

Calendar No. 687

115TH CONGRESS
2D SESSION

S. 90

To survey the gradient boundary along the Red River in the States of
Oklahoma and Texas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 10, 2017

Mr. CORNYN (for himself and Mr. CRUZ) introduced the following bill; which
was read twice and referred to the Committee on the Judiciary

FEBRUARY 28, 2017

Committee discharged; referred to the Committee on Energy and Natural
Resources

NOVEMBER 29, 2018

Reported by Ms. MURKOWSKI, without amendment

A BILL

To survey the gradient boundary along the Red River in
the States of Oklahoma and 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 Gradient
5 Boundary Survey Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **AFFECTED AREA.**—

4 (A) **IN GENERAL.**—The term “affected
5 area” means land along the approximately 116-
6 mile stretch of the Red River, from its con-
7 fluence with the north fork of the Red River on
8 the West to the 98th meridian on the east.

9 (B) **EXCLUSIONS.**—The term “affected
10 area” does not include the portion of the Red
11 River within the boundary depicted on the sur-
12 vey prepared by the Bureau of Land Manage-
13 ment entitled “Township 5 South, Range 14
14 West, of the Indian Meridian, Oklahoma, De-
15 pendent Resurvey and Survey” and dated Feb-
16 ruary 28, 2006.

17 (2) **GRADIENT BOUNDARY SURVEY METHOD.**—

18 The term “gradient boundary survey method”
19 means the measurement technique used to locate the
20 South Bank boundary line in accordance with the
21 methodology established in *Oklahoma v. Texas*, 261
22 U.S. 340 (1923) (recognizing that the boundary line
23 along the Red River is subject to change due to ero-
24 sion and accretion).

25 (3) **LANDOWNER.**—The term “landowner”
26 means any individual, group, association, corpora-

tion, federally recognized Indian tribe or member of such an Indian tribe, or other private or governmental legal entity that owns an interest in land in the affected area.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(5) SOUTH BANK.—The term “South Bank” means the water-washed and relatively permanent elevation or acclivity (commonly known as a “cut bank”) along the southerly or right side of the Red River that—

(A) separates the bed of that river from the adjacent upland, whether valley or hill; and

(B) usually serves, as specified in the fifth paragraph of *Oklahoma v. Texas*, 261 U.S. 340 (1923)—

(i) to confine the waters within the bed; and

(ii) to preserve the course of the river.

(6) SOUTH BANK BOUNDARY LINE.—The term “South Bank boundary line” means the boundary, with respect to title and ownership, between the States of Oklahoma and Texas identified through the gradient boundary survey method that does not

1 impact or alter the permanent political boundary line
2 between the States along the Red River, as outlined
3 under article II, section B of the Red River Bound-
4 ary Compact enacted by the States and consented to
5 by Congress pursuant to Public Law 106–288 (114
6 Stat. 919).

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

8 (a) SURVEY REQUIRED.—

9 (1) IN GENERAL.—The Secretary shall commis-
10 sion a survey to identify the South Bank boundary
11 line in the affected area.

12 (2) REQUIREMENTS.—The survey shall—

13 (A) adhere to the gradient boundary sur-
14 vey method;

15 (B) span the length of the affected area;

16 (C) be conducted by surveyors that are—

17 (i) licensed and qualified to conduct
18 official gradient boundary surveys; and

19 (ii) selected jointly by and operating
20 under the direction of—

21 (I) the Texas General Land Of-
22 fice, in consultation with each affected
23 federally recognized Indian tribe; and

24 (II) the Oklahoma Commis-
25 sioners of the Land Office, in con-

1 sultation with the attorney general of
2 the State of Oklahoma and each af-
3 fected federally recognized Indian
4 tribe; and

5 (D) be completed not later than 2 years
6 after the date of enactment of this Act.

7 (b) APPROVAL.—

8 (1) STATE APPROVAL.—

9 (A) IN GENERAL.—Not later than 60 days
10 after the date on which the survey under sub-
11 section (a)(1) is completed, the Secretary shall
12 submit the survey for approval to—

13 (i) the Texas General Land Office, in
14 consultation with each affected federally
15 recognized Indian tribe; and

16 (ii) the Oklahoma Commissioners of
17 the Land Office, in consultation with the
18 attorney general of the State of Oklahoma
19 and each affected federally recognized In-
20 dian tribe.

21 (B) TIMING OF APPROVAL.—Not later
22 than 60 days after the date of receipt of the
23 survey under subparagraph (A), the Texas Gen-
24 eral Land Office, in consultation with each af-
25 fected federally recognized Indian tribe, and the

Oklahoma Commissioners of the Land Office, in consultation with the attorney general of the State of Oklahoma and each affected federally recognized Indian tribe, shall determine whether to approve the survey.

(C) SURVEYS OF INDIVIDUAL PARCELS.—

(i) IN GENERAL.—Surveys of individual parcels in the affected area shall be conducted in accordance with this section.

(ii) APPROVAL OR DISAPPROVAL.—A survey of an individual parcel conducted under clause (i) shall be approved or disapproved, on an individual basis, by the Texas General Land Office, in consultation with each affected federally recognized Indian tribe, and the Oklahoma Commissioners of the Land Office, in consultation with the attorney general of the State of Oklahoma and each affected federally recognized Indian tribe, by not later than 60 days after the date of receipt of the survey.

(2) NO FEDERAL APPROVAL REQUIRED.—The survey conducted under subsection (a)(1), and any survey of an individual parcel described in para-

graph (1)(C), shall not be submitted to the Secretary for approval.

(c) NOTICES.—

(1) SECRETARY.—Not later than 60 days after the date on which a survey for an individual parcel is approved by the Texas General Land Office and the Oklahoma Commissioners of the Land Office, in consultation with the attorney general of the State of Oklahoma, under subsection (b)(1)(C), the heads of those offices shall submit to the Secretary—

(A) a notice of the approval of the survey;

and

(B) a copy of—

(i) the survey; and

(ii) any field notes relating to the individual parcel.

(2) ADJACENT LANDOWNERS.—Not later than 30 days after the date on which the Secretary receives a notice relating to an individual parcel under paragraph (1), the Secretary shall provide to each landowner of land adjacent to the individual parcel—

(A) a notice of the approval of the survey;

and

(B) a copy of—

- 1 (i) the survey; and
- 2 (ii) any field notes relating to the in-
- 3 dividual parcel.

4 **SEC. 4. EFFECT OF ACT.**

5 Nothing in this Act—

6 (1) modifies any interest of the State of Okla-
7 homa or Texas, or the sovereignty, property, or trust
8 rights of any federally recognized Indian tribe, relat-
9 ing to land located north of the South Bank bound-
10 ary line, as established by the survey;

11 (2) modifies any land patented under the Act of
12 December 22, 1928 (45 Stat. 1069, chapter 47; 43
13 U.S.C. 1068) (commonly known as the “Color of
14 Title Act”), before the date of enactment of this Act;

15 (3) modifies or supersedes the Red River
16 Boundary Compact enacted by the States of Okla-
17 homa and Texas and consented to by Congress pur-
18 suant to Public Law 106–288 (114 Stat. 919);

19 (4) creates or reinstates any Indian reservation
20 or any portion of such a reservation; or

21 (5) alters any valid right of the State of Okla-
22 homa or the Kiowa, Comanche, or Apache Indian
23 tribes to the mineral interest trust fund established
24 under the Act of June 12, 1926 (44 Stat. 740, chap-
25 ter 572).

1 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated to the Sec-
3 retary to carry out this Act \$1,000,000.

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