

TEXAS TRANSPORTATION COMMISSION

MINUTE ORDER

Page 1 of 1

LIMESTONE County
WACO District

This minute order considers a cash donation of an estimated amount of \$3.5 million to the Texas Department of Transportation (department) from TXU Mining Company, L.P. (TXU) to donate sufficient funding, property, and services to provide for utility relocation; environmental assessments; schematics; plans, specifications, and estimates; construction; and construction engineering necessary for construction of a temporary overpass structure along SH 7 in Limestone County, Texas described in Exhibit A. TXU has further agreed that upon completion of construction, if it is necessary, it will convey to the state an easement interest in land.

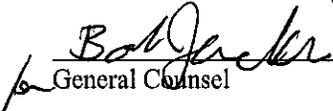
Transportation Code, §201.206, authorizes the department to accept a donation in any form, including realty, personalty, money, materials, and services, for the purpose of carrying out its functions and duties. Government Code, Chapter 575, requires the governing board of a state agency to acknowledge the acceptance of a donation valued at \$500 or more by majority vote at an open meeting, not later than the 60th 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 30th 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.

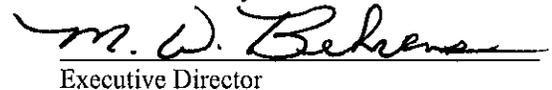
This donation has been examined, and the department recommends issuance of this minute order on the ground that acceptance of the donation is in the best interest and welfare of the traveling public. The commission finds that the donation will further the department's responsibilities and that the donor 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. The commission also finds that the donor is not subject to department regulation or oversight and that acceptance of this donation will not influence or reasonably appear to influence the department in the performance of its duties. The donor previously donated funds for similar projects, and agreements have been signed without any issues.

IT IS THEREFORE ORDERED by the commission that the donation by TXU is accepted. The executive director or the executive director's designee is authorized to execute all necessary documents under 43 TAC §1.504 to effect the acceptance of the donation.

Submitted and reviewed by:

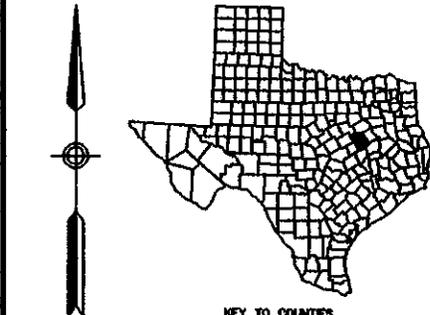
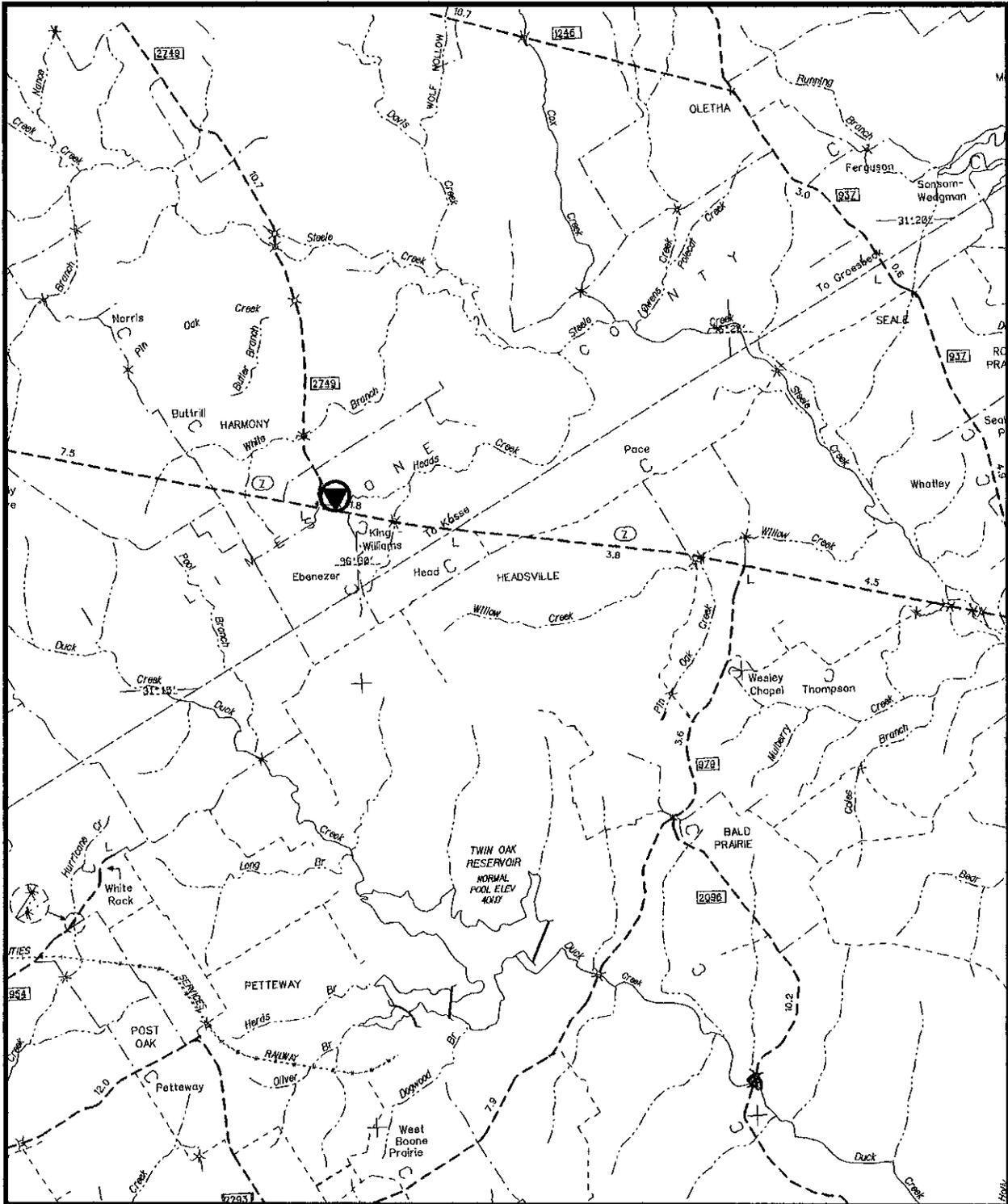

