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November 5, 2013

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ACCEPTED/FILED

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

NOV - 5 2013

ORIGINAL

Federal Communications Commission
Office of the Secretary

Re: Petition for Rulemaking to Modify Drive Testing Requirements for Mobility Fund Phase I Recipients, RM-_____

Mobility Fund Phase I Auction (Auction 901), AU Docket No. 12-25

Dear Secretary Dortch:

On behalf of Texas 10, LLC d/b/a Cellular One, Central Louisiana Cellular, LLC d/b/a Cellular One, Union Telephone Company d/b/a Union Wireless, N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, Pine Cellular Phones, Inc., Carolina West Wireless, Inc. and East Kentucky Network, LLC d/b/a Appalachian Wireless (collectively, "Petitioners"), please find enclosed a Petition for Rulemaking to Modify Drive Testing Requirements for Mobility Fund Phase I Recipients ("the Petition"). The enclosed Petition has been marked "**REDACTED - FOR PUBLIC INSPECTION.**" Also enclosed is an additional copy to be date-stamped and returned to our messenger.

Petitioners are also submitting to the Commission, under separate cover, a confidential version of the Petition. The confidential version is marked "**CONFIDENTIAL - NOT FOR PUBLIC INSPECTION.**"

Please contact the undersigned if any questions arise concerning the above-referenced enclosures or if you require any additional information.

Sincerely,



David LaFuria
Marc A. Paul

Counsel for Petitioners

Enclosures

No. of Copies rec'd 045
List ABCDE
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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NOV - 5 2013

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Petition for Rulemaking to Modify Drive Testing) RM - _____
Requirements for Mobility Fund Phase I)
Recipients)
)
Mobility Fund Phase I Auction (Auction 901)) AU Docket No. 12-25

PETITION FOR RULEMAKING

Pursuant to 47 C.F.R. § 1.401 of the Commission's Rules, Texas 10, LLC d/b/a Cellular One, Central Louisiana Cellular, LLC d/b/a Cellular One, Union Telephone Company d/b/a Union Wireless, N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, Pine Cellular Phones, Inc., Carolina West Wireless, Inc. and East Kentucky Network, LLC d/b/a Appalachian Wireless (collectively, "Petitioners") hereby file this Petition For Rulemaking ("Petition") seeking to amend the Commission's current rules and requirements for drive testing areas eligible for Mobility Fund Phase I Support.¹

I. EXECUTIVE SUMMARY

Each of the Petitioners successfully bid on eligible areas in the Mobility Fund Phase I Auction (Auction 901) and are in the process of building out their network in their respective eligible areas.² Under the Commission's current rules for receiving Mobility Fund Phase I

¹ See *Mobility Fund Phase I Auction Scheduled for September 27, 2012, Notice and Filing Requirements and Other Procedures for Auction 901*, AU Docket No. 12-25, DA 12-641 at para. 24 (rel. May 2, 2012) ("*Mobility Fund Phase I Notice*"); see also 47 C.F.R. §§ 54.1006, 54.1008.

² See *Mobility Fund Phase I Auction Closes, Winning Bidders Announced for Auction 901*, DA 12-1566 at Attachment A (rel. Oct. 3, 2012).

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support, auction winners are required to provide drive testing data demonstrating network coverage of at least 75% of the designated road miles in their eligible area.³

Based on careful investigation and analysis, developed as construction activities have rolled out, each Petitioner has determined that it will be extremely difficult, prohibitively expensive, and in some cases, impossible to drive test 100% of the roads in their eligible areas due to a variety of reasons, including, but not limited to, inaccessibility and the non-existence of many eligible roads. Given the short time between when certain categories of eligible road miles were identified and the date of the auction, Petitioners could not have reasonably been expected to know the difficulty and extreme challenge of drive testing many roads in all of the areas where they might, at the future conclusion of the auction, potentially win support.

Indeed, during this short time, Petitioners (and other auction participants) were busy identifying which eligible areas to bid on, developing bidding strategies, and preparing resource-intensive auction applications. As explained below, Petitioners are fully able to demonstrate to the Commission that reliable service exists in certain areas where a vehicle cannot gain access to conduct a drive test. In such areas, where Petitioners have delivered the kind of robust coverage sought by the Commission in its rules, support should be authorized. Petitioners seek modification of the Commission's drive testing rules in order to allow support to be provided in areas where a carrier can demonstrate coverage, but it is extremely difficult and costly, or simply not possible, to conduct a drive test.

Grant of this Petition is in the public interest as it will maximize the deployment of 3G and 4G networks to areas of the country that lack such coverage -- the precise goal of the Commission's Mobility Fund. Petitioners request that this Petition be processed on an expedited

³ See 47 C.F.R. §§ 54.1006, 54.1008.

basis, and placed on Public Notice as soon as possible, since Petitioners cannot finalize their network testing plans without having the Commission address the issue of how to treat roads in their eligible areas that are extremely difficult or not possible to drive test.

II. BACKGROUND

A. Mobility Fund Phase I Drive Testing Requirements

Mobility Fund Phase I support recipients are required (within two years for 3G networks and three years for 4G networks) to "submit data from drive tests covering the area for which support was received demonstrating mobile transmissions supporting voice and data to and from the network covering 75% of the designated coverage units in the area deemed uncovered"⁴ Further, "[d]rive tests submitted in compliance with a recipient's public interest obligations shall cover roads designated in the public notice detailing the procedures for the competitive bidding that is the basis of the recipient's support."⁵ The Commission has designated road mile units in each eligible census block from six road categories defined and reported by the U.S. Census Bureau: S1100 (primary roads), S1200 (secondary roads), S1400 (local and rural roads and city streets, S1500 (4WD vehicular trails), S1640 (service drives), and S1740 (private roads for service vehicles).⁶

The total amount of Mobility Fund Phase I support that an auction winner ultimately receives is based on the percentage of eligible road miles that a carrier covers, as demonstrated

⁴ 47 C.F.R. § 54.1006(a) and (b). "Recipients of Mobility Fund Phase I support must provide coverage of road miles and scattered site testing is not acceptable as an alternative to drive tests to demonstrate such coverage." *Mobility Fund Phase I Auction Notice, supra*, at ¶ 173 n. 247.

⁵ 47 C.F.R. § 54.1006(c).

⁶ See *Mobility Fund Phase I Notice* at ¶ 24.

through drive testing data.⁷ To the extent that an auction winner fails to demonstrate coverage of 75% of the designated road miles in its support area, it is required to forfeit all Phase I support for that area and pay a default payment.⁸ If a Phase I auction winner demonstrates coverage of more than 75% of its eligible road miles, but less than 100%, it will receive support for the percentage of total road miles actually covered.⁹ "A recipient accepting a final disbursement for a specific geographic area based on coverage of less than 100 percent of the units in the area previously deemed unserved waives any claim for the remainder of potential Mobility Fund Phase I support with respect to that area."¹⁰

B. Some Roads That The FCC Has Designated As Eligible Cannot Be Accessed To Perform A Drive Test

After conducting detailed investigation and analysis of the road miles in their respective Phase I support areas, Petitioners have concluded that a blanket rule requiring drive testing of 100% of a Phase I support area is not realistic because road conditions in rural and remote areas make such extensive drive testing extremely difficult, if not impossible. For example, Petitioners have found that in certain circumstances, roads depicted on maps do not exist, and many roads are completely inaccessible. Numerous roads are private. Many are marked "No Trespassing." Many are blocked with fences or high berms of dirt. Often, no road exists even though there is a

⁷ "The remainder of the total support, based on the final total units covered, when the recipient demonstrates coverage meeting the requirements of § 54.1006(a) or (b) as applicable." 47 C.F.R. § 54.1008(b) (3) and (c).

⁸ See 47 C.F.R. § 54.1006(f).

⁹ "For example, if a recipient covers 90 percent of the road miles in the minimum geographic area (and it meets the threshold), then that recipient will receive 90 percent of the total support available for that area. To the extent that a recipient covers additional road miles, it will receive support in an amount based on its bid per road mile up to 100 percent of the road miles associated with the specific unserved census blocks covered by a bid." *Connect America Fund Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 at ¶ 367 (rel. Nov. 18, 2011).

¹⁰ 47 C.F.R. § 54.1008(c).

road on the map. Drive testing these roads is simply not feasible or realistic, even with four wheel drive vehicles.

Roads on National Forest lands are particularly susceptible to inaccessibility, often without much advance notice. For example, the U.S. Forest Service has a roads and trails remediation program that funds road decommissioning and related work; this program alone has decommissioned 4,510 miles of roads since 2008.¹¹ Logging roads are closed to the public during logging activities, and then are often removed after logging is completed.¹² Often, a road is in such poor shape that even a four wheel drive vehicle cannot traverse it, for example when large trees are growing right in the road and there is no means of getting through.

These challenging road conditions are particularly prevalent in the three U.S. Census Bureau road categories that were added late in the Auction 901 rulemaking process: S1500 (4WD vehicular trails), S1640 (service drives) and S1740 (private roads for service vehicles).¹³ These additions were derived from several commenters' suggestions that support be provided to these areas, but such specific proposals were not made in the Commission's original request for comments, nor was drive testing of these roads specifically proposed and thoroughly vetted. Instead, these road categories were added just over eight weeks before short form applications were due to be filed.¹⁴ During those eight weeks, Petitioners (and other auction winners) were appropriately devoting their resources to determining which eligible areas to serve, developing

¹¹ See http://www.fs.fed.us/restoration/Legacy_Roads_and_Trails/ ; <http://www.wildlandscpr.org/resources/restoration-action-report> ; <http://www.wildlandscpr.org/files/State%20Maps%20of%20LRT%20Projects.pdf> .

¹² See <http://1.usa.gov/1bdpvFr> (listing road closures due to logging and other reasons; "Closures and Delayed Openings happen for many reasons, some for safety while crews work to remove hazard trees, some due to weather and others due to damage, repairs or maintenance.").

¹³ See *Mobility Fund Phase I Notice* at ¶ 24.

¹⁴ *Id.*

bidding strategies and preparing applications, not conducting a comprehensive and expensive analysis of the accessibility of all roads in particular eligible areas. As a result, Petitioners (and other auction winners) could not have reasonably foreseen these road conditions since it was not possible for Petitioners to drive all eligible road miles in the time between the addition of these roads and the auction event date. Accordingly, the Commission should adjust its drive testing requirements to accommodate these drive testing challenges.

C. Petitioners Can Demonstrate Reliable and High-Quality Coverage Without a Drive Test

In an effort to demonstrate the drive testing challenges faced by Petitioners and other auction winners, Petitioners Texas 10, LLC d/b/a Cellular One and Central Louisiana Cellular, LLC d/b/a Cellular One (collectively, "Cellular One") have prepared a detailed report, focused on several census tracts included in their Mobility Fund Phase I support area. A copy of the report appears as Attachment A to this Petition ("Cellular One Report"). The information contained in the Cellular One Report highlights the extreme and unrealistic challenges of having to drive test some of the roads in the Cellular One eligible service area.

