

The Borden Star

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Volume XXXVIII

January 12, 2011

Negotiating Transmission Line Easements Shock Treatment

By Judon Fambrough
Condemnation constantly threatens private landowners. Every year pipelines and power lines weave a tighter and tighter web across the landscape.

The Trans-Texas Corridor threatened to take massive amounts of land for transportation purposes before the project was scrapped. Now, with wind turbines sprouting up across Texas, the need for transmission lines sets the stage for more condemnation of private land.

Texas wind farms can generate about 8,000 megawatts (MW), but existing transmission lines can carry approximately 4,500 MWs. Plans are underway to construct 2,334 miles of lines to transport an additional 18,456 MWs. The project anticipates taking over 56,000 acres.

This article discusses the condemnation process in Texas and highlights issues landowners need to address to protect their property and property rights.

Three-Stage Process

Texas law divides condemnation into three stages. The first stage is devoid of court involvement. Past judicial interpretation of Chapter 21 of the Texas Property Code indicated that the condemnor must attempt to purchase the needed land in lieu of condemnation. This required condemnors to

make a bona fide effort to purchase the land based on its fair market value.

The Texas Supreme Court modified this requirement in 2004 (*Hubenak v. San Jacinto Gas Transmission Co.*). The court ruled that, "The dollar amount of the condemnor's offer should not be scrutinized nor compared with other indications of value. A single offer by the condemnor satisfies the requirement regardless of the amount."

Thus, condemnors are no longer obliged to offer fair market value in the first stage. Whether they must negotiate in good faith is questionable. If the parties agree on a purchase price (or "damages" as it is referred to in the statute) in lieu of condemnation, the process ends. Otherwise, it moves to the next stage.

Stage 2 begins with the condemnor petitioning the court for the appointment of three disinterested landowners, better known as special commissioners, to conduct a hearing to determine damages from the proposed taking. The commissioners hear evidence from both parties before posting an award. Landowners do not need an attorney for the hearing, but the assistance of an appraiser is recommended. After the commissioners make their decision, the condemnor may start construction of the project by posting adequate

security with the court. The construction continues even though either party may appeal the commissioners' decision.

Stage 3 begins when either party appeals the matter to the court. If neither party appeals, the process concludes. If appealed, landowners need both an attorney and an appraiser for representation. The attorney fees and the appraiser fees cannot be recovered as part of a judgment even when the landowners prevail. Stage 3 ends when no further judicial appeals occur. The appeals cannot go beyond the Texas Supreme Court. (For more details on the condemnation process, see "Understanding the Condemnation Process in Texas," recenter.tamu.edu/pdf/394.pdf.)

Four Condemnation Limitations

Texas law imposes four restraints on the condemnation process.

First, the taking must support some public purpose or bestow some public benefit. Land cannot be condemned for private purposes. However, the U.S. Supreme Court recently approved condemnation solely for economic development in the Kelo decision. In 2009, Texas voters limited this ruling, to some

(Continued to Page 7)

Burn Ban

A Burn Ban remains in effect for Borden County until further notice.

Conservation Applications for Financial Assistance Being Accepted at NRCS

Applications for funding opportunities with the USDA's Natural Resources Conservation Service (NRCS) Environmental Quality Incentives Program (EQIP), Conservation Stewardship Program (CSP) and Wildlife Habitat Incentives Program (WHIP) are currently being accepted at all NRCS offices across Texas.

NRCS in Texas has received its initial allocation of program funding recently and will begin obligating EQIP and WHIP contracts after Jan. 28, 2011.

"These programs support conservation of private agricultural lands by providing payments for maintaining and enhancing natural resources," said NRCS District Conservationist Kevin Wright.

EQIP is a "working lands" conservation program that assists private landowners with conservation measures that address priority resource concerns as identified by local farmers and ranchers.

WHIP is designed to benefit wildlife on primarily wildlife land although agriculturally

productive operations may qualify for funding.

All of NRCS Farm Bill Programs are voluntary and have a continuous sign-up with periodic ranking cut off periods. NRCS encourages any person interested in participating in their programs to contact their local field office, usually located at the county seat.

The NRCS administers both programs and provides technical assistance to landowners. 2010 represents the 75th year of NRCS "helping people help the land." Since its inception in 1935, NRCS has advanced a unique partnership with state and local governments and private landowners delivering conservation based on specific, local conservation needs, while accommodating state and national interests.

For more information on these programs, including eligibility requirements, call the USDA Service Center office in Snyder at (325) 573-6317 x3 or on the NRCS Website at <http://www.tx.nrcs.usda.gov/>



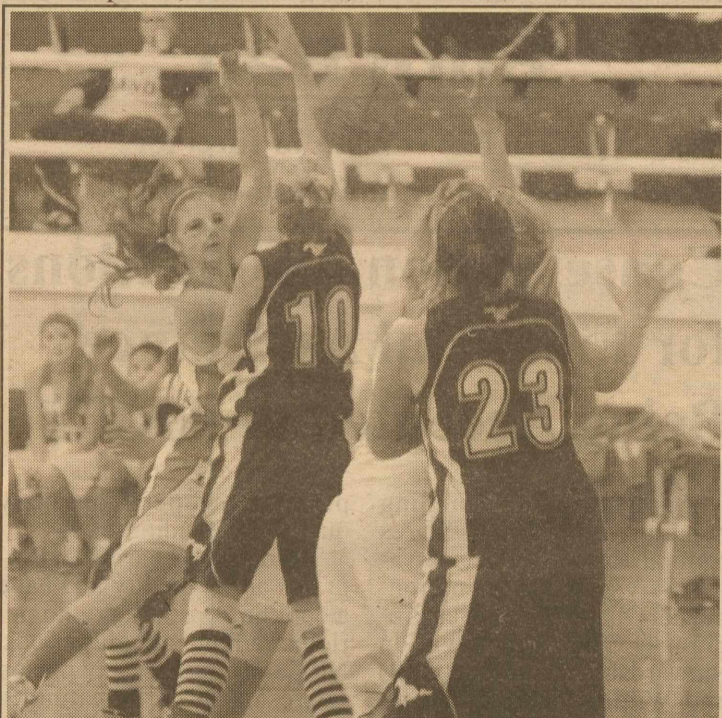
Lady Coyotes Hang Onto Win Over Klondike

