

Union Calendar No. 248

114TH CONGRESS
1ST SESSION

H. R. 2130

[Report No. 114-327]

To provide legal certainty to property owners along the Red River in Texas,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2015

Mr. THORNBERRY (for himself, Mr. CARTER of Texas, Mr. McCAUL, and Mr. GOHMERT) introduced the following bill; which was referred to the Committee on Natural Resources

NOVEMBER 4, 2015

Additional sponsors: Mr. SESSIONS, Mr. FARENTHOLD, Mr. RATCLIFFE, and Mr. SAM JOHNSON of Texas

NOVEMBER 4, 2015

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 30, 2015]

A BILL

To provide legal certainty to property owners along the Red River in Texas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Red River Private Prop-*
5 *erty Protection Act”.*

6 **SEC. 2. DISCLAIMER AND OUTDATED SURVEYS.**

7 (a) *IN GENERAL.*—*The Secretary disclaims any right,*
8 *title, and interest to the land located south of the South*
9 *Bank boundary line in the affected area.*

10 (b) *CLARIFICATION OF PRIOR SURVEYS.*—*Surveys con-*
11 *ducted by the Bureau of Land Management before the date*
12 *of the enactment of this Act shall have no force or effect*
13 *in determining the South Bank boundary line.*

14 **SEC. 3. SURVEY OF SOUTH BANK BOUNDARY LINE.**

15 (a) *SURVEY REQUIRED.*—*To identify the South Bank*
16 *boundary line in the affected area, the Secretary shall com-*
17 *mission a survey. The survey shall—*

18 (1) *adhere to the gradient boundary survey*
19 *method;*

20 (2) *span the entire length of the affected area;*

21 (3) *be conducted by Licensed State Land Sur-*
22 *veyors chosen by the Texas General Land Office, in*
23 *consultation with the Oklahoma Commissioners of the*
24 *Land Office;*

1 (4) *be completed not later than 2 years after the*
2 *date of the enactment of this Act; and*

3 (5) *not be submitted to the Bureau of Land*
4 *Management for approval.*

5 (b) *APPROVAL OF THE SURVEY.*—*After the survey is*
6 *completed, the Secretary shall submit the survey to be ap-*
7 *proved by the Texas General Land Office, in consultation*
8 *with the Oklahoma Commissioners of the Land Office.*

9 (c) *SURVEYS OF INDIVIDUAL PARCELS.*—

10 (1) *IN GENERAL.*—*Parcels surveyed as required*
11 *by this section shall be surveyed and approved on an*
12 *individual basis by the Texas General Land Office, in*
13 *consultation with the Oklahoma Commissioners of the*
14 *Land Office.*

15 (2) *SURVEYS OF INDIVIDUAL PARCELS NOT SUB-*
16 *MITTED TO THE BUREAU OF LAND MANAGEMENT.*—
17 *Surveys of individual parcels shall not be submitted*
18 *to the Bureau of Land Management for approval.*

19 (d) *NOTICE.*—

20 (1) *NOTIFICATION TO THE SECRETARY.*—*Not*
21 *later than 30 days after a survey for a parcel is ap-*
22 *proved by the Texas General Land Office under sub-*
23 *section (c), such office shall provide to the Secretary*
24 *the following:*

25 (A) *Notice of the approval of such survey.*

1 (B) *A copy of such survey and field notes*
2 *relating to such parcel.*

3 (2) *NOTIFICATION TO ADJACENT LANDOWNERS.—*
4 *Not later than 30 days after the date on which the*
5 *Secretary receives notification relating to a parcel*
6 *under paragraph (1), the Secretary shall provide to*
7 *landowners adjacent to such parcel the following:*

8 (A) *Notice of the approval of such survey.*

9 (B) *A copy of such survey and field notes*
10 *relating to such parcel.*

11 (C) *Notice that the landowner may file an*
12 *appeal under section 4.*

13 (D) *Notice that the landowner may apply*
14 *for a patent under section 5.*

15 (E) *Any additional information considered*
16 *appropriate by the Secretary.*

17 **SEC. 4. APPEAL.**

18 *Not later than 1 year after the date on which a land-*
19 *owner receives notification under section 3(d)(2), a land-*
20 *owner who claims to hold right, title, or interest in the af-*
21 *ected area may appeal the determination of the survey to*
22 *an administrative law judge of the Department of the Inte-*
23 *rior.*

1 **SEC. 5. RED RIVER SURFACE RIGHTS.**

2 (a) *NOTIFICATION OF APPLICATION PERIOD FOR PAT-*
3 *ENTS.—*

4 (1) *IN GENERAL.—On the date that is 18 months*
5 *after the date on which the Secretary receives notifi-*
6 *cation relating to a parcel under section 3(d)(1), the*
7 *Secretary shall determine whether such parcel is sub-*
8 *ject to appeal.*

