File
AEC

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AC 512/478-9506

December 23, 1970

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Re: No. 178,126, Russell Fish, et al., v. Tom W. Bradfield, et al.

Dear Plaintiffs:

District Judge Herman Jones entered judgment in the referenced case on December 22, 1970, holding that the public has no right to use the bed and banks of Barton Creek for recreational purposes.

While I have some reservations concerning the correctness of the court's ruling on the navigable stream issue, it

seems to me that the evidence fairly shows that Barton Creek is a non-perennial stream in that part of the Hill Survey included in the suit. This survey covers more than half the area involved in the suit.

I have recommended that no appeal be taken from the court's action. Attorney General Crawford Martin concurs with this recommendation.

It seems to me that we have accomplished what we started out to do. The City Council is now concerned about the welfare of Barton Creek and is in the process of acquiring the land upstream from the swimming pool necessary to protect this beautiful area for future generations of Texas.

I compliment each of you for lending your name and support to this cause. I personally appreciate your attendance and attention to the trial of the case.

Merry Christmas and a Happy New Year to each of you and your families.

Very truly yours,

Frank R. Booth

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FRB/cp

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