



BRIDGE OIL (U.S.A.) INC.

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La Nell -  
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DATE: 7/6/93  
TO: La Nell Aston  
FAX NUMBER: (512) 463-5098  
FROM: Mark A Parrish  
PAGES (INCLUDES COVER SHEET) \_\_\_\_\_

## C O M M E N T S

La Nell  
Attached is the info we  
discussed. Please do hesitate to call  
if you have any questions. Thanks for  
your help.

Regards,

Mark A. Parrish

File No. SKETCH FILE 27  
REFUGIO County  
Old Bed of San Antonio & Dunn's Bayou  
Filed Nov. 14 19 94  
GARRY MAURO, Com'r  
By Douglas Howard

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606 N. CARANCAHUA, SUITE 1000 • CORPUS CHRISTI, TEXAS 78476  
TELEPHONE: (512) 887-7007 • FAX: (512) 887-2908

VINSON, ELKINS & WEEMS  
ATTORNEYS AT LAW  
NIELS ESPERSON BUILDING  
HOUSTON, TEXAS

June 24, 1952

Re: Title to the old bed of the San Antonio River  
and Dunn's Bayou crossing your Huff Unit No. 2,  
Refugio County, Texas.

Mr. P. R. Rutherford  
Esperson Building  
Houston, Texas

Dear Sir:

You have asked that we advise you as to whether  
Dunn's Bayou and the old bed of the San Antonio River, where  
they cross or adjoin your Huff Unit No. 2, are owned by the  
State of Texas or are owned by the adjoining landowners (and  
thus subject to your various leases from such landowners).

It is our understanding that up to approximately  
1900 the San Antonio River ran through the old bed adjoining  
Huff Unit No. 2 on the North, and that the average width of  
the stream from the mouth up past the area in question was  
in excess of 30 feet. We are further advised that in about  
the year 1900 the course of the San Antonio River was suddenly  
shifted in that the stream broke through into Dunn's bayou  
and since that time has followed Dunn's Bayou rather than the  
old bed. It further appears that the average width of the  
present stream is in excess of 30 feet. There is considerable  
doubt whether the change in course was a natural avulsive  
change, or was artificially caused by the operations of the  
then landowner.

Assuming the above facts to be correct, it is our  
opinion that the bed of Dunn's Bayou is owned by the State  
of Texas and is not subject to the various leases executed  
by adjoining landowners. It is further our opinion that if  
the change in course from the old bed was caused by natural  
avulsion, then the title to the old bed became vested in the  
adjoining landowners, and consequently the half of such bed  
adjoining your leases became subject thereto. However, if

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the change in the course of the San Antonio River was caused by artificial means, in our opinion the law is so unsettled as to the ownership of the old bed that you would not be safe in conducting operations in such old bed in the absence of a judicial determination of ownership of such bed.

The Courts of this state have long held that the beds of streams navigable in fact or in law are reserved to the state. Article 5302, RCS 1925, defines navigable streams as "all streams so far as they retain an average width of 30 feet from the mouth up . . ." In Mottl v. Boyd, 116 Tex. 82, 286 S.W. 467, the Court described the bed of a navigable stream as follows:

"The bed of a stream is that portion of its soil which is alternately covered and left bare as there may be an increase or diminution in the supply of water, and which is adequate to contain it at its average and mean state during the entire year, without reference to extra freshets of the winter or spring or the extreme droughts of the summer or autumn."

The United States Supreme Court, in State of Oklahoma v. State of Texas, 260 U.S. 606, 43 S.Ct. 221, 67 L. Ed. 428, in determining the dispute between Texas and Oklahoma as to the location of the bed of the Red River, laid down rules which have been adopted by the State Courts of Texas, to-wit:

"The South bank of the river is the water-washed and relatively permanent elevation or acclivity, commonly called a cut bank, along the southerly side of the river which separates its bed from the adjacent upland, whether valley or hill, and usually serves to confine the waters within the bed and to preserve the course of the river.

