



DAN A. GATTIS
COUNTY JUDGE

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WILLIAMSON COUNTY, TEXAS

WILLIAMSON COUNTY COURTHOUSE
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GEORGETOWN, TEXAS 78626
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January 10, 2012

Carlos Swonke, P.E.
Director, Environmental Affairs Division
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

Re: Adoption of Amendments to Chapter 2
Environmental Review of Transportation Projects

Dear Mr. Swonke:

On Tuesday, January 10, 2012, the Williamson County Commissioners Court voted unanimously to provide the attached comments on the proposed environmental streamlining rules published in the Texas Register on December 2, 2011. As TxDOT is aware, Williamson County, along with a coalition of counties and other local governmental entities, was very involved during the 82nd Legislature in securing passage of SB 548, SB 1420 and HB 630 and the provisions addressing the environmental review of transportation projects.

As such, Williamson County believes that the Legislature's intent was straightforward – streamline the environmental review process and provide local entities with the tools to achieve expedited compliance and approval of environmental reports. While we appreciate the efforts of staff to address the legislative intent, as well as comments provided on earlier drafts, we believe there are still four (4) major areas of concern that are critical to the successful implementation of the statute. They are as follows:

1. THE ELIMINATION OF OPEN-ENDED PROCEDURES AND THE DANGERS OF FRONTLOADING

The primary accountability feature of the legislation is the establishment of deadlines to ensure a thorough but timely environmental review process. While the Department has made progress with respect to ensuring fealty to legislative intent, we also believe that the basic goal of the statute can be severely undermined through the creation of open-ended "frontloaded" components of the process that precede the actual technical review of the environmental document itself. As such, we strongly believe that every component of the environmental review process should have strict deadlines.

2. THE PROCESS AND CRITERIA FOR DETERMINING THE FEE PAID BY A LOCAL GOVERNMENT SPONSOR AND APPROVING LOCAL GOVERNMENT SPONSORS

The proposed rules provide some significant unnecessary risks and challenges for local government sponsors. This is particularly evident when one considers the sequence required for scoping, determining the appropriate fee to be paid for expedited review, and ultimately the process for becoming a qualified project sponsor.

Providing local entities with a means to gain expedited review of their projects is a cornerstone of the underlying legislation. Local governments are assuming an increasing share of the burden for improvements to the State Highway System that has traditionally been borne by the State. The Legislature, in turn, sought to alleviate the burden of a cumbersome environmental review process while ensuring full compliance by requiring TxDOT to streamline its procedures to achieve maximum efficiency. Specific recommendations to address this issue are contained in the attached comments.

3. BRINGING CLOSURE TO THE REVIEW AND COMMENT PROCESS

Meaningful streamlining cannot be achieved without the adoption of fundamental reforms applicable to the standard process of document review and response to staff comments. This has proven to be one of the most consistent sources of delay and cost overruns in recent years. Local entities with taxpayer-approved funding commitments are too often finding that their projects are subjected to an endless series of comments and requested revisions. There are presently no accountability safeguards that can be used to resolve conflicts and eliminate the “do-loop.”

Williamson County has been a strong advocate for what has come to be known as the “one and done” rule. “One and done” describes a protocol that can be implemented in connection with the review of any work product that is a component of the environmental review process. This concept should be spelled out in the guidelines and tied to the specific deadlines in the legislation.


4. ENSURING THE CONSISTENT AVAILABILITY OF DISPUTE RESOLUTION

One of the most significant features of the legislation was the requirement in Sec. 201.752(d) calling for the establishment of a process for the resolution of disputes that arise under the implementation of the statute and rules. We acknowledge the department’s effort to make ADR available at certain junctures in the process, but we believe much more can be done. It is absolutely essential that each component of the environmental review process have not only its own deadline for completion, but also provide for the availability of ADR to resolve any differences that occur in connection with that step. Deadlines and dispute resolution, working in tandem, are the most effective means to avoid unnecessary delays that only serve to increase project costs, and

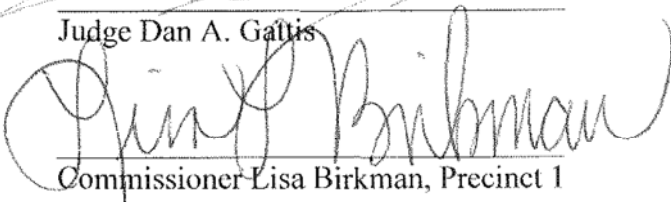
prevent the construction of needed improvements to hasten congestion relief and abate unsafe driving conditions.

Thank you for the opportunity to comment. The County hopes that the attached detailed comments will be beneficial in crafting the final rules and regulations. If you have any questions regarding our comments, please contact Commissioner Cynthia Long's office at 512-260-4280.

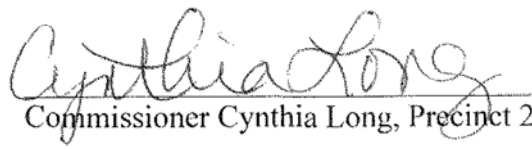
Sincerely,



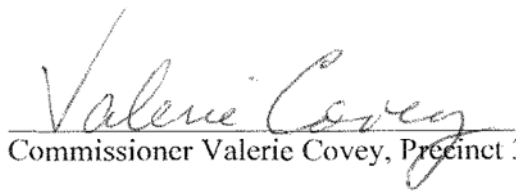
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Commissioner Ron Morrison, Precinct 4