

PUBLIC HEARING

FARM-TO-MARKET (FM) ROAD 423

FROM STEWARTS CREEK TO STATE HIGHWAY 121

DENTON COUNTY

CSJ: 1567-02-020

TUESDAY, JANUARY 8, 2008; 7:00 PM

The Colony High School Auditorium
4301 Blair Oaks Drive
The Colony, Texas 75056

OPENING COMMENTS
BY BRIAN BARTH, P.E.

SLIDE 1

Good evening ladies and gentlemen. It is now **7:00 PM**, so if you'll please be seated, we'll begin tonight's public hearing. I'm Brian Barth, Director of Transportation Planning and Development with the Dallas District Office of the Texas Department of Transportation. I'm here representing our Dallas District engineer, Mr. William Hale. We appreciate your interest in the **FM 423 South Project** and welcome each of you here this evening. Later this evening, you'll be invited to directly participate in the "Opportunity for Public Comment" portion of this hearing. **We want to express appreciation to the Lewisville ISD for the use of this facility this evening.**

SLIDE 2

The study area limits for the planned and proposed improvements to **FM 423** are **From Stewarts Creek Road to State Highway 121** with a total length of approximately **3.8 miles** within **Denton County**.

INTRODUCTION

Before proceeding further, I would like to introduce members of the federal, state, or local elected officials who are in attendance tonight or were able to stop by during the open house:

(List of elected officials in attendance)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Have I overlooked anyone? We appreciate your attendance and we thank you for your interest in this project.

Now, I would like to introduce several members of the Texas Department of Transportation, the consultant team, the **Cities of The Colony and Frisco**, and **Denton County** officials who are present tonight to assist you and answer questions:

(List of City and County Officials in attendance)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(List of TXDOT staff in attendance)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Our specific study team members are:

- **Maurice Pittman - TxDOT Dallas County Northwest Area Office**
- **Lynn Pipkin, Jacobs Carter Burgess**
- **Steve Chong, Jacobs Carter Burgess**
- **Audie Harris, Jacobs Carter Burgess**
- **Nathan Drozd, Jacobs Carter Burgess.**

These individuals will be available during the recess to answer your particular questions regarding the **FM 423 South Project**.

We thank those of you who had an opportunity to attend the open house earlier this evening. As you arrived, you were given the opportunity to register your attendance for this hearing. Our registration forms are the 8½” by 11” sheets at the front sign-in table, and provide you the opportunity to express your interest in this project and indicate whether you would like to make a verbal statement during tonight’s “Opportunity for Public Comments” portion of the hearing. In the event you did not register and would like to, please do so during our upcoming recess.

SLIDE 3

CONDUCT OF HEARING

Many of you may have attended previous public hearings conducted by the Texas Department of Transportation. However, for the benefit of those of you who have never attended one, I would like to explain how the Department conducts a public hearing. Following my initial comments, **Mr. Lynn Pipkin** will give a detailed presentation concerning the location, design features, and environmental effects of the proposed **improvements to FM 423**. Following **Mr. Pipkin, Mr. Cecil Saldana** of our Dallas District Right-of-Way Office will explain the right-of-way acquisition procedures and the relocation assistance program for displaced persons and businesses. At that time, we will recess the hearing for 20 minutes, and allow you the opportunity to view the project design currently on

display here tonight. During the recess, you're encouraged to ask any questions, which the Department representatives will address and answer. Following the recess, we'll reconvene the hearing and ask those persons who indicated on the registration form that they would like to make a statement to come forward to our floor microphone, state your name and address for the record, and provide any comments concerning the project. Following the registered speakers, anyone else who did not register will also be given an opportunity for comment.

SLIDE 4

You might be asking, "What is the purpose of a public hearing?" The four essential purposes of a public hearing are to:

1. Inform the public of the status of planning on the project and present the recommendations based on studies performed to date.
2. Describe the recommended location and design so that those attending can determine the project's potential to affect their lives and property.
3. Provide the public an opportunity to present information and their views at a stage in the planning process when flexibility to respond to comments still exists and before location and design decisions are finalized.
4. And finally, to develop a record of public views and participation to accompany recommendations for subsequent decisions.

