

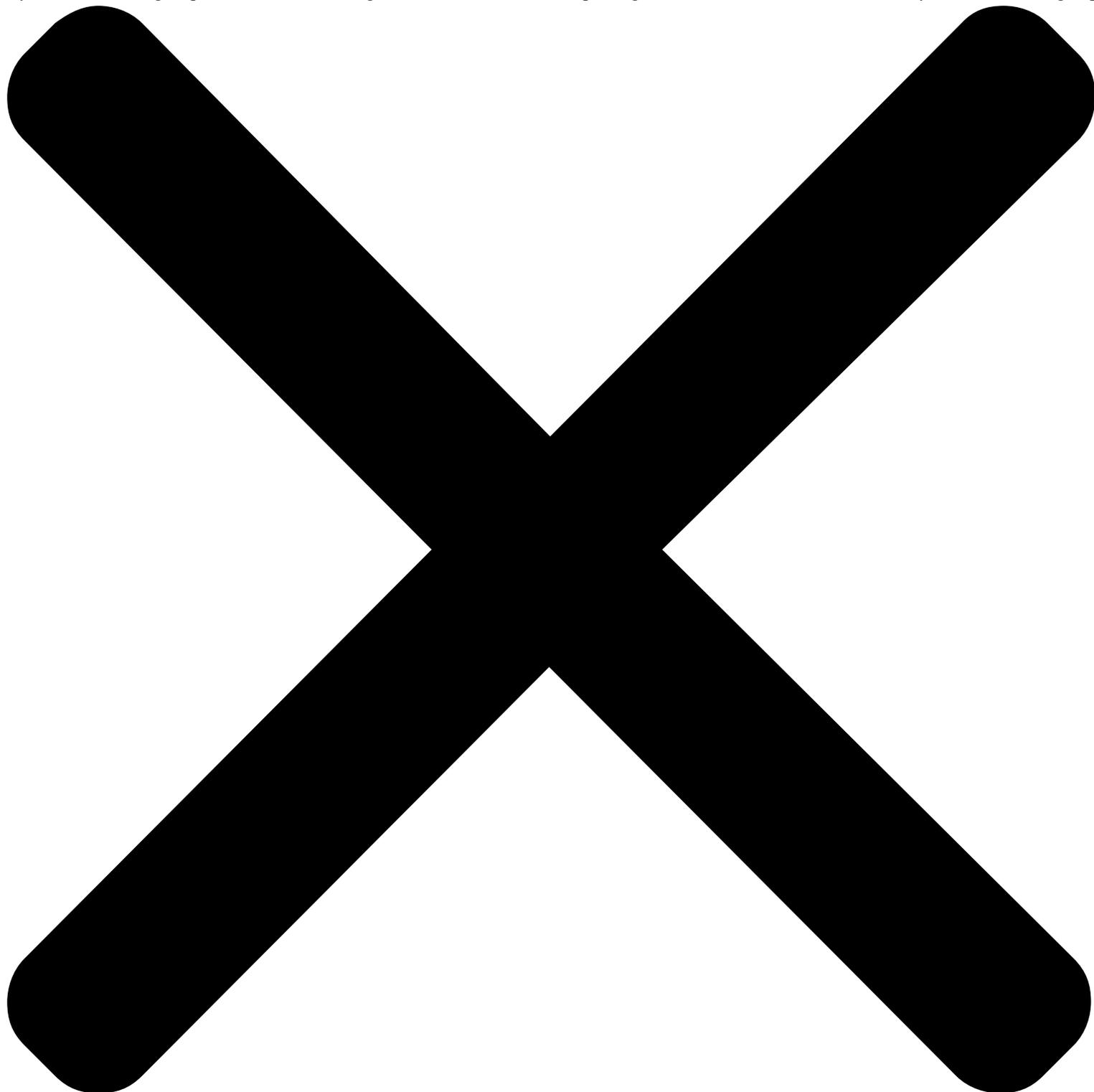
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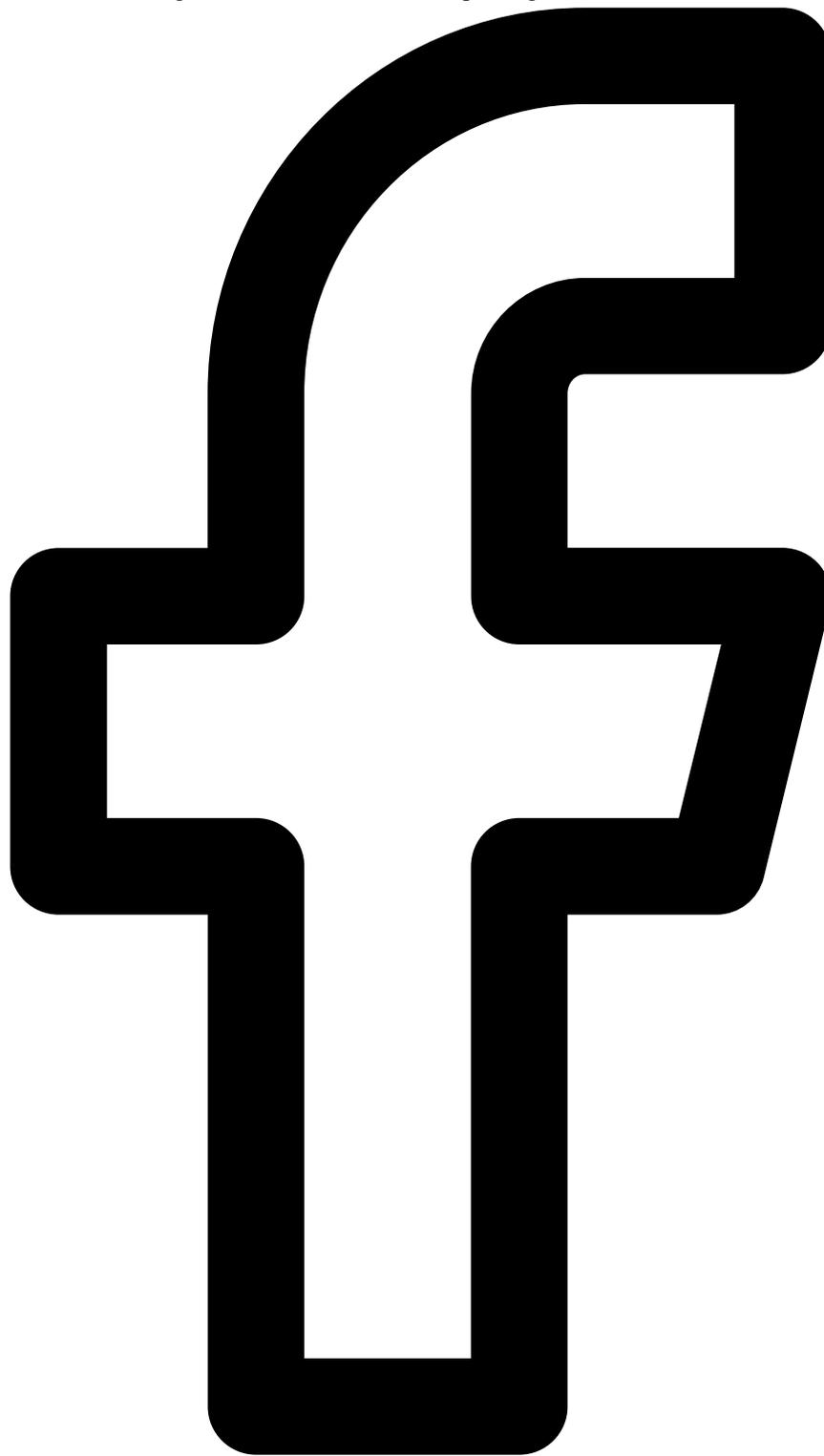
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With eye towards drilling, experts talk land use

