

IN THE CIRCUIT COURT OF MILLER COUNTY, ARKANSAS  
\_\_\_\_\_ DIVISION

JOHN O. NIX TRUST

PLAINTIFF

v.

No.: \_\_\_\_\_

BRADLEY ENTERPRISE & FARM, LLC;  
and DRAINAGE DISTRICTS NO. 4 & 5  
of Miller County, Arkansas

DEFENDANTS

**COMPLAINT**

COMES NOW, the Plaintiff, the John O. Nix Trust, and for its Complaint against the Defendants, Bradley Enterprise & Farms, LLC and Drainage Districts No. 4 and 5 of Miller County, Arkansas, states as follows:

PARTIES, JURISDICTION AND VENUE

1. The Plaintiff, the John O. Nix Trust (hereinafter "Nix") is the owner of agricultural property in Miller County, Arkansas.
2. Defendant Bradley Enterprise & Farm, LLC (hereinafter referred to as "Bradley") is a Texas limited liability company registered to do business in the state of Arkansas that owns agricultural and recreational property in Miller County Arkansas and whose registered agent according to the records of the Arkansas Secretary of State is Karlton H. Kemp, Jr., whose address is 300 Olive Street, Suite 518, Texarkana, AR. 71854.
3. Defendant Drainage Districts No. 4 &5 of Miller County, Arkansas (hereinafter referred to as the "District") is a drainage district formed and existing under Arkansas law that

may claim or have an interest in the ditches, levees and Dam at issue in the pending case and whose President is Bill Boyce, residing at 13194 Highway 296, Texarkana, AR 71854.

4. This Court has jurisdiction over the subject matter and parties to this Complaint.

5. As this case involves injury to property located in Miller County, venue is appropriate in this Court pursuant to ARK. CODE ANN. § 16-60-101.

#### FACTUAL BACKGROUND

6. Nix is the owner of agricultural property in the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section 8, Township 15 South, Range 26 West in Miller County, Arkansas (hereinafter the "Nix Property").

7. Bradley is the owner of agricultural and/or recreational property in Section 7, Township 15 South, Range 26 West in Miller County, Arkansas (hereinafter the "Bradley Property") that is adjacent to the Nix Property.

8. A drainage ditch flowing from the North to the South lies approximately on the boundary separating the Nix Property from the Bradley Property.

9. An aerial photo depicting the Nix Property, the Bradley Property and the drainage ditch is attached hereto as Exhibit "1" and incorporated herein by reference.

10. The drainage ditch was originally installed by the District and is subject to its jurisdiction and continuing oversight.

11. Prior owners of the Bradley Property installed a dam and weir across the drainage ditch near the Southwest corner of the Nix Property (hereinafter the "Dam") so that water could be impounded and used to maintain the level of the reservoir on the Bradley Property.

12. After acquiring the Bradley Property in 2013, Bradley continued to maintain the Dam and utilize it for impounding water for its benefit.

13. Bradley did not adequately maintain the Dam and, as a result, the Dam began to leak and discharge water on to the Nix Property.
14. Bradley's discharge of water on to the Nix Property was without permission from Nix.
15. Bradley's discharge of water on to the Nix Property caused erosion and damage to the Nix Property.
16. During or after March 2019, Bradley or persons acting on its behalf and at its direction attempted to repair the leak in the Dam.
17. An aerial photo depicting the condition of the Dam in March 2019 is attached hereto as Exhibit "2" and incorporated herein by reference.
18. The attempts made by or on behalf of Bradley to repair the Dam were not effective.
19. Because repairs to the Dam were not effective, Bradley has continued to discharge water on to the Nix Property without permission.
20. Further, because repairs to the Dam were not effective, Bradley has continued to discharge of water on to the Nix Property that caused (and continues to cause) erosion and damage to the Nix Property.
21. An aerial photo depicting the condition of the Dam and the damage to the Nix Property as of January 2022 is attached hereto as Exhibit "3" and incorporated herein by reference.
22. In order to allow Nix and Bradley to discuss a resolution of the issues with the Dam and the damage to the Nix Property, Nix and Bradley entered into tolling agreements extending the deadline for commencing any litigation through November 17, 2023.

**23.** Ultimately, Nix and Bradley were unable to reach a mutually acceptable resolution to address the issues with the Dam and the damage to the Nix Property.

**24.** Pending a trial of this matter, leakage from the Dam will continue to damage the Nix Property.

RELIEF REQUESTED

**25.** Bradley owed Nix duties to properly maintain and repair the Dam and to not inappropriately discharge water on to the Nix Property.

**26.** Bradley breached the duties owed to Nix with regard to maintenance and repair of the Dam.

**27.** Bradley breached the duty owed to Nix by inappropriately discharging water on to the Nix Property.

**28.** Due to the breaches by Bradley, the Nix Property has been and continues to be damaged through the erosion caused by the discharge of water on to the Nix Property.

**29.** To address and correct the issues with the Dam and the damage to the Nix Property, Nix requests the following:

- (a)* An order allowing Nix to remove the Dam and restore the drainage ditch to its original condition;
- (b)* An order allowing Nix to correct the erosion and restore its property to its prior Condition; and
- (c)* An award of money damages equal to the amount it is required to expend in order to complete the work specified herein and ordered by the Court, with the amount of such damages being in excess of that required to establish federal diversity jurisdiction and with the exact amount of such damages to be determined at the trial of this matter.

30. Nix requests a trial by jury.

**WHEREFORE**, the Plaintiff, the John O. Nix Trust, prays that this Court: (i) find that Bradley Enterprise & Farm, LLC negligently maintained and repaired the Dam and caused water to be inappropriately discharged on to its property; (ii) find that it has been damaged by the negligent maintenance and repair of the Dam and the discharge of water; (iii) order that Nix be granted the right to remove the Dam and restore the drainage ditch to its original condition; (iv) order that Nix be allowed to correct the erosion and restore its property to its prior condition; (v) award it the money damages, as proven at trial for the costs and expenses associated with removing the Dame, restoring the Ditch and correct the property damage caused by the erosion; (vi) award it the costs and expenses, including attorneys' fees, incurred in pursuing this matter; and (vii) award it all other relief which this Court deems just and equitable.

Respectfully submitted,

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# Untitled Map

Write a description for your map.

NORTH

BRADLEY

COOK

## Legend



33 27 22 n 93 49 14 w



400 ft

**March 2019**

Write a description for your map.

**Legend**



33 27 22 n 93 49 14 w

Google Earth

**EXHIBIT "2"**


100 ft



**January 2022**

Write a description for your map.

**Legend**

 33 27 22 n 93 49 14 w

Google Earth

**EXHIBIT "3"**

100 ft

