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**SOAH DOCKET NO. 473-10-0710
PUC DOCKET NO. 37464**

**APPLICATION OF ONCOR §
ELECTRIC DELIVERY COMPANY, §
LLC TO AMEND ITS CERTIFICATE §
OF CONVENIENCE AND NECESSITY §
FOR THE BROWN - NEWTON §
345-KV CREZ TRANSMISSION LINE §
IN BROWN, MILLS, LAMPASAS, §
MCCULLOCH AND SAN SABA §
COUNTIES, TEXAS §**

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

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DIRECT TESTIMONY

OF

SHANE OLIVER

ON BEHALF OF

SHANE AND RANITA OLIVER

AND

PROTECT OUR WINCHELL

DECEMBER 11, 2009

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**DIRECT TESTIMONY OF
SHANE OLIVER**

ATTACHMENTS

- Attachment 1 - Brown County Appraisal District map showing Oliver properties.
- Attachment 2 - Portion of map provided by Oncor showing location of Tract #1115, Segment FFF1, and Oliver residence.
- Attachment 3 - Oncor response to POW RFI 1-03.
- Attachment 4 - Photographs of Oliver residence and surroundings.
- Attachment 5 - Oncor response to POW RFI 1-04
- Attachment 6 - Oncor response to POW RFI 1-01

**SOAH DOCKET NO. 473-10-0710
PUC DOCKET NO. 37464**

APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY, LLC TO AMEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY FOR THE BROWN - NEWTON 345-KV CREZ TRANSMISSION LINE IN BROWN, MILLS, LAMPASAS, MCCULLOCH AND SAN SABA COUNTIES, TEXAS	§ § § § § § § § §	BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS
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**DIRECT TESTIMONY OF
SHANE OLIVER**

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 A. My name is Shane Oliver, and my home address is 10075 CR 219, Brookesmith,
3 Texas 76827.

4 **Q. ON WHOSE BEHALF ARE YOU PRESENTING TESTIMONY IN THIS**
5 **PROCEEDING?**

6 A. I am presenting testimony on behalf of myself and my wife, Ranita, as well as the
7 group known as "Protect Our Winchell" ("POW").

8 **Q. WHAT IS YOUR INTEREST IN THIS PROCEEDING?**

9 A. My wife and I own several lots in the community of Winchell that will be affected by
10 the proposed transmission line. Our home is located on Tract # 1115, which is
11 identified as Tax Parcel # 26793 on the tax records of the Brown County Appraisal
12 District. This lot contains approximately 8.5 acres. We also own two other lots that
13 are adjacent to Tract #1115 and across the street from Tract #1115. These two other

lots are identified as Tax Parcel # 48099 (about 1.5 acres) and Tax Parcel # 26791 (about 1 acre) in the records of the appraisal district.

Proposed Route 255 impacts our property to the point that it renders it valueless to us as a homestead. Proposed Segment FFF1 will cross right over our home. We requested party status in order to protect our quality of life and our property's value, and to ensure that the Commission receives as much information as possible about the proposed routing of the transmission line.

As a life-long resident of the community of Winchell, I am also interested in preserving this community and preventing the very disruptive impact of a high-voltage transmission line through the heart of the community and through very scenic, pristine land.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to describe our property and the impact of the proposed line on the property if Route 255 is used to route the transmission line. I will also describe the community of Winchell and the impact of the transmission line running right through this area. My great-uncle, John Wesley Adams, has lived in Winchell all his life and will provide testimony regarding this community and the community values.

Q. ARE YOU IN FAVOR OF THE PREFERRED ROUTE 255?

A. I most definitely am not. Any route using Segments FFF1, FFF2, or PPP will destroy my use and enjoyment of my newly-built home and will cut through the heart of the community. I believe the transmission line should *not* be routed through this community.

1 **Q. PLEASE DESCRIBE YOUR PROPERTY.**

2 A. As I noted above, our residence is located on Tract #1115. This lot has
3 approximately 8.5 acres, and fronts on both County Road ("CR") 219 and CR 218.
4 This property was deeded to me by my father, Eddie Oliver, who inherited it from his
5 parents. My grandmother's home used to be located at the northeast corner of this
6 lot, but the old home was removed in 2008 as it had fallen into disrepair and was no
7 longer used. I believe Oncor has identified this non-existing structure as Habitable
8 Structure # 5619 in its materials.

9 My wife and I completed the construction of our new home this year, and are
10 now living in it with our two young children. It looks to me as if proposed Segment
11 FFF1 will be either directly on top of my home or extremely close to it. Since Oncor
12 refuses to acknowledge the existence of my home, we have not been able to get any
13 measurements from them of where the line will be in relation to our home.

14 The two other lots we own are adjacent and will not be touched by the line,
15 although they are both almost entirely within 500 feet of the centerline of Segment
16 FFF1.

17 **Q. DO YOU HAVE ANY MAPS SHOWING THE LOCATION OF YOUR**
18 **HOME?**

19 A. Yes. I have attached as Attachment 1 to my testimony a print-out from the Brown
20 County Appraisal District website that is an aerial photograph showing our property.

21 Attached as Attachment 2 to my testimony is a portion of a map provided by
22 Oncor in response to a discovery request. The map from Oncor shows Segment FFF1
23 as it angles across our property. I have drawn in the location of our home on this

1 attachment as a black square. As you can see on Attachment 2, Oncor has identified
2 by a red square Habitable Structure #5619 in the northeast corner of Tract #1115.
3 This is the structure that is no longer there (my grandmother's former home). Oncor
4 has not identified my current house in any of its materials. In fact, in a response to a
5 discovery request from POW, Oncor still refused to acknowledge that it had
6 overlooked my house, claiming that the only habitable structure on Tract #1115 is
7 412 feet northeast of the proposed line. I have attached Oncor's response to this
8 discovery request as my Attachment 3.

9 **Q. PLEASE DESCRIBE YOUR HOME ON TRACT #1115.**

10 A. Our home is a 1,450 square foot frame home on a concrete slab, with three bedrooms,
11 two baths, and a loft. The house faces northeast. I have attached some photographs
12 of the house and its surroundings in my Attachment 4. I took these pictures myself,
13 and they accurately portray the house and the property.

14 **Q. HOW WILL YOU BE IMPACTED BY THE CONSTRUCTION OF THE**
15 **PROPOSED TRANSMISSION LINE?**

16 A. As you can see from the attachments, not only will my homestead be cut in half by
17 Segment FFF1, my house will be uninhabitable as the line will go directly over it.
18 Obviously, my family and I could not continue to live in the house. It is my
19 understanding that these high-voltage transmission lines are not permitted to be
20 constructed over habitable structures, so I do not understand why Oncor proposed this
21 route over my home, why it chose this route as its preferred route, and why it refuses
22 to acknowledge that the line will go directly over my home.

1 I have concerns about this project's impact on my family's health. For every
2 medical study I have seen that tries to dispute that power lines aren't a health risk, I
3 have seen dozens more that prove the health risks are very real. I have two small
4 children, and I do not want their health, or the health of me or my wife compromised
5 in any way.

6 Every Oncor representative we have spoken with regarding this project has
7 said that residents' proximity to the proposed route is taken into consideration before
8 a line is built. So far, I have found no one who is sympathetic to the fact that this 345
9 kV line will pass directly over the home of me, my wife, and two small children.
10 Instead, after maps of our land were sent to Oncor, they recommended the very route
11 that will affect my family and this community the most!

12 **Q. ONCOR HAS STATED THAT IT WILL CONSIDER "MINOR**
13 **MODIFICATIONS" IN ORDER TO RESOLVE CONFLICTS WITH**
14 **PROPERTY OWNERS. IS THERE A MODIFICATION TO SEGMENT FFF1**
15 **THAT WOULD RESOLVE THIS CONFLICT FOR YOU?**

16 A. Oncor responded to a discovery request that it was not aware of any proposed route
17 that "crosses over" a habitable structure. I have attached this response as Attachment
18 5 to my testimony. In spite of Oncor's statement that it would work with affected
19 property owners to resolve conflicts, it has refused to do so to date. When I pointed
20 out to Oncor that it was crossing over my property, it actually altered Segment FFF1
21 to not only come closer to my home, but to actually cross over it. I have found no
22 one at Oncor who is sympathetic to the fact that our entire livelihood will be affected
23 by this decision. As you can see on Attachment 2, Tract #1115 is less than 1,000 feet

1 wide from north to south, so any movement of Segment FFF1 to the north or south to
2 avoid going right over my house, so long as Segment FFF1 stays on my property, will
3 mean that my house will still be within 500 feet of the centerline of Segment FFF1.
4 Even if Segment FFF1 were to be moved off of my property entirely, it would have to
5 be moved off my property by more than 500 feet in either direction in order to get my
6 house out of the 500 foot zone. If that were to be done, then my neighbors on both
7 sides of me would be impacted. The line is already within 500 feet of two of my
8 immediate neighbors, so I do not understand how a "minor" modification would
9 improve my situation without making theirs intolerable. When the impact on my
10 property is viewed together with the impact on Winchell as a whole, the unjust and
11 nonsensical nature of the routing of the line using Route 255 becomes quite clear.