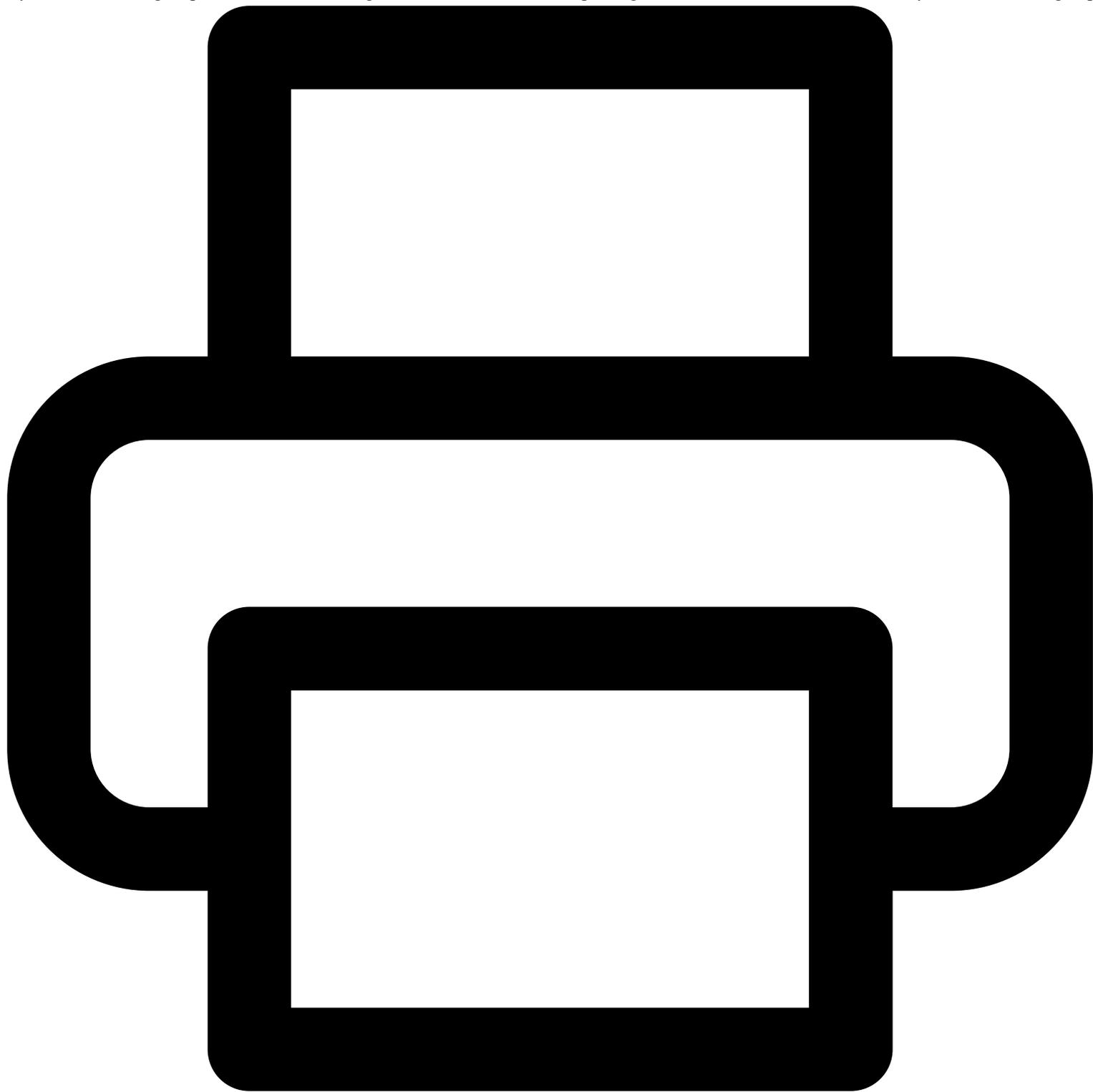
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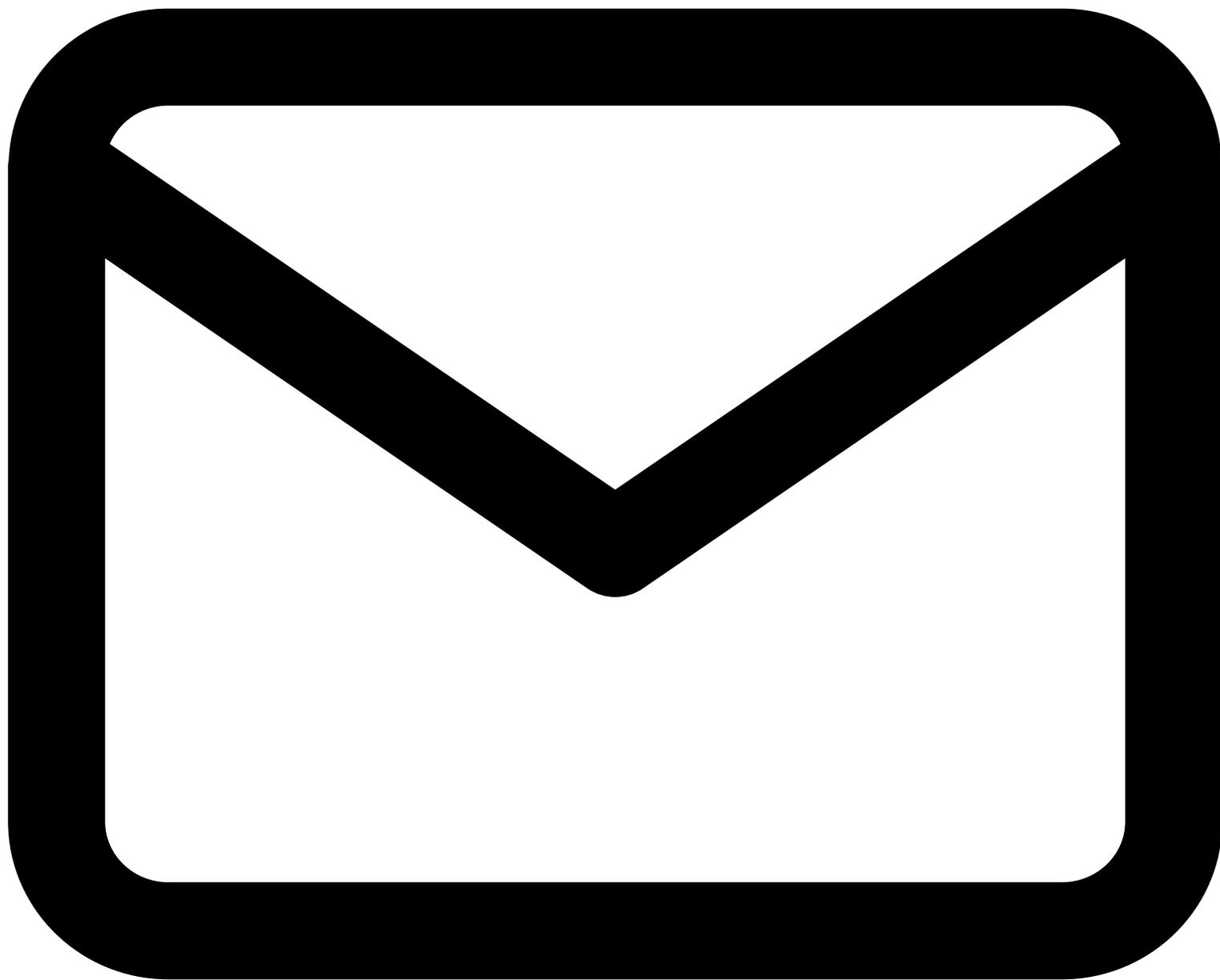
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ALPINE — At a workshop last week at Sul Ross State University, land-use experts shared insights on responsible land-use — including how landowners could safeguard land from oil and gas companies eager to drill.

