By Bivins S.B. No. 44

A BILL TO BE ENTITLED

AN ACT

relating to property rights in, and the establishment of a wildlife management area along and in the vicinity of, the Canadian River bed; making an appropriation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DECLARATION OF POLICY. The closing of Sanford Dam on the Canadian River in 1965 changed the normal flow of water downstream from the dam, which has prevented, in certain areas, the effective application of the gradient method of locating river boundaries and consequently has created confusion and uncertainty as to the titles to surface and minerals in the area lying between the pre-1965 gradient boundaries of the river and the river's current normal flow. The purposes of this Act are to establish a method by which the rights and titles of the State of Texas and its permanent school fund can be recognized, protected, and stabilized, and by which access by riparian owners to the flowing water in the river, as contemplated by original patents under which the riparian owners hold title, can be fairly and reasonably effected, and to establish a wildlife management area along and in the vicinity of the Canadian River.

SECTION 2. SCOPE OF ACT. This Act applies only to the following segments of the Canadian River:

(1) Segment 1. That segment of the Canadian River lying between the pre-1965 gradient boundary lines which extends

from the intersection of the north gradient boundary line with the east line of Section 2, Block A, H&GN RR Co. Survey Roberts County upriver to such boundary's intersection with the west line of Section 13, Block 47, H&TC RR Co. Survey Hutchinson County, and from the intersection of the south gradient boundary line with the east line of Section 1, Block 46, H&TC RR Co. Survey Roberts County upriver to such boundary's intersection with the west line of Section 54, Block 46, H&TC RR Co. Survey Hutchinson County.

(2) Segment 2. That segment of the Canadian River lying between the pre-1965 gradient boundary lines which extends from the intersection of the north gradient boundary line with the west line of Section 13, Block 47, H&TC RR Co. Survey Hutchinson County upriver to such boundary's intersection with the west right-of-way line of Highway 136, such point having a coordinate value of X = 2,024,339.274 feet; Y = 631,474.902 feet, Texas State Plane Coordinate System, Lambert Projection, North Zone and the south gradient boundary which extends from the intersection of such boundary with the west line of Section 54, Block 46, H&TC RR Co. Survey Hutchinson County upriver to such boundary's intersection with the west right-of-way line of State Highway 136 in Section 69, Block 46, H&TC RR Co. Survey, Hutchinson County, Texas.

(3) Segment 3. A tract containing 1678.817 acres of the Canadian River bed between H&TC Blocks 46 and 47 from Sanford Dam easterly downstream to the west right-of-way line of State Highway 136 as more particularly described in the field notes of a gradient boundary survey of such tract by licensed land surveyor D. D. Shine, on file in the General Land Office.

SECTION 3. DEFINITIONS. In this Act:

(1) "Center line between the pre-1965 gradient boundary lines" means a line surveyed and marked by the General Land Office that runs the length of the segments of the Canadian River subject to this Act and is equidistant from the north and south pre-1965 gradient boundary lines of the Canadian River, the field notes of which have been approved and are on file in the General Land Office on the effective date of this Act.

(2) "Center line of the main channel of the normal flow of the river" means a line equidistant from the edges of the water flowing in the main channel of the normal flow of the river.

(3) "Commissioner" means the commissioner of the General Land Office.

(4) "Normal flow of the river" means the highest elevation that the flowing water of the Canadian River reaches and maintains for a sufficient length of time to be characteristic of the river in its ordinary, normal, and usual condition.

(5) "Pre-1965 gradient boundary lines" means those lines on the north and south sides of the Canadian River that have been surveyed and marked on the ground by General Land Office surveyors as being the probable gradient boundaries of the river as they existed before the construction of Sanford Dam, the field notes of which have been approved and are on file in the General Land Office on the effective date of this Act.

(6) "Qualified tract" means an area bounded on one side by a pre-1965 gradient boundary line of the Canadian River, on the opposite side by the center line of the main channel of the

normal flow of the river, and on the other two sides by the extensions of the east and west lines of a riparian owner's tract that abuts the gradient boundary line, except that if a final judgment to which the State of Texas is a party has established title in a riparian owner to land in Segment 2 that now is located within the pre-1965 gradient boundary lines, the landward side of the qualified tract is defined by the boundary line between the land owned by the riparian owner and the state-owned riverbed as established by the judgment, and not the pre-1965 gradient boundary line.

(7) "Riparian owner" means a person, firm, or corporation that owns an interest in the surface estate of a tract that is a part of an original patented survey the field notes of which called for the Canadian River to be a boundary of the survey, and that now abuts one of the pre-1965 gradient boundary lines of the Canadian River or the adjudicated boundary of land in Segment 2 described in Section 2 of this Act.

(8) "State's fully reserved mineral area" means the area extending 75 feet laterally on each side of the center line between the pre-1965 gradient boundary lines of the Canadian River.

SECTION 4. PREFERENTIAL RIGHT TO PURCHASE. (a) A riparian owner has a preferential right to purchase the qualified tract that abuts the owner's riparian tract.

(b) To exercise a preferential right granted by this section, a riparian owner must:

(1) not later than the 30th day after the date on which the owner receives from the General Land Office the notice

required by Section 8(c)(2) of this Act, submit to the General Land Office a contract to purchase, at the price set by the commissioner, the qualified tract that abuts the owner's riparian tract; and

(2) not later than the 60th day after the date on which the owner receives the notice required by Section 8(c)(2) of this Act, pay in cash to the commissioner the contract amount.

(c) For the purpose of exercising a preferential right granted by this section or a subordinate preferential right granted by Section 5 of this Act, contiguous riparian tracts under common ownership and the abutting qualified tracts constitute a single riparian tract and abutting qualified tract.

(d) Section 31.159, Natural Resources Code, does not apply to a sale of land authorized by this Act.

SECTION 5. FORFEITURE; SUBORDINATE PREFERENTIAL RIGHTS. (a) A preferential right to purchase a qualified tract granted by Section 4 of this Act or a subordinate preferential right to purchase a qualified tract granted by this section is forfeited if not timely exercised.

(b) A riparian owner who has purchased a qualified tract has a subordinate preferential right to purchase any other qualified tract for which the preferential right to purchase granted by Section 4 of this Act has been forfeited. The first such riparian owner who submits a contract as required by Subsection (c) of this section has priority to purchase the qualified tract for which the contract is submitted.

(c) To exercise a subordinate preferential right, not

earlier than the date of publication of the notice required by Section 8(e) of this Act and not later than the 30th day after the date of publication of that notice, a riparian owner who has purchased a qualified tract must submit to the General Land Office a contract to purchase, at the price set by the commissioner for the original sale or at the fair market value as established under Section 8(a) of this Act if no price has been set, the qualified tract in which the subordinate preferential right is granted, and, not later than the 60th day after the date of publication of that notice, must pay to the commissioner the contract amount in cash.

(d) The commissioner may adopt rules necessary to implement this section, including procedural rules governing the exercise of subordinate preferential rights and the management by the General Land Office of sales of qualified tracts under subordinate preferential rights. Rules adopted under this subsection must be impartial and fair to all parties to be governed by the rules.

SECTION 6. DEDICATION TO PERMANENT SCHOOL FUND: SALE REQUIRED. (a) A qualified tract for which no preferential rights granted by Sections 4 and 5 of this Act have been exercised within the required times is dedicated, on forfeiture of all such rights in that tract, to the permanent school fund and is subject to the law governing land dedicated to that fund.

