

FORT BEND COUNTY FY 2009
COMMISSIONERS COURT AGENDA REQUEST FORM
 Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

AGENDA ITEM

Date Submitted: 08.24.09	Submitted By: Laura Johnson
Court Agenda Date: 09.01.09	For: Road & Bridge Phone Number: 4556

#30

SUMMARY OF ITEM: Take all appropriate action to authorize Road & Bridge to execute original Stipulation, Agreed Settlement and Consent Order and authorize payment of administrative penalty in the amount of \$300.00 to Railroad Commission of Texas (Funding: Road & Bridge)

RENEWAL AGREEMENT/APPOINTMENT YES NO

REVIEWED BY COUNTY ATTORNEY'S OFFICE: YES X NO

List Supporting Documents Attached:

FINANCIAL SUMMARY:

BUDGETED ITEM: YES NO

FUNDNG SOURCE: Accounting Unit: Account Number:
 Activity (If Applicable):

DESCRIPTION OF LAWSOM ACCOUNT: _____

Instructions to submit Agenda Request Form:

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

DISTRIBUTION:

Original Form Submitted with back up to County Judge's Office (✓ when completed)
 If by E-Mail to ospindon@co.fort-bend.tx.us If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

<input type="checkbox"/> Auditor (281-341-3774) <input type="checkbox"/> Budget Officer (281-344-3954) <input type="checkbox"/> Facilities/Planning (281-633-7022) <input type="checkbox"/> Purchasing Agent (281-341-8642) <input type="checkbox"/> Information Technology (281-341-4526) <input type="checkbox"/> Marc Grant, Road & Bridge	<input type="checkbox"/> Comm. Pct. 1 (281-342-0587) <input type="checkbox"/> Comm. Pct. 2 (281-403-8009) <input type="checkbox"/> Comm. Pct. 3 (281-242-9060) <input type="checkbox"/> Comm. Pct. 4 (281-980-9077) <input type="checkbox"/> County Clerk (281-341-8697)
--	---

RECOMMENDATION / ACTION REQUESTED:

Special Handling Requested (specify):.

9-2-09 copy received

Victor G. Carrillo, CHAIRMAN
Elizabeth A. Jones, COMMISSIONER
Michael L. Williams, COMMISSIONER



Mary L. McDaniel, P.E.
DIVISION DIRECTOR
Kendall T. Smith
DEPUTY DIRECTOR

RAILROAD COMMISSION OF TEXAS
SAFETY DIVISION
DAMAGE PREVENTION SECTION

455-53
FORT BEND COUNTY ROAD & BRIDGE
ATTN: BILL CRAIN
PO BOX 148
RICHMOND, TX 77406-0004

August 6, 2009

8/24/09
OK to pay \$300.
Jan

Re: Damage Prevention Docket No. 005197: Violation of Commission Rules for Underground Pipeline Damage Prevention, 16 T.A.C. §18.3(e), and 18.11(b), and 18.11(b) at 230 LEGION DR (RANSOM ROAD), Richmond, FORT BEND County, Texas.

Dear BILL CRAIN:

This letter is to advise you that records submitted to the Commission indicate that FORT BEND COUNTY ROAD & BRIDGE was in violation of the requirements of Commission Rule 16 T.A.C. §18.3(e), and 18.11(b), and 18.11(b), and indicate that FORT BEND COUNTY ROAD & BRIDGE was responsible for the subject violations.

Specifically, FORT BEND COUNTY ROAD & BRIDGE violated Commission Rule 16 TAC Sections:

- **18.3(e)** - The excavation project was not completed at the time a line locate ticket expired, and the excavator did not refresh the ticket. (Note: Reduced Penalty).
- **18.11(b)** - The Excavator did not notify the operator of the damage through the notification center immediately but not later than two hours following the damage incident. (Note: No Penalty).
- **18.11(b)** - The Excavator did not submit a report of the damage incident to the Commission within 10 days of the incident. (Note: Reduced Penalty).

Due to the serious nature of these violations, this matter could be referred to the Commission's Enforcement Section for immediate enforcement action. However, this letter is being sent to you as an offer to settle if FORT BEND COUNTY ROAD & BRIDGE will agree to pay a reduced administrative penalty to the Commission for the cited violations. Any settlement will be contingent on:

- 1) any required compliance and the violations resolved, and
- 2) the payment of an administrative penalty to the Commission and such penalty amount being approved by the Commissioners.

Penalty guidelines, found in 16 TAC §18.12, for these very serious violations support the staff-recommended penalty of \$600.00.

However, the standard procedure of the Pipeline Safety Division in these circumstances is to offer to settle

this docket for a lesser penalty of \$300.00.

If you wish to settle this matter with an Agreed Order, please sign and return the attached Stipulation, Agreed Settlement, and Consent Order ('Order'). With the Order, please send in the reduced administrative penalty, by check, written to 'Railroad Commission of Texas.' If you do not agree to this disposition within 30 days of this letter, it will be referred to the Commission's Enforcement Section, where a complaint will be filed, and an administrative penalty of up to a maximum of \$10,000 per day per violation could be assessed. At that point, we will proceed to a hearing at which a larger penalty will be sought.

If you wish to discuss any compliance issues please call April Dawn Richardson at (512) 463-2339. Your company's cooperation in resolving this matter is appreciated.

Sincerely,

Damage Prevention Section

Safety Division

Railroad Commission of Texas

**RAILROAD COMMISSION OF TEXAS
DAMAGE PREVENTION DOCKET NO. 005197: ENFORCEMENT ACTION
AGAINST FORT BEND COUNTY ROAD & BRIDGE FOR VIOLATION OF
UNDERGROUND PIPELINE DAMAGE PREVENTION COMMISSION RULE 16 TAC
§18.3(e), and 18.11(b), and 18.11(b) AT 230 LEGION DR (RANSOM ROAD),
RICHMOND, FORT BEND COUNTY, TEXAS**

STIPULATION, AGREED SETTLEMENT AND CONSENT ORDER

On this the ____ day of _____, 20____, the above-entitled and numbered docket came on for consideration by the Railroad Commission of Texas ("Commission"). The Pipeline Safety Division of the Commission, and FORT BEND COUNTY ROAD & BRIDGE, through their representatives, have agreed to an informal disposition of the matters under this docket through this Consent Order ("Order"), subject to the approval of the Commission. The Commission has authority to informally dispose of this case through a consent order pursuant to TEX. GOV'T CODE ANN. § 2001.056 (1-3).

IN SETTLEMENT OF THIS DOCKET, the Commission and FORT BEND COUNTY ROAD & BRIDGE do hereby agree and stipulate as follows:

1. FORT BEND COUNTY ROAD & BRIDGE is a person engaged in or preparing to engage in the movement of earth in the vicinity of an intrastate underground pipeline containing flammable, toxic, or corrosive gas, a hazardous liquid, or carbon dioxide, as implemented under Title 16, §18.1(a) of the Texas Administrative Code.
2. FORT BEND COUNTY ROAD & BRIDGE is a "person" as that term is defined by Title 16, §18.2(16) of the Texas Administrative Code.
3. The Commission and FORT BEND COUNTY ROAD & BRIDGE agree that the alleged violations, as set forth in Damage Prevention Docket No. 005197, regarding 16 TAC §18.3(e), and 18.11(b), and 18.11(b) at 230 LEGION DR (RANSOM ROAD), Richmond, FORT BEND County, Texas, are hereby settled and compromised under the terms of this Order.
4. The alleged violations by FORT BEND COUNTY ROAD & BRIDGE constitute an alleged violation of a safety standard or rule relating to the prevention of damage to facilities containing flammable, toxic, or corrosive gas, a hazardous liquid, or carbon dioxide.
5. Neither this Order, nor any written or oral offer of settlement related thereto, nor any statement contained therein shall constitute evidence or an admission or adjudication of:
 - (A) any fact or conclusion of law alleged in or relating to Damage Prevention Docket No. 005197;
 - (B) any violation of any statute, rule or regulation or other wrongdoing or misconduct on the part of FORT BEND COUNTY ROAD & BRIDGE or any director, officer, agent, employee, contractor or affiliate thereof.
6. The Commission and FORT BEND COUNTY ROAD & BRIDGE wish to further the goal of safe operations of earth movement activities near pipelines containing flammable, toxic or corrosive gas, hazardous liquids, or carbon dioxide, within the State of Texas.
7. The Commission has considered any history of previous violations by FORT BEND COUNTY

