

1 SENATE CONCURRENT RESOLUTION

2 WHEREAS, The State of Texas, on behalf of the permanent
3 school fund, acting by and through Jerry E. Patterson, commissioner
4 of the General Land Office and chairman of the School Land Board,
5 alleges that:

6 (1) the permanent school fund owns approximately 157
7 acres of mineral classified lands, identified as Survey 5 1/2 ("the
8 permanent school fund property") located in Pecos County, Texas,
9 and exercises sole and exclusive management and control of the
10 lands set aside and appropriated to or acquired by the permanent
11 school fund, which was created and is governed by Sections 2, 4, and
12 5, Article VII, Texas Constitution;

13 (2) the State of Texas, through the board of regents of
14 The University of Texas System ("the board"), owns university
15 blocks 23, 24, and 26 ("university lands") located in Pecos County,
16 Texas, and exercises sole and exclusive management and control of
17 the lands set aside and appropriated to or acquired by the permanent
18 university fund, which was created and is governed by Sections 10,
19 11, 15, and 18, Article VII, Texas Constitution;

20 (3) during the year 2008, the board began removing a
21 fence located on or about the true boundary of the university lands
22 and began constructing a new fence west of the true boundary of the
23 university lands, staked a new fence line west of the true boundary
24 of the university lands, and stated that the location of the new

1 fence was based on a survey performed by Frank F. Friend, the field
2 notes of which were filed in the General Land Office in 1939;

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

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

12 (6) the university lands in conflict are subject to
13 lease for oil and gas exploration, and any attempt by the board to
14 lease the tracts as described in the Friend resurvey could
15 wrongfully include 157 acres of permanent school fund minerals,
16 creating problems for the permanent school fund and any potential
17 lessees; now, therefore, be it

18 RESOLVED by the Legislature of the State of Texas, which
19 takes no position on this issue, That the State of Texas, on behalf
20 of the permanent school fund, acting by and through Jerry E.
21 Patterson, commissioner of the General Land Office and chairman of
22 the School Land Board, is granted permission to sue the State of
23 Texas and the board of regents of The University of Texas System
24 subject to Chapter 107, Civil Practice and Remedies Code; and, be it
25 further

26 RESOLVED, That the permanent school fund may not seek
27 recovery of monetary damages from the state, but may only seek a

1 determination of the boundary of the permanent school fund property
2 and a determination of the permanent school fund's rights through a
3 court order that fixes and determines the true boundary between the
4 university lands and the permanent school fund property; and, be it
5 further

6 RESOLVED, That the suit authorized by this resolution may be
7 brought in Travis County; and, be it further

8 RESOLVED, That the relief awarded in the suit authorized by
9 this resolution is limited to the relief authorized under Chapter
10 37, Civil Practice and Remedies Code; and, be it further

11 RESOLVED, That the secretary of the board of regents of The
12 University of Texas System be served process as provided by
13 Subdivision (3), Subsection (a), Section 107.002, Civil Practice
14 and Remedies Code.

President of the Senate

Speaker of the House

I hereby certify that S.C.R. No. 30 was adopted by the Senate on April 18, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.C.R. No. 30 was adopted by the House on May 17, 2013, by the following vote: Yeas 124, Nays 10, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor