

Extracted From MF-26465  
See San Patricio Rld. Sk. 31 & 39

File No. Sketch File 44  
San Patricio County  
Causes No. 5373, 5374, 5375, 5376

Filed March 17

GARRY MAURO, Com'r  
Douglas Howard

CONSOLIDATED CAUSES:

No. 5373  
Mrs M. Stella T. Kennedy, Et Al  
Vs.  
A. D. Aikin  
No. 5374  
P. V. Arnin, etal  
Vs.  
A. D. Aikin.

No. 5375  
Connie May Starr and Husband  
Vs. A. D. Aikin

No. 5376  
Arthur Starr, Etal  
Vs. A. D. Aikin

By  
In the District Court of  
San Patricio County, Texas,  
February Term, A. D. 1942  
as extended

On the 4th day of March, A. D. 1942, the above numbered and entitled causes coming on to be tried, came John G. Kenedy, Jr., both individually and as independent executor of the Last Will and Testament and Estate of Mrs. M. Stella T. Kenedy, deceased, and Mrs Sarits K. East, joined by her husband, A. L. East, heretofore by order duly made and entered on September 17th, 1940, made parties plaintiff in said cause in lieu of and instead of said Mrs M. Stella T. Kenedy, deceased, and Phillips Petroleum Company, a corporation, plaintiffs in said cause No. 5373, and A. D. Aikin, defendant, and the State of Texas, intervenor-defendant in said cause, by their respective attorneys of record; and P. V. Arnin, Kathleen Lord Arnin and Phillips Petroleum Company, a corporation, plaintiffs in said Cause No. 5374, and A. D. Aikin, defendant, and the State of Texas intervenor-defendant in said cause, by their respective attorneys of record; and Connie May Starr, joined by her husband, Arthur Starr, plaintiff in said cause No. 5375, and A. D. Aikin, defendant, and the State of Texas, intervenor-defendant in said cause, by their respective attorneys of record; and Arthur Starr, Corris B. Fitzsimmons, Gordon Boone and Phillips Petroleum Company, a corporation, plaintiffs in said cause No. 5376, and A. D. Aikin, defendant, and the State of Texas, intervenor-defendant in said cause, by their respective attorneys of record, and all parties in said causes announced ready for trial.

Counsel for all parties requested that said four causes be consolidated and tried as a single cause, and the Court being of the opinion that said four causes contained common questions of law and of fact, it was ordered by the Court on said date that said causes be and the same were consolidated and tried together as a single cause.

A jury having been waived by all parties, all matters of fact as well as of law were submitted to the Court and the causes being in progress from day to day and not concluded during the regular term of said Court, it appearing to the Court that said term of Court would expire before the completion of the trial of said causes and all matters in connection therewith, the Judge of this Court duly made and caused to be entered on March 26th, A. D. 1942, an order extending the term of said court for a period of thirty (30) days from and after the 29th day of March, A. D. 1942, and thereafter, from time to time, within the term of said court as so extended, the Judge of this Court duly made and caused to be entered further orders extending the term of said court until the final completion and determination of the trial of said causes as so consolidated and all matters incidental to and in connection therewith, as shown by the several orders so made and entered in the Minutes of this court; and now on this the 21st day of September, A. D. 1942, during said term of court as so extended, the Court having heard the pleadings, the evidence and argument of counsel, and having duly considered the same, and being of the opinion that in cause No. 5373 in which said John G. Kenedy, Jr., individually and as independent executor of the

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last will and estate of said Mrs. M. Stella T. Kenedy, deceased, and Mrs. Sarita K. East, joined by her husband, A. L. East, and Phillips Petroleum Company, a corporation, are plaintiffs, and said A. D. Aikin is defendant and the State of Texas is intervenor-defendant, the law and the facts are with the defendants and that plaintiffs are not entitled to the relief prayed for by them herein, and that is said causes Nos. 5374, 5375 and 5376, in which the respective parties as hereinabove stated are plaintiffs and defendants, the law and the facts are with the plaintiffs and that the plaintiffs in said causes are entitled to the relief prayed for by them herein; it is therefore here now on this the 21st day of September, A. D. 1942, at the March term, A. D. 1942 of this Court as so extended, ORDERED, ADJUDGED and DECREED by the Court as follows:

## I

In cause No. 5373, in which John G. Kenedy, Jr., individually and as independent executor of the last will and estate of said Mrs. M. Stella T. Kenedy, deceased, and Mrs. Sarita K. East, joined by her husband, A. L. East, and Phillips Petroleum Company, a corporation, are plaintiffs, that plaintiff, John G. Kenedy, Jr., individually and as independent executor of the Estate of Mrs. M. Stella T. Kenedy, and Mrs. Sarita K. East, joined by her husband, A. L. East, and Phillips Petroleum Company, a corporation, take nothing by their suit herein as to defendant A. D. Aikin and intervenor, the State of Texas, and that said defendants go hence without day with their costs, for which they may have execution.

And it appearing to the Court that plaintiffs, Phillips Petroleum Company, a corporation, is the owner by assignment of all the rights, title and estate of defendant, A. D. Aikin as lessee in those two certain oil and gas leases executed by the Honorable Bascom Giles, Commissioner of the General Land Office, acting for and in behalf of the State of Texas, as lessor, numbered respectively 25,464 and 25,465, recorded in Volume 39, pages 462-465 and in Volume 39, pages 465-468 in the Oil and Gas Lease Records of San Patricio County, Texas, to which reference is here made, as evidence by an assignment duly executed and delivered by said A. D. Aikin to Phillips Petroleum Company, of record in Volume 41, page 584, Oil and Gas Lease Records of said County, to which reference is also made, it is further ordered by the Court that said Phillips Petroleum Company, a corporation, be and it is hereby adjudged to have and hold a valid and subsisting oil, gas and mineral leasehold estate on the lands described in said assignment and on the lands involved in this cause, insofar as said lease covers and includes the land or any part thereof described in plaintiffs' petition in said cause.

To which judgment of the Court John G. Kenedy, Jr., individually and as independent executor of the estate of Mrs. M. Stella T. Kenedy, deceased, and Mrs. Sarita K. East, joined by her husband, A. L. East, and Phillips Petroleum Company then and there duly excepted and in open court gave notice of appeal to the Honorable Court of Civil Appeals in and for the Fourth Supreme Judicial District of Texas, at San Antonio, Texas, and then and there in open Court, requested the Court to prepare and file findings of Fact and Conclusions of Law in said cause, and to note plaintiffs' exceptions thereto.

## II

In cause No. 5374, in which said P. V. Arnim, Kathleen Lord Arnim and Phillips Petroleum Company, a corporation, are plaintiffs, and said A. D. Aikin is defendant and the State of Texas is intervenor-defendant, that plaintiffs, P. V. Arnim and Kathleen Lord Arnim, as owners in fee of the lands and premises hereinbefore described, and Phillips Petroleum Company, a corporation, as holder of an oil, gas and mineral lease thereon executed and delivered to said Phillips Petroleum Company by said P. V. Arnim and Kathleen Lord Arnim, do have and recover of and from defendant A. D. Aikin, and intervenor-defendant, the State of Texas, in the respective estates and interests owned by said plaintiffs therein, the title to and possession of the lands and premises described in plaintiffs' petition, situated in San Pat-

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ricio County, Texas, and being a part of lot 8 of the J. H. Drummond subdivision of a 4049 acre tract of land in San Patricio County, Texas, according to the plat thereof of record in Vol. 1, page 15, of the Map records of San Patricio County, Texas, and the appurtenant and contiguous land formed by gradual and imperceptible accretions thereto, and the appurtenant accretions thereto caused by the gradual recession of the waters of Nueces Bay, to-wit:

Beginning at a point on the East line of Lot 8 of said J. H. Drummond subdivision for the Northeast corner of this tract, which point is on the North line of a 331.53 acres tract covered by mineral file No. 30,496 in the General Land Office of the State of Texas, and also being the same 331.53 acres described in and covered by mineral lease No. 25,465 made and executed by Bascom Giles, Commissioner of the General Land Office of the State of Texas to A. D. Aikin, Assignee of Donald David, dated July 9th, 1940.