12 **Q. ARE THERE ANY OTHER HABITABLE STRUCTURES ON YOUR**
13 **PROPERTY THAT WILL BE IMPACTED BY SEGMENT FFF1?**

14 A. Yes. We are building a house for my father-in-law that will also be within 500 feet of
15 the proposed route of Segment FFF1. We have started construction on this home
16 across the roadway from our house. I don't think that Oncor has given this property a
17 tract number, but it is tax parcel #26791, as shown on Attachment 1. This house is
18 under the dotted blue line on Attachment 2. If Oncor tries to move the line north to
19 avoid my house, this will result in it being moved closer to my father-in-law's house.
20 This is even more evidence of the wrong-headed approach of going right through an
21 established residential area with this line.

22 **Q. IN ONCOR'S RESPONSE TO POW RFI 1-05, IT STATED THAT IF A**
23 **HABITABLE STRUCTURE IS MOVED INTO OR BUILT WITHIN THE**

1 **PROPOSED EASEMENT AFTER THE ROUTE IS APPROVED, ONCOR**
2 **WILL WORK WITH THE LANDOWNER TO REACH AN AGREEABLE**
3 **SOLUTION, SUCH AS MOVING THE HABITABLE STRUCTURE. WOULD**
4 **THIS BE A FEASIBLE SOLUTION TO YOUR PROBLEM?**

5 A. Absolutely not. The construction of my house was completed on August 4, 2009.
6 Oncor's application was filed on October 7, 2009. They should have known about
7 my house by then, but they have refused to acknowledge its existence. In addition,
8 my house is not moveable as it is built on a concrete slab, and there is no location on
9 my property that would be further than 500 feet from Segment FFF1. Obviously, this
10 is not a solution.

11 **Q. WHAT, OR WHO, IS "PROTECT OUR WINCHELL"?**

12 A. Protect Our Winchell, or POW, is an association of landowners and residents of
13 Winchell who have joined together out of concern over the potential impacts of
14 Oncor's 345 kV transmission line on the community. We have 30 members, all of
15 whom have been granted intervenor status in this case. Specifically, our members are
16 John Wesley and Velma Adams, Wayne and Jennifer Adams, Steve and Valarie
17 Adams, David and Jennifer Bonham, Jerry and Melissa Ellis, James and Kim Feltner,
18 Ricky Gandy, Darrell and Deborah Gilbreath, Buddy Harris, Everett and Betty
19 McCrum, Joyce Newsom, Eddie Oliver, Kevin and Robin Roberts, Victoria Roberts,
20 Luke Russell, Jerry and Gayle Welch, Danny and Kathy Welch, and my wife and I.

21 The members of POW are all united in opposition to the proposed routing of
22 the transmission line through our community. This issue is of such huge importance
23 to us that we determined to join together to hire an attorney and fight this proposed

1 destruction of our beautiful country community. Our four witnesses in this matter,
2 Steve Adams, Wesley Adams, Everett McCrum, and myself, are testifying on behalf
3 of ourselves and our families, and also on behalf of all of our neighbors and residents
4 of Winchell.

5 **Q. CAN YOU DESCRIBE THE COMMUNITY OF WINCHELL?**

6 A. Winchell is a small, unincorporated community of approximately 35 people. I was
7 born and raised here, as were my parents and grandparents. Winchell is more than
8 just a "wide spot in the road." We have a real community spirit here, and consider
9 ourselves fortunate to live in a thriving rural community. My great-uncle, Wesley
10 Adams, is the town historian, having lived here all of his 87 years.

11 My wife and I have sacrificed life in the closest "big city," Brownwood, to
12 live in this community and provide our children with a life and values that I don't
13 believe are available in a large town. In fact, every day I drive to work one hour and
14 15 minutes, one way, and my wife drives 35 minutes, one way, in order to provide
15 this wonderful lifestyle for my family.

16 In Winchell we have a volunteer fire department, a community club house, a
17 local cemetery, homes that have been here for many years, and a strong sense of
18 community among the residents. Also, several ranchers, farmers, and a large wildlife
19 ranch all have successful businesses that would be affected by this transmission line.
20 Our location on the banks of the beautiful Colorado River allows us to enjoy hunting,
21 fishing, camping, and all the other advantages of living in a community in the
22 country. The reason we live here is so we can be away from the bustle of city life and

1 be able to go out our front door and see nature, not a huge electric transmission tower
2 or lines.

