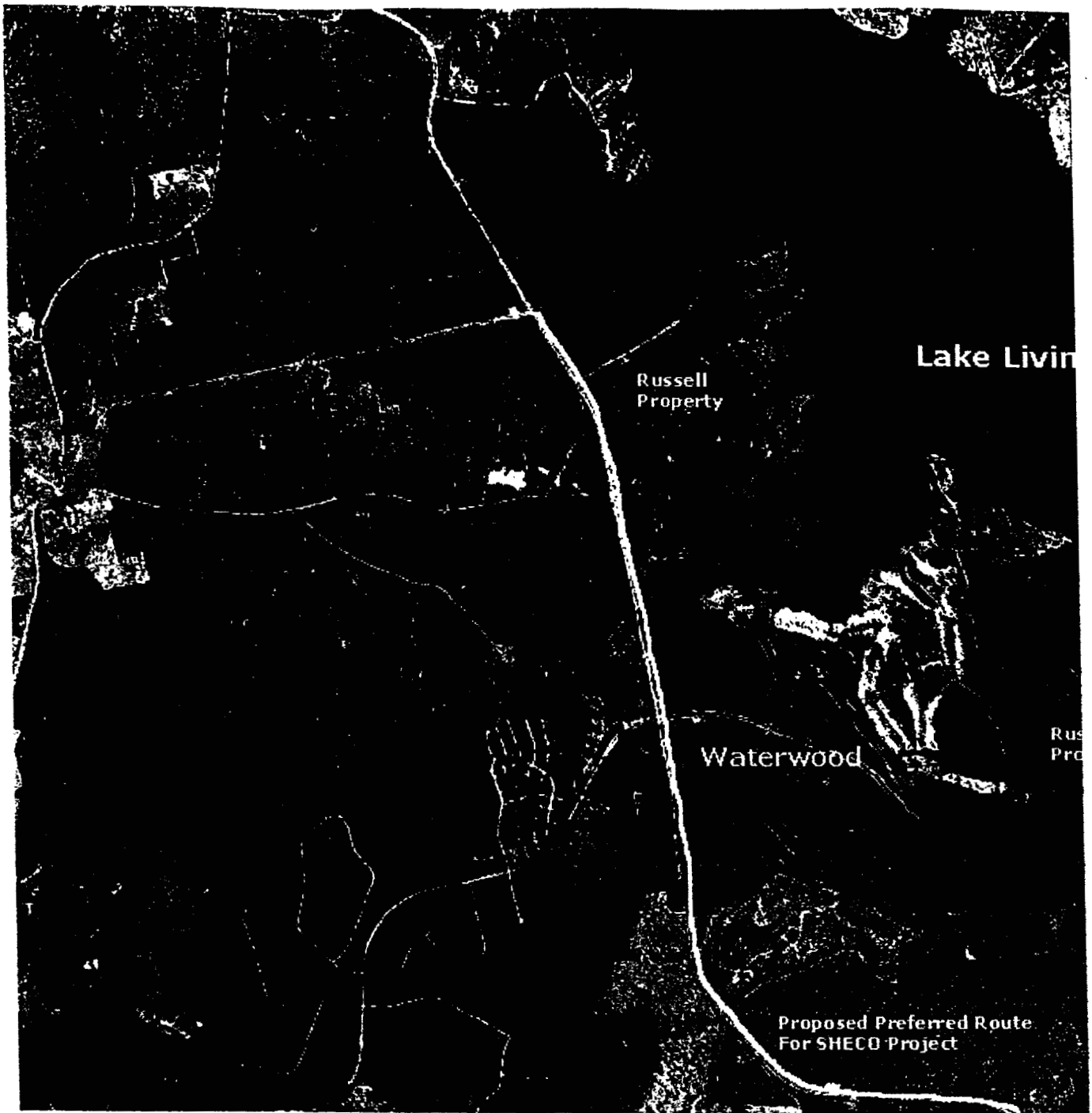
TODAY'S ANECDOTE: This morning I was watching a couple of hundred Pelicans that had spent the night in my parent's yard, go out on a fishing trip. I sometimes talk to the birds and started calling, "Eegle where are you?" I call the Eagle that hangs out on the bluff near my parent's house, Eegle. Two seconds after I called the second time, the Eagle flew over my parents house, above my head and over to the bluff.

