

US 82 Utility Coordination Timeline

Shading Notes: Blue denotes Waterline actions, Gray denotes RR actions, and Green denotes Highway Improvement actions.

Date	Action	Comments
June 26, 1968	Lake Texarkana Water Supply Corp. with business address of 501 Municipal Building; Texarkana, Texas notifies TxDOT, by TxDOT permit, of proposed installation of pipe line on TxDOT ROW.	TxDOT offered no objection with stipulation that: "It is expressly understood that the State Highway Department does not purport, here-by, to grant any right, claim, title, or easement in or upon this highway; and it is further understood that the State Highway Department may require the owner to relocate this line, subject to provision of governing laws, by giving thirty (30) days written notice."
Fall 1968	Lake Texarkana Water Supply Corp. constructs waterline	Waterline permitted location 55 feet north of the centerline of Texas and Pacific Railway.(5' inside TxDOT ROW)
Dec 1996	UPRR (successor of T&P RR) granted RR abandonment exemption from Surface Transportation Board (STB)	Rail to Trails Conservancy (RTC) filed a request for issuance of a notice of interim trail use and rail banking
July 1997	UPRR notified STB ROW conveyed to RTC effective July 3, 1997	
1999	TxDOT and Bowie County Agreement with RTC on Trail and US 82 expansion	
May 2001	TxDOT holds Public Meeting for US 82 widening	36 citizens plus elected officials and TxDOT representatives
Aug 2002	TxDOT holds Public Meeting for US 82 widening	74 citizens plus elected officials and TxDOT representatives
Dec 2004	TxDOT offers opportunity for Public Hearing for US 82 widening	No requests made
Feb 11, 2005	FHWA issues Finding of No Significant Impacts (FONSI) for US 82 widening	
June 2005	Bowie County files joint motion to STB to change interim trail user from RTC to Bowie County	STB approved on July 1, 2005
March 21, 2007	Member Cities pay off original Lake Texarkana Water Supply Corporation construction bonds.	Legal questions begin over water rates, ownership, and operational responsibility within water distribution system.
Apr 2007	Bowie County requests to vacate 50' of trail ROW (retaining 50' of ROW) to STB	STB requested county to demonstrate remaining ROW sufficient to permit trail use and the reestablishment of rail service.
May 11, 2009	Bowie County submits US 82 Pass Through Finance/Tolling Proposal Application to TxDOT	Application submitted to Austin Headquarters and Atlanta District
Sept 24, 2009	TxDOT Selects Candidate Projects (10 to negotiate immediately plus 4 conditional)	Selected under TxDOT MO 111977 US 82 Project #11 on list as a conditional project
Dec 17, 2009	TxDOT approves US 82 PTF Project repayment amount of \$26,200,000	Approved under TxDOT MO 112074
March 2, 2010	Member Cities extend water supply contracts using Riverbend Water Resources District to supervise the contracts.	
July 14, 2010	Bowie County files Supplement to Petition to Reopen and Modify with STB	STB requested further engineering study to determine ROW sufficient to reestablish rail service.
March 14, 2011	Bowie County selects H. W. Lochner, Inc. for professional services to manage developing US 82 contingent upon bond election.	
May 14, 2011	Voters approve US 82 Bonds	Approved by voters 4045 to 3871.
May 27, 2011	Bowie County enters into Pass -Through Agreement with TxDOT for developing US 82	\$28,820,000 maximum reimbursement of construction cost (low bid award of the construction contract)
Oct. 5, 2011	STB grants approval to release 50' of railbanked ROW to TxDOT to widen US 82	

December 16, 2011	Bowie County provides Notice of Proposed Construction to known Utility Owners	TWU (Member City majority owner and operator) and Riverbend included in letter notifications
January 6, 2012	Bowie County hosts utility meeting at the offices of MTG in Texarkana, TX	Riverbend representative attends, TWU and City of Texarkana representatives do not attend
March 27, 2012	FHWA approves interim and ultimate schematics for improved US 82 designs	
August 27, 2012	Bowie County meets TWU at Judge Lacy's office to discuss option of leaving part of line in place.	TWU not aware of option to leave lines in place not conflicting with project
September 20, 2012	TxDOT certifies Environmental Document as a PCE	
October 22, 2012	Bowie County provides project update to utilities and requests adjustment status.	TWU and Riverbend included.
November 26, 2012	Bowie County meets TWU and Riverbend and others	Ownership of line explained by TWU. TWU announced they were locating the line to check existing line potential conflicts with proposed project. Parties involved committed to budget for adjustment as needed for next year's budget.
December 10, 2012	Final Plans and Contract Proposal submitted to TxDOT	Submitted for March 2013 letting
February 13, 2013	Bowie County meets TWU and City of Texarkana	TWU informs Bowie County that existing waterline location inadequate to leave in place between DeKalb and Malta. Texarkana provides notice they will approach Bowie County to help cover the cost of moving the waterline.
February 2013	Bowie County sends notice to TWU to adjust utility for US 82 construction project	Section between DeKalb and Malta given until September 30, 2013 to be clear.
March 5, 2013	Thomas Pollan with Bickerstaff Heath Delgado Acosta LLP provides opinion to Bowie County concerning waterline adjustment cost funding.	Opinion to avoid benevolent funding given.
March 11, 2013	Bowie County Commissioners Court hears and discusses TWU and Member Cities request to help fund waterline adjustment costs.	No action taken
March 28, 2013	Construction Contract Let	James Construction Group (JCG) low bidder at \$27,862,166.81
May 17, 2013	Construction Contract executed and Notice to Proceed provided to JCG	Preconstruction Conference scheduled for June 18, 2013 with work starting July 1, 2013

Ecclesiastes 3

1. *There is a time for everything, and a season for every activity under the heavens:*

22. *... there is nothing better for a person than to enjoy their work, because that is their lot. For who can bring them to see what will happen after them?*

APPROVAL

Control 46 Section 3, 4, 5, & 6
Hwy. No. U.S. 82
Bowie County

To Lake Texarkana Water Supply Corp.

Date _____

501 Municipal Building

Texarkana, Texas

The State Highway Department offers no objection to the location on the right-of-way of your proposed _____ line as shown by accompanying drawings and notice dated June 26, 1968 except as noted below.

It is expressly understood that the State Highway Department does not purport, hereby, to grant any right, claim, title, or easement in or upon this highway; and it is further understood that the State Highway Department may require the owner to re-locate this line, subject to provisions of governing laws, by giving thirty (30) days written notice.

All work on the highway right-of-way shall be performed in accordance with Highway Department instructions. The installation shall not damage any part of the highway and adequate provisions must be made to cause minimum inconvenience to traffic and adjacent property owners. Special specifications for placing this pipe line are as follows:

10" C.I., 16" & 30" RCG Water lines to parallel ~~and cross~~ U.S. 82 as shown on attached map and according to attached Special Provisions.

All work on highway right of way to be completed to the satisfaction of Mr. C. H. Lindsey, Maint. Const. Foreman, New Boston and Mr. Herbert Snider, Maint. Const. Foreman, Texarkana, Texas.

Please notify Mr. C. H. Lindsey, New Boston & Mr. Herbert Snider, Texarkana forty-eight (48) hours prior to starting construction of the line, in order that we may have a representative present.

TEXAS HIGHWAY DEPARTMENT

By: *H. A. Jennings*
District Engineer-Dist. No. 19
RPH

NOTICE OF PROPOSED INSTALLATION
PIPE LINES

Date June 26, 1968

TO THE TEXAS STATE HIGHWAY COMMISSION
c/o DISTRICT ENGINEER
TEXAS HIGHWAY DEPARTMENT
Atlanta, TEXAS

Formal notice is hereby given that Lake Texarkana Water Supply Corporation
~~Company~~, proposes to place a 30"-15" R.C.C. 50' pipe line within the right-of-
way of U.S. Highway No. 82 in Bowie County,
Texas as follows:

See Attached Description

The location and description of the proposed line and appurtenances is
more fully shown by Five copies of drawings attached to this
notice. The line will be constructed and maintained on the highway right-of-way
as directed by the State Highway Department in accordance with governing laws.

