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 preventative 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 advise 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,

Doug Pool
Private Investigator
State License # A-07603
Van Zandt County Sheriff's Office
Incident Report

REPORTING PARTY

Name (Last, First Middle): Same as below
Address: City, State Zip

VICTIM

Victim (Last, First Middle): Baden, Udo Horman
Address: 471 Box 295
City, State Zip: Existence
Phone: 903 479 3929
Social Security Number: OUN
Date Of Birth: 11-29-36
Self-Employed
Employer's Address: City, State Zip

LEODA Victim: Yes
Killed by: Unknown
Arrest: Unknown
Type of Activity: Unknown
Body Armor: Unknown
Type of Assignment: Unknown
Approved Justifiable Homicide Circumstances: Unknown
Additional Justifiable Homicide Circumstances: Unknown

Hate-Bias Crimes Only

Target: Unknown

Circumstances: Unknown

Domestic Abuse Cases Only

Reporter: Unknown

Incident Status: Unknown
Exceptional Status: Unknown

Number of Officers Killed: By Accident/Misadventure
Number of Children: None
Number of Minors: None

Incident Date & Time Occurred: 2-8-95 2pm
Latest Date & Time Occurred: 2-8-95 2pm
On today's dates and times, the camp cutover Biembaum came to the Van Norris Sheriff's Dept. while at the Sheriff's Dept., Mr. Biembaum informed me that he had received civil papers on today's date from Deputy Toney.

Mr. Biembaum stated that he has been having civil problems with a William B. Toney, who's land backs up to his land. Mr. Biembaum stated that Mr. Toney had torn down his fence and had done a lot of damage to his property. Mr. Biembaum asked if I would go with him to his property and observe the conditions.

I did go with Mr. Biembaum to his property and did observe around 300-400 yards of fence that was missing. Also, I observed a lot of brush and trees along with sand that had washed onto Mr. Biembaum's property. I also observed what I believed to be large traction tracks in the ground around the fence area and along the creek. Mr. Biembaum stated that Mr. Toney had destroyed the creek which caused the creek to over flow causing the land and brush to wash onto Mr. Biembaum's land. This caused the Sycamore Creek to back up onto Mr. Toney's land. Mr. Toney land appeared to be natural wet lands at one time. I told Mr. Biembaum that this was a civil action and not a criminal action. Mr. Biembaum wanted a report for his records.

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.

2/4/95

Date
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 4712 Box 292A Eustace, TX. I have lived in this community for approximately 28 years except for 2 years (1985-1987) at which time I lived in Texas City.

I grew up as a boy playing up and down Steve Creek. As more buyers populated this area (probably late 1970's) there were some beaver dams formed in several locations up and down Steve Creek. The saying up and down I mean East and West of CR 2916. To my knowledge these was never an attempt to destroy these beaver dams until Mr. Jones destroyed the dam on his property. Shortly after these dams were destroyed by dynamite on Mr. Jones property, I visited the area in question with Mr. Bumbbaum and several others. At that time there were no dams on Mr. Bumbbaum property. There was however a considerable amount of debris washed down upon Mr. Bumbbaum property. There were

I have read each page of this statement consisting of 7 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: ________________________ THIS ________________________ DAY OF ________________________ 19 ______

WITNESS: ________________________

WITNESS: ________________________

Edward Womble

SIGNATURE OF PERSON GIVING VOLUNTARY STATEMENT
I, Edward Womble, being detained for any criminal offense concerning the events I am about to make known to you, 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 the 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 __________________________, ____________, 19

WITNESS:

WITNESS:

SIGNATURE OF PERSON GIVING VOLUNTARY STATEMENT
<table>
<thead>
<tr>
<th>FIELDS OR PASTURES</th>
<th>WHAT IS TO BE DONE</th>
<th>AMOUNT OR EXTENT</th>
<th>AVERAGE COST $</th>
<th>TIME SCHEDULE AND ESTIMATED COST BY YEARS</th>
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<td>1938.83</td>
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<tr>
<td>CONSERVATION TREATMENT UNIT NO. 1. PASTURELAND - 108 AC</td>
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<tr>
<td>1.34789</td>
<td>FENCES - Construct fences necessary to create Pastures as shown on Plan map. Using material as fences</td>
<td>1080H</td>
<td>-</td>
<td>10400H</td>
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<tr>
<td>1.34789</td>
<td>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 5-1 area of pasture 3 to white clover at the rate of 3 pounds seed per acre; Overseed the 5-2 area 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 velvet at the rate of 15 pounds</td>
<td>108H</td>
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<td>108H</td>
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<td>FIELDS OR PASTURES</td>
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<td><strong>PASTURELAND - 108 ACRES (Continued)</strong></td>
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<td>per acre. All legumes should be</td>
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<td>inoculated with the proper inoculant</td>
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<td>at time of planting and placed in contact</td>
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<td>with mineral soil and excess grass</td>
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<td>Removed by grazing or digging. At or near the time of planting the</td>
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<td>legumes apply 10-60-60 fertilizer per acre to aid in their establishment</td>
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<td>soil.</td>
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<td>Prepare a seed bed in pasture 8 with equipment which will plant to a</td>
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<td>depth of 4 to 6 inches and leave the surface clear of any competing</td>
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<td>vegetation. After September 15 and before November 15, overseed pasture 8</td>
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<td>Fields or Pastures</td>
<td>What is to be Done</td>
<td>Amount or Extent</td>
<td>Average Cost $</td>
<td>Time Schedule and Estimated Cost By Years</td>
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<td><strong>to Kentucky 31 Fescue at the rate</strong></td>
<td>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.</td>
<td>108 tons</td>
<td>-</td>
<td>108 tons</td>
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<td>1, 3, 4, 7, 8</td>
<td>LIME - Apply lime according to a current soil test. Fields 7, 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 3/5 years, and field 1 about every 5th year.</td>
<td>108 tons</td>
<td>-</td>
<td>108 tons</td>
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<tr>
<td>COOPERATOR</td>
<td>HAYLAND MANAGMENT</td>
<td>WHAT TO BE DONE</td>
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<td>Udo Bienvenue</td>
<td>HAYLAND 1.34 AC</td>
<td>First hay cutting in the spring when grass is about 3 inches high. Make cuttings every 28 days or less. Make the last cut in October. Fertilize according to a current soil test.</td>
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<tr>
<th>FIELD or PASTURE</th>
<th>AMOUNT OR EXTENT</th>
<th>AVERAGE COST</th>
<th>TIME SPACED AND ESTIMATED COST BY YEARS</th>
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<td>Field or Pasture</td>
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<td>Headquarters &amp; Trap</td>
<td>Maintain adequate cover to limit soil erosion to below 5Tons per acre per year. This will require at least a 50% ground cover at all times, on exposed ground.</td>
<td>8ac.</td>
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<td>COOPERATOR</td>
<td>UDO BIRNBAUM</td>
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<td>TIME SCHEDULE AND ESTIMATED COST BY YEARS</td>
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<td>CONSERVATION</td>
<td>TREATMENT UNIT NO. 1 (continued)</td>
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<td>9 CRITICAL AREA PLANTING - at points 106.9</td>
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<td>indicated on plan map, constructed 9.9</td>
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<td>culverts designed to drain runoff from 9.9</td>
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<td>field 9 at a safe velocity into 9.9</td>
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<td>the creek on the South Side of the field 9.9</td>
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<td>After shaping, double sprig with 9.9</td>
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<td>bermuda grass and double fertilize 9.9</td>
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<td>to establish</td>
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<td>134.789 PASTURE MANAGEMENT - Manage 108.9</td>
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<td>grazing by rotating cattle from one 108.9</td>
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<td>pasture to another, Never graze 108.9</td>
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<td>coastal bermuda closer than a 4 inch 108.9</td>
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<td>height and allow all legumes to produce 108.9</td>
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<td>a seed crop each year. Manage grazing 108.9</td>
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</table>
## U.S. Department of Agriculture
### Soil Conservation Service
#### Conservation Plan and Progress in Application (Continued)

