



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

August 24, 1960

Honorable Bill Allcorn  
Commissioner  
General Land Office  
Austin, Texas

Opinion No. WW-914

Re: Is the General Land Office authorized under Article 8225, V.A.C.S., to sell State owned land to the San Patricio County Navigation District No. 1 when said land is located outside the boundaries of such district?

Dear Mr. Allcorn:

The following inquiry is made in your opinion request to this office:

"I would like to have your opinion as to whether a navigation district has the authority to purchase land outside the boundaries of their district?"

Your letter which contains this opinion request states that San Patricio County Navigation District No. 1 has made application to buy 855 acres of land owned by the State of Texas for \$1.00 per acre under authority of Article 8225, Vernon's Annotated Civil Statutes. This particular property is located outside the boundaries of such district, and further, it does not adjoin these boundaries.

It is also our understanding that such lands are to be improved for and used, at least in the beginning, as a pleasure craft facility to serve the City of Portland, Texas. The City of Portland lies outside the limits of this district, and it also appears that the boundaries of this district are several miles distant from the land sought.

We have been advised that San Patricio County Navigation District No. 1 was organized under and by authority of Article 8263h, Vernon's Annotated Civil Statutes. This article authorizes districts thereunder to make improvements for the inland and coastal waters together with certain other improvements to promote navigation.

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Article 8225, V.A.C.S., makes provision for the purchase of State owned lands by navigation districts under the following conditions, to-wit:

"The Commissioners are empowered to acquire the necessary right-of-way and property of any kind for all necessary improvements contemplated by this title by gift, grant, purchase or condemnation proceedings. Any navigation district heretofore or hereafter organized under this title or any general law under which said subdivisions may be created shall have the right to purchase from the State of Texas any lands and flats belonging to the said State, covered or partly covered by the waters of any of the bays or other arms of the sea, to be used by said district for the purposes authorized by law with the right to dredge out or to fill in and reclaim said lands or otherwise improve the same; and the Commissioner of the General Land Office is hereby authorized and directed to sell the same upon application, as hereinafter provided, at the price of One (\$1.00) Dollar per acre...." (Emphasis supplied.)

Prior to an amendment in 1931 (Acts 1931, 42nd Leg., 2nd C.S., p. 38, Ch. 21), Article 8225, V.A.C.S., provided that any State owned lands to be purchased by a navigation district thereunder should be "covered or partly covered by the waters of any of the bays or other arms of the sea within said district." That language of the above quoted provision reading "within said district" was deleted by the above amendment.

However, another section found in the same Act as Article 8225, V.A.C.S., and to be read into such article now, is codified as Article 8198, Vernon's Annotated Civil Statutes, which, in limiting the scope of navigation districts, provides that said districts may improve rivers, bays, creeks and canals "within or adjacent to such district" in aid of navigation.

Therefore, while there is no express restriction under Article 8225, V.A.C.S., against purchase by a navigation district of lands outside its boundaries, we are of the opinion that any such lands must, at least, be covered or partly covered by the waters of bays or other arms of the sea adjacent to the district in view of Article 8198, V.A.C.S.

It should be noted also that one of the restrictions of purchase under Article 8225, V.A.C.S., is that such property is to be used "for the purposes authorized by law."

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In addition, this statute limits the power of acquisition of navigation districts to those lands which are required "for necessary improvements contemplated by this title."

It must be concluded from reading the above statutory provisions together that the Legislature clearly intended that a navigation district is authorized only to purchase State owned lands outside their boundaries under Article 8225, V.A.C.S., when such lands are to be used for lawful purposes of the district concerned, for purposes which have substantial relationship to the needs of such district and when the lands to be acquired are covered or partly covered by the waters of bays or other arms of the sea adjacent to the district.

Applying the test in the paragraph immediately above, there is considerable doubt as to the authority of San Patricio County Navigation District No. 1 to buy the lands in question. There has been no showing that the proposed use has any substantial relationship to the needs of the district. In fact, the district's declared purpose for the purchase of these lands is primarily for use as a pleasure craft facility to serve a community which is not located within the district. Moreover, it appears that the lands to be acquired are not covered or partly covered by the waters of bays or other arms of the sea either within or adjacent to subject district. However, these factual determinations are for your office.

While Article 8225, V.A.C.S., makes no provision for any formal hearing by your office on these questions, nevertheless, any applicant for purchase of State owned lands under the terms of such statute should be required to submit sufficient facts to your office to show compliance with the requirements of purchase detailed above.

#### SUMMARY

The General Land Office is authorized to sell to navigation districts State owned lands outside their boundaries under Article 8225, Vernon's Annotated Civil Statutes, only when it appears to such office that these lands are to be used for lawful purposes of the navigation district concerned, for purposes that have substantial relationship to the needs of such district and when such lands are covered or partly

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covered by the waters of bays or other arms  
of the sea adjacent to said district.

Yours very truly,

WILL WILSON  
Attorney General of Texas.

By   
Thomas Burrus  
Assistant

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APPROVED:

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