

TEXAS TRANSPORTATION COMMISSION

RUSK County

MINUTE ORDER

Page 1 of 2

TYLER District

Luminant Mining Company, LLC., (donor) would like to donate sufficient funding, property and services to provide for land acquisition and exchange of right of way, utility relocation, environmental assessments, schematics, plan specifications and estimates, and construction and construction engineering necessary to construct a new segment of replacement highway parallel to FM 2658 in Rusk County, approximately 1.76 miles in length, as more particularly described in Exhibit A (new right of way). The estimated donation is \$5,150,552. The donor has further agreed that upon completion of the realignment and construction of the new replacement highway facility for a portion of FM 2658, it will convey to the state the new right of way. Upon acceptance of the new right of way, the department will abandon an approximately 1.46 miles length of highway currently designated as FM 2658 as more particularly described in Exhibit B (existing right of way). In essence, this series of transactions will provide for the construction of a new segment of highway on property owned by the donor and the ultimate exchange of that segment for a parallel segment of highway currently owned by the department. As a result, the department will receive a new highway segment meeting all current specifications, and the donor will be able to pursue mining operations under the existing highway segment.

Transportation Code, §201.206, authorizes the Texas Department of Transportation (department) to accept a donation in any form, including realty, personalty, money materials, and services, for the purpose of carrying out its functions and duties.

Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60<sup>th</sup> day after the date the donation is accepted. It also prohibits a state agency from accepting a donation from a person who is a party to a contested case before the agency until the 30<sup>th</sup> day after the date the decision in the case becomes final.

The Texas Transportation Commission (commission) has adopted 43 TAC §§1.500-1.506, which relate to the department's acceptance of donations. Section 1.503 prohibits acceptance of a gift or donation when the donor is subject to department regulation or oversight or when the donor is interested in or likely to become interested in any contract, purchase, payment, or claim with or against the department, except as provided by that section. It also provides that the commission may approve the acceptance of a donation, notwithstanding the foregoing proscriptions in the rules, if it determines that acceptance would provide a significant public benefit and would not influence or reasonably appear to influence the department in the performance of its duties.

In accordance with Transportation Code, Chapter 202, Subchapter B, the commission may recommend the exchange of surplus land as partial or full consideration for other land needed by the state for highway purposes.

This donation has been examined by department personnel. The department recommends issuance of this minute order on the ground that acceptance of the donation and exchange is in the best interest and welfare of the traveling public.

The commission finds that the donation will further the department's responsibilities and that the donor is not a party to a contested case before the department and has not been a party to a contested case before the department during the last 30 days.

TEXAS TRANSPORTATION COMMISSION

RUSK County

MINUTE ORDER

Page 2 of 2

TYLER District

The commission finds that the donor is not interested in or likely to become interested in a contract, purchase, payment, or claim with or against the department. The commission has determined that acceptance of the donation would provide significant public benefits and would not influence or reasonably appear to influence the department in the performance of its duties.

It is the opinion of the commission that upon completion and acceptance of the new right of way, the existing right of way described in Exhibit B (surplus land) will no longer be needed for highway purposes, will be surplus, and should be removed from the state system of highways. It would then be proper and correct that the state convey and release its rights, title and interest in the surplus land including all coal and lignite rights, title and interest to the donor in exchange and as consideration for the conveyance of the new right of way to the state.

IT IS THEREFORE ORDERED by the commission that the donation by Luminant Mining Company, LLC, is accepted. The director of general services is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation and completion of the exchange.

IT IS FURTHER ORDERED by the commission that the director of general services is authorized to tender the following proposal to Luminant Mining Company, LLC., (donor).

Provided that the donor at its sole expense completes construction of the new right of way to the satisfaction of the department, conveys the new right of way described in Exhibit B to the state, and pays the cash difference between the value of the existing right of way and the value of the new right of way, if any, then the commission will recommend the conveyance of the existing right of way to the donor in accordance with Transportation Code, Chapter 202, Subchapter B.

IT IS FURTHER ORDERED, in consideration of the foregoing premises and in accordance with Transportation Code, Chapter 202, Subchapter B, the commission hereby finds that if and when the donor satisfactorily complies with all the conditions of this minute order, the designation of the surplus land as part of the state system is then cancelled and the surplus land is no longer needed for highway or public transportation purposes and recommends, subject to approval by the attorney general, that the Governor of Texas execute proper instruments conveying and releasing all of the state's rights, title and interest in the surplus land described in Exhibit A including all coal and lignite rights, title and interest to the donor in exchange and as consideration for the conveyance to the state of the new right of way.