For example, census tract #22079013400 contains roads overgrown with brush and dirt mounds, roads that are no longer in use, and private roads that are gated and blocked off for hunting and bombing ranges.¹⁵ These drive testing challenges are not isolated to this particular census tract and the eligible census blocks contained within this tract. Other census tracts analyzed in the Cellular One Report show comparable drive testing challenges, including gated and inaccessible private roads.¹⁶ In addition to Cellular One, when conducting initial surveys of

¹⁵ See Attachment A at 1.

¹⁶ *Id.* at 5.

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their eligible road miles, the other Petitioners have encountered similar obstacles and challenges that make drive testing extremely difficult, if not impossible.

While these roads may be extremely difficult or inaccessible for drive testing, wireless mobile services are still needed to serve individuals and the public safety community in these areas. Even in the absence of drive testing, Petitioners Texas 10, LLC d/b/a Cellular One and Central Louisiana Cellular, LLC d/b/a Cellular One can still accurately demonstrate high-quality service coverage as a result of its investment in new facilities in its eligible areas. Attachment B to this Petition contains a series of propagation maps, based on a modeling tool, showing proposed network coverage in the individual census tracts set forth in the Cellular One Report. The Lee Propagation Model and Wizard Software, an industry standard propagation modeling tool, was used to demonstrate coverage resulting from new cell site construction. The Cellular One Report includes in its analysis specific terrain data and clutter attenuation values tuned appropriately for the region.

For each census tract set forth in Attachment B, there are two maps provided: (1) a map showing the eligible census blocks within the census tract; and (2) a map showing predicted coverage of the eligible census blocks within the census tract. The propagation maps in Attachment B depict the sample census tracts (outlined in a blue line and depicted by number) and eligible Mobility Fund census blocks (in pink) overlaid with the Cellular One predicted network coverage (shown in gray). Eligible roads associated within the auctioned Mobility Fund census blocks are set forth in red lines. Cellular One cell site locations that will be supported through the Mobility Fund Phase I are reflected in red (a new site to be built), green (existing sites) and yellow (co-location).

These propagation models can demonstrate reliable coverage in areas where drive testing cannot be done or where it is prohibitively expensive to do so. As depicted in the coverage maps provided in Attachment B, the predicted percent of road miles covered for each of the 5 sample census tracts is as follows: 100% for census tract 22079013400, 96.82% for census tract 48073951100, 93.9% for census tract 48365950100, 100% for census tract 48401950600, and 92.55% for census tract 48405950300.

D. Allowing a Coverage Demonstration Will Maximize Infrastructure Deployment and Corresponding Consumer Benefit

If the FCC does nothing to adjust its drive testing requirements, carriers will deploy fewer facilities and rural citizens will receive less service than they would if alternatives are permitted. Once the 75% threshold is met, carriers will not deploy facilities in any area where they cannot drive test or where it is prohibitively expensive and challenging to drive test, forfeiting support, the opportunity to serve rural areas, and prejudicing rural citizens. In all likelihood, if an area cannot be drive tested, and cannot be built without support, then it will not be built, perhaps ever.

By adopting a rule change that permits a carrier an alternative way to demonstrate coverage to the Commission when drive testing is not feasible, the FCC will fulfill the ultimate goal of Mobility Fund Phase I, to bring 3G/4G mobile services to more areas of the country that do not have access to those services: "Millions of Americans live in communities where current-generation mobile service is unavailable, and millions work in or travel through such areas."¹⁷

¹⁷ *Connect America Fund Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 at ¶ 301 (rel. Nov. 18, 2011).

III. PETITIONERS' SPECIFIC PROPOSAL FOR AMENDING DRIVE TESTING REQUIREMENTS

Given the serious drive testing challenges faced by auction winners in certain areas, Petitioners propose that the Commission modify its rules to remove the drive testing requirement for road miles in the following road categories: S1500 (4WD vehicular trails), S1640 (service drives) and S1740 (private roads for service vehicles). Specifically, for road categories S1100 (primary roads), S1200 (secondary roads), S1400 (local and rural roads and city streets), a carrier would demonstrate that it has covered all eligible roads through drive testing. For road categories S1500 (4WD vehicular trails), S1640 (service drives) and S1740 (private roads for service vehicles), carriers would have the option to submit to the FCC for approval a showing using a propagation model widely accepted in the industry that plots predicted coverage, including losses associated with terrain data and clutter data tuned appropriately for the region. Petitioners proposed changes to the Commission's Rules are set forth at Attachment C to this Petition.

Amending the Commission's Rules as proposed will not undermine the goals of Mobility Fund Phase I. At its core, Mobility Fund Phase I is about maximizing coverage in rural areas. Nothing in the proposed amendments will reduce coverage levels in rural areas – in fact they will increase coverage as carriers strive to reach 100% of every available road mile. Because carriers would submit evidentiary showings, the Commission would have an opportunity, on a case by case basis, to ensure that the public interest is being served and carriers are being held fully accountable for using support as intended. Moreover, the sooner the Commission takes action to address this problem, the more likely carriers will engage in the required build-out to serve areas where drive testing presents certain challenges.

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Petitioners request that this Petition be processed on an expedited basis, and placed on Public Notice as soon as possible, in order to assist the Commission by providing relevant information for Mobility Fund Phase II performance considerations, as well as permit Petitioners to finalize their network testing plans expeditiously.

Respectfully submitted,

**Texas 10, LLC d/b/a Cellular One
Central Louisiana Cellular, LLC d/b/a Cellular One
Union Telephone Company d/b/a Union Wireless
N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless
Pine Cellular Phones, Inc.
Carolina West Wireless, Inc.
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Attorneys for Petitioners

Dated: November 5, 2013



Attachment A

Cellular One Report

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Mobility Fund - FCC Drive testing requirements

The rules currently require drive testing all S1100, primary roads; S1200, secondary roads; S1400, local and rural roads and city streets; S1500, 4WD vehicular trails; S1640, service drives; and S1740, private roads for service vehicle

In addition to the extreme time and expense of drive testing every mile, there are many reasons why it will not be possible to drive test 100% of the roads, as the FCC requires.

Example #1

Tract # - 22079013400 (North of the Melder site in LA)

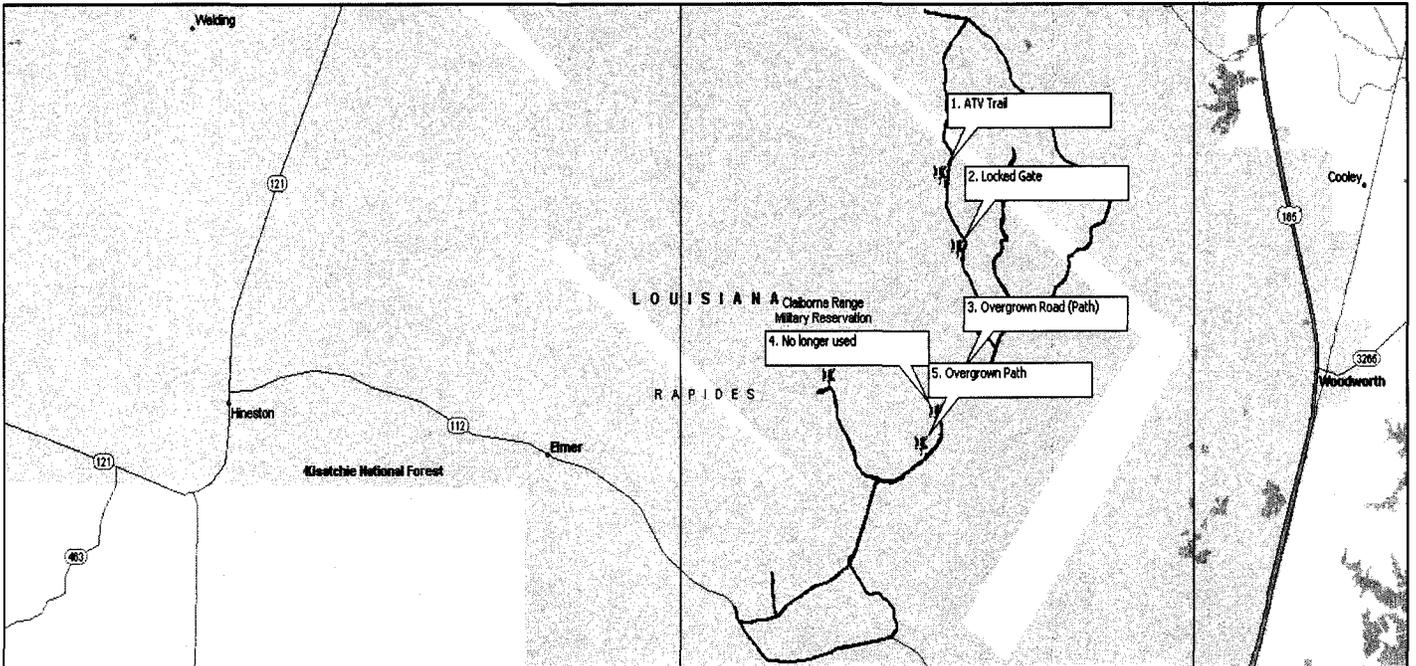
MapInfo plot:

Google Earth screenshot:

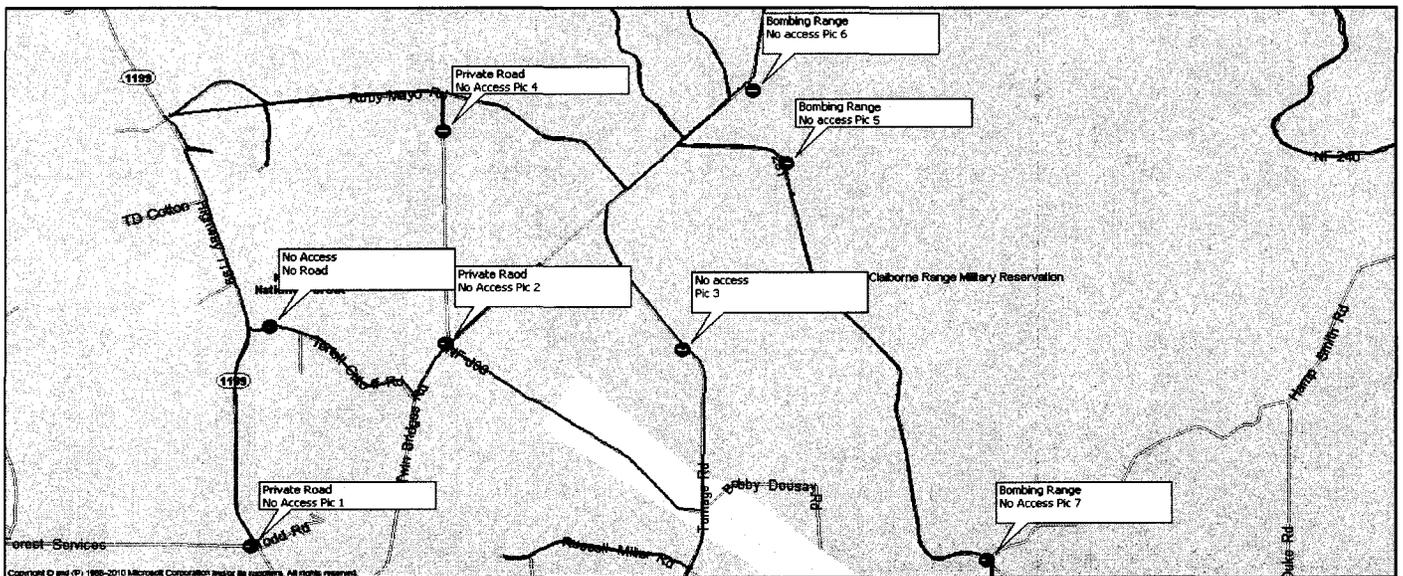
[CONFIDENTIAL MATERIAL - REDACTED]

