

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

027 10/2017

JAMES W. MCCORMACK, CLERK

By: [Signature] DEP CLERK

PLAINTIFFS

CLEO WATKINS, PYLES FAMILY FARMS, LLC,
VICTOR HUTCHERSON, ALVELLA
HUTCHERSON, HELEN KNIGHT,
MICHAEL WATKINS, BETTY WATKINS,
& GEORGE CARNEY

v.

NO. 3:17cv272-DPM

LAWRENCE COUNTY, ARKANSAS,
JOHN THOMISON, in his official capacity as
County Judge of LAWRENCE COUNTY,
ARKANSAS, and WILLIAM POWELL,
DONALD RICHEY, LLOYD CLARK,
HEATH DAVIS, ERNEST BRINER,
RONALD INGRAM, TRACY MOORE,
KENNY JONES, & ALEX LATHAM,
in their official capacities as
members of the LAWRENCE COUNTY
QUORUM COURT

This case assigned to District Judge Marshall
and to Magistrate Judge Harris

DEFENDANTS

COMPLAINT

Comes Plaintiffs, Cleo Watkins, Pyles Family Farms, LLC, Victor Hutcherson, Alvella Hutcherson, Helen Knight, Michael Watkins, Betty Watkins, and George Carney ("Plaintiffs") through their counsel PPGMR Law and for their complaint against Defendants Lawrence County, Arkansas, John Thomison in his official capacity as County Judge for Lawrence County, Arkansas and William Powell, Donald Richey, Lloyd Clark, Heath Davis, Ernest Briner, Ronald Ingram, Tracy Moore, Kenny Jones, and Alex Latham in their official capacities as members of the Lawrence County Quorum Court (together, "Lawrence County") state:

I. NATURE OF THE ACTION

This case concerns a bridge in Lawrence County, Arkansas over the West Cache River Slough (“Slough”). Lawrence County negligently constructed the bridge in the early 2000s and failed to consult the United States Army Corps of Engineers (“USACOE”) or apply for a Clean Water Act (“CWA”) permit. Later, the USACOE approved a minor modification to the bridge in 2003 and agreed to grant the County an “after-the-fact” Section 404 permit under the CWA so long as the bridge was maintained and debris cleared from the culverts to allow for proper flow. Fairly quickly, Lawrence County abandoned its efforts to clear the bridge of debris, turning the bridge into a dam and causing substantial sediment buildup. That sediment has choked off most of the Slough from the Cache River proper, which in turn has caused substantial flooding of Plaintiffs’ lands and destruction of their crops. For almost two decades now, Lawrence County, through its County Judge and Quorum Court, has refused to do anything to address the problems caused by its negligently constructed and maintained bridge, all the while violating its CWA permit.

II. JURISDICTION AND VENUE

1. Plaintiffs are property owners who reside and/or farm land along the Cache River or its minor tributaries in Craighead County, Arkansas.
2. All Plaintiffs are residents of Craighead County, Arkansas or otherwise have their principal place of business in Craighead County, Arkansas.
3. Defendant Lawrence County is a governmental body with its governing seat in Walnut Ridge, Arkansas.
4. Defendant John Thomison, an Arkansas resident domiciled in Lawrence County, is the County Judge of Lawrence County, Arkansas.

5. Defendants William Powell, Donald Richey, Lloyd Clark, Heath Davis, Ernest Briner, Ronald Ingram, Tracy Moore, Kenny Jones, and Alex Latham are Arkansas residents domiciled in Lawrence County, Arkansas and currently serve as Justices of the Peace on the Lawrence County Quorum Court.

6. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1367, and 1343(a)(3).

7. The events giving rise to this claim occurred and continue to occur in Lawrence County, Arkansas and Craighead County, Arkansas, which are within the Eastern District of Arkansas. This Court has venue over this matter pursuant to 28 U.S.C. § 1391(b).

II. STATEMENT OF FACTS

8. All Plaintiffs own and farm property in Craighead County next to the Cache River and the southeasternmost portion of Lawrence County, Arkansas.

9. Plaintiffs have farmed their land for decades and many Plaintiffs are second or third generation farmers.

10. The Slough is a relief canal that branches away from the Cache River less than one mile southeast of Sedwick, Arkansas, approximately 1,000 feet south of the US Highway 63 bridge over the Cache River.

11. The Slough parallels the Cache River for approximately nine miles before the two channels merge at their confluence near Egypt, Arkansas at the Highway 91 bridge.

12. The USACOE constructed the Slough for flood relief of the Cache River in the early twentieth century for flood relief.