(b) The General Land Office shall offer for sale, under Subchapter D, Chapter 32, and Subchapter C, Chapter 51, Natural Resources Code, all land dedicated to the permanent school fund under this section.

SECTION 7. APPLICATION TO EXERCISE PREFERENTIAL RIGHT TO

PURCHASE. (a) A riparian owner desiring to purchase a qualified tract by exercising a preferential right granted by Section 4 of this Act must apply to the commissioner in accordance with this Act and rules and forms adopted by the commissioner. An application must include:

(1) field notes describing the qualified tract;

(2) proof satisfactory to the commissioner in the form of a title opinion by an attorney based on abstracts of title from the sovereignty of the soil to the date of the application or in any other form acceptable to the commissioner that the applicant is a riparian owner with respect to the qualified tract for which he has applied; and

(3) other information the commissioner considers relevant to the application.

(b) An applicant must submit with the application a filing fee of $250 to cover the cost of processing the application and other documents related to exercise of the preferential right.

(c) The commissioner may adopt necessary rules and forms to carry out this section.

SECTION 8. APPRAISAL; APPROVAL OF APPLICATION TO PURCHASE; NOTICE OF PURCHASE PROCEDURES. (a) Before a qualified tract may be sold under this Act, General Land Office appraisers must appraise all qualified tracts that may be sold under this Act to establish the fair market value of each.

(b) Not later than the 30th day after the date on which the General Land Office receives the notice required by Section 15 of this Act, the commissioner shall notify each known riparian owner,

by certified mail, return receipt requested:

(1) that the purchase of 95 percent of the land described by Section 14 of this Act has been made; and

(2) that the riparian owner must file the application required by Section 7 of this Act not later than the 30th day after the date on which the owner receives the notice required by this subsection.

(c) Not later than the 45th day after the date on which the General Land Office receives an application required by Section 7 of this Act, the commissioner shall:

(1) if the commissioner finds that the application fails to meet the requirements of this Act and rules adopted under this Act, reject the application; or

(2) if the commissioner finds that the application meets the requirements of this Act and rules adopted under this Act:

(A) set the purchase price at the qualified tract's fair market value as determined by General Land Office appraisers;

(B) grant the application to purchase the qualified tract at that price; and

(C) notify the applicant that:

(i) the application has been granted to purchase the qualified tract at the price set by the commissioner; and

(ii) the applicant, not later than the 30th day after the date on which the applicant receives the notice

1 required by this subsection, must submit a contract to purchase the
2 qualified tract for the amount set by the commissioner and, not
3 later than the 60th day after the date on which the applicant
4 receives that notice, must pay to the commissioner the contract
5 amount in cash.
6 (d) The commissioner shall mail written notice required by
7 Subsections (b) and (c) of this section to a riparian owner at that
8 owner's most recent address as listed in the property tax records
9 of the county in which the owner's riparian tract that abuts a
10 qualified tract is located.
11 (e) Not later than the 10th day after the date on which a
12 preferential right granted under Section 4 of this Act is
13 forfeited, the commissioner shall publish, in a newspaper with
14 general circulation in the county in which the qualified tract is
15 located, notice of the availability of, and the terms, procedures,
16 and timetable for purchase of the qualified tract under Section
17 5(c) of this Act.
18 SECTION 9. PAYMENT OF PURCHASE PRICE; PATENT. (a) All
19 purchase price payments shall be paid to the commissioner in Austin
20 and deposited in the state treasury to the credit of the game,
21 fish, and water safety fund.
22 (b) After payment of the purchase price, a patent shall
23 issue as provided by Subchapter F, Chapter 51, Natural Resources
24 Code, except that a patent may not issue under this Act before
25 January 7, 1991. The patent must contain:
26 (1) a reservation for the benefit of the permanent
27 school fund of all minerals in, on, and under the qualified tract;

(2) a reservation for the benefit of the Canadian River Municipal Water Authority of a flood easement for floodwater or water released from Sanford Dam;

(3) a restriction against the installation and maintenance of permanent improvements within the area covered by the patent; and

(4) a reservation of the right of access for exploration for and development of minerals dedicated to the permanent school fund.

SECTION 10. SALE CONTINGENT. A sale of land authorized by this Act may not occur unless the Parks and Wildlife Department has first purchased not less than 95 percent of the land described by Section 14 of this Act, excluding only that acreage for which there are valid title objections, if any.

SECTION 11. LEASING A QUALIFIED TRACT FOR MINERAL PRODUCTION. (a) In absence of a valid existing lease, the state may lease for oil, gas, or mineral exploration, development, and production, only under Subchapter C, Chapter 52, or Subchapters B and E, Chapter 53, Natural Resources Code, any portion of a qualified tract that lies within the state's fully reserved mineral area. An owner of the qualified tract has no interest of any kind in such a lease.

(b) In absence of a valid existing lease, an owner of a qualified tract, as an agent of the state, may lease as provided by Subchapter F, Chapter 52, Natural Resources Code, the oil and gas under that portion of the qualified tract that is not within the state's fully reserved mineral area, except that the state receives

75 percent and the owner of the qualified tract receives 25 percent of any bonus, royalty, delay payment, or other payment under such a lease.

(c) Any minerals other than oil and gas in and under the qualified tract and outside the state's fully reserved mineral area are subject to lease under Chapter 53, Natural Resources Code.

(d) Subsection (b) of this section may not be construed to mean that the land authorized to be sold under this Act is permanent school fund land.

SECTION 12. STATUS AS NAVIGABLE STREAM. Nothing in this Act affects the status of the normal flow of the Canadian River as a navigable stream under the law of this state.

SECTION 13. ABUTTING RIPARIAN OWNERS. The purchase of a qualified tract by one of several riparian owners of an abutting or other riparian tract inures proportionately to the other riparian owners of that abutting or other riparian tract, except to the extent that an ownership interest is in an existing oil, gas, or mineral lease on that abutting or other riparian tract. A title, right, or privilege acquired under a preferential right or subordinate preferential right granted by this Act does not pass as an after-acquired title by reason of a covenant of general warranty, a description, or other provision in a conveyance executed before the date of award under the preferential or subordinate preferential right.

SECTION 14. PURCHASE OF OTHER ACREAGE. (a) The land described in Subsection (b) of this section shall be used as a wildlife management area to the extent that the Parks and Wildlife

Department purchases that land.

(b) The land to which Subsection (a) of this section applies consists of:

All of the surface estate, together with all of the subterranean water and water rights in, on and under and that may be produced from the following described property, SAVE AND EXCEPT that portion of the subterranean water and water rights purchased by Willard Oil & Gas, Inc. in that certain Warranty Deed dated August 28, 1986, from Mary Miles Batson, et al., to Willard Oil & Gas, Inc. and then conveyed to the City of Amarillo in that certain Warranty Deed dated August 28, 1986, from Willard Oil & Gas, Inc. to the City of Amarillo, to-wit:

BLOCK 22, AB&M SURVEY, POTTER COUNTY, TEXAS:

All of Section 9, Block 22, AB&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 10, Block 22, AB&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

BLOCK 22, BS&F SURVEY, POTTER COUNTY, TEXAS:

All of Section 11, Block 22, BS&F Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 12, Block 22, BS&F Survey, Potter County, Texas, containing 640 acres of land, more or less.