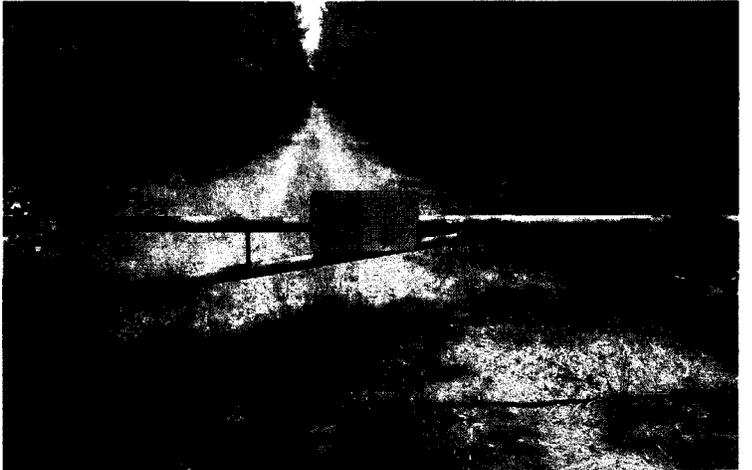
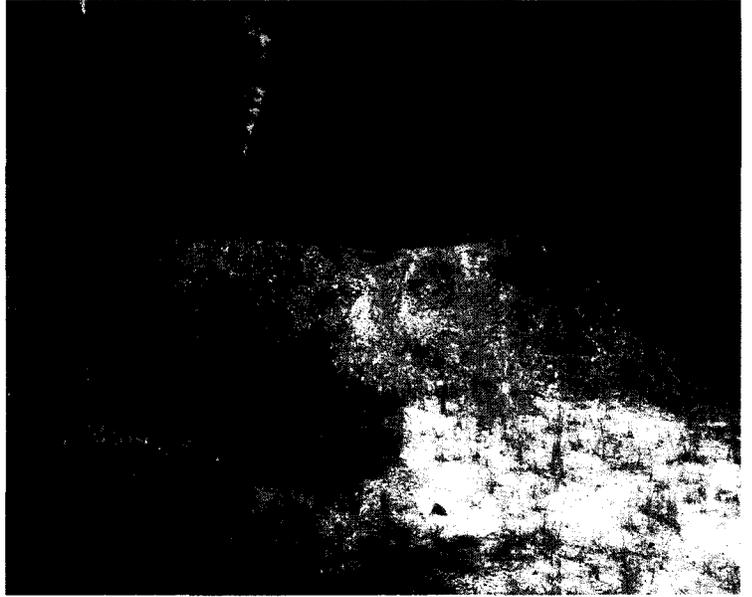
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Eastern Portion: On HWY NF-277, there are two roads that are not accessible. One being an ATV trail, and the other was a locked gate shown in below pictures. Also on NF-277 there are two overgrown paths and on HWY NF-209 there is a road no longer in use.



Western Portion: Forest Service Road off HWY 1199 has a locked gate on -JD's Hunting Club shown in pictures below. There was no road off of Terrell Cutoff to access, Ruby-Mayo Rd or HWY 488. There was a locked gate off HWY 488 inhibiting access to NF-J08 cutting over to Ruby-Mayo Rd. Section 5 Hunting Club shown in pic2 and pic4 showing no access from Ruby-Mayo Rd to NF-J08. There was an overgrown rd with a dirt mound blocking entrance to bombing range on Turnage Rd. shown in pic5. There was a locked gate of HWY 488 to bombing range shown in pic6. Off HWY 231, there was a locked gate entering the bombing range shown in pic7.





Example #2

Tract # - 48073951100 (South of the Wildhurst site in TX11)

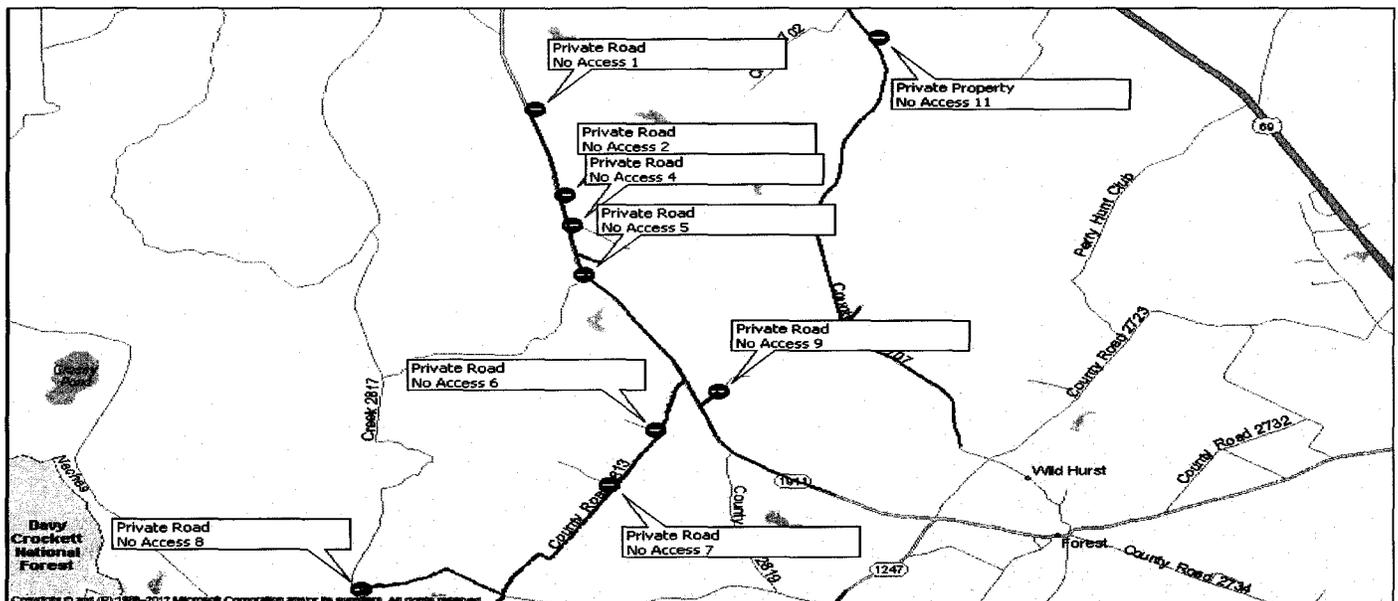
MapInfo plot:

Google Earth screenshot:

[CONFIDENTIAL MATERIAL - REDACTED]

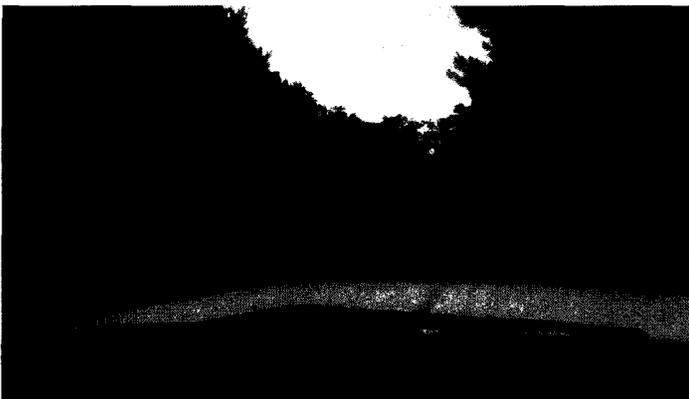
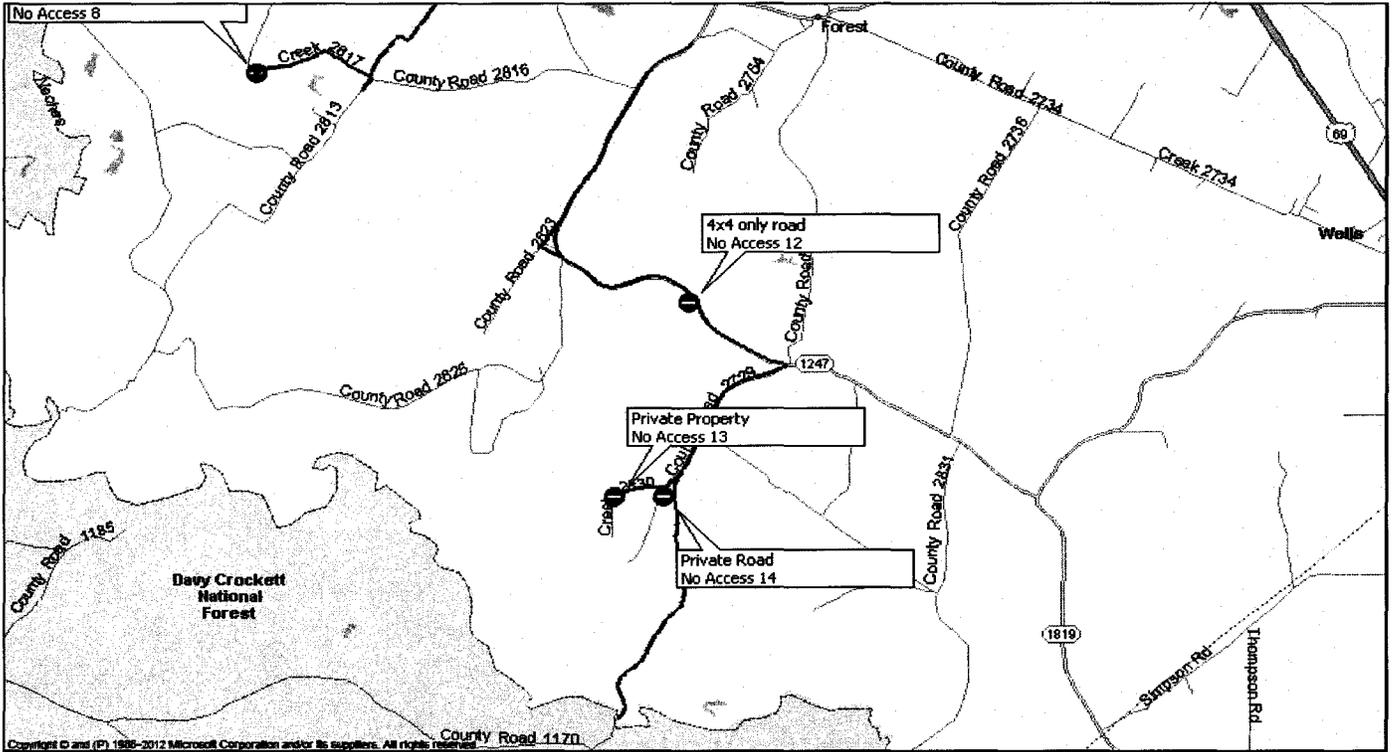
The Wells tract has been broken down into North and South.