Submitted and reviewed by:

Scott D. Buford  
Director, General Services Division

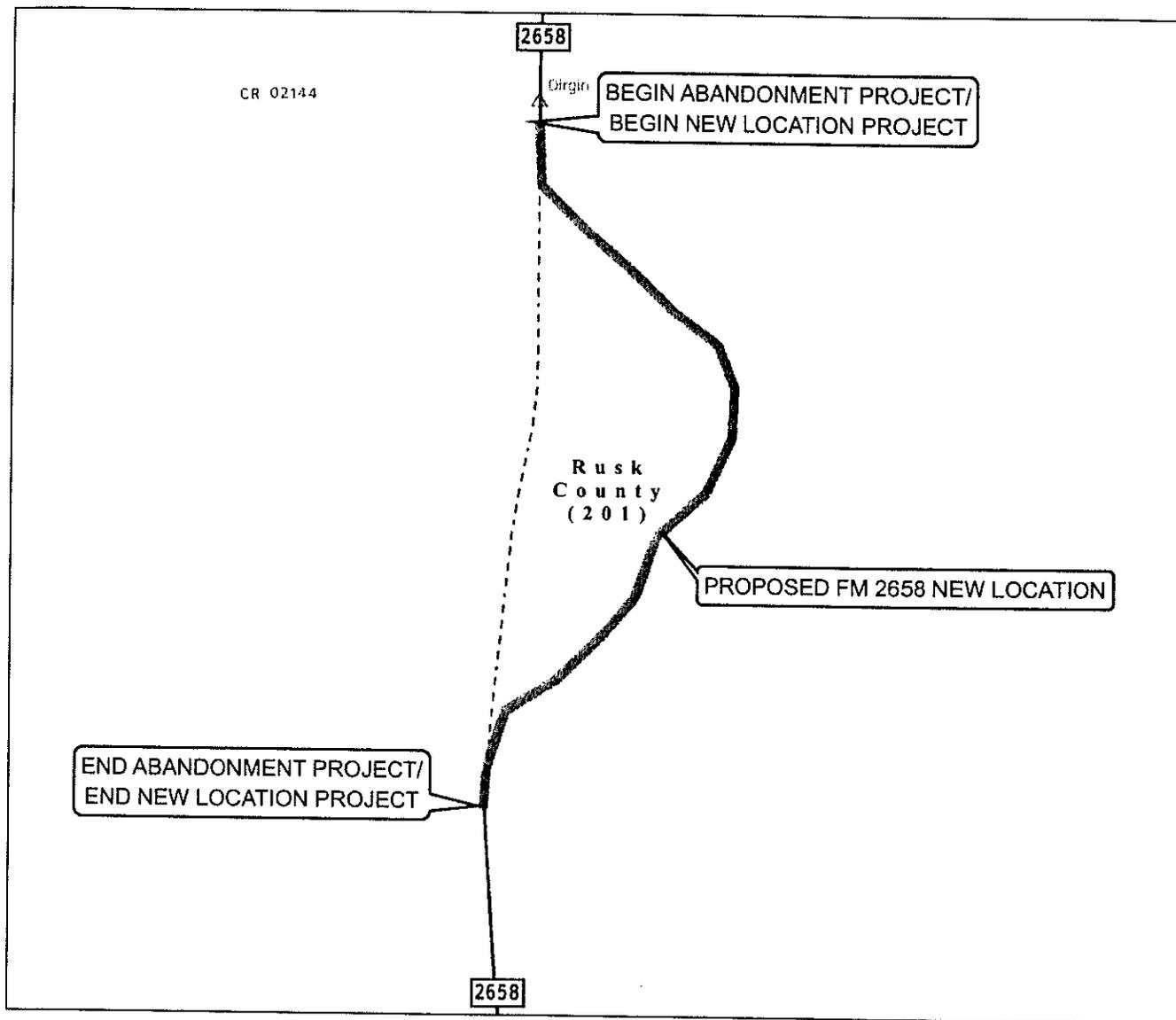
Recommended by:

B. J. Marks  
General Counsel

**112949** **DEC 15 11**  
Minute Date  
Number Passed



# PROPOSED FM 2658 RELOCATION PROJECT LOCATION MAP



## NEW FM 2658 LOCATION MAP RUSK COUNTY

NOT TO SCALE

EXHIBIT A

## **EXHIBIT B**

Description of a segment of right of way in Rusk County, Texas, being a portion of the FM 2658 right of way conveyed to The State of Texas by:

1. Right of Way Dedication recorded in Volume 745, Page 385, and by Judgments recorded in Volume 746, Page 339, Volume 746, Page 345, Volume 820, Page 61, Deed Records of Rusk County, Texas; said right of way being shown on pages 10 - 12 of the "Right of Way Map" for FM 2658, surveyed and prepared January 23, 1962, Cont. 2653, Section 01, Job 001, being attached hereto as Exhibit B-1, and incorporated herein by reference, and

2. Right of way deed recorded in Volume 960, Page 1, Deed Records of Rusk County, Texas; said right of way being shown on page 3 of the "Right of Way Map" for FM 2658, surveyed and prepared June 19, 1979, Cont. 2653, Section 01, Job004, being attached hereto as Exhibit B-2, and incorporated herein by reference, and

the entire segment being more particularly described as follows: Beginning at FM 2658 centerline station 83+00, and continuing in varying widths to centerline station 160+00, for a distance of approximately 1.46 miles.

DATE	STATE	FEDERAL PROJECT NO.	SECTION
	TEXAS	52601(1)	1
DATE	CHART	DATE	SCALE
ID	RMAX	1482-1-1	PM2404

STATE OF TEXAS  
STATE HIGHWAY DEPARTMENT

PLANS OF PROPOSED  
STATE HIGHWAY IMPROVEMENT

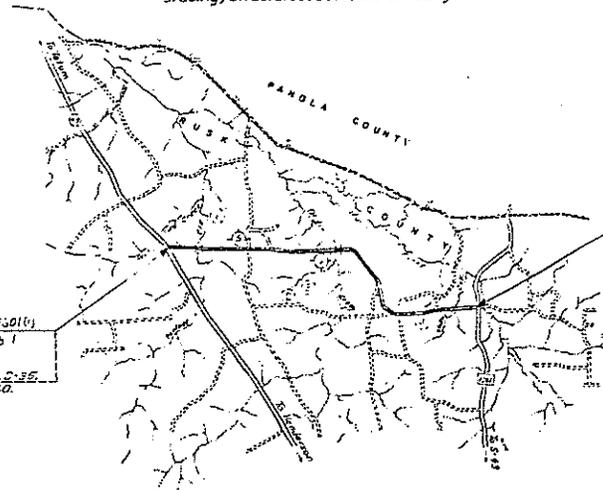
FEDERAL AID PROJECT: S2601(1)

PLAN: 1" = 100 FT.  
PROFILE: 1" IN. HORIZ. = 100 FT., 1" IN. VERT. = 10 FT.  
CROSS-SECTIONS: 1" IN. HORIZ. AND VERT. = 1 FT.  
OTHER AS NOTED.  
NET LENGTH OF PROJECT = 34,472.3 FT. = 6.528 MI.

ROADWAY 34,472.3 FT. = 6.528 MI.  
SPIGIES 167,47 FT. = 3.154 MI.  
TOTAL 34,472.30 FT. = 6.528 MI.

RUSK COUNTY  
FM 2658

FROM STATE 43, 5.0 MILES SOUTHWEST OF TATUM, SOUTH TO FM 1251  
Grading, Structures, Base, and Surfacing



*Handwritten note:* This section is indicated as 'not constructed'.

