

115TH CONGRESS
1ST 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

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.**—

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

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

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

22 (3) LANDOWNER.—The term “landowner”
23 means any individual, group, association, corpora-
24 tion, federally recognized Indian tribe or member of
25 such an Indian tribe, or other private or govern-

1 mental legal entity that owns an interest in land in
2 the affected area.

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

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

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

13 (B) usually serves, as specified in the fifth
14 paragraph of *Oklahoma v. Texas*, 261 U.S. 340
15 (1923)—

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

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

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

1 under article II, section B of the Red River Bound-
2 ary Compact enacted by the States and consented to
3 by Congress pursuant to Public Law 106–288 (114
4 Stat. 919).

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

6 (a) SURVEY REQUIRED.—

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

10 (2) REQUIREMENTS.—The survey shall—

11 (A) adhere to the gradient boundary sur-
12 vey method;

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

14 (C) be conducted by surveyors that are—

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

17 (ii) selected jointly by and operating
18 under the direction of—

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

22 (II) the Oklahoma Commis-
23 sioners of the Land Office, in con-
24 sultation with the attorney general of
25 the State of Oklahoma and each af-

1 fected federally recognized Indian
2 tribe; and

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

5 (b) APPROVAL.—

6 (1) STATE APPROVAL.—

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

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

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

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

1 State of Oklahoma and each affected federally
2 recognized Indian tribe, shall determine wheth-
3 er to approve the survey.

4 (C) SURVEYS OF INDIVIDUAL PARCELS.—

5 (i) IN GENERAL.—Surveys of indi-
6 vidual parcels in the affected area shall be
7 conducted in accordance with this section.

8 (ii) APPROVAL OR DISAPPROVAL.—A
9 survey of an individual parcel conducted
10 under clause (i) shall be approved or dis-
11 approved, on an individual basis, by the
12 Texas General Land Office, in consultation
13 with each affected federally recognized In-
14 dian tribe, and the Oklahoma Commis-
15 sioners of the Land Office, in consultation
16 with the attorney general of the State of
17 Oklahoma and each affected federally rec-
18 ognized Indian tribe, by not later than 60
19 days after the date of receipt of the survey.

20 (2) NO FEDERAL APPROVAL REQUIRED.—The
21 survey conducted under subsection (a)(1), and any
22 survey of an individual parcel described in para-
23 graph (1)(C), shall not be submitted to the Sec-
24 retary for approval.

25 (c) NOTICES.—

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

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

9 and

10 (B) a copy of—

11 (i) the survey; and

12 (ii) any field notes relating to the in-
13 dividual parcel.

14 (2) ADJACENT LANDOWNERS.—Not later than
15 30 days after the date on which the Secretary re-
16 ceives a notice relating to an individual parcel under
17 paragraph (1), the Secretary shall provide to each
18 landowner of land adjacent to the individual par-
19 cel—

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

21 and

22 (B) a copy of—

23 (i) the survey; and

24 (ii) any field notes relating to the in-
25 dividual parcel.

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

2 Nothing in this Act—

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

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

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

16 (4) creates or reinstates any Indian reservation
17 or any portion of such a reservation; or

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

23 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

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