

**D. W. MILLER**  
**Private Investigator**  
**1030 W. Dallas St.**  
**Canton, TX. 75103**  
**903/567-2399**  
**State Lic. No. A-07603**

**TO: Udo H. Birnbaum**  
**Rt 1 Box Box 295**  
**Eustace, Texas 75124**

**RE: Jones vs Birnbaum; Cause No. 95-63**

### INVESTIGATION REPORT

#### Investigation Requested

Inspect and make recommendations regarding *Steve's Creek* that flows in an easterly direction across property belonging to William B. Jones and then continues across property owned by Udo Birnbaum. Investigation to be focused on any obstructions on Birnbaum's property, including man made or natural that would alter the natural condition of said spring fed creek, so as to change the natural course and flow of water, causing said water to overflow into and upon Jones' property.

#### Investigation

On Friday, September 15, 1995, I contacted the USDA Stabilization and Conservation Service, on Hw. 19 N., Canton, Texas, wherein I spoke to Christi Hurley, Soil Conservationist. Records of this agency showed that in January, 1983, Udo Birnbaum requested and received a Soil Conservation Plan, including recommendations, concerning his property located at Rt 1 Box 295, Eustace, Van Zandt County, Texas.

Said Conservation Plan included Pasture Planting, Pasture Management, Critical Area Planting, Hay Land Management and Wildlife Management. The Wildlife Management segment of the study was confined to the area in question, being that portion of land that *Steve's Creek* traverses, being approximately 50 acres along the south border of Birnbaum's property. The Wildlife Study recommends that Mr. Birnbaum "leave all trees and brush on the creek area to provide escape and nesting area for wildlife."

Further check of the records of the Soil Conservation Service reflect that William B. Jones has never requested any study or plan for his property from this agency.

On Wednesday, September 20, 1995, I proceeded to the area in question to interview neighbors and property owners in the area and to make a brief inspection of the property. Neighbors and property owners in the area indicate that for many years prior to the year 1994 the spring fed creek, known as *Steve's Creek*, flowed through Jones and Birnbaum's property in a natural course, during all stages of its water level.

On Thursday, September 21, 1995, I returned to the area and upon a physical examination of the creek it was observed and it appeared that within the past year Mr. Jones had done extensive work with a bulldozer on the creek area on his property and into and upon Mr. Birnbaum's property a distance of approximately 15 feet. This altered the natural and normal flow of the creek. Mr. Jones removed all trees and other vegetation from the creek and its banks, causing erosion and the water to flow much faster than before the excavation. It appears when this excessive flow of water reaches Mr. Birnbaum's property it is slowed to its natural flow by the natural erosion preventatives left by Mr. Birnbaum, as suggested by the Soil Conservation Service.

A physical examination of the creek from the west side of Birnbaum's property to the east side (wherein photographs were taken at different intervals) no man made restrictions, such as a dam, was found. No beaver dams were found. The only restrictions found in the creek on Birnbaum's property were natural vegetation restrictions or sand, driftwood, and debris that had washed into the creek on Birnbaum's property from Jones' property after Jones excavated the creek on his property. None of the restrictions observed were to the extent that they would stop the natural flow of water. However, Mr. Jones has excavated the creek on his property causing an unnatural excessive flow of water to enter into and upon Birnbaum's property.

My investigation, including physical examination of the creek in question, revealed that Mr. Birnbaum not only obtained expert and professional advice about the management of his land, but followed the plan provided by the Soil Conservation Service.

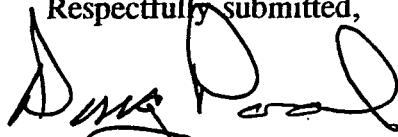
### Conclusion

Mr. Jones undertook to claim land from nature, by excavating the creek on his property, without acquiring professional advice or guidance, thereby creating an unnatural situation in the creek flowing across his property and into and upon Mr. Birnbaum's property. It is obvious to this investigator that Mr. Jones' actions has created rapid erosion in the area of the creek on his property and has caused sand, driftwood, and debris to be washed down the creek into and upon Mr. Birnbaum's property.

### RECOMMENDATION

Mr. Jones and Mr. Birnbaum should request a study and evaluation from the Soil Conservation Service and the Natural Water Resource Service of the property and creek in question and abide by their recommendations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Doug Pool". The signature is stylized with a large, looped initial "D" and a cursive "Pool".

Doug Pool

Private Investigator

State License # A-07603

Incident No. 95000870

# Van Zandt County Sheriff's Office Incident Report

Date & Time Reported 2-8-95 2:20 p.m.

No of Incident VZ 2916 at FM 1256				Related Incident Number		Incident Status <input type="checkbox"/> Active <input checked="" type="checkbox"/> Inactive <input type="checkbox"/> Adult Arrest <input type="checkbox"/> Adult Exception <input type="checkbox"/> Juvenile Custody <input type="checkbox"/> Juvenile Exception <input type="checkbox"/> Unfounded		Exceptional Status <input type="checkbox"/> Death Of Offender <input type="checkbox"/> Prosecution Declined <input type="checkbox"/> Extradition Declined <input type="checkbox"/> Refused To Cooperate <input type="checkbox"/> Juvenile, No Custody <input type="checkbox"/> Warrant	
City Canton TX		Grid 29	Beat	Shift	Number of Officers Killed By Accident/Negligence				
Earliest Date & Time Occurred 2-8-95 2pm			Latest Date & Time Occurred 2-8-95 2pm			Incident Status Date			

REPORTING PARTY			
Name (Last, First Middle) Same as below		Home Phone	Work Phone
Address		City, State Zip	

VICTIM											
Victim (Last, First Middle) Bienbaum, Udo Herman						Victim Type: <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business		<input type="checkbox"/> Financial <input type="checkbox"/> Government		<input type="checkbox"/> Religious <input type="checkbox"/> Society <input type="checkbox"/> Other <input type="checkbox"/> Unknown	
Address RT 1 Box 295						Date Of Birth (Month/Day/Year) or Age Range 11-28-36					
City, State Zip Eustace TX		Resident Yes	Race W	Sex M	Height	Weight	Hair	Eye	Hispanic? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Phone 903 479 3929		Social Security Number		OLN		OLS		OLY			
Employer						Relative (Last, First Middle)					
Employer's Address						Address					
City, State Zip						City, State Zip					
Phone						Relation To Victim					
Scars/Markings/Tattoos						Type Of Injury <input type="checkbox"/> Broken Bones <input type="checkbox"/> Internal Injury <input type="checkbox"/> Severe Laceration <input type="checkbox"/> Loss of Teeth <input type="checkbox"/> Scalds/Burns <input type="checkbox"/> Unconsciousness <input type="checkbox"/> Other Major Injury <input type="checkbox"/> Minor Injury <input type="checkbox"/> None					