NOTE: The Contractor shall furnish and install all Barricades & Warning Signs in accordance with standards B-1, B-2, B-3, B-4, B-5, B-6, B-7, B-8, B-9, B-10, B-11, B-12, B-13, B-14, B-15, B-16, B-17, B-18, B-19, B-20, B-21, B-22, B-23, B-24, B-25, B-26, B-27, B-28, B-29, B-30, B-31, B-32, B-33, B-34, B-35, B-36, B-37, B-38, B-39, B-40, B-41, B-42, B-43, B-44, B-45, B-46, B-47, B-48, B-49, B-50, B-51, B-52, B-53, B-54, B-55, B-56, B-57, B-58, B-59, B-60, B-61, B-62, B-63, B-64, B-65, B-66, B-67, B-68, B-69, B-70, B-71, B-72, B-73, B-74, B-75, B-76, B-77, B-78, B-79, B-80, B-81, B-82, B-83, B-84, B-85, B-86, B-87, B-88, B-89, B-90, B-91, B-92, B-93, B-94, B-95, B-96, B-97, B-98, B-99, B-100, B-101, B-102, B-103, B-104, B-105, B-106, B-107, B-108, B-109, B-110, B-111, B-112, B-113, B-114, B-115, B-116, B-117, B-118, B-119, B-120, B-121, B-122, B-123, B-124, B-125, B-126, B-127, B-128, B-129, B-130, B-131, B-132, B-133, B-134, B-135, B-136, B-137, B-138, B-139, B-140, B-141, B-142, B-143, B-144, B-145, B-146, B-147, B-148, B-149, B-150, B-151, B-152, B-153, B-154, B-155, B-156, B-157, B-158, B-159, B-160, B-161, B-162, B-163, B-164, B-165, B-166, B-167, B-168, B-169, B-170, B-171, B-172, B-173, B-174, B-175, B-176, B-177, B-178, B-179, B-180, B-181, B-182, B-183, B-184, B-185, B-186, B-187, B-188, B-189, B-190, B-191, B-192, B-193, B-194, B-195, B-196, B-197, B-198, B-199, B-200, B-201, B-202, B-203, B-204, B-205, B-206, B-207, B-208, B-209, B-210, B-211, B-212, B-213, B-214, B-215, B-216, B-217, B-218, B-219, B-220, B-221, B-222, B-223, B-224, B-225, B-226, B-227, B-228, B-229, B-230, B-231, B-232, B-233, B-234, B-235, B-236, B-237, B-238, B-239, B-240, B-241, B-242, B-243, B-244, B-245, B-246, B-247, B-248, B-249, B-250, B-251, B-252, B-253, B-254, B-255, B-256, B-257, B-258, B-259, B-260, B-261, B-262, B-263, B-264, B-265, B-266, B-267, B-268, B-269, B-270, B-271, B-272, B-273, B-274, B-275, B-276, B-277, B-278, B-279, B-280, B-281, B-282, B-283, B-284, B-285, B-286, 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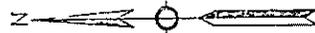
INDEX OF SHEETS

SHEET NO.	DESCRIPTION
1	TITLE SHEET
2-3	TYPICAL SECTIONS
4	SPECIFICATION DATA
5	STRUCTURE SUMMARY
6	QUANTITY SUMMARY
7-18	PLAN PROFILE
19-20	BRIDGE LAYOUTS
21	SUMMARY OF INTERSECTIONS & PRIVATE DRIVEWAYS
22	INTERSECTION LAYOUTS
23	CONCRETE CURB & GUTTER DETAILS
24	FLEXIBLE BASE & BORROW PIT DETAILS

STRUCTURAL DETAILS AND STANDARDS

25	CH-11
26	CH-11-B-15
27	CH-11-B-30
28	CH-11-B-45
29	MCW-10-2-30
30	MCW-F-30
31	MCB-2-40 & MCW-F1-SPL
32	MCB-2
33	MCW-F1
34	CCG-9-24-30(1)IT
35	CCG-9-24-30(1)IT
36	CS
37	STANDARD RAILING TYPE II
38	RR-8
39	G-61
40	M-61
41	SWC-61
42	BW-61
43-44	BW-61(1) & (2)
45	CIS-61

NO FIELD CHANGES



Right of Way dedication - Volume 743, Page 385-409  
Separate Plans & Easements  
Jimmie Barr, et al - Deed, Vol 745 Page 419-481  
Easements, Vol 745 Page 419-418  
Oates Gray, et al (Suey Gray Est) Deed, Vol 745 Page 410-413  
Easements Vol 745 Page 414-416  
Judgement of Court  
W. T. Adams - Deed Vol 746 Page 339-344  
Easements Vol 746 Page 345-350  
Consentations: Awaiting Jury Trial

Sta. C+157 Beg. Proj. S2601(1)  
Control 2653 Sect. 1 Job 1  
D'Surfacing: Same D-34A, D-35, W-155, D-57, D-58, & D-60.

