

Control Number: 38354



Item Number: 2412

Addendum StartPage: 0

**SOAH DOCKET NO. 473-10-5546
PUC DOCKET NO. 38354**

APPLICATION OF LCRA	§	BEFORE THE STATE OFFICE
TRANSMISSION SERVICES	§	
CORPORATION TO AMEND ITS	§	
CERTIFICATE OF CONVENIENCE AND	§	
NECESSITY FOR THE PROPOSED	§	
MCCAMEY D TO MENDALL TO	§	OF
GILLESPIE 345-KV CREZ	§	
TRANSMISSION LINE IN	§	
SCHLEICHER, SUTTON, MENARD,	§	
KIMBLE, MASON, GILLESPIE, KERR,	§	
AND KENDALL COUNTIES	§	ADMINISTRATIVE HEARINGS

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**TEXAS PARKS AND WILDLIFE DEPARTMENT'S RESPONSES TO LCRA
TRANSMISSION SERVICES CORPORATION'S FIRST REQUEST FOR
INFORMATION TO INTERVENOR TEXAS PARKS AND WILDLIFE DEPARTMENT**

Texas Parks and Wildlife Department (TPWD) submits the following responses to the LCRA
Transmission Services Corporation's First Request for Information Intervenor TPWD.

Person(s) supervising the preparation of all responses and sponsoring witnesses:

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General Counsel
Texas Parks and Wildlife Department
4200 Smith School Road
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Todd George
Staff Attorney
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Persons who can vouch for the truthfulness of the answers provided are as follows:

Nyta Brown Wildlife Biologist/Site Manager
Old Tunnel Wildlife Management Area
Texas Parks and Wildlife Department
102 E. San Antonio St., Suite B
Fredericksburg, Texas, 78624
Telephone 830-990-2659
Regarding RFI 1-1

Karen H. Clary, Ph.D.
Wildlife Habitat Assessment Program
Wildlife Division
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744
Telephone 512-389-8054
Regarding RFI 1-4

Documents made available in response to the RFI were provided by the following:

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TPWD'S RESPONSES TO LCRA TSC'S FIRST REQUEST FOR INFORMATION TO INTERVENOR TPWD

1-1. Regarding the Response to Staff's Question 1-1:

Please describe each and every reason you believe each of the following are "habitable structures" under the PUC's definition:

- (a) Public restrooms
- (b) Covered viewing areas
- (c) A storage shed

Response:

The public restrooms, covered viewing areas and storage shed at Old Tunnel WMA meet the definition of "habitable structure" contained in Regulations of the Public Utility

Commission (PUC). Specifically, PUC regulations define “habitable structures” as follows:

Habitable Structures - Structures normally inhabited by humans or intended to be inhabited by humans on a daily or regular basis. Habitable structures include, but are not limited to, single-family and multi-family dwellings and related structures, mobile homes, apartment buildings, commercial structures, industrial structures, business structures, churches, hospitals, nursing homes, and schools.”

16 Tex.Admin.Code 25.101(a)(3). With regard to the specific types of habitable structures identified in this RFI, TPWD responds as follows:

- (a) *Public restrooms.* The public restrooms at Old Tunnel WMA are intended to be inhabited by humans on a regular basis. These restroom are open to the public from April through November. In 2009, there were 21,324 total visitors to Old Tunnel WMA. In 2008, there were 17,325 total visitors. In 2007, there were 10,553 total visitors. In 2006, there were 13,136 total visitors. In 2005, there were 12,565 total visitors. Although public restrooms are not considered a residence or dwelling place, they would be considered an industrial or business structure and such facilities are regularly inhabited by visitors to the WMA.
- (b) *Covered viewing areas.* The covered viewing areas at Old Tunnel WMA are intended to be inhabited by humans on a regular basis. In 2009, there were 21,324 total visitors to Old Tunnel WMA. In 2008, there were 17,325 total visitors. In 2007, there were 10,553 total visitors. In 2006, there were 13,136 total visitors. In 2005, there were 12,565 total visitors. Although the covered viewing area is not considered a residence or dwelling place, it would be considered an industrial or business structure and such facilities are regularly inhabited by visitors to the WMA.
- (c) *Storage shed.* A storage shed at Old Tunnel WMA is regularly inhabited by persons performing paid and volunteer work at Old Tunnel WMA. During the period from April 1, 2009, through March 31, 2009, a total of 51 volunteers provided 2,747 hours of volunteer labor. Such labor included moving materials and tools in and out of the storage shed. Although the storage shed is not considered a residence or dwelling place, it would be considered an industrial or business structure and is regularly inhabited by employees and volunteers.

1-2. Regarding the Response to Staff's Question 1-8:

Please provide all documents, studies, communications, research documents, scientific papers, surveys, records, investigations, audio and/or visual recordings, and photographs that are associated with the Old Tunnel Wildlife Management Area (WMA) and impacts from either LCRA TSC's existing T-120 138-kV Transmission Line or LCRA TSC's proposed McCamey D-Kendall-Gillespie 345-kV Transmission Line located near the Old Tunnel WMA for each of the following:

- (a) Old Tunnel WMA Visitation

- (b) Old Tunnel WMA paid fees and donations
- (c) Economic impact to the region
- (d) Bat Flight Patterns and impacts
- (e) Impacts to bats, including deaths or injuries
- (f) Bat "emergencies" and viewing of bat emergencies
- (g) Bat wire or pole strikes, including the existing distribution wires, poles and guy wires shown in response to Staff's 1st RFI, Question 1-3
- (h) Impacts to public use and enjoyment
- (i) Impacts to scientific research and investigation
- (j) Impact to historic integrity of the railroad Tunnel
- (k) "Constructive use of taking" of public land of the Old Tunnel WMA

Response:

Please refer to the Direct Testimony of Nyta Brown, Shelly Plante, Dr. John Baccus, and Dr. Karen Clary being filed in this matter as required by the schedule established in SOAH Order No. 1, in this matter. Additional documents that are responsive to this request are available for inspection at the offices of Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Please contact the undersigned counsel to arrange for such inspection.

