

NO. 93-05265

BRIGHT & COMPANY and EXXON CORPORATION

v.

JERRY PATTERSON, Commissioner of the General Land Office, THE STATE OF TEXAS, and THE JOHN G. AND MARIE STELLA KENEDY MEMORIAL FOUNDATION, and THE CORPUS CHRISTI DIOCESE OF THE ROMAN CATHOLIC CHURCH

IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS  
200TH JUDICIAL DISTRICT

File No. Sketch File 3  
County Kenedy  
*Certified copy of Judgment - 1/17/99*  
Date Filed: 24 June 2003  
By Jerry E. Patterson, Commissioner


FINAL JUDGMENT ON REMAND FROM THE SUPREME COURT OF TEXAS

On October 30, 1995, this cause was called for trial. During pretrial, by agreement of the parties, the Court rendered an Order setting over for separate trial all issues pertaining to the interpleader action and a taking claim asserted by Defendant and Cross-Plaintiff The John G. and Marie Stella Kenedy Memorial Foundation ("the Foundation") against Defendant The State of Texas, leaving for the instant trial the parties' request for a boundary determination. Following consideration of pretrial matters and a delay due to other trial commitments of one attorney, a jury was selected on November 13, 1995 and the parties proceeded with trial.

Interpleader Plaintiffs Bright & Company and Exxon Corporation, and Defendant and Cross-Plaintiff The Corpus Christi Diocese of the Roman Catholic Church ("the Diocese") did not appear but agreed by stipulation signed by all parties and filed with the Court that any judgment in this cause would be binding upon the Interpleader Plaintiffs and the Diocese with respect to all matters pleaded in this cause.

The Foundation appeared by its representatives and by its attorneys of record and announced ready for trial. Defendants Garry Mauro, Commissioner of the General Land Office

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and The State of Texas (collectively, "Cross-Defendants") appeared by their representatives and by their attorneys of record and announced ready for trial. Following a jury trial, this Court rendered judgment for Cross-Defendants on the boundary issue on May 10, 1996. On the same date that judgment was rendered, this Court rendered an order of severance, based on an agreement of the parties, severing the issues pertaining to the interpleader action and the Foundation's taking claim into a separate cause, No. 93-05265A, in the 200th Judicial District Court of Travis County, Texas. The Foundation and the Diocese appealed the judgment concerning the boundary to the Austin Court of Appeals (No. 03-96-00517-CV). That court affirmed this Court's judgment. *The John G. and Marie Stella Kenedy Memorial Foundation v. Dewhurst*, 994 S.W.2d 285 (Tex. App.—Austin 1999). The Foundation and the Diocese then appealed to the Supreme Court of Texas (No. 99-0667). On August 29, 2002, the Supreme Court issued its opinion and judgment, reversing the judgment of the court of appeals and remanding to the trial court for rendition of judgment for the Foundation and the Diocese in accordance with the opinion. Cross-Defendants' motion for rehearing was denied by the Supreme Court on December 31, 2002, and the Supreme Court's mandate was issued on January 2, 2003. In accordance with the opinion and mandate of the Supreme Court of Texas, it is hereby

ORDERED, ADJUDGED, DECLARED and DECREED that:

- (i) the Disputed Land, which is more particularly described in Exhibit "A" attached to and incorporated by reference in this judgment, lies above mean higher high water;
- (ii) the present eastern and littoral boundary of the Spanish grant to Jose Francisco Balli, known as La Barreta or Big Barreta, and of the original Mexican grant to Leonardo Salinas, known as Las Motas de la Barreta or Little Barreta, is the Claunch-Lothrop Survey Line, which is described as the eastern and littoral boundary of the Disputed Land in Exhibit "A";

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(iii) the Foundation owns in fee simple all of the Disputed Land, subject to the Diocese's interest and subject to the rights and interests of the United States of America in a surface easement more particularly described in an instrument entitled Spoil Disposal and Right-of-Way Easement Deed granted by the Arroyo Colorado Navigation District to the United States on August 21, 1947 and filed of record at Volume 5, pages 233-235 of the Deed Records in Kenedy County, Texas;

