

By: Nevarez

H.C.R. No. 79

HOUSE CONCURRENT RESOLUTION

1           WHEREAS, The State of Texas, on behalf of the Permanent  
2 School Fund, ("the PSF") acting by and through Jerry E. Patterson,  
3 Commissioner of the General Land Office and Chairman of the School  
4 Land Board alleges that:

5           (1) The PSF owns approximately 157 acres of mineral  
6 classified lands, identified as Survey 5 1/2 ("the PSF property")  
7 located in Pecos County, Texas, and exercises sole and exclusive  
8 management and control of the lands set aside and appropriated to or  
9 acquired by the PSF, which was created and is governed by Sections  
10 2, 4, 5, and 6 Article VII, Texas Constitution;

11           (2) the State of Texas, through the board of regents of  
12 The University of Texas System ("the board"), owns university  
13 blocks 23, 24, and 26 ("university lands") located in Pecos County,  
14 Texas, and exercises sole and exclusive management and control of  
15 the lands set aside and appropriated to or acquired by the permanent  
16 university fund, which was created and is governed by Sections 10,  
17 11, 15, and 18, Article VII, Texas Constitution;

18           (3) during the year 2008, the board began removing a  
19 fence located on or about the true boundary of the university lands  
20 and began constructing a new fence west of the true boundary of the  
21 university lands and staked a new fence line west of the true  
22 boundary of the university lands; and stated that the location of  
23 the new fence was based on a survey performed by Frank F. Friend,  
24 the field notes of which were filed in the General Land Office in

1 1939;

2 (4) the university lands were originally surveyed in  
3 1879 by R. M. Thomson, and Friend later resurveyed the university  
4 lands in 1936, purportedly under the authority of Section 66.41,  
5 Education Code, which called for lands to be resurveyed when it was  
6 impracticable to establish lines and corners as originally  
7 surveyed;

8 (5) the Friend survey placed the western boundary of  
9 the university lands west of the original R.M. Thomson line,  
10 established in 1879;

11 (6) the university lands in conflict are subject to  
12 lease for oil and gas exploration. Any attempt by the board to lease  
13 the tracts as described in the Friend resurvey could wrongfully  
14 include 157 acres of PSF minerals, creating problems not only for  
15 the Permanent School Fund, but any potential lessees as well; now,  
16 therefore, be it

17 RESOLVED by the Texas Legislature, which takes no position in  
18 this issue, that The State of Texas, on behalf of the Permanent  
19 School Fund, acting by and through Jerry E. Patterson, Commissioner  
20 of the General Land Office and Chairman of the School Land Board, is  
21 granted permission to sue the State of Texas, and the board of  
22 regents of The University of Texas System, subject to Chapter 107,  
23 Civil Practice and Remedies Code; and, be it further

24 RESOLVED, That the PSF may not seek recovery of monetary  
25 damages from the state, but may only seek a determination of the  
26 boundary of the PSF property and a determination of the PSF's rights  
27 through a court order that fixes and determines the true boundary

1 between the university lands and the PSF property; and be it further

2       RESOLVED, That the suit authorized by this resolution may be  
3 brought in Pecos or Travis County; and, be it further

4       RESOLVED, That the relief awarded in the suit authorized by  
5 this resolution is limited to the relief authorized under Chapter  
6 37, Civil Practice and Remedies Code, or Chapter 22, Property Code,  
7 or both; and, be it further

8       RESOLVED, That the secretary of the board of regents of The  
9 University of Texas System be served process as provided by Section  
10 107.002(a)(3), Civil Practice and Remedies Code.