LEOKA Victims	Type of Activity	Body Armor	Type of Assignment
Only Killed by Felonious Acc? <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> 1 Disturbance Call <input type="checkbox"/> 2 Burglary <input type="checkbox"/> 3 Robbery <input type="checkbox"/> 4 Other Arrest <input type="checkbox"/> 5 Civil Disorder <input type="checkbox"/> 6 Handling Prisoners <input type="checkbox"/> 7 Investigating Suspicious Persons/Circumstances <input type="checkbox"/> 8 Ambush <input type="checkbox"/> 9 Mentally Deranged <input type="checkbox"/> 10 Traffic Pursuit/Stop <input type="checkbox"/> 11 All Other	<input type="checkbox"/> 1 Wearing-Protected <input type="checkbox"/> 2 Wearing-Not Protected <input type="checkbox"/> 3 Not Wearing	<input type="checkbox"/> 3 1-Man Car-Uniformed-Alone <input type="checkbox"/> 4 1-Man Car-Uniformed-Assisted <input type="checkbox"/> 5 1-Man Car-Plain-Alone <input type="checkbox"/> 6 1-Man Car-Plain-Assisted <input type="checkbox"/> 1 2-Man Car-Uniformed <input type="checkbox"/> 2 2-Man Car-Plain <input type="checkbox"/> 7 Other Alone <input type="checkbox"/> 8 Other Assisted

Aggravated Assault/Homicide Circumstances			Additional Justifiable Homicide Circumstances
Aggravated Assault/Murder/Non-Neg Manslaughter (max 2)		Negligent Manslaughter (max 1)	Justifiable Homicide (max 1)
<input type="checkbox"/> 1 Argument <input type="checkbox"/> 2 Assault On LE Officer <input type="checkbox"/> 3 Drug Dealing <input type="checkbox"/> 4 Gangland <input type="checkbox"/> 5 Juvenile Gang <input type="checkbox"/> 6 Lovers' Quarrel <input type="checkbox"/> 7 Mercy Killing <input type="checkbox"/> 8 Other Felony Involved <input type="checkbox"/> 9 Other Circumstances <input type="checkbox"/> 10 Unknown Circumstances	<input type="checkbox"/> 11 Child Playing with Weapon <input type="checkbox"/> 12 Gun-Cleaning Accident <input type="checkbox"/> 13 Hunting Accident <input type="checkbox"/> 14 Other Negligent Weapon Handling <input type="checkbox"/> 15 Other Negligent Killing	<input type="checkbox"/> 16 Criminal Killed by Private Citizen <input type="checkbox"/> 17 Criminal Killed by Police Officer	<input type="checkbox"/> A Criminal Attacked Police Officer <input type="checkbox"/> B Criminal Attacked Fellow Police Officer <input type="checkbox"/> C Criminal Attacked Civilian <input type="checkbox"/> D Criminal Attempted Flight from a Crime <input type="checkbox"/> E Criminal Killed in Commission of a Crime <input type="checkbox"/> F Criminal Resisted Arrest <input type="checkbox"/> G Unable to Determine/Not Enough Info

Hate-Bias Crimes Only:	Type Of Bias	Target
<input type="checkbox"/> 1 Black <input type="checkbox"/> 2 Asian/Pacific Islander <input type="checkbox"/> 3 American Indian <input type="checkbox"/> 4 White <input type="checkbox"/> 5 Other Race/Color <input type="checkbox"/> 6 Hispanic <input type="checkbox"/> 7 Anti-Semitic <input type="checkbox"/> 8 Other Religion <input type="checkbox"/> 9 Ethnic/National Origin <input type="checkbox"/> 10 Sexual Orientation <input type="checkbox"/> 11 Age <input type="checkbox"/> 12 Gender <input type="checkbox"/> 13 Disability <input type="checkbox"/> 14 Political	<input type="checkbox"/> 1 Place of Worship <input type="checkbox"/> 2 Other Group Property <input type="checkbox"/> 3 Public Property <input type="checkbox"/> 4 Business <input type="checkbox"/> 5 Residence <input type="checkbox"/> 6 Other Property <input type="checkbox"/> 7 Clergy <input type="checkbox"/> 8 Other Person	

Domestic Abuse Cases Only	Children <input type="checkbox"/> Harmed <input type="checkbox"/> Unharmed <input type="checkbox"/> None Present	Referrals <input type="checkbox"/> Counseling <input type="checkbox"/> Financial <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Shelter <input type="checkbox"/> Other <input type="checkbox"/> None	Reporter <input type="checkbox"/> Victim <input type="checkbox"/> Other
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## OTHER NAMES

Name (Last, First Middle) Jones, William B	Involvement	Home Phone	Work Phone
Address		City, State Zip	
Name (Last, First Middle)	Involvement	Home Phone	Work Phone
Address		City, State Zip	
Name (Last, First Middle)	Involvement	Home Phone	Work Phone
Address		City, State Zip	

## NARRATIVE

On today's dates and times the comp ildo Bienbaum came to the Van Zandt Sheriff's Dept. while at the Sheriff's dept. Mr. Bienbaum informed me that he had received civil papers on today's date from deputy Munn.

Mr. Bienbaum stated that he has been having civil problems with a William B Jones who's land backs up to his land. Mr. Bienbaum stated that Mr. Jones had torn down his fence and had done alot of damage to his property. Mr. Bienbaum asked if I would go with him to his property and observe the conditions. I did go with Mr. Bienbaum to his property and did observe approx. 300-400 yards of fence that was missing. Also I observed alot of brush and trees along with sand that had washed onto Mr. Bienbaums property. I also observed what I believed to be large tractor tracks in the ground around the fence area and alonged the creek. Mr. Bienbaum stated that Mr. Jones had destroyed the creek which caused the creek to over follow causing the land and brush to wash onto Mr. Bienbaums land. This caused ~~the~~ ~~Stevens~~ Creek to back up onto Mr. Jones land. Mr. Jones land appeared to be natural wet lands at one time. I told Mr. Bienbaum that this was a civil action and not a criminal action. Mr. Bienbaum wanted a report for his records.

Reporting Officer (ID & Name) Scott Johnson	Assisting Officer (ID & Name)	Supervisor (ID & Name)
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FILING A FALSE REPORT WITH A LAW ENFORCEMENT AGENCY IS A CRIMINAL OFFENSE

I hereby certify that the information contained in this report is accurate to the best of my knowledge and I will prosecute the offender if found.

2895

Date

Signature

SEARCHED  
SERIALIZED  
INDEXED  
FILED  
MAY 15 1988  
SHERIFF'S DEPT.