By Coach McCook

The Lady Coyotes traveled to Klondike just before Christmas break and earned their third straight district win. Though the game was close throughout, the Lady Coyotes managed to outscore Klondike in every quarter but the third and claim a 49-41 victory. Taylor Richey led the team with 19 points, 13 rebounds, and 2 assists. Raegan Belongia added 13 points and 6 rebounds. Mabelle Barr had 8 points, 4 rebounds, and 2 steals. Stefanie Cooley had 5 points, 2 steals, and 3 assists. Aubree Lester had 2 points and 2 assists. Kylie Voss had 2 points. Bailey Anderson had 2 rebounds, 2 steals, and 3 assists. Taylor Gass had 1 assist.



Lady Coyote, Taylor Gass (#10) guards against a Klondike opponent.



Taylor Richey (far left) throws the ball inside to another Lady Coyote in hopes of scoring for Boden County.



Missy Coyote, Tatum Richey keeps a Grady Wildcat at arms reach and away from the goal.

Lady Coyotes Fall to the Lady Mustangs in OT

By Coach McCook

The Lady Coyotes hosted Sands Tuesday in a District 8 matchup that paired the only two undefeated teams left. The Lady Coyotes started the game a little sluggish, but eventually jumped out to a double-digit lead. However, every time they would start to build such a lead, the Lady Mustangs would battle back to keep the game close. Eventually, the Lady Mustangs managed to send the game into overtime, and in the extra period they hit several big buckets on their way to a 50-49 win.

Taylor Richey led the team with 16 points and 8 rebounds. Raegan Belonia had 14 points and 15 rebounds. Aubree Lester had 10 points, 4 rebounds, and 2 assists. Stefanie Cooley had 4 points, 6 rebounds, and 5 assists. Bailey Anderson had 3 points, 5 rebounds, and 2 assists. Kalyn Massingill had 2 points. Taylor Gass had 2 rebounds. Mabelle Barr had 2 rebounds. Teryn Soto had 1 rebound and 1 steal. And Kylie Voss had 1 steal.

Missy Coyotes Lose to Grady

By Coach McCook

The Junior High Lady Coyotes hosted Grady Monday in a District 8, East Zone matchup. The Lady Coyotes were in control for most of the game, gaining a double-digit lead at one point, but the Lady Wildcats fought their way back in the fourth quarter to send the game into overtime. In overtime, free throws were the difference. The Lady Wildcats were 2 of 5 from the line, while

the Lady Coyotes were 3 of 11. This coupled with a few fast break points helped the Lady Wildcats earn a 38-35 win.

McKenna Campbell led the Lady Coyotes with 13 points. Eva Banman added 10 points, Tye Basquez 9, Kylee Dean 2,

School Lunch Menu

January 17-21, 2011
Menu subject to change

Monday - Breakfast: Omelet & Toast, Fruit Juice and Milk. Lunch: Meat & Gravy, Potatoes, Peas, Bread, Cobbler and Milk.

Tuesday - Breakfast: Muffin, Fruit Juice and Milk. Lunch: Golden Fish Strips, Potato Salad, Black-Eyed Peas, Hush Puppies, Rosie Applesauce and Milk.

Wednesday - Breakfast: Cereal & Toast, Fruit Juice and Milk. Lunch: Chicken and Noodles, Green Beans, Jell-O, Texas Toast, Yogurt and Milk.

Thursday - Breakfast: Breakfast Burrito, Fruit Juice and Milk. Lunch: Popcorn Chicken, Carrots, Canned Potatoes, Mixed Fruit and Milk.

Friday - Breakfast: Breakfast Sausage Roll, Fruit Juice and Milk. Lunch: Hamburger, Lettuce, Tomato & Pickle, Baked Beans, Crispy Cereal Treat and Milk.

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Lady Coyotes JV Take 4th in Forsan Tourney

By Coach Benavidez

The Borden County JV Lady Coyotes traveled to Forsan for their annual JV tournament and took a fourth place finish in a field of 8 teams.

The girls first took on the Stanton Lady Buffaloes on Thursday. The girls got off to a slow start after not having played in over 3 1/2 weeks. The game was tied at half with a score of 8 to 8. The Lady Coyotes were able to pull away for good in the second half. They also played great defense as they held Stanton to only 4 points in the second half. The end score was BC 30 Stanton 12. The leading scorers are as follows; Kalyn Massingill 10, Kaylyn Dean 6, Teryn Soto and Sydnie Day each had 3, Jordan Day, Lexi Peterson, Mollie McMeans, and Shea Burkett

each had 2.

The next game for the BCJV Lady Coyotes was on Saturday against the Forsan Lady Buffaloes. This proved to be a tough test for us. The weariness of playing 3 straight days started to catch up to us. Forsan is a very good JV team. Our girls started off with a cold shooting hand as we only had 8 points in the first half. The second half saw the girls play better defense but still could not locate the basket with consistency. The end score was 38-17 in favor of Forsan. The leading scorers for this game are as follows; Lexi Peterson 5, Mallory McMeans 4, Kalyn Massingill, Mollie McMeans, Sydnie Day, and Kaylyn Dean each had 2.