BLOCK 22, EL&RR SURVEY, POTTER COUNTY, TEXAS:

All of that portion of Section 2, Block 22, EL&RR Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136.

All of that portion of Section 3, Block 22, EL&RR Survey,

Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136.

All of that portion of Section 6, Block 22, EL&RR Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136; AND save and except a tract of land containing 10.30 acres, more or less, out of Section 6, Block 22, EL&RR Survey, Potter County Texas, as described in that certain conveyance dated 30 November 1966, from Mary Miles Batson and husband, J. Ernest Batson, to American Telephone & Telegraph Company, recorded in Volume 1052, Page 80, of the Deed Records of Potter County, Texas; AND save and except a tract of land containing 1.0 acres, more or less, out of Section 6, Block 22, EL&RR Survey, Potter County, Texas, as described in that certain conveyance dated 12 October 1955, from Mary Miles Batson and husband, J. Ernest Batson, to American Telephone and Telegraph Company, recorded in Volume 717, Page 317, of the Deed Records of Potter County, Texas.

All of Section 7, Block 22, EL&RR Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 8, Block 22, EL&RR Survey, Potter County, Texas, containing 640 acres of land, more or less.

<u>BLOCK G&M-5, G&M SURVEY, POTTER COUNTY, TEXAS:</u>

All of Section 18, Block G&M-5, G&M Survey, Potter County, Texas, containing 501.4 acres of land, more or less.

All of Section 20, Block G&M-5, G&M Survey, Potter County, Texas, save and except a 20.48 acre tract taken by the United States of America by Judgment dated July 30, 1963, recorded in

Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 128.72 acres of land, more or less.

All of Section 20-1/2, Block G&M-5, G&M Survey, Potter County, Texas, save and except a 62.50 acre tract taken by the United States of America by Judgment dated July 30, 1963, recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 109.4 acres of land, more or less.

All of the N/2 of Section 22, Block G&M-5, G&M Survey, Potter County, Texas, except that portion taken by the United States of America by Judgment dated July 30, 1963, recorded in Volume 958, Page 442, of the Deed Records of Potter County, Texas, the remainder of the N/2 of said Section containing 25.35 acres of land, more or less.

<u>BLOCK M-20, G&M SURVEY, POTTER COUNTY, TEXAS:</u>

All of the N/2 of Section 2, Block M-20, G&M Survey, Potter County, Texas, containing 320 acres of land, more or less.

All of Section 3, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 4, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 5, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 6, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 7, Block M-20, G&M Survey, Potter County,

Texas, containing 640 acres of land, more or less.

All of Section 8, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 9, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 10, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 11, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 12, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 13, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 14, Block M-20, G&M Survey, Potter County, Texas, containing 627.4 acres of land, more or less.

All of that portion of Section 15, Block M-20, G&M Survey, Potter County, Texas lying South of the Alibates Road and East of the McBride Canyon Road, except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter County, Texas.

All of that portion of Section 16, Block M-20, G&M Survey, Potter County, Texas lying South and East of the McBride Canyon Road/Alibates Road, except a tract of land containing 15.177 acres,

more or less, out of Section 16, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 9 May 1967, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1059, Page 548, of the Deed Records of Potter County, Texas; AND save and except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter County, Texas.

All of Section 17, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 18, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 19, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 20, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 21, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 22, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 23, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 24, Block M-20, G&M Survey, Potter County,

Texas, containing 636.4 acres of land, more or less.

All of Section 25, Block M-20, G&M Survey, Potter County, Texas, containing 636.4 acres of land, more or less.

All of Section 26, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of that portion of Section 27, Block M-20, G&M Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136.

All of that portion of Section 28, Block M-20, G&M Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136.

All of Section 29, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of that portion of Section 30, Block M-20, G&M Survey, Potter County, Texas lying South of Alibates Road, except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter County, Texas.

All of that portion of Section 31, Block M-20, G&M Survey, Potter County, Texas lying South of the Alibates Road, except a tract of land containing 2.56 acres, more or less, out of Section 31, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 24 September 1969, from Mary Miles

Batson and husband, J. Ernest Batson and Joseph E. Batson, Jr. to the United States of America, recorded in Volume 1116, Page 478, of the Deed Records of Potter County, Texas.

All of that portion of Section 34, Block M-20, G&M Survey, Potter County, Texas lying South of Alibates Road, except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter County, Texas.

All of Section 35, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of that portion of Section 36, Block M-20, G&M Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136; AND also save and except a tract of land containing 8.034 acres, more or less, out of Sections 36 and 37, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 23 September 1952, from Mary Miles Batson and husband, J. Ernest Batson, to West Texas Gas Company, recorded in Volume 605, Page 133, of the Deed Records of Potter County, Texas; AND a tract of land containing 4.3 acres, more or less, out of Section 36, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 15 August 1938 from Mary Miles Batson and husband, J. Ernest Batson, to Pioneer Natural Gas Company, recorded

in Volume 854, Page 229, of the Deed Records of Potter County, Texas; AND two tracts of land containing 2.0 acres, more or less, and 3.7 acres, more or less, out of Section 36, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 22 July 1939, from Julian L. Bivins to West Texas Gas Company, recorded in Volume 290, Page 446, of the Deed Records of Potter County, Texas; AND save and except a tract of land described as being 100 feet wide and 10,047.1 feet long as described in that certain conveyance dated 29 December 1928, from Lee Bivins to Potter County, State of Texas, recorded in Volume 203, Page 73, of the Deed Records of Potter County, Texas.

All of that portion of Section 37, Block M-20, G&M Survey, Potter County, Texas lying South of the Alibates Road and West of State Highway 136, except a tract of land, containing 8.034 acres, more or less, out of Sections 36 and 37, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 23 September 1952, from Mary Miles Batson and husband, J. Ernest Batson, to West Texas Gas Company, recorded in Volume 605, Page 133, of the Deed Records of Potter County, Texas; AND save and except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter County, Texas.

BLOCK 46, H&TC SURVEY, POTTER COUNTY, TEXAS:

All of that portion of Section 103, Block 46, H&TC Survey, Potter County, Texas lying South of the McBride Canyon Road, except a tract of land containing 10.1271 acres, more or less, out of Section 103, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 9 May 1967, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1059, Page 548, of the Deed Records of Potter County, Texas.

All of Section 105, Block 46, H&TC Survey, Potter County, Texas, save and except a 620.35 acre tract taken by the United States of America on July 30, 1963, by Judgment recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 28.87 acres of land, more or less.

All of Section 106, Block 46, H&TC Survey, Potter County, Texas, except the tract of land taken by the United States of America by Judgment dated July 30, 1963, recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 111.99 acres of land, more or less.

All of Section 107, Block 46, H&TC Survey, Potter County, Texas, save and except a 586.58 acre tract taken by the United States of America on July 30, 1963, by Judgment recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 53.42 acres of land, more or less.

All of Section 108, Block 46, H&TC Survey, Potter County, Texas, except a 606.96 acre tract of land taken by the United States of America by Judgment dated July 30, 1963, recorded in

Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 33.04 acres of land, more or less.

J. L. SUMMERS SURVEY, POTTER COUNTY, TEXAS:

All of that portion of Section 1, of the J. L. Summers Survey, in Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136.