Northern Portion: Several Private Roads along FM 1911 and CR 2813 inhibit travel into much of the tract. The Creek 2817 portion is private gated access from both 1911 and 2816 entrances. No issues along 2707 except for a private road access on the northern portion of the road before 2702. Private Roads have been labeled to the corresponding pictures attached.



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Southern Portion: 4x4 only sections off of 1247, alt route CR 2729. 2830 has no access gated portions. Road accessible all the way to Davy Crockett National Forest. Corresponding No Access photos attached.



Example #3

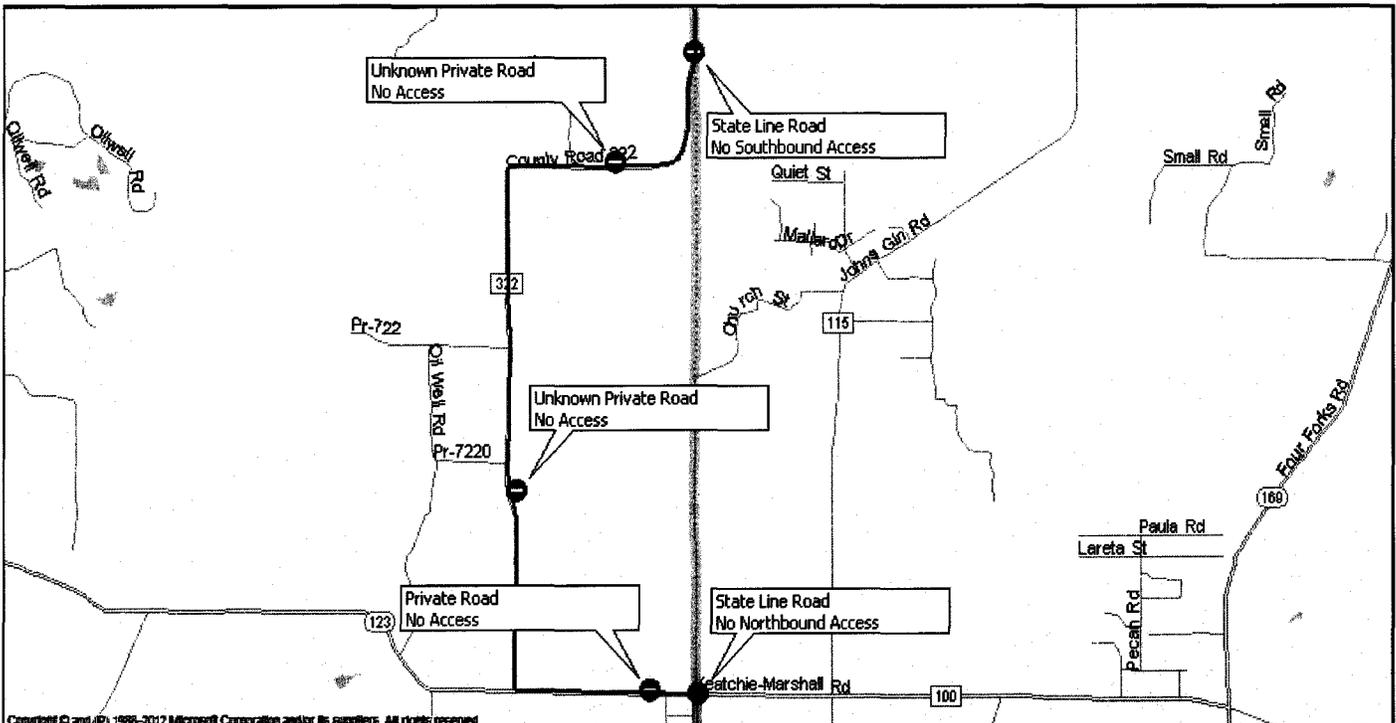
Tract # - 48365950100 (Southeast of the DeBerry site in TX11)

MapInfo plot:

[CONFIDENTIAL MATERIAL - REDACTED]

The Deadwood tract breaks down into the three following sections:

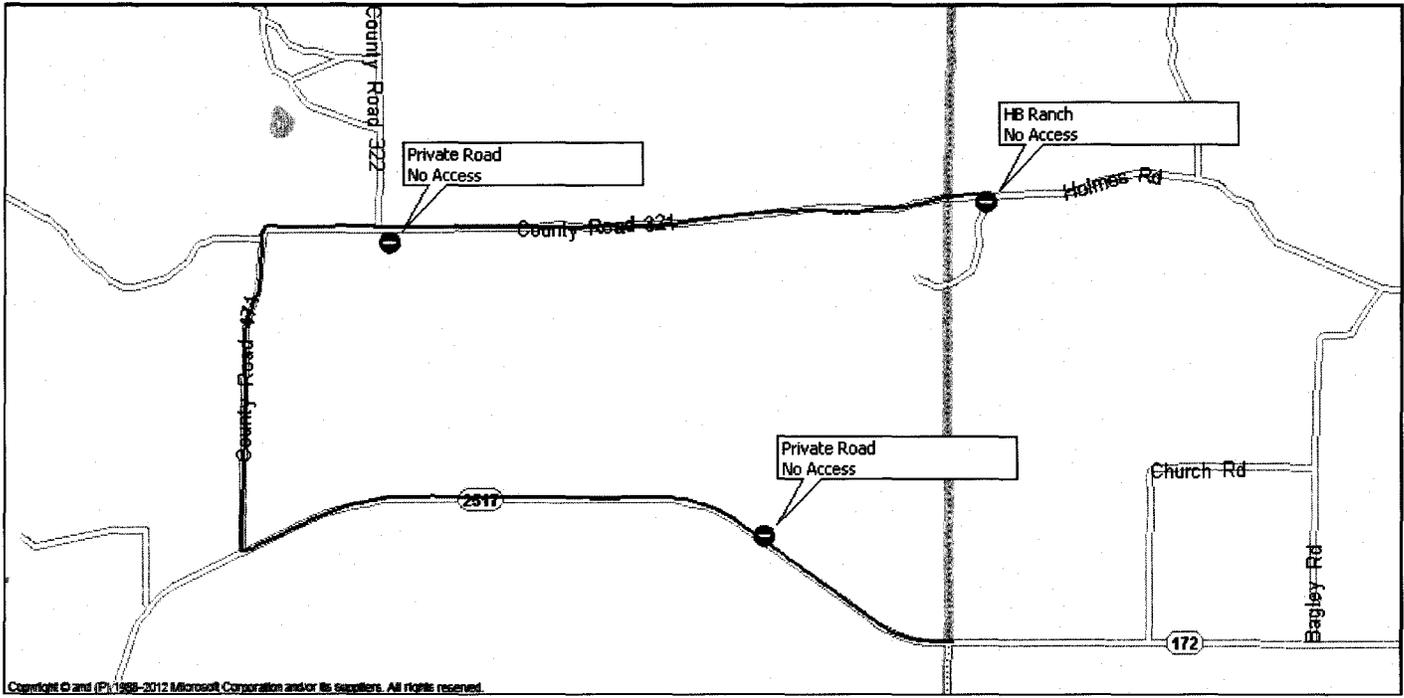
Northern Tract – 322/State Line Road – No thru access east of 322. No access of State Line Road south from 322 and no access of State Line Road north from 123. Private Road gated access photos attached.



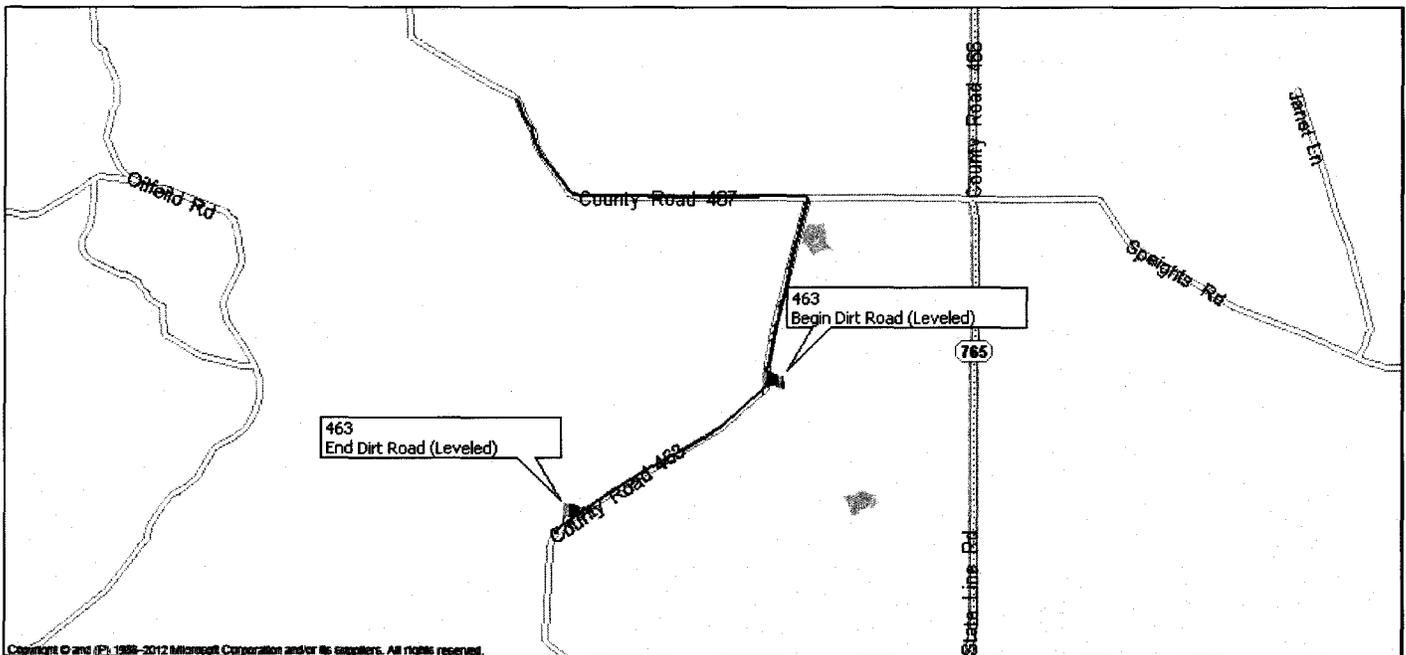
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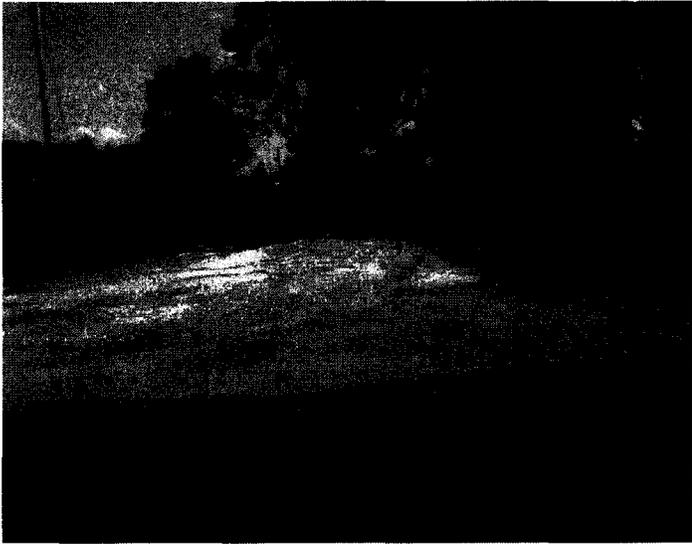
Central Tract – 321/471/2517 – No issues along these 3 main roads. HB Ranch across the LA border is a private road.

