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NATURAL RESOURCES

*George W. Hardy, III**

PETROLEUM

Act 28 of 1964 amends R.S. 45:251(2), the definitions section of the statutes placing petroleum pipelines within the jurisdiction of the Louisiana Public Service Commission. Formerly, this particular provision defined the word "petroleum" as meaning "crude petroleum, crude petroleum products or mixtures of crude petroleum and crude petroleum products." The recently enacted provision alters this definition to include "crude petroleum, crude petroleum products, distillate, condensate, liquefied petroleum gas, any hydrocarbon in a liquid state, and any mixture or mixtures thereof."

This amendment apparently stems from doubts on the part of some companies piping liquefied gas whether they possessed the power of expropriation granted in R.S. 45:254. The enactment clearly removes any such doubt.

PUBLIC LANDS

Act 311¹ abolishes the Joint Committee of the Legislature of Louisiana, established in 1962,² which had been vested with authority to conduct negotiations with the government of the United States and interested lessees concerning settlement of the tidelands controversy and adjustment of private agreements accordingly. The new legislation places negotiating authority in the hands of the State Mineral Board acting with the concurrence and approval of the Governor. No final agreement reached by the State Mineral Board with approval of the Governor will be binding, however, without ratification by a majority vote of both houses of the Louisiana legislature.

Act 312³ restores the Attorney General of Louisiana to the

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1. LA. R.S. 30:179-11-14 (Supp. 1964).

2. La. Acts 1962, No. 9, established the committee. This statute was integrated into the Revised Statutes as LA. R.S. 30:179.1-7 (Supp. 1962) but was repealed by La. Acts 1964, No. 311.

3. LA. R.S. 30:132 (Supp. 1964).

position of attorney for the State Mineral Board. Act 352 of 1962 had granted to the board authority to select its own attorney. The current legislation returns the Attorney General to this position but nevertheless permits the board to employ additional counsel, subject to authority of the Attorney General to approve such counsel and to issue commissions as assistant attorneys general.

Act 319 amends R.S. 41:1212 concerning the leasing of public lands for general purposes, exclusive of mineral development. Previously this provision contained a general authorization for leasing; the new act adds specific authorization for leasing "on a share basis in accordance with such terms and conditions as the governing authority deems to be to the best interest of the lessor." For purposes of the statutory provisions governing such general leasing for public lands for trapping, grazing, hunting, agricultural, and all other legitimate ends, the term "lessor," as already defined by statute, embraces the Register of the State Land Office and all other state and local subdivisions deriving authority and powers from the sovereignty of the state having title, custody or possession of public lands.⁴

Other acts affecting public lands include: act 119,⁵ requiring that the state or any state agency give notice of intention to dispose of real property, except buildings, to the governing body of the parish or municipality in which the property is located; act 29,⁶ authorizing consideration for rights of way across public lands burdened by title disputes to be deposited in escrow with the Register of the State Land Office pending resolution of the title dispute; act 184,⁷ validating sales of sixteenth section lands prior to July, 1956, extending the validation of such sales from 1900 to 1956, and establishing certain standards of proof which must be met to demonstrate that a sale was confected as a prerequisite to its recognition.

WATER RESOURCES — WATER RIGHTS

Problems of water use have been recently underscored by the decision rendered in *Adams v. Grigsby*.⁸ Whether there is a

4. LA. R.S. 41:1211 (1950).

5. LA. R.S. 41:139 (Supp. 1964).

6. LA. R.S. 41:1174 (Supp. 1964).

7. LA. R.S. 41:1323.3 (Supp. 1964).

8. 152 So.2d 619 (La. App. 2d Cir. 1963), *writs den.*, 244 La. 662, 153 So.2d 880 (1963).

direct connection between this decision and Act 188 of 1964 is doubtful. However, the act does provide for a Water Resources Study Commission consisting of thirteen members which could render significant service in solving the growing problems of water utilization. Section 1 of the act declares that all ground and surface waters are natural resources and the "ownership and control of the development and use of ground and surface waters for all beneficial purposes are within the jurisdiction of the state," which "in the exercise of its sovereign powers may establish measures to effectuate the proper and comprehensive utilization and protection of such waters." It is further stated that "the public welfare and interests of the people . . . require the proper conservation, development, use and protection of the inseparable land and water resources." It is especially provided, however, that nothing in the act impairs or interferes with any existing rights to the use of ground and surface waters or the customary use of water for domestic purposes.

The enabling legislation establishing this study commission is somewhat ambiguous in that it could be interpreted as an assumption by the state of ownership as well as control over water and water rights, despite the disclaimer of interference with the existing rights. Certainly any such construction of the act would present a wide variety of problems.

The study commission includes as *ex officio* members the Director of Public Works, the Commissioner of the Department of Conservation, and the Chairman of the State Soil and Water Conservation Committee. Ten additional members representing specified groups with legitimate interests in water rights are to be appointed by the governor.

By act 208⁹ what was formerly the "Soil Conservation Committee" is redesignated the "State Soil and Water Conservation Committee" and soil conservation districts are renamed "Soil and Water Conservation Districts." This enactment is apparently intended to place ultimate administrative control of water rights within the agency now controlling soil conservation programs. However, the outcome of whatever studies and recommendations stem from the commission must be observed before this apparent vesting of administrative control can be confirmed.

9. LA. R.S. 3:1201 (Supp. 1964).