BLOCK 1, SK&K SURVEY, POTTER COUNTY, TEXAS:

All of Section 22, Block 1, SK&K Survey, Potter County, Texas, containing 643.9 acres of land, more or less.

All of Section 23, Block 1, SK&K Survey, Potter County, Texas, containing 640 acres of land, more or less.

W. P. HILL SURVEY, POTTER COUNTY, TEXAS:

All of that portion of Section 5, W.P. Hill Survey, Potter County, Texas lying South of the McBride Canyon Road, except a tract of land out of the W. P. Hill Survey, Potter County, Texas, as described in that certain conveyance dated 9 May 1967, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1059, Page 548, of the Deed Records of Potter County, Texas.

(c) The Parks and Wildlife Department may not purchase the land described in Subsection (b) of this section for more than an amount set by the Parks and Wildlife Commission, not to exceed the appraised value of the land as established by a member of the Appraisal Institute or an appraiser with comparable professional qualifications.

(d) The Parks and Wildlife Department shall pay for the land out of the game, fish, and water safety fund on approval of title by the attorney general.

SECTION 15. NOTICE OF PURCHASE. (a) The Parks and Wildlife Department shall notify the General Land Office when the department has purchased 95 percent of the land described by Section 14 of this Act.

(b) The Parks and Wildlife Department shall publish in the Texas Register, not later than the 30th day after the purchase of 95 percent of the land described by Section 14 of this Act has been made, notice of that purchase.

SECTION 16. APPROPRIATION. An amount not to exceed the appraised value of the land described by Section 14 of this Act is appropriated from the balance of the game, fish, and water safety fund not otherwise appropriated to the Parks and Wildlife Department for the biennium ending August 31, 1991, for the sole purchase of that land. The appropriation made by this section expires August 31, 1991.

SECTION 17. SALE TO UNITED STATES DEPARTMENT OF THE INTERIOR. (a) If the Parks and Wildlife Department purchases the land described by Section 14 of this Act, the department shall sell that land to the United States Department of the Interior if the department of the interior:

(1) agrees to limit use of the land to wildlife management and recreation;

(2) purchases the entire tract of land;

(3) pays in cash a purchase price not less than the

sum of:

(A) the total amount the Parks and Wildlife Department paid for the land;

(B) the cost of any improvements made by the Parks and Wildlife Department on the land; and

(C) interest on those amounts at the rate under Section (a)(1), Article 1.04, Title 79, Revised Statutes (Article 5069-1.04, Vernon's Texas Civil Statutes), in effect for the week in which the department of the interior purchases the land; and

(4) purchases the land on or before August 1, 1993.

(b) The conveyance to the United States Department of the Interior must contain a restriction limiting the use of the land sold under this section to wildlife management and recreation.

(c) Proceeds from the sale of land under this section shall be deposited in the game, fish, and water safety fund.

SECTION 18. AMENDMENT. Chapter 82, Parks and Wildlife Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. ALIBATES RANCH WILDLIFE MANAGEMENT AREA

Sec. 82.791. ESTABLISHMENT. The Alibates Ranch Wildlife Management Area is established under the jurisdiction of the department on that land located along and in the vicinity of the Canadian River in Potter County authorized to be purchased and more specifically described in S.B. No. __ or H.B. No. __, Acts of the 71st Legislature, 6th Called Session, 1990.

Sec. 82.792. DISPOSITION OF PROCEEDS OF SAND AND GRAVEL SALE AND GRAZING LEASES. (a) If sand and gravel are sold from the Alibates Ranch Wildlife Management Area, proceeds or royalty

payments from the sale shall be deposited in the game, fish, and water safety fund.

(b) If grazing rights are leased on the Alibates Ranch Wildlife Management Area under Section 12.008 of this code, proceeds from the lease shall be used to improve that wildlife management area.

SECTION 19. EFFECTIVE DATE. (a) Except as provided by Subsection (b) of this section, this Act takes effect on November 1, 1990.

(b) Section 18 of this Act takes effect on the date of publication in the Texas Register that 95 percent of the property described in Section 14 of this Act has been purchased.

SECTION 20. EXPIRATION DATE. (a) Section 18 of this Act expires on the date of the sale of land to the United States Department of the Interior under Section 17 of this Act.

(b) This section expires on August 2, 1993.

SECTION 21. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

6/5/90 12:37 pm
(date)/(time)

Sir:

We, your Committee on ADMINISTRATION to which was referred SB 44 by Bivins have on 6/5, 1990, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

(✓) do pass and be printed

( ) do pass and be ordered not printed

( ) and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. (✓) yes ( ) no

A revised fiscal note was requested. ( ) yes ( ) no

An actuarial analysis was requested. (✓) yes ( ) no

Considered by subcommittee. ( ) yes ( ) no

Senate Sponsor of House Measure _____

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Sims, Chairman	✓			
Brooks, Vice Chairman	✓			
Caperton				✓
Edwards	✓			
Glasgow				✓
Harris	✓			
McFarland	✓			
Montford			✓	
Parker	✓			
Parmer				✓
Santiesteban	✓			
TOTAL VOTES	7		1	3

Nandeen Sabeinitz
COMMITTEE CLERK

Bill Sims
CHAIRMAN

Paper clip the original and one copy of this form to the original bill and retain one copy for your file.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

June 5, 1990

TO: Honorable Bill Sims, Chairman
Committee on Administration
Senate Chamber
Austin, Texas

IN RE: Senate Bill No. 44,
Sixth Called Session
By: Bivins

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 44, Sixth Called Session (relating to property rights in, and the establishment of a wildlife management area along and in the vicinity of, the Canadian River bed; making an appropriation) this office has determined the following:

The bill would appropriate to the Parks and Wildlife Department out of the Game, Fish, and Water Safety Fund No. 009 for the biennium ending August 31, 1991 an amount not to exceed the appraised value of the land authorized to be purchased by the bill. This amount is estimated to be $4.5 million. The bill would authorize the purchase of the land and the establishment of a recreational and wildlife management area to be known as the Alibates Ranch Wildlife Management Area.

Certain riparian land-owners on the Canadian River in Potter and Carson Counties would have a preferential right to purchase a qualified tract that abuts the owner's riparian tract. It has been estimated that $1.5 million would be deposited to the Game, Fish, and Water Safety Fund from the sale of such land. The General Land Office would appraise qualified tracts of land to determine the fair market value of each.

The bill also provides for the deposit of proceeds from sand and gravel sales from the Alibates Ranch Wildlife Management Area to the Game, Fish, and Water Safety Fund. Revenue from these sales is estimated to be $100,000 per year.

The Parks and Wildlife Department anticipates some additional costs for maintenance or oversight of the land but these costs cannot be determined.

If the Parks and Wildlife Department purchases the land described in the bill, the Department would be required to sell that land to the United States Department of the Interior. The conveyance to the Department of the Interior would contain a restriction limiting the use of the land sold to wildlife management and recreation. Proceeds from the sale of the land would be deposited to the Game, Fish, and Water Safety Fund.

The fiscal implications to units of local government cannot be determined.

