

On August 25, 2006 I received a phone call while I was at work from Sue McLin. Sue told me a very large piece of equipment is clearing the back portion of our property. The equipment that was clearing our property was a D7 from Carey Smith's construction company Texcon.

Because I work thirty minutes away from home I began to look at the tax records online to determine who the property owner is directly behind us. I found that it was Geneva Freeman. I called the phone number that was in the phone book and asked if she knew what was going on and informed her that the equipment was now on her property based on the information that I received from the call with Sue McLin. Geneva and her ranch hand arrived on the back of her property to see the destruction. Geneva stood in front of the D7 to make him stop.

Later we found that Carey Smith was off shore fishing and had directed the work from a telephone call to his employee to "clear the barb wire fence for replacement" he was on his way to the coast. Neither Kenneth nor Carey showed the employee which barb wire fence to follow. The equipment operator followed the wrong fence and was trespassing not only on the Cooper property but also the Freeman property. What we later discovered was when it rained the work that Kenneth and Carey directed caused water to fill the ravine on the Cooper property causing it to flood our property. When the D7 cleared the property it had built a dam at the Cooper (ravine that feeds into a named creek) and Freeman (Steep Hollow Branch creek) property line. We called the county engineer to try to get the dam removed as it was our understanding from a phone call with the TCEQ that you cannot change the flow of a named creek. The county engineer agreed that the dam needed to be moved but offered no assistance. Geneva Freeman's son (Attorney in Austin, TX) handled the settlement between the Freemans and Kenneth Netherland/Carey Smith. We spent up until a few days before the statute of limitations was to expire contacting Kenneth and Carey to request the dam to be removed. We decided to contact an attorney before the statute of limitations expired. It was only when Carey Smith was to go to trial for fraud charges with the City of College Station (submitting invoices to the City and receiving payment for work that was never to be done) that an agreement was reached and the dam was cleared. Carey Smith was ultimately found guilty and served time. We spent a large portion of our savings fighting this and it seemed as if Kenneth and Carey had no regard for the money they were willing to spend to avoid removing the dam. Kenneth and Carey did not believe us when we told them the location of our property lines and paid for an elaborate survey of our property to discover that we had been telling them the truth. Removing the dam would have been far cheaper. After all Carey Smith owns Texcon and had decided one day to make a phone call to clear a barb wire fence with no regard for others. Sending in a D7 without physically showing an equipment operator which fence to follow seems to me to be an obvious disregard for others. Wouldn't it be easy to send another piece of equipment to clear the dam? I guess the fact that they double trespassed and they would have to enter onto Mrs. Freeman's property again was part of their decision.

The reason we are writing this is show that if you were to investigate the business dealings of Kenneth Netherland and Carey Smith you would see that they show a pattern of pushing the boundaries and typically choose to do whatever it takes to cut corners with no regard for those around them. Because the named creek which the permit will allow them to discharge to is part of the 100 year flood area we would request that you reconsider your decision. Thank you Dennis and Dina Cooper