13. Almost the entirety of the Slough is located within Lawrence County, except for the Slough's eventual confluence with the Cache River, which is located in Craighead County.

14. Lawrence County Road 717 crosses the Slough roughly one mile below where the Slough diverges away from the Cache River.

15. For most of the second half of the twentieth century, Lawrence County maintained a wooden bridge on County Road 717 across the Slough that had allowed landowners access to their properties within the approximately twelve square miles between the Slough and the Cache River.

16. This wooden bridge was set on pillars and had allowed passage of flood and stage waters, along with various debris and sediment. A picture of the bridge is attached hereto as Exhibit 1.

17. At some point the wooden bridge became unfit for use and former Lawrence County Judge Alex Latham ("Latham"), acting on behalf of Lawrence County, tore down and replaced the wooden bridge in the late 1990s or early 2000s.

18. Latham chose to replace the wooden bridge with a crude dirt and concrete embankment that had four rail boxcars acting as culverts to pass the entire flow in the Slough. Pictures of this construction are attached as Exhibit 2.

19. Lawrence County and Latham did not consult an engineer, architect, or hydrologist when constructing this new bridge (hereafter, "bridge"). The County's expense report for this bridge is attached as Exhibit 3.

20. The new bridge possessed significant and obvious defects that would have been apparent to a licensed engineer, architect, or hydrologist had Lawrence County consulted one.

21. Lawrence County made no plan for how to deal with the large number of logs, debris, and sediment that the Cache River and Slough transport.

22. Lawrence County did not consult with the USACOE or apply for a permit under the CWA from the USACOE prior to constructing the new bridge.

23. The bridge culverts soon filled with sediment and debris, effectively turning the “bridge” into a dam with only minimal water flow passing through.

24. As a result of this bridge, Plaintiffs—whose land adjoins the Cache River downstream of the Slough’s divergence away from the Cache River and upstream of the Slough’s eventual confluence with the Cache—suffered increased flooding on their lands that was unlike any previous diffused surface water patterns.

25. On March 28, 2001, the Cache River Drainage District, through its attorney, notified Latham of flooding problems and asked him to take remedial measures. A true and complete copy of this letter is attached as Exhibit 4.

26. In April 2001, Plaintiffs informed Latham of their concerns about the bridge and flooding. A true and complete copy of this correspondence is attached as Exhibit 5.

27. Latham replied through his counsel on May 3, 2001, claiming that the County had no funds to remedy the situation and that the culverts were not causing any problems. A true and complete copy of this letter is attached as Exhibit 6.

28. On June 8, 2001, the USACOE notified Latham that the bridge as constructed violated Sections 301 and 404 of the CWA. A true and complete copy of this communication is attached as Exhibit 7.

29. A USACOE hydraulic analysis conducted prior to this notification showed potential for “adverse flooding upstream.” See Exhibit 7.

30. After communicating with Lawrence County about the bridge, the USACOE eventually gave Latham permission to install an additional culvert and agreed to issue an “after-

the-fact” CWA Section 404 permit to Lawrence County on May 13, 2003. A true and complete copy of this correspondence is attached as Exhibit 8.

31. Lawrence County’s after-the-fact permit Section 404 permit was conditioned upon the County’s continued maintenance of the culverts, the removal of debris as needed to maintain water flow, and other requirements. See Exhibit 8.

32. Debris again soon accumulated in the bridge culverts that (i) severely restricted water flow downstream, (ii) caused a substantial silt buildup between the bridge and the mouth of the Slough where it diverges from the Cache River, and (iii) created a large sandbar on the Cache River main channel.

33. Plaintiff George Carney witnessed the sandbar upstream from the Lawrence County bridge more than triple in size between 2001 and 2009 and communicated his concerns to the County and the USACOE. A true and complete copy of this correspondence is attached as Exhibit 9.

34. The silt accumulation caused by the improperly constructed and maintained bridge has choked off the Slough, diverting flow back into the Cache River proper during periods of moderate to heavy flow.

35. Debris continues to accumulate at the bridge, causing silt to collect upstream and create a hazardous sandbar in the Cache River proper. A satellite image of debris accumulation at the bridge is attached as Exhibit 10.

36. Silt continues to build up in the Slough channel where the Slough diverges from the Cache River.

37. Lawrence County and the Lawrence County Judge no longer make any effort to maintain the bridge or ensure that the culverts are free of debris.

38. Lawrence County has never undertaken efforts to alleviate the silt and sediment buildup in the Slough channel upstream of the bridge to the Cache River proper.