VOLUNTARY STATEMENT  
(NOT UNDER ARREST)

PAGE NO. 1 OF 1 PAGES

I, Edward Womble, AM NOT UNDER ARREST, NOR AM I BEING DETAINED FOR ANY CRIMINAL OFFENSE CONCERNING THE EVENTS I AM ABOUT TO MAKE KNOWN TO

WITHOUT BEING ACCUSED OF OR QUESTIONED ABOUT ANY CRIMINAL OFFENSES REGARDING THE FACTS I AM ABOUT TO STATE, I VOLUNTEER THE FOLLOWING INFORMATION OF MY OWN FREE WILL, FOR WHATEVER PURPOSES IT MAY SERVE.

I AM 35 YEARS OF AGE, AND I LIVE AT Rt. 1 Box 292 A Eustace Tx.

I have lived in this community for approximately 28 years, except for 2 years (1985-1987) at which time I lived in Tulsa Ok.

I grew up as a boy playing up and down Steve Creek. As more beavers populated this area (probably late 1970's) there were some beaver dams formed in several locations up and down Steve Creek. In saying up and down I mean East and West of CR 2916. To my knowledge there was never an attempt to destroy those beaver dams until Mr. Jones destroyed the dams on his property.

Shortly after these dams were destroyed by dynamite on Mr. Jones property, I visited the area in question with Mr. Birnbaum and several others. At that time there were no dams on Mr. Birnbaum's property. There was however a considerable amount of debris washed down upon Mr. Birnbaum's property. There were

I HAVE READ EACH PAGE OF THIS STATEMENT CONSISTING OF 1 PAGES, EACH PAGE OF WHICH BEARS MY SIGNATURE, AND CORRECTIONS, IF ANY, BEAR MY INITIALS, AND I CERTIFY THAT THE FACTS CONTAINED HEREIN ARE TRUE AND CORRECT.

DATED AT \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19 \_\_\_\_\_.

WITNESS: \_\_\_\_\_

WITNESS: \_\_\_\_\_

Edward Womble  
SIGNATURE OF PERSON GIVING VOLUNTARY STATEMENT

VOLUNTARY STATEMENT  
(NOT UNDER ARREST)

PAGE NO. 2 OF 2 PAGES

I, Edward Womble, AM NOT UNDER ARREST, NOR AM I BEING DETAINED FOR ANY CRIMINAL OFFENSE CONCERNING THE EVENTS I AM ABOUT TO MAKE KNOWN TO  
WITHOUT BEING ACCUSED OF OR QUESTIONED ABOUT ANY CRIMINAL OFFENSES REGARDING THE FACTS I AM ABOUT TO STATE, I VOLUNTEER THE FOLLOWING INFORMATION OF MY OWN FREE WILL, FOR WHATEVER PURPOSES IT MAY SERVE.

I AM \_\_\_\_\_ YEARS OF AGE, AND I LIVE AT \_\_\_\_\_

no obstructions in the creek. The water was running freely and staying well within the creek channel. I will mention also that the creek was not down due to dry weather. There was a generous amount of water flowing.

I will also state that there has never been a man made structure on any area of this creek that I have visited.

I HAVE READ EACH PAGE OF THIS STATEMENT CONSISTING OF 2 PAGES, EACH PAGE OF WHICH BEARS MY SIGNATURE, AND CORRECTIONS, IF ANY, BEAR MY INITIALS, AND I CERTIFY THAT THE FACTS CONTAINED HEREIN ARE TRUE AND CORRECT.

DATED AT \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 19 \_\_\_\_\_.

WITNESS: \_\_\_\_\_

WITNESS: \_\_\_\_\_

Edward Womble  
SIGNATURE OF PERSON GIVING VOLUNTARY STATEMENT



CONSERVATION PLAN MAP

41 186 03

Owner UDO H. BIRNBAUM

Operator SAME

County/Parish VAN ZANDT

State TEXAS

Date 1/20/83

Approximate acres 150

Approximate scale 1" = 660'

