

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2130
OFFERED BY MR. BISHOP OF UTAH**

Strike all after the enacting clause and insert the following:

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 DISCLAIMER AND OUTDATED SURVEYS.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;

1 (3) be conducted by Licensed State Land Sur-
2 veyors chosen by the Texas General Land Office, in
3 consultation with the Oklahoma Commissioners of
4 the Land Office;

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

7 (5) not be submitted to the Bureau of Land
8 Management for approval.

9 (b) APPROVAL OF THE SURVEY.—After the survey is
10 completed, the Secretary shall submit the survey to be ap-
11 proved by the Texas General Land Office, in consultation
12 with the Oklahoma Commissioners of the Land Office.

13 (c) SURVEYS OF INDIVIDUAL PARCELS.—

14 (1) IN GENERAL.—Parcels surveyed as required
15 by this section shall be surveyed and approved on an
16 individual basis by the Texas General Land Office,
17 in consultation with the Oklahoma Commissioners of
18 the Land Office.

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

24 (d) NOTICE.—

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

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

7 (B) A copy of such survey and field notes
8 relating to such parcel.

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

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

16 (B) A copy of such survey and field notes
17 relating to such parcel.

18 (C) Notice that the landowner may file an
19 appeal under section 4.

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

22 (E) Any additional information considered
23 appropriate by the Secretary.

1 **SEC. 4. APPEAL.**

2 Not later than 1 year after the date on which a land-
3 owner receives notification under section 3(d)(2), a land-
4 owner who claims to hold right, title, or interest in the
5 affected area may appeal the determination of the survey
6 to an administrative law judge of the Department of the
7 Interior.

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

9 (a) NOTIFICATION OF APPLICATION PERIOD FOR
10 PATENTS.—

11 (1) IN GENERAL.—On the date that is 18
12 months after the date on which the Secretary re-
13 ceives notification relating to a parcel under section
14 3(d)(1), the Secretary shall determine whether such
15 parcel is subject to appeal.

16 (2) PARCEL NOT SUBJECT TO APPEAL.—Not
17 later than 30 days after the date on which the Sec-
18 retary determines a parcel is not subject to appeal,
19 the Secretary shall—

20 (A) notify landowners adjacent to such
21 parcel that the Secretary shall accept applica-
22 tions for patents for that parcel under sub-
23 section (b) for a period of 210 days; and

24 (B) begin accepting applications for pat-
25 ents for that parcel under subsection (b) for a
26 period of 210 days.

1 (3) PARCEL SUBJECT TO APPEAL.—If the Sec-
2 retary determines a parcel is subject to appeal, the
3 Secretary shall, not less than once every 6 months,
4 check the status of the appeals relating to such par-
5 cel, until the Secretary determines such parcel is not
6 subject to appeal.

7 (b) PATENTS FOR LANDS IN THE AFFECTED
8 AREA.—If the Secretary receives an application for a pat-
9 ent for a parcel of identified Federal lands during the pe-
10 riod for applications for such parcel under subsection
11 (a)(2)(B) and determines that the parcel has been held
12 in good faith and in peaceful adverse possession by an ap-
13 plicant, or the ancestors or grantors of such applicant, for
14 more than 20 years under claim (including through a
15 State land grant or deed or color of title), the Secretary
16 may issue a patent for the surface rights to such parcel
17 to the applicant, on the payment of \$1.25 per acre, if the
18 patent includes the following conditions:

19 (1) All minerals contained in the parcel are re-
20 served to the United States and subject to sale or
21 disposal by the United States under applicable leas-
22 ing and mineral land laws.

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

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

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

6 (a) RIGHT OF REFUSAL.—

7 (1) OFFERS TO PURCHASE.—After the expira-
8 tion of the period for applications under section
9 5(a)(2)(B), the Secretary shall offer for purchase for
10 a period of 60 days for each right of refusal—

11 (A) the surface rights to the remaining
12 identified Federal lands located north of the
13 vegetation line of the South Bank to—

14 (i) the adjacent owner of land located
15 in Oklahoma to the north with the first
16 right of refusal;

17 (ii) if applicable, the adjacent owner
18 of land located in Texas to the south with
19 the second right of refusal;

20 (iii) if applicable, the adjacent owner
21 of land located to the east with the third
22 right of refusal; and

23 (iv) if applicable, the adjacent owner
24 of land located to the west with the fourth
25 right of refusal; and

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

4 (i) the adjacent owner of land located
5 in Texas to the south with the first right
6 of refusal;

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

10 (iii) if applicable, the adjacent owner
11 of land located to the east with the third
12 right of refusal; and

13 (iv) if applicable, the adjacent owner
14 of land located to the west with the fourth
15 right of refusal.

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

20 (A) not subject to appeal 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 **SEC. 9. DEFINITIONS.**

4 In this Act:

5 (1) **AFFECTED AREA.**—The term “affected
6 area” means lands along the approximately 116-mile
7 stretch of the Red River from its confluence with the
8 North Fork of the Red River on the west to the
9 98th meridian on the east between the States of
10 Texas and Oklahoma.

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

20 (3) **IDENTIFIED FEDERAL LANDS.**—The term
21 “identified Federal lands” means the lands in the
22 affected area from the South Bank boundary line
23 north to the medial line of the Red River as identi-
24 fied pursuant to this Act.

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 called a cut bank,
7 along the southerly or right side of the Red River
8 which separates its bed from the adjacent upland,
9 whether valley or hill, and usually serves to confine
10 the waters within the bed and to preserve the course
11 of the river (as specified in the fifth paragraph of
12 *Oklahoma v. Texas*, 261 U.S. 340 (1923)).

13 (6) SOUTH BANK BOUNDARY LINE.—The term
14 “South Bank boundary line” means the boundary
15 between Texas and Oklahoma identified through the
16 gradient boundary survey method (as specified in
17 the sixth and seventh paragraphs of *Oklahoma v.*
18 *Texas*, 261 U.S. 340 (1923)).

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

21 (8) VEGETATION LINE.—The term “vegetation
22 line” means the visually identifiable continuous line
23 of vegetation that is adjacent to the portion of the
24 riverbed kept practically bare of vegetation by the

- 1 natural flow of the river and is continuous with the
- 2 vegetation beyond the riverbed.