Thence West 258.6 varas with the North line of said 331.53 acre tract to a point on the West line of said Lot 8, for the Northwest corner of this tract;

Thence with the West line of Lot 8 and its extension South 1 deg. 31' West 1325.6 Varas to a point on the shore of Nueces Bay, for the Southwest corner of this tract;

Thence with the meanders of Nueces Bay North 58 deg. 40' East 123.8 varas, South 78 deg. 11' East 157.0 varas to a point on the shore of Nueces Bay and on the extension of the East line of Lot 8 for the Southeast corner of this tract;

Thence with the extension of the East line of Lot 8 and its East line North 1 deg. 31' East 1293.3 varas to the point of beginning, containing 58.76 acres of land, more or less.

And it is further ordered, adjudged and decreed by the Court that the cloud cast upon plaintiffs' title to and possession of said above described land be the leases executed and delivered by the Honorable Bascom Giles, Commissioner of the General Land Office of Texas on or about July 9th, 1940 to defendant A. D. Aikin, as assignee of Donald David, and of record in the Oil and Gas Lease Records of San Patricio County, Texas, and the field notes and corrected field notes of the same, made on the application for said leases and filed and recorded in the Surveyor's Records of San Patricio County, Texas, and in the General Land Office of the State of Texas at Austin, Texas, insofar as said field notes and said leases cover and include any part of the land and premises hereinabove described be, and the same is hereby and forever cancelled and removed and that plaintiffs be and they are hereby fully and forever quieted in their respective titles to and possession of said lands and premises. It is further ordered by the Court that said plaintiffs do have and recover of and from said defendant A. D. Aikin and intervener-defendant, the State of Texas, all costs in this cause incurred, and that as to such costs as are properly chargeable against defendant A. D. Aikin, plaintiffs have execution therefor.

To which judgement of the Court defendant A. D. Aikin and intervener-defendant, the State of Texas, then and there duly excepted and in open Court gave notice of appeal to the Honorable Court of Civil Appeals in and for the Fourth Supreme Judicial District of Texas, at San Antonio, Texas, and at the same time said defendant and said intervener-defendant then and there requested the Court to prepare and file Findings of Fact and Conclusions of Law in said cause and to note their exceptions thereto.

III

In said cause No. 5375, in which said Connie May Starr, joined by her husband, Arthur Starr, are plaintiffs and said A. D. Aikin is defendant, and the State of Texas is intervener-defendant, that plaintiff, Connie May Starr, joined by her husband Arthur Starr, do have and recover of and from defendant A. D. Aikin and intervener-defendant, the State of Texas, the title to and possession of the lands and premises described in plaintiffs petition, situated in San Patricio County, Texas, and being a part of Lot 7 of the J. H. Drummond Sub-

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division of a 4049 acre tract of land in San Patricio County, Texas, according to the plat thereof of record in Volume 1, page 15, of the Map Records of San Patricio County, Texas, and the appurtenant and contiguous land formed by gradual and imperceptible accretion thereto, and the appurtenant accretion thereto caused by the gradual recession of the waters of Nueces Bay, to-wit;

Beginning at a point on the East line of Lot 7 of the J. H. Drummond Subdivision, which point is on the North line of the 331.53 acre tract covered by Mineral File No. 30,496, in the General Land Office of the State of Texas, and also being the same 331.53 acres described in and covered by mineral lease No. 25,465 made and executed by Bascom Giles, Commissioner of the General Land Office of the State of Texas, to A. D. Aikin, Assignee of Donald David, dated July 9th, 1940, for the Northeast corner of this tract;

