

By: Zaffirini

S.C.R. No. 11

CONCURRENT RESOLUTION

1 WHEREAS, Snowmass, Inc., and Elizabeth S. and Samuel H.
2 Vester, Jr., allege that:

3 (1) they are the owners of mineral interests beneath a
4 tract of land in Zapata County, Texas, containing approximately
5 640 acres, known as the Northwest 1/2 of Section 313, T.G. Bagley
6 Survey, Certificate 1007;

7 (2) the property was patented by the State of Texas on
8 March 13, 1945 to Lyle J. Perkins, under Patent No. 128, Volume
9 98-A, in which the state reserved as a free royalty, a one-eighth
10 royalty on the production of sulfur and other mineral substances
11 from which sulfur may be derived or produced, and a one-sixteenth
12 royalty on the production of all other minerals beneath the
13 property;

14 (3) since the issuance of the patent, various
15 landowners, mineral owners, and oil and gas companies have relied
16 in good faith on the free royalty mineral reservation;

17 (4) notwithstanding the free royalty mineral
18 reservation as stated in the patent, the state now claims that the
19 property is mineral classified and that the state is the owner of
20 100 percent of the minerals because of the judgment of the court in
21 Cause No. 54,731, The State of Texas vs. Lyle J. Perkins, et al.,
22 98th District Court of Travis County, Texas, decided on December
23 20, 1934;

24 (5) that court awarded Lyle J. Perkins a preference

1 right to purchase the property under the Sales Act of 1931, subject
2 to a reservation on behalf of the permanent school fund of the State
3 of Texas of title to all of the minerals beneath the property in
4 favor of the permanent school fund of the State of Texas, and
5 ordered that the property, on the sale to Lyle J. Perkins in
6 accordance with the preference right, be subject to lease for oil
7 and gas developments by the surface owner under the terms of the
8 Relinquishment Act of 1919;

9 (6) the free royalty mineral reservation as stated in
10 the patent is the correct interest that was retained by the state
11 under the plain letter of the patent and under principles of both
12 law and equity;

13 (7) the state's position as to the minerals beneath the
14 property would render claimants' and other persons' interests in
15 the minerals nonexistent and worthless;

16 (8) the conflicting positions as to the ownership of
17 the minerals beneath the property prevent claimants from selling or
18 leasing minerals to third parties and prevent development of
19 production of oil and gas underneath the property;

20 (9) the title of the minerals beneath the property can
21 only be resolved by court decree determining the rights of persons
22 claiming interest in the property and the minerals lying beneath
23 the property, as patented; and

24 (10) Snowmass, Inc., and Elizabeth S. and Samuel H.
25 Vester, Jr., are entitled to relief as a result of their claims,
26 including a determination or declaration of the status and
27 ownership of the minerals beneath the property, or a declaration of

1 the respective rights of the parties in the property, as patented;
2 now, therefore, be it

3 RESOLVED by the Legislature of the State of Texas, That
4 Snowmass, Inc., and Elizabeth S. and Samuel H. Vester, Jr., are
5 granted permission to sue the State of Texas and the General Land
6 Office subject to Chapter 107, Civil Practice and Remedies Code;
7 and, be it further

8 RESOLVED, That the suit authorized by this resolution shall
9 be brought in either Travis County or Zapata County; and, be it
10 further

11 RESOLVED, That the attorney general and the commissioner of
12 the General Land Office be served process as provided by Section
13 107.002(a)(3), Civil Practice and Remedies Code.