This hearing is being held in compliance with both federal and state laws. The state is required to certify to the Secretary of Transportation that a public hearing was held concerning the **FM 423 South Project**. For the official record, a

transcript of this hearing will be made. For this reason, we ask that all comments be made from the floor microphone. Following this hearing, the Department will proceed with the preparation of the final environmental documentation. Your statements and comments will be addressed in this documentation and will be given full consideration in the preparation of the final recommendation and design for the **FM 423 South Project**.

SLIDE 5

PROJECT INTRODUCTION

This Public Hearing has been convened to discuss the design features and environmental effects of the proposed **improvements to FM 423 from Stewarts Creek Road to State Highway 121**. The total project length is approximately **3.8 miles**. A design schematic has been developed, showing typical cross-sections, roadway profiles, and proposed right-of-way boundaries. **Approximately 16.5 acres of additional right-of-way would be required for the project. Potential right-of-way displacements would include 26 residential structures containing 32 residential units and ten commercial properties containing 17 businesses and one place of worship. An Environmental Assessment** has also been prepared, which analyzed the social, economic and environmental effects of the project.

SLIDE 6

The design schematic and **Environmental Assessment** for the **FM 423 South Project** are available for inspection and reproduction at the Texas Department of

Transportation Dallas District Office, located at 4777 East Highway 80 in Mesquite, Texas 75150; **or at the TxDOT Dallas County Northwest Area Office located at 12000 Greenville Avenue, Dallas, Texas 75243.** In addition, the design schematic may be viewed on the internet at www.keepitmovingdallas.com.

LOCAL-FEDERAL-STATE RELATIONSHIPS

Highway planning and construction requires close cooperation among all levels of government. The Department has worked closely with local governments and has previously received input regarding the proposed design. **One previous public meeting was conducted for this project on November 16, 2005.** Many of the requests presented by local government officials have been addressed and are reflected in the schematic displayed tonight. In summary, the **proposed improvements to FM 423** are being developed cooperatively by the **Cities of The Colony and Frisco, Denton County, the State, the Metropolitan Planning Organization, and the Federal Highway Administration.**

At this time, **Mr. Pipkin** will discuss the design features, cost estimates, and the environmental effects of the proposed project.

Mr. Lynn Pipkin, P.E. TECHNICAL (DESIGN) PRESENTATION

AND

TECHNICAL (ENVIRONMENTAL) PRESENTATION

TECHNICAL (DESIGN) PRESENTATION

BY: Lynn Pipkin, P.E.

SLIDE 7

Thank you Mr. Barth.

Introduction:

The presentation tonight will cover the proposed **improvements to FM 423 from Stewarts Creek Road to State Highway 121.**

Project Description:

This project will include:

six travel lanes, a raised median, and curb and gutter. In addition, two auxiliary lanes would be constructed from Cougar Alley to State Highway 121.

Description of Displays:

Design schematics for this project have been prepared, and are displayed throughout the **Commons Area**. These schematics depict the horizontal and vertical alignments of the improvements previously mentioned, along with proposed right-of-way lines.

SLIDE 8

Existing:

The existing facility is a **four-lane roadway serving mostly businesses and residential neighborhoods**. It is not anticipated that **improvements to FM 423** would substantially change any existing or future land usage in the project area.

SLIDE 9

Proposed Roadway:

The proposed improvements would generally follow the existing horizontal and vertical alignments of the roadway that exists south of Stewarts Creek Road. The proposed facility would consist of a six-lane, divided, curb and gutter roadway. The roadway would contain a 32-foot raised median north of Cougar Alley and a 16-foot raised median south of Cougar Alley. The smaller median width is needed to accommodate the two auxiliary lanes south of Cougar Alley. In addition, five foot sidewalks on both sides of the roadway would be included as part of the project along FM 423. In select places for the City of The Colony's portion of the roadway a 10-foot hike and bike trail would be constructed to substitute the five-foot sidewalk on one side of the roadway. This proposed hike and bike trail would be consistent with the City of The Colony's Trail System Master Plan. Intersection improvements include Lonestar Parkway, Lake Highlands Drive, North Colony Boulevard, South Colony Boulevard, Cougar Alley, Memorial Drive, and SH 121.