Construction of this line will begin on or after the 1st day of
September 19 68.

Firm Lake Texarkana Water Supply Corp.
By B.G. Linder
Title President
Address 501 Municipal Building
Texarkana, Texas

3-11 35-41 45-52
U. S. Highway 82

Water Main from Texarkana in the right-of-way of U. S. Highway 82 described as follows;

Beginning at the intersection of Old Boston Road and U. S. Highway 82 in Texarkana, Texas, which is 41 feet north of the centerline of U. S. Highway 82;

THENCE in a westerly direction 150 feet to a point;

THENCE $19^{\circ}34'$ to the right a distance of 84.90 feet to a point which is 66 feet north of U. S. Highway 82 centerline;

THENCE $42^{\circ}41'$ to the right a distance of 180.40 feet to a point on the east right-of-way of Loop 151 which is approximately 180 feet north of the centerline of U. S. Highway 82. (Loop 151 crossing shown on another detail sheet);

CONTINUING from a point on the west right-of-way of Loop 151 which is approximately 180 feet north of the centerline of U. S. Highway 82;

THENCE in a southerly direction a distance of 110.50 feet to a point 85 feet north of the centerline of U. S. Highway 82;

THENCE $58^{\circ}22'$ to the right and parallel to said centerline a distance of 253.10 feet to a point which is 85 feet north of said centerline;

THENCE $30^{\circ}48'$ to the left a distance of 104.20 feet to a point 30 feet north of U. S. Highway 82 centerline;

THENCE $30^{\circ}45'$ to the right, parallel and 30 feet north of U. S. Highway 82 centerline a distance of 11,385.0 feet to a point 30 feet north of said centerline;

THENCE parallel to the centerline of U. S. Highway 82 a distance of 500 feet to a point 35 feet north of said centerline;

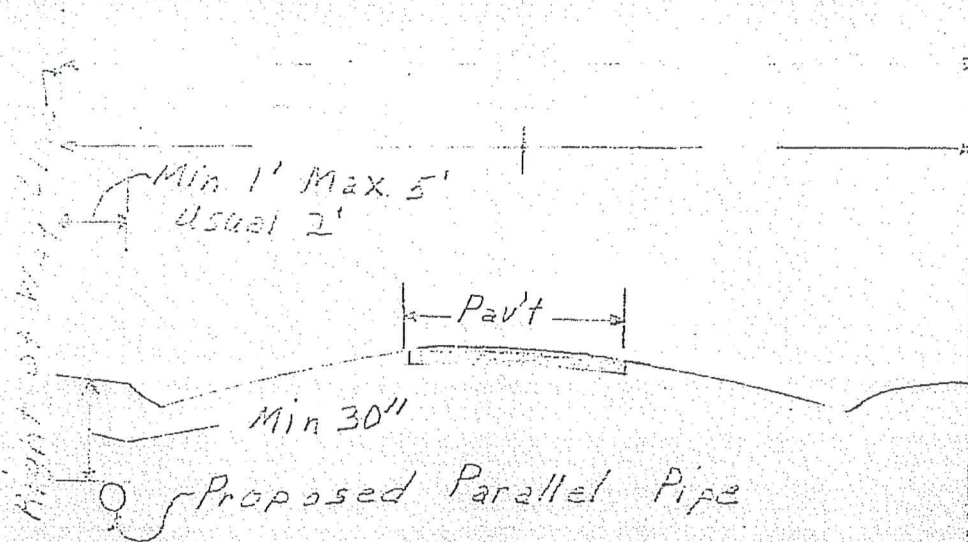
THENCE west, parallel and 35 feet north of U. S. Highway 82 centerline a distance of 21,310.0 feet to a point where the line turns south across U. S. Highway 82. (This crossing shown on another detail sheet);

CONTINUING at a point which is perpendicular to approximate centerline station 320+90 of U. S. Highway 82, F.A.P. 480-A (2) 1944 and 55 feet north of the centerline of Texas and Pacific Railway;

THENCE west and parallel with the centerline of U. S. Highway 82 at approximately 28,917.0 feet to a point where the line turns south across Texas and Pacific Railway;

CONTINUING from a point 55 feet north of the centerline of Texas and Pacific Railway and approximately 1,725.00 feet west of the centerline of U. S. Highway 259;

THENCE west and parallel to the centerline of U. S. Highway 82 a distance of 33,607.50 feet to a point on the County Line of Bowie County and Red River County which is 55 feet north of the centerline of Texas and Pacific Railway and perpendicular to station 0+00 of State Project No. C-46-3-9 control 46-3-9 of 1957.



TYPICAL FOR PIPES TO BE PLACED PARALLEL TO HIGHWAY

1. The trench for the parallel pipe shall be a max. of 18" in width and at least to the min. depth shown on the above elevation section.
2. The placement of excavation material upon either the shoulders or the paved surface or in the roadway ditch will not be permitted. In cases where the excavated material comes near the pavement edge or into the shoulder material or in the roadway ditch, in order to avoid striking some obstruction or improvement within or outside of the right of way the state will require that the ditch be sheeted to prevent damage to the road and creation of a traffic hazard. All backfill shall be placed in a min. of 8" layers and each layer will be machine tamped to restore the section and prevent possible settlement and washouts. All sod and other erosion control measures that are removed or destroyed during the construction will be replaced and any excess material displaced by the pipe will be removed from the right of way so that section as it existed prior to the installation of the pipe has been restored including resodding and any necessary watering.
3. Any access driveways, paved streets or paved county roads crossed shall use the bored hole method with casing if pressure is over 50 lbs. per sq. inch, or if of gravel surface or dirt, care should be taken to restore and compact the drives to the owners satisfaction.
4. Regulations and ordinances of incorporated cities will be complied with if within the city limits.

GENERAL NOTE: The specifications under which the project is constructed should follow our standard items 1 to 9 with respect to barricades, flagmen, flares, warning signs, and all responsibility for complaints or damage suits by the traveling public and adjacent property owners.

March 2, 2010, the day Texans celebrate Texas Independence Day

Posted on: Tuesday March 2, 2010

March 2, 2010, the day Texans celebrate Texas Independence Day, is also a historic day for the cities of Annona, Avery, DeKalb, Hooks, Maud, New Boston, and Wake Village, Texas, also known as the “member cities”, and the City of Texarkana, Texas as they came together, united in a common goal of securing water resources for their citizens and the citizens of Texas, now and in the future. The mayors of these eight Northeast Texas cities announced a renewed collaboration to bring to fruition the regionalization of common resources, namely water.

“Today is the renewal of a dream our city fathers had in 1969 – the dream that a working relationship between small and large cities could exist, whereby their differences would be laid aside creating a spirit of cooperative unity,” stated Mike Huddleston, Mayor of Wake Village. “It was that dream that brought them together to form the Lake Texarkana Water Supply Corporation, solidifying the cities in their quest to build and operate a Regional Water Supply System.”

It was in 1969 that the City of Texarkana, Texas entered into a “Water Supply System Sale-Purchase-Financing Agreement” with Lake Texarkana Water Supply Corporation purchasing various facilities, one of the assets being commonly referred to today as the Wright Patman Water Treatment Plant located at 2700 New Boston Road in Texarkana, Texas. At that time, the City of Texarkana, Texas also entered into multiple water supply contracts for the provision of potable water to the Texas member cities and to Texarkana, Arkansas.

The contracts with the member cities provided that when the Lake Texarkana Water Supply Corporation bonds have been paid, the Texas member cities have the right to an extension of the water supply contracts. With the bonds paid and discharged, the corporation dissolved effective March 21, 2007. The Texas member cities are now exercising their respective rights to an extension of the water supply contracts.

The Texas member cities have designated Riverbend Water Resources District to supervise the performance of the extension of their respective water supply contracts. Riverbend was created by the 81st Texas Legislature and is composed of the member cities, the City of Texarkana, Texas and the Red River Redevelopment Authority. The member cities and the City of Texarkana, Texas are also entering into interlocal cooperation agreements with Riverbend for other services and participating in funding for projects in exchange for dollar-for-dollar credits to be applied toward future water purchases should Riverbend develop such capability.

A special advisory committee consisting of the Mayor and City Manager of the Cities of Texarkana, Arkansas and Texarkana, Texas, the Mayors of New Boston and Wake Village, Texas, and Danny Gray, current Chairman of the Board of the Texarkana Chamber of Commerce has been formed. The committee will advise all member cities with interest in Lake Texarkana

Water Supply Corporation facilities on the calculations of proportionate ownership interest and operation/management of these facilities.

All of the mayors of the member cities and the Mayor of Texarkana, Texas who met together to sign the water supply contract extensions and the Riverbend interlocal cooperation agreements expressed their pleasure that all the cities are working together. “Water is our most important commodity,” Mayor Michael Babb of Hooks advised. “Anything we can do to get affordable water to our citizens is our responsibility. This action we are taking accomplishes that goal.”

The occasion marks the end of legal issues regarding water between the member cities and the City of Texarkana, Texas. “As we come to the end of lengthy litigation, along with the other member cities, I can attest that this is a historic occasion for us all,” noted Johnny Branson, Mayor of New Boston. “I am looking forward to working with both city governments of Texarkana and the Red River Redevelopment Authority.”

“I am excited about finally getting an agreement and about the future of our combined efforts,” added Paul Meadows, Mayor of DeKalb. “The ability to cooperate and supply water will be a great tool for the economic development of our area. I’m honored to be a part of this.” City of Maud Administrator Pat McCoy echoed Meadows’ sentiments, “This protects the cities, but more importantly, it assures our citizens that their water needs are protected now and well into the future.”

George English, Mayor of Annona, expressed gratitude to his fellow mayors stating “I want to thank all the mayors and all other parties involved in devoting their time and effort to achieve this goal. I am proud of the unity of all the cities to make this dream come true and look forward to working with all the cities to help our future generations.”

Mayor Steve Mayo of Texarkana, Texas summed up the group’s outlook when he referred to the execution of the contract extensions as “a huge victory for the citizens of our cities”. “We owe it to our children and those who come after us to have these agreements in place to insure the availability of this life-sustaining resource.

For additional information, please contact Vicki Melde, Marketing and Communications Manager for the City of Texarkana, Texas (903) 276-1458.

December 16, 2011

City of Texarkana
Water Utilities Dept.
Mr. J.D. Phillips
PO Box 2008
Texarkana, TX 75504

MTG
*engineers
& surveyors*

Re: Notice of Proposed Construction
US 82 (CSJ: 0046-04-057)
From: FM 1840
To: SH 98
Bowie County

Dear J.D. :

On behalf of Bowie County and the Texas Department of Transportation, please consider this as notification of proposed highway construction on US 82 from FM 1840 near DeKalb to SH 98 encompassing a project distance of approximately 8.6 miles.

This project is being developed by Bowie County as part of the TxDOT Pass Through Finance Program. Bowie County selected HW Lochner Inc. of Tyler, Texas as the lead design firm for this project. As a part of the Lochner team, MTG Engineers & Surveyors, Inc. of Texarkana will be leading the utility coordination phase of the project.

The pertinent information for the project is as follows:

- Current Project Description: Rehabilitate 2 lane rural roadway to provide passing lanes. In addition, Bowie County will self perform grading activities on the southern 50 feet of the abandoned railway corridor to provide for trail use.
- Current construction letting date: December, 2012
- ROW information: ROW will be acquired for this project. In general, the ROW to be acquired consists of the northern 50 feet of the abandoned railroad ROW from east of SH 98 to east of Broadway Street in DeKalb; and two parcels at the FM 1840 intersection to re-align the intersection of FM 1840 and US 82.

We do request, if available, that the following information be provided for our use:

- Contact person to be assigned to the project.
- As-built utility plans for facilities within the project limits or mark-ups/corrections to the utility mapping shown on the attached schematics.

A preliminary meeting will be held at 1:30 PM on January 6, 2012 at the offices of MTG Engineers & Surveyors located at 5930 Summerhill Road in Texarkana to further discuss the scope of the project and any necessary utility adjustments that may be required as a result of the project. Your attendance and furnishing of the above requested materials is important to maintain the schedule for this project.

CIVIL

ENVIRONMENTAL

SURVEYING

PO Box 3786 Texarkana Texas 75501
5930 Summerhill Rd. Texarkana Texas 75503
P 903.838.8533 F 903.832.4700
www.mtgengineers.com

If you have any questions or desire additional information regarding this project please feel free to contact me at 903-838-8533 or by e-mail at dwilliams@mtgengineers.com.

Sincerely,



David A. Williams, P.E.
Project Manager

Cc: Judge Sterling Lacy – Bowie County
John Goodwin – H.W. Lochner, Inc.
David Neshyba – TxDOT Atlanta

Attachments:

CD with PDF copies of project design schematics for Phase I project (US82schem01.pdf and US 82schem02.pdf) and for the ultimate facility design (US82schem01(ULT).pdf and US82schem02(ULT).pdf)

January 6, 2012

A Utility meeting was hosted by MTG from 1:30 pm to 2:30 pm at MTG's Texarkana Office.

Attendees: See sign in sheet

Meeting Presentation and handout: See PowerPoint presentation slides

David Williams (DW) with MTG welcomed the attendees and provided attendees with a copy of the meeting presentation. After introductions of all of the attendees, DW delivered the meeting PowerPoint presentation. After the presentation, DW pulled up images of the project and ultimate project schematic design to identify potential areas of interest regarding utility adjustments. The following items of interest were discussed as part of informal discussion of the project:

DW pointed out the realignment of FM 1840 in DeKalb. Windstream noted that they had several lines in that area including a line running down FM 1840 on the north side of the road. DeKalb water has a line running down the south side of FM 1840.

DW showed the extra widening section in Malta that appeared to affect the 16" water line but not the fiber optic line showing to be within the old RR ROW. Windstream attendees noted that they have an agreement that was executed by the RR for their lines and were in the process of getting an opinion from their Little Rock office as to the terms and conditions regarding relocation costs and reimbursements. John Goodwin (JG) asked for a copy of their agreement if possible. Windstream noted that lowering the lines would not be an issue regarding cost or timeliness but if new line was required for an adjustment, supply issues might be a concern due to current shortages of fiber optic line materials. Windstream added that they had lines running in multiple locations and that they placed a new line within the past few years just inside the RR ROW. JG noted that lines within the RR ROW should not require a horizontal adjustment but may need to be checked and lowered at spot locations for ditch or culvert outfall drainage work.

DW noted the widening of SH 98 on the east end of the project and the transition to the four land section near IH 30. Bowie WSC did not recognize the presence of the water lines showing on the north side of the road and

diagonally crossing US 82. They said their lines were on private easements on the north side of the road. DW noted the widening of SH 98/FM 3378 that would require some casing work needed for lines crossing SH 98/FM 3378.

DW showed the slight realignment of FM 2789 in Malta noting that lines crossing FM 2789 would need casing adjustments.

With no further business to conduct, the meeting was adjourned.

Shortly after meeting adjournment, Clyde M. Siebman (CS), the temporary administrator of the Riverbend Water Resources District, visited with DW and JG. DW presented the PowerPoint presentation and provided a copy of the presentation to CS. DW pointed out the adjustment needed in Malta of approximately 3000 LF of line with an expected construction cost of \$40/LF establishing a budgeted cost of about \$150k for construction, engineering, and other associated costs for adjusting the 16" water line including mobilization, site prep, sediment control, and adding valves, connections, and other appurtenances. With no further questions, the meeting with CS concluded.