(iv) Cross-Defendants are hereby permanently enjoined from trespassing and exercising possession, dominion and control over the Disputed Land and from leasing any portion of the Disputed Land for the exploration and development of oil, gas, and other minerals and any surface use and are hereby directed to amend all "state lease tract" maps, also known as "submerged area maps," and other maps and documents published by the General Land Office to depict the Disputed Land as privately-owned land and not as state-owned land;

(v) all rights, privileges and interests granted by Cross-Defendants to Bright & Company and Exxon Corporation in the mineral or surface estates of the Disputed Land are null and void;

(vi) the survey performed and the maps and field notes signed and sealed by licensed state land surveyor Darrell D. Shine, filed in the records of the General Land Office of the State of Texas and in the records of Kenedy County, Texas, together with the monuments of said Shine survey that were set on the ground, do not correctly establish or mark the meanders of the seashore boundary between the Foundation's littoral property within the Barreta Grants and state-owned submerged land of the Laguna Madre, and the said Shine survey is void and of no legal effect; and it is

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FURTHER ORDERED, ADJUDGED, DECLARED and DECREED that the Foundation and the Diocese recover their costs of court in this Court, the court of appeals, and the Supreme Court of Texas from and against Cross-Defendants and that Cross-Defendants be assessed all costs; and it is

FURTHER ORDERED, ADJUDGED, DECLARED and DECREED that the Foundation and the Diocese have and recover from and against Cross-Defendants post-judgment interest on the foregoing amount at the rate of 10 percent per annum from the date of this judgment until paid; and it is

FURTHER ORDERED, ADJUDGED, DECLARED and DECREED that all relief not expressly granted herein is DENIED.

SIGNED this 28 day of April, 2003.

Margaret A. Cooper  
JUDGE PRESIDING

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LEGAL DESCRIPTION  
OF  
DISPUTED LAND

35,039.83 acres, more or less, in Kenedy County, Texas; being all the land above Mean Higher High Tide of the Laguna Madre in the Las Motas De La Barreta Grant (also known as the "Little Barreta Grant" or the "La Barreta Grant") to Leonardo Salinas and the La Barreta Grant to Jose Francisco Balli (also known as the "Big Barreta Grant") lying north of a line for the southern boundary of said "Big Barreta Grant", south of a line for the northern boundary of said "Little Barreta Grant", and west of a line for the line of Mean Higher High Tide on the western shore or bank of the United States Intracoastal Waterway; the said 35,039.83 acres, more or less, being in three (3) tracts herein designated as Tract One, Tract Two, and Tract Three; and the said 35,039.83 acres in three tracts being individually and more particularly described as follows:

**Tract One: (Containing 135.39 acres, more or less)**

BEGINNING at coordinate position X = 2,325,032.31 feet and Y = 414,327.40 feet on the plane of the Texas Coordinate System (South Zone), NAD of 1927, for the southwest corner of this tract, said southwest corner being on an eastward projection of a fence line for the common boundary between the said "Big Barreta Grant" (on the north) and the San Juan De Carricitos Grant (on the south), said southwest corner of this tract lying South 81 deg. 22 min. 54 sec. East a distance of 1,120.25 varas (3,111.80 feet) from a fence corner post at the eastern extremity of said fence line, and said southwest corner of this tract also being for the southeastern corner of a survey of "124,297 acres" made by F.M. Maddox, Deputy Surveyor of Hidalgo County, in March of 1905 and April 1906 (recorded in Volume "A", Pages 317-319 of the Surveyor's Records of Cameron County, Texas), and from said Place of Beginning U.S.C. and G.S. Triangulation Station "Lopena" (at coordinate position X = 2,335,472.93 feet and Y = 480,025.08 feet on said coordinate system according to a map titled "Map Showing Location of Control Monuments on J.G. and M.S. Kenedy Memorial Foundation Properties in Kenedy County, Texas" recorded in Plat Book 1, Page 25 of the Plat Records of Kenedy County - the published U.S.C. and G.S. position of this tri-station being called X = 2,335,472.55 feet and Y = 480,025.65 feet on said coordinate system) bears North 9 deg. 01 min. 48 sec. East a distance of 23,947.96 varas (66,522.11 feet), and the "mapping angle" at this Place of Beginning being 0 deg. 27 min. 08.7 sec.;