Cooperating with TRINITY-NECHES SOIL & WATER

Conservation District \_\_\_\_\_



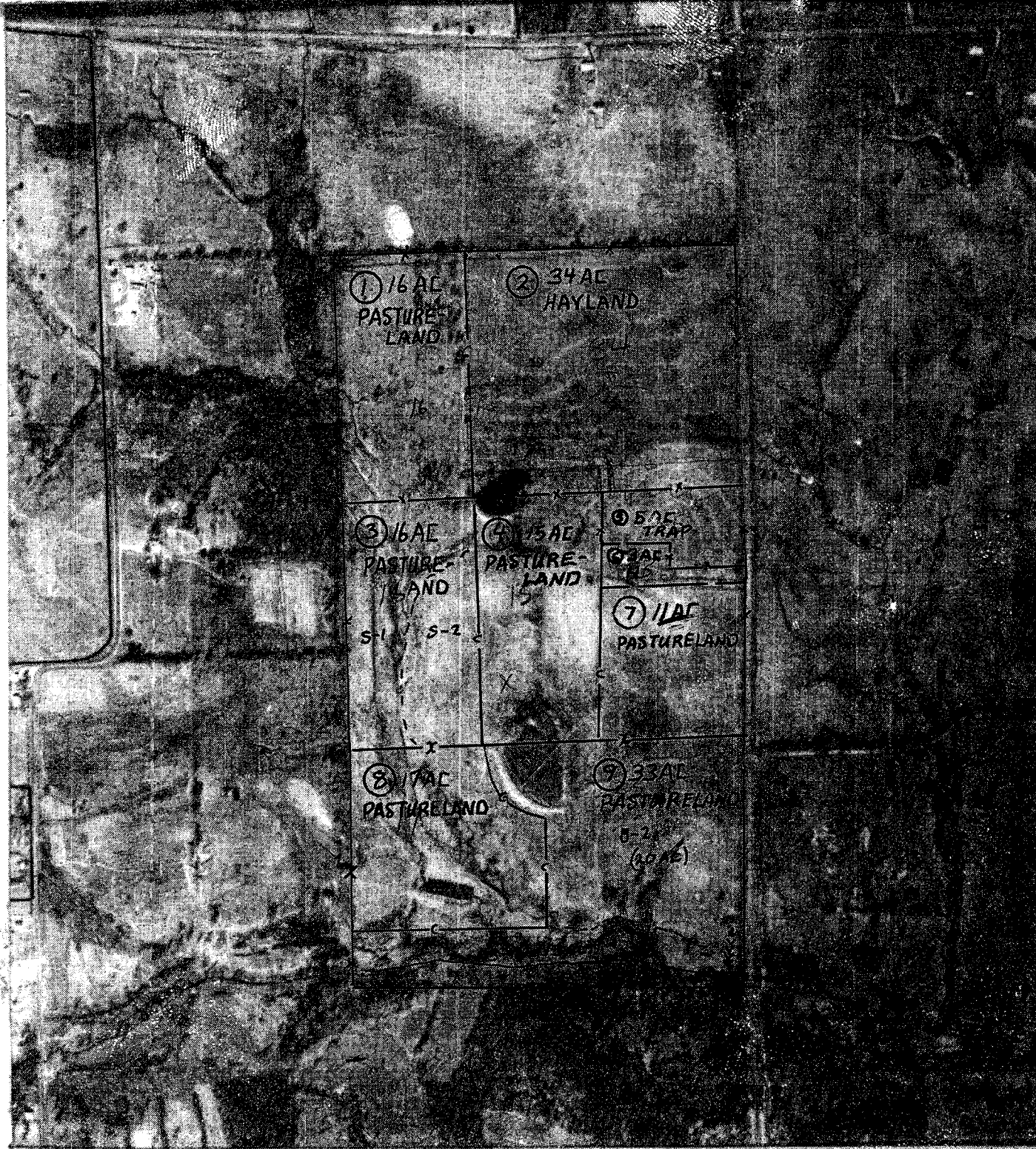
Plan identification 4885-196

Photo number 173-196

Assisted by JIMMY D. SHELBURN

USDA Soil Conservation Service

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TX-CONS-832  
Rev. 4-69  
File Code No. CONS 14

U. S. Department of Agriculture  
Soil Conservation Service

COOPERATOR UDO BIRNBAUM

AGREEMENT NO. 4885-196

LAND USES AND ACRES PASTURELAND - 108AC, HAYLAND - 34AC, TRAP-SAC,  
HEADQUARTERS - 3AC

TOTAL ACRES 150

CONSERVATION PLAN AND PROGRESS IN APPLICATION

FIELDS OR PASTURES	WHAT IS TO BE DONE	AMOUNT OR EXTENT	AVERAGE COST \$	TIME SCHEDULE AND ESTIMATED COST BY YEARS		
				19 <u>83</u>	19 <u>87</u>	19 <u>  </u>
CONSERVATION TREATMENT UNIT NO. <u>I. Pastureland. - 108AC</u>						
<u>1,3,4,7,8,9</u>	<u>FENCES - Construct fences necessary to create Pastures as shown on Plan map. Using electric fences</u>	<u>10440ft</u>	<u>—</u>	<u>1940ft</u>		
<u>1,3,4,7,8,9</u>	<u>PASTURE PLANTING - Between the dates September 15 and November 15, Overseed pasture 1 to Crimson Clover at the rate of 20 pounds seed per acre; overseed the S-1 area of pasture 3 to white clover at the rate of 3 pounds seed per acre; Overseed the S-2 areas of pastures 3 and 9 and all of pasture 7 to Arrowleaf clover at the rate of 6 pounds seed per acre; overseed pasture 4 with vetch at the rate of 15 pounds</u>	<u>108ac</u>	<u>—</u>	<u>108 ac</u>		

CONSERVATION PLAN AND PROGRESS IN APPLICATION (Continued)

COOPERATOR UDO BIRNBAUM

AGREEMENT NO. 4885-196

FIELDS OR PASTURES	WHAT IS TO BE DONE	AMOUNT OR EXTENT	AVERAGE COST \$	TIME SCHEDULE AND ESTIMATED COST BY YEARS		
				19__	19__	19__
CONSERVATION TREATMENT UNIT NO. <u>I PASTURELAND - 108 ACRES (Continued)</u>						
	<i>per acre. All legumes should be inoculated with the proper inoculant at time of planting and placed in contact with mineral soil, and excess grass removed by grazing or shredding. At or near the time of planting the legumes apply 10-60-60 fertilizer per acre to aid in their establishment.</i>					
	<i>Prepare a seed bed in pasture 8 with equipment which will plow to a depth of 4 to 6 inches and leave the surface clear of any competing vegetation. After September 15 and before November 15, oversee pasture 8</i>					

COOPERATOR UDO BIRNBAUM

AGREEMENT NO. 4885-196

FIELDS OR PASTURES	WHAT IS TO BE DONE	AMOUNT OR EXTENT	AVERAGE COST \$	TIME SCHEDULE AND ESTIMATED COST BY YEARS		
				19 83	19	19
	CONSERVATION TREATMENT UNIT NO. <u>I (continued)</u>					
	<u>to Kentucky 31 Fescue at the rate of 10 pounds pure live seed (PLS) per acre. Fertilize at or near the time of planting with at least 40-40-40 per acre to aid in establishment.</u>					
<u>1, 34, 7, 8</u>	<u>LIME - Apply lime according to a current soil test. Fields 7 &amp; 9 can be expected to need 1 Ton of lime per acre about every 3RD year. Field 3, 4 and 8 can be expected to need lime about every 3 to 5 years. and field 1 about every 5th year.</u>	<u>108 tons</u>	<u>-</u>		<u>108 tons</u>	





U. S. DEPARTMENT OF AGRICULTURE  
Soil Conservation Service

CONSERVATION PLAN AND PROGRESS IN APPLICATION (Continued)

TX-CPA-832a  
Rev. 4/69

COOPERATOR UDO BIRNBAUM

AGREEMENT NO. 4885-196

FIELDS OR PASTURES	WHAT IS TO BE DONE	AMOUNT OR EXTENT	AVERAGE COST \$	TIME SCHEDULE AND ESTIMATED COST BY YEARS				
				19 83	19 84	19 85	19 86	19 87
9	<u>CRITICAL AREA PLANTING - rd points indicated on plan map, construct sod flumes designed to drain runoff from field 9 at a safe velocity into the creek on the south side of the field. After shaping, double sprig with bermudagrass and double fertilize to establish.</u>	<u>1 ac.</u>	<u>-</u>		<u>1 ac.</u>			
<u>134,789</u>	<u>PASTURE MANAGEMENT - Manage grazing by rotating cattle from one pasture to another. Never graze coastal bermuda closer than a 4 inch height and allow all legumes to produce a seed crop each year. Manage grazing</u>	<u>108 ac</u>	<u>-</u>	<u>108 ac</u>	<u>108 ac</u>	<u>108 ac</u>	<u>108 ac</u>	<u>108 ac</u>

*Place all the ~~acres~~ <sup>acres</sup> ~~108 ac~~ <sup>91 ac</sup>*





**WATER RIGHTS**  
**Title 2**

**WATER RIGHTS**  
**Ch. 11**

**§ 11.086**

**13. Admissibility of evidence**

In suit to cancel order of Water Commission granting application for permit to divert waters, record of hearing before Commission was properly excluded. *Halsell v. Texas Water Commission* (Civ.App.1964) 380 S.W.2d 1, ref. n.r.e.