Sponsored by Texas Agricultural Land Trust and the Borderlands Research Institute, the conference was about “saving working lands” and “preparing local landowners for energy development,” as the title put it. It drew residents from across the region to the university’s Espino Center.

The workshop comes as big economic and demographic changes are transforming West Texas. Land-intensive wind- and solar-energy operations are on the rise. Oil and gas developments — once mostly contained around the Permian Basin — have started to spread southwest, with Australia-based Helios Energy this year announcing a fracking

operation in Presidio County, as previously reported by *The Big Bend Sentinel*.

The demographics of Far West Texas are also changing, as newcomers arrive in the region and once-large land holdings are split up due to taxes or family inheritance. The population in Presidio County has fallen slightly in recent years, from around 7,874 people in 2010 to 7,156 in 2017, according to figures from the U.S. Census Bureau. But other parts of the region are growing — and some precipitously, including El Paso County (627,834 to 699,232 over the same time period) and Hudspeth County (3,472 to 4,408).

Midland, meanwhile, was the fastest growing city in the United States between 2017 and 2018, with Odessa close behind, according to a U.S. News and World Report analysis this year.

At the start of the workshop, Jim Cathey, associate director for the Texas A&M Natural Resources Institute and a former wildlife specialist at the Texas A&M AgriLife Extension Service, outlined some of these transformations.

Ranching is still a dominant industry in the region, with around 40 percent of West Texas landowners reporting ranching as their main source of income in a recent survey, he said. Oil and gas account for around 20 percent, and wind and solar aren't even a "blip on the radar."

But with area land values surging, from around \$500 per acre in 1997 to just under \$2000 in 2017, changes were coming quickly, he said. The number of oil and gas operations in the area continued to rise steadily, leading to a "dramatic increase" in flares and other sources of light pollution. And wind energy — despite its relatively small economic footprint — was surging, with just under 4,000 wind turbines in 2008 compared to over 13,000 last year.

With the increase in energy developments, large family landholdings are getting split up, Cathey said. He cited "parcelization" in El Paso, the Terlingua area and Reeves County in particular.

In one survey, a majority of West Texas landowners said they were worried about the breakup of private lands — with over 40 percent saying they were "extremely concerned." At the same time, many landowners said they were determined not to split up their land, he said.

"I'm glad to see stuff like this," he said, "where many of you all are keeping this land intact for the long haul." He proposed that large protected areas in West Texas, including Big Bend National Park, could serve as "fantastic" anchor points from which to keep development at bay.

Still, Cathey stressed changes were inevitable. A whopping 30 percent of West Texas landowners have spent less than 10 years on the land — part of the trend he described as the "largest intergenerational transfer of land that we've ever seen."

"Folks, get ready for a lot more neighbors," he said. "You're going to have folks that think a lot differently than you."

Next up was John Paul Pierre, a research scientist at the Bureau of Economic Geology, a research arm of the University of Texas. His presentation focused on "possible future energy scenarios," including where energy developments like pipelines and solar farms "would likely be placed on the landscape."

Describing 2008 as "the start of fracking" in West Texas, Pierre acknowledged that oil developments were getting closer, citing "the Ojinaga play in northwest Presidio County" by Helios. He stressed that wind and solar developments could also transform the landscape, since they needed service roads, transmission lines and other infrastructure.

Pierre said that renewable-energy developers often clustered along existing infrastructure, so that companies didn't have to build new transmission lines, roads or other equipment.

An audience member asked a question. "Are you aware that there's a huge wind farm being installed in Mexico?" he said. (An Italian company last year announced a wind farm in northern Coahuila state near Del Rio, among other wind developments.) "It did not seem indicated on your map."

