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ATTORNEYS AT LAW

SUITE 2400 REPUBLIC NATIONAL BANK BUILDING

DALLAS, TEXAS

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FRANK J. SCURLOCK
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LON SAILERS
C. SIDNEY MCCLAIN
JAMES R. RODGERS
RUTH MCCLENDON PIERCE
JERRY N. JORDAN

October 3, 1956

TELEPHONE
RIVERSIDE 9551

Mr. Earl Rudder
Commissioner of General Land Office
Austin, Texas

Attention: Mr. J. P. Graham
Attorney

Dear Sir:

This letter is in reply to your letter of September 17th, 1956 addressed to Fraser, Burr and Olyphant, Attention Mr. Hunter E. Akard, at Dallas, Texas, in which you inquired concerning the attitude of Texas Pacific Land Trust with respect to how original T. & P. field notes in school sections in Block 44, Township 2 South, T. & P. Ry. Co., Ector County, Texas, should be construed.

The present Trustees of the Texas Pacific Land Trust are Fraser, Meyer and Crawford, and their General and State Agent is Mr. Hunter E. Akard, with offices at 1119 Davis Building, Dallas, Texas. The Land Trust, through such Trustees, is owner of the fee titles to many of the T. & P. Ry. sections in the Reservation. On or about December 10, 1954 through what is known as a spin-off proceeding the Trustees of the Texas Pacific Land Trust conveyed the major portion of the oil, gas and other minerals under such sections of land to The TXL Oil Corporation, which was organized for the purpose of exploring such lands for oil and gas. All of the above information is given you so as to lay before you the present ownership of these lands and as a background for the fact that in writing this letter I represent both the Trustees of the Texas Pacific Land Trust and The TXL Oil Corporation.

So far as I know, and I have personally been representing the Texas Pacific Land Trust for more than fifteen years,

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it has been the consistent position of the owners of these lands that all of such T.&P. sections should be located on the ground in accordance with their original position given them by the surveyors who laid out the T. & P. Reservation; that is to say, when the outside lines of each of the blocks and townships are determined, then the survey within those blocks should be so located on the ground so that each survey will take into itself the excess which may be dictated by the location of the monuments along the respective block lines.

To be more specific, let us take for example, Block 44, Township 2 South. It has consistently been our view, and we have supported this by litigation, that when Township 2 South in Block 44 was located by the original surveyors of the T. & P. Ry. and when the appropriate field notes for the 48 sections and the official plats therefor were returned to and approved by the General Land Office that all of the land incorporated within the outside lines of Township 2 South was therefore severed from the public domain and became a part of the T. & P. Reservation subject to and in accordance with the Act of May 2, 1873. The T. & P. Ry. Co. and its vendees, Texas Pacific Land Trust through its Trustees, have ever since claimed that all of the land within such Township 2 South, Block 44 was divided into 48 equal sections, and that at the very outset it became the owner of 24 of those sections, being the odd-numbered sections. It is my understanding that the Texas Pacific Land Trust, through its Trustees, and The TXL Oil Corporation jointly own the fee and minerals today in and under Sections 3, 5, 27, 29, 31, 33, 37, 39, 41, 45 and 47 in exact accordance with their original location by the T. & P. surveyors.

It has been our consistent position and is today the position of the Texas Pacific Land Trust and The TXL Oil Corporation that all of the land included in Township 2 South was not only severed from the public domain by the original survey, the return of field notes and official plats, as aforesaid, but that on June 22, 1893 the District Court of Travis County in the case of State of Texas vs. Canda, Drake and Strauss, No. 10351, decreed that all of the land included in Block 44, Township 2 South was segregated from the public domain, and also decreed that the T. & P. Ry. and its vendees were the owners of all of the land within the

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odd-numbered sections in said Township 2 South as those sections were to be properly located on the ground under the plan of location and construction of the T. & P. Reservation, including Block 44, Township 2 South as originally laid out on the ground and as described in the field notes and official plats returned by the T. & P. Ry. Company to the General Land Office, and approved by it.

Therefore, Fraser, Meyer and Crawford, together with the TXL Oil Corporation as assignees of the T. & P. Ry. Co., now take the position that, as the owner of the above designated odd-numbered sections in Block 44, Township 2 South, their odd-numbered sections were properly located on the ground by respecting the monuments found on the North, South, East and West lines of Block 40, Township 2 South, and by tracing the lines East and West and North and South to those monuments; that in instances where monuments have disappeared, and where there is an excess of distance over that called for in the field notes found to exist between the monuments which still remain, that Township 2 South must be constructed by a proration of the excess between the nearest monuments which still remain, or which can be re-established, so that the excess distance, East, West, North and South, must be properly prorated to the odd-numbered sections and to the even numbered sections. That is to say, that we insist upon and claim title to the odd-numbered sections as they must be properly located under well recognized boundary rules prorating the excess between the monuments found on the ground.

We also have taken the consistent position and here reaffirm our position that the Act of March 22, 1889, being Chapter 90, page 103, of the Acts of the Regular Session of the 20th Legislature (9 Gammel's Laws 1131) did not affect the title of the T. & P. Ry., or any of its vendees, including the parties for whom I represent in writing this letter, because the patents to the odd-numbered sections in Block 44, Township 2 South had already been issued to the T. & P. Ry. Co. and were held by it and its vendees at the time of the passage of the aforesaid Act of March 22, 1889, and hence the Act itself in Section 5 excludes any effect the Act could have had upon the odd-numbered sections so patented, in that: "provided, that nothing in this Act shall apply to any lands for which patents have been issued".

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There has been, as the Land Office is aware, within the past few years a piece of litigation between the State of Texas and the Trustees of the Texas Pacific Land Trust and others with respect to the construction which is to be given the above Act and the above mentioned litigation in Travis County, Texas. That case is styled Leonard C. Proctor, et al vs. T. M. Markham, et al, 271 S.W.(2d) 685. In that case, even though there had been a set of corrected field notes filed and a corrected patent for less than the original amount contained within the field notes of the survey our Courts held that by virtue of the decision in State of Texas vs. Canda, Drake & Strauss, in which there was a take nothing judgment entered against the State of Texas, the Texas Pacific Land Trust, through its Trustees, had a complete and perfect title, both legal and equitable, to the entire section as originally located separate and apart from the title which they held by reason of the patent issued on corrected field notes.

I do not know and your letter does not say who told you that the Texas Pacific Land Trust and its vendees are asserting their ownership to Township 2 South in accordance with the re-survey field notes of Bucy.

I wish to state at this time categorically that such is not true and does not represent their position which is represented as I have heretofore set out in this letter.

Nor am I able to say without more detailed information as to whether or not oil and gas well locations in the area may have been made on the Bucy field notes. Such would involve a study of survey plats and finally upon which sides of the Bucy sections had been used and involves a legal as well as surveying question. However that may be, it would make no legal difference in the ownership of the lands themselves whether well locations had been made off of the Bucy lines or not because title to land can not be transferred because somebody makes a well location off of an erroneous land line, and no such location could affect the basic fee title owned by Texas Pacific Land Trust and its assignee, The TXL Oil Corporation.

File No. 12

ECTOR County
SKETCH FILE

Filed Oct. 6 1956

J. EARL RUDDER, Com'r.

By V. E. Hedberg

Ltr. from The Law
Firm of Turner,
Rodgers, Winn,
Scurlock & Terry
Dallas, Texas
in regard to const.
of T. & P. Ry. Co. surveys
in Blk. 44, Tsp. 2 S.,
Ector County
dated Oct. 3, 1956

RECEIVED
OCT 6 1956
GENERAL LANDS OFFICE

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