3 **Q. WHAT IMPACT WOULD THE ROUTING OF THE LINE THROUGH**
4 **WINCHELL HAVE ON THE COMMUNITY?**

5 A. Without a doubt, if Segments FFF1, FFF2, or PPP are used to route Oncor's
6 transmission line, the community of Winchell will be greatly, and negatively,
7 impacted. The choice to route the line directly through the community, instead of any
8 other of the many options available to get from Point A to Point B, is
9 incomprehensible to me. The lifestyle we all enjoy will be severely compromised if
10 these giant steel towers come marching through the heart of this residential
11 community. Oncor has claimed that it added Segment PPP to "avoid" Winchell, but
12 running Segment FFF1 through the heart of the community, and then branching off
13 into either Segment FFF2 or Segment PPP, does not "avoid" Winchell. If Oncor truly
14 wanted to avoid the impact on this community and its community values, it would
15 have *actually avoided* the community. Nothing about Segment PPP "avoids" this
16 community, because the decision to bring Segment FFF1 through the middle of the
17 community makes that impossible.

18 Winchell is a place whose natural beauty should be protected and not distorted
19 by large imposing power lines. I have very fond memories of Winchell, not only as
20 an adult, but as a child having grown up in the community. My grandmother recently
21 passed away and left me the land I grew up on. My family built our home here so
22 that we could be away from the hustle of daily life in a city. We live in the country so
23 we can enjoy the scenic views and peaceful atmosphere.

1 The transmission lines would absolutely destroy the very reason we live our
2 lives in the country. It would be devastating to have power lines coming through the
3 community that is so important to me and my family. In addition, the project would
4 negatively affect residential property values as a whole. There are many other routes
5 that could be taken that would not pass through so many properties.

6 We asked Oncor in discovery why it chose to route Segments FFF1, FFF2,
7 and PPP through the community of Winchell. I have attached Oncor's response to
8 my testimony as Attachment 6. As shown in this response, Oncor showed no
9 consideration for the impact on the community itself. Its response refers to
10 paralleling existing rights-of-way, but doesn't explain why a route following CR 219
11 was chosen over one following Highway 377. Oncor addresses crossing the river in a
12 "previously disturbed area" but doesn't explain why this requires cutting through a
13 residential area.

14 **Q. ARE THERE ANY MODIFICATIONS THAT COULD BE MADE TO THE**
15 **PROPOSED ROUTE THAT WOULD ALLEVIATE YOUR CONCERNS?**

16 A. As I described above, I do not think any "minor" modifications will address my
17 concerns about the impact on my homestead. The only modification that would
18 address my concerns about the impact of the line on Winchell would be to completely
19 re-route the line to *really* avoid the community. Better yet, a route should be chosen
20 that does not cross the Colorado River at all, especially not in our vicinity.

21 There are many large acreage sites outside of Winchell. The Commission
22 should authorize a route that does not come near the homes of the landowners. Most
23 of the land in Winchell belongs to people who own small amounts of land and have a

1 home there. Also, many of these landowners make a living off the very acreage that
2 will be affected. These residents and my family all have a strong sense of community
3 and do not want power lines to disrupt the beauty and tranquility of our land. I urge
4 the Commission to reject any route that comes through Winchell, Texas.