This set up the Lady Coy-

otes for a game that would decide 3rd and 4th places. This game would be played against the Colorado City Lady Wolves. This was a hard fought game with two evenly matched teams. The Lady Wolves gained a 4 point advantage at halftime. The Lady Coyotes narrowed it to 3 at the end of the third. However, the girls were not able to pull out the victory as they ended up losing the game with a score of 24 to 18. The leading scorers for this game are as follows; Kalyn Massingill 8, Sydnie Day 4, Teryn Soto, Kaylyn Dean, and Mallory McMeans each had 2 points. The Lady Coyotes will next take on the Dawson Dragons at home this Tuesday. Come out and support these ladies.



Teryn Soto (#20) guards the basket in last Thursday game against the Stanton Ladies in the Forsan Tourney.

Missy Coyotes Beat the Cougars

By Coach McCook

The Junior High Lady Coyotes traveled to Klondike Monday looking for their first win against opponents in their district zone. While they did not play well early and went into halftime trailing by 4 points, the Lady Coyotes began the second half renewed gusto, outscoring the Lady Cougars 12-2 in the third quarter and eventually building a 14-point lead. That 18-pointed turn around proved to be the difference in the game. The Lady

Coyotes earned their first win in district zone play 36-31.

Tye Basquez led the team with 19 points. Tatum Richey and McKenna Campbell added 6 apiece. Clair Shafer and Channing Miller each had 2 points, and Kylee Dean had 1. Cheyenne Tucker, Rebecca Taylor, Karen Rojero, Taylor Roberts, Zoie Key, Bessie Rhodes, Eva Banman, and Holly Bradbury also contributed to the team effort.



McKenna Campbell shoots to score another 2 points for the Missy Coyotes in Monday's game against the Klondike Cougars.

Ladies Defeat the O'Donnell Eagles

By Coach McCook

The Lady Coyotes traveled to O'Donnell to face the Lady Eagles in their fifth district game this season.

O'Donnell, who came into the game with a 1-3 district record, fell behind early in the first quarter, but clawed their way back to only a five-point deficit. In the second quarter, the game was somewhat evenly matched, though the Lady Coyotes extended their lead to 9 points at the half, but the third quarter proved to be the difference.

The Lady Coyotes began the second half with a renewed energy and focus, outscoring the Lady Eagles 18-7 and extending their lead to 20 points. The Lady Coyotes then maintained their 20-point lead through the final buzzer defeating O'Donnell 58-38. The Lady Coyotes are now 12-6 on the season and 4-1 in district play.

Taylor Richey led the team

with 21 points, 6 rebounds, 3 steals, and 3 assists. Raegan Belongia added 15 points, 13 rebounds, and 2 steals. Bailey Anderson had 6 points, 5 rebounds, 4 steals, and 2 assists. Aubree Lester had 5 points, 2 steals, and 3 assists. Machel Barr had 4 points. Kylie Voss had 3 points and 3 rebounds. Stefanie Cooley had 2 points, 7 rebounds, 4 steals, and 5 assists. Taylor Gass had 2 points, 2 rebounds, and 2 assists.


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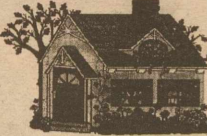
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 Texas A&M System

Heart and Home ...


by Julie Smith
 Borden County Extension Agent-Family and Consumer Sciences

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The Skinny on Fad Diets

What is a fad diet? A fad diet is a popular "crash" diet that is designed for quick weight loss. In most cases, fad diets are not supervised by a doctor or registered dietitian. Fad diets are popular because they appeal to individuals who want immediate weight loss, who want an easy way to lose weight, and who want to lose a lot of weight in a short period of time.

The Dark Side of Fad Diets: Despite some claims that they can help you "lose 30 pounds in 30 days," fad diets have little, if any, long-term success. They tend to be too boring or restrictive to follow for a significant period of time. In addition, such diets often fail to promote permanent healthful changes in one's eating and physical activity behaviors. As a result, most people who lose weight on fad diets usually regain the weight as soon as they go back to their old eating and physical activity habits.

Some fad diets are linked to adverse health risks: People who lose a lot of weight in a short period of time risk losing lean body tissue (i.e. muscle). Muscle helps control our metabolism. When we lose muscle, we often lower our metabolism. This is one reason why most people regain their lost weight when they go off of a diet. **Gastrointestinal (GI) problems:** Diets high in protein and low in carbohydrate often lack dietary fiber. A lack of fiber increases the risk for developing constipation. **Inadequate intake of nutrients:** Some fad diets lack one or more essential nutrients, especially those that either eliminate specific food groups or require large amounts of one specific food. **Increased risk of osteoporosis:** Diets low in calcium (the majority of adult women don't consume enough calcium) combined with high intakes of animal protein may increase the rate at which calcium is lost from the bone. Remember, our bones are about


as strong as they will be by the age of 30!

How do I know if it is a fad diet? Give it the "WOW" test. Read some of the claims used to advertise a weight-loss diet. Popular claims include: "Easy," "Miraculous," "Exclusive," and "Amazing." If the claims on a weight-loss diet cause a person to say "wow," it's probably a fad diet. Questions to ask to determine other signs of a fad diet include:

Does the diet...promote fat-burning foods, promise rapid weight loss, claim one can lose weight without exercising, include large amounts of one specific foods, use the results of a single study to prove its success, promote strict menus and specific times to eat, include the use of supplements or special products, promote changing eating habits for just a short period of time, label foods as either "good" or "bad," does not include a warning for persons with chronic disease to check with their doctor before starting any weight loss diet? Then it's probably a fad diet!

Healthful alternatives to fad diets: It is hard to compete with fad diets that promise rapid weight loss in just a few weeks, despite the fact that most nutrition experts recommend a rate of weight loss that is no more than 2 pounds per week. Yet those extra pounds didn't come on overnight. So why should we expect them to leave immediately? Consumers who want long-term success with weight loss should consider adopting the concept of "weight management." With this concept, obesity and overweight are chronic diseases; therefore, they are treated for life. This means consumers have to adopt realistic weight goals and embrace healthful eating and physical activity habits for life. Adopting these behaviors will help us reach a healthy weight while reducing our risk for other chronic diseases simultaneously.

If you would like more in-



SEEDS FROM THE SOWER
 Michael A. Guido
 Metter, Georgia

While a soldier was seated at a table, a couple walked in and asked, "May we sit with you?"

"Yes," he answered.

All during the meal, the wife who had a long face, wasn't humbly grateful, she was grumbly hateful.

Wanting to change the subject, the soldier asked, "What's your business?"

"I'm a manufacturer," said the stranger, "and so is my wife. But she manufactures misery for herself and others."

Don't be maliciously miserable. Be contagiously cheerful. A religion that makes you look sick can't cure the world.

That's why our Lord says, "Be of good cheer."

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Thought for the Day

*During the coming year
 I will go nowhere I can't
 take Jesus Christ. I will
 say nothing I would not
 want Him to hear. I will
 do nothing I would not
 want Him to know about.
 I will be the best example
 to others that I possibly
 can, for His sake.*

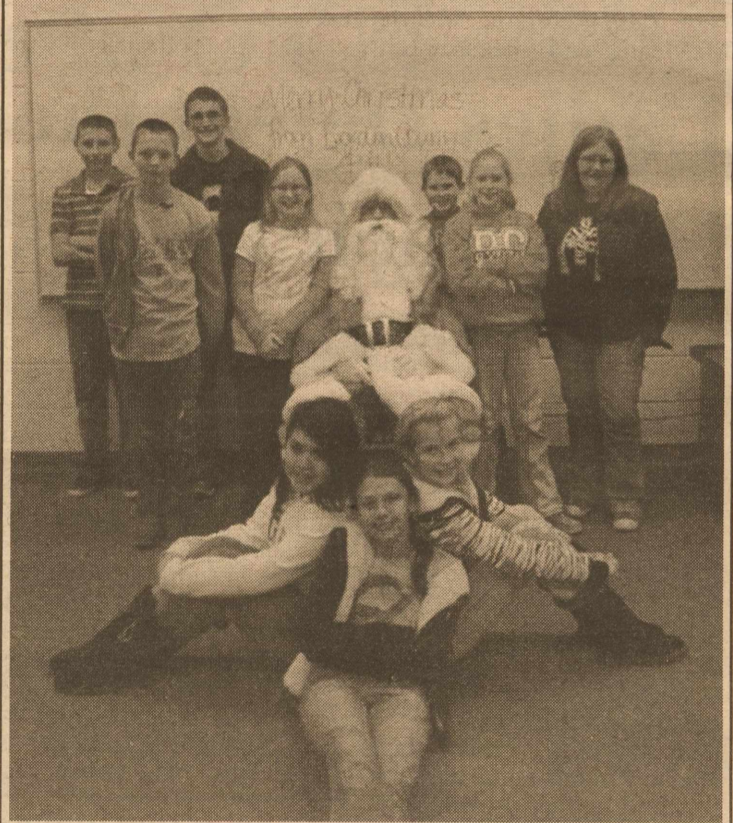
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formation about weight management or nutrition and health, please contact the Texas AgriLife Extension Service-Borden County office at (806)756-4336.

4-H Canned Food Drive



(Above) Borden County 4-H collaborated with Borden County ISD to collect canned goods for people in Borden County. Together, they collected 747 items. These items were sorted and boxed by 4-H'ers (back row left to right) Zach McMeans, Tanner Harrison, Kenley Dean, (front row left to right) Brooklyn Gray, Katie Gray, Kaitlyn Hamm, Avery Price and Hayley Gray and were distributed to families in Borden County by West Texas Opportunities. We appreciate all those that donated items. We know that this helped brighten the lives of many families during the holiday season. (Below) Santa Claus visited Borden County 4-H club meetings on December 6th.



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Dare to Live Without Limits

By Bryan Golden

Patience

Patience: the capacity to endure hardship, difficulty, or inconvenience without complaint. Patience emphasizes calmness, self-control, and the willingness or ability to tolerate delay.

- The American Heritage Dictionary

You're driving home from work with 40 miles of highway ahead of you. Wanting to get home as soon as possible, you weave in and out of traffic doing 70 or maybe 75 mph rather than the 65 mph the rest of the traffic is traveling. How much time will you save? Zipping along at 75 mph saves you a whopping 5 minutes compared to 65 mph.

What are the costs? It takes much more focus and produces more stress and tension to weave in and out of traffic. And should some unsuspecting motorist happen to block your path, your frustration level rockets. Safety considerations or the risk of getting a ticket are some additional "benefits".

Then what do you do with your extra 5 minutes once you get home? You might sit down in front of the TV and do nothing to unwind. Perhaps you're so tense and irritable that you snap at your spouse and kids. Is it worth it?

At the grocery store, it's always your line that seems to move the slowest. Then, as you're about to get to the cashier, the person in front of you has a pricing problem and a manager is summoned. You can feel the stress and frustration building inside you. It takes at least an extra 8 minutes before you finally check out.