Notes developed January 12, 2012 by:

John Goodwin
Project Manager
Lochner/BWR Division (903) 581-7844

US 82

UTILITY COORDINATION MEETING
JANUARY 6, 2012

PROJECT DESCRIPTION

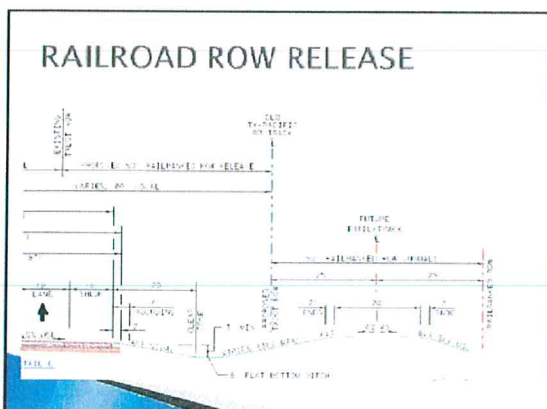
- ▶ FROM: SH 98
- ▶ TO: FM 1840
- ▶ PROJECT IS BEING CONSTRUCTED BY BOWIE COUNTY UNDER TxDOT'S PASS-THRU TOLL FINANCING PROGRAM

PROJECT DESCRIPTION

- ▶ CURRENT SCOPE OF WORK:
 - CONSTRUCT A "SUPER 2" ROADWAY SECTION
 - CONSTRUCT A "THREE LANE SECTION WITH CENTER TURNING LANE IN THE VICINITY OF MALTA SCHOOLS
 - SH 98 INTERSECTION WILL BE WIDENED TO THE ULTIMATE WIDTH.
 - FM 1840 INTERSECTION WITH US 82 WILL BE REALIGNED TO PROVIDE 90° INTERSECTION.

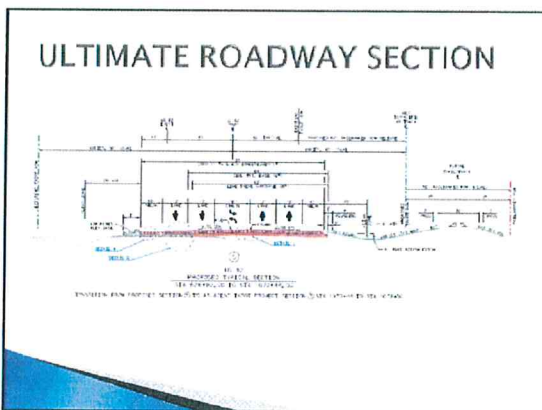
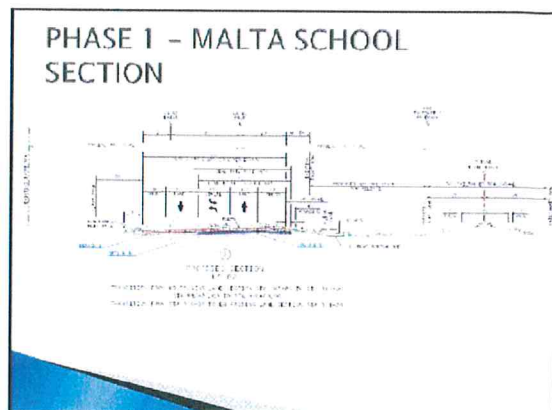
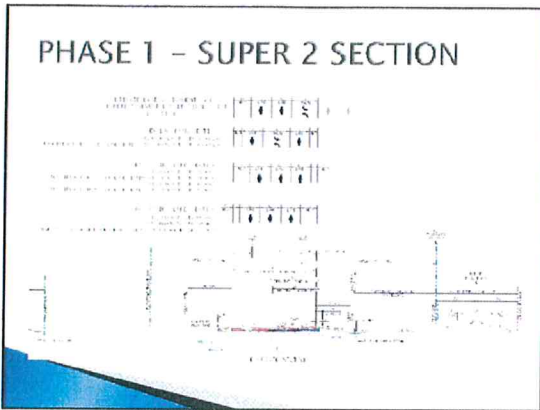
PROJECT DESCRIPTION

- ▶ ROW ACQUISITION
 - NORTH 50' OF FORMER RAILROAD ROW
 - TWO PARCELS FOR FM 1840 REALIGNMENT
- ▶ REMAINING 50' OF FORMER RAILROAD ROW WILL BE RETAINED BY BOWIE COUNTY FOR TRAIL DEVELOPMENT.



PROJECT DESCRIPTION

- ▶ ALL DESIGN AND CONSTRUCTION WILL BE TO TxDOT'S STANDARDS
- ▶ ALL UTILITY RELOCATION SHALL BE IN COMPLIANCE WITH TxDOT'S UTILITY ACCOMMODATION POLICY AND WILL REQUIRE PERMITTING IN THE SAME MANNER AS ANY OTHER TxDOT PROJECT WHICH PROVIDES FOR THE SUBMISSION BY THE UTILITY OF:
 - UTILITY INSTALLATION REQUEST (FORM 1082)
 - PLANS ACCURATELY DEPICTING THE LOCATION AND TYPE OF UTILITY FACILITY OCCUPYING ROW
 - AN ADJUSTMENT SCHEDULE AND ANY SPECIAL REQUIREMENTS BY TxDOT AND/OR THE UTILITY SHOULD BE INCLUDED WITH THE SUBMISSION



- ### PROJECT SCHEDULE
- ▶ LETTING DATE: DECEMBER 2012
 - ▶ ANTICIPATED CONSTRUCTION DURATION = 24 MONTHS
 - ▶ DESIRED UTILITY RELOCATION PLAN APPROVAL DATE = MAY, 2012
 - ▶ DESIRED UTILITY RELOCATION CONSTRUCTION COMPLETION = DECEMBER, 2012

QUESTIONS??

US 82 PTF Utility mtg.

8/27/2012

11:30 - 1:00 pm @ Judge Lacy's Office

Terrace Water Utilities ~~mtg~~

Bill King - TWU

Judge Lacy - Bowie Co.

Gary Smith - TWU

John Goodwin - Lochner

~~Bill~~ Phillips - TWU

Line adjustment cost

30,000 LF Adjustment

and
Line adjustment responsibility

~~1/2~~
3,000 LF Adjustment

TWU not aware of option to leave lines in place not conflicting with project.

Existy 16" DIP

Talked to John Jarvis w/ Sulphur River Basin

Proposed 24"

\$2.3 to \$4.9 million adjustment (30,000 LF)

Resolved - Adjust water line at project conflict areas
only (~ 3000 LF in Malta) (@ FM 1840) (~~@ FM~~
(@ SH 98)

Cost to adjust should be 1/10 of 30,000 LF Adj. cost.

Bill King to take lower cost to administration of TWU for
budgeting.

REPLACE/RELOCATE EXISTING 16" DIP WATER MAIN FROM MALTA TO DEKALB

24-Aug-12

	ESTIMATE
16" PVC C-905, SDR-18	\$2,325,400.00
16" DIP CLASS 250	\$3,331,900.00
24" PVC C-905, SDR-18	\$3,859,350.00
24" DIP CLASS 250	\$4,887,850.00

REPLACE/RELOCATE EXISTING 16" DIP WL FROM MALTA TO DEKALB WITH 16" PVC C-905, SDR-18					
COST ESTIMATE					
24-Aug-12					
Item No.	Description	Unit	Quantity	Unit Price	Total Bid
1	Mobilization, Bonds and Submittals	LS	1	\$ 50,000.00	\$ 50,000.00
2	16" PVC C-905 Water Pipe by Open Cut	LF	29,000	\$ 60.00	\$ 1,740,000.00
3	16" PVC C-905 Water Pipe by Bore	LF	1000	\$ 105.00	\$ 105,000.00
4	16" x 16" Tapping Sleeve & Valve	EA	2	\$ 16,500.00	\$ 33,000.00
5	16" Gate Valves	EA	9	\$ 9,500.00	\$ 85,500.00
6	Air Release Valve	EA	5	\$ 5,000.00	\$ 25,000.00
7	Blow Off Valve	EA	2	\$ 5,000.00	\$ 10,000.00
8	Cut, Plug, & Abandon 16" Water Main	EA	2	\$ 1,500.00	\$ 3,000.00
9	Remove 16" DIP Water Main	LF	30,000	\$ 1.00	\$ 30,000.00
10	Furnish All Labor & Materials to Clean & Test WL	LF	30,000	\$ 0.50	\$ 15,000.00
11	Furnish & Install Trench Protection	LS	1	\$ 5,000.00	\$ 5,000.00
12	Furnish All Labor & Materials to Seed All Areas	LS	1	\$ 7,500.00	\$ 7,500.00
13	Furnish & Install Erosion Control Measures	LS	1	\$ 5,000.00	\$ 5,000.00
	SUB-TOTAL WATER				\$ 2,114,000.00
	Contingencies				\$ 211,400.00
	TOTAL WATER				\$ 2,325,400.00

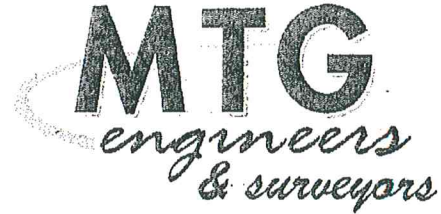
REPLACE/RELOCATE EXISTING 16" DIP WL FROM MALTA TO DEKALB WITH 16" DIP CLASS 250					
COST ESTIMATE					
24-Aug-12					
Item No.	Description	Unit	Quantity	Unit Price	Total Bid
1	Mobilization, Bonds and Submittals	LS	1	\$ 50,000.00	\$ 50,000.00
2	16" DIP Water Pipe by Open Cut	LF	29,000	\$ 90.00	\$2,610,000.00
3	16" DIP Water Pipe by Bore	LF	1000	\$ 120.00	\$ 120,000.00
4	16" x 16" Tapping Sleeve & Valve	EA	2	\$ 16,500.00	\$ 33,000.00
5	16" Gate Valves	EA	9	\$ 9,500.00	\$ 85,500.00
6	Polywrap	LF	30,000	\$ 1.00	\$ 30,000.00
7	Air Release Valve	EA	5	\$ 5,000.00	\$ 25,000.00
8	Blow Off Valve	EA	2	\$ 5,000.00	\$ 10,000.00
9	Cut, Plug, & Abandon 16" Water Main	EA	2	\$ 1,500.00	\$ 3,000.00
10	Remove 16" DIP Water Main	LF	30,000	\$ 1.00	\$ 30,000.00
11	Furnish All Labor & Materials to Clean & Test WL	LF	30,000	\$ 0.50	\$ 15,000.00
12	Furnish & Install Trench Protection	LS	1	\$ 5,000.00	\$ 5,000.00
13	Furnish All Labor & Materials to Seed All Areas	LS	1	\$ 7,500.00	\$ 7,500.00
14	Furnish & Install Erosion Control Measures	LS	1	\$ 5,000.00	\$ 5,000.00
	SUB-TOTAL WATER				\$3,029,000.00
	Contingencies				\$ 302,900.00
	TOTAL WATER				\$3,331,900.00

REPLACE/RELOCATE EXISTING 16" DIP WL FROM MALTA TO DEKALB WITH 24" PVC C-905, SDR-18					
COST ESTIMATE					
24-Aug-12					
Item No.	Description	Unit	Quantity	Unit Price	Total Bid
1	Mobilization, Bonds and Submittals	LS	1	\$ 50,000.00	\$ 50,000.00
2	24" PVC C-905 Water Pipe by Open Cut	LF	29,000	\$ 105.00	\$3,045,000.00
3	24" PVC C-905 Water Pipe by Bore	LF	1000	\$ 165.00	\$ 165,000.00
4	16" x 16" Tapping Sleeve & Valve	EA	2	\$ 16,500.00	\$ 33,000.00
5	24" Butterfly Valves	EA	9	\$ 12,000.00	\$ 108,000.00
6	Air Release Valve	EA	5	\$ 6,000.00	\$ 30,000.00
7	Blow Off Valve	EA	2	\$ 6,000.00	\$ 12,000.00
8	Cut, Plug, & Abandon 16" Water Main	EA	2	\$ 1,500.00	\$ 3,000.00
9	Remove 16" DIP Water Main	LF	30,000	\$ 1.00	\$ 30,000.00
10	Furnish All Labor & Materials to Clean & Test WL	LF	30,000	\$ 0.50	\$ 15,000.00
11	Furnish & Install Trench Protection	LS	1	\$ 5,000.00	\$ 5,000.00
12	Furnish All Labor & Materials to Seed All Areas	LS	1	\$ 7,500.00	\$ 7,500.00
13	Furnish & Install Erosion Control Measures	LS	1	\$ 5,000.00	\$ 5,000.00
	SUB-TOTAL WATER				\$3,508,500.00
	Contingencies				\$ 350,850.00
	TOTAL WATER				\$3,859,350.00

REPLACE/RELOCATE EXISTING 16" DIP WL FROM MALTA TO DEKALB WITH 24" DIP CLASS 250					
COST ESTIMATE					
24-Aug-12					
Item No.	Description	Unit	Quantity	Unit Price	Total Bid
1	Mobilization, Bonds and Submittals	LS	1	\$ 50,000.00	\$ 50,000.00
2	24" DIP Water Pipe by Open Cut	LF	29,000	\$ 135.00	\$3,915,000.00
3	24" DIP Water Pipe by Bore	LF	1000	\$ 200.00	\$ 200,000.00
4	16" x 16" Tapping Sleeve & Valve	EA	2	\$ 16,500.00	\$ 33,000.00
5	24" Butterfly Valves	EA	9	\$ 12,000.00	\$ 108,000.00
6	Polywrap	LF	30,000	\$ 1.00	\$ 30,000.00
7	Air Release Valve	EA	5	\$ 6,000.00	\$ 30,000.00
8	Blow Off Valve	EA	2	\$ 6,000.00	\$ 12,000.00
9	Cut, Plug, & Abandon 16" Water Main	EA	2	\$ 1,500.00	\$ 3,000.00
10	Remove 16" DIP Water Main	LF	30,000	\$ 1.00	\$ 30,000.00
11	Furnish All Labor & Materials to Clean & Test WL	LF	30,000	\$ 0.50	\$ 15,000.00
12	Furnish & Install Trench Protection	LS	1	\$ 5,000.00	\$ 5,000.00
13	Furnish All Labor & Materials to Seed All Areas	LS	1	\$ 7,500.00	\$ 7,500.00
14	Furnish & Install Erosion Control Measures	LS	1	\$ 5,000.00	\$ 5,000.00
	SUB-TOTAL WATER				\$4,443,500.00
	Contingencies				\$ 444,350.00
	TOTAL WATER				\$4,887,850.00

October 22, 2012

City of Texarkana
Water Utilities Dept.
Mr. J.D. Phillips
PO Box 2008
Texarkana, TX 75504



Re: Proposed Construction Update
US 82 (CSJ: 0046-04-057)
From: FM 1840
To: SH 98
Bowie County

Dear J.D.:

On behalf of Bowie County and the Texas Department of Transportation, please consider this letter as a status update for the proposed US 82 construction and a utility status update request.

The status of the project is as follows:

- Sale of bonds has been completed. This is a major milestone indicating the project will move forward.
- Current anticipated letting date for the project is March 2013 with construction on the roadway beginning in May 2013.
- Plans, specifications and estimates (PS&E) are approximately 90% complete and submission of 100% complete PS&E to TxDOT for final review and letting approval is planned for December 1, 2012. A copy of the current design plans may be downloaded at the following link: <<insert link to current 60% design plans>>

Pursuant to this status, it is imperative that all utility relocations required for the project are completed prior to March, 2013 to avoid any impacts to the project.

Additionally, at the request of TxDOT, all Utility Installation Requests for utility relocations associated with this project shall be sent directly to my attention. Do not submit through the TxDOT UIR system. The TxDOT Utility Installation Request (Form 1082) along with relocations plans may be submitted in either hard copy or PDF electronic copy to me.

An update of the status of your necessary relocations including proposed date of permit submission and relocation completion dates is also requested.

We are available to meet with you to discuss any aspects of the project, if needed. If you have any questions or desire additional information regarding this project please feel free to contact me at 903-838-8533 or by e-mail at dwilliams@mtgengineers.com.

Sincerely,

A handwritten signature in cursive script that reads 'David A. Williams'.