S+3 344+58 End Proj. S2601(1)  
Control 2653 Sect. 1 Job 1  
D'Surfacing: Same D-34A, D-35, W-155, D-57, D-58, & D-60.

John Pinnell  
PA Licencln #61-820  
NO ECOLATIONS  
NO EXCEPTIONS  
NO REVISIONS ELIMINATED

COUNTY NO. \_\_\_\_\_  
HWY. NO. \_\_\_\_\_  
LETTING DATE \_\_\_\_\_  
DATE ACCEPTED \_\_\_\_\_

CONVENTIONAL	STATE
STATE OR NATIONAL LINE	STATE OR NATIONAL LINE
LEFT OF PAVEMENT LINE	LEFT OF PAVEMENT LINE
RIGHT OF PAVEMENT LINE	RIGHT OF PAVEMENT LINE
RIGHT OF WAY LINE	RIGHT OF WAY LINE
RIGHT OF WAY BARRIAGE	RIGHT OF WAY BARRIAGE
EDGE LINE	EDGE LINE
PAVEMENT	PAVEMENT
TRAVEL & SHOULDER	TRAVEL & SHOULDER
SHOULDER TO ROAD	SHOULDER TO ROAD
PROPOSED	PROPOSED
EXISTING OR TELEPHONE	EXISTING OR TELEPHONE
8-INCH MATERIAL	8-INCH MATERIAL
12 INCH MATERIAL	12 INCH MATERIAL

Specifications adopted by the State Highway Department of Texas, January 2, 1961, shall govern on this project.

LAYOUT SCALE: 1 IN. = 5280 FT.

STATE HIGHWAY DEPARTMENT

1-23-62

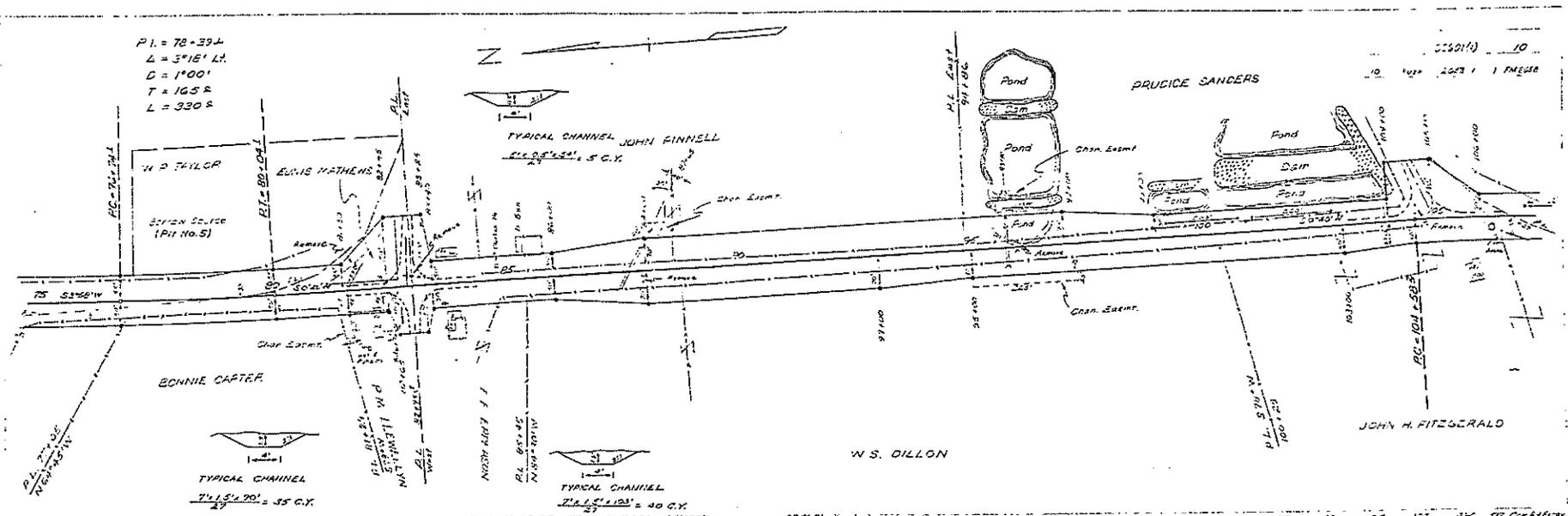
APPROVED: *John R. Allen*  
DISTRICT ENGINEER