5 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

6 **A. Yes, it does.**

48097

26791

Co Rd 219

48099

48096

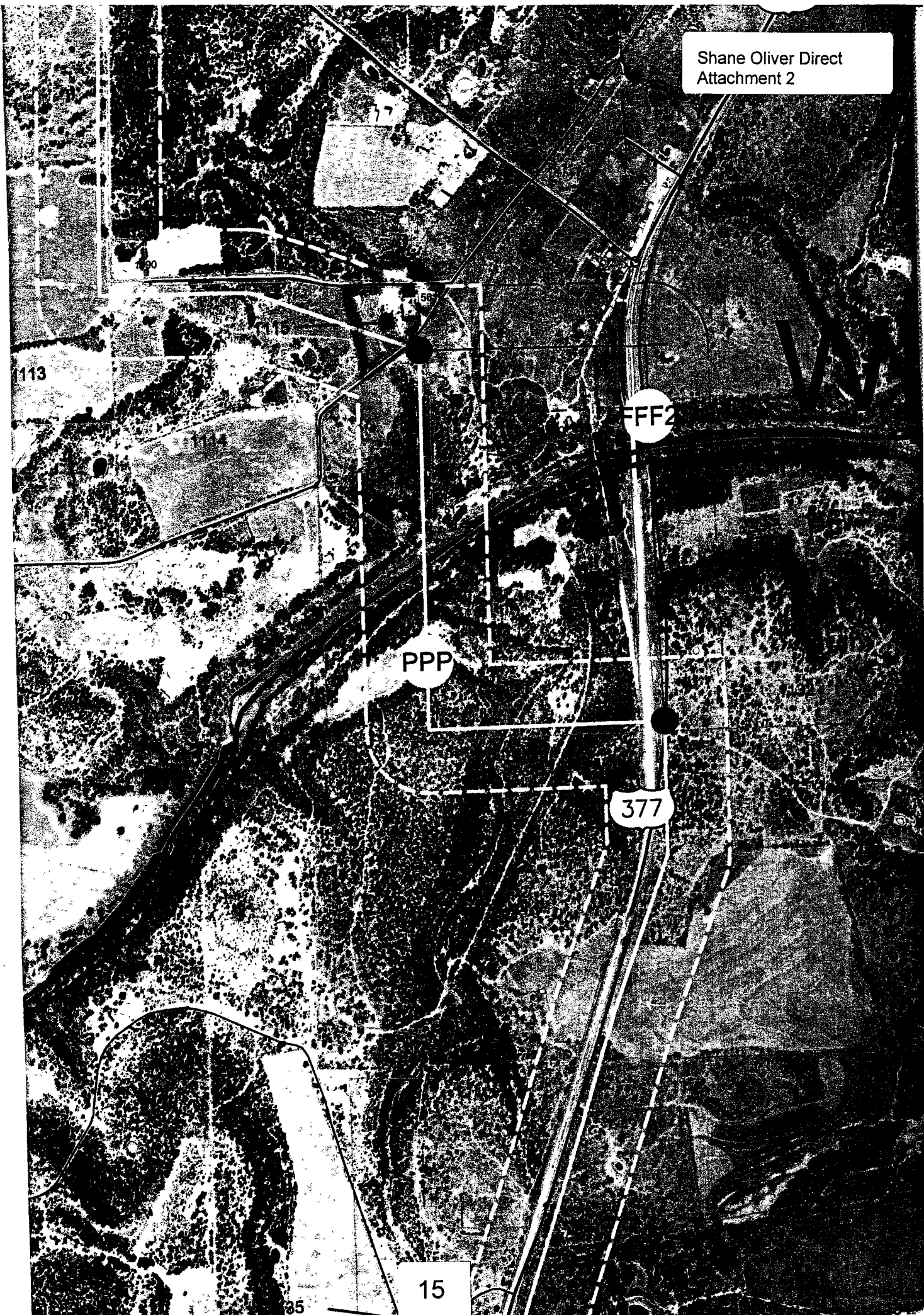
26793

Co Rd 219

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Image USDA Farm Service Agency



REQUEST:

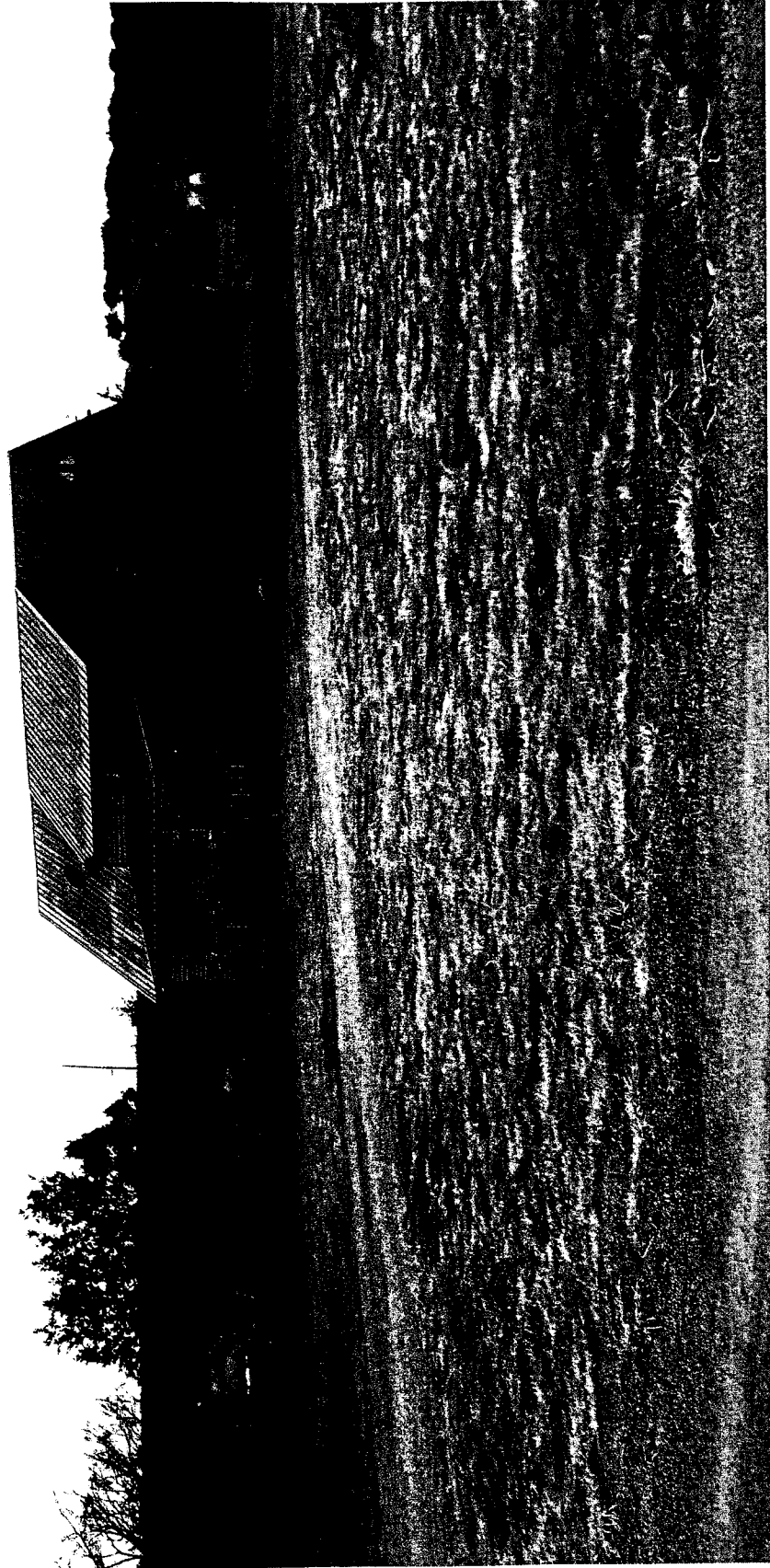
Please explain in detail how the routing of Segment FFFI directly over an occupied residence comports with the policy of prudent avoidance (residence of Shane and Ranita Oliver on Tract 1115).

RESPONSE:

The following response was prepared by or under the direct supervision of Charles T. Jasper, the sponsoring witness for this response.

The habitable structure in question is Habitable Structure 5619. According to information contained in Table 7-2.255, on page D-732 in Appendix D to Attachment No. 1 to the CCN Application, the proposed centerline of the proposed transmission line is not "directly over an occupied habitable structure", but rather is located approximately 412 feet southwest of the referenced habitable structure, located on Tract 1115, owned by Shane Oliver, according to Tax Appraisal District records used to develop the notice list.

