

Control Number: 38230



Item Number: 1451

Addendum StartPage: 0

SOAH DOCKET NO. 473-10-4398
PUC DOCKET NO. 38230

APPLICATION OF LONE STAR	\$	BEFORE THE STATE
TRANSMISSION, LLC, FOR A	\$	OFFICE
CERTIFICATE OF	\$	OF
CONVENIENCE AND NECESSITY	\$	ADMINISTRATIVE
FOR THE CENTRAL A TO	\$	HEARINGS
CENTRAL C TO SAM	\$	
SWITCH/NAVARRO PROPOSED	\$	
CREZ TRANSMISSION LINE	\$	

OBJECTIONS TO REBUTTAL TESTIMONY OF MARK A. VAN DYNE TO THE
DIRECT TESTIMONY OF (JAY) O. HOLZEM, JR.

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Now comes James (Jay) O. Holzem, Jr. and I make the following
objections.

Rebuttal Testimony of Mark A. Van Dyne

Answer on Page 6, lines 1 thru 8

**THE BOSQUE PROPERTY OWNERS (PARTICULARLY IN THE TESTIMONY
OF MR. HOLZEM, MR. RADDE, MS. ARNETTE, AND MR. BERG) MENTIONS
THAT BLACK-CAPPED VIREO AND GOLDEN-CHEEKED WARBLERS HAVE BEEN
IDENTIFIED ON THEIR PROPERTY. DO YOU HAVE COMMENT?**

A. Yes. I will address Mr. Holzem's property first. Mr. Holzem
attached maps and exhibits to his testimony. Based on these maps
and exhibits, Link RR parallels County Road 2150. It does not
appear that Link RR crosses any potential habitat as indicated
on his maps. Furthermore, by paralleling County Road 2150, any
potential habitat along Link RR is already fragmented, so I
would not anticipate any significant impacts to either the
black-capped vireo or golden-cheeked warbler or their habitat.
Exhibit MAV-R-1 attached to my rebuttal testimony depicts Link RR
parallel to County Road 2150 along Mr. Holzem's property.

Objection No. 1 to this answer

I object to this entire paragraph as this statement makes the
presumption that there is a single "Holzem property" when there

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are three. My direct testimony was divided into three parts in regards to my properties, one for each as they are all unique with different sets of values and properties;

III. Description of Deloache Enterprises Co. LLCs "Spring Creek Ranch" and the Lines Impact (pg 3, ln 20, 21 of my direct)

IV. Description of Deloache Enterprises Co. LLCs Cattle Ranch and the Lines Impact (pg 7, line 6,7 of my direct)

V. Description of Deloache Enterprises Co. LLCs Conservation Easement (pg 9, ln 3,4 of my direct)

As only my cattle ranch is "paralleling County Road 2150", Mr. Van Dyne is addressing this ranch only. My testimony did not mention that BCV and GCWs have been identified on this property. The only mention of GCWs I made in the section containing this ranch is in regards to the "area along CR2150.." which is in reference to a passageway and I do not state it to be on my property;

ANSWER: Yes, John Baccus stated to me that the entire two miles between the Arnette property and the LP Reed Ranch property is habitat for the Golden Cheeked Warbler." (pg 7, ln 25 thru pg 8, ln 3 of my direct)

Objection No. 2 to this answer

I object to the statement "Based on these maps and exhibits, Link RR parallels County Road 2150." (pg 6, ln 2,3)

As the link is a straight line in this area and the road bends and winds, it cannot "parallel" this road unless Lone Star intends to put many turns and offsets in the line in the area of this road as my exhibit on page 14 of my direct testimony clearly shows.

Objection No. 3 to this answer

I object to the statement "It does not appear that Link RR crosses any potential habitat as indicated on his maps." (pg 6, ln 3,4). The attachment, page 12 to my direct testimony entitled "Holzem Properties" clearly shows link RR running along the property line between my Spring Creek Ranch and the LP Reed Ranch. The direct testimony of John Baccus and in particular his attachment JDC-2, page 9 of 15, photos 1 and 2 of his direct testimony (along with description) directly contradicts this statement.