Now you are in a bad mood and ready to tear into anyone that gets in your way. Why? Because you had to wait an extra eight minutes.

Many minor annoyances pop up each day that you hadn't planned on. Such is life. There's no way for you to eliminate them. But there is a sure-fire way to attract them: have no patience, a short fuse

and no tolerance. On the other hand, you can learn to adjust your reaction to these irritations so that they aren't so draining.

Flexibility and patience are inseparable. Try to break a blade of grass by hitting it with a stick. The grass moves out of the way without any damage. Now hit a pane of glass. The glass shatters. A person with a low breaking point is like the glass.

How can you develop patience? When annoyances occur, react with "Oh well, no big deal." Look at unplanned and unexpected delays as an opportunity to develop yourself. It's found time, not lost time.

Be creative in utilizing your found time. You can use the extra time for thinking, an activity you can do anywhere. Think about solutions to problems or challenges you are facing. Think about your goals and strategies to achieve them. Think about aspects of yourself that you can improve. Carry reading material so that if you are delayed in waiting rooms, train stations, airports or anywhere else you have

something to do of interest.

If you spend a lot of time in your car it's inevitable that you will be caught in traffic. Use your driving time to listen to books on tape or CDs. You can select fiction or non-fiction, on virtually any topic or genre. In this manner, your driving time is transformed into a personal enrichment session. Now when you get stuck in your car it becomes an opportunity for growth.

Spend unexpected "down time" doing something you feel is worthwhile and you'll eliminate the temptation to become impatient and frustrated.

Bryan is a management consultant, motivational speaker, author, and adjunct professor. E-mail Bryan at bryan@columnist.com or write him c/o this paper. © 2004 Bryan Golden

The Borden Star

Borden County

Thank you Borden County for your support in the past election. I wish everyone the best for the New Year as the new administration takes office.

As Zulema and I have returned to Borden County, we wish everyone an extremely Happy and Prosperous New Year.

"Progress For Borden County"



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3rd & 4th generations still serving this area.

Come visit the 4-H Concession during Borden County Junior Livestock Show!



We will be open from 5:30-7:30 p.m. on Thursday, January 13th and 8:00 a.m. to 3:00 p.m. on Friday, January 14th.

Menu for Thursday:

Sausage Wraps
Hot Dogs
Assorted Chips
Tea, Coffee, Hot Chocolate
Homemade Brownies and Rice Krispy Treats
Mini Pecan Pies

Menu for Friday:

Homemade Breakfast Burritos
Donuts and Cinnamon Rolls
Nachos
Chopped BBQ Sandwiches
(BBQ by Fuzzy Ninny's)
Sausage Wraps
Hot Dogs
Assorted Chips
Tea, Coffee, Hot Chocolate, Capri Suns
Homemade Brownies and Rice Krispy Treats
Mini Pecan Pies

2011 BORDEN COUNTY JR. LIVESTOCK SHOW

Thursday, January 13
Steer Show - 6:00 p.m.

Friday, January 14
Lamb Show - 8:30 a.m.
Goat Show - after Lamb Show
Swine Show - after Goat Show

Saturday, January 15 - 7:00 - 9:00 a.m.
Complimentary Chuckwagon Breakfast

Awards Ceremony - 9:00 a.m.
Premium Sale - 9:30 a.m.

4-H will have the concession stand this year!!

Everyone is invited to attend our 2011 BCJLA Stock Show!!!



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Borden County ISD Board Meeting

Regular Board Meeting December 17, 2010

The Board of Trustees of the Borden County Independent School District of Gail, Texas met in regular session at 7:00 P.M. in the Borden County I.S.D. Board Room. Board members present were John Anderson, Randy Hensley, Carol Lewis, Dennis Poole (arrived at 7:25 p.m.), and Mike Valentine. Superintendent, Jimmy Thomas was present. Principal, Bart McMeans was present during agenda item seven to present the District Improvement Plan and Academic Excellence Indicator System. Guests present were James Hicks, Santana Gonzales, Jay Bingham, and John Abbott. Joe Harding and Joel Dennis were absent.

1. The meeting was called to order at 7:05 P.M. by John Anderson.

2. There was no community input.

3. A motion was made by Randy Hensley and seconded by Mike Valentine to approve the minutes of the November 15, 2010, board meeting. The motion carried unanimously.

4. A motion was made by Carol Lewis and seconded by Mike Valentine to approve the December 2010 bills. The motion carried unanimously.

5. Mr. Thomas reported that Carol Lewis had 14 hours of board training and that all other board members had 2 hours of board training as required by law to be reported.

6. A motion was made by Dennis Poole and seconded by Carol Lewis to establish the Borden County Appraisal District as a separate office to collect taxes for Borden County I.S.D. and Borden County on a prorated basis. The motion carried unanimously.

7. Mr. McMeans reviewed the 2010-2011 District Improvement Plan and Academic Excellence Indicator System. A motion was made by Dennis Poole and seconded by Mike Valentine to approve the District Improvement Plan and Academic Excellence Indicator System as presented. The motion carried unanimously.

8. A motion was made by Mike Valentine and seconded by Dennis Poole to

amend the 2010-2011 Borden County I.S.D. Budget as recommended. The motion carried unanimously.

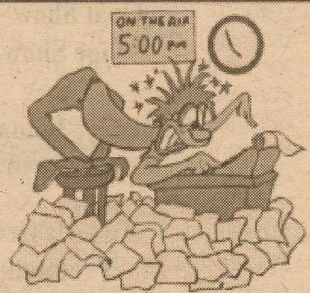
9. James Hicks from Wiley Hicks Jr. Inc. and John Abbott, Jay Bingham, and Santana Gonzales from Shiver Megert Associates reviewed the bids for the structural package for Phase III of the construction project that included concrete and steel. A motion was made by Mike Valentine and seconded by Randy Hensley to approve the bids as recommended. The motion carried unanimously.