General Counsel

Recommended by:


Executive Director

110451 FEB 23 06

Minute Number Date Passed



 PROJECT LOCATION

SH 7 BRIDGE PROJECT LOCATION MAP

SCALE: 1" = Approx. 2 Mi.

KEY TO COUNTIES

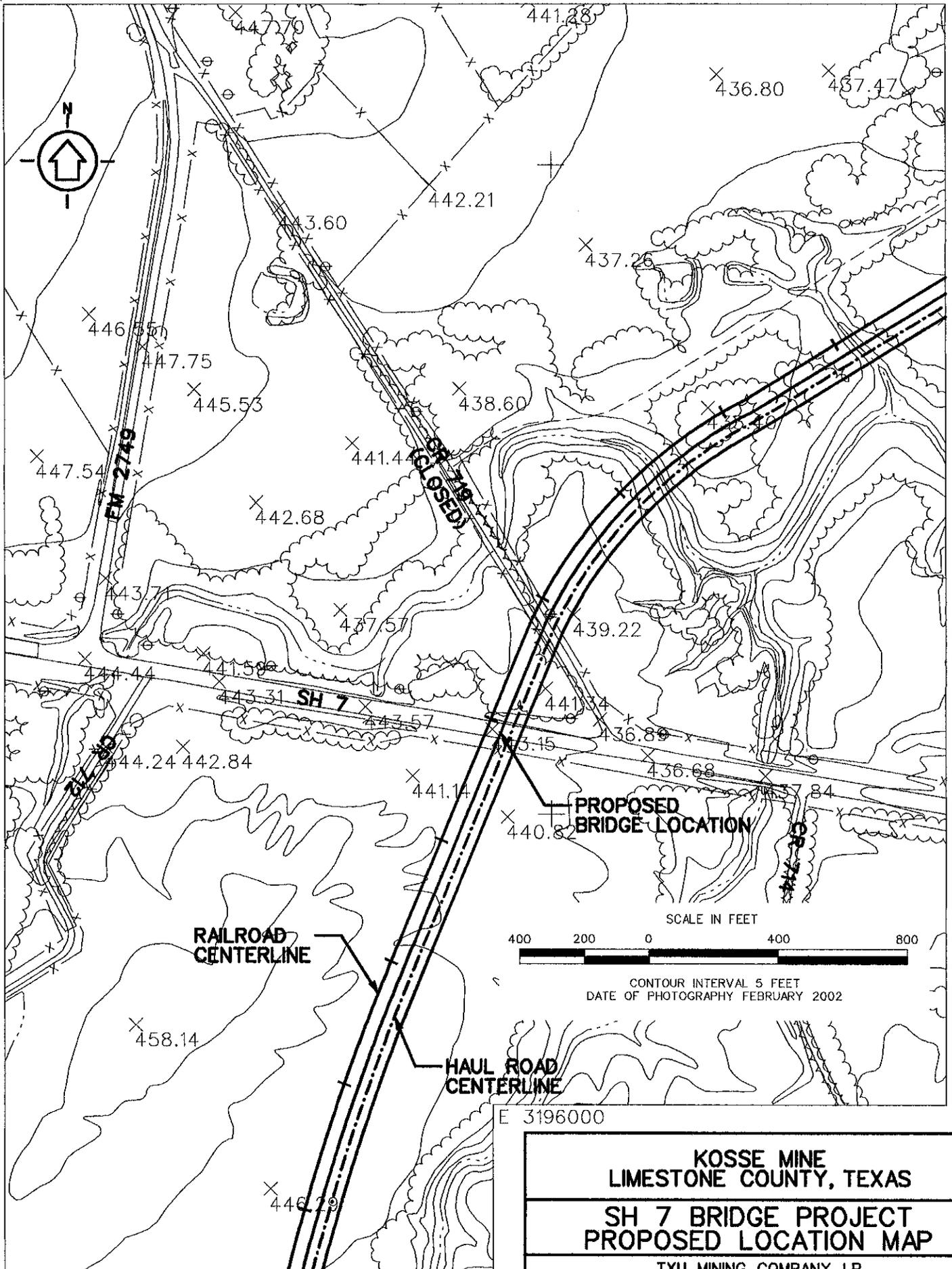
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KOSSE MINE LIMESTONE COUNTY, TEXAS	
SH 7 BRIDGE PROJECT PROPOSED LOCATION MAP	
TXU MINING COMPANY LP	
DR. BY A. MARQUEZ	DATE OCTOBER 2005