Source: Parks and Wildlife Department;
LBB Staff: JO, JWH, AL, JG, CKM

June 6 1990 Engrossed
Patsy Spaw
Engrossing Clerk

By: Bivins S.B. No. 44

A BILL TO BE ENTITLED

AN ACT

relating to property rights in and the establishment of a wildlife management area along and in the vicinity of the Canadian River bed; making an appropriation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DECLARATION OF POLICY. The closing of Sanford Dam on the Canadian River in 1965 changed the normal flow of water downstream from the dam, which has prevented, in certain areas, the effective application of the gradient method of locating river boundaries and consequently has created confusion and uncertainty as to the titles to surface and minerals in the area lying between the pre-1965 gradient boundaries of the river and the river's current normal flow. The purposes of this Act are to establish a method by which the rights and titles of the State of Texas and its permanent school fund can be recognized, protected, and stabilized, and by which access by riparian owners to the flowing water in the river, as contemplated by original patents under which the riparian owners hold title, can be fairly and reasonably effected and to establish a wildlife management area along and in the vicinity of the Canadian River.

SECTION 2. SCOPE OF ACT. This Act applies only to the following segments of the Canadian River:

(1) Segment 1. That segment of the Canadian River lying between the pre-1965 gradient boundary lines which extends from the intersection of the north gradient boundary line with the

east line of Section 2, Block A, H&GN RR Co. Survey Roberts County upriver to such boundary's intersection with the west line of Section 13, Block 47, H&TC RR Co. Survey Hutchinson County, and from the intersection of the south gradient boundary line with the east line of Section 1, Block 46, H&TC RR Co. Survey Roberts County upriver to such boundary's intersection with the west line of Section 54, Block 46, H&TC RR Co. Survey Hutchinson County.

(2) Segment 2. That segment of the Canadian River lying between the pre-1965 gradient boundary lines which extends from the intersection of the north gradient boundary line with the west line of Section 13, Block 47, H&TC RR Co. Survey Hutchinson County upriver to such boundary's intersection with the west right-of-way line of Highway 136, such point having a coordinate value of X = 2,024,339.274 feet; Y = 631,474.902 feet, Texas State Plane Coordinate System, Lambert Projection, North Zone and the south gradient boundary which extends from the intersection of such boundary with the west line of Section 54, Block 46, H&TC RR Co. Survey Hutchinson County upriver to such boundary's intersection with the west right-of-way line of State Highway 136 in Section 69, Block 46, H&TC RR Co. Survey, Hutchinson County, Texas.

(3) Segment 3. A tract containing 1678.817 acres of the Canadian River bed between H&TC Blocks 46 and 47 from Sanford Dam easterly downstream to the west right-of-way line of State Highway 136 as more particularly described in the field notes of a gradient boundary survey of such tract by licensed land surveyor D. D. Shine, on file in the General Land Office.

SECTION 3. DEFINITIONS. In this Act:

(1) "Center line between the pre-1965 gradient boundary lines" means a line surveyed and marked by the General Land Office that runs the length of the segments of the Canadian River subject to this Act and is equidistant from the north and south pre-1965 gradient boundary lines of the Canadian River, the field notes of which have been approved and are on file in the General Land Office on the effective date of this Act.

(2) "Center line of the main channel of the normal flow of the river" means a line equidistant from the edges of the water flowing in the main channel of the normal flow of the river.

(3) "Commissioner" means the commissioner of the General Land Office.

(4) "Normal flow of the river" means the highest elevation that the flowing water of the Canadian River reaches and maintains for a sufficient length of time to be characteristic of the river in its ordinary, normal, and usual condition.

(5) "Pre-1965 gradient boundary lines" means those lines on the north and south sides of the Canadian River that have been surveyed and marked on the ground by General Land Office surveyors as being the probable gradient boundaries of the river as they existed before the construction of Sanford Dam, the field notes of which have been approved and are on file in the General Land Office on the effective date of this Act.

(6) "Qualified tract" means an area bounded on one side by a pre-1965 gradient boundary line of the Canadian River, on

the opposite side by the center line of the main channel of the normal flow of the river, and on the other two sides by the extensions of the east and west lines of a riparian owner's tract that abuts the gradient boundary line, except that if a final judgment to which the State of Texas is a party has established title in a riparian owner to land in Segment 2 that now is located within the pre-1965 gradient boundary lines, the landward side of the qualified tract is defined by the boundary line between the land owned by the riparian owner and the state-owned riverbed as established by the judgment, and not the pre-1965 gradient boundary line.

(7) "Riparian owner" means a person, firm, or corporation that owns an interest in the surface estate of a tract that is a part of an original patented survey the field notes of which called for the Canadian River to be a boundary of the survey and that now abuts one of the pre-1965 gradient boundary lines of the Canadian River or the adjudicated boundary of land in Segment 2 described in Section 2 of this Act.

(8) "State's fully reserved mineral area" means the area extending 75 feet laterally on each side of the center line between the pre-1965 gradient boundary lines of the Canadian River.

SECTION 4. PREFERENTIAL RIGHT TO PURCHASE. (a) A riparian owner has a preferential right to purchase the qualified tract that abuts the owner's riparian tract.

(b) To exercise a preferential right granted by this section, a riparian owner must:

(1) not later than the 30th day after the date on which the owner receives from the General Land Office the notice required by Subdivision (2), Subsection (c), Section 8 of this Act, submit to the General Land Office a contract to purchase, at the price set by the commissioner, the qualified tract that abuts the owner's riparian tract; and

(2) not later than the 60th day after the date on which the owner receives the notice required by Subdivision (2), Subsection (c), Section 8 of this Act, pay in cash to the commissioner the contract amount.

(c) For the purpose of exercising a preferential right granted by this section or a subordinate preferential right granted by Section 5 of this Act, contiguous riparian tracts under common ownership and the abutting qualified tracts constitute a single riparian tract and abutting qualified tract.

(d) Section 31.159, Natural Resources Code, does not apply to a sale of land authorized by this Act.

SECTION 5. FORFEITURE; SUBORDINATE PREFERENTIAL RIGHTS. (a) A preferential right to purchase a qualified tract granted by Section 4 of this Act or a subordinate preferential right to purchase a qualified tract granted by this section is forfeited if not timely exercised.

(b) A riparian owner who has purchased a qualified tract has a subordinate preferential right to purchase any other qualified tract for which the preferential right to purchase granted by Section 4 of this Act has been forfeited. The first such riparian

owner who submits a contract as required by Subsection (c) of this section has priority to purchase the qualified tract for which the contract is submitted.

(c) To exercise a subordinate preferential right, not earlier than the date of publication of the notice required by Subsection (e) of Section 8 of this Act and not later than the 30th day after the date of publication of that notice, a riparian owner who has purchased a qualified tract must submit to the General Land Office a contract to purchase, at the price set by the commissioner for the original sale or at the fair market value as established under Subsection (a) of Section 8 of this Act if no price has been set, the qualified tract in which the subordinate preferential right is granted, and, not later than the 60th day after the date of publication of that notice, must pay to the commissioner the contract amount in cash.

(d) The commissioner may adopt rules necessary to implement this section, including procedural rules governing the exercise of subordinate preferential rights and the management by the General Land Office of sales of qualified tracts under subordinate preferential rights. Rules adopted under this subsection must be impartial and fair to all parties to be governed by the rules.

SECTION 6. DEDICATION TO PERMANENT SCHOOL FUND: SALE REQUIRED. (a) A qualified tract for which no preferential rights granted by Sections 4 and 5 of this Act have been exercised within the required times is dedicated, on forfeiture of all such rights in that tract, to the permanent school fund and is subject to the

law governing land dedicated to that fund.