SLIDE 10

Right of Way:

The existing right-of-way width for **FM 423** is typically **100** feet. The proposed project would require **the acquisition of approximately 16.5 acres of additional right-of-way**. The proposed right-of-way width is typically **140** feet.

Utilities Adjustments:

Utilities such as water lines, sewer lines, gas lines, and other underground and overhead utilities may require adjustment. The adjustment and relocation of any utilities will be handled so no substantial interruptions will take place while these adjustments are being made.

SLIDE 11

Estimated cost:

The current total estimated cost of the project is approximately 86 million dollars. The cost break down for this project is as follows:

Construction cost is estimated at 49 million dollars while right-of-way cost is estimated at 37 million dollars.

SLIDE 12

**TECHNICAL (ENVIRONMENTAL) PRESENTATION
BY: Lynn Pipkin, P.E.**

Environmental Evaluation and Effects

An Environmental Assessment has been prepared for this project. This document has been written to document the environmental analyses performed

for this proposed project and is in accordance with the National Environmental Policy Act, also known as NEPA. The environmental analyses are necessary to identify the potential effects and to avoid and minimize effects to the Human and Natural Environments.

The Environmental Assessment document describes the need and purpose for the project, the description of the alternatives considered, the affected environment and environmental consequences, and the recommendation of the preferred alternative. The environmental document covered the following topics:

- Need and Purpose
- Project Design: traffic, typical sections, and profile
- Right-of-way
- Project Cost and Funding
- Displacement and relocations
- Waters of the US and Wetlands
- Lakes, Rivers, and Streams
- Water Quality
- Floodplains
- Regional and Community Growth
- Socio-economic Impacts
- Community Cohesion and Environmental Justice
- Public Facilities and Services

- Parkland/Section 4(f) Properties
- Threatened and Endangered Species and Wildlife Habitat
- Historical and Archeological Sites
- Aesthetic Considerations
- Prime, Unique, and Special Farmland Impacts
- Land Use
- Air Quality Assessment
- Mobile Source Air Toxics
- Congestion Management
- Traffic Noise Assessment
- Hazardous Materials
- And Construction Impacts

This document was approved for further processing by the Department's Environmental Affairs Division in Austin and by the Federal Highway Administration, and has been coordinated with other public agencies. The **Environmental Assessment** for this project is available here tonight for your review.

SLIDE 13

In conclusion, the studies and evaluations performed thus far indicate that the proposed improvements would cause no significant environmental effects.

I will now return the hearing back to Mr. Barth.

BRIAN BARTH PRESENTATION CONTINUES....

Thank you **Mr. Pipkin**.

PROJECT SCHEDULE

SLIDE 14

Following this hearing, documentation of this public hearing will be forwarded to our Austin Office for final environmental clearance and design approval. Assuming there are no major issues arising from this hearing that cannot be addressed in a reasonable time frame, final environmental clearance is expected by this **Spring**. We will then be in a position to proceed with detailed construction plans and right-of-way acquisition. Once the construction plans have been approved and the right-of-way and utilities cleared, we would then expect to be ready for construction by **December 2009**, subject to the availability of funds.

As mentioned previously, the total cost of construction, right-of-way acquisition, utility relocations, and engineering for this project is estimated at **\$86 Million**.

For the **FM 423 South Project** improvements, the Texas Department of Transportation would provide **90%** of the total cost of right-of-way and utility adjustments. The cost of construction for the proposed project would be fully funded by the Texas Department of Transportation.

At this time, **Mr. Cecil Saldana** from our District Right-of-Way Office will provide you an overview of our right-of-way acquisition procedures.

