

114TH CONGRESS
1ST SESSION

H. R. 2130

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2015

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Red River Private
3 Property Protection Act”.

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 DISCLAIMER AND OUTDATED SURVEYS.**

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

8 (b) CLARIFICATION OF PRIOR SURVEYS.—Surveys
9 conducted by the Bureau of Land Management before the
10 date of the enactment of this Act shall have no force or
11 effect in determining the South Bank boundary line.

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

13 (a) SURVEY REQUIRED.—To identify the South Bank
14 boundary line in the affected area, the Secretary shall
15 commission a survey. The survey shall—

16 (1) adhere to the gradient boundary survey
17 method;

18 (2) span the entire length of the affected area;

19 (3) be conducted by Licensed State Land Sur-
20 veyors chosen by the Texas General Land Office, in
21 consultation with the Oklahoma Commissioners of
22 the Land Office and each affected federally recog-
23 nized Indian tribe;

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

1 (5) not be submitted to the Bureau of Land
2 Management for approval.

3 (b) APPROVAL OF THE SURVEY.—After the survey is
4 completed, the Secretary shall submit the survey to be ap-
5 proved by the Texas General Land Office, in consultation
6 with the Oklahoma Commissioners of the Land Office and
7 each affected federally recognized Indian tribe.

8 (c) SURVEYS OF INDIVIDUAL PARCELS.—

9 (1) IN GENERAL.—Parcels surveyed as required
10 by this section shall be surveyed and approved on an
11 individual basis by the Texas General Land Office,
12 in consultation with the Oklahoma Commissioners of
13 the Land Office and each affected federally recog-
14 nized Indian tribe.

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

20 (d) NOTICE.—

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

1 (A) Notice of the approval of such survey.

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

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

10 (A) Notice of the approval of such survey.

11 (B) A copy of such survey and field notes
12 relating to such parcel.

13 (C) Notice that the landowner may file an
14 appeal and seek further judicial review under
15 section 4.

16 (D) Notice that the landowner may apply
17 for a patent under section 5.

18 (E) Any additional information considered
19 appropriate by the Secretary.

20 **SEC. 4. APPEAL.**

21 (a) APPEAL TO ADMINISTRATIVE LAW JUDGE.—Not
22 later than 1 year after the date on which a landowner re-
23 ceives notification under section 3(d)(2), a landowner who
24 claims to hold right, title, or interest in the affected area

1 may appeal the determination of the survey to an adminis-
2 trative law judge of the Department of the Interior.

3 (b) FURTHER JUDICIAL REVIEW.—

4 (1) IN GENERAL.—A landowner who filed an
5 appeal under subsection (a) and is adversely affected
6 by the final decision may, not later than 120 days
7 after the date of the final decision, file a civil action
8 in the United States district court for the district—

9 (A) in which the person resides; or

10 (B) in which the affected area is located.

11 (2) STANDARD OF REVIEW.—The district court
12 may review the case de novo and may enter a judg-
13 ment enforcing, modifying, and enforcing as so
14 modified, or setting aside in whole or in part, the de-
15 cision of the administrative law judge.

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

17 (a) NOTIFICATION OF APPLICATION PERIOD FOR
18 PATENTS.—

19 (1) IN GENERAL.—On the date that is 18
20 months after the date on which the Secretary re-
21 ceives notification relating to a parcel under section
22 3(d)(1), the Secretary shall determine whether such
23 parcel is subject to appeal or further judicial review.

24 (2) PARCEL NOT SUBJECT TO APPEAL OR JUDI-
25 CIAL REVIEW.—Not later than 30 days after the

1 date on which the Secretary determines a parcel is
2 not subject to appeal or judicial review, the Sec-
3 retary shall—

4 (A) notify federally recognized Indian
5 tribes with jurisdiction over lands adjacent to
6 such parcel that the Secretary shall accept ap-
7 plications for patents for that parcel under sub-
8 section (b) for a period of 210 days; and

9 (B) begin accepting applications for pat-
10 ents for that parcel under subsection (b) for a
11 period of 210 days.

12 (3) PARCEL SUBJECT TO APPEAL OR JUDICIAL
13 REVIEW.—If the Secretary determines a parcel is
14 subject to appeal or further judicial review, the Sec-
15 retary shall, not less than once every 6 months,
16 check the status of the appeals or judicial reviews
17 relating to such parcel, until the Secretary deter-
18 mines such parcel is not subject to appeal or further
19 judicial review.

