

# **FAMILIES FILE SUIT OVER MILL CREEK CONTAMINATION**

By John A. Small  
News Editor  
Johnston County Capital-Democrat, Tishomingo

(Originally Published In The June 28, 2007 Capital-Democrat)

Several Mill Creek area families have filed suit against the contractors they say are responsible for pumping well over a million gallons of sewage onto their properties from one of the town's treatment lagoons.

The suit against Steve Bean Construction, B3 Incorporated and NRS Consulting Engineers alleges that the disposal of raw sewage into a nearby creek was done in such a manner that the sewage ran across the plaintiffs' properties, causing damage to those properties and "interfering with the Plaintiffs' use of their land and water."

The civil suit was filed on behalf of the plaintiffs by attorneys Jason B. Aamodt of Tulsa and Trae Gray of Coalgate last Thursday, June 21, in Johnston County District Court.

Listed as plaintiffs are John D. Sikes and wife Tamara; Sikes' father, Johnny F. "Felix" Sikes and wife Connie; William and Kathryn Brunk; Phil Converse; Ava Converse; Paula Rush; the Janice Earlene Converse Family Revocable Trust; and Shannon Shirley and her husband, Reginald Robbins.

Bean Construction is located in Ardmore, while B3 Inc. is headquartered out of Beebe, Ark. NRS Consulting has offices in Durant, McAlester, Ada, Tulsa and Antlers.

The petition filed last week states that the plaintiffs also intend to add the municipality of Mill Creek as a defendant, and have forwarded a 90-day notice to the town as required under Oklahoma's tort claims procedures.

John Sikes told the Capital-Democrat last Friday that the plaintiffs are hoping to negotiate with Mill Creek officials for a settlement.

The suit stems from an incident first reported in the Nov. 9, 2006, issue of the Capital-Democrat. John and Felix Sikes had told the C-D at that time that workers for B3 Inc. had pumped the sewage into a bar ditch that emptied into a dry stream bed running behind their adjacent properties on the north side of Jewell Sikes Road.

The pumping reportedly occurred over a period of several days beginning on Thursday, Oct. 26. The Sikes said at the time that the pumping had continued even after a DEQ representative advised the contractor to stop.

During his telephone interview with the C-D last week, John Sikes reported that pumping has continued off and on ever since, in spite of complaints.

“They were discharging pretty steady there for about six to eight weeks (earlier this year),” Sikes said last Friday. “I’d say they’ve been discharging on a steady to intermittent basis over about the past two to three months.”

As reported at the time, B3 Inc. had been hired by the town of Mill Creek to repair the community’s sewer lagoons, a project funded in part by a \$276,000 grant awarded to the town last year. The water was pumped from the system’s No. 4 treatment lagoon in order to lower the water level enough so that the necessary repairs could be performed.

A surface water runoff permit had been obtained in order to complete the work, but the Sikes and other residents contended that the contractor pumped well over the limits allowed by that permit.

The result was an environmentalist’s nightmare: a stream of green, stagnant water and sewage that filled the dry stream bed, flowing over a nearby dam and threatening to contaminate Mill Creek – the stream for which the nearby community was named.

The Sikes said they had been repeatedly assured by town officials in Mill Creek that the work was being done in accordance with DEQ regulations. Mill Creek Mayor Scott Clark told the C-D in November that the project was launched in response to a consent order by the DEQ, but declined further comment.

The 18-page court petition states that the three streams affected by the pumping – Skeleton Creek, Three Mile Creek and Mill Creek – were shown to contain fecal coliform concentrations exceeding state standards in the most recent DEQ testing on April 13.

Those tests showed the contamination “would cause a present health hazard to the Plaintiffs if they were to ingest or swim in this water,” the petition states.

“The creeks are discolored, they smell, and it is believed that the populations of aquatic organisms, including fish in the creeks, have been or will be interfered.”