Thence West 172.9 varas with <sup>the</sup> North line of <sup>the</sup> said 331.53 acre tract to a point on the west line of Lot 7 of the Drummond Subdivision, for the northwest corner of this tract;

Thence with the west line of Lot 7, South 1 deg. 31' West 1293.3 varas to a point on the shore of Nueces Bay, for the southwest corner of this tract;

Thence with the meanders of Nueces Bay South 78 deg. 11' E. 3.1 varas, N 65 deg. 27' E 128.1 varas, N 73 deg. 27' E 57.4 varas to a point on the shore of Nueces Bay and on the east line of Lot 7 extended, for the Southeast corner of this tract;

Thence with the extension of the east line of Lot 7 and its east line N 1 deg. 31' E 1224.4 varas, to the point of beginning; containing 38.45 acres, more or less.

And it is further ordered, adjudged and decreed by the Court that the cloud cast upon plaintiffs title to and possession of said above described land by the leases executed and delivered by the Honorable Bascom Giles, Commissioner of the General Land Office of Texas on or about July 9th, 1940 to defendant A. D. Aikin, as assignee of Donald David, and of record in the Oil and Gas Lease Records of San Patricio County, Texas, and the field notes and corrected field notes of the same, made on the application for said leases and filed and recorded in the County Surveyors' Records of San Patricio County, Texas, and in the General Land Office of the State of Texas at Austin, Texas, insofar as said field notes and said leases cover and include any part of the land and premises hereinabove described be, and the same is hereby fully and forever cancelled and removed and that plaintiffs be and they are hereby fully and forever quieted in their title to and possession of said lands and premises. It is further ordered by the Court that said plaintiffs do have and recover of and from said defendant A. D. Aikin and intervener-defendant, the State of Texas, all costs in this cause incurred, and that as to such costs as are properly chargeable against defendant A. D. Aikin, plaintiffs have execution therefor.

To which judgement of the Court defendant A D Aikin and intervener-defendant, the State of Texas, then and there duly excepted and in open Court gave notice of appeal to the Honorable Court of Civil Appeals in and for the Fourth Supreme Judicial District of Texas, at San Antonio, Texas, and at the same time said Defendant and said intervener-defendant then and there requested the Court to prepare and file Findings of Fact and Conclusions of Law in said cause and to note their exceptions thereto.

## IV

In said cause No. 5376, in which said Arthur Starr, Corrie B. Fitzsimmons, Gordon Boone, and Phillips Petroleum Company, a corporation, are plaintiffs and said A. D. Aikin is defendant and the State of Texas is intervener-defendant, that plaintiffs Arthur Starr, Corrie B. Fitzsimmons and Gordon Boone, as owners in fee of the lands and premises hereinbelow described, and Phillips Petroleum Company, a corporation, as holder of an oil, gas and mineral lease executed and

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delivered to said Phillips Petroleum Company by said Arthur Starr, Corrie B. Fitzsimmons and Gordon Boone, do have and recover of and from defendant A. D. Aikin and intervener-defendant, the State of Texas, in the respective interests and estates owned by said plaintiffs therein, the title to and possession of the lands and premises described in plaintiffs' petition, situated in San Patricio County, Texas, and being a part of Lot 6 of the J. H. Drummond Subdivision of a 4049 acre tract of land in San Patricio County, Texas, according to the plat thereof of record in Vol. 1, page 15, of the Map Records of San Patricio County, Texas, and the appurtenant and contiguous land formed by gradual and imperceptible accretion thereto, and the appurtenant accretions thereto caused by the gradual recession of the waters of Nueces Bay, to-wit;