9 (2) *PARCEL NOT SUBJECT TO APPEAL.—Not*
10 *later than 30 days after the date on which the Sec-*
11 *retary determines a parcel is not subject to appeal,*
12 *the Secretary shall—*

13 (A) *notify landowners adjacent to such par-*
14 *cel that the Secretary shall accept applications*
15 *for patents for that parcel under subsection (b)*
16 *for a period of 210 days; and*

17 (B) *begin accepting applications for patents*
18 *for that parcel under subsection (b) for a period*
19 *of 210 days.*

20 (3) *PARCEL SUBJECT TO APPEAL.—If the Sec-*
21 *retary determines a parcel is subject to appeal, the*
22 *Secretary shall, not less than once every 6 months,*
23 *check the status of the appeals relating to such parcel,*
24 *until the Secretary determines such parcel is not sub-*
25 *ject to appeal.*

1 (b) *PATENTS FOR LANDS IN THE AFFECTED AREA.*—
2 *If the Secretary receives an application for a patent for a*
3 *parcel of identified Federal lands during the period for ap-*
4 *plications for such parcel under subsection (a)(2)(B) and*
5 *determines that the parcel has been held in good faith and*
6 *in peaceful adverse possession by an applicant, or the ances-*
7 *tors or grantors of such applicant, for more than 20 years*
8 *under claim (including through a State land grant or deed*
9 *or color of title), the Secretary may issue a patent for the*
10 *surface rights to such parcel to the applicant, on the pay-*
11 *ment of \$1.25 per acre, if the patent includes the following*
12 *conditions:*

13 (1) *All minerals contained in the parcel are re-*
14 *served to the United States and subject to sale or dis-*
15 *posal by the United States under applicable leasing*
16 *and mineral land laws.*

17 (2) *Permittees, lessees, or grantees of the United*
18 *States have the right to enter the parcel for the pur-*
19 *pose of prospecting for and mining deposits.*

20 (c) *PENDING REQUESTS FOR PATENTS.*—*The Sec-*
21 *retary shall not offer a parcel of identified Federal land*
22 *for purchase under section 6 if a patent request for that*
23 *parcel is pending under this section.*

24 **SEC. 6. RIGHT OF REFUSAL AND COMPETITIVE SALE.**

25 (a) *RIGHT OF REFUSAL.*—

1 (1) *OFFERS TO PURCHASE.*—*After the expiration*
2 *of the period for applications under section*
3 *5(a)(2)(B), the Secretary shall offer for purchase for*
4 *a period of 60 days for each right of refusal—*

5 (A) *the surface rights to the remaining*
6 *identified Federal lands located north of the*
7 *vegetation line of the South Bank to—*

8 (i) *the adjacent owner of land located*
9 *in Oklahoma to the north with the first*
10 *right of refusal;*

11 (ii) *if applicable, the adjacent owner of*
12 *land located in Texas to the south with the*
13 *second right of refusal;*

14 (iii) *if applicable, the adjacent owner*
15 *of land located to the east with the third*
16 *right of refusal; and*

17 (iv) *if applicable, the adjacent owner of*
18 *land located to the west with the fourth*
19 *right of refusal; and*

20 (B) *the surface rights to the remaining*
21 *identified Federal lands located south of the vege-*
22 *tation line of the South Bank to—*

23 (i) *the adjacent owner of land located*
24 *in Texas to the south with the first right of*
25 *refusal;*

1 (ii) if applicable, the adjacent owner of
2 land located in Oklahoma to the north with
3 the second right of refusal;

4 (iii) if applicable, the adjacent owner
5 of land located to the east with the third
6 right of refusal; and

7 (iv) if applicable, the adjacent owner of
8 land located to the west with the fourth
9 right of refusal.

10 (2) *REMAINING IDENTIFIED FEDERAL LANDS DE-*
11 *FINED.—In this subsection, the term “remaining*
12 *identified Federal lands” means any parcel of identi-*
13 *fied Federal lands—*

14 (A) not subject to appeal under section 4;

15 (B) not determined by an administrative
16 law judge of the Department of the Interior or a
17 Federal court to be the property of an adjacent
18 landowner; and

19 (C) not patented or subject to a pending re-
20 quest for a patent under section 5.

