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OPINION COMMITTEE

State of Texas
House of Representatives

RON LEWIS
STATE REPRESENTATIVE
P.O. BOX 2910
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April 3, 2002 **RQ-0530-JC**

COMMITTEES:
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ENERGY RESOURCES
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LEGISLATIVE COUNCIL

The Honorable John Cornyn
Attorney General of Texas
P.O. Box 12548
Austin, TX 78711-2548

FILE # ML-42554-02
I.D. # 42554

Dear General Cornyn:

Chapter 49 of the Texas Water Code states the following:

49.220. Right to Use Existing Rights-of-Way

All districts or water supply corporations are given rights-of-way within, along, under, and across all public, state, county, city, town, or village roads, highways, and rights-of-way and other public rights-of-way without the requirement for surety bond or security, provided, however, that the entity having jurisdiction over such roads, highways, and rights-of-way may require indemnification. A district or water supply corporation shall not proceed with any action to change, alter, or damage a portion of the state highway system without having first obtained the written consent of the Texas Department of Transportation, and the placement of any facility of a district or water supply corporation within state highway right-of-way shall be subject to department regulation.

The Mauriceville Special Utility District provides water and sewer service to portions of Orange, Jasper, and Newton counties. Orange County Commissioner Court is requiring that the District obtain a written permit prior to doing any work within county-maintained rights-of-way.

Based on the foregoing, I respectfully submit the following questions for your opinion:

Is the Mauriceville Special Utility District required to obtain verbal approval or a written permit from a county, drainage district, city or any political subdivision other than the State of Texas, to install, extend, construct or repair existing or new water and sewer mains, taps, or other apparatuses located within county rights-of-way?

If the Mauriceville Special Utility District finds it absolutely necessary to open cut all or part of a county or city road, is the District required to obtain verbal approval or a written permit from a county or city?

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If a county, drainage district, city or any other political subdivision requests the removal or relocation of new or existing District facilities located within county right-of-way, can the Mauriceville Special Utility District require compensation for the cost of removal or relocation of said facilities?

I appreciate your assistance with this matter. Please feel free to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Lewis". The signature is fluid and cursive, with a large initial "R" and "L".

Ron Lewis

RL/df
Attachments