

TEXAS GENERAL LAND OFFICE

RESPONSE LETTER TO

CHAMBERS LIBERTY COUNTY NAVIGATION DISTRICT  
(CLCND)

RE: SUSTAINABLE TEXAS OYSTER RESOURCE MANGEMENT LLC  
(S.T.O.R.M.LLC)

TGLO

CONCURS WITH

TPWD

TEXAS



GENERAL LAND OFFICE

JERRY PATTERSON, COMMISSIONER

August 15, 2014

Mrs. Mary Beth Stengler  
General Manager  
Chambers Liberty County Navigation District  
P.O. Box 518  
Anahuac, Texas 77514

Re: Surface Lease with Sustainable Texas Oyster Resource Management, LLC

Dear Mrs. Stengler:

It has been brought to my attention that Chambers Liberty County Navigation District ("CLCND") has entered into a Coastal Surface Lease with Sustainable Texas Oyster Resource Management, LLC ("STORM") effective April 15, 2014 (the "Lease"). The land that is covered by the Lease was originally patented to CLCND from the General Land Office pursuant to Article 8225, V.C.S. As set forth below, we have some concerns as to the validity of the Lease, and the authority under which CLCND purports to lease the land.

In addition, we have reviewed the letter dated July 21, 2014 from Ann Bright, General Counsel of the Texas Parks and Wildlife Department, and would concur with their position on this issue.

Article 8225 reads, in part:

"Any Navigation District heretofore or hereafter organized under this title or any General Law under which said subdivision may be created shall have the right to purchase land from the State of Texas any land and flats belonging to said state, covered or partly covered by the waters of any of the bays or arms of the sea, to be used by said District for the purposes authorized by law..." (emphasis added).

CLCND holds this land subject to its enabling authority granted to Navigation Districts under the Texas Constitution as well as the reservations and limitations of the Patents themselves. It seems to us that the CLCND does not have the authority to enter into a lease with STORM, or anyone else, for the commercial harvesting of oysters.

In the Lease, the CLCND states that the Lease is "entered into by virtue of the authority granted by Article XVI, Section 59, Constitution of the State of Texas, Chapter 62 and 63 of the Texas Water Code, Chapter 33 of the Texas Natural Resources Code and Title 31, Chapters 1 and 155 of the Texas Administrative Code..."

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Chapter 62 of the Texas Water Code states that the purposes of Navigation Districts created under Article XVI, Section 59 of the Constitution of the State of Texas are for the "(1) improvement, preservation, and conservation of inland and coastal water for navigation; (2) the control and distribution of storm water and floodwater of rivers and streams in aid of navigation; and (3) any other purposes necessary or incidental to the navigation of inland and coastal water or in the aid of these purposes, as state in Article XVI, Section 59 of the Texas Constitution." Texas Water Code, §62.101. Based on the foregoing it seems to us that the Lease does not meet any of the authorized purposes under the Water Code.

In addition, Chapter 33 of the Texas Natural Resources Code establishes certain responsibilities and duties with respect to the management of the surface estate in coastal public land by the School Land Board. Texas Natural Resources Code, §33.002.

Chapter 33 authorizes the School Land Board to lease coastal public lands to Navigation Districts. However, Chapter 33 does not provide any authority for Navigation Districts to lease Art. 8225 lands to third parties. The rules promulgated under Title 31, Chapter 155 that are cited in the Lease apply to leases **issued by the School Land Board to Navigation Districts, not leases issued by Navigation Districts to third parties.**

It is our position that since the CLCND lacked the authority to enter into this Lease, the Lease appears to be invalid, and STORM cannot rely on the Lease as granting any rights to act on the CLCND property.

Furthermore, there are minerals owned by the Permanent School Fund located within the area CLCND has purported to lease. If anyone were to attempt to prevent the development of our minerals, in upholding our fiduciary duty, we would pursue all remedies offered to us by the Constitution and laws of the State of Texas.

If you have any concerns, please do not hesitate to contact me.

Sincerely,



William F. Warnick  
General Counsel,  
Texas General Land Office

cc: TPWD  
STORM