APPROVED: *John R. Allen*  
ENGINEER SECONDARY ROADS

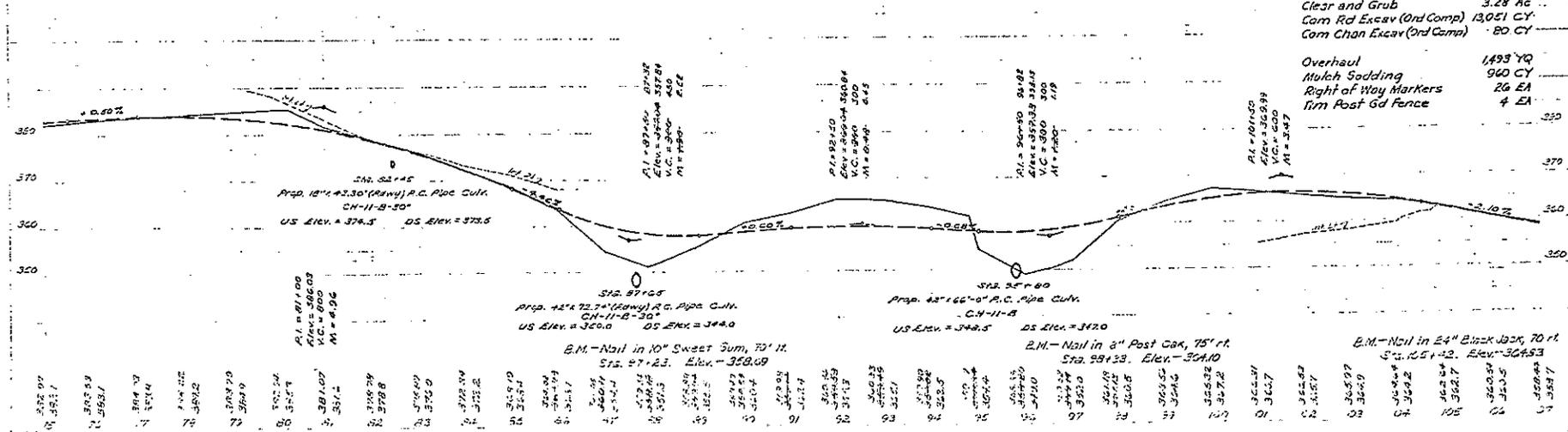
DEPARTMENT OF COMMERCE  
BUREAU OF PUBLIC ROADS

APPROVED: \_\_\_\_\_  
DISTRICT ENGINEER

DATE: \_\_\_\_\_



Cur Rd Excav	15	32	65	143	320	620	480	407	437	250	253	117	117	122	104	122	104	112	135	78	190	178	243	292	304	193	91	165	436	517
Embankment	105	42	22	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
					4455	4250	4142	4070	3970	3870	3770	3670	3570	3470	3370	3270	3170	3070	2970	2870	2770	2670	2570	2470	2370	2270	2170	2070	1970	1870







497  
1288

DATE	PROJECT	SCALE
10	RUSK - 2653-1-4	PM-2653

STAT. OF TEXAS  
STATE HIGHWAY DEPARTMENT

PLAN OF PROPOSED  
RIGHT OF WAY PROJECT  
RUSK COUNTY

F. M. HIGHWAY 2658

TWO SECTIONS, AT PANTHER CREEK AND  
DRY CREEK, BETWEEN S-43 AND FM-1251  
NET LENGTH OF PROJECT = 6132.36 FT. = 1.161 MI.

Panther Creek = 2362.42 FT. = 0.447 MI  
Dry Creek = 3770.54 FT. = 0.714 MI.

