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Contacts: Terrell Graham 361-443-8971

Annalisa Peace, GEAA 210-275-9336

Request for Coverage

SOAH Stands Up for Rancher's Property Rights (and Property) Trashed by Neighboring Housing Development

A resolution may be in sight for a battle over property rights that has been taking place amid the Texas Hill Country just outside of Bulverde. The State Office of Administrative Hearings (SOAH) has today recommended that the Texas Commission for Environmental Quality (TCEQ) deny a permit that would allow a developer, DHJB Development, LLC and Johnson Ranch Municipal Utility District (JRMUD) to take over a dry creek bed on a neighboring ranch to accommodate discharge of sewage effluent and storm water runoff from the Johnson Ranch Subdivision. *Read SOAH's proposal for decision:*

<http://www.aquiferalliance.net/wp-content/uploads/2015/03/PROPOSAL-FOR-DECISION-3-9-15.pdf>

On April 12, 2013 DHJB Development, LLC had filed for a major amendment to their current land application permit (Permit No. WQ0014975001) converting it to a discharge permit in order to free up land currently used for application of treated sewage from the subdivision so that they could build additional homes on this site.

The owners of the neighboring ranch designated to receive approximately 350,000 gallons per day of treated sewage effluent, the Lux and Graham families, have spent the last year and hundreds of thousands of dollars fighting to keep their land from being taken for use as sewage and drainage infrastructure by the Johnson Ranch. Chief among their concerns is that their cattle would be drinking treated sewage and grazing on grass and brush that grows in a creek bed that would be contaminated by effluent.

Attempts to bully the Lux and Graham families, who have owned this working farm and cattle ranch for 110 years, began on March 18, 2014 when a lawyer for the JRMUD notified Terrell and Pat Graham that the Johnson Ranch needed access to the Lux family property to conduct a survey in order to determine the value of the land for a storm water easement using eminent domain in order to condemn their land. Since then, legal actions by JRMUD include filing temporary restraining orders against the family for attempting to mitigate the impacts of drainage coming from the Johnson Ranch Subdivision; notice of intent to sue for violation of the Clean Water Act; and, most recently a petition to condemn portions of the Lux family property for the Johnson Ranch storm water project. (Documentation of legal actions filed by JRMUD available upon request.)

The Grahams have fought back by filing a motion with the TCEQ to dissolve the JRMUD on the grounds that the JRMUD does not, nor has ever had, any legally serving directors and that the JRMUD is not fulfilling the function for which it was created - to protect the natural resources of the State of Texas. "We started to fight back to protect our property." said rancher, Terrell Graham, "But, now, we are determined to keep on fighting because what the Johnson Ranch and other MUD's are doing is just not right."

To date, the TCEQ has issued two notices of violation and two notices of enforcement to the JRMUD for failure to properly implement temporary Best Management Practices ("BMPs") for protection of the Edwards Aquifer and failure to correct previously noted deficiencies. TCEQ reports state that the wastewater treatment plant that is part of the contested permit had been constructed without the required Water Pollution Abatement Plan or TCEQ approval of the wastewater treatment plant construction plans. (Documentation of TCEQ investigations available upon request.)

The Lux and Graham families were joined by the Greater Edwards Aquifer Alliance in contesting the amendment to the DHJB Development, LLC TPDES permit (SOAH Docket No. 582-14-3427) due to concerns about discharging sewage effluent that is not treated to drinking water standards into the Edwards Aquifer watershed, where it will enter the aquifer with no filtration.

While both Protestants were delighted with the SOAH ruling, "The saga of the Graham family in dealing with DHJB Development, LLC and JRMUD should serve as a cautionary tale to all who dream of buying a ranch and enjoying a quiet life in the Texas Hill Country. It is time for the Texas Legislature to curb abuses of eminent domain that allow developers to profit from taking private land." says Annalisa Peace, executive director of the Greater Edwards Aquifer Alliance, "And, it is time to beef up the rules so that the Edwards Aquifer is not being recharged with sewage effluent from thousands of new homes."

Tours of the Lux ranch are available upon request.

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