Objection No. 4 this answer

I object to the statement "Furthermore, by paralleling County Road 2150, any potential habitat along Link RR is already fragmented, so I would not anticipate any significant impacts to either the black-capped vireo or golden-cheeked warbler or their habitat." (pg 6, ln 4-6) as it is misleading and erroneous. First, as stated above, the link does not "parallel" this road. Second, CR 2150 is about 20' wide and hardly used as evidenced by the exhibit to my direct page 14, clearly shows. This would hardly meet the definition of "fragmented" as used by Mr. Van Dyne. Third, and most importantly, CR 2150 is only about 4.6% of link RR (2 miles of CR 2150 divided by 43.6 miles of link) and Mr. Van Dyne leads the reader to think that it encompasses the entire link.

Objection No. 5 to this answer

I object to the statement "Exhibit MAV-R-1 attached to my rebuttal depicts Link RR parallel to County Road 2150 along Mr. Holzem's property." (pg 6, ln 6-8) as it is incorrect and

misleading. The county road is in the proximity of link RR for about 20% of the portion of link RR depicted in the attachment but you cannot tell from the exhibit as the stretch of road cannot be seen under the heavy dashed line that depicts the link.

Rebuttal Testimony of Mark A. Van Dyne
Answer on Page 6, lines 17 thru 19

Ms. Arnette and Mr. Holzem discuss a conservation easement on Ms. Arnette's property. Link RR parallels the southern boundary of the property and is located near the western property boundary in an area that would require very little clearing.

Objection to this statement

Link RR runs the entire length of both the west and southern side of the property. Refer to Mr. Van Dyne's attachment MAV-R-1 and my enlargement, attached. Mr. Van Dyne's statement reads as if link RR only runs along the southern side only. The statement "...in an area that would require very little clearing." (pg. 6, ln 19) is completely false. Approx. .70 of the .85 miles of the line along the southern side is very dense cedar, hardwoods and scrubs as referenced by Mr. John Cornelius in his direct testimony, being two of the points surveyed. The 100' ROW is on this property on this dense habitat. Refer to MAV-R-1 and as enlarged.

Conclusion and Prayer

In his rebuttal testimony in regards to "Mr. Holzem's property", Mr. Van Dyne infers that I made representation in regards to Golden Cheeked Warbler and Black Capped Vireo habitat on my ranch adjacent to County Road 2150 when, in fact, the statements were made when testifying about my other two properties. I trust that this was an oversight on his part but for him to dismiss my claims of habitat for endangered species on the majority of my property (Spring Creek Ranch and the Arnette property) without the inclusion of the testimony and exhibits of those ranches is unfair and incorrect.

On the Arnette property, in which I own a conservation easement, Mr. Van Dyne is misleading and incorrect as he downplays and misstates the amount of dense woodland that would have to be cleared in order for a transmission line ROW.

Accordingly, I move to have the above outlined rebuttal testimony of Mr. Van Dyne struck from the record.

Respectfully submitted:



James O. (Jay) Holzem, Jr.
Deloache Enterprises Co. LLC

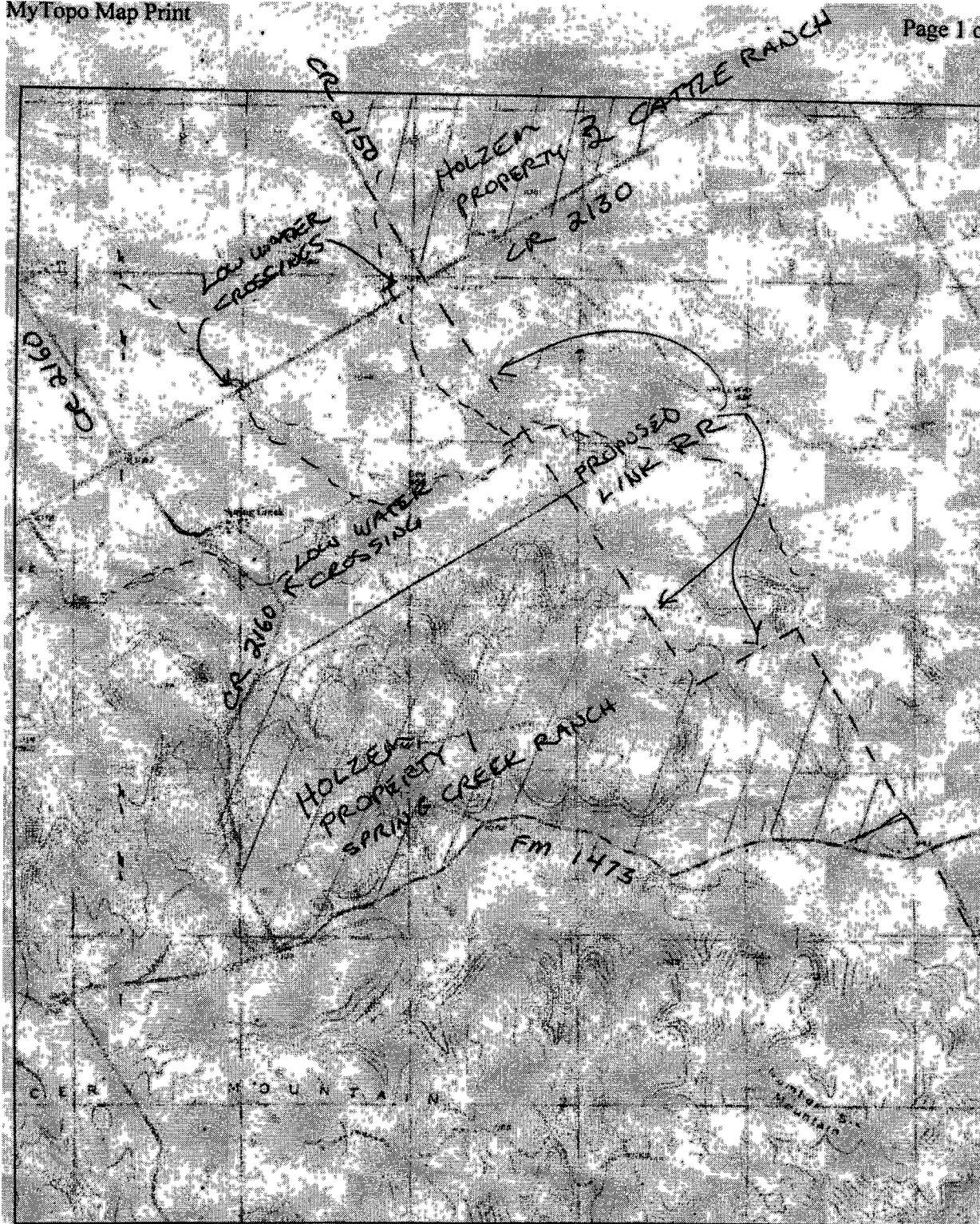
The words "I, my and mine" are sometimes used in lieu of the entity Deloache Enterprises Co. LLC.

CERTIFICATE OF SERVICE

I, James (Jay) O. Holzem, Jr., certify that a copy of this response has been served pursuant to rules of the PUC and SOAH, in accordance with order of the Administrative Law Judge this 2 day of September, 2010.



James (Jay) O. Holzem, Jr.



0 0.75 MI
0 4000 FT

Map provided by MyTopo.com

HOLZEM PROPERTIES

Page 12 of Direct Testimony of James O. Holzem, Jr.



CR2150 looking north, note offset. 31.91811N,97.8201W



CR2130 at intersection of CR2150. Low water crossing

Ahead at 31.91001N, 97.81681W



CR2150 note hillside ahead on proposed route
31.92071N,97.8217W



CR2130 looking west toward another low water
crossing at 31.9051N,97.8264W



CR2150 near NWC, note offset. 31.92969N,97.82809W



CR2150

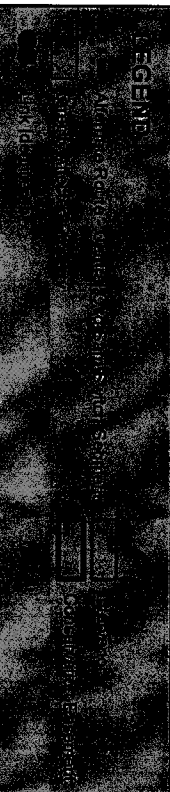
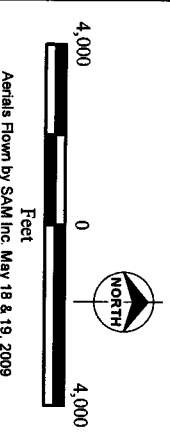


Exhibit MAV-R-1
Lone Star Transmission
Central A to Navarro
345 kV Transmission Line Project
August 23, 2010

County Road

12-442.005

Arnette, Judith A.

12-446.002

Arnette, Judith A.

12-446.001

Arnette, Judith A.

County Road 2150

12-454.001

Swank, Jerry

Ente

12-454.003

L P Reed
Ranch, Ltd

12-454.00