In suit to cancel order granting permit for diverting waters, alleged error in permitting Water Commission's chief engineer to answer question regarding his professional opinion as to water losses caused by phreatophytes which would be salvaged by construction of dam was harmless, where a registered professional engineer subsequently testified without objection to nature of vegetation and trees in valley involved and their water consuming capacity. *Id.*

In suit by riparian owners for damages for diversion of river, admission of map showing the area generally was not error where witness testified that he was familiar with information shown on map, that size and location of objects shown were correct, and that he had verified distances on ground with speedometer on his automobile. *Tennessee Gas Transmission Co. v. Moorehead* (Civ.App.1966) 405 S.W.2d 81, ref. n.r.e.

In suit by riparian owners for damages for diversion of river, admission of 1949 agreement in which riparian owners agreed to limited diversion of river for limited purpose of showing gas transmission company acted in good faith in diverting river in 1961-1962 to totally bypass owners' property was not error. *Tennessee Gas Transmission Co. v. Moorehead* (Civ.App.1966) 405 S.W.2d 81, ref. n.r.e.

Even if landowner were only entitled to use water from ditch for irrigation purposes, since

the charging of his well was a direct and natural result of irrigation, court properly admitted testimony to the effect that defendant river authority's diversion of water from the irrigation ditch operated to dry up owner's domestic well and cause specific monetary loss. *San Antonio River Authority v. Hunt* (Civ.App.1966) 405 S.W.2d 700, ref. n.r.e.

**14. Judgment**

1905 judgment refusing abatement of dam did not bar suit for damages caused by enlargement of original dam after May 29, 1915. *Thomas v. Bunch* (Civ.App.1931) 41 S.W.2d 359, affirmed 121 T. 225, 49 S.W.2d 421.

**15. Appeal and review**

City's appeal from order of State Board of Water Engineers denying city's application for permit to appropriate, for municipal purposes, 100,000 acre-feet of water per annum of unappropriated water to be stored in proposed river dam and reservoir did not become moot by virtue of fact that United States had entered into contract with river authority granting authority right to utilize storage space in reservoir, or fact that city's application described a dam and reservoir larger than the one finally approved by United States, or fact that city had applied for more water than was available or fact that construction of smaller dam had been started. *City of San Antonio v. Board of Water Engineers of Tex.* (Civ.App.1960) 334 S.W.2d 325, ref. n.r.e.

The decisions of Texas Water Commission in field of appropriation of unappropriated waters should have extraordinary weight with courts in passing upon their validity. *Halsell v. Texas Water Commission* (Civ.App.1964) 380 S.W.2d 1, ref. n.r.e.

**§ 11.086. Overflow Caused by Diversion of Water**

(a) No person may divert or impound the natural flow of surface waters in this state, or permit a diversion or impounding by him to continue, in a manner that damages the property of another by the overflow of the water diverted or impounded.

(b) A person whose property is injured by an overflow of water caused by an unlawful diversion or impounding has remedies at law and in equity and may recover damages occasioned by the overflow.

(c) The prohibition of Subsection (a) of this section does not in any way affect the construction and maintenance of levees and other improvements to control floods, overflows, and freshets in rivers, creeks, and streams or the construction of canals for conveying water for irrigation or other purposes authorized by this code. However, this subsection does not authorize any

person to construct a canal, lateral canal, or ditch that obstructs a river, creek, bayou, gully, slough, ditch, or other well-defined natural drainage.

(d) Where gullies or sloughs have cut away or intersected the banks of a river or creek to allow floodwaters from the river or creek to overflow the land nearby, the owner of the flooded land may fill the mouth of the gullies or sloughs up to the height of the adjoining banks of the river or creek without liability to other property owners.

Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.

**Historical Note**

**Derivation:**  
 Acts 1915, 34th Leg., 1st C.S., c. 7.  
 Rev.Civ.St.1911, art. 5011t.  
 Acts 1927, 40th Leg., p. 80, ch. 56, § 1.  
 Acts 1935, 44th Leg., p. 766, ch. 334, § 1.  
 Vernon's Ann.Civ.St. art. 7589a.  
 Acts 1971, 62nd Leg., ch. 58, § 1.  
 V.T.C.A. Water Code, former § 5.086.

**Law Review Commentaries**

Definition of surface water. 15 Baylor L.Rev. 430 (1963).  
 Floodlines and police power. Zygmunt J. B. Plater, 52 Texas L.Rev. 201 (1974).  
 General rules concerning permanent damage to land. 25 Texas Bar J. 961 (1962).  
 Governmental refilling of lakes and ponds and artificial maintenance of water levels: compensation to abutting landowners. Robert E. Beck, 46 Texas L.Rev. 180 (1967).  
 Water law. Roger Tyler, 31 Texas Bar J. 365, 366 (1968).  
 Water rights: 1968 survey. 22 Southwestern L.J. 148, 152 (1968).

**Library References**

Waters and Water Courses ⇐78.  
 C.J.S. Waters § 58 et seq.

**WESTLAW Electronic Research**

See WESTLAW Electronic Research Guide following the Preface.

**Notes of Decisions**

<p><b>In general</b> 2                  Accumulating or impounding surface waters 10                  Allocation of damages 45                  Amount of damages 46                  Availability of legal remedies, injunctions and equitable remedies 50                  Causation 29                  Civil law, generally 7                  Common enemy rule 8                  Common law, generally 8                  Concentrating flow of surface waters 11                  Consent of owner 27                  Construction and excavation 15, 35                      Generally 15                      Defenses 35                  Contributory negligence, defenses 33                  Counties 24                  Culverts and bridges 17                  Damages 40-47                      Allocation 45</p>	<p><b>Damages—Cont'd</b>                  Amount 46                  Mitigation 44                  Permanent injuries to land 41                  Property 42                  Punitive 43                  Temporary injuries to land 40                  Waiver 47                  Dams 19                  Defenses 33-37                      Construction and excavation 35                      Contributory negligence 33                      Ordinances 34                      Rainfall 36                      Waiver 37                  Diverting natural flow of surface waters 9                  Draining accumulated waters 13                  Eminent domain 22                  Equitable principles, injunctions and equitable remedies 48                  Excavation 15, 35</p>
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     Damages 47  
     Defenses 37

See, also, Notes on

September 28, 1995

Natural Resource Conservation Commission  
Rt. 14 Box 254  
Tyler, Texas 75707

Ladies and/or Gentlemen:

I request the assistance of this agency regarding water and erosion problems I am experiencing because of recent extensive upstream drainage and terrain modifications.

Since 1983 I have had a soil conservation plan in place for all of my farm and a wildlife management plan for the area adjacent to Steve's Creek, one of three live creeks that join on the upstream end of my property.

The stability of the entire area has been disturbed by the bulldozing operations of the adjacent landowner, Mr. William B. Jones. The modification and drainage of his wetlands is destroying my wetlands.

I request your assistance with the water and erosion problems I am experiencing. Feel free to confer with the USDA Stabilization and Conservation Service, on Hwy.. 19N, Canton, Texas.

Your prompt attention would be appreciated.