10. A motion was made by Randy Hensley and seconded by Carol Lewis to set the regular January board meeting for January 17, 2011 at 7:00 P.M. The motion carried unanimously.

11. The board of trustees conducted the annual evaluation of the school superintendent.

12. Mr. Thomas gave a year to date financial overview, reported that 227 students were enrolled as of December 14, 2010, and gave a construction project report. A motion was made by Randy Hensley and seconded by Carol Lewis to approve the superintendent's report. The motion carried unanimously.

13. A motion was made by Mike Valentine and seconded by Carol Lewis to adjourn the meeting. The motion carried unanimously.



Got News?

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Commissioners Meeting

WHEREAS, On this the 28th day of December, 2010, the Commissioners' Court of Borden County, Texas, convened in Special Session in the Commissioners Court room in the courthouse of Gail, Texas, the following members of the court being present, to-wit:

VAN L. YORK, County Judge, Residing; **MONTE SMITH**, Commissioner, Precinct No. 1; **RANDY ADCOCK**, Commissioner, Precinct No. 2; **ERNEST REYES**, Commissioner, Precinct No. 3; **JOE BELEW**, Commissioner, Precinct No. 4; **JOYCE HERRIDGE**, County Clerk and Ex-Officio of the Commissioner Court constituting a quorum, when the following proceedings were had, in accordance with the posted agenda.

Present was Ross Sharp.

MINUTES APPROVED

Minutes of the Commissioners Court Meetings of December 14, 2010 were read. Commissioner Belew made a motion to approve said minutes. Commissioner Adcock seconded the motion. Motion carried.

AVAILABLE SCHOOL FUND

Commissioner Adcock made a motion to distribute Available School Funds in the amount of \$32,000.00 to Borden County I.S.D. and to retain \$7,700.00 for taxes. Commissioner Reyes seconded the motion. Motion carried.

COUNTY OFFICER BONDS

Commissioner Smith made a motion to approve bonds for terms starting 2011 for elected officials and deputy. Bonds issued for elected officials in the names of Ross Sharp, County Judge, Joyce Herridge, County Clerk, Joyce Herridge, District Clerk, Sharlot Stone, Treasurer, Jane Jones, Justice of the Peace, Randy Adcock, Commissioner, Precinct No. 2 and Joe Belew, Commissioner, Precinct No. 4. Bonds issued for Jana Underwood as Deputy County Clerk and for Deputy District Clerk. Commissioner Belew seconded the motion. Motion carried.

INDIGENT HEALTHCARE

The Indigent Health Care Case #001-2010 was reviewed, Commissioner Smith made a

motion to approve the Case #001-2010. Commissioner Adcock seconded the motion. Motion carried.

SOIL CONSERVATION CONSTRUCTION

An Application for Soil Conservation Construction of Fireguards was received from Tony Isaacs, in Precinct No. 4. Commissioner Belew made a motion to approve the application at the rate of \$35.00 for a motor grader and \$65.00 per hour for a dozer. Motion was seconded by Commissioner Adcock Motion carried.

ACCOUNTS ALLOWED

The current accounts were examined and Commissioner Smith made a motion to approve and pay said accounts. Commissioner Reyes seconded the motion. Motion carried.

ITEMS FOR FUTURE AGENDA

No new items were presented.

ADJOURN

Commissioner Adcock made a motion to adjourn. Commissioner Belew seconded the motion and was approved unanimously.

THE FOREGOING MINUTES READ AND APPROVED THIS THE 11th day of January, 2011.

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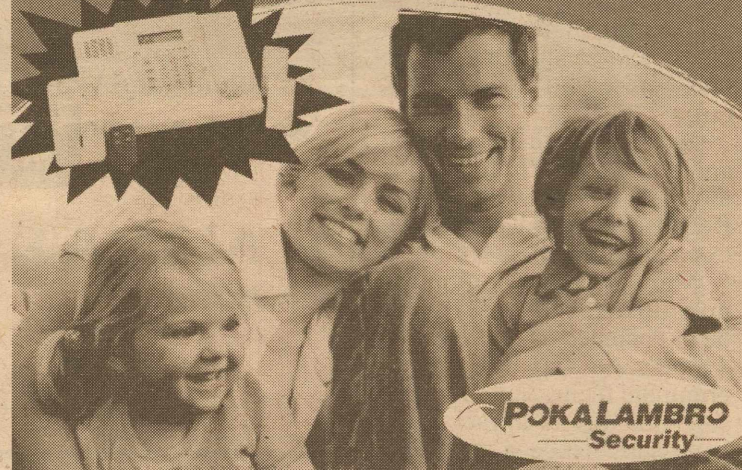
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Negotiating Transmission Line Easements Shock Treatment...

(Continued from Page 1)

degree, with the passage of a constitutional amendment.

Second, the condemner cannot take more land or property right than are reasonably needed for the project. This is known as the "public necessity" limitation. For example, a pipeline company cannot condemn a 50-foot easement when a 30-foot easement is needed. However, the Hubenak case mentioned earlier modifies this limitation. While the condemner cannot condemn more than is reasonably needed, the high court permits the condemner to attempt to purchase more than this in Stage 1 as long as it is generally related to the project. For example, the condemner may attempt to purchase the 50-foot easement to transport both natural gas and crude oil when only a 30-foot easement is needed to transport natural gas. According to Hubenak, it is up to the landowners to narrow the offer to what is reasonably needed during Stage 1.