David A. Williams, P.E.
Project Manager

Cc: Judge Sterling Lacy – Bowie County
John Goodwin – H.W. Lochner, Inc.
David Neshyba – TxDOT Atlanta

CIVIL

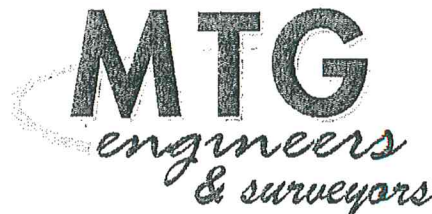
ENVIRONMENTAL

SURVEYING

PO Box 3786 Texarkana Texas 75501
5930 Summerhill Rd. Texarkana Texas 75503
P 903.838.8533 F 903.832.4700
www.mtgengineers.com

October 22, 2012

Riverbend Water Resources
Clyde Siebman
300 North Travis St.
Sherman, TX. 75090-5925



Re: Proposed Construction Update
US 82 (CSJ: 0046-04-057)
From: FM 1840
To: SH 98
Bowie County

Dear Mr. Siebman:

On behalf of Bowie County and the Texas Department of Transportation, please consider this letter as a status update for the proposed US 82 construction and a utility status update request.

The status of the project is as follows:

- Sale of bonds has been completed. This is a major milestone indicating the project will move forward.
- Current anticipated letting date for the project is March 2013 with construction on the roadway beginning in May 2013.
- Plans, specifications and estimates (PS&E) are approximately 90% complete and submission of 100% complete PS&E to TxDOT for final review and letting approval is planned for December 1, 2012. A copy of the current design plans may be downloaded at the following link: <<insert link to current 60% design plans>>

Pursuant to this status, it is imperative that all utility relocations required for the project are completed prior to March, 2013 to avoid any impacts to the project.

Additionally, at the request of TxDOT, all Utility Installation Requests for utility relocations associated with this project shall be sent directly to my attention. Do not submit through the TxDOT UIR system. The TxDOT Utility Installation Request (Form 1082) along with relocations plans may be submitted in either hard copy or PDF electronic copy to me.

An update of the status of your necessary relocations including proposed date of permit submission and relocation completion dates is also requested.

We are available to meet with you to discuss any aspects of the project, if needed. If you have any questions or desire additional information regarding this project please feel free to contact me at 903-838-8533 or by e-mail at dwilliams@mtgengineers.com.

Sincerely,

A handwritten signature in black ink that reads "David A. Williams". The signature is written in a cursive style.

David A. Williams, P.E.
Project Manager

Cc: Judge Sterling Lacy – Bowie County
John Goodwin – H.W. Lochner, Inc.
David Neshyba – TxDOT Atlanta

PO Box 3786 Texarkana Texas 75501
5930 Summerhill Rd. Texarkana Texas 75503
P 903.838.8533 F 903.832.4700
www.mtgengineers.com

CIVIL

ENVIRONMENTAL

SURVEYING

November 26, 2012

A utility meeting was hosted by Bowie County from 12:00 pm to 1:15 pm at the Bowie County Courthouse in New Boston, Texas.

Attendees: Sterling Lacy-Bowie Co. Judge, Pat McCoy-Bowie Co. Commissioner Pct. 4, James Carlow - Riverbend, J.D. Phillips – TWU, Bill King-TWU, Gary Smith-TWU, Johnny Branson-City of New Boston, John Goodwin-Lochner, David Williams-MTG, Travis Ransom– Kevin Eltife's Office

After greetings, Judge Lacy called the meeting to order and turned the meeting over to John Goodwin. John provided an agenda for the meeting and began covering the agenda items.

John reported that the US 82 plans were nearing completion and would be submitted to TxDOT soon. John noted that over three months were needed between PS&E submittal and letting for TxDOT review, FHWA program agreement execution, and contractor advertisements. John added that as part of the PS&E submittal, utilities conflicting with contractor operations would need to be identified with clearance dates for contractor work scheduling and bidding purposes. John and David Williams noted that the traffic control plans for US 82 had been redesigned to avoid the major utility conflicts in the Malta area until the end of construction (Phase 3) where the member city water line would need to be adjusted approximately 3000 feet in length. This would allow construction on US 82 to proceed without conflict for an additional year allowing another year to accomplish the utility adjustment in this area. John noted that utility adjustments would need to be made prior to letting for the member city line conflicts at FM 1840 and at SH 98 as well as the portion of the line remaining in place between DeKalb and Malta for possible valve adjustments and pipe protection due to inadequate pipe cover due to regrading taking place over the line.

John questioned the group concerning pipeline ownership with response that Texarkana (TWU) owned 88% of the line with the other 6 member cities (New Boston, Wake Village, Avery, Annona, DeKalb, and Hooks) owning 12% of the line. John asked what the current estimate for the utility adjustment was with response that \$460k was estimated for a 24" line and \$300k was estimated for a 16" line. The group agreed that upsizing the line to 24" was desired. JD Phillips noted that they were in the process of pot

holding the line to confirm the location of the line for utility clearance purposes. John made the observation that it appeared that none of the entities involved with this adjustment had budgeted for this expense with confirmation from the group that no one had any money budgeted. John asked if budgets for next year could cover the cost of the adjustment with confirmation that it could and would happen.

Pat McCoy discussed the plan using Transportation Enhancement (TE) funds to help pay for moving the utility. Given that it might not be until April until we know if the application will be selected by TxDOT or not, the affected entities would need to budget next year for participating in the TE project or cover the cost of the adjustment on their own. JD noted that he expected to have the water line adjustment plans done by March, so they could move forward anytime after that. David Williams noted that the TE plans would incorporate the plans developed by TWU under the TE letting .

John noted that we need to have the line in Malta adjusted by July 1, 2014 to avoid potential conflict with the US 82 contractor. John noted that if the TE project route was taken, it might be a tight timeline given TxDOT required procedures and processes for the TE program and we might need to ask for some favors to meet the July 1, 2014 deadline. Pat acknowledged and voiced expectations that TxDOT would fast track this TE project.

With no further business to conduct, the meeting was adjourned.

Action Items:

1. Find out in April 2013 if TE Project Selected by TxDOT and communicate to all parties involved (Bowie County)
2. Make appropriate budget adjustments for next year's budget (all parties involved)

Notes developed November 27, 2012 by:

John Goodwin
Project Manager
Lochner/BWR Division (903) 581-7844

February 13, 2013

A utility meeting was hosted by Bowie County from 3:30 pm to 4:15 pm at the Bowie County Courthouse in New Boston, Texas.

Attendees: Sterling Lacy-Bowie Co. Judge, John Whitson – Texarkana, TX City Manager, Bill King-TWU, Charlie Basset-TWU, John Goodwin-Lochner

After greetings, John Whitson said the purpose of the meeting was to talk to the Judge about the potential funding for the Member City waterline adjustment for the US 82 project. John W. said he understood the standard TxDOT permit condition that the line adjustments cost were the responsibility of the utility owner and needed to be made with a 30 day advance notice, but also feels that the US 82 Bond proceeds for the project could be used to offset their utility adjustment costs in accordance with the legal language associated with issuing the bonds.

Judge Lacy expressed his concern about providing funding for the Member City water line and not the other utilities along the project that are in the process of adjusting their utilities at their expense as being inconsistent treatment and unfair. John W, said he understood that the Commissioners Court might not approve funds for this adjustment, but he would like the opportunity to ask and placed the date of the next commissioners court meeting on his calendar.

John W. noted that if the people knew the amount of expense of this adjustment during the bond election, the US 82 Highway Bond might not have passed. John Goodwin noted that the subject election provided an opportunity of everyone, including TWU, to voice their concerns so that voters could make the best decision possible and it was unfortunate that TWU and the Member Cities were silent on this issue.

John W. commented that they had a plan for restructuring water bonds and other financing options for making this adjustment in the near term. He also noted that he would cite the lack of financial support from Bowie County and TWU's expense needed for this utility adjustment to others at future meetings to use as part of the explanation of potential water use rate adjustments and future budget discussions. Judge Lacy expressed his concern that this adjustment should have been factored into TWU's

operational budget and business plan and expressed his concern over TWU's recent transfer of funds to the City of Texarkana, Texas for their operating budget that should have been used to cover various waterline improvement needs such as this.