CECIL SALDANA RIGHT-OF-WAY PRESENTATION

ROW PRESENTATION BY: CECIL SALDANA

SLIDE 15

Thank you, Mr. Barth. Good evening ladies and gentlemen. I would like to take a few minutes to present some information about the right of way acquisition phase of this project. This project, as previously described will be the object of my remarks and would require approximately **16.5 acres** of additional land to accommodate improvements to **FM 423 from Stewarts Creek Road to State Highway 121. The additional right-of-way is commercial, residential properties, and institutional. The potential right-of-way displacements would include 26 residential structures containing 32 residential units and ten commercial properties containing 17 businesses and one place of worship.** The following will help describe our right-of-way procedures.

Two booklets are available for you at the right-of-way table in **Commons Area outside this auditorium**. One is titled "The Purchase of Right of Way", and other one is titled "Relocation Assistance". If there is a possibility that some of your property may be acquired and you did not pick up the booklets, you may secure copies at the right-of-way table during the break. These booklets contain a significant amount of information. Rather than trying to cover all of this material

in detail this evening, I would like to acquaint you with the answers to the most commonly asked questions.

(1) Before the right of way acquisition process may begin, the Texas Department of Transportation, also known as TxDOT, has to obtain environmental clearance, local agency agreements, an approved right-of-way map and funding.

With the route approved, maps will be prepared by registered professional land surveyors to show the exact amount of land to be acquired from each affected property owner. **All the land is to be used for roadway purposes and will be acquired in the name of the State of Texas.**

Standard procedure for many projects is that the local governments will be responsible for land acquisition and utility relocation; however, if requested, it may be done by the State of Texas. Cost associated with the purchase of real property will be the responsibility of TxDOT. In some cases the adjacent cities may be responsible for increased costs due to more stringent zoning ordinances or building codes than state law. All acquisitions must be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

SLIDE 16

(2) After the release is obtained from the Austin Right-of-Way Division, TxDOT will order property title information, five year sales data and preliminary title commitments.

SLIDE 17

(3) The acquiring agency, whether TxDOT or a local government, in order to establish land values, may employ independent real estate appraisers to determine their opinions of the fair market value for the part of each owner's property to be acquired. This procedure is explained on pages 3 and 4 of the purchase of right-of-way booklet. The appraisers will contact each owner before proceeding with appraising the properties. Each of you as owners will be given the opportunity to accompany the real estate appraiser on an inspection of your property. Once the property is appraised and submitted to TxDOT for review and approval, a written offer will be made to you, the property owner.

SLIDE 18

(4) TxDOT's acquisition agent presents the offer to the property owner. This offer will be based upon the amount of the approved appraised value with any compensable damages to the remaining real property. TxDOT will also provide relocation assistance to those who are eligible.

SLIDE 19

(5) The decision of whether the offer is acceptable or not, of course, remains with each owner. An owner may wish to donate land for the project for various reasons. In these cases, the appraisal process will not be necessary provided that the property owner signs a waiver to waive their right to receive fair market value and an appraisal of the property. This does not include donations at less than fair market value or partial donations which must be appraised.

If the property owner chooses to receive compensation for the needed right-of-way, then the following are the options available to the property owner. The owner may accept the offer, or submit a counter offer, if appropriate. Also, as another option the booklet further describes the procedure by which right-of-way is acquired when the property owner does not agree with the acquiring agency's determination of fair market value. This procedure is known as eminent domain and is described on page 9.

SLIDE 20

(5b) When the owner accepts the approved value, a deed and a memorandum of agreement is prepared for the owner's signature. TxDOT will issue a warrant (check) made out to the title company for the owner. The owner closes at the title company and is then compensated for the newly acquired right-of-way.

SLIDE 21

(5c) The owner may submit a counter offer if the owner believes the offer does not represent fair market value. TxDOT reviews the counter offer and either accepts or rejects it. If rejected, the owner may still accept the original offer or proceed to eminent domain.

SLIDE 22

(5d) In eminent domain, the court appoints three (3) independent commissioners (who themselves are land owners in the county) to hear the owner and TxDOT. Based on the evidence presented, the commissioners will decide the award to the owner. TxDOT deposits the award, which the owner may withdraw, in the

registry of the court and at that point TxDOT will take possession of the needed right-of-way. If desired, either the owner or TxDOT shall have the right to appeal the award to a jury trial.

