



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

July 8, 1971

Honorable James U. Cross
Executive Director
Texas Parks & Wildlife Department
John H. Reagan Building
Austin, Texas 78711

Opinion No. M-902

Re: Ownership of bridge between Corpus Christi Bay and the Gulf of Mexico adjacent to Mustang Island.

Dear Mr. Cross:

You have requested our opinion on the ownership of a highway bridge to be built between Corpus Christi Bay and the Gulf of Mexico over a fish pass through Mustang Island.

In Attorney General's Opinion M-721 (1970), it was held that the bridge in question could be built through an inter-agency contract between the State Highway Department and the Parks and Wildlife Department. Paragraph 8 of the Agreement attached to your request provides:

"The bridge, approaches and pavement constructed hereunder shall be the property of the Highway Department and shall be the responsibility of the Highway Department for normal maintenance. However, in the event of the destruction of or serious damage to the entire bridge, or any portion thereof, including the approach embankments and pavement, because of tidal or storm flow through the water exchange channel, the Parks and Wildlife Department will replace or repair the bridge to the satisfaction of and at no expense to the Highway Department."

Article 6674q-4, Vernon's Civil Statutes, provides:

"All further improvement of said State Highway System shall be made under the exclusive and direct control of the State Highway Department and with appropriations made by the Legislature out of the State Highway Fund. Surveys, plans and specifications and estimates for all further construction and improvement of said system shall be made, prepared and paid for by the State Highway Department. ..."

In Attorney General's Opinion R-1930 dated December 14, 1949, it was held:

"It is, therefore, our opinion under the facts submitted that the building of this bridge to replace the highway and to cover the channel to be dredged is a necessary incident to and part of the construction and maintenance of passes leading from one body of tide-water to another, and the cost of constructing such bridge may be paid out of money appropriated to the Game, Fish and Oyster Commission by the Legislature for the purpose of construction and maintaining these passes.

"One further question remains and that involves the duty of maintenance once the bridge is constructed. It is our opinion that once the bridge had been built by the Game, Fish and Oyster Commission and accepted by the State Highway Department as a part of the State system, the maintenance thereof is the duty of the State Highway Commission. Article 6674q-4, V.C.S."

Following Attorney General's Opinion R-1930, supra, it was held in Attorney General's Opinion No. M-721, supra, that the bridge in question will become a part of the highway system and that it is the duty of the Highway Department to maintain such bridge. You are accordingly advised that since the bridge in question becomes a part of the highway system, ownership of such bridge is in the State of Texas. You are further advised that once the bridge has been built and accepted by the State Highway Department as a part of the State system, the maintenance thereof is the duty of the State Highway

Commission. Article 6674q-4, V.C.S.; Attorney General's Opinions R-1930 (1949) and M-721 (1970).

S U M M A R Y

Once the bridge between Corpus Christi Bay and the Gulf of Mexico adjacent to Mustang Island is accepted by the Texas Highway Department such bridge comes a part of the State highway system owned by the State of Texas. Article 6674q-4, V.C.S.; Attorney General's Opinions R-1930 (1949) and M-721 (1970).

Very truly yours,



CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Kerns Taylor, Chairman
W. E. Allen, Co-Chairman
Houghton Brownlee
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Pat Bailey
Fisher Tyler

MEADE F. GRIFFIN
Staff Legal Assistant

ALFRED WALKER
Executive Assistant

NOLA WHITE
First Assistant