

1-1 By: Armbrister S.C.R. No. 22
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 28, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 28, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.C.R. No. 22 By: West

1-8 SENATE CONCURRENT RESOLUTION

1-9 WHEREAS, Edmund and Ruben Kappler allege that:

1-10 (1) they are the owners of Pietsch Island and the
1-11 surrounding ox-bow lake in Fayette County;

1-12 (2) in 1928, the state issued a patent covering the
1-13 ox-bow lake, which was believed to be under the ownership of the
1-14 state, to John Steffan, reserving the minerals under Chapter 79,
1-15 Acts of the 36th Legislature, 2nd Called Session, 1919, with the
1-16 landowners acting as its agent for leasing purposes and receiving
1-17 one-half the bonus, rentals, and royalties;

1-18 (3) the ox-bow lake is now formally known as the John
1-19 Steffan Survey, Abstract No. 357, Fayette County, Texas;

1-20 (4) in 1981, a vertical well (the Triangle K No. 1) was
1-21 drilled on Pietsch Island that produced oil and gas for several
1-22 years;

1-23 (5) in 2002, an interest in the well and the leases
1-24 covering Pietsch Island were assigned to Anadarko E & P Company,
1-25 L.P. (formerly RME Petroleum Company);

1-26 (6) Anadarko E & P Company, L.P., made a decision to
1-27 re-enter the Triangle K Well as a horizontal well on a unit that
1-28 includes Pietsch Island, the ox-bow lake, and a part of the active
1-29 bed of the Colorado River, and it is now producing significant
1-30 amounts of oil and gas;

1-31 (7) around the time of this decision, Anadarko E & P
1-32 Company, L.P., requested a title opinion of a law firm as to the
1-33 status of the 1928 patent of the John Steffan Survey;

1-34 (8) in the title examiner's opinion, the patent issued
1-35 by the state is invalid due to the state's lack of title in the
1-36 ox-bow lake at the time of conveyance, because in instances such as
1-37 this where there was a sudden breakthrough of a public stream into a
1-38 new channel, title to the bed of the abandoned channel passes from
1-39 the state to the adjoining landowners;

1-40 (9) based on this opinion, Anadarko E & P Company,
1-41 L.P., has placed in suspense payment of one-half of the royalties
1-42 from the re-entry well that are attributable to the John Steffan
1-43 Survey;

1-44 (10) the state patent covering the John Steffan Survey
1-45 is invalid and that the Kapplers own the land constituting the John
1-46 Steffan Survey and the minerals located thereunder in fee simple;
1-47 and

1-48 (11) the Kapplers are entitled to declaratory relief
1-49 in accordance with Chapter 37, Civil Practice and Remedies Code,
1-50 and Anadarko E & P Company, L.P., is entitled to interplead the
1-51 royalty payments affected by the title issue into the registry of
1-52 the court pursuant to Rule 43, Texas Rules of Civil Procedure; now,
1-53 therefore, be it

1-54 RESOLVED by the Legislature of the State of Texas, That
1-55 Edmund and Ruben Kappler are granted permission to sue the State of
1-56 Texas and the General Land Office subject to Chapter 107, Civil
1-57 Practice and Remedies Code; and, be it further

1-58 RESOLVED, That the relief obtained in the suit authorized by
1-59 this resolution is limited to the relief authorized under Chapter
1-60 37, Civil Practice and Remedies Code, except awards under Section
1-61 37.009; and, be it further

1-62 RESOLVED, That, in the suit authorized by this resolution,
1-63 Anadarko E & P Company, L.P., may interplead royalty payments

2-1 affected by the title issue that is the subject of the suit in
2-2 accordance with Rule 43, Texas Rules of Civil Procedure; and, be it
2-3 further

2-4 RESOLVED, That the commissioner of the General Land Office be
2-5 served process as provided by Section 107.002(a)(3), Civil Practice
2-6 and Remedies Code.

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