

TEXAS *v.* OKLAHOMA

ON BILL OF COMPLAINT

No. 85, Orig. Decided June 14, 1982

Decree entered.

DECREE

The motion for entry of judgment by consent of plaintiff and defendant, with the deletion of paragraph 10 thereof, and as amended with respect to paragraph 7, is granted.

IT IS ORDERED, ADJUDGED, AND DECREED:

1. This judgment determines the boundary line between Texas and Oklahoma along the South bank of the Red River in Grayson County, Texas, from a point on said River as it existed prior to the construction of the Texoma Reservoir Dam (Denison Dam) approximately 1973 feet West of the center line of said Dam, with its meanders, to a point on said River approximately 6103 feet East of the center line of said Dam, upon the Complaint, Answer and agreement of Counsel for Texas and Oklahoma.

2. The source of the boundary line between Texas and Oklahoma from the 100th meridian of longitude to the eastern border of Oklahoma (which encompasses the boundary determined by this judgment) lies in the Treaty of 1819, 8 Stat. 252 (1821), which was construed by the Court in *United States v. Texas*, 162 U. S. 1 (1895), to be the south bank of the Red River. The Court later confirmed this definition of the boundary in *Oklahoma v. Texas*, 256 U. S. 70 (1921), and in a later partial decree therein, 261 U. S. 340, 341-342 (1923), defined the South bank as:

"... the water-washed and relatively permanent elevation or acclivity, commonly called a cut bank, along the southerly side of the river, which separates its bed from the adjacent upland, whether valley or hill, and usually

serves to confine the waters within the bed, and to preserve the course of the river.

"... The boundary between the two states is on and along that bank at the mean level attained by the waters of the river when they reach and wash the bank without overflowing it.

"... At exceptional places where there is no well-defined cut bank, but only a gradual incline from the sand bed of the river to the upland, the boundary is a line over such incline, conforming to the mean level of the waters, when at other places in that vicinity they reach and wash the cut bank without overflowing it."

3. As a result of the partial decree in 1923 and other partial decrees arising from the same controversy, a boundary commission was established to take evidence, find facts and report to the Court. Said Commission filed a documentary report, 269 U. S. 536 (1925), styled as the Third Report of the Boundary Commissioners. At page 41 of said Report appears the following entry:

VII.

"IN
GRAYSON COUNTY, TEXAS
OPPOSITIVE
MARSHALL AND BRYAN COUNTIES,
OKLAHOMA.

"Public Hearing:

Sherman, Texas, May 7, 1925

"We found no avulsive changes in
the position of the Red River in
this County and make no surveys."

4. In 1939 the United States Army Corps of Engineers made surveys of certain tracts of land in Grayson County, Texas, known as Tract T-2-1, Tract T-2-2 and Tract T-2-4,

whose northern boundaries coincide with the South bank of the Red River and the boundary determined by this judgment. Said surveys were made in anticipation of the condemnation of said Tracts for purposes of the construction of the Texoma Dam Facility and Reservoir pursuant to an Act of Congress, 52 Stat. 1215 (1938).

5. On September 7, 1940, a judgment was entered in the United States District Court for the Eastern District of Texas making final the award of special commissioners as to Tract T-2-1. On November 23, 1940, judgment was entered in the United States District Court for the Eastern District of Texas making final the acquisition by the United States of Tract T-2-4. On December 28, 1939, a warranty deed was executed by P. O. Brack to the United States as to Tract T-2-2.

6. On June 23, 1980, the Plaintiff and Defendant together retained a Registered Public Surveyor of the State of Texas to make a reenactment survey of Tract T-2-1, Tract T-2-2 and Tract T-2-4. On the basis of such survey it has been determined that, when tying back to the original South bank of the Red River, the northern boundaries of Tracts T-2-1, T-2-2 and T-2-4 (coinciding with the South bank of the Red River), as established by the U. S. Army Corps of Engineers in its survey of 1939 were correct at the time that survey was made, which was prior to the construction of the Texoma Reservoir Dam Facility. A certified copy of the plat of the survey commissioned by the States with the surveyor's certified explanation thereof is filed with the Clerk of this Court.

7. The boundary between Texas and Oklahoma determined by this judgment coincides with the boundaries of Tracts T-2-1, T-2-2 and T-2-4 and is described as follows, with all bearings from the above referenced judgment and deed descriptions, and all distances in feet:

BEGINNING at a point, same being the centerline of Shawnee Creek and the Northeast corner of Tract T-2-4 as

acquired by the United States in a Judgment as recorded in Volume 420 Page 556 of the Deed Records of Grayson County, Texas.

THENCE up the south bank of the Red River as it existed prior to the construction of the Texoma Reservoir and Denison Dam, with its meanders: South $78^{\circ}08'$ West a distance of 528.9 feet; South $86^{\circ}10'$ West a distance of 1370.50 feet; South $89^{\circ}06'$ West a distance of 484.0 feet; North $88^{\circ}22'$ West a distance of 447.2 feet; North $85^{\circ}37'$ West passing the Northeast corner of Tract T-2-2 as recorded in Volume 417 Page 23 of the Deed Records of Grayson County, Texas and the total distance of 1675.30 feet; North $76^{\circ}21'$ West a distance of 413.7 feet; North $86^{\circ}01'$ West a distance of 170.10 feet to the Northwest corner of Tract T-2-2;

THENCE North $76^{\circ}01'$ West a distance of 394.50 feet; North $87^{\circ}34'$ West a distance of 1198.90 feet; North $68^{\circ}27'$ West a distance of 362.20 feet; North $55^{\circ}54'$ West a distance of 1030.80 feet to a point, same being the Northwest corner of Tract T-2-1 as acquired by the United States in a Judgment as recorded in Volume 417 Page 123 of the Deed Records of Grayson County, Texas.

8. The boundary line delineated hereinabove is depicted by a line marked "STATE LINE" on the plat of the survey commissioned by the States and filed with the Clerk of this Court.

9. The construction of the Texoma Reservoir and Denison Dam did not alter the boundary between Texas and Oklahoma as the South bank of the Red River as it existed prior to such construction in any manner whatsoever.

11. The cost of this action shall be equally divided between the two States.