"The boundary between the two states is on and along that bank at the mean level attained by the waters of the river when they reach and wash the bank without overflowing it.

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"At exceptional places where there is no well-defined out bank, but only a gradual incline from the sand bed of the river to the upland, the boundary is a line over such incline conforming to the mean level of the waters when at other places in that vicinity they reach and wash the out bank without overflowing it. . .

"The boundary line is a gradient of the flowing water in the river. It is located midway between the lower level of the flowing water that just reaches the cut bank, and the higher level of it that just does not overtop the cut bank."

Where the river takes a new course, whether by process of reliction, avulsion or artificial change, the title of the landowners to the new bed is divided and becomes vested in the State. Manry v. Robison, 122 Tex. 213, 56 S.W. (2d) 438; Maufrais v. State, 142 Tex. 559, 180 S.W. (2d) 144. If the change is caused by avulsion, leaving the old river bed dry, title to the old river bed vests in the landowners adjoining same. Maufrais v. State, supra. However, there are no authoritative decisions in this state as to whether title to the abandoned river bed similarly vests in the adjoining landowner where the change in course of the river is caused by artificial means. The case of Ray v. State, 153 S.W. (2d) 660, T.C.A. 1941 (er. refd., W.M.), indicates that title would remain in the State, while dictum in Diver-sion Lake Club v. Heath, 126 Tex. 129, 86 S.W.(2d) 441, indicates the contrary.

In view of the above, we conclude that the bed of Dunn's Bayou is owned by the State of Texas, and that the ownership of the old river bed is in such doubt that no operations should be conducted thereon in the absence of a judicial determination of the ownership of same.