Third, the condemner is supposed to pay the landowner "just compensation" or fair market value for the property. As discussed earlier, this may no longer be the case after Hubenak. Landowners will receive compensation but not necessarily fair market value.

Fourth, the condemner must adhere strictly to the three-stage condemnation process described in the previous section. This is better known as the due-process limitation.

Rules of Engagement

Hubenak severely limited landowners' rights in condemnation. Consequently, landowners must remember the following rules:

First, the condemner is not required to offer fair market value or possibly to negotiate in good faith in Stage 1.

Second, the condemner may attempt to purchase more land and property rights in Stage 1 than can later be condemned in Stage 3.

Finally, landowners cannot recover attorney fees or expert witness fees if they contest the matter beyond Stage 1. (For more information about the Hubenak decision, see "This Property Condemned: What Landowners Should Know About Changing Property Rights," recenter.tamu.edu/

pdf/1710.pdf.)

So, what should landowners do when confronted with condemnation for transmission lines?

First, they must resist the temptation to focus entirely on the amount of money being offered. While money is important, landowners must not overlook the rights the condemner is attempting to purchase in lieu of condemnation in Stage 1.

The rights the condemner attempts to purchase in lieu of condemnation are outlined in the initial written proposal presented to landowners entitled "Right-of-Way Easement" or simply "Transmission Line Easement." Read it carefully. Limit the proposal to the property and property rights reasonably needed for the transmission line project.

Hubenak represents a mixed bag for landowners. While it removes certain rights, it impliedly guarantees others. Basically, the high court directs condemners to negotiate with landowners when attempting to purchase more than it can condemn. When this occurs, the court directs landowners to:

Point out in Stage 1 that the condemner is trying to purchase more than it can condemn. This violates the public-necessity limitation discussed earlier. Make a material issue of this fact. If not raised in Stage 1, the issue cannot be addressed in Stage 3 should the process go that far.

List and value the rights that cannot be condemned and offer to accept the condemner's proposal if these rights are dropped or purchased separately.

But how do landowners discern between what property and property rights are reasonably needed for a project? These facts appear to be within the domain of the condemner, not the landowner. To some degree, the answer lies in the public domain if landowners know where to look.

Before a company can condemn property for transmission lines, it must first secure a permit from the Public Utility Commission of Texas. This permit, better known as a Certificate of Convenience and Necessity (CCN), contains

among other things the height, width, voltage, number of wires (conductors), and the type of supports (poles) needed for the project.

So, initially, landowners should ask for a copy of the condemner's CCN or find it online. The dimensions just described should then be inserted into the proposed easement agreement. The agreement should state these specifications are the maximums allowed.

For example, "This easement cannot exceed _____ feet in width, _____ feet in height, contain more than _____ conductors to transport _____ kV of electricity. Only _____ type of poles or supports may be used."

Just because the CCN contains these dimensions does not mean they automatically become a part of the proposed agreement. Remember, the high court allows the condemner to attempt to purchase much more than it can condemn. It is incumbent on the landowner to narrow the agreement before signing.

Other Limitations

A number of important other considerations should be addressed in the agreement. Landowners may not be able to get the condemner to agree to all the following suggestions, but they should try.

Never grant an exclusive easement. Always retain the right to grant joint use or occupancy of the easement as long as it does not unreasonably interfere with the condemner's usage.

Never grant a permanent, perpetual or irrevocable easement. The adverse legal consequences of doing so are beyond the scope of this article.

If the proposal allows the installation of communication equipment or facilities (telecommunication or otherwise), limit them to private, nonpublic use. Otherwise, commercial use is allowed without additional compensation.

Limit the easement to overhead lines ONLY if this is what the landowner desires. The proposal may permit both above-ground and underground lines.

Terminate the easement if not used continuously for a

specific number of months. Never rely on abandonment to terminate the easement. The legal definition of the term includes more than just nonuse. Require the condemner to remove all equipment and fixtures and reclaim the land and pay damages, once the easement ends.

Specify what structures the landowner may place within the easement. For example, are fences, livestock pens, deer blinds and feeders permitted? Are there any height limitations to these structures? This is particularly important with deer-proof fences. Must the fences and blinds be grounded, and if so, who will do it?

Are there any limitations on the activities the landowner may undertake within the easement? This depends in part on whether or not the landowner grants an exclusive or nonexclusive easement. Are farming and ranching practices permitted?

In addition to payment for the easement, include compensation for each structure placed on the property (each pole, guy wire and so on). If not, limit permitted structures to those placed within the easement during the construction phase. After that, require compensation for any structures added.

In all likelihood, the condemner will assign the easement to another entity in the future. Require notification of the assignment as a condition for it to become binding on the landowner.

Miscellaneous Issues

Here are some issues that might be overlooked by those with no experience in negotiating easements.

What must the condemner do with trees and brush removed from the easement? Must they be stacked and burned, shredded or buried?

Must larger trees be cut and piled for firewood?

Require that rocks exceeding a certain diameter be removed and stacked at locations designated by the landowner.

Require that berms and terraces be constructed on steep slopes to prevent erosion.

Do not allow the condemner to enter and leave the premises wherever and whenever it pleases. Limit access solely to and through the easement.

Temporary access outside the easement may be granted for additional compensation during the construction phase.

After the construction phase ends, require the condemner to change the locks on all gates and give 24- to 48-hour advance notice of any subsequent entry except during emergencies.

Never warrant title to the land. Specify the condemner takes the title to the easement solely at its risk. If title fails, the landowner will not be required to return any consideration.