The petition also states that those plaintiffs with properties on Mill Creek have been unable to use any water from that stream for domestic use. Shirley and Robbins are said to have had to replumb portions of their residence and have missed work days as a result of the pollution of Mill Creek.

Meanwhile, John Sikes told the C-D last week that the water well he shares with his father – located very close to Three Mile Creek – remains contaminated. That water is the families’ only source of supply for domestic use such as drinking and bathing.

As a result, the families have been forced to install a permanent chlorination system as

well as a UV water treatment device, while having to have water brought in from other sources for domestic use.

The petition seeks relief on behalf of the plaintiffs on a variety of claims, including reasonable costs of abatement of the nuisance and restoration of property interests.

The suit also claims that the defendants have been unjustly enriched and states that the plaintiffs are entitled to “recover the money the Defendants have saved by not complying with the law and by not protecting the environment to Plaintiff’s detriment.”

In addition, the suit seeks relief on claims of trespass and negligence; and asks for actual and punitive damages in excess of \$10,000 plus interest, costs, attorneys’ fees “and such other relief as the Court may deem proper.”

A spokesperson for the Johnston County Court Clerk’s office told the C-D Monday that summons have been sent to each of the defendants named in the suit. No hearing date had yet been set at last report.

(Copyright ©2007 by Johnston County Publishing Company. Reprinted By Permission.)

## **BEAN CONSTRUCTION DROPPED FROM MILL CREEK LAWSUIT**

By John A. Small  
News Editor  
Johnston County Capital-Democrat, Tishomingo

(Originally Published In The July 19, 2007 Capital-Democrat)

One of the defendants originally named in a lawsuit filed by several Mill Creek area families for allegedly pumping sewage onto their properties has been dropped from that suit.

An attorney for one of the plaintiffs in the case informed the Capital-Democrat Monday that Ardmore-based Steve Bean Construction, one of three defendants originally named in the suit filed on June 21 in Johnston County District Court, has been dropped.

According to Gray, he had been notified by Cheryl Bean, co-owner of the company, that Steve Bean Construction was not involved in any pumping of raw sewage. In a separate contract with the City of Mill Creek, Steve Bean Construction did pipeline and lift station work for the city, but no pumping.

An amended petition was filed by the plaintiffs’ attorneys on July 16.

The amended petition also includes a new defendant, Four Thirteen Inc. of Texarkana, Texas.

(Copyright ©2007 by Johnston County Publishing Company. Reprinted By Permission.)

# MILL CREEK WELL CONTAMINATED BY LAGOON PUMPING

By John A. Small  
News Editor  
Johnston County Capital-Democrat, Tishomingo

(Originally Published In The Nov. 16, 2006 Capital-Democrat)

Two Mill Creek men whose properties were flooded after a contractor reportedly pumped over one million gallons of sewage from one of the town's sewage treatment lagoons learned late last week that the damage was worse than originally feared.

John Sikes told the Capital-Democrat last Friday, Nov. 10, that the water well shared by he and his father Felix, who lives on an adjacent property, was contaminated by the sewage flow. As a result, both families have been forced to boil water needed for household use.

"That's a little disconcerting, because that's always been a good well for about 35 years," Sikes said. "We have to boil everything right now, which is inconvenient to say the very least."

Sikes said the contamination was confirmed by tests conducted by the Oklahoma Department of Environmental Quality at the Sikes' request. Those results were received by Felix Sikes some time after last week's issue of the Capital-Democrat hit news stands.

That issue included an interview with both members of the Sikes family, who told the C-D that a contractor hired by the town of Mill Creek pumped the sewage into a bar ditch that emptied into a dry stream bed running behind their adjacent properties on the north side of Jewell Sikes Road.

The pumping reportedly occurred over a period of several days beginning on Thursday, Oct. 26. The Sikes said the pumping continued even after a DEQ representative advised the contractor to stop.

The Sikes said that the contractor – whom they identified as Arkansas-based 3-B Construction – was hired by the town of Mill Creek to repair the community's sewer lagoons, a project funded in part by a \$276,000 grant awarded earlier this year.

The water was pumped from the system's No. 4 treatment lagoon in order to lower the water level enough so that the necessary repairs could be performed.

A surface water runoff permit was obtained in order to complete the work – but the

Sikes and other residents contend that the contractor pumped well over the limits allowed by that permit.

“When you’ve got a pump and a six-inch pipe, it’s not surface runoff anymore,” John Sikes said at the time. “Surface runoff doesn’t occur at 1,000 gallons a minute; they went well below the surface and got into all that nasty stuff that’s settled down at the bottom of the lagoon.”

The result was an environmentalist’s nightmare: a stream of green, stagnant water and sewage that filled the dry stream bed, flowing over a nearby dam and threatening to contaminate Mill Creek, the stream for which the nearby community was named.

John Sikes told the C-D Tuesday that water pumped from the lagoon was still standing on his property. He added that DEQ drew samples from the well for a second test on Monday, but that results were not expected until later this week.

The Sikes said they have been repeatedly told by town officials in Mill Creek that the work was being done in accordance with DEQ regulations. Mill Creek Mayor Scott Clark told the C-D last week that the project was launched in response to a consent order by the DEQ, but declined further comment.

The Sikes have said they are still considering possible options to resolve the problem, stating that they at least expect the city or the contractor to clean up the sewage that was pumped onto their property.

(Copyright ©2006-07 by Johnston County Publishing Company. Reprinted By Permission.)

## **MILL CREEK RESIDENTS CRY "FOUL" OVER SEWAGE PUMPING**

By John A. Small  
News Editor  
Johnston County Capital-Democrat, Tishomingo

(Originally Published In The Nov. 9, 2006 Capital-Democrat)

Residents in the Mill Creek area say they are weighing their options with regards to possible action against a contractor they say pumped well over one million gallons of sewage onto their properties, further threatening a stream already ravaged by the summer’s drought and excessive pumping by a nearby quarry.

John Sikes and his father, Felix Sikes, told the Capital-Democrat last week that a contractor hired by the town of Mill Creek pumped the sewage into a bar ditch that emptied into a dry stream bed running behind their adjacent properties on the north side of Jewell Sikes Road.

The pumping reportedly occurred over a period of several days beginning on Thursday, Oct. 26. The Sikes said the pumping continued even after a representative from the Oklahoma Department of Environmental Quality advised the contractor to stop.

“I don’t know what time they actually started on Thursday,” Felix Sikes said, “but it was around 5 o’clock that afternoon when I first noticed it. And then it continued all day Friday.

“We contacted DEQ and he said they were supposed to have stopped around noon on Friday, but they were still out there pumping at 7 p.m. And then they came back out on Saturday and did some more.”

The Sikes said that the contractor – whom they identified as Arkansas-based 3-B Construction – was hired by the town of Mill Creek to repair the community’s sewer lagoons, a project funded in part by a \$276,000 grant awarded earlier this year.

The water was pumped from the system’s No. 4 treatment lagoon in order to lower the water level enough so that the necessary repairs could be performed. A surface water runoff permit was obtained in order to complete the work – but the Sikes and other residents contend that the contractor pumped well over the limits allowed by that permit.

“When you’ve got a pump and a six-inch pipe, it’s not surface runoff anymore,” John Sikes said. “Surface runoff doesn’t occur at 1,000 gallons a minute; they went well below the surface and got into all that nasty stuff that’s settled down at the bottom of the lagoon.”

The result was an environmentalist’s nightmare: a stream of green, stagnant water and sewage that filled the dry stream bed, flowing over a nearby dam and threatening to contaminate Mill Creek, the stream for which the nearby community was named.

“It’s pretty much standing still now – basically what I’ve got now is a standing sewage lake sitting behind my property,” the younger Sikes said. “When the pumping was still going on it was a regular flowing stream back there behind both of our houses.

“I showed this to another individual who knows a little bit about such things, and he said as near as he could tell well over a million gallons had been pumped out of that lagoon.”