1-3. Regarding the Response to Staff's Question 1-8

Please provide any and all documents and information related to impacts of transmission lines on bats and bat colonies, including the urban Brazilian free-tailed bat colony in the Congress Avenue Bridge in downtown Austin, Texas.

Response:

Please refer to the Direct Testimony of Nyta Brown, Shelly Plante, Dr. John Baccus, and Dr. Karen Clary being filed in this matter as required by the schedule established in SOAH Order No. 1, in this matter. TPWD is not in possession of documents or studies regarding the impacts of transmission lines on the specific bats and bat colonies at Congress Avenue Bridge in downtown Austin, Texas. Additional documents that are responsive to this request are available for inspection at the offices of Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Please contact the undersigned counsel to arrange for such inspection.

1-4. Regarding the Response to Staff's Question 1-8:

Please provide all information that supports TPWD's assertion that LCRA TSC's preferred route for the proposed 345-kV transmission line is closer to the Old Tunnel WMA than LCRA TSC's existing 138-kV transmission line.

Response:

The width of the existing right-of-way (ROW) of the current 138-kV line that parallels the Old Tunnel Wildlife Management area boundary averages between 80 and 90 feet,

and up to 110 feet at the northern end as measured using aerial imagery (Arc-GIS at a scale of 1:1000, ESRI Imagery Prime World 2D, Copyright:© 2010 i-cubed). The proposed LCRA ROW is 160 feet in width. The expanded width would place the proposed 345-kV transmission line corridor closer to the OTWMA than the existing LCRA's existing 138-kV transmission line corridor. Therefore, TPWD believes that the new line would be closer to the OTWMA than the existing one.

1-5. Regarding the Response to Staff's Question 1-8, fourth Paragraph:

Please provide copies of all easements, including easements that protect viewsheds, owned by TPWD and burdening private properties surrounding Old Tunnel WMA.

Response:

Documents that are responsive to this request are available for inspection at the offices of Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744. Please contact the undersigned counsel to arrange for such inspection.

- 1-6.** Please provide all information, communications, letters, reports and/or studies each and every TPWD employee has had with any intervenor in this Docket concerning their property; the existence of rare, endangered or threatened species and their habitat; fish and wildlife resources; historic resources; plant communities; or the potential impact of LCRA TSC's proposed transmission line on such resources.

Response:

TPWD objects to this RFI as seeking certain landowner information that TPWD is prohibited by law from disclosing pursuant to Texas Parks and Wildlife Code, Section 12.0251. TPWD will disclose information responsive to this RFI for any landowners that have consented in writing in accordance with §12.0251(b) Texas Parks and Wildlife Code.

- 1-7.** Please provide the name of any person for whom TPWD has performed a wildlife habitat assessment or evaluation of potential impacts of a proposed transmission line development on natural resources on the person's property.

Response:

TPWD objects to this RFI as seeking certain landowner information that TPWD is prohibited by law from disclosing pursuant to Texas Parks and Wildlife Code, Section 12.0251. TPWD will disclose information responsive to this RFI for any landowners that have consented in writing in accordance with §12.0251(b) Texas Parks and Wildlife Code.

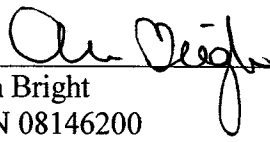
- 1-8. Please provide a copy of any assessment TPWD has performed on wildlife habitat or evaluation of potential impacts of a proposed transmission line on natural resources on an evaluated property.

Response:

TPWD objects to this RFI as seeking certain landowner information that TPWD is prohibited by law from disclosing pursuant to Texas Parks and Wildlife Code, Section 12.0251. TPWD will disclose information responsive to this RFI for any landowners that have consented in writing in accordance with §12.0251(b) Texas Parks and Wildlife Code.

Respectfully submitted,

Texas Parks and Wildlife Department


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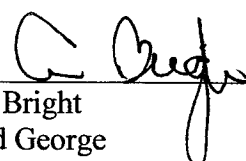
**ATTORNEYS FOR INTERVENOR TEXAS
PARKS AND WILDLIFE DEPARTMENT**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on this 27th day of September 2010 in accordance with SOAH Order No. 2 on the following:

R. Michael Anderson
Joe N. Pratt
Bickerstaff Heath Delgado Acosta LLP
Via Facsimile (512) 320-5638

William T. Medaille
Fernando Rodriguez
Lower Colorado River Authority
Via Facsimile (512) 473-4010


Ann Bright
Todd George

VERIFICATION

STATE OF TEXAS §
COUNTY OF Gillespie §

The undersigned hereby verifies that the responses to LCRA Transmission Services Corporation's First Request for Information to Intervenor Texas Parks and Wildlife Department are true and correct to the best of his/her knowledge, information and belief.


Nyta Brown

Subscribed and sworn to me on this 27th date of September, 2010.




Notary Public for the State of Texas

VERIFICATION

STATE OF TEXAS §
 §
COUNTY OF Lavis §

The undersigned hereby verifies that the responses to LCRA Transmission Services Corporation's First Request for Information to Intervenor Texas Parks and Wildlife Department are true and correct to the best of his/her knowledge, information and belief.

Karen Clary
Karen Clary

Subscribed and sworn to me on this 27th date of September, 2010.

Mary Beth Hilliard
Notary Public for the State of Texas