PLAN SCALE: 1" = 100'  
Control No. 2653-1-4



BEGIN Control No. 2653-1-4  
STA. 22 + 41.01

BEGIN EXCEPTION  
STA. 46 + 00.43 + PREV. STA. 40 + 00

END EXCEPTION  
STA. 155 + 09.49

CORRECT June 8 1979

SUPERVISING Robert L. Lewis  
RESIDENT ENGINEER

CORRECT June 15 1979

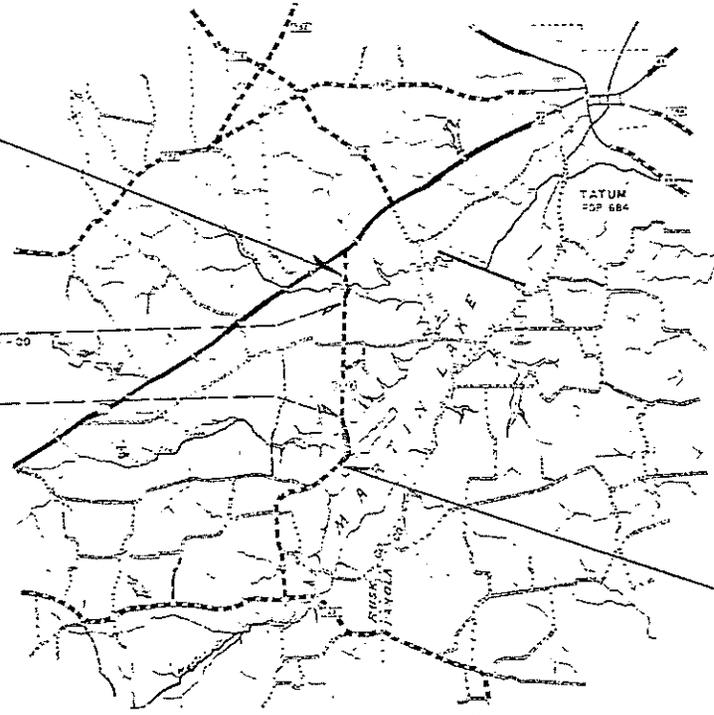
DISTRICT James E. ...  
ADMINISTRATIVE ENGINEER

APPROVED 6-19 1979

Robert L. Lewis  
DISTRICT ENGINEER

END Control No. 2653-1-4  
STA. 192 + 80.03

Previous Sta. 192 + 51.63



- CONVENTIONAL SIGNS
- RIGHT OF WAY LINE
  - PROPERTY LINE
  - COUNTY LINE
  - CONTROL OF ACCESS LINE
  - SURVEY LINE
  - FENCE
  - POWER LINE
  - TELEPHONE OR TELEGRAPH
  - INDICATE BRIDGE OR CONVEY
  - CITY LIMITS

NO EQUATIONS  
ONE EXCEPTION - Sta. 46 + 00 - Sta. 155 + 09.49 = 10,309.49 Ft.  
NO RR CROSSINGS ELIMINATED

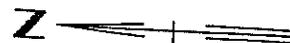
LAYOUT SCALE 1 IN. = 1 MI.

EXHIBIT B-2

A-160

MARTIN

LAKE



STA. 155+09.49  
= STA. 155+09.49 PREVIOUS PROJECT  
END EXCEPTION

P.I. = 157+00  
Δ = 5°42'38" R.  
D = 1"30'  
T = 190.51  
L = 380.70  
R = 3819.72

P.I. = 165+03.91  
Δ = 5°42'36" R.  
D = 1"30'  
T = 190.51  
L = 380.70  
R = 3819.72

EXISTING R.O.W. FM 2659, CONTROL NO. 2659-1-1 RUSK COUNTY, TEXAS TO BECOME SURPLUS AND CUITCLAIMED TO TEXAS UTILITIES SERVICES, INC. SAID R.O.W. IS A PORTION OF PROPERTY ACQUIRED FOR HIGHWAY R.O.W. & CHANNEL EASEMENT PURPOSES BY H.O.W. DEDICATION RECORDED IN VOLUME 745, PAGE 385 AND JUNT RECD. IN VOL. 746, PAGE 345, DEED RECORDS OF RUSK CO. TEXAS.

TRACT 1	= 3.21 ACRES
TRACT 2	= 0.59 ACRES
TRACT 3	= 0.12 ACRES
TRACT 4	= 0.12 ACRES
<b>TOTAL</b>	<b>= 3.97 ACRES</b>

VOL. 1105 PAGE 189

DAN TAYLOR, Trustee  
Deed

Vol. 1105 Page 1  
Sta. 155+09.49 - 192+80.03  
5.30 Ac.  
CHICAGO TITLE 01245