20 (b) PATENTS FOR LANDS IN THE AFFECTED
21 AREA.—If the Secretary receives an application for a pat-
22 ent for a parcel of identified Federal lands during the pe-
23 riod for applications for such parcel under subsection
24 (a)(2)(B) and determines that the parcel has been held
25 in good faith and in peaceful adverse possession by an ap-

1 plicant, or the ancestors or grantors of such applicant, for
2 more than 20 years under claim (including through a
3 State land grant), the Secretary may issue a patent for
4 the surface rights to such parcel to the applicant, on the
5 payment of fair market value per acre, if the patent in-
6 cludes the following conditions:

7 (1) All minerals contained in the parcel are re-
8 served to the United States and subject to sale or
9 disposal by the United States under applicable leas-
10 ing and mineral land laws.

11 (2) Permittees, lessees, or grantees of the
12 United States have the right to enter the parcel for
13 the purpose of prospecting for and mining deposits.

14 (c) PENDING REQUESTS FOR PATENTS.—The Sec-
15 retary shall not offer a parcel of identified Federal land
16 for purchase under section 6 if a patent request for that
17 parcel is pending under this section.

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

19 (a) RIGHT OF REFUSAL.—

20 (1) OFFERS TO PURCHASE.—After the expira-
21 tion of the period for applications under section
22 5(a)(2)(B), the Secretary shall offer for purchase for
23 a period of 60 days for each right of refusal—

1 (A) the surface rights to the remaining
2 identified Federal lands located north of the
3 vegetation line of the South Bank to—

4 (i) the federally recognized Indian
5 tribes holding reservation or allotment land
6 on June 5, 1906, with the first right of re-
7 fusal;

8 (ii) the adjacent owner of land located
9 in Oklahoma to the north with the second
10 right of refusal;

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

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

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

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

23 (i) the federally recognized Indian
24 tribes holding reservation or allotment land

1 on June 5, 1906, with the first right of re-
2 fusals;

3 (ii) the adjacent owner of land located
4 in Texas to the south with the second right
5 of refusal;

6 (iii) if applicable, the adjacent owner
7 of land located in Oklahoma to the north
8 with the third right of refusal;

9 (iv) if applicable, the adjacent owner
10 of land located to the east with the fourth
11 right of refusal; and

12 (v) if applicable, the adjacent owner of
13 land located to the west with the fifth right
14 of refusal.

15 (2) REMAINING IDENTIFIED FEDERAL LANDS
16 DEFINED.—In this subsection, the term “remaining
17 identified Federal lands” means any parcel of identi-
18 fied Federal lands—

19 (A) not subject to appeal or further judi-
20 cial review under section 4;

21 (B) not determined by an administrative
22 law judge of the Department of the Interior or
23 a Federal court to be the property of an adja-
24 cent landowner; and

1 (C) not patented or subject to a pending
2 request for a patent under section 5.

3 (b) DISPOSAL BY COMPETITIVE SALE.—If a parcel
4 offered under subsection (a) is not purchased, the Sec-
5 retary shall offer the parcel for disposal by competitive
6 sale for not less than fair market value as determined by
7 an appraisal conducted in accordance with nationally rec-
8 ognized appraisal standards, including the Uniform Ap-
9 praisal Standards for Federal Land Acquisitions and the
10 Uniform Standards of Professional Appraisal Practice.

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

13 (1) the condition that all minerals contained in
14 the parcel are reserved to the United States and
15 subject to sale or disposal by the United States
16 under applicable leasing and mineral land laws;

17 (2) the condition that permittees, lessees, or
18 grantees of the United States have the right to enter
19 the parcel for the purpose of prospecting for and
20 mining deposits; and

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

22 (d) REPORT.—Not later than 5 years after the date
23 on which the survey is approved, the Secretary shall sub-
24 mit to the Committee on Natural Resources of the House
25 of Representatives and the Committee on Energy and

1 Natural Resources of the Senate a list of the parcels of
2 identified Federal lands that have not been sold under
3 subsection (b) and a description of the reasons such par-
4 cels were not sold.