Sincerely,

*Udo Birnbaum*

Udo Birnbaum

Udo Birnbaum  
Rt. 1 Box 295  
Eustace, Texas 75124  
(903) 479-3929

October 5, 1995

James Mirabal  
Texas Natural Resource Conservation Commission  
P.O. Box 13087-MC160  
Austin, Texas 78711

Dear Mr. Mirabal:

Pursuant to our telephone conversation of October 4, 1995 I am sending the information you requested.

Also attached are several relevant documents that bear on my request, as well as my initial letter to the Tyler Office of the TNRCC.

The area of my property we are talking about is the wooded strip surrounding Steve Creek, which flows in an easterly direction on the southern end of my property.

The adjacent landowner I am referring to joins me on the southwestern end of my property. All land is in Van Zandt County.

Thank you for your prompt response.

Sincerely,

*Udo Birnbaum*

Udo Birnbaum

Udo Birnbaum  
Rt. 1 Box 295  
Eustace, Texas 75124  
(903) 479-3929

Encl:

Request for assistance  
Marked up location map  
Soil Conservation Plan  
Sheriff's Report  
Complaint to District Attorney  
Investigation Report

Barry R. McBee, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
John M. Baker, *Commissioner*  
Dan Pearson, *Executive Director*



## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

November 27, 1995

Mr. William B. Jones  
Route 1 - Box 355  
Eustace, Texas 75124

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Re: Unauthorized Channel Modifications on Steve Creek in Van Zandt County, Texas

Dear Mr. Jones:


The Texas Natural Resource Conservation Commission (TRNCC) notes that you have modified the channel of Steve Creek in Van Zandt County, Texas. Such construction in the floodplain may be in violation of Texas statutes. Specifically, Section 16.236 of the Texas Water Code which requires that plans for levees or other such improvements which control, regulate, or otherwise change the floodwater of a stream must be approved by the TNRCC.

The Commission has no record of an application for approval of plans for levee construction at the referenced location. We are therefore requesting that you take immediate steps to assure that the construction of the project is in compliance with the law. To do this you must demonstrate with an engineering study by a registered professional engineer what effect the project will have upon the flood flows of Steve Creek. If it can be shown that the project will not raise the flood levels of the Steve Creek significantly, the structure's plans and structural stability can be approved by the Commission.

This process requires submission of an application. To help you, the pertinent section of the Rules and Regulations of the TNRCC relating to approval of plans for reclamation engineer projects and a sample application form are enclosed.

Please give this matter your prompt attention. If we do not hear from you within 90 days from the date of this letter, we will refer this matter to our Legal Division for appropriate action under Section 16.236. Should you have any questions, contact me at the letterhead address or by calling 512/239-4771.

Sincerely,

  
James Mirabal, P.E.  
State Reclamation Engineer

Enclosures

cc: Mr. Steve Groseclose, Legal-TNRCC  
Mr. Udo Birnbaum, Route 1, Box 295, Eustace, Texas 75124

**RICHARD L. RAY, P.C.**

A Professional Corporation  
Attorney at Law

300 S. TRADE DAYS BLVD.  
(300 S. HWY. 19)  
CANTON, TEXAS 75103

(903)567-2051  
(903)567-6101  
TELECOPIER: (903)567-6998

January 24, 1996

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION  
Attention: James Mirabal, P.E.  
P. O. Box 13087  
Austin, TX 78711-3087

Dear Mr. Mirabal:

Re: Cause No.95-63  
William B. Jones v. Udo Birnbaum  
( Unauthorized Channel Modifications  
on Steve Creek in Van Zandt County)

I represent Mr. William B. Jones relative to the above referenced cause. Mr. Jones brought your letter dated November 27, 1996 to my office for response.

Your correspondence indicates that Mr. Jones has modified the channel of Steve Creek. Such is entirely untrue. Mr. Birnbaum is using your office to harass Mr. Jones because of the pending litigation which began well before your letter. I request that you immediately provide a letter to Mr. Jones closing the actions which you have initiated. In addition, I strongly urge you to view Mr. Birnbaum's property with regard to the purported channel modification charges.

If you insist on pursuing this matter, please provide a more definitive statement with respect to the alleged channel changes. If you do not respond as requested, it is my intention to add your commission to the suit as a defendant and to contact Mr. David Cain, State Senator and Dr. Bob Glaze, State Representative for an investigation of your actions.

Sincerely,

**COPY**

Richard L. Ray

RLR:cj

cc: Mr. William B. Jones

Barry R. McBee, *Chairman*  
R. B. "Ralph" Marquez, *Commissioner*  
John M. Baker, *Commissioner*  
Dan Pearson, *Executive Director*



## TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

*Protecting Texas by Reducing and Preventing Pollution*

February 14, 1996

Mr. William B. Jones  
Route 1 - Box 355  
Eustace, Texas 75124

Re: Unauthorized Channel Modifications on Steve Creek in Van Zandt County, Texas

Dear Mr. Jones:

This is in followup to your attorney's January 24, 1996, letter and our February 5, 1996, telephone conference concerning the referenced matter. We have reviewed the additional information you supplied and our flood maps.

Our findings indicate that your activity has consisted of the removal of vegetation. No channel modifications have taken place. Additionally, should channel modifications have taken place, the drainage area above what would be the lowest point of construction is less than five square miles. The Texas Natural Resources Conservation Commission (TNRCC) has no jurisdiction over the removal of vegetation or on channel modification less than five square miles.

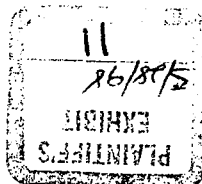
Thank you for your assistance on this matter. Should you have any additional questions, please do not hesitate to contact me at 512/239-4771.

Sincerely,

A handwritten signature in cursive script that reads "James Mirabal".

James Mirabal, P.E.  
State Reclamation Engineer

cc: Mr. Steve Groseclose, Legal-TNRCC  
Mr. Udo Birnbaum, Route 1, Box 295, Eustace, Texas 75124





VAN ZANDT COUNTY APPRAISAL DISTRICT  
W. Hwy. 64 P.O. Box 926  
Canton, Texas 75103

Tele. 903/567-6171  
903/567-4956  
Fax 903/567-6600

March 9, 1995

Udo H. Birnbaum  
Rt. 1 Box 295  
Eustace, TX 75124

Acct: #52-0978-202-0000-0000

Abst: 978 Survey: Young Acres: 18.000

Dear Property Owner:

The Van Zandt County Appraisal District is in the process of reviewing open-space land applications that we have on file. I recently stopped by your property, but found no evidence of an agriculture operation.

As you know, the land subject to your application must be currently devoted principally to agricultural use and must have been for five (5) of the last seven years.

It is possible that we were looking at the wrong property, or that there is some other explanation, but, we do need to get together within 30 days of the date of this letter to discuss this matter.