1



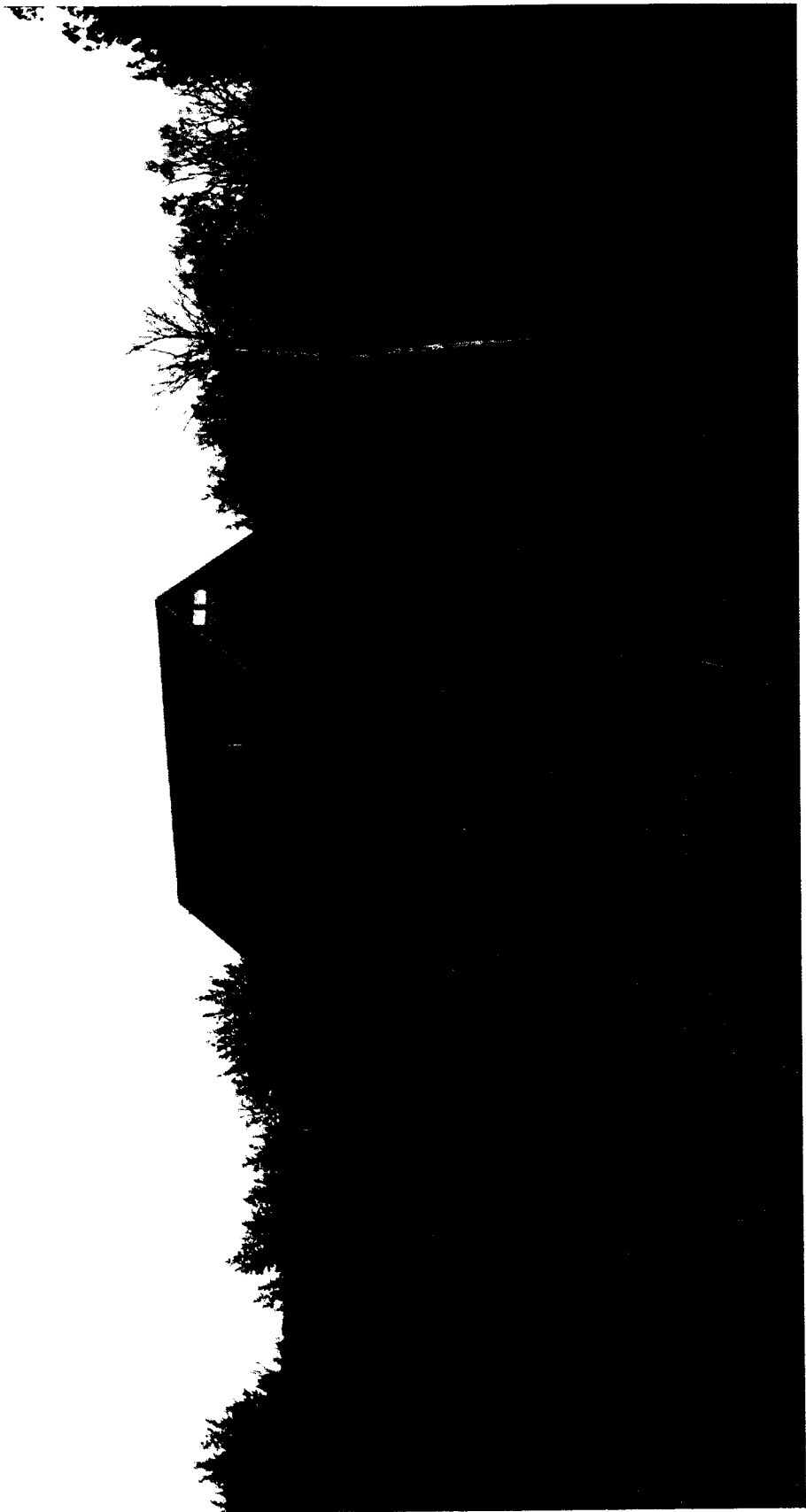
This is the front of the Oliver home facing the intersection of CR 218 and CR 219, taken from the CR 219 side

2



This photo of the Oliver home is from CR 219. The fence in the photo is the fence line on CR 219.

3



Oliver home.

4



Taken from Everett McCrum's entrance facing the front of the Oliver home, which faces the intersection of CR 218 and CR 219.

5



The Oliver home, showing the electric service line on the right side of the house, a distance of about 290 feet. Taken from CR 218.

6



Photo of the back of the Oliver home, taken from the road that leads from Oliver property into NanC Mark's place. The road can be seen on the aerial map.



Taken from CR 219, on the hilltop just down from Steve Adam's house, 100-120 yards in front of his house just where the road starts to descend down the hill. Looking toward Everett McCrum's property, showing back of the Oliver home.

REQUEST:

Please explain how the Company can assure the Commission that its proposed routes do not cross over habitable structures when the aerial photography used to identify these structures was performed in October 2008.

RESPONSE:

The following response was prepared by or under the direct supervision of Charles T. Jasper, the sponsoring witness for this response.

Oncor is not aware of any proposed route that "crosses over" a habitable structure. Once a route is approved by the Commission, Oncor will obtain survey permission on each of the tracts traversed by the approved route centerline. Once the location of the centerline is established on the ground, routing constraints may be identified that will cause minor modifications of the route alignment. Oncor will work with the affected property owners to resolve any conflicts.