**Cooperator:** Udo Birenbaum

<table>
<thead>
<tr>
<th>Fields or Pastures</th>
<th>What Is to Be Done</th>
<th>Amount or Extent</th>
<th>Average Cost $</th>
<th>Time Scale (As Estimated Cost)</th>
</tr>
</thead>
</table>

**Conservation Treatment Unit No.** 1 (Continued)

- On the Cassowary, in field 8, so it is never grazed closer than 6 inches.
- Control weeds by shredding, fertilize according to a current soil test for the desired level of productivity.

<table>
<thead>
<tr>
<th>9.9</th>
<th>Wildlife Land Management - 50ac -</th>
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<td></td>
<td>Leave all tree and brush on the 5-acre area of Pasture 9 to provide escape and nesting area for quail and other wildlife.</td>
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authority v. Hunt (Civ.App.1966) granting of said rights. The soil existed in
and water rights was
is predecessors in title
chain of title to. water
involving 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 that map, that size and location of ob-
jects shown were correct, and that he had
verified distances on ground with speedometer
on his automobile. Tennessee Gas Trans-
m i s i t i o n  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 agree-
ment in which riparian owners agreed to limit-
ed 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 natu-
ral result of irrigation, court properly admitted
testimony to the effect that defendant river
authority's diversion of water from the irriga-
tion ditch operated to dry up owner's domestic
well and cause specific monetary loss. San
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 enlarge-
ment 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,
500,000 acre-feet of water per annum of unap-
propriated 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 au-
thority right to utilize storage space in reser-
voir, 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 wa-
ters 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
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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.


Historical Note

Derivation:
Acts 1915, 34th Leg., 1st C.S., c. 7.
Rev.Civ.St.1911, art. 5011.
Acts 1927, 40th Leg., p. 80, ch. 56, § 1.

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).
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:

Library References
Waters and Water Courses 778, 779.
C.J.S. Waters § 58 et seq.

WESTLAW Electronic Research
See WESTLAW Electronic Research Guide following the Preface.

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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
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

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
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 TRNCC.

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
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,

Richard L. Ray

RLR: cj

cc: Mr. William B. Jones
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,

James Mirabal, P.E.
State Reclamation Engineer

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

/csh
**ROLLBACK EXAMPLE**

<table>
<thead>
<tr>
<th>Description</th>
<th>Market Value (50 ac.tr.)</th>
<th>Ag Value (50 ac.tr.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value</td>
<td>$65,000.00</td>
<td>$6,050.00</td>
</tr>
<tr>
<td>Taxes at $2/$100</td>
<td>1,300.00 taxes</td>
<td>121.00 taxes</td>
</tr>
</tbody>
</table>

The rollback tax would be:

- **Market value taxes**: $1,300.00
- **Less ag value taxes**: 121.00
- **Rollback taxes due**: $1,179.00
- **Plus 7% Interest**: 83.00

**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,

Udo Birnbaum  
Route 1, Box 295  
Eustace, TX 75124
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

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 121.00
Rollback taxes due $ 1,179.00
Plus 7% Interest $3.88
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
Agriculture Appraiser

SVG/csh
TO:

Leslie P. Dixon
District Attorney Van Zandt

February 15, 1995

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.

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

Sincerely,

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

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

SUBSCRIBED AND SWORN TO BEFORE ME by the said Udo Birnbaum on this the 25th day of August, 1995.

DEBBIE CORNETT
Notary Public, State of Texas
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
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
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

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

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
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

By:
Norman D. Middleton
Supervisory Senior Resident Agent