

Uresti urges county to sue over leaking storage tanks

By Gilbert Garcia

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Bexar County is considering filing suit against businesses with leaking underground storage tanks, and Sen. Carlos Uresti might get a piece of the action.

The issue has been percolating since Feb. 29, when local attorney Justin Hill presented the county's Public Works Department with a list of 304 Leaking Petroleum Storage Tank (LPST) sites in Bexar County. The list included 40 potential defendants, including business titans such as Chevron Products, Diamond Shamrock and Exxon Co. USA.

Hill has partnered in recent years with Houston law firms who represented Harris County on underground-storage-tank litigation, and he saw the potential for Bexar County to take similar action.

"The state has quit enforcing some environmental regulations, and so you've had counties, which have the right under state law to bring these on their own, stepping up and filing actions for enforcement of environmental actions," Hill said.

In making his pitch to the county, Hill sought Uresti's legal services, largely because of the senator's governmental expertise and connections. In recent weeks, Uresti has been wooing commissioners on a one-on-one basis, according to sources. Hill said the Bexar County District Attorney's Office has also "been very involved in all the discussions."

Uresti did not respond to an interview request for this column.

One commissioner who isn't sold on the litigation idea is Kevin Wolff, the lone Republican on the Commissioners Court.

"I see this as nothing more than ambulance chasing at a different level," Wolff said. "It's not fixing anything. It's just a way to try and generate fees for a (law) firm, cloaked in 'revenue for the county' and 'protecting the environment.'"

Wolff sees the issue as one that is already monitored by the state and belongs under the purview of Texas Commission on Environmental Quality. He also objects to the concept of simply collecting fines, without actually forcing the violators to fix their environmental problems.

By Texas law, any fine resulting from a county lawsuit against an LPST site would be split 50-50 between the state and the county. The law firm hired to handle the litigation would receive a contingency fee.

A March 5 memo from the county's Public Works Department noted that TCEQ lists a total of 1,434 LPST sites in Bexar County dating back to the 1980s, and questioned why Hill only considered 304 of those sites.

Hill told me that he focused special attention on those 304 sites, because all of them "have self-admitted that they were polluting some water supply, at least. All the way to some of those admitting that they were polluting into the Edwards Aquifer."

In response to Hill's list, the county's Environmental Services found that only 10 of the 304 listed LPST sites are considered "active/open cases" with the remaining 294 closed. But Hill said it's unclear how wide the county's focus will be if commissioners decide to pursue legal action.

Look for the LPST issue to come before the Commissioners Court soon, and the commissioners will surely explore two of the big questions that emerged from the Public Works memo:

1. “Would the county be responsible for defendant’s attorney’s fees if we are unsuccessful?”
2. “Would there be an expectation that the county would pursue all future LPST sites?”

Meanwhile, Carlos Uresti continues to work his persuasive magic at the Paul Elizondo Tower.

Jonas takes the wheel

Nearly three weeks ago, this column looked at the fact that disgraced Crystal City manager James Jonas had landed public-defender work in Bexar County, despite the fact that he was recently busted in an FBI public-corruption sting that also snared four of that city’s current or former council members.

Jonas — who clearly needed the income after Crystal City froze his \$216,000 annual salary — successfully applied for a place on “the wheel,” a rotating system by which public defenders are chosen. Since the column ran, county court judges have met to consider whether Jonas should be allowed to continue handling cases for indigent misdemeanor defendants.

“Mr. Jonas showed up and spoke with the judges and he does remain on our wheel,” said Dianne Garcia-Marquez, county court administrator.

The county’s public-defense application form does not ask if the applicant is under indictment and merely requires the attorney to be in good standing with the State Bar of Texas.

At least for now, Jonas qualifies.

ggarcia@express-news.net

Twitter: @gilgamesh470