(b) The General Land Office shall offer for sale, under Subchapter D, Chapter 32, and Subchapter C, Chapter 51, Natural Resources Code, all land dedicated to the permanent school fund under this section.

SECTION 7. APPLICATION TO EXERCISE PREFERENTIAL RIGHT TO PURCHASE. (a) A riparian owner desiring to purchase a qualified tract by exercising a preferential right granted by Section 4 of this Act must apply to the commissioner in accordance with this Act and rules and forms adopted by the commissioner. An application must include:

(1) field notes describing the qualified tract;

(2) proof satisfactory to the commissioner in the form of a title opinion by an attorney based on abstracts of title from the sovereignty of the soil to the date of the application or in any other form acceptable to the commissioner that the applicant is a riparian owner with respect to the qualified tract for which he has applied; and

(3) other information the commissioner considers relevant to the application.

(b) An applicant must submit with the application a filing fee of $250 to cover the cost of processing the application and other documents related to exercise of the preferential right.

(c) The commissioner may adopt necessary rules and forms to carry out this section.

SECTION 8. APPRAISAL; APPROVAL OF APPLICATION TO PURCHASE;

NOTICE OF PURCHASE PROCEDURES. (a) Before a qualified tract may be sold under this Act, General Land Office appraisers must appraise all qualified tracts that may be sold under this Act to establish the fair market value of each.

(b) Not later than the 30th day after the date on which the General Land Office receives the notice required by Section 15 of this Act, the commissioner shall notify each known riparian owner, by certified mail, return receipt requested:

(1) that the purchase of 95 percent of the land described by Section 14 of this Act has been made; and

(2) that the riparian owner must file the application required by Section 7 of this Act not later than the 30th day after the date on which the owner receives the notice required by this subsection.

(c) Not later than the 45th day after the date on which the General Land Office receives an application required by Section 7 of this Act, the commissioner shall:

(1) if the commissioner finds that the application fails to meet the requirements of this Act and rules adopted under this Act, reject the application; or

(2) if the commissioner finds that the application meets the requirements of this Act and rules adopted under this Act:

(A) set the purchase price at the qualified tract's fair market value as determined by General Land Office appraisers;

(B) grant the application to purchase the qualified tract at that price; and

(C) notify the applicant that:

(i) the application has been granted to purchase the qualified tract at the price set by the commissioner; and

(ii) the applicant, not later than the 30th day after the date on which the applicant receives the notice required by this subsection, must submit a contract to purchase the qualified tract for the amount set by the commissioner and, not later than the 60th day after the date on which the applicant receives that notice, must pay to the commissioner the contract amount in cash.

(d) The commissioner shall mail written notice required by Subsections (b) and (c) of this section to a riparian owner at that owner's most recent address as listed in the property tax records of the county in which the owner's riparian tract that abuts a qualified tract is located.

(e) Not later than the 10th day after the date on which a preferential right granted under Section 4 of this Act is forfeited, the commissioner shall publish, in a newspaper with general circulation in the county in which the qualified tract is located, notice of the availability of, and the terms, procedures, and timetable for purchase of the qualified tract under Subsection (c) of Section 5 of this Act.

SECTION 9. PAYMENT OF PURCHASE PRICE; PATENT. (a) All

purchase price payments shall be paid to the commissioner in Austin and deposited in the state treasury to the credit of the game, fish, and water safety fund.

(b) After payment of the purchase price, a patent shall issue as provided by Subchapter F, Chapter 51, Natural Resources Code, except that a patent may not issue under this Act before January 7, 1991. The patent must contain:

(1) a reservation for the benefit of the permanent school fund of all minerals in, on, and under the qualified tract;

(2) a reservation for the benefit of the Canadian River Municipal Water Authority of a flood easement for floodwater or water released from Sanford Dam;

(3) a restriction against the installation and maintenance of permanent improvements within the area covered by the patent; and

(4) a reservation of the right of access for exploration for and development of minerals dedicated to the permanent school fund.

SECTION 10. SALE CONTINGENT. A sale of land authorized by this Act may not occur unless the Parks and Wildlife Department has first purchased not less than 95 percent of the land described by Section 14 of this Act, excluding only that acreage for which there are valid title objections, if any.

SECTION 11. LEASING A QUALIFIED TRACT FOR MINERAL PRODUCTION. (a) In absence of a valid existing lease, the state may lease for oil, gas, or mineral exploration, development, and

production, only under Subchapter C, Chapter 52, or Subchapters B and E, Chapter 53, Natural Resources Code, any portion of a qualified tract that lies within the state's fully reserved mineral area. An owner of the qualified tract has no interest of any kind in such a lease.

(b) In absence of a valid existing lease, an owner of a qualified tract, as an agent of the state, may lease as provided by Subchapter F, Chapter 52, Natural Resources Code, the oil and gas under that portion of the qualified tract that is not within the state's fully reserved mineral area, except that the state receives 75 percent and the owner of the qualified tract receives 25 percent of any bonus, royalty, delay payment, or other payment under such a lease.

(c) Any minerals other than oil and gas in and under the qualified tract and outside the state's fully reserved mineral area are subject to lease under Chapter 53, Natural Resources Code.

(d) Subsection (b) of this section may not be construed to mean that the land authorized to be sold under this Act is permanent school fund land.

SECTION 12. STATUS AS NAVIGABLE STREAM. Nothing in this Act affects the status of the normal flow of the Canadian River as a navigable stream under the law of this state.

SECTION 13. ABUTTING RIPARIAN OWNERS. The purchase of a qualified tract by one of several riparian owners of an abutting or other riparian tract inures proportionately to the other riparian owners of that abutting or other riparian tract, except to the

extent that an ownership interest is in an existing oil, gas, or mineral lease on that abutting or other riparian tract. A title, right, or privilege acquired under a preferential right or subordinate preferential right granted by this Act does not pass as an after-acquired title by reason of a covenant of general warranty, a description, or other provision in a conveyance executed before the date of award under the preferential or subordinate preferential right.

SECTION 14. PURCHASE OF OTHER ACREAGE. (a) The land described in Subsection (b) of this section shall be used as a wildlife management area to the extent that the Parks and Wildlife Department purchases that land.

(b) The land to which Subsection (a) of this section applies consists of:

All of the surface estate, together with all of the subterranean water and water rights in, on and under and that may be produced from the following described property, SAVE AND EXCEPT that portion of the subterranean water and water rights purchased by Willard Oil & Gas, Inc. in that certain Warranty Deed dated August 28, 1986, from Mary Miles Batson, et al., to Willard Oil & Gas, Inc. and then conveyed to the City of Amarillo in that certain Warranty Deed dated August 28, 1986, from Willard Oil & Gas, Inc. to the City of Amarillo, to-wit:

BLOCK 22, AB&M SURVEY, POTTER COUNTY, TEXAS:

All of Section 9, Block 22, AB&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 10, Block 22, AB&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

BLOCK 22, BS&F SURVEY, POTTER COUNTY, TEXAS:

All of Section 11, Block 22, BS&F Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 12, Block 22, BS&F Survey, Potter County, Texas, containing 640 acres of land, more or less.

BLOCK 22, EL&RR SURVEY, POTTER COUNTY, TEXAS:

All of that portion of Section 2, Block 22, EL&RR Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136.