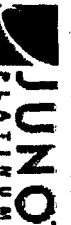
George

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> The following is a copy of a letter being mailed by Lytle Blankenship,
> President, Texas Ornithological Society.

> November 27, 2004

> Annette Lown Mass, Attorney
> Legal and Endorsement Division
> Public Utility Commission of Texas
> P.O. Box 13326
> Austin, Texas 78711-3326

> Dear Ms. Mass:

> As Officers and Directors of the Texas Ornithological Society we are
> concerned with the proposal by the Sam Houston Electric Cooperative
> (SHECO) to run a public utility line and clear a swath through prime
> forest ecosystems and, specifically, along the entire 2.7 miles of
> Waterwood Preserves.

> For ecological reasons, this area is particularly valuable for its
> unique plants and animals, and for the many birds that inhabit or
> visit Waterwood Preserves. Many of the observations of birds made by
> Mr. George Russell have been included in our seasonal statewide
> reports of unusual sightings and have also been published in the Texas
> section of North American Birds magazine.

> Since so few special habitats in Texas are protected as public lands,
> we find it refreshing when private landowners have taken the
> initiative to preserve their property in a natural state and to allow
> visits from the public. We commend Mr. Russell for his commitment to
> land conservation.

> For SHECO to propose fragmenting such a large tract of undeveloped
> upland pine (including longleaf), deciduous hardwoods, and savannah,
> bordering Lake Livingston, is unacceptable to the Texas Ornithological
> Society and, we are sure, to other Texas citizens interested in
> preserving our limited wild places.

> We denounce SHECO's proposal and request, if in fact the powerline is
> necessary, that they consider an alternative route that does less harm

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> to the environment, perhaps passing through existing clear-cuts, pine
> plantations or pastures or unprotected forest land scheduled for
> clear-cut in the next few years.

> Sincerely,

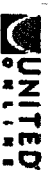
> Lytle Blankenship, President
> Texas Ornithological Society

> Officers & Directors:

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> David Sarkozi, Houston
> Ron Weeks, Lake Jackson
> Mark Elwonger, Victoria
> Jimmy Jackson, Beeville
> Brent Ortego, Victoria
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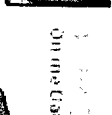


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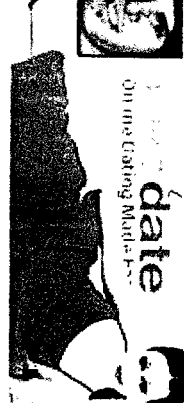
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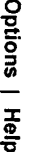
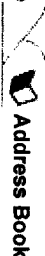
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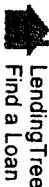
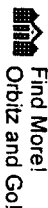
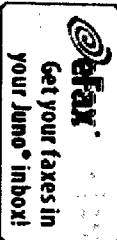
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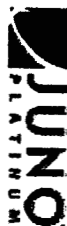
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Jim,
Thanks for much for taking time to discuss the threat to our preserves and sanctuaries due to Sam Houston Electric Cooperatives obsession with running a 138 kv transmission line along 2.7 miles of our properties including the 131 acre Westernmost Longleaf Pine Preserve that is also a TFS AMZ Special or Unique Area.

I have attached the map prepared by Natural Area Preservation Association to provide you with a better idea of SHECO's preferred route for the line. We have proposed an alternative route that would be 7/10 mile shorter and would pass more directly through clear-cuts and cow pastures.

Our preserves and sanctuaries are available for scientific study as well as for a seed source for Longleaf Pines. Harry Vanderveer and his



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associate recently harvested several hundred ripe cones. Hopefully, the Alto Nursery will be able to offer Longleaf seedlings to Texans wishing to re-establish the species in the near future. Our very unique pine genetic diversity is also worthy of protection and preservation as we have fine examples of old-growth Longleaf, Shortleaf, Loblolly, and what we believe to be hybrids between all three species.

It would be a great tragedy if the PUC allows SHECO to damage a significant part of this endangered forest ecosystem for no legitimate reason.

A letter from you asking the PUC to approve an alternate route for SHECO's new line would be greatly appreciated.

George

P.S. The map is attached.

