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*The Senate of
The State of Texas*

February 16, 2001

COMMITTEES

Chairman, Redistricting
Jurisprudence
Nominations

**COUNTIES IN
SENATE DISTRICT 25**

Bandera	Llano (part)
Bexar (part)	Mason
Blanco	Medina (part)
Comal (part)	Schleicher
Gillespie	Sutton (part)
Guadalupe (part)	Tom Green (part)
Kendall	Travis (part)
Kerr	Williamson (part)
Kimble	

RQ-0350-JC

The Honorable John Cornyn
Attorney General of Texas
Attn: Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

RECEIVED

FEB 20 2001

OPINION COMMITTEE

FILE # HL-41889-01
I.D. # 041889

Re: May the Llano County Commissioners Court assign the administrative function of making investment decisions regarding the Permanent School Fund to the Board of Trustees of the Llano Independent School District?

Dear General Cornyn:

The purpose of this letter is to request an opinion on whether the Llano County Commissioners Court has the ability to delegate its management authority to the Llano Independent School District if the District agrees to waive liability under Section 114.032 of the Texas Property Code.

The Llano Independent School District and the Burnet Consolidated Independent School District ("the Districts") are the equitable owners of over 17,000 acres of property located in Tom Green County. The majority of the equitable ownership in the property is held by the Llano Independent School District. The property has been managed by the Commissioners Court of Llano County. Over the years, some of the property has been sold or otherwise encumbered by easements and long-term leases. The majority of the property has been leased for grazing, hunting, mineral exploration, and excavation.



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The Commissioners Court of Llano County has sporadically reported activities regarding this property to the Districts. The property has often been sold or encumbered without consultation with the Districts. The Commissioners Court of Llano County has also pressured the Districts to spend money from the Districts' general funds on the property.

The Districts would like to assume the management of the property by having the Commissioners Court of Llano County delegate its management authority to the Llano County Independent School District in exchange for the Districts agreeing to waive liability under Section 114.032 of the Texas Property Code. Section 114.032(a) states:

A written agreement between a trustee and a beneficiary, including a release, consent, or other agreement relating to a trustee's duty, power, responsibility, restriction, or liability, is final and binding on the beneficiary and any person represented by a beneficiary as provided by this section if:

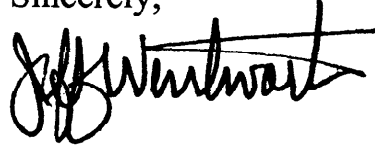
- (1) the instrument is signed by the beneficiary;
- (2) the beneficiary has legal capacity to sign the instrument; and
- (3) the beneficiary has full knowledge of the circumstances surrounding the agreement.

The Districts believe that Section 114.032 of the Texas Property Code would enable the Llano County Independent School District to assume the management of the property. The Commissioners Court of Llano County would still be responsible for ratifying an action taken.

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I respectfully request an opinion on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Wentworth". The signature is stylized with a large, sweeping initial "J" and a horizontal line extending across the top of the name.

Jeff Wentworth

JW/ml