All of that portion of Section 3, Block 22, EL&RR Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136.

All of that portion of Section 6, Block 22, EL&RR Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136; AND save and except a tract of land containing 10.30 acres, more or less, out of Section 6, Block 22, EL&RR Survey, Potter County Texas, as described in that certain conveyance dated 30 November 1966, from Mary Miles Batson and husband, J. Ernest Batson, to American Telephone & Telegraph Company, recorded in Volume 1052, Page 80, of the Deed Records of Potter County, Texas; AND save and except a tract of land containing 1.0 acres, more or less, out of Section 6, Block 22, EL&RR Survey, Potter County, Texas, as described in that certain conveyance dated 12 October 1955, from Mary Miles Batson

and husband, J. Ernest Batson, to American Telephone and Telegraph Company, recorded in Volume 717, Page 317, of the Deed Records of Potter County, Texas.

All of Section 7, Block 22, EL&RR Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 8, Block 22, EL&RR Survey, Potter County, Texas, containing 640 acres of land, more or less.

BLOCK G&M-5, G&M SURVEY, POTTER COUNTY, TEXAS:

All of Section 18, Block G&M-5, G&M Survey, Potter County, Texas, containing 501.4 acres of land, more or less.

All of Section 20, Block G&M-5, G&M Survey, Potter County, Texas, save and except a 20.48 acre tract taken by the United States of America by Judgment dated July 30, 1963, recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 128.72 acres of land, more or less.

All of Section 20-1/2, Block G&M-5, G&M Survey, Potter County, Texas, save and except a 62.50 acre tract taken by the United States of America by Judgment dated July 30, 1963, recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 109.4 acres of land, more or less.

All of the N/2 of Section 22, Block G&M-5, G&M Survey, Potter County, Texas, except that portion taken by the United States of America by Judgment dated July 30, 1963, recorded in Volume 958, Page 442, of the Deed Records of Potter County, Texas, the

remainder of the N/2 of said Section containing 25.35 acres of land, more or less.

BLOCK M-20, G&M SURVEY, POTTER COUNTY, TEXAS:

All of the N/2 of Section 2, Block M-20, G&M Survey, Potter County, Texas, containing 320 acres of land, more or less.

All of Section 3, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 4, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 5, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 6, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 7, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 8, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 9, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 10, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 11, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 12, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 13, Block M-20, G&M Survey, Potter County,

Texas, containing 640 acres of land, more or less.

All of Section 14, Block M-20, G&M Survey, Potter County, Texas, containing 627.4 acres of land, more or less.

All of that portion of Section 15, Block M-20, G&M Survey, Potter County, Texas lying South of the Alibates Road and East of the McBride Canyon Road, except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter County, Texas.

All of that portion of Section 16, Block M-20, G&M Survey, Potter County, Texas lying South and East of the McBride Canyon Road/Alibates Road, except a tract of land containing 15.177 acres, more or less, out of Section 16, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 9 May 1967, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1059, Page 548, of the Deed Records of Potter County, Texas; AND save and except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter

County, Texas.

All of Section 17, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 18, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 19, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 20, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 21, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 22, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 23, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of Section 24, Block M-20, G&M Survey, Potter County, Texas, containing 636.4 acres of land, more or less.

All of Section 25, Block M-20, G&M Survey, Potter County, Texas, containing 636.4 acres of land, more or less.

All of Section 26, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of that portion of Section 27, Block M-20, G&M Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136.

All of that portion of Section 28, Block M-20, G&M Survey, Potter County, Texas lying West of State Highway 136, except that

portion granted as a right-of-way for State Highway 136.

All of Section 29, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of that portion of Section 30, Block M-20, G&M Survey, Potter County, Texas lying South of Alibates Road, except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter County, Texas.

All of that portion of Section 31, Block M-20, G&M Survey, Potter County, Texas lying South of the Alibates Road, except a tract of land containing 2.56 acres, more or less, out of Section 31, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 24 September 1969, from Mary Miles Batson and husband, J. Ernest Batson and Joseph E. Batson, Jr. to the United States of America, recorded in Volume 1116, Page 478, of the Deed Records of Potter County, Texas.

All of that portion of Section 34, Block M-20, G&M Survey, Potter County, Texas lying South of Alibates Road, except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966,

from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter County, Texas.

All of Section 35, Block M-20, G&M Survey, Potter County, Texas, containing 640 acres of land, more or less.

All of that portion of Section 36, Block M-20, G&M Survey, Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway 136; AND also save and except a tract of land containing 8.034 acres, more or less, out of Sections 36 and 37, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 23 September 1952, from Mary Miles Batson and husband, J. Ernest Batson, to West Texas Gas Company, recorded in Volume 605, Page 133, of the Deed Records of Potter County, Texas; AND a tract of land containing 4.3 acres, more or less, out of Section 36, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 15 August 1938 from Mary Miles Batson and husband, J. Ernest Batson, to Pioneer Natural Gas Company, recorded in Volume 854, Page 229, of the Deed Records of Potter County, Texas; AND two tracts of land containing 2.0 acres, more or less, and 3.7 acres, more or less, out of Section 36, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 22 July 1939, from Julian L. Bivins to West Texas Gas Company, recorded in Volume 290, Page 446, of the Deed Records of Potter County, Texas; AND save and except a tract of land described as being 100 feet wide and 10,047.1 feet long as

described in that certain conveyance dated 29 December 1928, from Lee Bivins to Potter County, State of Texas, recorded in Volume 203, Page 73, of the Deed Records of Potter County, Texas.

All of that portion of Section 37, Block M-20, G&M Survey, Potter County, Texas lying South of the Alibates Road and West of State Highway 136, except a tract of land, containing 8.034 acres, more or less, out of Sections 36 and 37, Block M-20, G&M Survey, Potter County, Texas, as described in that certain conveyance dated 23 September 1952, from Mary Miles Batson and husband, J. Ernest Batson, to West Texas Gas Company, recorded in Volume 605, Page 133, of the Deed Records of Potter County, Texas; AND save and except a tract of land described as a 100.00 foot strip of land out of Sections 15, 16, 30, 34 and 37, Block M-20, G&M Survey, Potter County, Texas, and Section 101, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 10 May 1966, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1036, Page 309, of the Deed Records of Potter County, Texas.

<u>BLOCK 46, H&TC SURVEY, POTTER COUNTY, TEXAS:</u>

All of that portion of Section 103, Block 46, H&TC Survey, Potter County, Texas lying South of the McBride Canyon Road, except a tract of land containing 10.1271 acres, more or less, out of Section 103, Block 46, H&TC Survey, Potter County, Texas, as described in that certain conveyance dated 9 May 1967, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1059, Page 548, of the Deed Records of Potter

County, Texas.

All of Section 105, Block 46, H&TC Survey, Potter County, Texas, save and except a 620.35 acre tract taken by the United States of America on July 30, 1963, by Judgment recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 28.87 acres of land, more or less.

All of Section 106, Block 46, H&TC Survey, Potter County, Texas, except the tract of land taken by the United States of America by Judgment dated July 30, 1963, recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 111.99 acres of land, more or less.

All of Section 107, Block 46, H&TC Survey, Potter County, Texas, save and except a 586.58 acre tract taken by the United States of America on July 30, 1963, by Judgment recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 53.42 acres of land, more or less.

