

**KAY CO. GRAND JURY  
SUBMISSION OF QUESTION**

I, Daniel Amos, formally request the Kay Co. Grand Jury to consider the following question for review.

**Did the City of Blackwell fail to act in there fiduciary duty to maintain the Braman Dam, and has it caused harm to property owners?**

FEMA offered City of Blackwell money to fix the dam, but by the City of Blackwell refused money because they wanted to remove the dam. My property is in eminent parole. I estimate I will lose my entire property with in two years. I currently have about 17 feet of dirt left, and then my house will be lost to the river.

Submitted this day Dec 5, 2008.

Daniel Amos  
Requesting Party

2912 Meadow Wood Ln

907-715-7100

907-727-4447

R.L.1910, § 4251.

§50-3. Private nuisance.

Every nuisance not included in the definition of the last section is private.

R.L. 1910, § 4252.

§50-4. Statute authority.

Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

R.L.1910, § 4253.

§50-5. Persons liable.

Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of such property, created by a former owner, is liable therefor in the same manner as the one who first created it.

R.L.1910, § 4254.

§50-6. Abatement does not preclude damages.

The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.

R.L.1910, § 4255.

§50-7. Time does not legalize.

No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right.

R.L.1910, § 4256.

§50-8. Remedies against public nuisance.

The remedies against a public nuisance are:

1. Indictment or information, or;
2. A civil action, or;
3. Abatement;

R.L.1910, § 4257.

§50-9. Indictment or information.

The remedy by indictment or information is regulated by the law on crimes and punishment and criminal procedure.

R.L.1910, § 4258.

§50-10. Civil action.

A private person may maintain an action for a public nuisance if it is specially injurious to himself, but not otherwise.

R.L.1910, § 4259.

§50-11. Abatement by officer.

A public nuisance may be abated by any public body or officer authorized thereto by law.

R.L.1910, § 4260.

§50-12. Abatement by person injured.

Any person may abate a public nuisance which is specially injurious to him, by removing or, if necessary, destroying the thing which constitutes the same, without committing a breach of the peace or doing unnecessary injury.

R.L.1910, § 4261.

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**daniel amos**

**From:** Morris, Ken [WKMORRIS@owrb.ok.gov]  
**Sent:** Tuesday, April 01, 2008 7:52 AM  
**To:** 'amosdg@gmail.com'  
**Cc:** Maher, Walid  
**Subject:** Your question on NAI

April 1, 2008

Dear Mr. Amos,

*Ken Morris Chief Floodplain Manager  
with Okla Water Resource Board*

Thank you for your question. I will try to answer your question the best I can. First it is very upsetting when another property owner does something that causes damage to one's property as with your situation. Unfortunately, we have no jurisdiction to regulate floodplain management in Kay County Unincorporated Areas. Dennis Bonewell, the Kay County Floodplain Administrator, could possibly provide some assistance. As I discussed with Walid Maher, this old concrete structure in the Chicaskia River is a Public Nuisance, State Statute Title 50. It appears to me that this structure is causing damage to your property and is a public nuisance. With that thought, why couldn't the Kay County District Attorney direct the person or entity that build this concrete structure to remove it. That is the direction I recommend. Also, Mr. Maher indicated he plans to write a letter to the City of Blackwell and direct them to remove this structure.

In summary, floodplain management is a program that is administered at the local level which in this case is the Kay County Floodplain Management Program. It is up to each local program to implement the No Adverse Impact approach to floodplain management. We at OWRB encourage local governments to take this approach.

If you have any further questions please give me a call.

Thank you,

Ken Morris, CFM  
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*our Map of Jurisdiction*

*Role of Mandarins*

*Local Regulators*

*Local Lawyers*

*Info State Lawyer - Bob Kellogg - Consultant*

*Attorney that wants to work. It's a... for themselves*

10/12/07



