



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**WAGGONER CARR  
ATTORNEY GENERAL**

August 30, 1966

Mr. W. J. Cutbirth, Jr.  
Acting Deputy Director  
Parks and Wildlife Department  
John H. Reagan Building  
Austin, Texas 78701

Opinion No. C-747

Re: Authority of Texas Parks  
and Wildlife Department to  
Purchase land for salt water  
experiment pond.

Dear Mr. Cutbirth:

Your transmittal letter of August 29, 1966, accompanying a proposed contract of sale whereby the Texas Parks and Wildlife Department anticipates agreeing to purchase 40 acres of land in Calhoun County in the vicinity of the City of Palacios, under the authority of House Bill 12, 59th Legislature, Regular Session, Parks and Wildlife Department, Item 14, A - Game and Fish Improvements which provides: "Special Facilities, including land for salt water experiment pond near Rockport, . . ." presents the specific question of whether the purchase of land near Palacios is permitted under this authorization of "near Rockport." Such question should be answered by official opinion, rather than being incorporated in a title opinion.

Information supplied by you is that the Parks and Wildlife Department has a marine laboratory near Rockport, in Aransas County, and desired to obtain land relatively close to such laboratory for use as a salt water experiment pond, to be operated in conjunction with such laboratory. The property you propose to purchase, which is some 70 miles from Rockport, is the nearest suitable land you have been able to locate after extensive investigation, search and negotiation, and it is sufficiently close to your marine laboratory to be used and operated for such intended purposes and may be operated in connection with such laboratory as economically as land closer thereto.

It is the opinion of this office that the Calhoun County land which you propose to purchase for use as a salt water experiment pond is sufficiently close to Rockport to come within the intended coverage of Item "14 A" above referred to. It is to be used for the original intended

purpose and is sufficiently close to Rockport so as not to create the economical and practical problems originally intended to be protected against.

The words "near Rockport" have no precise meaning as applied to space or distance, for "near" is a relative term often used to denote distances which within themselves differ widely. Sublett v. City of Tulsa, 405 P.2d 185 (Okla. Supreme, 1965); and the precise meaning of the term can be determined only by the surrounding facts and circumstances. Kilgore v. Jackson, 118 S.W. 819, (Civ.App., 1909, Error ref.); Sigman v. Newton County, 168 Ga. 122, 147 S.E. 586, Fall; River Iron Works v. Old Colony & F.R.R. Co., 87 Mass. 221; City of Nashville v. Vaughn, 158 Tenn. 498, 14 S.W.2d 716.

"The word 'near', as applied to space, can have no positive or precise meaning. It is a relative term depending for its signification on the subject-matter in relation to which it is used and the circumstances under which it becomes necessary to apply it to surrounding object." 28 Words & Phrases, "Near," page 143.

#### S U M M A R Y

Texas Parks and Wildlife Department may purchase property in Calhoun County near Palacios under authorization of House Bill 12, 59th Texas Legislature, Regular Session, Parks and Wildlife Department Item 14 A Game and Fish Improvements, which authorizes purchase of land for a salt-water experiment pond near Rockport.

Respectfully submitted,

WAGGONER CARR  
Attorney General

By: *Harold G. Kennedy*  
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HGK/fb  
APPROVED:  
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