

# THE PESNELL LAW FIRM

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September 29, 2015

Mr. J. Kent Rogers, Executive Director  
Northwest Louisiana Council of Governments  
401 Market Street, Suite 460  
Shreveport, Louisiana 71101

Re: *“Willis-Knighton Medical Center, Et Al v. Northwest Louisiana Council of Governments, Et Al,”* Suit No. 562,337-C, First Judicial District Court, Caddo Parish, Louisiana, *consolidated with*

*“Willis-Knighton Medical Center v. Timothy A. Larkin, Et Al,”* Suit No. 564,141-C, First Judicial District Court, Caddo Parish, Louisiana.

Dear Mr. Rogers:

We are writing this letter to express our disappointment with the planning process utilized by Northwest Louisiana Council of Governments (“NLCOG”) in connection with the captioned project. It is obvious that this Project is once again being seriously delayed and there is no end in sight. NLCOG entered into a contract with BKI to conduct the Stage I “Environmental Assessment” in July, 2014. The Stage I was supposed to be completed within 18 months after receipt of the written Notice-To-Proceed from NLCOG. Based upon the meeting held on Friday, September 18, 2015, it appears that a second “public meeting” is anticipated to be scheduled in December of 2015.

We use the word “public meeting” loosely, since the first “public meeting” was actually an “open house” meeting. We understand that NLCOG and its consultant are planning or using the “open house” format for the proposed second “public meeting” in December. Willis-Knighton and the Finish 3132 Coalition have previously made clear their objection to the so-called “open house” format. It is not a “public meeting” which allows a *public exchange* of information. It, consequently, does not meet the requirements of 23 C.F.R. §771.111. This is not a technical objection; it goes to the heart of public participation in the planning process. Nor is it new. NLCOG and LDOTD have historically and consistently attempted to minimize and avoid public participation in the “3C” planning process.

While Willis-Knighton and Finish 3132 Coalition are firmly committed to defend the right of the public to participate in the planning process, that is not the primary purpose of this letter. The principal purposes of this letter is to register the complaint of Willis-Knighton and the Coalition about the way NLCOG (and implicitly LDOTD) is evaluating the alternative routes for

the proposed Inner Loop Extension and to recommend an alternative route which, to our knowledge, has never been considered by NLCOG, the Louisiana Department of Transportation and Development (“LDOTD”) or the Federal Highway Administration (“FHWA”).

We start with a consideration of the alternative routes being considered in the Stage 1 process. We understand that in considering and evaluating the alternatives, BKI is limited to a consideration of the routes recommended by the Stage “O” Study, including the design features. For example in considering Alternative “A,” we understand that BKI is stuck with the “trumpet interchange” at the Port for this alternative. In other words, BKI cannot consider a diamond interchange at that point in lieu of the proposed “trumpet” interchange. Similarly, we understand that the alternative routes recommended by Willis-Knighton and the Coalition which would move segment(s) of Alternatives A, B-1 and B-2 further west of Twelve Oaks and Bayou Pierre will *not* be considered because they were not recognized in the Stage “O” Study and, further, because they were not complete alternative routes between the project termini but, rather, are “segments” of the proposed alternatives.

This approach to an evaluation of the alternative routes does not satisfy any common sense standard. If that were the test, then NLCOG and/or LDOTD could defeat any proposed alternative by simply incorporating a designed feature (i.e., a “trumpet interchange”) where it clearly does not belong. BKI (or LDOTD, for that matter) should be competent to design an appropriate interchange for Alternatives A, B-1 and B-2, at the Port and adjust the price accordingly. Similarly, the routes recommended by Willis-Knighton and the Coalition can easily be incorporated into the A, B-1 and B-2 alignments and adjusted accordingly. We further note in this connection that in the ROD adopted for segments of I-69, for example, “tweaks” in the alternative alignments have been approved and further refer to “conceptual interchanges,” without designating the specific type of interchange.

We are now told that the consideration of these adjustments would require the Stage “O” Study to be “re-done.” This approach is dramatically opposed to the representations made by NLCOG and LDOTD to the Federal Court. Willis-Knighton and the Coalition predicted that NLCOG and LDOTD would take precisely that position. See Exhibit “\_” (excerpt from Brief on behalf of Willis-Knighton and the Coalition). NLCOG and LDOTD both unequivocally denied that assertion and insisted that *all* of the reasonable alternatives would, in fact, be considered. See, e.g., Exhibit “\_” (excerpt from NLCOG’s Brief). See also letter to BKI dated July 29, 2014, a copy of which is attached hereto as Exhibit “\_.” The inconsistency of NLCOG and LDOTD is simply amazing. However, if the Stage “O” Study needs to be re-done to properly consider the alternates, then NLCOG and LDOTD need to get it underway. If the suggested alternatives are not considered, as NLCOG and LDOTD represented they would be, then we are on a direct collision course.

That brings us to another point. Willis-Knighton and the Coalition believe that there is another feasible alternative to the extension of the proposed Inner Loop Extension. I am enclosing for your ready and convenient reference a plat of a segment of the proposed I-69 lying between the Port and I-49. See Exhibit \_\_, enclosed. This segment (I-69, SIU15) has already been approved (by an ROD dated April 27, 2012) as having independent utility. It provides easy access to the Port for truck transportation, avoids the necessity of bringing hazardous cargo into downtown Shreveport and should be far more economical to construct than any of the alternatives presently under consideration for the proposed Inner Loop Extension. It avoids the intrusion of an interstate highway in residential neighborhoods and allows the continued development in the corridor under consideration. Moreover, it appears to be a project ready for immediate right of way acquisition and construction.

Willis-Knighton and the Coalition believe that NLCOG, LDOTD and FHWA should commit to the immediate construction of the enclosed segment (SIU15) of I-69 as an alternative to the proposed Inner Loop Extension. This solution should satisfy all of the interested parties. If you have any questions, please let us know.

Yours very truly,

THE PESNELL LAW FIRM  
(A Professional Law Corporation)

*Original Signed Billy R. Pesnell*

By:

Billy R. Pesnell

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Enclosures

cc: Dr. Woody Wilson, Chair, MPO Transportation Policy Committee  
Mr. William Altimus, Vice-Chair, MPO Transportation Policy Committee  
Mayor Ollie Tyler, Member, MPO Transportation Policy Committee  
Mayor Lorenz Walker, Member, MPO Transportation Policy Committee  
Mr. Mark Sweeney, Member, MPO Transportation Policy Committee  
Mr. Sam Marsiglia, Member, MPO Transportation Policy Committee  
Mr. Eric England, Member, MPO Transportation Policy Committee  
Mr. David North, Member, MPO Transportation Policy Committee  
Mr. Dineró Washington, Member, MPO Transportation Policy Committee  
Mr. Brandon A. Buckner, Member, MPO Transportation Policy Committee

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Ms. Ronisha Hodge, Member, MPO Transportation Policy Committee

Mr. Tyler Comeaux, Burk-Kleinpeter, Inc.

Ms. Sherri LeBas, Secretary,  
Louisiana Department of Transportation and Development

Mr. Charles Bollinger, Division Administrator  
Federal Highway Administration - Louisiana Division