Yours very truly,

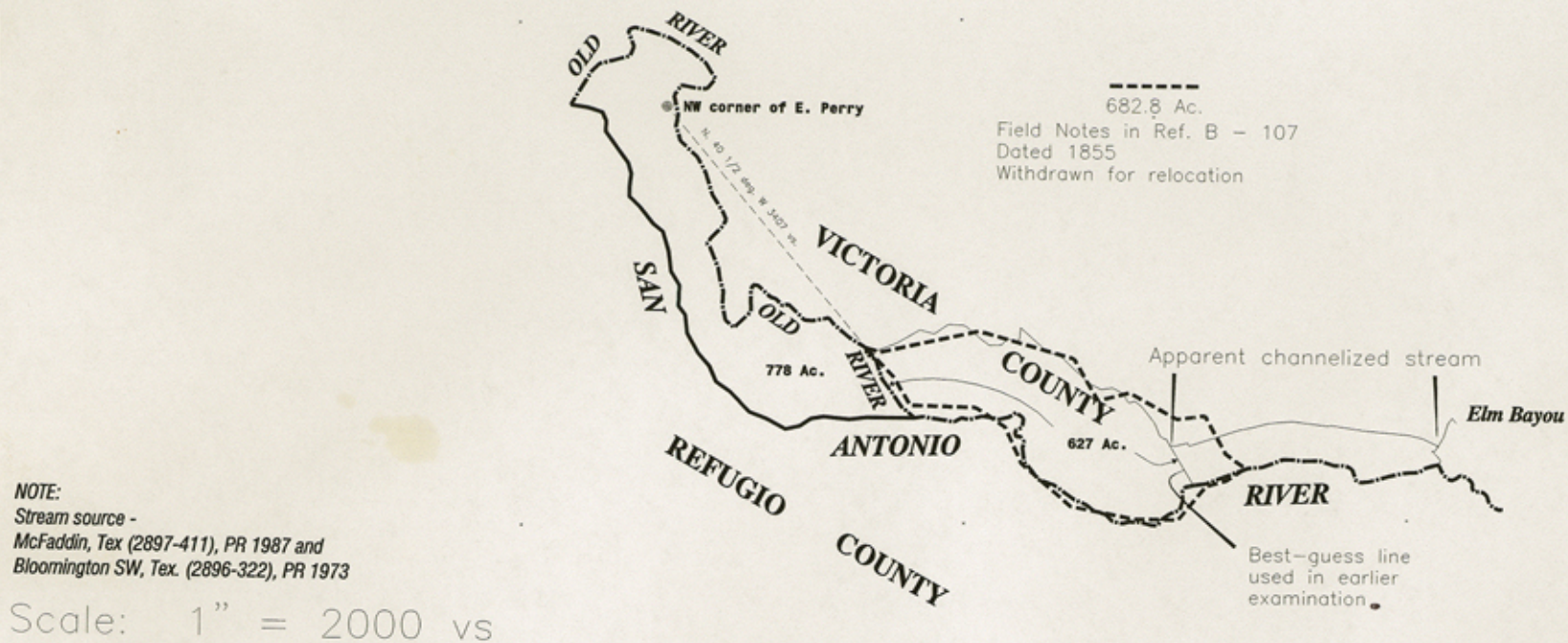
VINSON, ELKINS & WEEMS

By

*E. Allison*

79:73  
Encl.

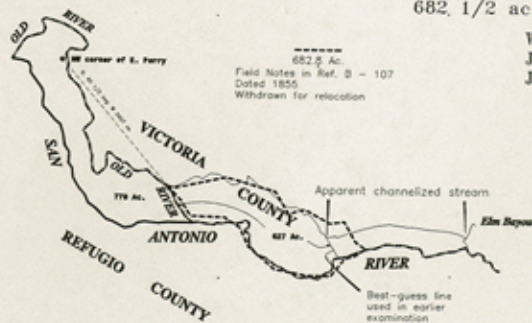
COPY



Francisco & Jose Ma. Rodriguez  
 Titled Dec. 14, 1834  
 (F. 17, p. 170)

Ref. B - 107  
 Ashbel Tuttle  
 Sur. N/A  
 Given at Refugio 4-14-1855  
 682, 1/2 ac.

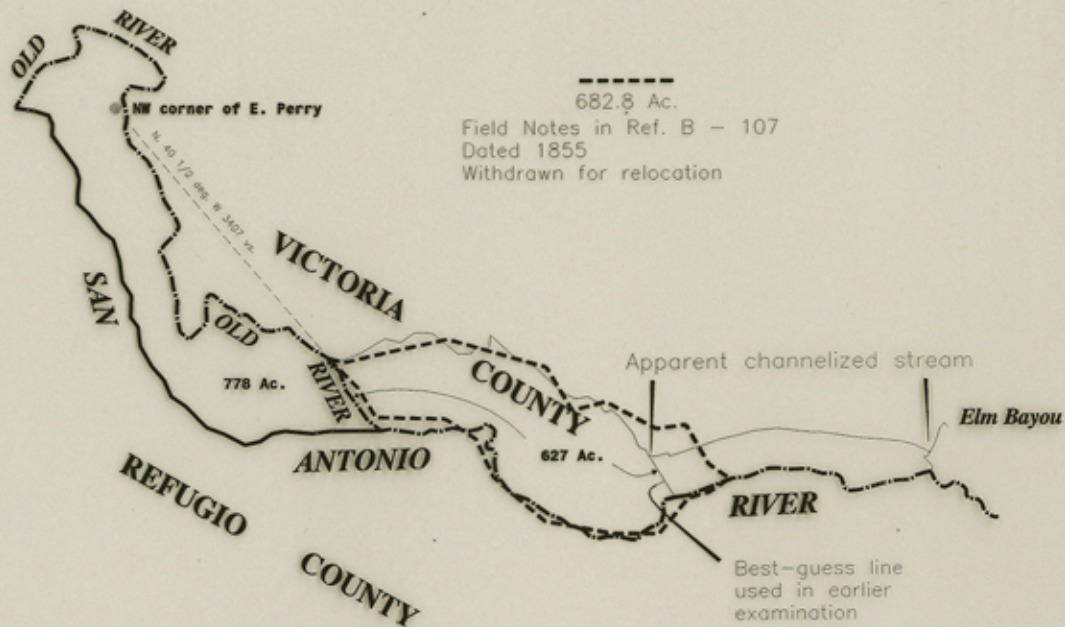
Warranty withdrawn by  
 J. W. Looney for relocation  
 June 1, 1860