39. Plaintiffs have experienced extensive flooding over their properties that was caused by Lawrence County's failure to ensure unimpeded water and debris flow through the bridge's culverts.

40. The flooding complained of by Plaintiffs did not previously occur with the regularity and intensity that has occurred ever since Lawrence County first installed the new bridge.

41. Plaintiffs had never lost crops in such large numbers as a result of floodwaters prior to the bridge being installed.

42. This flooding has reliably occurred ever since the bridge was installed and can be reasonably predicted to occur with moderate amounts of rain.

43. This flooding is over-and-above the natural flood events that can be reasonably expected to occur along the segment of the Cache River between Sedgwick, Arkansas and Egypt, Arkansas.

44. Plaintiffs have lost a substantial number of crops as a result of the bridge and continue to lose crops every year from flooding.

45. Plaintiffs have lost portions of their stream banks along the Cache River proper and its minor tributaries as a result of the bridge and continue to lose portions of their stream banks. A photograph one such stream bank is attached hereto as Exhibit 11.

46. The bridge and resultant flooding have reduced Plaintiffs' property values and utility and have negatively impacted Plaintiffs' welfare and ability to earn a living.

47. Plaintiffs have reached out many times to Lawrence County seeking to have a proper bridge installed over the Slough that does not restrict flow, but Lawrence County has consistently rejected all attempts to resolve the issue.

II. STATEMENT OF CLAIMS

COUNT 1 – Violation of § 404 of the Clean Water Act

48. All paragraphs in this Complaint are incorporated here by reference as if fully set forth in Count 1.

49. Section 404 of the CWA forbids entities without a permit from discharging fill or dredge material into waters of the United States.

50. The Slough is a “water of the United States,” having been physically constructed by the United States federal government and determined to be as such by the USACOE.

51. The USACOE previously found Lawrence County to be in violation of Section 404 in 2001 when it first installed the bridge.

52. A May 15, 2001 memorandum drafted by a USACOE hydrologist found that the culverts “were not adequately sized” and that the bridge could lead to “potential adverse flooding upstream.” A true and complete copy of this memorandum obtained through the Freedom of Information Act is attached hereto as Exhibit 12.

53. The USACOE demanded that the County either (i) install a fifth culvert to increase flow and keep the culverts free of debris or (ii) rip down the new bridge and construct a properly-designed structure.

54. Once Lawrence County installed an additional culvert, the USACOE granted an “after-the-fact-permit” under the CWA to Lawrence County on May 13, 2003. See Exhibit 8.

55. This permit determined that the bridge met “the requirements of Nationwide Permit No. 14 provided that the enclosed conditions are met. Please pay special attention to the general permit condition number 21 (Management of Water Flows). The crossing shall be maintained and debris shall be removed as needed to allow for the passage of normal or expected high flows.”

56. The USACOE’s Nationwide Permit Number 14 contains a general condition for the “Management of Water Flows,” which states “To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).”

57. A USACOE representative noted in a 2009 inspection that “It was noticeable during the survey that the pipes were mostly closed and regular maintenance will be required to keep the pipes open.” A copy of a report from the USACOE is attached as Exhibit 13.

58. Lawrence County has failed to maintain the bridge or remove debris for years and continues to do so to this day.

59. Lawrence County continues to violate the CWA on a daily basis by failing to adhere to its permit requirements, including but not limited to the Management of Water Flows requirement.

60. The pre-construction course, capacity, and location of waters within the Slough have not been, and currently are not being, maintained by Lawrence County.

61. Lawrence County's bridge is too tall to allow for water to top the bridge during heavy flows. Instead of allowing flow to pass through unimpeded, debris regularly dams the bridge culverts and pools the high water flows in the one mile channel between the Cache River and the bridge.

62. There is no aquatic benefit of the bridge; the USACOE has not determined there to be any aquatic benefit of the bridge.

63. The County has continuously failed to meet the requirements of its conditional permit, is currently in violation of § 404 of the CWA, has been in violation of the CWA for years due to willful decision-making at the highest level of county governance, and has never attempted to comply with its permit conditions or remediate the impact of this bridge.

64. In particular, the County has violated the terms of their permit numerous times since 2011.

65. For all intents and purposes, the bridge has effectively turned into a dam.

66. The frequency and intensity of flooding on the Cache River between US Highway 63 and Arkansas Highway 91 has increased within the past six years and continues to increase to this day.

