



Larry Kolvoord
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(enlarge photo)

Gary Bradley Developer says court battle hurt both sides.



Ralph Barrera
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Bill Bunch SOS director says litigation a last resort.

SAVE OUR SPRINGS ALLIANCE

Save Our Springs tries to rebound amid bankruptcy case

Some, including former allies, wonder about the group's remaining influence.

By **Asher Price**

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For keen observers of Austin's development wars, federal judge Craig Gargotta's decision this month to reject a bankruptcy repayment plan by the Save Our Springs Alliance was tinged with historical irony. It was in the same courtroom in 2004, after all, that Circle C developer Gary Bradley, the nemesis of Save Our Springs, was told yet again that he owed the government more than \$100 million for unpaid loans that he took out to build the Circle C Ranch subdivision in southwestern Travis County.

However the SOS bankruptcy case turns out, the broader question is whether, after a series of defeats in the courtroom and at the polls, SOS risks meeting the same fate as Bradley — weakened and barely relevant.

Leaders of the environmental group and its backers say it will continue the work that has defined it: trying to keep Barton Springs clean. With development pressures mounting in the Hill Country, they say, education and lawsuits are more important than ever.

But other environmentalists and lawyers say that because of overconfidence and obstinacy, SOS's influence and clout have waned, even before its latest setback. Just as SOS gains broader fame across

the country in the documentary film "The Unforeseen," which chronicles the group's tussles with Bradley, it could, at least in name, go belly-up.

Its executive director says the nonprofit still has a filing or two up its sleeve. It plans Monday to try to convince the judge it can pony up the money for its repayment plan. In the meantime, SOS is challenging at least one of the judgments that put the organization in its current predicament. It owes nearly \$500,000 in legal fees incurred by developers in previous lawsuits.

Bill Gunn, the developer who is owed hundreds of thousands of dollars in legal fees, challenged the SOS plan to pay him and other creditors pennies on the dollar. Gunn testified during the five-day trial in 2007 that even if SOS were liquidated, it would probably march on in some form or another.

Technically speaking, he's probably right. Bankruptcy experts say there's nothing to keep Save Our Springs from re-establishing itself.

"The defeat is more than symbolic but less than catastrophic," said Jay Westbrook, who teaches bankruptcy law at the University of Texas. Westbrook, who has given money to Save Our Springs, said, "A corporation may die; you may lose the investment you made, but you get to start again. There's nothing special here. That's the American system."

Save Our Springs became one of the pre-eminent environmental groups in Austin as it marshaled support in the early 1990s for the landmark ordinance that bears its name. The ordinance aims to reduce pollution of Barton Springs by limiting the amount of asphalt laid and the number of roofs constructed, so-called impervious cover, over the Barton Springs portion of the Edwards Aquifer.

Many developers said the measure was too burdensome and amounted to taking property rights; they fought the ordinance through the Legislature. Save Our Springs, in turn, quickly worked to defend it in the courts.

Over the next 15 years, the group notched key victories, including a defense of the ordinance before the Texas Supreme Court.

Driven by a visceral concern about development over the Barton Springs portion of the Edwards Aquifer — its spokesman, Colin Clark, once said, "You would fall asleep crying if you think about all the things I do" — SOS established itself as willing to make the legal investments that few others had the pockets or perseverance to do.

"You don't have another group in town that has the legal expertise and backbone to vigorously pursue the tough legal cases," said Robin Rather, a former chairwoman of the group's board. "SOS has survived and has to survive because that role has to be played. You can't have diplomacy, can't have collaboration, can't have teamwork, can't have the softer side of the business if you don't have the nuclear option."

More to the point, she said, SOS's aggressive tactics have distinguished it from other environmental groups and allowed it to survive.

"It's a sort of nonprofit, environmental Darwinism," Rather said. "It's specialization of the species. Some organizations, like species, adapt. And some stay strong by sticking with their original mission."

But along the way, SOS alienated some of its allies because they perceived it to be unwilling to compromise, and it gained a reputation among some as being overly litigious. Even as SOS tried to buy land for conservation and water quality purposes in the 1990s, it played hardball with the Austin City Council.

"There are times and cases where Bill could be more diplomatic," Brigid Shea, a founder of the group, said of SOS Executive Director Bill Bunch. "It's the difference between someone who is running for office and serving in office."

More recently, SOS has found itself politically divided from many environmentalists and the city at large over proposed charter amendments. The proposals, which sought to constrain development in the Barton Springs watershed and make the city's public records available online, lost handily at the polls in 2006.

"They don't wield clout they used to," political consultant David Butts said. "That's partly due to them, partly due to times have changed."

But Bunch says the organization has snagged a few victories lately outside of the courtroom. It played a role, for instance, in a debate over the site of a new water treatment plant for the City of Austin.

"We're always trying to think of the most creative ways to protect the Hill Country," Bunch said. Still, the organization says it will not back away from litigation, which Bunch calls a "tool of last resort."

"We're not gun-shy," said Mark Kirkpatrick, who has served on the SOS board for more than a decade. "Everyone is feeling a little bit tired and exhausted. We ran into bad luck and a combination of playing against very well-funded and committed people here. We definitely have had setbacks, but there's no major deflection in our course."

Perhaps no one can better empathize with Save Our Springs than, oddly enough, Bradley himself. "There was way too much anger, way too much bitterness about all those development wars," said Bradley, who is the subject of an SOS-operated Web site called MakeGaryPay.org. "There was really no reason it had to be that way. We ended up in bankruptcy court, and they ended up in bankruptcy court. And it's because we came at it with the wrong attitudes."

Bunch put it in similar terms:

"Sometimes when there is a war, both sides get beat up a bit."

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