Likewise, the two other short roads are private along 2517 and 321 as the map and attached photos reflect:



Southern Tract – 467/463 – Tract successfully driven with no issues. Leveled dirt road on the latter part of 463 as indicated in the map.





Example #4

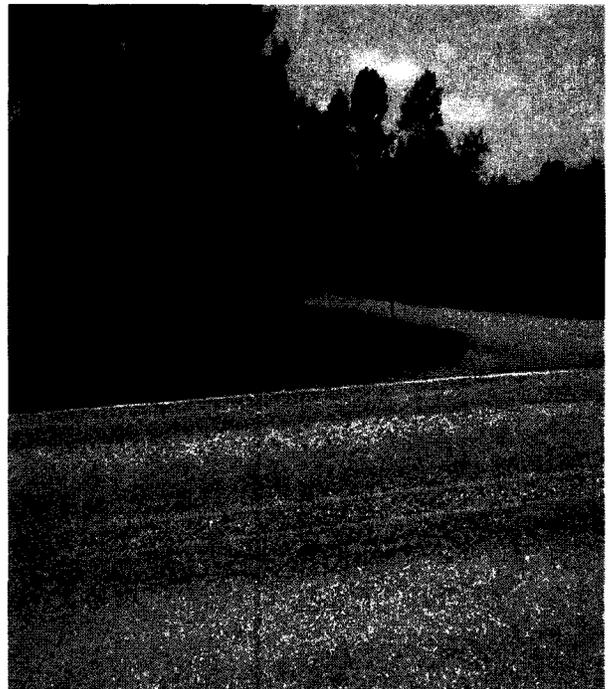
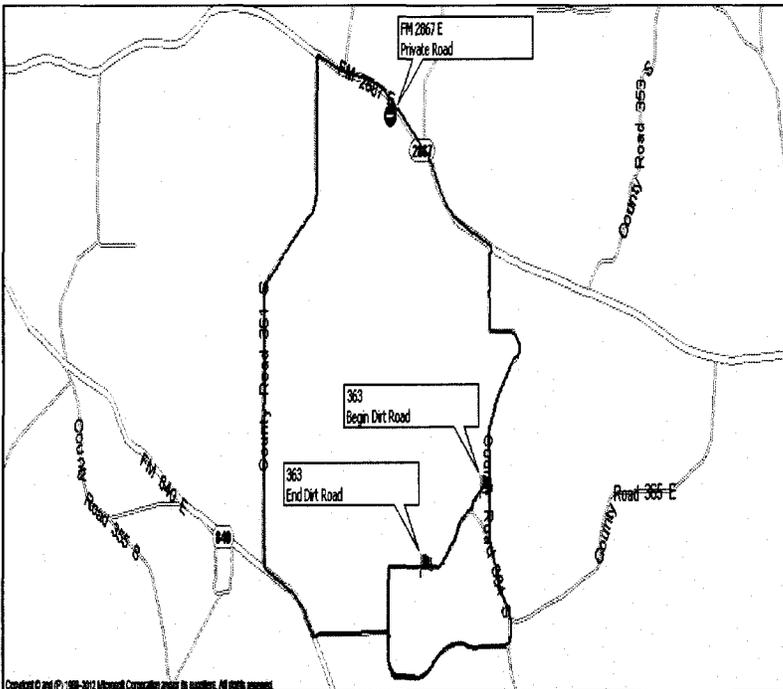
Tract # - 48401950600 (NE of Minden and NW of Long Branch in TX11)

MapInfo plot:

Google Earth screenshot:

[CONFIDENTIAL MATERIAL - REDACTED]

This tract has been successfully driven. There is a short portion of 363 that has a degraded, single lane dirt road as indicated in the below map. Likewise, FM 2867 E is a private road with a locked gate as indicated in the picture below.



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Example #5

Tract # - 48403950300 (South of Macune and Bronson, west of Pineland, and bound by Sam Rayburn Reservoir to the south)

MapInfo plot:

[CONFIDENTIAL MATERIAL - REDACTED]

Google Earth screenshot:

[CONFIDENTIAL MATERIAL - REDACTED]

Synopsis:

This large tract is riddled with dirt roads, private roads, and gated roads. Because of this, several sections of the tract displayed on the Google Earth map were inaccessible, and therefore untracked. Likewise, according to local Intel, many of the roads in Streets and Trips that are labeled as "County Road" have actually been forfeited to the Forest Service and are no longer considered for public access. The following maps were driven to the best of my ability and were as inclusive and entailed as possible. The following maps will be broken down for the clearest detail.

The master file for Streets and Trips is also attached for further comparison.

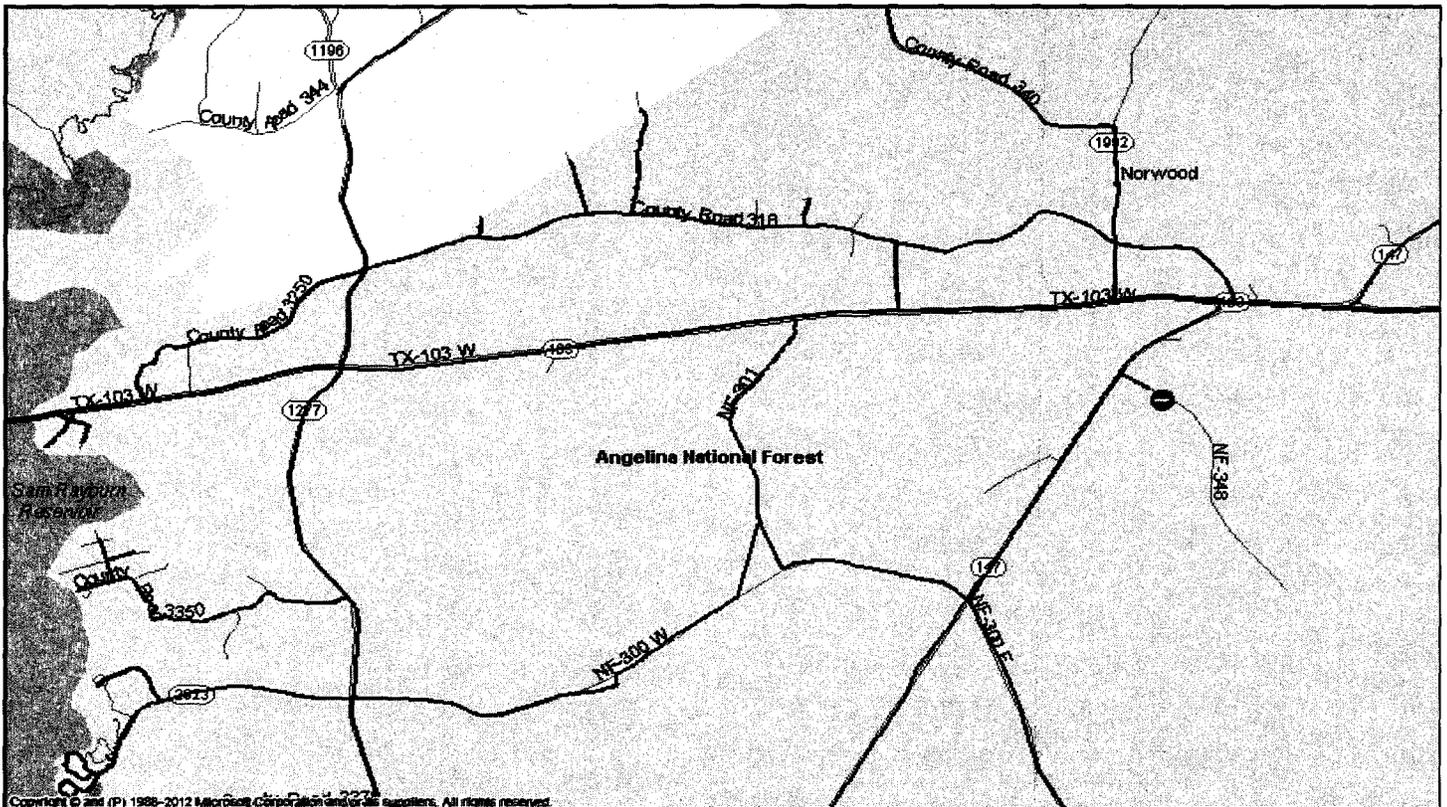
Please note, each location with the "Do Not Enter" symbol is placed because of one or more of the following reasons: Unmaintained road, Private Road, Logging Road, Gated Access, or un-drivable terrain.

[CONFIDENTIAL MATERIAL - REDACTED]

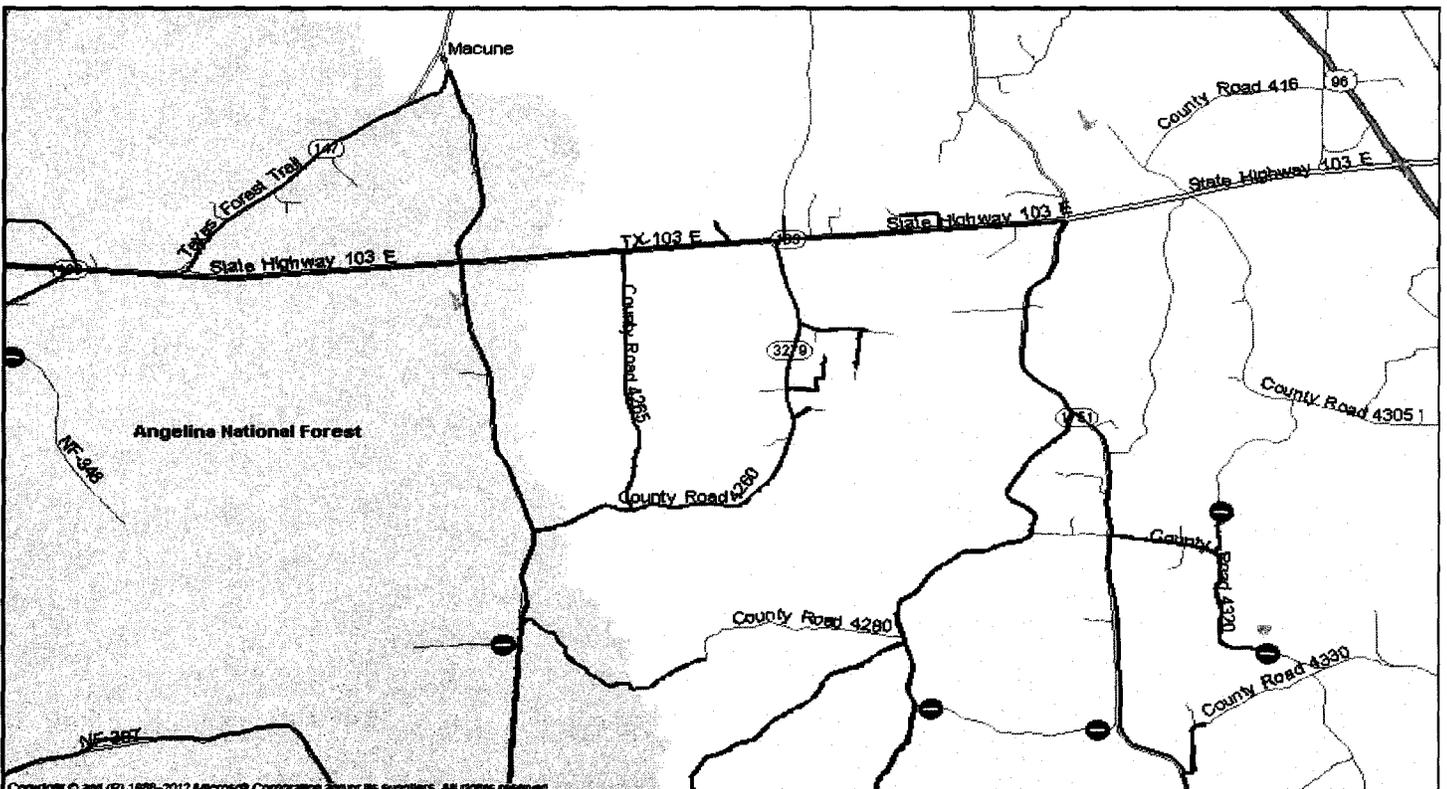
Etoile Area – A large section in the center of this area is inaccessible because of gated access.