67. Plaintiffs provided notice to Lawrence County that they considered the County to be in violation of the CWA on June 3, 2016. A true and complete copy of this letter is attached hereto as Exhibit 14.

68. Plaintiffs are adversely impacted by Lawrence County's disregard of its CWA permit obligations, regularly losing crops and having their property values diminished as a result of Lawrence County's repeated failure to follow its permit conditions.

69. Lawrence County has shown a conscious disregard to its permit violations and its impact upon others, having flatly ignored its permit requirements for over a decade.

70. Lawrence County is willfully operating far outside of the CWA, having expended no effort to allow for the flow of natural floodwaters to the “maximum extent practicable,” and Lawrence County effectively has no Section 404 CWA permit.

71. Plaintiffs bring suit under the CWA citizen suit provision at 33 U.S.C. § 1365, seeking an order from the Court enjoining Lawrence County from operating the bridge unless and until it operates in compliance with the terms of its Section 404 permit.

72. In the alternative, Plaintiffs seek an order from the Court enjoining Lawrence County from operating the bridge until it reapplies for a Section 404 permit from the USACOE.

73. Plaintiffs request the Court award them fees and costs as provided by 33 U.S.C. §1365(d).

COUNT 2 – Public Nuisance (Ark. Code Ann. § 14-268-105)

74. All paragraphs in this Complaint are incorporated here by reference as if fully set forth in Count 2.

75. This cause of action is asserted alternatively to all other causes of action stated herein.

76. Under Arkansas Code Annotated § 14-268-105, any Arkansas citizen may bring a suit against a county where a “structure, building, fill or development” is placed in a flood-prone area in violation of its flood regulations.

77. The bridge constructed by the County lies within an area known to flood regularly.

78. Lawrence County has adopted county floodplain regulations, a true and complete copy of which are hereto attached as Exhibit 15.

79. The Lawrence County Floodplain Regulations apply to “Special Flood Hazard Areas” in Lawrence County, which are defined as “geographical areas identified on FEMA flood maps as being at-risk for flooding.” See Exhibit 15.

80. Attached hereto is the official Federal Emergency Management Agency (FEMA) flood map of the Cache River Slough as Exhibit 16, which identifies the area where “Lawrence Rd. 717” crosses the Slough (labeled “West Cache River Ditch”) as a “Special Flood Hazard Area Subject to Inundation By the 1% Annual Chance Flood.”

81. The official FEMA map labels the area where Lawrence County Road 717 crosses the Slough as a “Zone A” area. See Ex. 16.

82. For Special Flood Hazard Areas in “A” Risk Zones, the Lawrence County Floodplain Regulations imposed the following requirements on the County for new non-residential constructions: (i) determine a base flood evaluation prior to construction, (ii) “a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the constructions, and shall certify on a Floodproofing Certificate that the design and methods or construction are in accordance with accepted standards of practice as outlined in this subsection.” See Ex. 15 at 25.

83. The Floodplain Regulations also require these measures be taken for each modification of non-residential structures. *Id.*

84. The bridge is a non-residential construction. No licensed engineer or architect ever analyzed the structural design or plans for the installation of the County Road 717 bridge or the 2003 modification.

85. No licensed engineer or architect ever certified a Floodproofing Certificate for the installation of the County Road 7171 bridge or the 2003 modification.

86. The design of the bridge is so obviously flawed under standard engineering principles that no licensed engineer or architect would have approved the construction or modification of the bridge.

87. On September 22, 2016, through counsel, Plaintiffs requested any and all construction plans from Lawrence County for the bridge under the Freedom of Information Act, including all engineering or architectural reports, invoices, receipts or expenditure authorizations. A true and complete copy of this letter is attached hereto as Exhibit 17.

88. The Lawrence County FOIA response included a receipt for all services billed for construction of the bridge, which confirmed that no engineer or architect was paid or retained by Lawrence County for work on the bridge. A true and complete copy of the Lawrence County FOIA response is attached hereto as Exhibit 18.

89. As no licensed engineer or architect ever reviewed the bridge plans or certified a Floodproofing Certificate, the bridge's construction and modifications were in violation of the County's own regulations.

90. The bridge as constructed and maintained by Lawrence County operates as a public nuisance that predictably increases flooding on the Cache River proper, contributes to the flooding of Craighead County roads and US Highway 230, floods Plaintiffs' properties, and eliminates the Slough's entire purpose as flood relief.