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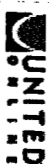
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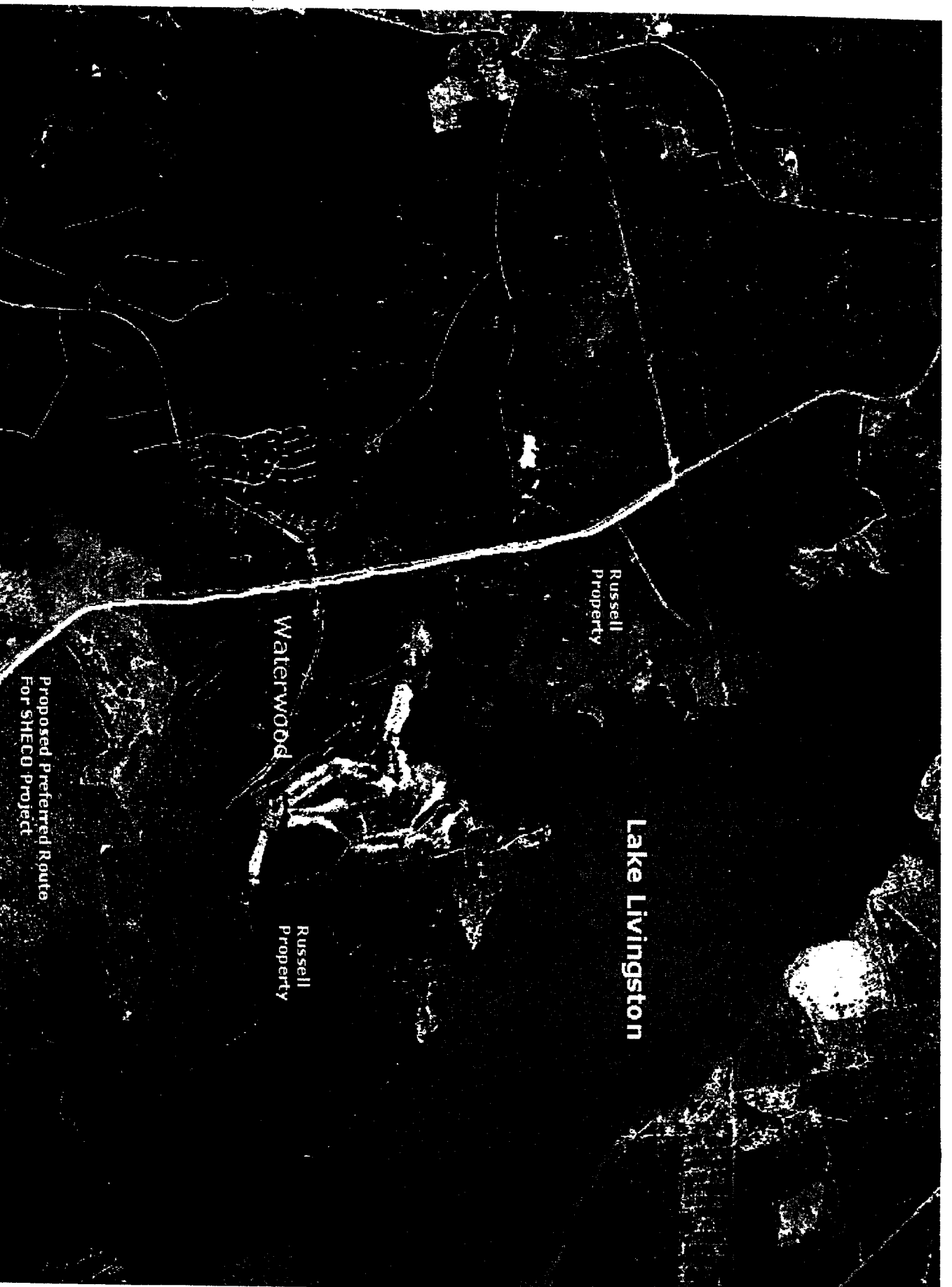
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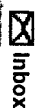
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Cc : brandishnb@juno.com, frankblake@juno.com, George Russell <grr@cyberclone.net>

Subject : Re: SHECO matter

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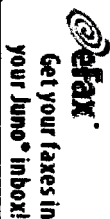
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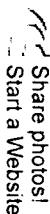
Ken, Brandt, Frank et al,

I will try to outline the problem as simply as possible:

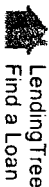
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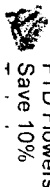
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FTD Flowers
Save 10%

After many years as Forest Practices Chair, attempting to protect native forest ecosystems through legislative means, education, and finally the courts, I decided that the only way I could be sure that future generations would have access to natural areas that had not been "buggered up" by the USFS or TPWD would be if our family cashed in our chips and purchased outstanding examples and placed them under permanent protection via conservation easements.