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THENCE with a line for the meanders of the eastern line of said Maddox survey, North 0 deg. 52 min. 56 sec. West, a distance of 493.78 varas (1371.62 feet) to a 3 1/2 inch diameter creosote post having a 1 inch by 2 inch aluminum plaque with a punch-hole for mark fixed to its top, for an intersection with a line for the meanders of the contour of approximate elevation 1.00 feet (NGVD--SLD of 1929) for the line of Mean Higher High Tide of the Laguna Madre, and for the northeast corner of this tract;

THENCE with said line for the meanders of the line of Mean Higher High Tide of the Laguna Madre (the meander corners of which are marked by creosote posts similar to the last described) approximately as follows - South 74° 54' 37" East 149.49 varas (415.25 ft.), North 85° 18' 30" East 537.65 varas (1493.47 ft.), South 75° 12' 36" East 721.13 varas (2003.14 ft.), South 51° 32' 21" East 181.89 varas (505.26 ft.); South 1° 14' 56" East 91.97 varas (255.48 ft.), South 41° 24' 08" West 185.45 varas (515.13 ft.), and South 56° 30' 46" West 267.53 varas (743.13 ft.), to an intersection with the previously mentioned eastward projection of a fence line, for the southeast corner of this tract;

THENCE with said eastward projection of a fence line, North 81 deg. 22 min. 54 sec. West, a distance of 1,181.83 varas (3282.87 feet) to the Place of Beginning.

Containing 135.39 acres, more or less, on the plane of the Texas Coordinate System (South Zone) which equals a surface area of 135.42 acres, more or less. All bearing and distances stated herein are in reference to the said coordinate system.

**Tract Two: (Containing 10,901.59 acres, more or less)**

COMMENCING at coordinate position X = 2,325,032.31 feet and Y = 414,327.40 feet on the plane of the Texas Coordinate System (South Zone), NAD of 1927, for the southwest corner of the previously described Tract One and for the southeast corner of a survey of "124,297 acres" made by F.M. Maddox, Deputy Surveyor of Hidalgo County, in March of 1905 and April of 1906 (recorded in Volume "A", Pages 317-319 of the Surveyor's Records of Cameron County, Texas); thence with a line for the meanders of the eastern line of said survey made by F.M. Maddox, North 0 deg. 52 min. 56 sec. West a distance of 705.93 varas (1,960.93 feet), and North 79 deg. 52 min. 56 sec. West a distance of 696.41 varas (1,934.46 feet) to an intersection with a line for the meanders of the contour of approximate elevation 1.00 feet (NGVD--SLD of 1929) for the line of Mean Higher High Tide of the Laguna Madre, said place of intersection being at coordinate position X = 2,323,097.75 feet and Y = 416,627.94 feet (on said coordinate system), for the southernmost corner and PLACE OF BEGINNING of Tract Two herein described, from which U.S.C. and G.S. Triangulation Station



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"Lopena" (at coordinate position X = 2,335,472.93 feet and Y = 480,025.08 feet on said coordinate system according to a map titled "Map Showing Location of Control Monuments on J.G. and M.S. Kenedy Memorial Foundation Properties in Kenedy County, Texas" recorded in Plat Book 1, Page 25, of the Plat Records of Kenedy County, Texas - the published U.S.C. and G.S. position of this tri-station being called X = 2,335,472.55 feet and Y = 480,025.65 feet on said coordinate system) bears North 11 deg. 02 min. 43 sec. East a distance of 23,253.72 varas (64,593.67 feet), and the "mapping angle" at this Place of Beginning being 0 deg. 26 min. 59.1 sec.;

THENCE with the meanders of said eastern line of survey by F.M. Maddox, as follows -

