

Stephanie McCormick

From: Lisa Fancher <lisafancher@gmail.com>
Sent: Thursday, August 2, 2018 7:28 PM
To: countyjudge@burnetcountytexas.org; commissionerpct1@burnetcountytexas.org
Subject: The Peninsula below Buchanan Dam

Dear Judge Oakley and Commissioner Luther:

I am a resident of Buena Vista on Inks Lake and spoke at the last hearing on this topic. I had not planned to speak, but was horrified to realize that the commissioners were leaning against taking any action on this permit.

I appreciate very much that there is going to be another public hearing. Unfortunately, I have a long-planned vacation out of state that will keep me away from it, so I am writing to share some of the thoughts that I would otherwise voice at the hearing.

I realize that you are concerned about being sued by the property owner, but there is something terribly wrong when a clearly inappropriate land use with serious potential risks to life, health and other people's properties is approved out of fear of a baseless suit. I have been a lawyer for 35 years and I have a hard time believing that any judge or jury would fault you for denying this permit once they have seen a video of the force of the water washing over that property from the flood gates. And conversely, how would a judge or jury react if the county is sued for failing to protect its residents from the likely consequences of allowing building on this property? Please show some moral courage and do not let this person bully you into approving this project. He had no reasonable expectation of being able to develop this property; his "property rights" are limited to what he may legally and appropriately use this property for and his rights end where the rest of ours begin.

Judge Oakley expressed concern about being consistent in the approval process. How many applications have you received for building in a flood way? This is qualitatively different than building in a flood plain. As I understand it, you are permitted by law to deny the permit for health or safety reasons or impose conditions upon it. I do not understand why at the minimum, legally permissible conditions were not imposed.

I have not been able to see the studies and other materials on which Mr. Darling based his decision and I suggest that the supporting materials for the application should be made publicly available. What assumptions were made by the engineers who prepared these studies and concluded that the proposed structure could withstand the force of the water? I have cross-examined many experts and almost always, I have found that their opinions are based on assumptions that can be challenged and often refuted.

Every time the flood gates are opened, there is someone who either doesn't get notified by LCRA (which has happened to me in the past) or who doesn't get adequate notice in time to move things out of harm's way. We have many part-time residents whose primary residences are elsewhere. The result is that boats and other debris are washed downstream, creating a huge mess and hazards. If an RV park is allowed on this property, it is likely to be occupied by temporary residents who are not on the notification list or by people whose primary residence is elsewhere.

What assurance do you have that anyone will be onsite to receive notice of the flood gates opening and to ensure safe removal of the RVs?

What assurance do you have that the waste connections to the RVs will be able to withstand the force of the flood water and will not contaminate the water?

What assurance do you have that any human being (as opposed to an LLC or shell entity) will be legally and financially responsible for the operation of this property and for the safety of its residents?

What assurance do you have that the sole exit will remain clear and able to handle the evacuation of the peninsula in a safe and timely manner?

It seems to me that at a minimum, this should be remanded for further consideration with an opportunity for input by affected parties. In this case, everyone who lives on the lake and who relies on its water is potentially affected.

Thank you for your consideration.

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