

BILL ANALYSIS

Senate Research Center
78R3166 MDR-F

S.C.R. 11
By: Zaffirini
Finance
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As Filed

DIGEST

Snowmass, Inc., and Elizabeth S. and Samuel H. Vester, Jr., allege that they are the owners of mineral interests beneath a tract of land in Zapata County, Texas, containing approximately 640 acres, known as the Northwest 1/2 of Section 313, T.G. Bagley Survey, Certificate 1007. The property was patented by the State of Texas on March 13, 1945, to Lyle J. Perkins, under Patent No. 128, Volume 98-A, in which the state reserved as a free royalty, a one-eighth royalty on the production of sulfur and other mineral substances from which sulfur may be derived or produced, and a one-sixteenth royalty on the production of all other minerals beneath the property. Since the issuance of the patent, various landowners, mineral owners, and oil and gas companies have relied in good faith on the free royalty mineral reservation.

Notwithstanding the free royalty mineral reservation as stated in the patent, the state now claims that the property is mineral classified and that the state is the owner of 100 percent of the minerals because of the judgment of the court in Cause No. 54,731, The State of Texas vs. Lyle J. Perkins, et al., 98th District Court of Travis County, Texas, decided on December 20, 1934. The court awarded Lyle J. Perkins a preference right to purchase the property under the Sales Act of 1931, subject to a reservation on behalf of the permanent school fund of the State of Texas of title to all of the minerals beneath the property in favor of the permanent school fund of the State of Texas, and ordered that the property, on the sale to Lyle J. Perkins in accordance with the preference right, be subject to lease for oil and gas developments by the surface owner under the terms of the Relinquishment Act of 1919. The free royalty mineral reservation as stated in the patent is the correct interest that was retained by the state under the plain letter of the patent and under principles of both law and equity. The state's position as to the minerals beneath the property would render claimants' and other persons' interests in the minerals nonexistent and worthless.

The conflicting positions as to the ownership of the minerals beneath the property prevent claimants from selling or leasing minerals to third parties and prevent development of production of oil and gas underneath the property. The title of the minerals beneath the property can only be resolved by court decree determining the rights of persons claiming interest in the property and the minerals lying beneath the property, as patented. Snowmass, Inc., and Elizabeth S. and Samuel H. Vester, Jr., are entitled to relief as a result of their claims, including a determination or declaration of the status and ownership of the minerals beneath the property, or a declaration of the respective rights of the parties in the property, as patented.

PURPOSE

As proposed, SCR 11 submits the following resolutions:

Grants Snowmass, Inc., and Elizabeth S. and Samuel H. Vester, Jr., permission to sue the State of Texas and the General Land Office subject to Chapter 107, Civil Practice and Remedies Code. Requires the suit authorized by this resolution to be brought in either Travis County or Zapata County. Provides that the attorney general and the commissioner of the General Land Office be served process as provided by Section 107.002(a)(3), Civil Practice and Remedies Code.