Require welding crews to carry firefighting equipment or be accompanied by water trucks with high-pressure sprayers to prevent range fires. Make the condemner liable for any fire damage resulting from its operations.

Get an indemnification agreement for tort and environmental liability caused by the condemner's activities. Require inclusion as an additional insured under the condemner's liability policy.

Insert "Time is of the Essence" in the agreement. Without this language, there are no hard and fast deadlines. (For more information, consult "Calculating Time in Promulgated Forms," recenter.tamu.edu/pdf/1333.pdf.)

Insert a "Favored Nations Clause" to ensure no other landowner gets a better deal in the area. (This provision is difficult to get.)

Deny any rights to hunt and fish on the property.

Require all fences be braced before cutting. Specify how the braces will be constructed.

Require the condemner to install and maintain gates where fences are cut. Landowners may require a specific local contractor to do all fence work, gate installation and other similar work.

Never allow for relocation of power lines within the easement. The lines must remain in the center of the easement as nearly as possible.

Require the landowner's permission to remove deer blinds and feeders from the easement during the construction period. Otherwise, they

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Land Condemnation...

(Continued from Page 3)

could be bulldozed or destroyed.

Specify that the condemnor takes subject to any and all existing easements, both visible and those of record. Also, it takes subject to all surface, wind, water and mineral leases on the property.

Compensation for Damages

Never agree that the initial, lump-sum payment for the easement covers all damages. Present damages may be covered but not future damages. Many items related to damages need to be addressed.

Make sure compensation includes damages outside the easement. Blasting, use of heavy equipment or both may collapse shallow aquifers, cause springs and wells to go dry, and pond and tank dams to leak. For this reason, blasting may be prohibited.

If the condemnor needs a water source, specify where it can be obtained and the cost if the landowner desires to sell. Otherwise, prohibit any water from being taken.

Require compensation whenever the condemnor's activities reduce the landowner's income from activities such as hunting, bike races or even lambing. Likewise, exact compensation if cropland can no longer be sprayed or seeded by plane because of the elevated lines.

Require compensation for all livestock killed or injured as a result of the condemnor's operations. Compensation should include damages for any livestock or trophy game animals that escape when a fence is cut or a gate is left open, especially in cases of properties with high fences. Include the

cost of rounding up the livestock and resulting damages from any diseases introduced into the herd. Require compensation if predators are introduced when fences are cut or gates left open.

Possibly agree to nonbinding mediation to settle disputes when damages cannot be mutually agreed upon.

Generally, the parties share the mediation costs. Never waive the right to a jury trial or consent to binding arbitration. Provide for the recovery of attorney fees if the landowner prevails at trial.

Easement Maintenance

Require restoration of the land within the easement at the end of the construction phase. Also, specify how frequently the easement must be maintained.

Some landowners may

wish to deny the use of all chemicals (or certain chemicals) to control weeds and brush.

Require all trucks to be washed before entering the premises to prevent the spread of noxious weeds, especially deep-rooted perennials. Failure to do so makes the condemnor liable for their introduction.

In some areas of Texas, especially in the Hill Country, oak wilt poses a serious problem. Landowners may make the condemnor liable for the spread of oak wilt caused by its activities. Require all oak trees to be trimmed by hand or that all chainsaws and axes are disinfected before being used on oak trees. Require all cuts and scrapes on trees be treated immediately.

As wind turbines generate more and more electricity in Texas, the need for transmission lines increases. Landowners must understand the condemnation process and know how and what to nego-

ciate to protect their property and property rights when confronted with the possibility of transmission lines on their land.

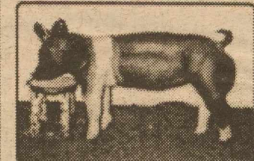
THE TAKEAWAY

Wind energy production is increasing in Texas. Landowners can protect their interests by studying the many complicated issues related to the taking of land for transmission line easements. For example, the Texas Supreme Court in the 2004 Hubenak decision removed the requirement that condemnors make a bona fide effort to purchase the land based on fair market value. Likewise, condemnors can and will attempt to purchase more property and property rights than they can condemn.

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JANUARY 20 11



Fort Worth Stock Show - January 24 - February 5, 2011
* Denotes District Basketball Game

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 Beginning of 4 th Six Weeks JH BB vs. Grady Here 6:00 7 th Grade Boys-5:00 OAP Practice - 6:30	4 *BB vs. Sands Here 4:00 gGbB	5	6 Forsan JV Tourney OAP Practice-6:30	7 *BB @ O'Donnell 4:00 gGbB ACT registration deadline* for February 12 th test	8 Forsan JV Tourney UIL Meet @ Andrews or Friona
9	10 JH BB @ Klondike 6:00 OAP Practice - 6:30	11 *BB vs. Dawson Here 4:00 gGbB	12	13 OAP Practice-6:30 Early Dismissal 12:30	14 Holiday *BB @ Grady 4:00 gGbB	15 O'Donnell Speech Meet
Borden County Jr. Livestock Show						
16	17 OAP Practice-6:30	18 Spring Pictures K-12 *BB-vs. Loop Here 4:00 gGbB	19	20 JH BB @ Sands 6:00 OAP Practice-6:30	21 PROGRESS REPORTS *BB @ Wellman-Union 4:00 gGbB	22 JH Sands Tournament O'Donnell UIL Meet
23	24 JH BB @ Grady 6:00 OAP Practice-6:30	25 *BB vs. Klondike Here 4:00 gGbB	26	27 OAP Practice-6:30	28 *BB @ Sands 4:00 gGbB	29 Post UIL Meet
30	31 JH BB vs. Klondike Here 6:00 OAP Practice-6:30					