SLIDE 23

(6) The state's relocation program for personal property, administered solely by the state with no local government funding required, is available to those of you who may qualify for certain benefits as the result of acquisition of properties. Monetary payment for incidental expenses which are the owner's "out of pocket" expenses to convey good title to the state may be eligible for reimbursement and are applicable whether or not a displacement occurs.

SLIDE 24

(6a) These benefits are applicable to all individuals, families, businesses, farmers, ranchers, and non-profit organizations, without regard to race, color, religion, sex, or national origin. This information is contained in the "Relocation Assistance" booklet.

SLIDE 25

(6b) If you believe a move is to be necessitated by the proposed project, the Department would caution you, not to move before negotiations have begun unless you first secure a written notice of "Intent to Acquire" from the acquiring agency. This must be done so as to avoid the possibility of your loss of personal

property relocation benefits to which you may otherwise be eligible for reimbursement by the Department.

SLIDE 26

(6c) Should a displacee be dissatisfied with any of the amounts offered for relocation reimbursement, appeal procedures are available. These are discussed on the last page of the Relocation Assistance booklet (page 39). Additional information is available from TxDOT's Dallas District Office, should you have need for relocation assistance.

SLIDE 27

(6d) Lastly, regulations governing the relocation of advertising signs which are not purchased by the acquiring agency as real property are discussed on pages 31 and 32 of the Relocation Assistance booklet.

This concludes my presentation. Thank you for your attention.

Mr. Barth.

BRIAN BARTH PRESENTATION CONTINUES....

SLIDE 28

Thank you **Mr. Saldana**,

I would like to mention that we will not attempt to answer your questions while you have the floor during the “Opportunity for Public Comment”. This procedure is necessary so that everyone is given an opportunity to speak and because your comments will be given due consideration. We would be happy to answer your questions during the recess or even after the hearing.

All verbal and written comments and questions presented tonight will be addressed in, and made part of, the final environmental document for this project. This document will then be made available for public review and copying at the Dallas District Office located at 4777 East Highway 80 in Mesquite, Texas 75150; **or at the TxDOT Dallas County Northwest Area Office located at 12000 Greenville Avenue in Dallas, Texas 75243.**

For the benefit of you that may have arrived late, I would ask the members of the Department, consultant team, and local government staff to stand. They are available to answer your questions and discuss your concerns regarding the project. At this time, we’ll take a 20 minute recess and re-convene at_____. Thank you.

RECESS 20-MINUTE

BEGIN RECESS AT _____

END RECESS AT _____

SLIDE 29

Ladies and gentlemen, we are now reconvening tonight's hearing. We have made our presentation on the latest available information on the project, and it is now time for us to listen to your comments. Again, please be aware we will not attempt to answer your questions during this comment period.

SLIDE 30

WRITTEN STATEMENTS

Some of you may not wish to make a statement from the microphone. In that event, your written statements will be equally accepted both tonight and for the next 10 calendar days following this hearing. For those of you who wish to submit a written comment tonight, a comment box is located at the registration table. Questions and comments may also be mailed to the Texas Department of Transportation in care of, **Lynn Pipkin, P.E., Project Director at: Jacobs Carter Burgess, 7950 Elmbrook Drive, Dallas, Texas 75247.**

All of your statements, comments, and questions will be given careful consideration before final design features are determined. Furthermore, all information developed in regard to the proposed design is available for public inspection and copying and is also posted at www.keepitmovingdallas.com. The

final deadline for our acceptance of statements or comments is by a postmarked date of **January 18, 2008**.

SLIDE 31

We have a listing of _____ people registered who would like to make statements. Please limit your speaking time to 3 minutes so that everyone who wishes to speak may have an opportunity to do so. For the official transcript, please state your name and address as you take the floor before proceeding with your statements.

COMMENTS

CONCLUSION

Is there anyone else who would like to come forward and make a statement?

Ladies and gentlemen, we sincerely appreciate your attendance and interest concerning the proposed **improvements** for the **FM 423 South Project**. All of your questions, comments and concerns will receive careful consideration subsequent to tonight's public hearing.

Thank you very much.

This hearing is now adjourned. * * *