5 **SEC. 7. RESOURCE MANAGEMENT PLAN.**

6 The Secretary may not treat a parcel of identified
7 Federal lands as Federal land for the purposes of a re-
8 source management plan if the treatment of such parcel
9 does not comply with the provisions of this Act.

10 **SEC. 8. CONSTRUCTION.**

11 (a) LANDS LOCATED NORTH OF THE SOUTH BANK
12 BOUNDARY LINE.—Nothing in this Act shall be construed
13 to modify the interest of Texas or Oklahoma or sov-
14 ereignty rights of any federally recognized Indian tribe
15 over lands located to the north of the South Bank bound-
16 ary line as established by the survey.

17 (b) PATENTS UNDER THE COLOR OF TITLE ACT.—
18 Nothing in this Act shall be construed to modify land pat-
19 ented under the Act of December 22, 1928 (Public Law
20 70–645; 45 Stat. 1069; 43 U.S.C. 1068; commonly known
21 as the Color of Title Act), before the date of the enactment
22 of this Act.

23 (c) RED RIVER BOUNDARY COMPACT.—Nothing in
24 this Act shall be construed to modify the Red River
25 Boundary Compact as enacted by the States of Texas and

1 Oklahoma and consented to by the United States Congress
2 by Public Law 106–288 (114 Stat. 919).

3 (d) TRIBAL ALLOTMENTS.—Nothing in this Act shall
4 be construed to alter the present median line of the Red
5 River as it relates to the surface or mineral interests of
6 tribal allottees north of the present median line.

7 (e) TRIBAL RESERVATIONS.—Nothing in this Act
8 shall be construed to create or reinstate a tribal reserva-
9 tion or any portion of a tribal reservation.

10 (f) TRIBAL MINERAL INTERESTS.—Nothing in this
11 Act shall be construed to alter the valid rights of the
12 Kiowa, Comanche, and Apache Nations to the mineral in-
13 terest trust fund created pursuant to the Act of June 12,
14 1926.

15 **SEC. 9. DEFINITIONS.**

16 In this Act:

17 (1) AFFECTED AREA.—The term “affected
18 area” means lands along the approximately 116-mile
19 stretch of the Red River from its confluence with the
20 North Fork of the Red River on the west to the
21 98th meridian on the east between the States of
22 Texas and Oklahoma.

23 (2) GRADIENT BOUNDARY SURVEY METHOD.—
24 The term “gradient boundary survey method”
25 means the measurement technique used to locate the

1 South Bank boundary line under the methodology
2 established in *Oklahoma v. Texas*, 261 U.S. 340
3 (1923) (recognizing that the boundary line between
4 the States of Texas and Oklahoma along the Red
5 River is subject to change due to erosion and accre-
6 tion).

7 (3) IDENTIFIED FEDERAL LANDS.—The term
8 “identified Federal lands” means the lands in the
9 affected area from the South Bank boundary line
10 north to the medial line of the Red River as identi-
11 fied pursuant to this Act.

12 (4) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior, acting through the Di-
14 rector of the Bureau of Land Management.

15 (5) SOUTH BANK.—The term “South Bank”
16 means the water-washed and relatively permanent
17 elevation or acclivity, commonly called a cut bank,
18 along the southerly or right side of the Red River
19 which separates its bed from the adjacent upland,
20 whether valley or hill, and usually serves to confine
21 the waters within the bed and to preserve the course
22 of the river (as specified in the fifth paragraph of
23 *Oklahoma v. Texas*, 261 U.S. 340 (1923)).

24 (6) SOUTH BANK BOUNDARY LINE.—The term
25 “South Bank boundary line” means the boundary

1 between Texas and Oklahoma identified through the
2 gradient boundary survey method (as specified in
3 the sixth and seventh paragraphs of Oklahoma v.
4 Texas, 261 U.S. 340 (1923)).

5 (7) SURVEY.—The term “survey” means the
6 survey required by section 3(a).

7 (8) VEGETATION LINE.—The term “vegetation
8 line” means the visually identifiable continuous line
9 of vegetation that is adjacent to the portion of the
10 riverbed kept practically bare of vegetation by the
11 natural flow of the river and is continuous with the
12 vegetation beyond the riverbed.

Passed the House of Representatives December 9,
2015.

Attest:

KAREN L. HAAS,
Clerk.