If we do not hear from you as requested, we will then notify you of the removal of the productivity value from the subject property and the procedure for appealing our decision. Also, under certain circumstances, a rollback tax may be due on the property. (See attached rollback example.)

If you have any questions, please contact me on Thursdays at the above number. I am usually in the field Monday through Wednesday.

Sincerely,

*Sammy Gunter*

Sammy Gunter  
Agriculture Appraiser

/csh

ROLLBACK EXAMPLE

Market value (50 ac.tr.)	\$65,000.00
x a tax rate of \$2/\$100	1,300.00 taxes

VS

Ag value (50 ac.tr.)	\$ 6,050.00
x a tax rate of \$2/\$100	121.00 taxes

The rollback tax would be:

Market value taxes	\$ 1,300.00
Less ag value taxes	<u>121.00</u>

Rollback taxes due	\$ 1,179.00
Plus 7% Interest	<u>83.00</u>

1 YEAR ROLLBACK	\$ 1,262.00
-----------------	-------------

March 22, 1995

Sammy Gunter  
Agriculture Appraiser  
Van Zandt County Appraisal District  
W. Hwy. 64 P.O. Box 926  
Canton, Texas 75103

Dear Agriculture Appraiser:

I am puzzled by your letter of March 9, 1995.

You stated that it is possible that you were looking at the wrong property. I have to assume that you probably were looking at the wrong property.

You surely could not have been looking at my farm.

By the way, please inform me of the criteria that are currently in effect for evaluating agricultural activity in my area. I periodically review my agricultural operation so that I can remain well within the law as far as agricultural intensity is concerned.

I need to know the following:

1. How do you determine the area within which agricultural intensity is compared, and in particular **WHAT IS MY AREA?**
2. How do you correlate agricultural intensity between different segments of agriculture, particularly between exotic birds, nursery industry, cattle, timber, and dairy?
3. Which percentile of agricultural intensity currently qualifies for open space classification and **WHERE WAS I RANKED WITHIN MY AREA?**

Please do not hesitate to contact me if you have any questions about my requests or if I can be of any further help to you.

Sincerely,

*UB.*

Udo Birnbaum  
Route 1, Box 295  
Eustace, TX 75124

VAN ZANDT COUNTY APPRAISAL DISTRICT

W. Hwy. 64 P.O. Box 926  
Canton, Texas 75103

April 24, 1995

Tele. 903/567-6171  
903/567-4956

Udo H. Birnbaum  
Rt. 1 Box 295  
Eustace, TX 75124

Acct. # 52-0978-0212-0000-0000 Abst: 978  
Acres: 18.000 Survey: Young

Dear Mr. Birnbaum:

We appreciate, very much, your cooperation and patience in the processing and/or review of your open-space land application.

Your application, which has been under review, has been approved and your land will be taxed, or will continue to be taxed, whichever is applicable, based on its "productivity value" in lieu of its "fair market value". But, please note: If at any time in the future, you cease to use this land for agriculture purposes, the five (5) year rollback will be applied immediately and you will be required to pay the back taxes due. Be sure you understand this statement for the rollback taxes can be severe. Again, if you change the use of this property after it is approved, the rollback tax penalty will be applied immediately. A typical rollback example is as follows:

Market value (50 ac.tr.)	\$65,000.00
x a tax rate of \$2/\$100	1,300.00 taxes

VS

Ag value (50 ac.tr.)	\$ 6,050.00
x a tax rate of \$2/\$100	121.00 taxes

The rollback tax would be:

Market value taxes	\$ 1,300.00
less ag value taxes	<u>121.00</u>

Rollback taxes due	\$ 1,179.00
Plus 7% Interest	<u>83.88</u>

1 YEAR ROLLBACK	\$ 1,262.00
-----------------	-------------

It is very important that you stay in compliance to avoid this severe penalty that could apply for up to five (5) years.

Thank you!

Sincerely,

*Sammy Gunter*

Sammy Gunter  
Agriculture Appraiser

SVG/csh

February 15, 1995

TO:

Leslie P. Dixon  
District Attorney Van Zandt

I, Udo H. Birnbaum report the following crimes committed by William B. Jones against Udo H. Birnbaum and request your attention to these matters. Both Birnbaum and Jones reside in Van Zandt county and all matters referred to occurred in Van Zandt county.

A report by the Sheriff's Office styled Incident No. 95000270 dated February 8, 1995 is enclosed as documentation of these crimes.

I report the following crimes:

Jones maliciously and negligently destroyed Birnbaum's existing fence at the property line between Jones and Birnbaum for a total distance of about 350 yards. Birnbaum is a rancher who relies on this fence to control his cattle. Jones failed to give any warning to Birnbaum and the fence has been down for more than five (5) months.

Jones trespassed upon the property of Birnbaum by directing the operator of the bulldozer upon the property of Birnbaum; pushing large quantities of brush, debris, and wire fence beyond Jones' property line and up to 25 feet onto the property of Birnbaum. This is willful criminal trespassing.

Jones maliciously and negligently released large quantities of water onto Birnbaum's property by the use of dynamite to blow up a dam existing on Jones's property. Jones failed to give any warning to Birnbaum. Uncontrolled amounts of water containing sand, driftwood, and debris scoured Birnbaum's land and created ditches, gullies, and uncontrollable erosion. Large quantities of sand, driftwood, and debris remain on Birnbaum's property to this day.

I request the District Attorney of Van Zandt to refer these matters to the County Grand Jury for prosecution.

Sincerely,

*Udo H. Birnbaum*

Udo H. Birnbaum  
Rt. 1 Box 295  
Eustace, Tex. 75124

enc:

Incident Report 95000270  
Van Zandt Sheriff's Office  
dated 2-8-95

02 JUN 95 11:20 AM

02 JUN 95 11:20 AM

UB:ub

August 25, 1995

Leslie P. Dixon  
District Attorney Van Zandt

Re: Cause 95-63  
294th District Court

I am the victim of falsifications and a hoax before the Court. My exposure and vulnerability still lingers to this day. I report the following crimes:

1. Perpetrating a hoax
2. Perjury and falsification of documents
3. Tampering with documents
4. Suppression of and tampering with evidence
5. Infiltration and manipulation of the Process

I request the District Attorney of Van Zandt to investigate, review, and refer these matters to the Grand Jury.

Due to the gravity of these complaints, my protection from this office is urgent.

Sincerely,

*Udo H. Birnbaum*

Udo H. Birnbaum  
Rt. 1 Box 295  
Eustace, Texas 75124  
(903) 479-3929

Article No:  
Z 036 254 057

THE STATE OF TEXAS       \*  
                                  \*  
COUNTY OF VAN ZANDT    \*

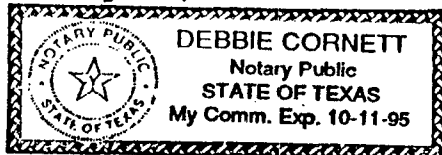
Before me the undersigned, a Notary Public in and for said County, State of Texas, on this day personally appeared UDO BIRNBAUM to me well known, and who, after being by me duly sworn, deposes and says upon information and belief that these are his statements and that they are true and correct.

