



**RQ-0512-KP**

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Investigator

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Office of the Attorney General  
Attention Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

We are requesting an opinion on the following questions currently pending in Hardin County...

Can an elected County Commissioner use county equipment and county labor to provide maintenance to a self-made outfall ditch that lies solely on private property (if that outfall ditch provides a public purpose of providing drainage to multiple subdivisions)?

Can the elected County Commissioner do so if given permission by the private property owners?

Within the County Commissioner's precinct, there is a self-made outfall ditch that provides drainage to certain nearby subdivisions. The outfall ditch runs through multiple private property owner's properties. To our knowledge, we do not have any easement or right of way for the outfall ditch. This outfall ditch has previously been maintained by other Commissioners. Based on the review of 12.7 of David Brooks Texas Practice Guide, as well as opinions JC-0329, GA0085, and LO 89-005, it appears that there is precedent set for County Commissioners to work on private property for a public purpose.

Respectfully Submitted,

Matthew E. Minick  
County Attorney  
Hardin County, Texas