REQUEST:

Please explain in detail why the Company chose to route Segments FFF 1, FFF2, and PPP through the community of Winchell. Include in your response the following:

- a. An explanation of the decision to turn Segment FFFI 90 degrees to the east on CR 219 instead of proceeding directly south across the Colorado River at that point.
- b. An explanation of the decision to turn Segment FFF 1 90 degrees to the east on CR 219 instead of making a similar turn to the north of Winchell, thereby avoiding the habitable structures impacted by Segments FFFI, FFF2, and PPP.
- c. An explanation of the decision to go through the community of Winchell instead of crossing the Colorado River at any other point either east or west of Winchell.
- d. An explanation of the decision to cut diagonally across Tract No. 1115 in Winchell instead of continuing to follow the county road right-of-way.

RESPONSE:

The following response was prepared by or under the direct supervision of Diane H. Cowin, the sponsoring witness for this response.

- a. URS' routing of link FFF (subsequently FFF1 and FFF2) was in accordance with §37.056(c)(4)(A)-(D) of the Texas Utilities Code; the PUCT Substantive Rule §25.101, including the PUCT policy of prudent avoidance; the PUCT CCN application form; and PUCT Procedural Rule 22.52(a)(4). Link FFF (Subsequently FFF1 and FFF2) was routed along CR 219 over to US 377 and across the Colorado River to comply with the PUCT rule to consider paralleling existing rights-of-way including roadways; the Texas Parks and Wildlife Department's request in their letter dated January 21, 2009 to Mr. Barry Smitherman, Chairman, PUCT that states, "when possible, lines should cross waterways at previously disturbed sites", the Texas Parks and Wildlife Department's request in their letter dated May 27, 2009 to Diane Cowin that states, "TPWD recommends avoiding impacts to water resources in the project area by spanning creeks and locating crossings in previously disturbed areas to avoid further fragmentation of the riparian corridors associated with these creeks"; and the results of all data collection activities up to the routing of link FFF (subsequently FFF1 and FFF2).

- b. URS' routing of link FFF (subsequently FFF1 and FFF2) was in accordance with §37.056(c)(4)(A)-(D) of the Texas Utilities Code; the PUCT Substantive Rule §25.101, including the PUCT policy of prudent avoidance; the PUCT CCN application form; and PUCT Procedural Rule 22.52(a)(4). Link FFF (Subsequently FFF1 and FFF2) routed along CR 219 over to US 377 and across the Colorado River to comply with the PUCT rule to consider paralleling existing rights-of-way including roadways, the Texas Parks and Wildlife Department's request in their letter dated January 21, 2009 to Mr. Barry Smitherman, Chairman, PUCT that states, "when possible, lines should cross waterways at previously disturbed sites", the Texas Parks and Wildlife Department's request in their letter dated May 27, 2009 to Diane Cowin that states, "TPWD recommends avoiding impacts to water resources in the project area by spanning creeks and locating crossings in previously disturbed areas to avoid further fragmentation of the riparian corridors associated with these creeks"; and the results of all data collection activities up to the routing of link FFF (subsequently FFF1 and FFF2). Routing north of Winchell was considered, however, this alternative would still parallel US 377 when taking into consideration the TPWD requests listed above, and therefore come within 500 feet of habitable structures within Winchell.
- c. URS' routing of link FFF (subsequently FFF1 and FFF2) was in accordance with §37.056(c)(4)(A)-(D) of the Texas Utilities Code; the PUCT Substantive Rule §25.101, including the PUCT policy of prudent avoidance; the PUCT CCN application form; and PUCT Procedural Rule 22.52(a)(4). Link FFF (Subsequently FFF1 and FFF2) routed along CR 219 over to US 377 and across the Colorado River to comply with the PUCT rule to consider paralleling existing rights-of-way including roadways, the Texas Parks and Wildlife Department's request in their letter dated January 21, 2009 to Mr. Barry Smitherman, Chairman, PUCT that states, "when possible, lines should cross waterways at previously disturbed sites", the Texas Parks and Wildlife Department's request in their letter dated May 27, 2009 to Diane Cowin that states, "TPWD recommends avoiding impacts to water resources in the project area by spanning creeks and locating crossings in previously disturbed areas to avoid further fragmentation of the riparian corridors associated with these creeks"; and the results of all data collection activities up to the routing of link FFF (subsequently FFF1 and FFF2), as well as comments received from the public after the public-open house meetings. The comments included requests to find another route to cross the Colorado River west/east of link FFF (subsequently FFF1 and FFF2). This resulted in the creation of Link PPP.
- d. URS angled link FFF1 (previously FFF) away from CR 219 based on comments received after the public open-house meeting stating that there was a habitable structure located along link FFF and the results of a reconnaissance survey performed to verify the location of the habitable structure on September 2, 2009.