

1-1-2003

Sabine River Auth. of Texas v. Hughes, 92 S.W.3d 640 (Tex. App. 2002)

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Holly Shook, Court Report, Sabine River Auth. of Texas v. Hughes, 92 S.W.3d 640 (Tex. App. 2002), 6 U. Denv. Water L. Rev. 637(2003).

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Arm located on Mrs. Keltner's property. The doctrine of riparian rights presumes the interest of the riparian owner passes to the grantee when the grantor conveys the upland. OLSA argued that A Booth Company ("ABC") conveyed the disputed portion of Right Hand Arm to them. However, the court concluded, based on testimony of a land surveyor, there was no way to determine what land ABC actually conveyed to OLSA. Furthermore, in order to determine ownership, the court concluded it was necessary to determine whether ABC owned the disputed portion of Right Hand Arm and whether ABC conveyed the disputed portion of Right Hand Arm to OLSA.

Finally, the court concluded parol evidence was admissible to determine whether Mrs. Keltner acquired ownership by agreement with OLSA because the deeds were ambiguous. Mrs. Keltner argued that minutes from an OLSA meeting proved OLSA recognized Mrs. Keltner owned the disputed portion of Right Hand Arm. However, the court concluded this evidence showed that OLSA recognized Mrs. Keltner owned the land surrounding the disputed portion of Right Hand Arm but that genuine issues of material fact still existed as to whether OLSA recognized Mrs. Keltner owned that portion of Right Hand Arm.

For the foregoing reasons, the court concluded the trial court erred because genuine issues of material fact existed regarding the ownership of Right Hand Arm.

Heather Chamberlain

TEXAS

Sabine River Auth. of Texas v. Hughes, 92 S.W.3d 640 (Tex. App. 2002) (holding a claim for inverse condemnation requires the claiming party to allege that the government intended its action to result in a taking).

Paul Hughes ("Hughes") brought an inverse condemnation suit against the Sabine River Authority of Texas ("Authority"). The First District Court of Newton City granted Hughes' motion for summary judgment, holding that the Authority's intentional release of reservoir water resulted in a taking of Hughes' land for public use. The Texas Court of Appeals reversed the trial court's ruling, and affirmed the Authority's motion for summary judgment.

Hughes alleged that the Authority's intentional release of reservoir water into the Sabine River caused Hughes' land to be flooded and resulted in a taking. The Texas Court of Appeals ruled that Hughes' complaint was insufficient to support a claim of inverse condemnation. A claim for inverse condemnation required Hughes to allege the Authority intended its release of water to result in a taking. The court found as a matter of law that the facts of the case did not warrant a

claim of intent against the Authority because the Authority's release of less water than had entered the reservoir through rainfall negated an inference of intent. Additionally, the Sabine River merged with the Toro Bayou. The court found that the merging of the two rivers combined with the additional reservoir drainage caused the flooding of the Sabine River onto Hughes' land. Thus, the court held the flooding was unintentional on the part of the Authority, and entered summary judgment against Hughes, reversing the trial court's judgment.

Holly Shook

City of San Angelo v. Texas Natural Res. Conservation Comm'n, 92 S.W.3d 624 (Tex. App. 2002) (holding under the Open Meetings Act commission did not have to include additional language in its published agenda indicating that it might act on issues under consideration at open meeting; agenda items were sufficiently descriptive to inform reader of the broad topics addressed at the meeting; and commission was not precluded from finding petitions were insufficient because of referral to State Office of Administrative Hearings).

The City of San Angelo ("City") petitioned the Texas Natural Resources Conservation Commission ("TNRCC") requesting the appointment of watermasters for the San Saba River and the Concho River Basin to enforce water rights. TNRCC addressed the petition in an open meeting to determine whether the domestic and livestock water users on the Concho River Basin were water right holders. TNRCC published the agenda for the open meeting in the November 26, 2001 Texas Register to give the general public notice it would consider four specific legal issues regarding the rights holders. After the December 5, 2001 open meeting, TNRCC issued an interim order on December 10, 2001 finding that domestic and livestock water users were right holders but referred the petition to the State Office of Administrative Hearings ("SOAH") to determine whether the rights holders were threatened. The City sued TNRCC seeking mandamus relief and an injunction in Travis County District Court claiming the interim order violated the Open Meetings Act ("Act") because the published agenda failed to give sufficient notice that TNRCC would take action. Holding the notice satisfied the Act, the district court denied the City's requested relief. The City appealed the decision to Third District Texas Court of Appeals claiming that notice was inadequate when read in light of the interim order. TNRCC asserted that the notice given was sufficient under the Act.

On appeal, the court first stated that determining adequacy of notice is a question of law. Under this standard, in reviewing notices under the Act, the inquiry is whether the notice was sufficiently