*Udo Birnbaum*

UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME by the said Udo Birnbaum on this the

25<sup>th</sup> day of August, 1995.



*Debbie Cornett*  
Notary Public, State of Texas

August 30, 1995

TO:

Leslie P. Dixon  
District Attorney Van Zandt

Re: Securing of documents  
Cause 95-63  
294th District Court

\*\*\*\*\* URGENT \*\*\*\*\*

In light of my recent communication dated August 25, 1995, I request the assistance of your Office to secure all documents pertaining to Cause 95-63 in 294th District Court.

I specifically request assistance with the following matters:

1. Court File 95-63, including the sequential numbering of all pages to detect any future tampering by both removal or entry.
2. The official Court proceedings of my hearings dated April 4, 1995 and June 12, 1995.
3. The mechanical and electrical recordings by the Court reporter for the same dates.

I have been unable to obtain transcripts for the two hearings. I have been unable to impress upon the Court the important role of these documents for my defense.

IN LIGHT OF MY INABILITY TO OBTAIN RECORDS ESSENTIAL TO MY DEFENSE, AND IN LIGHT OF MY MOTION FOR RECUSAL OF JUDGE, THIS REQUEST IS VALID AND URGENT.

Sincerely,

*Udo Birnbaum*

Udo Birnbaum

PRO-SE DEFENDANT  
Acting Officer of the Court  
(903) 479-3929

Article Z 036 254 058

Udo Birnbaum  
Rt. 1 Box 295  
Eustace, Texas 75124



September 6, 1995

Criminal District Attorney  
Van Zandt County

Att.: Rick Sullivan

Sir:

Thank you for your response to my communication of August 25, 1995, your review of File 95-63, and our earnest discussion of these matters at our meeting.

I am the victim of a double crime. On February 15, 1995 I complained to this Office of crimes committed by William B. Jones. Now I am complaining to this Office of additional crimes, which are an outgrowth of the first crime, but which have been committed against me by an Officer of the Court.

All the above crimes are in your area of enforcement, and I am entitled to the protection of this Office.

BECAUSE OF THE SCOPE AND SERIOUSNESS OF THE SECOND CRIMES, I REQUEST THAT THESE MATTERS BE ADDRESSED BY A HIGHER AUTHORITY.

Sincerely,



Udo H. Birnbaum  
DEFENDANT

Article: P 624 234 269

Udo Birnbaum  
Rt. 1 Box 295  
Eustace, Texas 75124  
(903) 479-3929

September 28, 1995

Criminal District Attorney  
Van Zandt County

Att.: Investigator Rick Sullivan

Dear Mr. Sullivan:

Attached is a copy of the report by Private Investigator Doug Pool.

Mr. Pool's investigation also produced a witness who can substantiate that I am a victim of a hoax before the Court.

I do not want to be placed in a position where my pursuit of this matter could be misconstrued as influencing or tampering with a witness in a criminal matter.

I therefore request that you investigate and obtain sworn statements.

Please confer with Investigator Pool regarding details.

Sincerely,

*Udo Birnbaum*

Udo Birnbaum

Encl: Investigation Report

Udo Birnbaum  
Rt. 1 Box 295  
Eustace, Texas 75124  
(903) 479-3929

November 22, 1995

Criminal District Attorney  
Van Zandt County  
Att.: Investigator Rick Sullivan

Re: Cause 95-63  
294th District Court  
Canton, Texas

Dear Mr. Sullivan:

In addition to being victimized in a hijacked Court, I have reason to believe that other crimes were committed against me at the same time.

I was initially the victim of irresponsible terrain modifications by my upstream neighbor.

I next became the victim of the machinations of the attorney, starting with his Petition not based on facts, but crafted to get the attorney into his Court.

I next became the victim of a conspiracy involving the Plaintiff and the attorney, because of the failure of the Plaintiff either to have the Petition corrected or to notify the Court of the attorney's fabrications.

The Court itself became a party to the conspiracy, by aiding and abetting the attorney, obstructing the Defense, denying Defendant due Process, and providing cover for the attorney. IT IS THE CONTINUOUS COVER-UP THAT HAS MADE THE WHOLE ORCHESTRATION VISIBLE.

Not only did my property become the object of the attorney's attention, but it also received the close scrutiny of the VAN ZANDT COUNTY APPRAISAL DISTRICT. He is the attorney for the Appraisal District.

The attorney has gone outside the bounds of Law and conduct to misuse the power of the Court. I have reason to believe he also misused the power of the Appraisal District to attack me on another front and to force me to conduct two simultaneous legal defenses:

The appraisal District attempted to remove the agricultural appraisal on a portion of my farm.

I have owned the portion in question for over 13 years and the agricultural appraisal has NEVER been questioned. Simultaneous with being sued by the attorney, the property is suddenly scrutinized.

The attorney researched a detailed description of my farm, and included the titles in his Petition. BUT HE DID NOT INCLUDE THIS PORTION IN THE PETITION. The Appraisal District questioned this portion, BUT DID NOT CONSIDER THE REST OF MY FARM. All land on my farm is adjoining.

In the case of the Court, proceedings were initiated against me. Then the attorney failed to provide substantiation of the charges, and refused to provide answers to key interrogatories.

In the case of the Appraisal District, proceedings were also initiated against me. Then the Appraisal District failed to provide substantiation regarding their allegations. My request regarding the criteria for "compliance" is pertinent to my defense before a legal board.

I AM THE VICTIM OF RACKETEERING UNDER THE COLOR OF LAW.

Your Office is required to pursue these matters so that the involvement of ALL parties to ALL conspiracies against me can be revealed.

Sincerely,



UDO BIRNBAUM

Udo Birnbaum  
Rt. 1 Box 295  
Eustace, TX 75124  
(903) 479-3929



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to  
File No.

3301 Golden Road, Suite 303  
Tyler, Texas 75701  
September 11, 1995

Udo Herman Birnbaum  
Route 1, Box 295  
Eustace, Texas 75124

Dear Mr. Birnbaum:

This letter is in response to your meeting with Special Agent (SA) TIM REECE at the Tyler Office of the FEDERAL BUREAU OF INVESTIGATION (FBI) on August 17, 1995. The information provided by you has been provided to the Civil Rights Division, Department of Justice, Washington, D.C.

Sincerely yours,

James F. Adams  
Acting Special Agent in Charge

*Norman D. Middleton*

By:  
Norman D. Middleton  
Supervisory Senior Resident Agent