

116TH CONGRESS
1ST SESSION

S. 41

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 8, 2019

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

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”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) AFFECTED AREA.—

9 (A) IN GENERAL.—The term “affected
10 area” means land along the approximately 116-

1 mile stretch of the Red River, from its con-
2 fluence with the north fork of the Red River on
3 the West to the 98th meridian on the east.

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

12 (2) GRADIENT BOUNDARY SURVEY METHOD.—
13 The term “gradient boundary survey method”
14 means the measurement technique used to locate the
15 South Bank boundary line in accordance with the
16 methodology established in *Oklahoma v. Texas*, 261
17 U.S. 340 (1923) (recognizing that the boundary line
18 along the Red River is subject to change due to ero-
19 sion and accretion).

20 (3) LANDOWNER.—The term “landowner”
21 means any individual, group, association, corpora-
22 tion, federally recognized Indian tribe or member of
23 such an Indian tribe, or other private or govern-
24 mental legal entity that owns an interest in land in
25 the affected area.

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

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

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

11 (B) usually serves, as specified in the fifth
12 paragraph of *Oklahoma v. Texas*, 261 U.S. 340
13 (1923)—

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

16 (ii) to preserve the course of the river.

17 (6) SOUTH BANK BOUNDARY LINE.—The term
18 “South Bank boundary line” means the boundary,
19 with respect to title and ownership, between the
20 States of Oklahoma and Texas identified through
21 the gradient boundary survey method that does not
22 impact or alter the permanent political boundary line
23 between the States along the Red River, as outlined
24 under article II, section B of the Red River Bound-
25 ary Compact enacted by the States and consented to

1 by Congress pursuant to Public Law 106–288 (114
2 Stat. 919).

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

4 (a) SURVEY REQUIRED.—

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

8 (2) REQUIREMENTS.—The survey shall—

9 (A) adhere to the gradient boundary sur-
10 vey method;

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

12 (C) be conducted by 1 or more independent
13 third-party surveyors that are—

14 (i) licensed and qualified to conduct
15 official gradient boundary surveys; and

16 (ii) selected by the Secretary, in con-
17 sultation with—

18 (I) the Texas General Land Of-
19 fice;

20 (II) the Oklahoma Commis-
21 sioners of the Land Office, in con-
22 sultation with the attorney general of
23 the State of Oklahoma; and

24 (III) each affected federally rec-
25 ognized Indian Tribe; and

1 (D) subject to the availability of appropria-
2 tions, be completed not later than 2 years after
3 the date of enactment of this Act.

4 (b) APPROVAL OF THE BOUNDARY SURVEY.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the date on which the survey or a portion of the sur-
7 vey under subsection (a)(1) is completed, the Sec-
8 retary shall submit the survey for approval to—

9 (A) the Texas General Land Office;

10 (B) the Oklahoma Commissioners of the
11 Land Office, in consultation with the attorney
12 general of the State of Oklahoma; and

13 (C) each affected federally recognized In-
14 dian Tribe.

15 (2) TIMING OF APPROVAL.—Not later than 60
16 days after the date on which each of the Texas Gen-
17 eral Land Office, the Oklahoma Commissioners of
18 the Land Office, in consultation with the attorney
19 general of the State of Oklahoma, and each affected
20 federally recognized Indian Tribe notify the Sec-
21 retary of the approval of the boundary survey or a
22 portion of the survey by the applicable office or fed-
23 erally recognized Indian Tribe, the Secretary shall
24 determine whether to approve the survey or portion
25 of the survey, subject to paragraph (4).

1 (3) SUBMISSION OF PORTIONS OF SURVEY FOR
2 APPROVAL.—As portions of the survey are com-
3 pleted, the Secretary may submit the completed por-
4 tions of the survey for approval under paragraph
5 (1).

6 (4) WRITTEN APPROVAL.—The Secretary shall
7 only approve the survey, or a portion of the survey,
8 that has the written approval of each of—

9 (A) the Texas General Land Office;

10 (B) the Oklahoma Commissioners of the
11 Land Office, in consultation with the attorney
12 general of the State of Oklahoma; and

13 (C) each affected federally recognized In-
14 dian Tribe.

15 **SEC. 4. SURVEY OF INDIVIDUAL PARCELS.**

16 Surveys of individual parcels in the affected area
17 shall be conducted in accordance with the boundary survey
18 approved under section 3(b).

19 **SEC. 5. NOTICE AND AVAILABILITY OF SURVEY.**

20 Not later than 60 days after the date on which the
21 boundary survey is approved under section 3(b), the Sec-
22 retary shall—

23 (1) publish notice of the approval of the survey
24 in—

25 (A) the Federal Register; and

- 1 (B) 1 or more local newspapers; and
- 2 (2) on request, furnish to any landowner a copy
- 3 of—
- 4 (A) the survey; and
- 5 (B) any field notes relating to—
- 6 (i) the individual parcel of the land-
- 7 owner; or
- 8 (ii) any individual parcel adjacent to
- 9 the individual parcel of the landowner.

10 **SEC. 6. EFFECT OF ACT.**

11 Nothing in this Act—

- 12 (1) modifies any interest of the State of Okla-
- 13 homa or Texas, or the sovereignty, property, or trust
- 14 rights of any federally recognized Indian Tribe, re-
- 15 lating to land located north of the South Bank
- 16 boundary line, as established by the survey;
- 17 (2) modifies any land patented under the Act of
- 18 December 22, 1928 (45 Stat. 1069, chapter 47; 43
- 19 U.S.C. 1068) (commonly known as the “Color of
- 20 Title Act”), before the date of enactment of this Act;
- 21 (3) modifies or supersedes the Red River
- 22 Boundary Compact enacted by the States of Okla-
- 23 homa and Texas and consented to by Congress pur-
- 24 suant to Public Law 106–288 (114 Stat. 919);

1 (4) creates or reinstates any Indian reservation
2 or any portion of such a reservation;

3 (5) modifies any interest or any property or
4 trust rights of any individual Indian allottee; or

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

10 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

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

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