21 (b) *DISPOSAL BY COMPETITIVE SALE.—If a parcel of-*
22 *ferred under subsection (a) is not purchased, the Secretary*
23 *shall offer the parcel for disposal by competitive sale for*
24 *not less than fair market value as determined by an ap-*
25 *praisal conducted in accordance with nationally recognized*

1 *appraisal standards, including the Uniform Appraisal*
2 *Standards for Federal Land Acquisitions and the Uniform*
3 *Standards of Professional Appraisal Practice.*

4 (c) *CONDITIONS OF SALE.*—*The sale of a parcel under*
5 *this section shall be subject to—*

6 (1) *the condition that all minerals contained in*
7 *the parcel are reserved to the United States and sub-*
8 *ject to sale or disposal by the United States under ap-*
9 *plicable leasing and mineral land laws;*

10 (2) *the condition that permittees, lessees, or*
11 *grantees of the United States have the right to enter*
12 *the parcel for the purpose of prospecting for and min-*
13 *ing deposits; and*

14 (3) *valid existing State, tribal, and local rights.*

15 (d) *REPORT.*—*Not later than 5 years after the date*
16 *on which the survey is approved, the Secretary shall submit*
17 *to the Committee on Natural Resources of the House of Rep-*
18 *resentatives and the Committee on Energy and Natural Re-*
19 *sources of the Senate a list of the parcels of identified Fed-*
20 *eral lands that have not been sold under subsection (b) and*
21 *a description of the reasons such parcels were not sold.*

22 **SEC. 7. RESOURCE MANAGEMENT PLAN.**

23 *The Secretary may not treat a parcel of identified Fed-*
24 *eral lands as Federal land for the purposes of a resource*

1 *management plan if the treatment of such parcel does not*
2 *comply with the provisions of this Act.*

3 **SEC. 8. CONSTRUCTION.**

4 (a) *LANDS LOCATED NORTH OF THE SOUTH BANK*
5 *BOUNDARY LINE.*—*Nothing in this Act shall be construed*
6 *to modify the interest of Texas or Oklahoma or sovereignty*
7 *rights of any federally recognized Indian tribe over lands*
8 *located to the north of the South Bank boundary line as*
9 *established by the survey.*

10 (b) *PATENTS UNDER THE COLOR OF TITLE ACT.*—
11 *Nothing in this Act shall be construed to modify land pat-*
12 *ented under the Act of December 22, 1928 (Public Law 70-*
13 *645; 45 Stat. 1069; 43 U.S.C. 1068; commonly known as*
14 *the Color of Title Act), before the date of the enactment of*
15 *this Act.*

16 (c) *RED RIVER BOUNDARY COMPACT.*—*Nothing in*
17 *this Act shall be construed to modify the Red River Bound-*
18 *ary Compact as enacted by the States of Texas and Okla-*
19 *homa and consented to by the United States Congress by*
20 *Public Law 106-288 (114 Stat. 919).*

21 **SEC. 9. DEFINITIONS.**

22 *In this Act:*

23 (1) *AFFECTED AREA.*—*The term “affected area”*
24 *means lands along the approximately 116-mile stretch*
25 *of the Red River from its confluence with the North*

1 *Fork of the Red River on the west to the 98th merid-*
2 *ian on the east between the States of Texas and Okla-*
3 *homa.*

4 (2) *GRADIENT BOUNDARY SURVEY METHOD.*—
5 *The term “gradient boundary survey method” means*
6 *the measurement technique used to locate the South*
7 *Bank boundary line under the methodology estab-*
8 *lished in Oklahoma v. Texas, 261 U.S. 340 (1923)*
9 *(recognizing that the boundary line between the States*
10 *of Texas and Oklahoma along the Red River is subject*
11 *to change due to erosion and accretion).*

12 (3) *IDENTIFIED FEDERAL LANDS.*—*The term*
13 *“identified Federal lands” means the lands in the af-*
14 *ected area from the South Bank boundary line north*
15 *to the medial line of the Red River as identified pur-*
16 *suant to this Act.*

17 (4) *SECRETARY.*—*The term “Secretary” means*
18 *the Secretary of the Interior, acting through the Di-*
19 *rector of the Bureau of Land Management.*

20 (5) *SOUTH BANK.*—*The term “South Bank”*
21 *means the water-washed and relatively permanent ele-*
22 *vation or acclivity, commonly called a cut bank,*
23 *along the southerly or right side of the Red River*
24 *which separates its bed from the adjacent upland,*
25 *whether valley or hill, and usually serves to confine*

1 *the waters within the bed and to preserve the course*
2 *of the river (as specified in the fifth paragraph of*
3 *Oklahoma v. Texas, 261 U.S. 340 (1923)).*

4 (6) *SOUTH BANK BOUNDARY LINE.*—*The term*
5 *“South Bank boundary line” means the boundary be-*
6 *tween Texas and Oklahoma identified through the*
7 *gradient boundary survey method (as specified in the*
8 *sixth and seventh paragraphs of Oklahoma v. Texas,*
9 *261 U.S. 340 (1923)).*

10 (7) *SURVEY.*—*The term “survey” means the sur-*
11 *vey required by section 3(a).*

12 (8) *VEGETATION LINE.*—*The term “vegetation*
13 *line” means the visually identifiable continuous line*
14 *of vegetation that is adjacent to the portion of the riv-*
15 *erbed kept practically bare of vegetation by the nat-*
16 *ural flow of the river and is continuous with the vege-*
17 *tation beyond the riverbed.*

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