Thus in 1998 we began purchasing lands owned or formerly owned by Charles Hurwitz who also owns Pacific Lumber.

To date we have acquired over 2,500 acres at a cost of over \$10,000,000, representing a wide diversity of native ecosystems with over 650 species of plants listed so far. (Once debt free, I now owe over \$2,000,000 on the cost of this project) So far our family has granted seven conservation easements to Natural Area Preservation Association. The ultimate goal is to permanently preserve over 2,000 contiguous acres of some of the finest native gene pools left in E. Texas.

Lone Star Chapter, Sierra Club

Sierra Celebration 2004 Registration Form

Name _____

Address _____

City _____ State _____ Zip Code _____

Phone Number _____

E-Mail Address _____

I/we wish to register the following number of people for the Sierra Celebration:

_____ adults (12 years of age & older) at \$17 each for the weekend (includes Saturday dinner and Sunday breakfast)

_____ children (under 12 years of age) at \$10 each for the weekend (includes Saturday night dinner and Sunday breakfast)

_____ adults & children at \$10 each for Saturday night dinner and music only

Please specify the number of adults and/or children preferring vegetarian meals: _____

Please make checks payable to "Lone Star Chapter, Sierra Club."

Total enclosed: _____

Mail payment and registration form to:
Sierra Celebration
P. O. Box 1931
Austin, TX 78767

If you wish to charge your registration fee to your credit card (MasterCard or VISA only), please provide the following information:

MC/VISA # _____

Expiration Date _____

Amount to be charged: _____

Signature (required to process charge): _____

<http://exas.sierracub.org/sierracelebrationregform.asp>

000073



**Would Kerry
have made
a good
President?**

YES NO

*details

**NO HASSLE
HOSTING!**

Both the protected areas and the areas scheduled for protection have been made available to Sierra Club members for both recreation by walking on our many miles of trails and for nature study.

Nearly 4 miles of our preserves border FM 980 in San Jacinto County.

THE THREAT

Sam Houston Electric Cooperative (SHECO) has applied with the PUC for permission to cut a swath from 40' to 50' wide along 2.7 miles of our preserves and sanctuaries which would damage or destroy many of the best old-growth trees on the property including at least one Red-cockaded Woodpecker cavity tree.

For those wishing to see the depth and complexity of the problem please visit the PUC Texas web site and go to the "filings retrieval" section and type in Docket # 29705.

I have retained the services of Texas' most knowledgeable attorney in such matters before the PUC--David Frederick. As I was aware that the Club is strapped for cash, I have been financing the legal expenses out of my pocket and my request to the Ex-Com is not for money although I certainly would not refuse financial assistance as Mr. Frederick believes the defense of our preserves might cost \$75,000 which I really need to help pay off the remaining debts on those parts of our preserves that are still encumbered by debt so that they can be placed under permanent protection.

Our project fits perfectly with Lone Star Chapter's current "Conservation Priorities" one of which is "Open Space".

WHERE HELP FROM THE CLUB IS NEEDED:

1. We will probably be needing "expert witnesses" and hopefully the Club has access to experts in several fields who would testify Pro-bono or at least for discounted professional rates.
2. We need to educate the public about what SHECO and other power companies are doing in the form of fragmenting native habitats with overly wide cleared easements and the constructing of lines that are far larger than needed to service the regional electrical needs. The problem is not just on our preserves but is Statewide so it is important to alert the public and our government officials of the terrible waste of resources by many power companies in Texas.
3. Club members and Staff may have opportunities to address this and similar problems with Legislators and officials from various State Agencies who might be able to help in this case and future cases.
4. There may be Sierra staff attorneys who may have had experience in fighting similar battles elsewhere who could let David Frederick know about strategies that have worked for them that he may not have considered using in his past cases and that might help him plot the course of his dealings with the PUC.

Thus, I would like for the Ex-Com to pass a resolution giving moral support to this specific problem and addressing the need to consider the effects on all power line projects as they impact the Club's commitment to protect "Open Space" in Texas.

George

articles
in US
of Bayou
Barron
web, etc

NA PA

Conservation
easements

Kenwkramer@aol.com wrote:

George

Would you send a message to me with more explanation and detail about the issue (including telling us ignorant folks what "SHECO" stands for - I assume the name of an electric power company or co-op) and exactly what assistance you would be seeking from the Sierra Club? Right now we have committed some sizable funds to the Big Thicket lawsuit and the DFW air quality lawsuit, so I don't anticipate that we are going to assist in legal action on this matter. But we will put the issue on the agenda for the November 14 meeting of the Chapter ExCom if we can get more information well ahead of time.

Thanks,
Ken

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Subj: **Resolution**
Date: 11/15/2004 12:48:42 PM Central Standard Time
From: jerome.collins@sierracub.org

Whereas the Lone Star Chapter of the Sierra Club supports expansion and protection of open space by private and public means; and
Whereas the Lone Star Chapter of the Sierra Club is concerned about the impacts of fragmentation of wildlife habitat and ecological landscapes by utility and transportation corridors; and
Whereas the Lone Star Chapter of the Sierra Club supports the efforts of land trusts to protect valuable ecological and biological lands in perpetuity with conservation easements and other measures; and
Whereas the Sam Houston Electric Cooperative (SHECO) has proposed to the Public Utility Commission (PUC), Docket #29705, the placement of a new powerline easement through 2,500 acres, known as The Russell Preserves, of 40-50 feet in width and 2.7 miles long;
Therefore be it resolved that the Lone Star Chapter of the Sierra Club opposes the placement of the SHECO powerline easement through the Waterwood Preserves, and;
1) will contact the PUC to express its opposition;
2) will conduct an effort to educate the public, legislators, agency personnel and Sierra Club members about this proposed powerline easement and its environmental impacts;
3) will search for experts and refer these to George Russell who may be willing to testify to or before the PUC about the value of the Russell Preserves and damages that may result due to the granting of the SHECO powerline easement.

Subj: **Re: Resolution**
Date: 11/16/2004 12:07:07 AM Central Standard Time
From: brandishnfbt@juno.com
To: PageWilliams@cs.com

Page,

What I was going to check with George about was the name of the preserves. I did not agree to check with him about the form of the resolution. In fact I said that is up to the Chapter.

I will contact George about the name of the preserves.

Brandt

Subj: **Re: Resolution**
Date: 11/16/2004 4:47:43 PM Central Standard Time
From: brandishnfbt@juno.com

Page,

The name of the preserves that George Russell has is "Waterwood Preserves".

Brandt



My Juno Channels Refer-a-Friend Help Give Juno My Account Email on the Web

Change User | Sign Out

You are signed in as: brandtshnfb@juno.com



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MY EMAIL

Check Juno Mail



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From: "Jerome Collins" <jerome.collins@sierracub.org> Save to Address Book

To: "Brandt Mannchen" <brandtshnfb@juno.com>, "David Toner" <david_toner@juno.com>, "Page Williams" <pagewilliams@CS.COM>, "Frank Blake" <frankblake@juno.com>, "Ken Kramer" <kenwkramer@aol.com>

Subject: Resolution

Date: Mon, 15 Nov 2004 12:47:11 -0600



Reply

Reply All

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Delete

Report Junk

Move message to...

[Printable Version]



Draft



old_inb..



old_Sen..



Get your faxes in
your Juno® inbox!



Lending Tree
Find a Loan



Share Photos!
Start a Website



What is your
Credit Score?

Whereas the Lone Star Chapter of the Sierra Club supports expansion and protection of open space by private and public means; and whereas the Lone Star Chapter of the Sierra Club is concerned about the impacts of fragmentation of wildlife habitat and ecological landscapes by utility and transportation corridors; and whereas the Lone Star Chapter of the Sierra Club supports the efforts of land trusts to protect valuable ecological and biological lands in perpetuity with conservation easements and other measures; and whereas the Sam Houston Electric Cooperative (SHECO) has proposed to the Public Utility Commission (PUC), Docket #29705, the placement of a new powerline easement through 2,500 acres, known as The Russell Preserves, of 40-50 feet in width and 2.7 miles long; Therefore be it resolved that the Lone Star Chapter of the Sierra Club opposes the placement of the SHECO powerline easement through the Russell Preserves, and;

- 1) will contact the PUC to express its' opposition;
- 2) will conduct an effort to educate the public, legislators, agency personnel and Sierra Club members about this proposed powerline easement and its' environmental impacts;
- 3) will search for experts and refer these to George Russell who may be willing to testify to or before the PUC about the value of the Russell Preserves and damages that may result due to the granting of the SHECO powerline easement.