

By: Armbrister

S.C.R. No. 22

CONCURRENT RESOLUTION

1 WHEREAS, Edmund and Ruben Kappler allege that:

2 (1) they are the owners of Pietsch Island and the  
3 surrounding ox-bow lake in Fayette County;

4 (2) in 1928, the state issued a patent covering the  
5 ox-bow lake, which was believed to be under the ownership of the  
6 state, to John Steffan, reserving the minerals under Chapter 79,  
7 Acts of the 36th Legislature, 2nd Called Session, 1919, with the  
8 landowners acting as its agent for leasing purposes and receiving  
9 one-half the bonus, rentals, and royalties;

10 (3) the ox-bow lake is now formally known as the John  
11 Steffan Survey, Abstract No. 357, Fayette County, Texas;

12 (4) in 1981, a vertical well (the Triangle K No. 1) was  
13 drilled on Pietsch Island that produced oil and gas for several  
14 years;

15 (5) in 2002, an interest in the well and the leases  
16 covering Pietsch Island were assigned to Anadarko E & P Company,  
17 L.P. (formerly RME Petroleum Company);

18 (6) Anadarko E & P Company, L.P., made a decision to  
19 re-enter the Triangle K Well as a horizontal well on a unit that  
20 includes Pietsch Island, the ox-bow lake, and a part of the active  
21 bed of the Colorado River, and it is now producing significant  
22 amounts of oil and gas;

23 (7) around the time of this decision, Anadarko E & P  
24 Company, L.P., requested a title opinion of a law firm as to the

1 status of the 1928 patent of the John Steffan Survey;

2 (8) in the title examiner's opinion, the patent issued  
3 by the state is invalid due to the state's lack of title in the  
4 ox-bow lake at the time of conveyance, because in instances such as  
5 this where there was a sudden breakthrough of a public stream into a  
6 new channel, title to the bed of the abandoned channel passes from  
7 the state to the adjoining landowners;

8 (9) based on this opinion, Anadarko E & P Company,  
9 L.P., has placed in suspense payment of one-half of the royalties  
10 from the re-entry well that are attributable to the John Steffan  
11 Survey;

12 (10) the state patent covering the John Steffan Survey  
13 is invalid and that the Kapplers own the land constituting the John  
14 Steffan Survey and the minerals located thereunder in fee simple;  
15 and

16 (11) the Kapplers are entitled to declaratory relief  
17 in accordance with Chapter 37, Civil Practice and Remedies Code,  
18 and Anadarko E & P Company, L.P., is entitled to interplead the  
19 royalty payments affected by the title issue into the registry of  
20 the court pursuant to Rule 43, Texas Rules of Civil Procedure; now,  
21 therefore, be it

22 RESOLVED by the Legislature of the State of Texas, That  
23 Edmund and Ruben Kappler are granted permission to sue the State of  
24 Texas and the General Land Office subject to Chapter 107, Civil  
25 Practice and Remedies Code; and, be it further

26 RESOLVED, That the relief obtained in the suit authorized by  
27 this resolution is limited to the relief authorized under Chapter

1 37, Civil Practice and Remedies Code; and, be it further

2       RESOLVED, That, in the suit authorized by this resolution,  
3 Anadarko E & P Company, L.P., may interplead royalty payments  
4 affected by the title issue that is the subject of the suit in  
5 accordance with Rule 43, Texas Rules of Civil Procedure; and, be it  
6 further

7       RESOLVED, That the commissioner of the General Land Office be  
8 served process as provided by Section 107.002(a)(3), Civil Practice  
9 and Remedies Code.