Bill King asked if it were too late to move the project to the north five or so feet with response from John Goodwin that moving the project to the north would require extensive traffic control handling expenses and would not be practical or feasible. John G. asked TWU, based on their recent field location surveys, if they felt the utility was out of the way of construction but too close to the proposed US 82 pavement for operations with response from Bill King that that was the case for the line between DeKalb and Malta. John G. stated that the county needed updated utility clearance dates incorporating TWU's current utility adjustment timeline for contractor notification and resulting bid preparation.

With no further business to conduct, the meeting was adjourned.

Action Items:

1. Develop meeting notes to document meeting (HWL)
2. Give 30 day notice to TWU with a request for TWU's adjustment timeline to include in construction contract notification no later than February 28, 2013. (HWL & MTG to develop notification letter to be signed by Judge Lacy)

Notes developed February 14, 2013 by:

John Goodwin
Project Manager
Lochner/BWR Division (903) 486-3083

February 19, 2013

**Mr. John Whitson
City Manager
City of Texarkana, Texas
West 3rd and Texas Blvd
Texarkana, TX 75501**

**Re: Water Main Relocation
US 82 (CSJ: 0046-04-057)
From: FM 1840
To: SH 98
Bowie County**

Dear Mr. Whitson:

Bowie County, acting on behalf of the Texas Department of Transportation through its pass-through agreement for payment of pass-through tolls by the department, hereby requests that the 16" water main located within and along the south ROW of US 82 by TxDOT permit between DeKalb and Malta be relocated prior to September 30, 2013 for US 82 construction. Due to the extent of the cost and schedule needs for making this adjustment, this notice exceeds the TxDOT minimum 30 day notice by over half a year. In addition, we ask that the same water main within and crossing SH 98 by TxDOT permit be adjusted for US 82 construction prior to May 15, 2013.

We feel that ample notices have been provided beginning with the original December 2011 notice of construction of the US 82 improvements. We recognize that there has been some uncertainty of the extent of relocation the project would require. However at this point in time, it appears that the scope of relocation is defined. We feel that this notice provides reasonable times for the above water line to be adjusted.

The above clearance dates for relocation will be contractually provided to the bidders on the project and the successful bidder will be contractually obligated to prosecute the US 82 improvements in such a manner and sequence that there will be no interference with your adjustment work or damage to the existing main in its current location.

Therefore, it is imperative that the relocations be completed by the above dates; otherwise claims of delay by the US 82 contractor may result in potential damages to all parties involved.

Your cooperation towards meeting utility clearance dates is appreciated. Please feel free to contact me if there are any questions regarding this matter.

Sincerely,

Honorable Judge Sterling Lacy
County Judge

Cc: Mr. William King – Texarkana Water Utilities
Mr. John Goodwin – H.W. Lochner, Inc.

Bickerstaff Heath Delgado Acosta LLP

3711 S. MoPac Expressway Building One, Suite 300 Austin, Texas 78746 (512) 472-8021 Fax (512) 320-5638 www.bickerstaff.com

March 5, 2013

Honorable Sterling E. Lacy
Bowie County Judge
Bowie County Courthouse
710 James Bowie Drive
New Boston, Texas 75570

Re: Responsibility for Utility Relocation Expenses

Dear Judge Lacy:

You have advised us that Bowie County (the "County") has started a major highway project in which the County has contracted with the Texas Department of Transportation ("TxDOT") to improve U.S. Highway 82 between State Highway 98 and FM 1840 (the "Project"). The County has issued its \$34,910,000 Pass Through Toll Revenue and Unlimited Tax Bonds, Series 2012 (the "Bonds"). As an inducement to get the County to agree to the Project, TxDOT has agreed to provide certain payments to the County which the County will use to cover a substantial amount of the debt service on the Bonds to reduce the tax burden on County taxpayers.

You further have advised us that the County has been approached by the Texarkana Water Utilities ("TWU") which has requested that the County provide money to compensate it for relocating utility lines in the right-of-way of the Project. You indicate that TWU has advised you that it is responsible for moving about 30,000 linear feet of water line necessitated by the U.S. Highway 82 widening project. You also indicate that all of the utility lines are in TxDOT right-of-way.

As a result of this request, you have asked us to address the following questions:

1. If the utility companies, public or non-public, are in a TxDOT right-of-way, are such utilities responsible for the expense of relocating their own utility lines?
2. Considering all of the promises Bowie County made as a part of issuing the Bonds, can the County use up to \$3.5 million of the Bond proceeds to reimburse utilities for relocating utility lines as a result of the Project even if the County is not required to make such reimbursements?
3. Even if Bowie County were allowed to give the utilities the millions of dollars from Bond proceeds, would this put the County in jeopardy of demands from the other utility companies, public or private, seeking help with the costs of moving their utility lines?

Responsibility for Relocation of Utility Lines for a TxDOT Project

The County is undertaking the Project which is a TxDOT project. The County's Pass-Through Toll Agreement for Payment of Pass-Through Tolls by the Department provides that the County, as Developer, "shall be responsible for the adjustment, removal or relocation of utility facilities in accordance with applicable state and federal laws, regulations, rules, policies, and procedures, including 43 TAC § 21.31, *et seq.* (Utility Accommodation); and 23 CFR Chapter 1, Part 645." TxDOT is required to permit utilities to use its right-of-way for utility lines if such lines will not interfere with the TxDOT use of the right-of-way. Generally, reimbursement to a utility for TxDOT's improvement of a highway will be limited to those situations where the utility had a prior ownership interest in the land where its utility line is located that was prior to the TxDOT use of the same property. TxDOT has a ROW Utility Manual which explains the process which may be accessed at

http://onlinemanuals.txdot.gov/txdotmanuals/uti/manual_notice.htm.

The state and federal regulations and the TxDOT Manual and the related forms make it clear that if a utility requests to locate a line in TxDOT right-of-way, the utility will be responsible for relocating its lines. The utility will get a permit to locate its lines on TxDOT right-of-way, which will exclude reimbursement if the lines need to be relocated. Under the Pass-Through Toll Agreement, the County would be responsible for reimbursing the utility if the costs are costs that TxDOT would have been responsible for reimbursing.

We have not seen the permits by which TWU or the other utilities have secured the right to locate lines in TxDOT right-of-way. The utility would need to provide you with a copy of the TxDOT permit to see if the relocation would be an eligible cost for reimbursement. While we have not seen the permits, we do note that the engineering firm that has designed the Project has prepared a spreadsheet showing costs of the construction costs, which indicates no money has been allocated to utility relocation. This would indicate that the utilities will not be entitled to reimbursement.

In answer to your first question, the County will not be responsible for payment of relocation reimbursements to the utilities unless the utilities provide documentation that TxDOT had agreed that such costs would qualify for reimbursement.

Use of Bond Proceeds to Reimburse Utilities for Relocating Utility Lines

The County's Order authorizing the issuance of the Bonds stated the Bonds were issued for:

... the purpose of providing funds for (1) constructing, improving, extending, expanding, upgrading and/or developing of a non-toll project or facility for the U.S Highway 82 Corridor, U.S. Highway 82 between FM 1840 and State Highway 98, including right-of-way acquisition, utility relocation and other transportation related improvements, in the County, a part of the State highway system located in the County; and (2) paying the costs of issuing such Bonds.

Honorable Sterling E. Lacy
March 5, 2013
Page 3

Any expenditure of Bond proceeds must be for one of the stated purposes. Utility relocation is one of the stated purposes. However, the utility relocation must be one that the County is responsible for paying. The engineering firm you have hired for the project has prepared a list of items for which the County will need to expend Bond proceeds on the Project which I have attached. It is significant the engineer has allocated nothing in the column "Bowie County Direct Cost Associated with Utility Adjustment." I have visited with the engineer who indicates that his firm found that the Project would be located completely within existing TxDOT right-of-way. This would be consistent with the TxDOT ROW Utility Manual which provides in Appendix A Reimbursement Guidelines and Billing Procedures for Utility Adjustments:

Any adjustment costs or right of way charges not covered by an Emergency Work Authorization (Form ROW-U-EWA) and which are incurred by a utility prior to the date of issuance of the ROW Division authorization to proceed with right of way acquisition for a particular project **are ineligible for reimbursement.**

The cost of right of way which is purchased by the utility prior to plan approval, and which is not needed for relocation due to highway construction, will not be reimbursed.