91. The Lawrence County Floodplain Regulations were adopted by the very same County Judge (Latham) that unlawfully constructed the County Road 717 bridge. *See Ex. 15.*

92. Former County Judge Latham currently serves on the Quorum Court of Lawrence County.

93. Plaintiffs have made their problems known to Lawrence County for over a decade only to be repeatedly ignored.

94. Lawrence County has had ample notice of this public nuisance, having been informed by Plaintiffs and other Craighead County residents of the bridge's problems ever since it was originally constructed.

95. Plaintiffs have experienced the adverse impacts of flooding as a direct result of Lawrence County's failure to adhere to its floodplain regulations from 2011 to the current date and expect the adverse effects to worsen.

96. Arkansas Code Annotated §14-14-1102(b) provides that a county judge must exercise his power over bridges "pursuant to law," which former Lawrence County Latham and current Lawrence County Judge Thomison have failed to do.

97. Per Lawrence County's own regulations and Lawrence County's CWA Section 404 permit, the bridge has not been made or maintained according to law and as such is a per se public nuisance.

98. Some Lawrence County residents have requested the County not maintain a proper bridge because doing so might have allowed floodwaters to reach their lands on the lower portion of the Slough, which is not subject to the extensive flooding on the Cache River's eastern bank near Bono, Arkansas caused by the bridge.

99. Lawrence County has acquiesced to those constituents to avoid constructing a properly-designed bridge across the Slough at County Road 717.

100. Lawrence County has willfully ignored Plaintiffs' flooding problems and has acted with reckless disregard to the damage it continues to cause Plaintiffs and others.

101. Plaintiffs are threatened with irreparable harm that far outweighs the cost of constructing a proper bridge; Plaintiffs are likely to succeed on the merits; and it is in the public's interest to both have a properly functioning Slough—since the federal government designed and constructed the Slough—and to have a county fix a bridge that is knowingly causing flooding on neighboring lands and roads.

102. Public resources have already been wasted by Lawrence County's refusal to fix its bridge because the Slough cannot operate as designed and there is an on-going threat to public safety from increased flooding on the Cache River proper.

103. Plaintiffs request that the Court enjoin Lawrence County to remove the bridge and, and to allow the free flow of floodwaters and debris through the Slough unimpeded, pursuant to Arkansas Code Annotated § 14-268-105.

COUNT 3 – Declaratory Judgment (Ark. Code Ann. § 18-15-703)

104. All paragraphs in this Complaint are incorporated here by reference as if fully set forth in Count 3.

105. This cause of action is asserted alternatively to all other causes of action stated herein.

106. Arkansas Code Annotated § 18-15-703 provides that “All dams, stoppages, or obstructions not made according to law shall be deemed to be public nuisances and shall be dealt with accordingly.”

107. The bridge has been, and currently is, operating as a dam, stoppage, and obstruction.

108. As explained above, Lawrence County officials failed to construct and maintain the bridge according to federal law, state law, and its own regulations.

109. Plaintiffs request the Court declare the bridge a public nuisance under Arkansas Code Annotated §18-15-7023, pursuant to the Arkansas Declaratory Judgment Act at Arkansas Code Annotated §16-111-101 *et seq* and the federal Declaratory Judgment Act at 28 U.S.C. § 2201 *et seq*.

110. Plaintiffs request that the Court enjoin Lawrence County to remove the bridge and, and to allow the free flow of floodwaters and debris through the Slough unimpeded, pursuant to Arkansas Code Annotated §18-15-703.

111. Plaintiffs request the Court award them their costs in pursuit of this declaratory judgment and injunction, pursuant to Arkansas Code Annotated §16-111-110 and 28 U.S.C. § 2202, as well as any other relief to which they are entitled under 28 U.S.C. § 2202

COUNT 4 – Inverse Condemnation

112. All paragraphs in this Complaint are incorporated here by reference as if fully set forth in Count 4.

113. This cause of action is asserted alternatively to all other causes of action stated herein.

114. Article 2, § 22 of the Arkansas Constitution states that “private property shall not be taken, appropriated, or damaged for public use, without just compensation therefore.”

115. Likewise, the Fifth Amendment of the United States Constitution requires just compensation for private property taken by the government for public use.

116. Lawrence County constructed, modified, and maintained its bridge on County Road 717 across the Slough with public funds for the benefit of the public within its jurisdiction.

117. Lawrence County’s bridge and actions have caused extensive floodwaters to enter upon the farm land of Plaintiffs and destroy crops annually for more than fifteen years.

118. As Plaintiffs' land is normally suited to farming, Lawrence County's actions have caused Plaintiffs' property values to diminish over the same period of time because their properties can no longer be reliably marketed for that purpose.

