

TEXAS TRANSPORTATION COMMISSION

FREESTONE County

MINUTE ORDER

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BRYAN District

In FREESTONE COUNTY, on STATE HIGHWAY 164, the State of Texas (state) acquired certain land needed for a state highway purpose by instruments recorded in Volume 194, Pages 277, 279, 280, and 281, and in Volume 195, Pages 40, 42, 43, 44, and 46, Deed Records of Freestone County, Texas.

A portion of the land (surplus land), described in Exhibit A, is no longer needed for a state highway purpose.

Texas Westmoreland Coal Co., formerly known as Northwestern Resources Co. (owner), has conveyed to the state land needed for a state highway purpose (new land), described in Exhibit B, and desires to make a partial donation to the state of the difference in value between the new land and the surplus land.

V.T.C.A., Transportation Code, Chapter 201, Subchapter D, authorizes the Texas Department of Transportation (department) to accept donations of real property for the purpose of carrying out its functions and duties.

V.T.C.A., Government Code, Chapter 575, requires the Texas Transportation Commission (commission) to accept by majority vote at an open meeting any gift or donation valued at over \$500, and the commission hereby finds that acceptance of the donation will provide a significant public benefit and will not influence or reasonably appear to influence the department in the performance of its duties.

An Agreement Concerning the Donation of Property to the Texas Department of Transportation (donation agreement) has been executed by the owner and tendered to the department for acceptance under the provisions of Title 43, Texas Administrative Code, Chapter 1, Subchapter G, since the value of the new land provided by the owner, which is \$71,298, exceeds the value of the surplus land, which is \$54,206.

The owner has executed and delivered a conveyance document under the terms of the donation agreement to convey the new land to the state and has requested that the state's rights, title and interest in the surplus land be conveyed to the owner.

In accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission may recommend the exchange of surplus land as partial or full consideration for other land needed for a state highway purpose.

It is the opinion of the commission that it is proper and correct that the state convey its rights, title and interest in the surplus land to the owner in exchange and as consideration for the partial donation and the conveyance of the new land to the state.

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IT IS THEREFORE ORDERED by the commission that the executive director is hereby authorized to accept the donation of the new land and that the executive director or the director's designee is authorized and directed to sign and execute a donation agreement with the owner, in accordance with Title 43, Texas Administrative Code, Chapter 1, Subchapter G.

FURTHER, in consideration of the foregoing premises and in accordance with V.T.C.A., Transportation Code, Chapter 202, Subchapter B, the commission finds that the surplus land is no longer needed for a state highway purpose and recommends, subject to approval by the attorney general, that the Governor of Texas execute a proper instrument conveying all of the state's rights, title and interest in the surplus land to owner in exchange and as consideration for the conveyance of the new land to the state; SAVE AND EXCEPT, however, there is excepted and reserved herefrom all of Grantor's rights, titles and interests, if any, in and to all of the oil, gas, sulphur and other minerals, except coal and lignite rights, of every kind and character, in, on, under and that may be produced from the property described in Exhibit A, but Grantor waives all rights of ingress and egress to the surface thereof for the purpose of exploring, developing, mining or drilling for same, provided, however, that operations for exploration or recovery of such minerals shall be permissible so long as all surface operations in connection therewith are located at a point outside of said property.

Submitted and reviewed by:

Recommended by:

Director, Right of Way Division

Executive Director

Minute Number Date Passed