ROAD & BRIDGE, the seriousness of any alleged violation, and any hazard to the health or safety of the public, and has determined that the facts of this case warrant an informal disposition of the Commission's concerns under the terms of this Order.

8. FORT BEND COUNTY ROAD & BRIDGE has elected not to avail itself of the opportunity for public hearing.
9. The Commission has jurisdiction to assess an administrative penalty against FORT BEND COUNTY ROAD & BRIDGE, pursuant to Sections 121.206 and 121.207 of the Texas Utilities Code.
10. An administrative penalty in the amount of THREE HUNDRED DOLLARS (\$300.00) shall be recovered by the Commission for the alleged violations asserted against FORT BEND COUNTY ROAD & BRIDGE.
11. Respondent has placed, in the possession of the Commission, funds in the amount of THREE HUNDRED DOLLARS (\$300.00), for deposit in the General Revenue Fund, as payment of administrative penalty assessed in Damage Prevention Docket No. 005197.
12. The person signing hereunder for FORT BEND COUNTY ROAD & BRIDGE has authority to represent FORT BEND COUNTY ROAD & BRIDGE in this matter.

Jurisdiction of this docket having been established and an agreement of the parties having been reached, it is, therefore, ORDERED by the Railroad Commission of Texas that FORT BEND COUNTY ROAD & BRIDGE be assessed an administrative penalty in the amount of THREE HUNDRED DOLLARS (\$300.00), and that Damage Prevention Docket No. 005197 be informally disposed of by the Consent Order and closed. All relief not granted in this Order is DENIED.

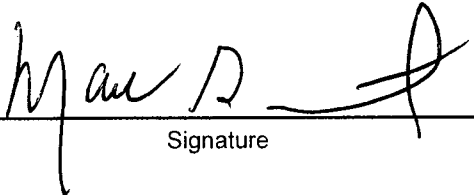
Done this 1 day of September, 2009.

RAILROAD COMMISSION OF TEXAS

(Order approved and signature affixed by Master
Agreed Order dated _____, 20____.)

APPROVED AS TO FORM AND SUBSTANCE:

FORT BEND COUNTY ROAD & BRIDGE



Signature

By: Marc Grant

Please print your name

Title: Road Commissioner

Please print your title

RAILROAD COMMISSION OF TEXAS

SAFETY DIVISION

DAMAGE PREVENTION SECTION

Penalty Calculation Worksheet for Docket No. 005197

Rule Cited	Rule Description	Suggested Penalty	Amount
18.3(e)	The excavation project was not completed at the time a line locate ticket expired, and the excavator did not refresh the ticket. (Note: Reduced Penalty).	\$1,000.00	\$ 500.00
18.11(b)	The Excavator did not notify the operator of the damage through the notification center immediately but not later than two hours following the damage incident. (Note: No Penalty).	\$1,000.00	\$ 0.00
18.11(b)	The Excavator did not submit a report of the damage incident to the Commission within 10 days of the incident. (Note: Reduced Penalty).	\$1,000.00	\$ 100.00
	Subtotal of Penalty Amount		\$ 600.00
	Reduction for settlement before hearing:	50%	\$ 300.00
	Subtotal (Penalty Amount minus Settlement Reduction):		\$ 300.00
	Penalty Enhancement Amount:		\$ 0.00
	Subtotal (Penalty Amount - Settlement Reduction + Enhancement Amt):		\$ 300.00
	Reduction for demonstrated good faith of person charged:		\$ 0.00
	Total Penalty:		\$ 300.00

Manner of Compliance:

NOT REQUIRED