North 79° 52' 56" West 181.18 varas (503.29 ft.),  
 North 55° 52' 56" West 6184.70 varas (17,179.72 ft.),  
 North 0° 52' 56" West 1236.94 varas (3435.95 ft.),  
 North 62° 52' 05" East 1066.67 varas (2962.98 ft.),  
 North 89° 07' 04" East 951.49 varas (2643.03 ft.),  
 North 0° 52' 56" West 951.49 varas (2643.03 ft.),  
 North 64° 15' 03" West 1070.21 varas (2972.80 ft.),  
 South 89° 07' 04" West 951.49 varas (2643.03 ft.),  
 North 0° 52' 56" West 694.39 varas (1928.86 ft.),  
 North 44° 07' 05" East 1346.11 varas (3739.19 ft.),  
 North 45° 52' 56" West 1346.11 varas (3739.19 ft.),  
 North 0° 52' 56" West 1207.89 varas (3355.26 ft.),  
 North 89° 07' 04" East 1902.99 varas (5286.07 ft.),  
 North 44° 07' 05" East 708.22 varas (1967.27 ft.),  
 South 34° 52' 56" East 5189.71 varas (14,415.86 ft.),  
 and South 73° 37' 56" East 5233.65 varas (14,537.91 ft.),  
 to an intersection with a line for the western bank or shore of the U.S. Intracoastal Waterway for a line of Mean Higher High Tide, at coordinate position X = 2,336,930.35 feet and Y = 431,215.37 feet, for the northeast corner of this tract;

THENCE with said line for the western bank or shore of the U.S. Intracoastal Waterway for said line of Mean Higher High Tide, and approximately 200 feet perpendicularly east of and parallel with the western right-of-way line of said U.S. Intracoastal Waterway, approximately South 5 deg. 16 min. 15 sec. West, a distance of 4198.67 varas (11,662.98 feet) to an intersection with a line for the meanders of the contour of approximate elevation 1.00 feet (NGVD--SLD of 1929), for the line of Mean Higher High Tide of the Laguna Madre, said place of intersection being at coordinate position X = 2,335,858.97 ft. and Y = 419,601.70 ft. on the above mentioned coordinate system, for a corner of this tract;

THENCE with said line for the meanders of the line of Mean Higher High Tide, approximately South 81 deg. 55 min. 56 sec. West, a distance of 74.00 varas (205.55 feet) to a 4 inch diameter

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creosote post having a one inch by two inch aluminum strip with a punch-hole for mark fixed to its top, and continuing with the meanders of said line (the meander corners of which being marked by similar posts) approximately as follows -

South 81° 55' 56" West 541.69 varas (1504.70 ft.),  
 North 76° 02' 39" West 1082.77 varas (3007.70 ft.),  
 North 41° 21' 13" West 30.34 varas (84.28 ft.),  
 North 85° 04' 42" West 637.58 varas (1771.05 ft.),  
 South 77° 38' 01" West 1271.66 varas (3532.38 ft.),  
 South 88° 51' 32" West 333.12 varas (925.34 ft.),  
 North 63° 49' 28" West 787.08 varas (2186.34 ft.),  
 South 27° 26' 29" East 440.69 varas (1224.13 ft.),  
 South 29° 57' 28" West 453.83 varas (1260.63 ft.),  
 South 53° 23' 07" West 399.15 varas (1108.74 ft.),  
 and South 43° 16' 46" East 506.35 varas (1406.53 ft.),  
 to the Place of Beginning.

Containing 10,901.59 acres, more or less, on the plane of the Texas Coordinate System (South Zone), which equals a surface area of 10,903.83 acres, more or less. All bearings and distances stated herein are in reference to the above mentioned coordinate system.