[CONFIDENTIAL MATERIAL - REDACTED]

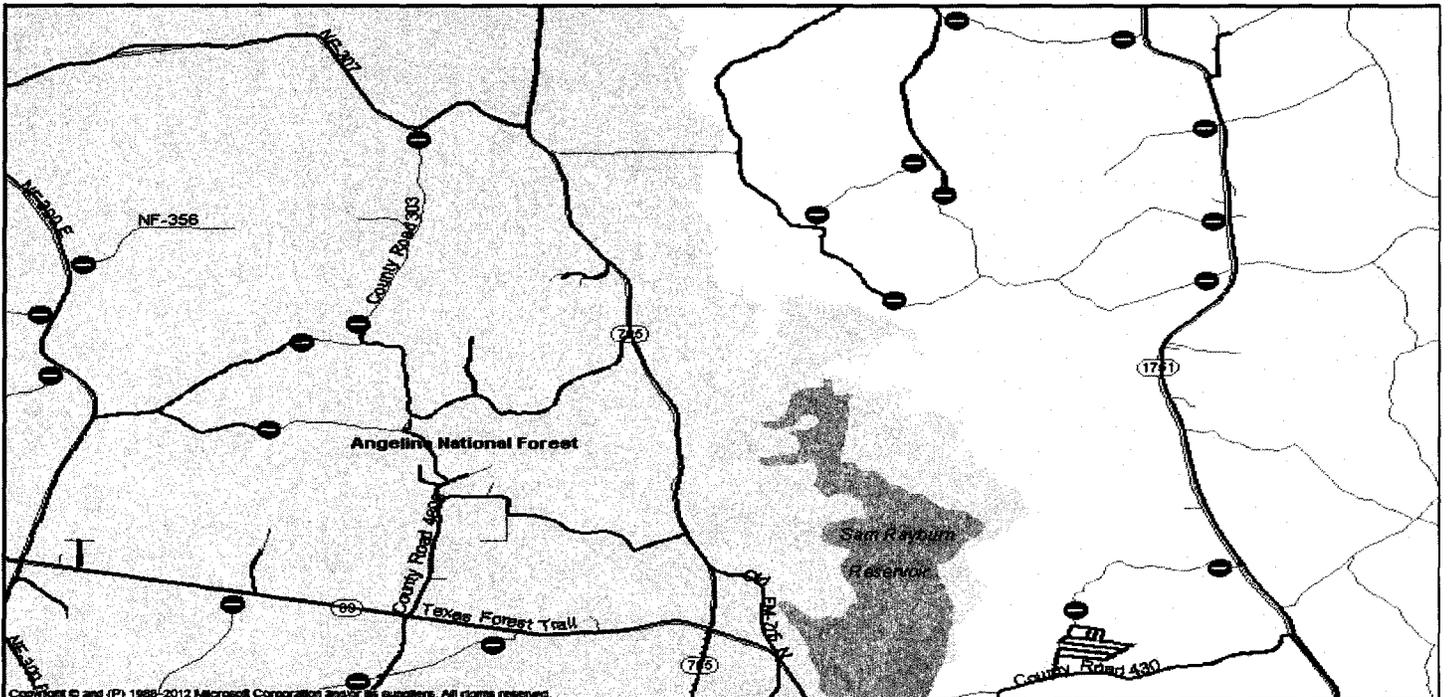
Norwood area – Most of this section was accessible.



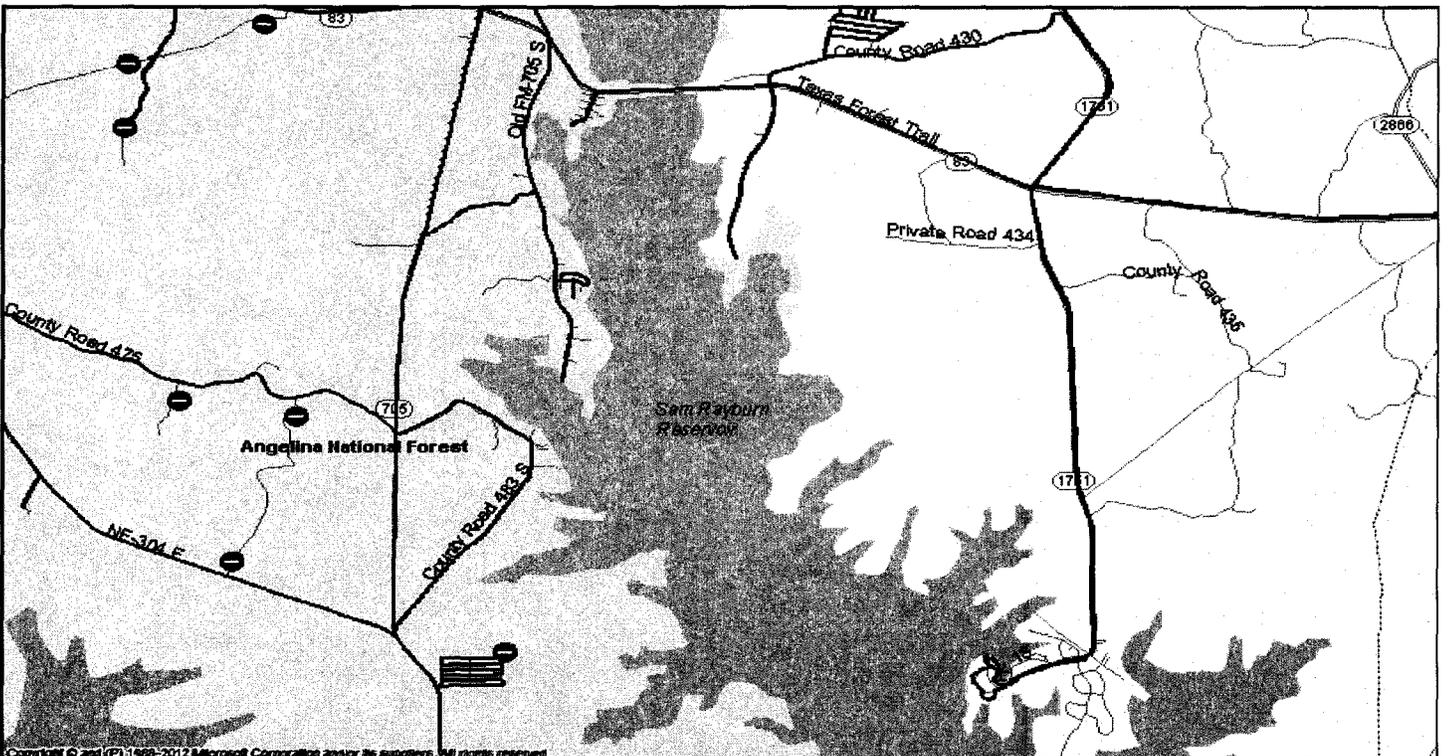
Macune Area – Most of this section was accessible.



Bronson Area – Many connecting roads along 1751 were inaccessible due to being Private Roads

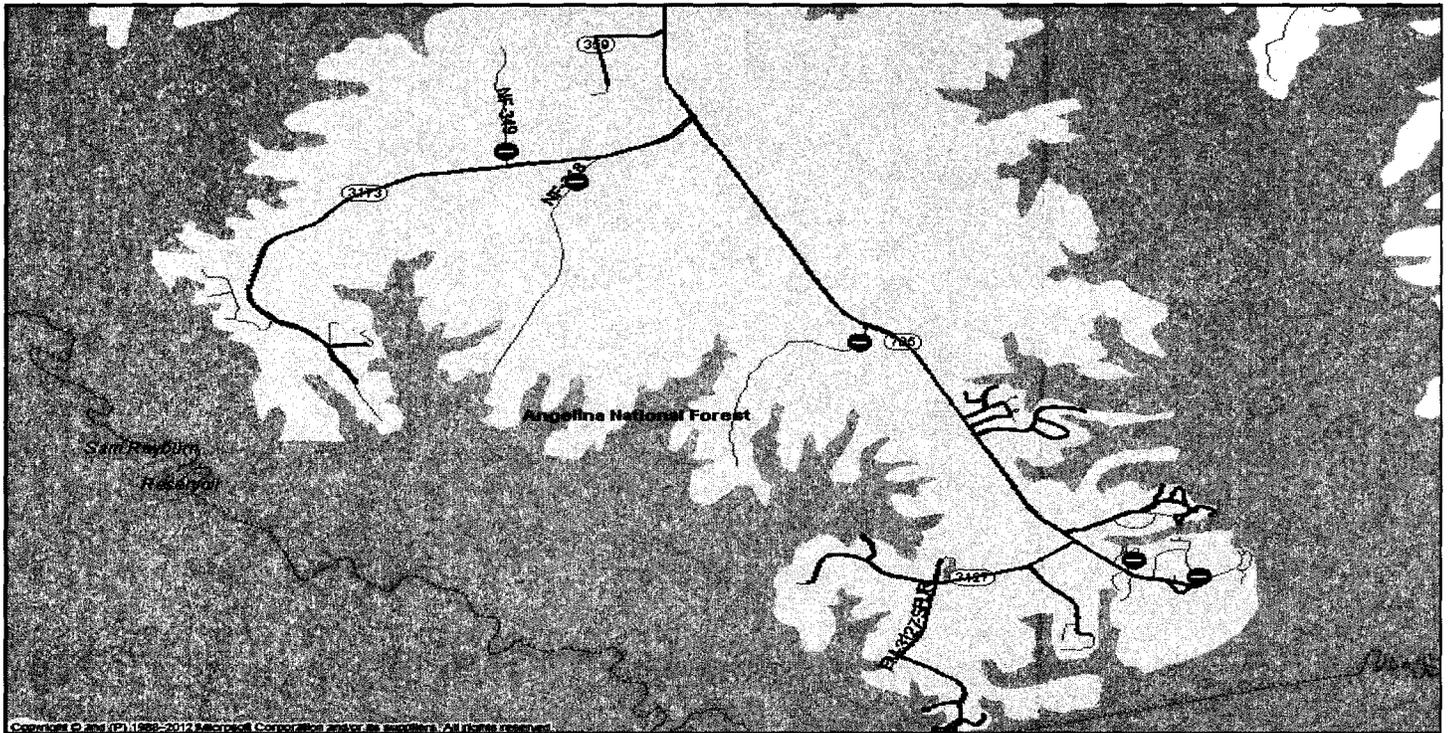


East Rayburn Reservoir Area – There are a few logging roads in this area.

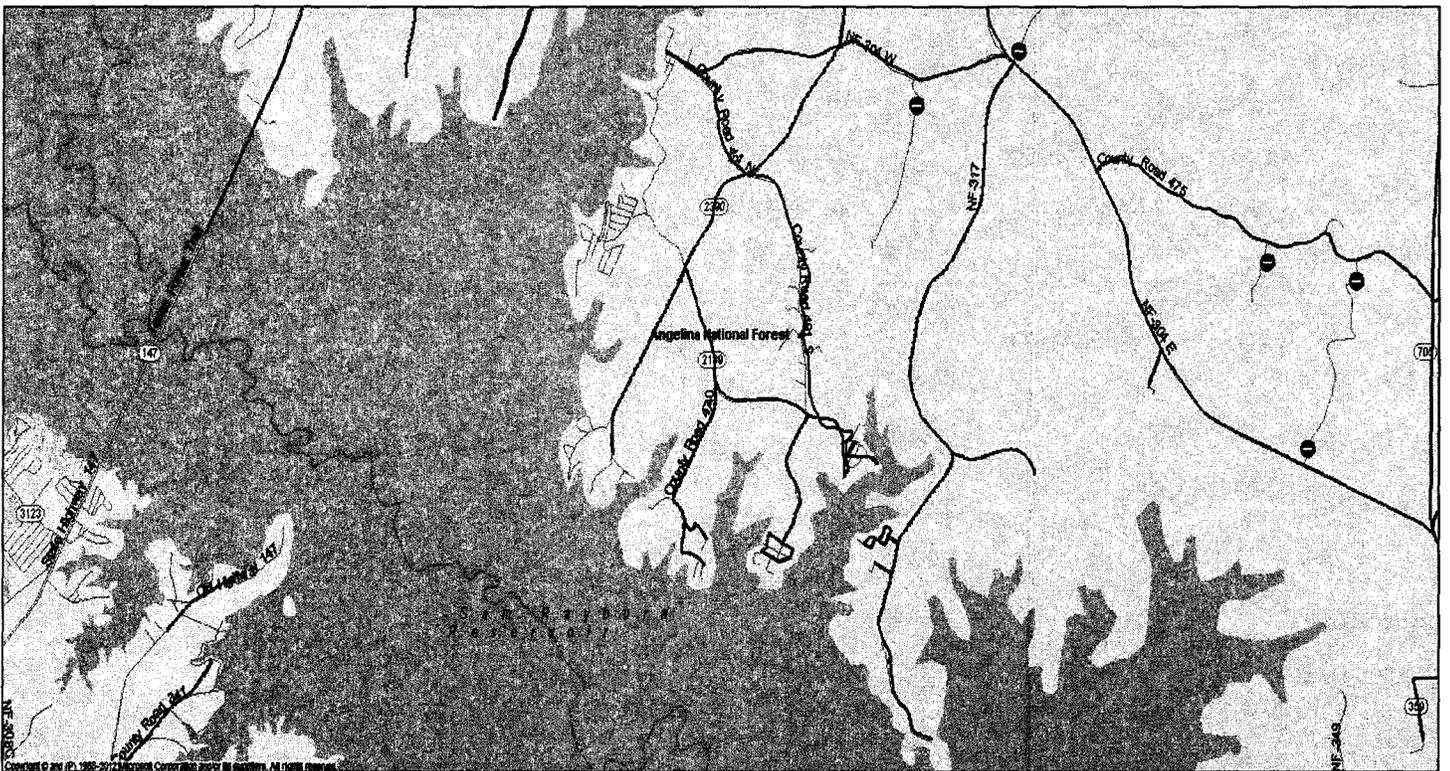


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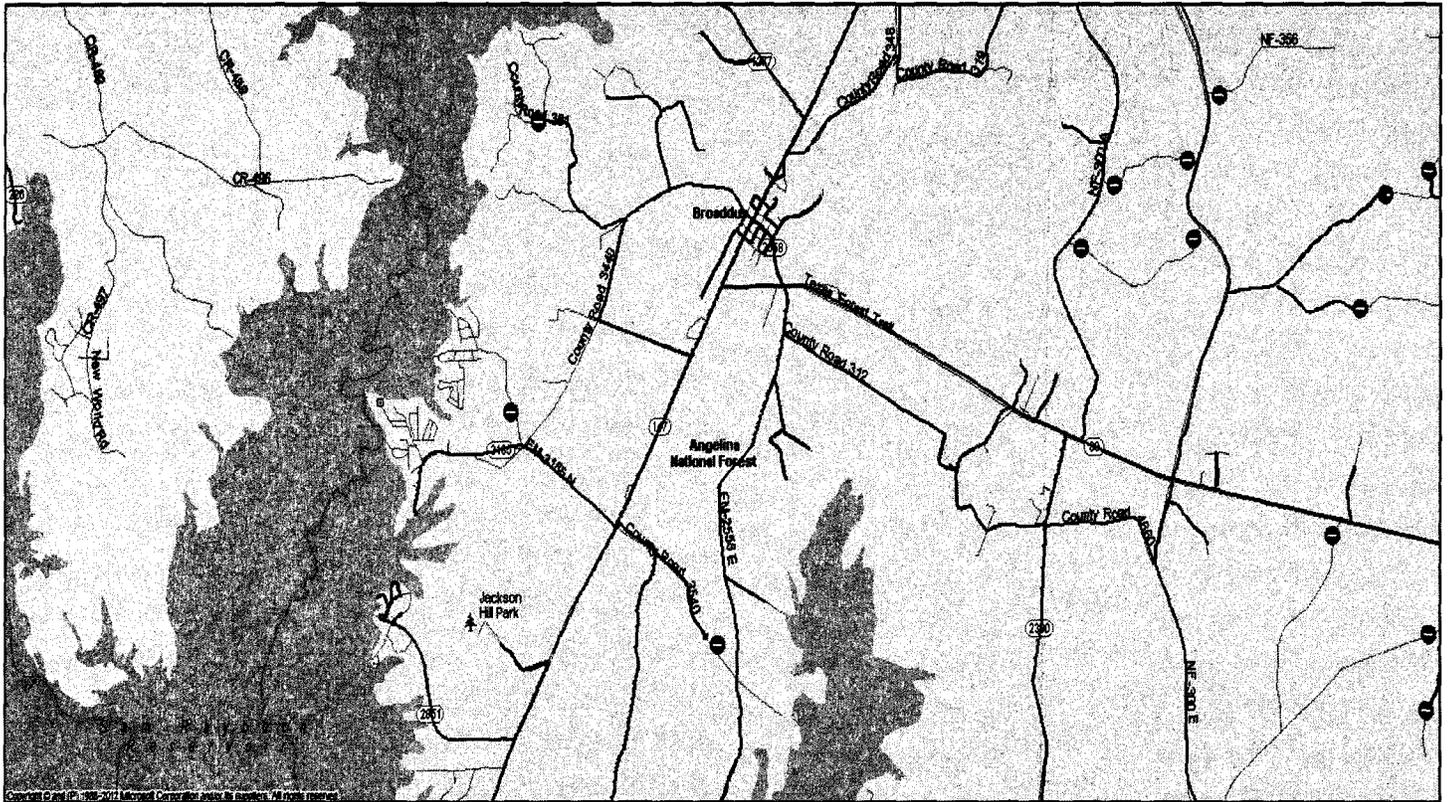
South Eastern Rayburn Peninsula – Inaccessible National Forest roads and private roads are found in this area.



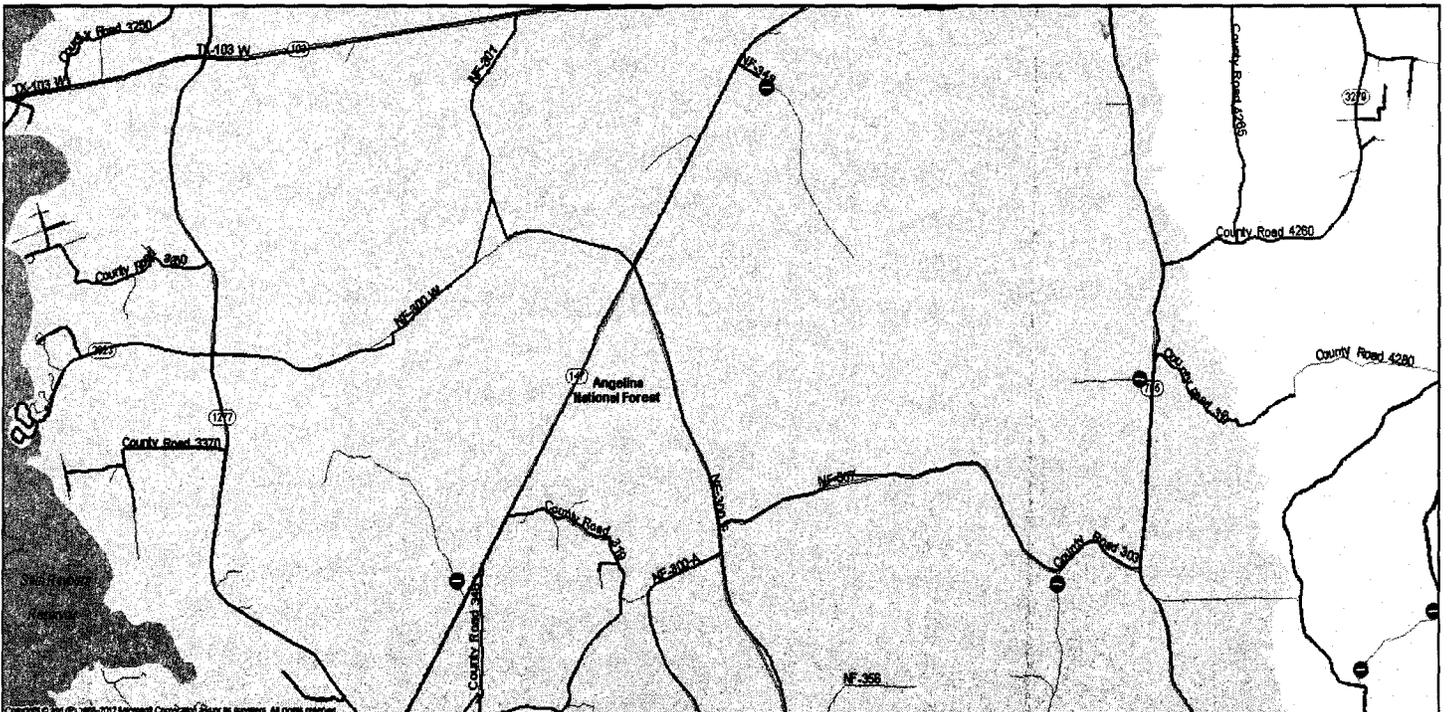
Central Rayburn Reservoir – Mostly accessible, with the exception of a few gated roads