Scale: 1" = 4000 vs

D:\dwgs\tuttle.dwg 11/10/1996 djh

counter 35298



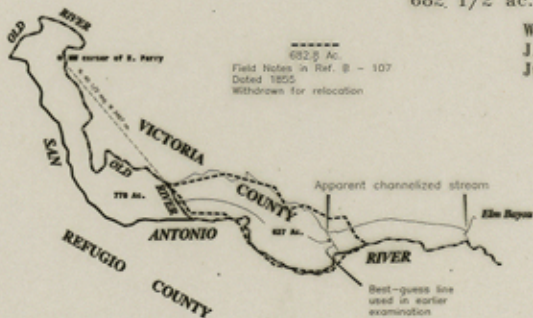
NOTE:  
Stream source -  
McFaddin, Tex (2897-411), PR 1987 and  
Bloomington SW, Tex. (2896-322), PR 1973

Scale: 1" = 2000 vs

Francisco & Jose Ma. Rodriguez  
Titled Dec. 14, 1834  
(F. 17, p. 170)

Ref. B - 107  
Ashbel Tuttle  
Sur. N/A  
Given at Refugio 4-14-1855  
682 1/2 ac.

Warranty withdrawn by  
J. W. Looney for relocation  
June 1, 1860

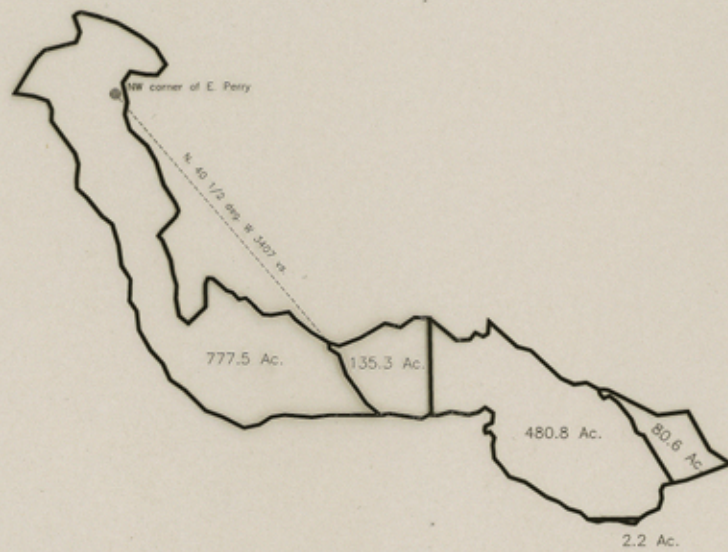


Scale: 1" = 4000 vs

La 594, 233, 596

D:\dwgs\tuttle.dwg 11/10/1996 djh

counter 35299



Scale: 1" = <sup>2</sup>4000 varas 11/8/1996 djh D:\dwgs\tuttle.dwg

counter 35300



Scale: 1" = 2000 varas 11/8/1996 djh D:\dwgs\tuttle.dwg

Counter 35301



NW corner of E. Perry

N. 40 1/2 deg. W 3407 vs.

Ref. B - 107  
Ashbel Tuttle  
Sur. N/A  
Given at Refugio 4-14-1855  
682 1/2 ac.

Warranty withdrawn by  
J. W. Looney for relocation  
June 1, 1860

Francisco & Jose Ma. Rodriguez  
Titled Dec. 14, 1834  
(F. 17, p. 170)

box 42: FOLDER 70  
Folder 70