Where the existing utility facilities are located on public property by statutory right, any right-of-way costs incurred will be ineligible for State participation.

(Emphasis added).

In answer to your second question, the County is only responsible for an eligible expense. Unless a utility can provide documentation that TxDOT agreed when it granted the permit to use the right-of-way or that the utility owned the property prior to the time TxDOT acquired the right-of-way, its expenditures to relocate its utility line would not be an eligible expense for the County to reimburse. The expenditure by the County of Bond proceeds to reimburse utilities (public or private) for relocating utility lines within the TxDOT right-of-way for which the County was not responsible for would not be authorized under the Texas Constitution. Article III, Sections 51 and 52(a) of the Texas Constitution prohibits counties from making gifts or grants of public funds.

Would giving the utilities in question Bond proceeds for relocation purposes open the door to requests from other utilities?

In response to your third question, we do not provide a separate answer as this was addressed in our answer to your second question where we determined that such would be an unconstitutional gift or grant of County funds.

Honorable Sterling E. Lacy
March 5, 2013
Page 4

Our opinion is intended to respond to the specific fact situation you presented to us, and its application is limited to the facts supplied to us. Where the facts are different from those supplied to us, the application of the law to such facts may result in a different answer. Therefore, our legal opinion, which was given in a specific situation and for a particular purpose, should not be relied on for other purposes or by third parties.

Respectfully submitted,



Thomas M. Pollan

Summary of US 82 Project Development Costs with Limited Contingencies

Actual costs in green shading and estimated costs in blue shading.

Date: 2/27/2013

Billed Thru	Budget Amounts		WVA#3 ROW Map, Deeds, Permitting and Acquisition	Env Permitting and Mitigation	Bowie County Direct Costs associated with ROW	Bowie County Direct Cost associated with Utility Adjustments	Construction	Construction Contingencies and Change Orders (4%)	Construction Engineering
	WVA#1 Preliminary Design	WVA#2 Engineering Design and PS&E							
2011									
24-Jun-2011	\$585,372	\$1,969,722	\$211,398	\$0	\$25,000	\$0	\$25,000,000	\$1,000,000	\$2,125,852
22-Jul-2011	\$41,309.31								
19-Aug-2011	\$70,571.78								
16-Sep-2011	\$86,115.19								
14-Oct-2011	\$81,344.38								
11-Nov-2011	\$83,541.81	\$8,475.92							
9-Dec-2011	\$26,775.34	\$45,084.16							
6-Jan-2012	\$34,710.94	\$94,169.07							
3-Feb-2012	\$6,840.13	\$118,183.32	\$12,282.22						
2-Mar-2012	\$20,128.64	\$126,062.21	\$24,035.96						
30-Mar-2012	\$26,913.84	\$122,122.76	\$15,897.13						
27-Apr-2012	\$21,193.20	\$124,092.49	\$9,090.11						
25-May-2012	\$3,716.10	\$149,698.87	\$9,195.81						
22-Jun-2012		\$157,577.76	\$13,423.78						
20-Jul-2012		\$83,713.19	\$10,781.29						
17-Aug-2012		\$95,531.51	\$422.80						
14-Sep-2012		\$99,091.66	\$3,170.97						
12-Oct-2012		\$77,804.02	\$10,781.30						
9-Nov-2012		\$82,728.33	\$11,638.29						
7-Dec-2012		\$88,637.49	\$10,591.04						
4-Jan-2013		\$90,607.21	\$15,918.27						
1-Feb-2013		\$109,122.60	\$443.93						\$13,180.28
1-Mar-2013		\$56,170	\$5,294						\$70,422
29-Mar-2013		\$56,170	\$5,294		\$25,000				\$70,422
Apr		\$56,170	\$5,294						\$70,422
May		\$56,170	\$5,294				\$1,273,392	\$50,936	\$70,422
Jun		\$56,170	\$5,294				\$1,065,789	\$42,632	\$70,422
Jul		\$56,170	\$5,294				\$1,065,789	\$42,632	\$70,422
Aug		\$56,170	\$5,294				\$1,388,889	\$55,556	\$70,422
Sept		\$56,170	\$5,294				\$1,388,889	\$55,556	\$70,422
Oct		\$56,170	\$5,294				\$1,023,392	\$40,936	\$70,422
Nov		\$56,170	\$5,294				\$877,193	\$30,088	\$70,422
Dec		\$56,170	\$5,294				\$752,193	\$30,088	\$70,422
2014									
Jan							\$752,193	\$30,088	\$70,422
Feb							\$752,193	\$30,088	\$70,422
Mar							\$1,023,392	\$40,936	\$70,422
Apr							\$1,148,392	\$45,936	\$70,422
May							\$1,148,392	\$45,936	\$70,422
Jun							\$1,690,789	\$67,632	\$70,422
Jul							\$1,690,789	\$67,632	\$70,422
Aug							\$1,638,889	\$65,556	\$70,422
Sept							\$1,638,889	\$65,556	\$70,422
Oct							\$1,273,392	\$50,936	\$70,422
Nov							\$877,193	\$35,088	\$70,422
Dec							\$827,193	\$25,088	\$70,422
2015									
Jan							\$627,193	\$25,088	\$70,422
Feb							\$627,193	\$25,088	\$70,422
Mar							\$773,392	\$30,936	\$70,422
Apr									\$70,422
May									\$70,422
Jun									\$70,422
Jul									\$70,422
Aug									\$70,422
Sept									\$70,422

Totals \$585,372 \$1,969,722 \$211,398 \$0 \$25,000 \$0 \$25,000,000 \$1,000,000 \$2,125,852 \$30,917,344

Total Costs	Total Cumulative Costs	Total Bowie County FY Cost
\$30,917,344		
\$41,309.31	\$41,309.31	
\$70,571.78	\$111,881.09	\$280,207.62
\$82,211.34	\$194,092.43	
\$86,115.19	\$280,207.62	
\$81,344.38	\$361,552.00	
\$92,017.73	\$453,569.73	
\$71,869.50	\$525,439.23	
\$128,870.01	\$654,309.24	
\$137,306.67	\$791,614.91	
\$170,226.81	\$961,841.72	
\$164,933.73	\$1,126,775.45	\$1,587,267.37
\$154,375.80	\$1,281,151.25	
\$162,610.78	\$1,443,762.03	
\$171,001.54	\$1,614,763.57	
\$94,494.48	\$1,709,258.05	
\$95,954.31	\$1,805,212.36	
\$62,262.63	\$1,867,474.99	
\$88,585.32	\$1,956,060.31	
\$94,566.62	\$2,050,626.93	
\$99,228.53	\$2,149,855.46	
\$106,525.48	\$2,256,380.94	
\$122,746.81	\$2,379,127.75	
\$131,886.06	\$2,511,013.80	\$7,909,458.86
\$156,886.05	\$2,667,899.86	
\$131,886.05	\$2,799,785.91	
\$1,456,213.54	\$4,255,999.45	
\$1,240,307.11	\$5,496,306.56	
\$1,240,307.11	\$6,736,613.66	
\$1,520,160.59	\$8,256,774.26	
\$1,520,160.59	\$9,776,934.85	
\$1,140,043.63	\$10,916,978.49	
\$987,996.85	\$11,904,975.34	
\$857,996.85	\$12,762,972.19	
\$857,996.85	\$13,620,969.04	
\$852,703.09	\$14,473,672.13	
\$1,134,749.88	\$15,608,422.01	
\$1,264,749.88	\$16,873,171.88	
\$1,264,749.88	\$18,137,921.76	
\$1,698,843.44	\$19,836,765.20	
\$1,828,843.44	\$21,665,608.65	
\$1,774,866.84	\$23,440,475.48	
\$1,394,749.88	\$24,835,225.36	
\$982,703.09	\$25,817,928.45	
\$722,703.09	\$26,540,631.54	
\$722,703.09	\$27,263,334.63	
\$874,749.88	\$28,138,084.51	
\$70,422.39	\$28,842,826.90	\$5,702,001.68
\$70,422.39	\$29,547,054.29	
\$70,422.39	\$30,251,276.68	
\$70,422.39	\$30,955,501.07	

\$30,917,344