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April 14, 2002

General Land Office
P.O. 12873
Austin, TX 78711-2873

Dear Commissioner:

There is a river access issue on the Medina River in Medina County that has become a source of contention between a small group of landowners along the river, the Medina county commissioners court and the general public. The Medina River was declared navigable by statute and thus to be held in trust by the state for the benefit of the public. The public ownership in this river has come under attack by those who prefer to see it converted to private use for the benefit of the few.

After the new Off-State-System Federal-Aid bridge replacement for the structurally deficient bridge that crossed the Medina River was completed, the county gave in to the pressure put on it by this group of landowners and in cooperation with them the county, using county funds, built fences that effectively restrict public access to the river. This flies in the face of United States Supreme Court and Texas Supreme Court decisions that clearly establish the public right of ownership. In 1935, the Texas Supreme Court successfully defended the Public Trust Doctrine against an attempt by this same small group of riverside landowners, now known as Medina Ranch Incorporated, who sought to exclude the public from this part of the river. *Diversion Lake Club v. Heath*, 126 Tex. 129, 86 S.W.2d 441,442 (1935)

It is my understanding that the General Land office administers policies established for the management and protection of sovereign lands. It is also my understanding that the Public Trust Doctrine then imposes on the states a trust obligation for publicly owned resources on behalf of all the people. I believe that the state has an affirmative duty to protect public trust uses and deny any uses inconsistent with the public trust in order to insure public access to the navigable rivers.

There is a public road (50 foot county right-of-way) that crosses the river with ample space on either side of the bridge for access to the river. Access was made available until recently when the bridge over the river was rebuilt. This access has been fenced off up to the bridge abutments on three corners and on the fourth corner a twenty-four inch gap has been left in the fence. To get to the twenty-four inch gap is practically impossible because of obstacles like a three-foot tall wall and 38 cubic yards of stone riprap on a steep slope preceding it. This almost completely restricts public access. The riverside landowners have also posted "No trespassing-Private property" signs IN the river.

I have tried to work with the Commissioner, the County Judge and County attorney to no avail. The county has come up with all kinds of reasons why they closed off access,

including a statement during commissioners court meeting that they had to place the fencing the way they did so the property owner's livestock couldn't get out. They then decided that it could cause a traffic problem if they gave access to the public because then droves of people would block the road. In all the years I have lived up here, I have never seen more than one or maybe two lone fishermen in the river by the bridge at any one time and an occasional canoe or kayak. This spot has been open to the public since 1915 and there never was a problem with traffic before. I have written to the Attorney General's office and to Parks and Wildlife and have gotten no reasonable explanation as to why this blocking of access to public water should be allowed to continue. Please, can you explain to me why no one from the county level to the state level cannot or will not do anything about this illegal and unjust situation? Can you help?

If you would be like to get in touch with me for more information regarding this situation, I can be reached at 830-612-2112 by phone or at the address above. You may also e-mail me at ppizzini@juno.com.

Best Regards:

Patricia F. Pizzini