Some of the sewage made its way down into Mill Creek, according to nearby resident Shannon Shirley, who has spent much of the past few months fighting to protect the stream from excessive pumping by the nearby Meridian Aggregates plant operated by Martin Marietta Materials.

She and her family typically utilize the creek for most of their household water needs – “Everything but drinking,” she said in an interview earlier this summer – but were forced to have water brought in as a result of the lagoon pumping.

She and the Sikes also noted that the incident forced the cancellation of a planned field trip by the Nature Conservancy on Monday, Oct. 30.

“They were going to bring about 120 kids out to look for a certain kind of fish that’s native to the area, but they cancelled after they heard about this because they thought it presented a health risk,” Shirley said.

The Sikes said they have been repeatedly told by town officials in Mill Creek that the work was being done in accordance with DEQ regulations. When contacted by the Capital-Democrat, Mill Creek Mayor Scott Clark said the project was launched in response to a consent order by the DEQ, and that the town and the contractor have been following DEQ protocol.

“The Sikes are great people, and I hate that this has happened to them,” Clark said. But he declined further comment, going so far as to say he had been advised against divulging the name of the contractor.

At the Sikes’ request, a sample of the water pumped out of the treatment lagoon was taken by DEQ on Oct. 27 and turned over to Ada-based Environmental Resource Technologies for testing. A copy of the test analysis was obtained by the Sikes, who provided a copy to the Capital-Democrat late Monday afternoon.

The tests, John Sikes said, confirmed his fears about the contractor’s actions.

“They went too deep,” Sikes said. “I knew when they were out there drawing all that down that they were going too deep, and this shows that I was right.

“The one thing that is most glaring to me about this report is the total absence of fecal coliforms in the earlier sample, compared to the high concentration in the sample we more or less forced them to take.”

Fecal coliforms are a type of bacteria which lives in the digestive tract of warm-blooded animals (humans, pets, farm animals, and wildlife), aiding in the digestion of food, and are excreted in the feces. In themselves, fecal coliforms generally do not pose a danger to people or animals but they indicate the presence of other disease-causing bacteria.

Large quantities of fecal coliform bacteria in water may indicate a higher risk of pathogens being present in the water. Some waterborne pathogenic diseases include ear infections, dysentery, typhoid fever, viral and bacterial gastroenteritis, and hepatitis A. The presence of fecal coliform tends to affect humans more than it does aquatic creatures, though not exclusively.

Untreated organic matter that contains fecal coliform can be harmful to the environment. Aerobic decomposition of this material can reduce dissolved oxygen levels if discharged into rivers or waterways. This may reduce the oxygen level enough to kill fish and other aquatic life.

Reduction of fecal coliform in wastewater may require the use of chlorine and other disinfectant chemicals. Such materials may kill the fecal coliform and disease bacteria. They also kill bacteria essential to the proper balance of the aquatic environment, endangering the survival of species dependent on those bacteria. So, higher levels of fecal coliform require higher levels of chlorine, threatening those aquatic organisms.

The analysis report obtained by the Sikes compares the sample taken on Oct. 27 with an earlier test sample of surface water drawn from the lagoon on Oct. 2. While the Oct. 2 sample contains no traces of the bacteria, the later sample contained a fecal coliform level of 430 colony forming units (CFUs) per 100 milliliters.

“That’s pretty concentrated,” Sikes told the C-D Tuesday morning. “You certainly don’t want to be drinking water with those kinds of levels.”

Although the rains over the past weekend reportedly washed much of the standing effluent away, Sikes said he and his father are still concerned about the possible long-term health and environmental effects the situation has created.

As for finding possible solutions to the problem, the Sikes said they are still trying to determine how best to proceed.

“Somebody’s going to have to get in here and clean it up, that much is obvious,” John Sikes said. “Beyond that, right now we’re not sure; we’re still researching and weighing our options.”

(Copyright ©2006-07 by Johnston County Publishing Company. Reprinted By Permission.)