**Tract Three: (Containing 24,002.85 acres, more or less)**

BEGINNING at the southernmost corner of this tract, at coordinate position X = 2,336,948.18 feet and Y = 431,408.58 feet on the grid plane of the Texas Coordinate System (South Zone), NAD of 1927, for the place of intersection of a line parallel with and two hundred feet perpendicularly east of the western right-of-way line of the United States Intracoastal Waterway (the first said line being for the western bank or shore of said U.S. Intracoastal Waterway, for the meanders of a line of Mean Higher High Tide) with a line for the meanders of the eastern line of a survey made by F.M. Maddox, Deputy Surveyor of Hidalgo County, in March of 1905 and April of 1906 (recorded in Volume "A", Page 317 through 319 of the Surveyor's Records of Cameron County, Texas), from said Place of Beginning of this tract the northeastern corner of the previously described Tract Two bears South 5 deg. 16 min. 15 sec. West a distance of 69.85 varas (194.03 feet), from said Place of Beginning of this tract the southwest corner of the previously described Tract One bears South 34 deg. 53 min. 59 sec. West a distance of 7497.64 varas (20,826.78 feet), and from said Place of Beginning U.S.C. and G.S. Triangulation Station "Lopena" (at coordinate position X = 2,335,472.93 feet and Y = 480,025.08 feet on said coordinate system according to a map titled "Map Showing Location of Control Monuments on J.G. and M.S. Kenedy Memorial Foundation Properties in Kenedy County" recorded in Plat Book 1, Page 25, of the Plat Records of Kenedy County, Texas

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published U.S.C. and G.S. position of this tri-station being called X = 2,335,472.55 feet and Y = 480,025.65 feet on said coordinate system) bears North 1 deg. 44 min. 17 sec. West a distance of 17,510.00 varas (48,638.88 feet), and the "mapping angle" at said Place of Beginning being 0 deg. 28 min. 09.1 sec.;

THENCE with a line for the meanders of the eastern line of said survey by F.M. Maddox, as follows -

North 17° 52' 55"	West 2229.43	varas (6192.86 ft.),
North 0° 52' 55"	West 2344.07	varas (6511.31 ft.),
North 6° 52' 55"	West 1302.25	varas (3617.35 ft.),
North 64° 52' 55"	West 2300.66	varas (6390.73 ft.)
South 89° 07' 05"	West 149.14	varas (414.27 ft.),
South 0° 52' 55"	East 2304.03	varas (6400.09 ft.),
South 39° 07' 05"	West 1568.46	varas (4356.83 ft.),
South 89° 07' 04"	West 902.42	varas (2506.71 ft.),
North 50° 52' 56"	West 3906.12	varas (10850.34 ft.),
North 0° 52' 56"	West 1402.20	varas (3895.00 ft.),
North 28° 32' 46"	West 2148.60	varas (5968.34 ft.),
North 14° 22' 56"	West 2106.10	varas (5850.27 ft.),
North 37° 52' 56"	West 760.37	varas (2112.14 ft.),
North 7° 52' 05"	East 555.87	varas (1544.09 ft.),
and North 42° 52' 56"	West 809.27	varas (2247.97 ft.),

to an intersection with a line for the common boundary between the previously mentioned "Big Barreta Grant" and the "Little Barreta Grant" for the northeast corner of said survey by F.M. Maddox, and for a corner of this tract (from which a fence corner for the southwest corner of the "Little Barreta Grant" and an interior corner of the "Big Barreta Grant" bears South 89 deg. 05 min. 34 sec. West a distance of 19,747.90 varas (54,855.28 feet);

THENCE with a line for the common boundary between the said "Big" and "Little" Barreta Grants, South 89 deg. 05 min. 34 sec. West a distance of 420.80 varas (1,168.89 feet) to the southwest corner of a survey made by J.J. Cocke for Mariano Trevino Garza, Assignee of Leonardo Salinas (surveyed November 24, 1879), and recorded in Volume "B", Pages 88-90 of the Surveyor's Records of Cameron County, Texas), at coordinate position X = 2,306,588.18 feet and Y = 466,767.55 feet (on the above mentioned coordinate system), for the westernmost corner of this tract;

THENCE with a line for the meanders of the eastern line of said survey by J.J. Cocke, as follows-

North 70° 05' 34"	East 419.95	varas (1166.54 ft.),
North 5° 05' 34"	East 2999.68	varas (8332.45 ft.),
North 17° 50' 34"	East 2662.69	varas (7396.37 ft.),
North 89° 05' 34"	East 2585.12	varas (7180.90 ft.),
South 62° 02' 27"	East 3299.66	varas (9165.71 ft.),
North 76° 57' 33"	East 399.96	varas (1110.99 ft.),