All of Section 108, Block 46, H&TC Survey, Potter County, Texas, except a 606.96 acre tract of land taken by the United States of America by Judgment dated July 30, 1963, recorded in Volume 958, Page 442, Deed Records of Potter County, Texas, the remainder of said Section containing 33.04 acres of land, more or less.

J. L. SUMMERS SURVEY, POTTER COUNTY, TEXAS:

All of that portion of Section 1, of the J. L. Summers Survey, in Potter County, Texas lying West of State Highway 136, except that portion granted as a right-of-way for State Highway

136.

BLOCK 1, SK&K SURVEY, POTTER COUNTY, TEXAS:

All of Section 22, Block 1, SK&K Survey, Potter County, Texas, containing 643.9 acres of land, more or less.

All of Section 23, Block 1, SK&K Survey, Potter County, Texas, containing 640 acres of land, more or less.

W. P. HILL SURVEY, POTTER COUNTY, TEXAS:

All of that portion of Section 5, W.P. Hill Survey, Potter County, Texas lying South of the McBride Canyon Road, except a tract of land out of the W. P. Hill Survey, Potter County, Texas, as described in that certain conveyance dated 9 May 1967, from Mary Miles Batson and husband, J. Ernest Batson, to the State of Texas, recorded in Volume 1059, Page 548, of the Deed Records of Potter County, Texas.

(c) The Parks and Wildlife Department may not purchase the land described in Subsection (b) of this section for more than an amount set by the Parks and Wildlife Commission, not to exceed the appraised value of the land as established by a member of the Appraisal Institute or an appraiser with comparable professional qualifications.

(d) The Parks and Wildlife Department shall pay for the land out of the game, fish, and water safety fund on approval of title by the attorney general.

SECTION 15. NOTICE OF PURCHASE. (a) The Parks and Wildlife Department shall notify the General Land Office when the department has purchased 95 percent of the land described by Section 14 of

this Act.

(b) The Parks and Wildlife Department shall publish in the Texas Register, not later than the 30th day after the purchase of 95 percent of the land described by Section 14 of this Act has been made, notice of that purchase.

SECTION 16. APPROPRIATION. An amount not to exceed the appraised value of the land described by Section 14 of this Act is appropriated from the balance of the game, fish, and water safety fund not otherwise appropriated to the Parks and Wildlife Department for the biennium ending August 31, 1991, for the sole purchase of that land. The appropriation made by this section expires August 31, 1991.

SECTION 17. SALE TO UNITED STATES DEPARTMENT OF THE INTERIOR. (a) If the Parks and Wildlife Department purchases the land described by Section 14 of this Act, the department shall sell that land to the United States Department of the Interior if the department of the interior:

(1) agrees to limit use of the land to wildlife management and recreation;

(2) purchases the entire tract of land;

(3) pays in cash a purchase price not less than the sum of:

(A) the total amount the Parks and Wildlife Department paid for the land;

(B) the cost of any improvements made by the Parks and Wildlife Department on the land; and

(C) interest on those amounts at the rate under Subdivision (1), Section (a), Article 1.04, Title 79, Revised Statutes (Article 5069-1.04, Vernon's Texas Civil Statutes), in effect for the week in which the department of the interior purchases the land; and

(4) purchases the land on or before August 1, 1993.

(b) The conveyance to the United States Department of the Interior must contain a restriction limiting the use of the land sold under this section to wildlife management and recreation.

(c) Proceeds from the sale of land under this section shall be deposited in the game, fish, and water safety fund.

SECTION 18. AMENDMENT. Chapter 82, Parks and Wildlife Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. ALIBATES RANCH WILDLIFE MANAGEMENT AREA

Sec. 82.791. ESTABLISHMENT. The Alibates Ranch Wildlife Management Area is established under the jurisdiction of the department on that land located along and in the vicinity of the Canadian River in Potter County authorized to be purchased and more specifically described in S.B. No. 44, Acts of the 71st Legislature, 6th Called Session, 1990.

Sec. 82.792. DISPOSITION OF PROCEEDS OF SAND AND GRAVEL SALE AND GRAZING LEASES. (a) If sand and gravel are sold from the Alibates Ranch Wildlife Management Area, proceeds or royalty payments from the sale shall be deposited in the game, fish, and water safety fund.

(b) If grazing rights are leased on the Alibates Ranch

Wildlife Management Area under Section 12.008 of this code, proceeds from the lease shall be used to improve that wildlife management area.

SECTION 19. EFFECTIVE DATE. (a) Except as provided by Subsection (b) of this section, this Act takes effect on November 1, 1990.

(b) Section 18 of this Act takes effect on the date of publication in the Texas Register that 95 percent of the property described in Section 14 of this Act has been purchased.

SECTION 20. EXPIRATION DATE. (a) Section 18 of this Act expires on the date of the sale of land to the United States Department of the Interior under Section 17 of this Act.

(b) This section expires on August 2, 1993.

SECTION 21. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

S. B. No. 44 By Brivens

A BILL TO BE ENTITLED

AN ACT: relating to property rights in, and the establishment of a wildlife management area along and in the vicinity of, the Canadian River bed; making an appropriation.

6-5-90 Filed with the Secretary of the Senate

JUN 5 1990 Read and referred to Committee on ADMINISTRATION

JUN 5 1990 Reported favorably

_____ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

_____ Ordered not printed

_____ Laid before the Senate

_____ Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent / 28 yeas, 5 nays } 2PNV

_____ Read second time, _____, and ordered engrossed by: { ~~unanimous consent~~ / ~~a viva voce vote~~ / 22 yeas, 4 nays } 2PNV

_____ Caption ordered amended to conform to the body of the bill.

JUN 6 1990 Senate and Constitutional 3 Day Rule suspended by a vote of ____ yeas, ~~____ nays~~. Regular order of business prevailed by 23 yeas 1 PNV

JUN 6 1990 Read third time, _____, and passed by ~~viva voce vote~~ ____ yeas, ____ nays.

Betty King
SECRETARY OF THE SENATE

OTHER ACTION: JUN 5 1990 Motion to Suspend 3 Day Rule lost by 18 yeas 9 nays 2 PNV

June 6, 1990 Engrossed

6-6-90 Sent to House

Engrossing Clerk Patsy Spaw

JUN 6 1990 Received from the Senate

JUN 6 1990 Read first time and referred to Committee on State Affairs

_____ Reported favorably amended, sent to Printer at _____

_____ Printed and Distributed _____

_____ Sent to Committee on Calendars _____

_____ Read Second time (amended): passed to third reading (failed)

by (Non-Record Vote) Record Vote of ____ yeas, ____ nays ____ present not voting.

_____ Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of ____ yeas, ____ nays ____ present not voting.

_____ Read third time (amended); finally passed (failed) by a (Non-Record Vote) Record Vote of

____ yeas, ____ nays ____ present not voting.

_____ Caption ordered amended to conform to body of bill.

_____ Returned to Senate.

CHIEF CLERK OF THE HOUSE

_____ Returned from House without amendment.

_____ Returned from House with ____ amendments.

_____ Concurred in House amendments by a viva voce vote ____ yeas, ____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed:_____, Chairman; _____,

_____, _____, and _____

_____ House granted Senate request. House conferees appointed:_____, Chairman;

_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
{ _____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
{ _____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged .

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
{ _____ yeas, _____ nays