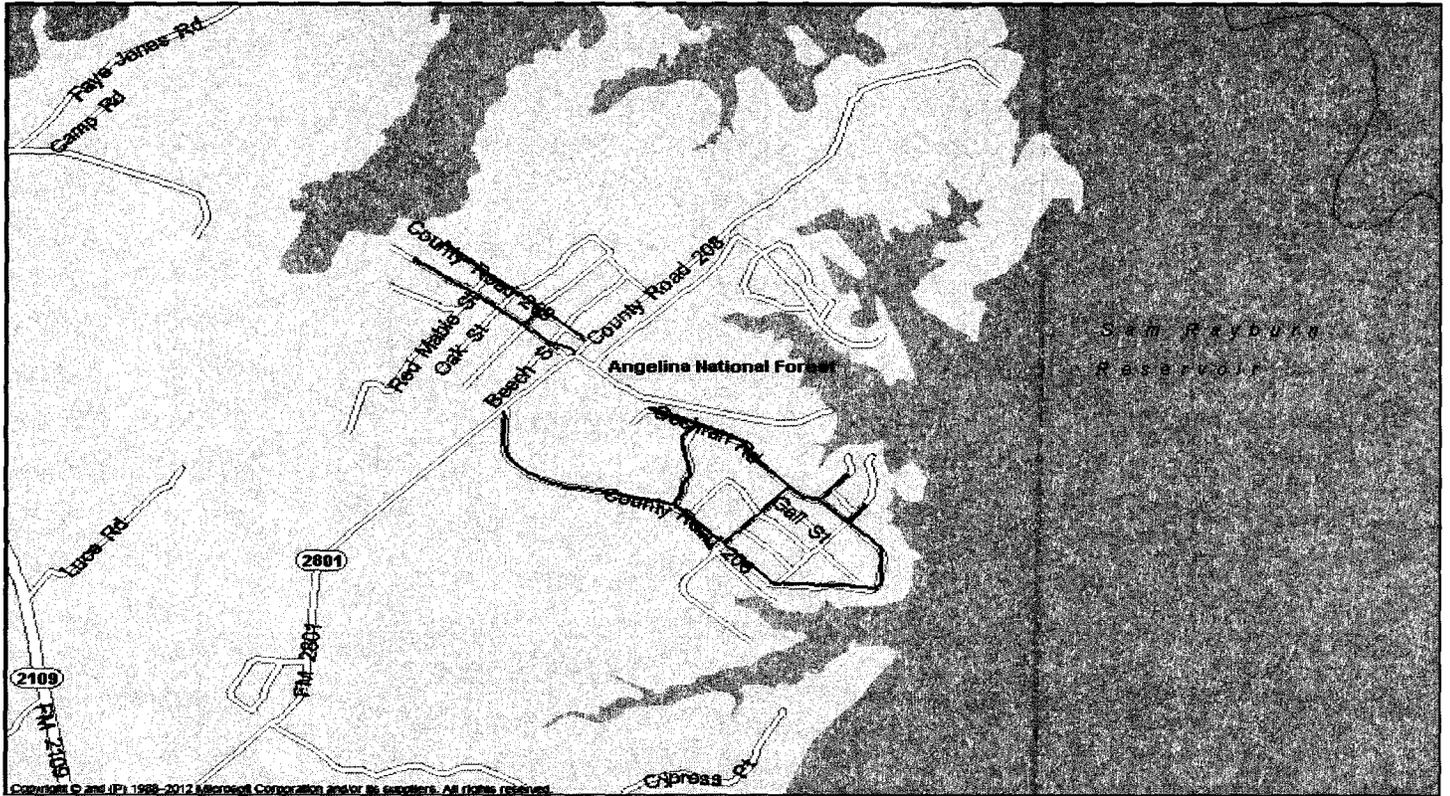
Broaddus Area – Logging roads are found to the east.



Area North of Broaddus/Central to the map – A few gated roads, private roads, and logging roads in this area.



South of the Rayburn Reservoir – Most of the section was accessible.



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Attachment B

Cellular One Propagation Maps

**ATTACHMENT B HAS BEEN REDACTED IN FULL
FOR PUBLIC INSPECTION**



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PUBLIC REFERENCE COPY

Attachment C

Proposed Rules

**Attachment C
Proposed 47 C.F.R. § 54.1006, as modified**

§ 54.1006 Public interest obligations.

(a) *Deadline for construction—3G networks.* A winning bidder authorized to receive Mobility Fund Phase I support that indicated in its application that it would provide third generation (3G) service on the supported network shall, no later than two (2) years after the date on which it was authorized to receive support, submit coverage data covering the area for which support was received demonstrating mobile transmissions supporting voice and data to and from the network covering 75% of the designated coverage units in the area deemed uncovered, or a higher percentage established by Public Notice prior to the competitive bidding, and meeting or exceeding the following:

(1) Outdoor minimum data transmission rates of 50 kbps uplink and 200 kbps downlink at vehicle speeds appropriate for the roads covered;

(2) Transmission latency low enough to enable the use of real time applications, such as VoIP.

(b) *Deadline for construction—4G networks.* A winning bidder authorized to receive Mobility Fund Phase I support that indicated in its application that it would provide fourth generation (4G) service on the supported network shall, no later than three (3) years after the date on which it was authorized to receive support, submit coverage data covering the area for which support was received demonstrating mobile transmissions supporting voice and data to and from the network covering 75% of the designated coverage units in the area deemed uncovered, or an applicable higher percentage established by public notice prior to the competitive bidding, and meeting or exceeding the following:

(1) Outdoor minimum data transmission rates of 200 kbps uplink and 768 kbps downlink at vehicle speeds appropriate for the roads covered;

(2) Transmission latency low enough to enable the use of real time applications, such as VoIP.

(c) *Drive Tests and Propagation Models.* Except as otherwise specified by public notice, coverage data submitted to demonstrate mobile transmissions supporting voice and data to and from the network as set forth in (a) and (b) of this section shall be in the form of (i) drive test data, for U.S. Census Bureau road categories S1100 (primary roads), S1200 (secondary roads), S1400 (local and rural roads and city streets); and (ii) drive test data, or a coverage showing from a propagation model widely accepted in the industry that plots predicted coverage, for U.S. Census Bureau road categories S1500 (4WD vehicular trails), S1640 (service drives), and S1740 (private roads for service vehicles).

(d) *Coverage test data.* Drive tests and propagation models submitted in compliance with a recipient's public interest obligations shall cover roads designated in the public notice detailing the procedures for the competitive bidding that is the basis of the recipient's support. Scattered site tests submitted in compliance with a recipient's public interest obligations shall be in compliance with standards set forth in the public notice detailing the procedures for the competitive bidding that is the basis of the recipient's authorized support.

(e) *Collocation obligations.* During the period when a recipient shall file annual reports pursuant to § 54.1009, the recipient shall allow for reasonable collocation by other providers of services that would meet the technological requirements of Mobility Fund Phase I on newly constructed towers that the recipient owns or manages in the area for which it receives support. In addition, during this period, the

recipient may not enter into facilities access arrangements that restrict any party to the arrangement from allowing others to collocate on the facilities.

(f) *Voice and data roaming obligations.* During the period when a recipient shall file annual reports pursuant to § 54.1009, the recipient shall comply with the Commission's voice and data roaming requirements that were in effect as of October 27, 2011, on networks that are built through Mobility Fund Phase I support.

(g) *Liability for failing to satisfy public interest obligations.* A winning bidder authorized to receive Mobility Fund Phase I support that fails to comply with the public interest obligations in this paragraph or any other terms and conditions of the Mobility Fund Phase I support will be subject to repayment of the support disbursed together with an additional performance default payment. Such a winning bidder may be disqualified from receiving Mobility Fund Phase I support or other USF support. The additional performance default amount will be a percentage of the Mobility Fund Phase I support that the winning bidder has been and is eligible to request be disbursed to it pursuant to § 54.1008. The percentage will be determined as specified in the public notice detailing competitive bidding procedures prior to the commencement of competitive bidding. The percentage will not exceed twenty percent.

APPENDIX

Final Rules

For the reasons discussed in the Order, the Federal Communications Commission amends 47 C.F.R. Part 54 to read as follows:

PART 54 – UNIVERSAL SERVICE

1. The authority citation for Part 54 continues to read as follows:

Authority: Sections 1, 4(i), 5, 201, 205, 214, 219, 220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and section 706 of the Communications Act of 1996, as amended; 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

2. Amend § 54.1006 by revising paragraphs (a), (b), (c) and (d) and adding paragraph (c) and renumbering paragraphs (c), (d), (e) and (f) as follows:

§ 54.1006 Public interest obligations.

(a) *Deadline for construction—3G networks.* A winning bidder authorized to receive Mobility Fund Phase I support that indicated in its application that it would provide third generation (3G) service on the supported network shall, no later than two (2) years after the date on which it was authorized to receive support, submit coverage data covering the area for which support was received demonstrating mobile transmissions supporting voice and data to and from the network covering 75% of the designated coverage units in the area deemed uncovered, or a higher percentage established by Public Notice prior to the competitive bidding, and meeting or exceeding the following:

(b) *Deadline for construction—4G networks.* A winning bidder authorized to receive Mobility Fund Phase I support that indicated in its application that it would provide fourth generation (4G) service on the supported network shall, no later than three (3) years after the date on which it was authorized to receive support, submit coverage data covering the area for which support was received demonstrating mobile transmissions supporting voice and data to and from the network covering 75% of the designated coverage units in the area deemed uncovered, or an applicable higher percentage established by public notice prior to the competitive bidding, and meeting or exceeding the following:

(c) *Drive Tests and Propagation Models.* Except as otherwise specified by public notice, coverage data submitted to demonstrate mobile transmissions supporting voice and data to and from the network as set forth in (a) and (b) of this section shall be in the form of (i) drive test data, for U.S. Census Bureau road categories S1100 (primary roads), S1200 (secondary roads), S1400 (local and rural roads and city streets); and (ii) drive test data, or a coverage showing from a propagation model widely accepted in the industry that plots predicted coverage, for U.S. Census Bureau road categories S1500 (4WD vehicular trails), S1640 (service drives), and S1740 (private roads for service vehicles).

(d) *Coverage test data.* Drive tests and propagation models submitted in compliance with a recipient's public interest obligations shall cover roads designated in the public notice detailing the procedures for the competitive bidding that is the basis of the recipient's support. Scattered site tests submitted in compliance with a recipient's public interest obligations shall be in compliance with standards set forth in the public notice detailing the procedures for the competitive bidding that is the basis of the recipient's authorized support.

(e) *Collocation obligations.* ***

(f) *Voice and data roaming obligations.* ***

(g) *Liability for failing to satisfy public interest obligations.* ***