



JOHN MARK COBERN
TITUS COUNTY ATTORNEY
TITUS COUNTY COURTHOUSE
100 WEST FIRST STREET, STE 106
MOUNT PLEASANT, TEXAS 75455

Esther Robertson
Legal Assistant
Nicki Roberts
Senior Legal Assistant

Telephone (903) 572-0382
Facsimile: (903) 577-7540
Paul Lindsey, Investigator

March 9, 2016

Commissioner Mike Fields
100 West First Street
Mt. Pleasant, TX 75455

RE: Clearing blockage on private land

Dear Commissioner Fields:

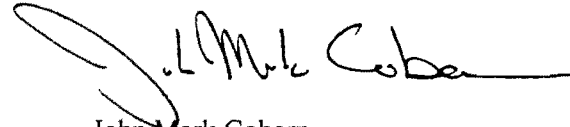
I have had the opportunity to research the issue regarding the drainage problem in your precinct. To summarize the facts, a "draw" located near CR 4210 is blocked with debris. The blockage is not on county the right-a-way, but located on private land. When the county gets a heavy rain like we are experiencing now, the blockage is damaging the county road and impeding traffic. When we get a heavy rain, the road floods preventing residents who live on CR 4210 to be able to pass safely.

Sections 254.008 of the Transportation Code allows upon approval of the commissioners court in counties less than 100,000 in population to remove blockage of a ditch on real property that is not owned by the county. The statute defines blockage as accumulation of refuse, vegetation, or other matter in a ditch that substantially decreases or stops the flow of water through the ditch. Additionally, the statute defines ditch to include a culvert.

I was unable to find any other statute that could be applied to the situation your facing on CR 4210. I therefore consulted with Texas Association of Counties to determine if they know of any other statute that exists that would allow the county to remove debris on private land similar to the situation we have. They were unable to point me to any other statute.

In conclusion, if it is determined that the blockage is located in a ditch and it connects with a drainage ditch constructed or maintained by the county, the commissioners court can order that the county clear the blockage at the county's expense.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "J. Mark Cobern". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

John Mark Cobern

JMC/jmc
Encl.

Sec. 254.008. REGULATION OF PRIVATE DITCHES IN COUNTIES OF 100,000 OR LESS. (a) In a county with a population of 100,000 or less, the commissioners court by order may:

(1) remove the blockage of a ditch on real property that is not owned by the county, if the ditch connects with a drainage ditch constructed or maintained by the county; or

(2) provide for the removal or clearance of a blockage from a ditch that is in violation of an order adopted under this section.

(b) Before a commissioners court acts to remove or clear a blockage under this section, the court shall send a notice by certified mail to the record owners of the property on which the blockage is located in violation of an order adopted under this section. The notice must inform the owners of the order and of the other relevant provisions of this section. The court may not remove or clear the blockage before the 20th day after the date the notice is sent.

(c) The commissioners court shall pay the costs incurred in clearing or removing a blockage under this section.

(d) In this section:

(1) "Blockage" means an accumulation of refuse, vegetation, or other matter in a ditch that substantially decreases or stops the flow of water through the ditch.

(2) "Ditch" includes a culvert.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.