Beginning at a point on the West line of Lot 5 of said J. H. Drummond Subdivision of the Northeast corner of this tract, which is also the Northeast corner of the 331.53 acres tract covered by mineral file No. 30,496 in the General Land Office of the State of Texas, and also being the same 331.53 acres described in and covered by mineral lease No. 25,465 made and executed by Bascom Giles, Commissioner of the General Land Office of the State of Texas to A. D. Aikin, Assignee of Donald David, dated July 9th, 1940;

Thence West 183.7 varas with the North line of said 331.53 acres to the West line of said Lot 6 of said J. H. Drummond Subdivision for the Northwest corner of this tract;

Thence with the West line of said Lot 6 South 1 deg. 31' West 1224.4 varas to a point on the shore of Nueces Bay for a corner of this tract;

Thence with the meanders of Nueces Bay North 73 deg. 27' East 193.1 varas to a point on the shore of Nueces Bay, the Southeast corner of said 331.53 acres tract for the southeast corner of this Tract;

Thence North 1 deg. 31' East with the East line of said 331.53 acres tract 1169.4 varas to the point of beginning; containing 38.93 acres of land, more or less.

And it is further ordered, adjudged and decreed by the Court that the cloud cast upon plaintiffs' title to and possession of said above described land by the leases executed and delivered by the Honorable Bascom Giles, Commissioner of the General Land Office of Texas on or about July 9th, 1940, to defendant A. D. Aikin, as assignee of Donald David, and of record in the Oil and Gas Lease Records of San Patricio County, Texas, and the field notes and corrected field notes of the same, made on the application for said leased and filed and recorded in the County Surveyor's Records of San Patricio County, Texas, and in the General Land Office of the State of Texas at Austin, Texas, insofar as said field notes and said leases cover and include any part of the land and premises hereinbefore described be, and the same is hereby fully and forever cancelled and removed and that plaintiffs be and they are hereby fully and forever quieted in their respective titles to and possession of said lands and premises. It is further ordered by the court that said plaintiffs do have and recover of and from said defendant A. D. Aikin and intervener-defendant, the State of Texas, all costs in this cause incurred, and that as to such costs as are properly chargeable against defendant A. D. Aikin, plaintiffs have execution therefor.

To which judgement of the Court defendant A. D. Aikin and intervener-defendant, the State of Texas, then and there duly excepted and in open Court gave notice of appeal to the Honorable Court of Civil appeals in and for the Fourth Supreme Judicial District of Texas, at San Antonio, Texas, and at the same time said defendant and said intervener-defendant then and there requested the Court to prepare and file Findings of Fact and Conclusions of Law in said cause and to note their exceptions thereto.

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ENTERED, THIS 21st day of September, A. D. 1942.

S/ W. G. Gayle  
Judge, District Court, San  
Patricio County, Texas.

APPROVED AS TO FORM

S/ Peter Maniscalco  
Peter Maniscalco, Assistant  
Attorney General of Texas,  
Attorney for intervener, State  
of Texas.

S/ ROCKEY HARKEY  
Rockey Harkey, Attorney for  
defendant, A. D. Aikin.

S/ TOM DYER  
Tom Dyer, Attorney for Plain-  
tiff, Phillips Petroleum  
Company.

S/ C. B. NEEL  
C. B. Neel, Attorney of  
Plaintiff, Phillips Petroleum  
Company.

S/ W. B. MOSS  
S/ GORDON BOONE  
Gordon Boone, Attorney for  
Plaintiffs.

THE STATE OF TEXAS |  
COUNTY OF SAN PATRICIO |

I, J. L. Hamilton, Clerk of the District Court of San Patricio County, Texas, do hereby certify that the above and foregoing is a full, true and correct copy of Judgement entered in the numbered and entitled causes as set forth therein, and that said judgement is entered in the records of this Court.

Given under my hand and seal of office, at Sinton, Texas, this the 23rd day of November, A. D. 1943.

J. L. Hamilton  
J. L. Hamilton, Clerk of the  
District Court, San Patricio  
County, Texas.

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