

By: Uresti

S.C.R. No. 30

CONCURRENT RESOLUTION

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

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

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

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

1 notes of which were filed in the General Land Office in 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, and any attempt by the board to
13 lease the tracts as described in the Friend resurvey could
14 wrongfully include 157 acres of permanent school fund minerals,
15 creating problems for the permanent school fund and any potential
16 lessees; and

17 (7) the legislature takes no position on this issue;
18 now, therefore, be it

19 RESOLVED by the Legislature of the State of Texas, That the
20 State of Texas, on behalf of the permanent school fund, acting by
21 and through Jerry E. Patterson, Commissioner of the General Land
22 Office and Chairman of the School Land Board, is granted permission
23 to sue the State of Texas and the board of regents of The University
24 of Texas System subject to Chapter 107, Civil Practice and Remedies
25 Code; and, be it 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 Pecos or 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, or Chapter 22, Property Code,
11 or both; and, be it further

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