

By: Seliger

S.C.R. No. 68

SENATE CONCURRENT RESOLUTION

WHEREAS, Jimmy Glen Riemer and other property owners along and adjacent to the Canadian River allege that:

(1) the patented field notes for the following surveys call for a common boundary with the Canadian River:

Sections 29, 30 and 31 in Block 47,
H.&T.C.R.R. Survey, Hutchinson County,
Texas

Sections 66, 67, 71, 72, 73, 74, 75, 76, 77,
78 and 79 in Block 46, H.&T.C.R.R. Survey,
Hutchinson County, Texas

Sections 75, 76, 77, 78, 79, 80, 81, 82, and
83 in Block 46, H.&T.C.R.R. Survey,
Hutchinson County, Texas

Sections 79 and 81 in Block 46, H.&T.C.R.R.
Survey, Hutchinson County, Texas, and
Sections 31, 32, 33, 37, 38, and 39 in Block
47, H.&T.C.R.R. Survey, Hutchinson County,
Texas

Section 26, Block 47, H&TC RR Co. Survey,
Hutchinson County, Texas, Abstract Number
A-689

Section 25, Block 47, H&TC RR Co. Survey,
Hutchinson County, Texas, Abstract Number

1 A-107

2 Section 24, Block 47, H&TC RR Co. Survey,
3 Hutchinson County, Texas, Abstract Number
4 A-833

5 Section 23, Block 47, H&TC RR Co. Survey,
6 Hutchinson County, Texas, Abstract Number
7 A-106

8 Section 22, Block 47, H&TC RR Co. Survey,
9 Hutchinson County, Texas, Abstract Number
10 A-637

11 (2) although the Texas Supreme Court in *Brainard v. Texas*,
12 12 S.W.3d 6 (Tex. 1999) decided that the surveying method employed
13 by the General Land Office of the State of Texas involved in that
14 case was flawed and not consistent with the gradient boundary
15 method which has been the law of the land since *Oklahoma v. Texas*,
16 260 U.S. 606, 43 S.Ct. 221, 67 L.Ed. 428 (1923), the General Land
17 Office itself and in concert with other Texas state agencies
18 continued to employ the methodology condemned in the *Brainard* case,
19 creating confusion and uncertainty as to the location of the
20 boundary line between those surveys and the Canadian River. As a
21 result, there is a dispute as to the ownership of surface and
22 minerals between the state and the riparian owners that can only be
23 resolved by judicial action to determine and establish the boundary
24 between the Canadian River and the riparian surveys under present
25 conditions in a court of competent jurisdiction; now, therefore, be
26 it

27 RESOLVED by the 80th Legislature of the State of Texas, that

1 the following are granted permission to sue the State of Texas and
2 the General Land Office subject to Chapter 107, Civil Practice and
3 Remedies Code, as added by Chapter 524, Acts of the 70th
4 Legislature, Regular Session, 1987, to determine and establish the
5 boundary line between the above described surveys and the Canadian
6 River:

7 Jimmy Glen Riemer;

8 Richard Coon, Jr.;

9 June Meetze Coon Trust;

10 Johnson Borger Ranch Partnership;

11 W.R. Edwards, Jr. d/b/a W.R. Edwards, Jr. Oil and Gas; and, be
12 it further

13 RESOLVED, That the Commissioner of the General Land Office be
14 served process as provided by Subdivision (3), Subsection (a),
15 Section 107.002, Civil Practice and Remedies Code, as added by
16 Chapter 524, Acts of the 70th Legislature, Regular Session, 1987;
17 and, be it further

18 RESOLVED, That any final judgment adjudicating the title
19 dispute in a suit brought concerning title to boundaries of the
20 Canadian River under this resolution shall be limited to settling
21 the title dispute and may not authorize an award of monetary
22 damages; and, be it further

23 RESOLVED, That the lawsuit herein authorized must be filed on
24 or before the first anniversary of the final adoption of this
25 resolution; and, be it further

26 RESOLVED, That any owner of property similarly situated along
27 the Canadian River is granted permission to intervene in the

lawsuit, if found by the court to be a proper party, either individually or as a representative of a class; and, be it further

RESOLVED, That any final judgment adjudicating the location of the boundaries of the Canadian River in a suit brought under this resolution shall be res judicata as to those boundaries for all purposes, subject to the rules of law applicable to future erosion or accretion.