119. Plaintiffs informed Lawrence County in 2001, 2003, 2009, 2015, and 2016 of the bridge's impact that has resulted, and continue to result, in nuisance floodwaters entering upon their land.

120. By knowingly sending floodwaters onto another's property, Lawrence County has committed a taking of Plaintiffs' properties.

121. Lawrence County has made no attempt to restore the Slough to the purpose for which it was originally created or alleviate the problems caused by its bridge.

122. Lawrence County has refused to acknowledge it has caused the flooding and has never offered to tender any compensation for Plaintiffs' property.

123. Lawrence County has never initiated a condemnation proceeding against Plaintiffs' property.

124. As such, Plaintiffs have been deprived of their rights to just compensation under the Arkansas and federal constitutions for property taken for public use.

125. Flooding upon Plaintiffs' property caused by Lawrence County's actions constitute takings for which just compensation must be paid by Lawrence County.

126. Plaintiffs seek just compensation in damages for the property taken from them by Lawrence County from 2011 until the current day under Arkansas Code Annotated § 18-15-410, the Arkansas Constitution, and the United States Constitution, including but not limited to all (i) temporary but regularly occurring physical invasions caused by Lawrence County action or authority, (ii) lost or destroyed crops resulting from physical invasions caused by Lawrence

County action or authority, and (iii) the diminution of value of the Plaintiffs' properties caused by Lawrence County action or authority.

COUNT 5 – Violation of 42 U.S.C. § 1983

127. All paragraphs in this Complaint are incorporated here by reference as if fully set forth in Count 5.

128. This cause of action is asserted alternatively to all other causes of action stated herein.

129. A government actor stands in violation of 42 U.S.C. § 1983 if, under color of federal, state, or local law he or she deprives a citizen of a privilege, right, or immunity enjoyed under the United States Constitution.

130. Under Arkansas Code Annotated § 14-14-1101 and -1102, Arkansas county judges are charged to maintain and construct county roads and bridges according to law.

131. Defendant Thomison, the current County Judge for Lawrence County, has acted under color of local law by refusing to maintain the current bridge's culverts or allow the natural flow of waters and debris to continue along the Slough unimpeded.

132. Previous County Judge Latham likewise acted under color of state law by refusing to lawfully construct a proper bridge, maintain the current bridge's culverts, or allow the natural flow of waters and debris to continue along the Slough unimpeded.

133. Because of the County's failure to properly construct or maintain its bridge, Plaintiffs' lands flood on a regular basis, causing Plaintiffs injuries in crop damage and a decrease in property values.

134. As such, Plaintiffs have been deprived of their private property and due process rights guaranteed by the Fifth and Fourteenth Amendments of the United States Constitution.

135. Moreover, Lawrence County has preferred its own citizens over Plaintiffs, who reside in Craighead County, by pushing off floodwaters back into the Cache River proper through the unlawful construction of an improperly-designed bridge and refusing to modify or maintain the bridge.

136. Lawrence County's outright refusal to address the problems caused by the bridge has been motivated by a desire to prefer its taxpayers over the citizens of neighboring counties.

137. Lawrence County's actions to further the interest of their own citizens have come at the direct expense of Plaintiffs.

138. Because Plaintiffs are not residents of Lawrence County, they cannot vote in Lawrence County elections or otherwise influence decision-making at the county level.

139. Lawrence County has deprived Plaintiffs of the equal protection of the law, as guaranteed by the Fourteenth Amendment of the United States Constitution.

140. Plaintiffs request damages for Plaintiffs' lost crops and property values that have been destroyed by the actions of Lawrence County; however, damages for previous violations of their federal rights will not fully redress the injuries that continue to occur to Plaintiffs.

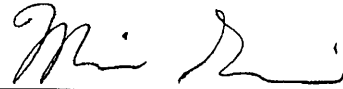
141. As such, Plaintiffs request that the Court enjoin Lawrence County to remove the bridge and to allow the free flow of floodwaters and debris through the Slough unimpeded.

142. Plaintiffs seek their attorney fees, costs, and any necessary expert fees pursuant to 42 U.S.C. § 1988.

143. Plaintiffs demand a jury trial.

THEREFORE, Plaintiffs request that this Court award them judgment against Defendant in the form of injunctive relief, actual damages, and consequential damages, together with all other fees, costs, and expenses to which they may be lawfully entitled, including pre- and post-judgment interest, and other just and proper relief to which they may be entitled.

Respectfully submitted,



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