South 75° 17' 27" East 569.94 varas (1583.16 ft.),  
 South 52° 17' 27" East 1344.86 varas (3735.72 ft.),  
 South 79° 47' 27" East 939.90 varas (2610.84 ft.),  
 South 45° 17' 27" East 319.97 varas (888.80 ft.),  
 North 69° 57' 33" East 719.92 varas (1999.79 ft.),  
 North 26° 57' 33" East 1199.87 varas (3332.98 ft.),  
 North 37° 57' 33" East 1589.84 varas (4416.21 ft.),  
 North 13° 57' 33" East 1399.85 varas (3888.48 ft.),  
 and North 29° 02' 27" West 999.90 varas (2777.49 ft.),  
 to a corner of this tract;

THENCE North 11 deg. 31 min. 34 sec. West a distance of 779.98 varas (2,166.62 feet) to an intersection with a line for the common boundary between the said El Rincon De Mirasoles Grant and the "Little Barreta Grant", at coordinate position X = 2,340,000.00 feet and Y = 490,260.00 feet on said coordinate system, for the northernmost northwest corner of this tract, from which a concrete monument having a 3-1/2 inch diameter aluminum cap stamped "J.G. & M.S. Kenedy Memorial Foundation" for the southwest corner of said El Rincon De Mirasoles Grant bears South 89 deg. 57 min. 57 sec. West a distance of 10,921.68 varas (30,338.01 feet);

THENCE with said line for common boundary, North 89 deg. 57 min. 57 sec. East, at 748.11 varas (2,078.08 feet) a four inch diameter creosote post having a one inch by two inch aluminum strip with a punch-hole for mark fixed to its top for an intersection with a line for the western right-of-way line of the United States Intracoastal Waterway, and continuing an additional 72.09 varas (200.24 feet) for a total distance of 820.20 varas (2278.32 feet) to an intersection with a line for the western bank or shore of the said U.S. Intracoastal Waterway for the meanders of a line of Mean Higher High Tide, said place of intersection being for the northeast corner of this tract at coordinate position X = 2,342,278.32 feet and Y = 490,261.35 feet on the said coordinate system;

THENCE with a line parallel with and two hundred feet perpendicularly east of the western right-of-way line of the U.S. Intracoastal Waterway, the first said line being for the western bank or shore of the U.S. Intracoastal Waterway for the meanders of a line of Mean Higher High Tide, approximately South 2 deg. 44 min. 50 sec. West a distance of 807.34 varas (2242.61) feet to coordinate position X = 2,342,170.83 feet and Y = 488,021.32 feet on said coordinate system to an angle point in this line;

THENCE continuing with said line for the meanders of a line of Mean Higher High Tide, South 5 deg. 16 min. 15 sec. West, at 7491.09 varas (20808.58 feet) the southeastern corner of the "Little Barreta" Grant and the northeastern corner of the "Big Barreta" Grant, and continue an additional 12,976.04 varas

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(36,044.55 feet) for a total distance of 20,467.13 varas (56,853.13 feet) to the Place of Beginning.

Containing 24,002.85 acres, more or less, on the grid plane of the Texas Coordinate System (South Zone), NAD of 1927, of which 14,533.51 acres are within the limits of the said "Big Barreta" Grant, and of which 9,469.34 acres are within the limits of the said "Little Barreta" Grant. The total 24,002.85 acres, more or less, on the grid plane of said coordinate system equals a surface area of 24,007.84 acres, more or less. All bearings and distances stated herein are on the meridian and grid plane of said coordinate system.

The three tracts described above contain a total area of 35,039.83 acres, more or less, on the grid plane of the Texas Coordinate System (South Zone), NAD of 1927, which equals a surface area of 35,047.09 acres, more or less.

I, AMALIA RODRIGUEZ-MENDOZA, District Clerk,  
Travis County, Texas, do hereby certify that this is  
a true and correct copy as same appears of  
record in my office. Witness my hand and seal of  
office on 6-19-03.



AMALIA RODRIGUEZ-MENDOZA

DISTRICT CLERK

By Deputy:

*John Q. H.*

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COUNTER 82462

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