Pierre said he'd focused on the United States. But the question was a reminder that Mexico often plays a role in energy in the region, whether it's the natural gas pipeline through Presidio or wind farms on the horizon.

The first half of the workshop focused in general on changes to the landscape — from renewables and divided land holdings to a growing population.

But the meeting zeroed in on the oil-and-gas industry as the next speaker — Joseph Fitzsimons, an energy and real estate lawyer — described the “doom and gloom” scenario of trying to keep oil and gas operations from messing up private land.

Fitzsimons' presentation also touched on a key difference between oil-and-gas and renewable development. Though solar farms and wind turbines might change the look of the area, they both used above-ground infrastructure, which meant surface rights. That gave landowners a lot more control over any wind or solar developments.

Oil and gas, on the other hand, uses underground resources — which involve mineral rights, which took precedence over surface rights and were often owned by someone else. That could make drilling more akin to another process that landowners fear: eminent domain.

Fitzsimons summarized the different ownership with a light-hearted metaphor. There were the “country cousins” who still worked the family ranch and the “city cousins” who might prioritize oil and gas revenue over conserving the landscape.



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Speaking to any possible oil and gas people in the crowd, Fitzsimons made his allegiances clear.

“You’ve got your own lawyers,” he said. “I’m here for the landowners.”

Fitzsimons continued on a bleak note. Texas property law was “very clear,” he said, about the rights of mineral rights owners — including oil and gas companies — to make use of surface land holdings.

“The mineral ownership is dominant,” he said. “That’s the bad news.” His advice to the crowd was twofold: “Understand what you own,” and lawyer up.

A shrewd lawyer, he said, could craft a surface-use agreement with that would help protect the land. That include

requiring oil and gas companies to preserve topsoil, quickly remediate the landscape and/or steam-clean equipment to prevent invasive species. (Pipelines in particular, he said, were a “conduit for invasives and exotics.”)

By default, he said, mineral rights holders could use “as much of the surface as reasonably necessary” to drill for oil, which could mean building roads and pipelines and using the property’s water.

“That’s shocking to a lot of people,” he said. “But that’s the law.”

Even if a landowner lost money on a surface-use agreement, it could help protect the land, he said. He dismissed the idea that landowners didn’t need a surface-use agreement as “B.S.” and warned them that state regulators were unlikely to come to their aid.

“The Railroad Commission isn’t interested at all,” he said, in reference to the agency that regulates oil and gas wells in Texas. “Neither is the TCEQ,” the Texas Commission on Environmental Quality.

Next up was Jeff White, who helps manage the University Lands held by the University of Texas System. He described his experiences working on land remediation with oil and gas companies (“like pulling teeth”) and tips on specifics of agreements (“hunting and lambing compensation clauses” to cover, for example, when a stray farm animal falls into a well.)

University Lands is tasked with maximizing revenues, protecting natural resources and “being a good steward of the land” owned by the University of Texas — a job White acknowledged was “kind of contradictory.”

“We are charged to make money, but not at all cost,” he said.

Then was James Oliver, CEO of the Texas Agricultural Land Trust. He described how landowners could save money (and even lower taxes) by signing a conservation easement to protect their land. “It makes sure that our grandchildren’s great-grandchildren will have the possibility to see these open spaces,” he said.

Conservation easements are voluntary and negotiated, with no “standard template,” he said. And easements offered by TALT could be negotiated to allow for limited development — including drilling, but not renewables.

“The IRS has been silent on renewables,” he explained. TALT didn’t want to be “a test case.”

During a short question-and-answer session at the end, one attendee asked about ecotourism. But many of the questions were focused on the oil and gas industry.

One woman asked what people should do when a landman shows up at their door to negotiate drilling access. “Don’t answer,” Fitzsimons joked.

Bobby McKnight, president of the Texas and Southwestern Cattle Raisers Association, advised people in that situation to “be careful.”

“Hear [the landman] out, but get some help immediately,” he said. “They are negotiating to try to get a good deal for them. They don’t care about you.”

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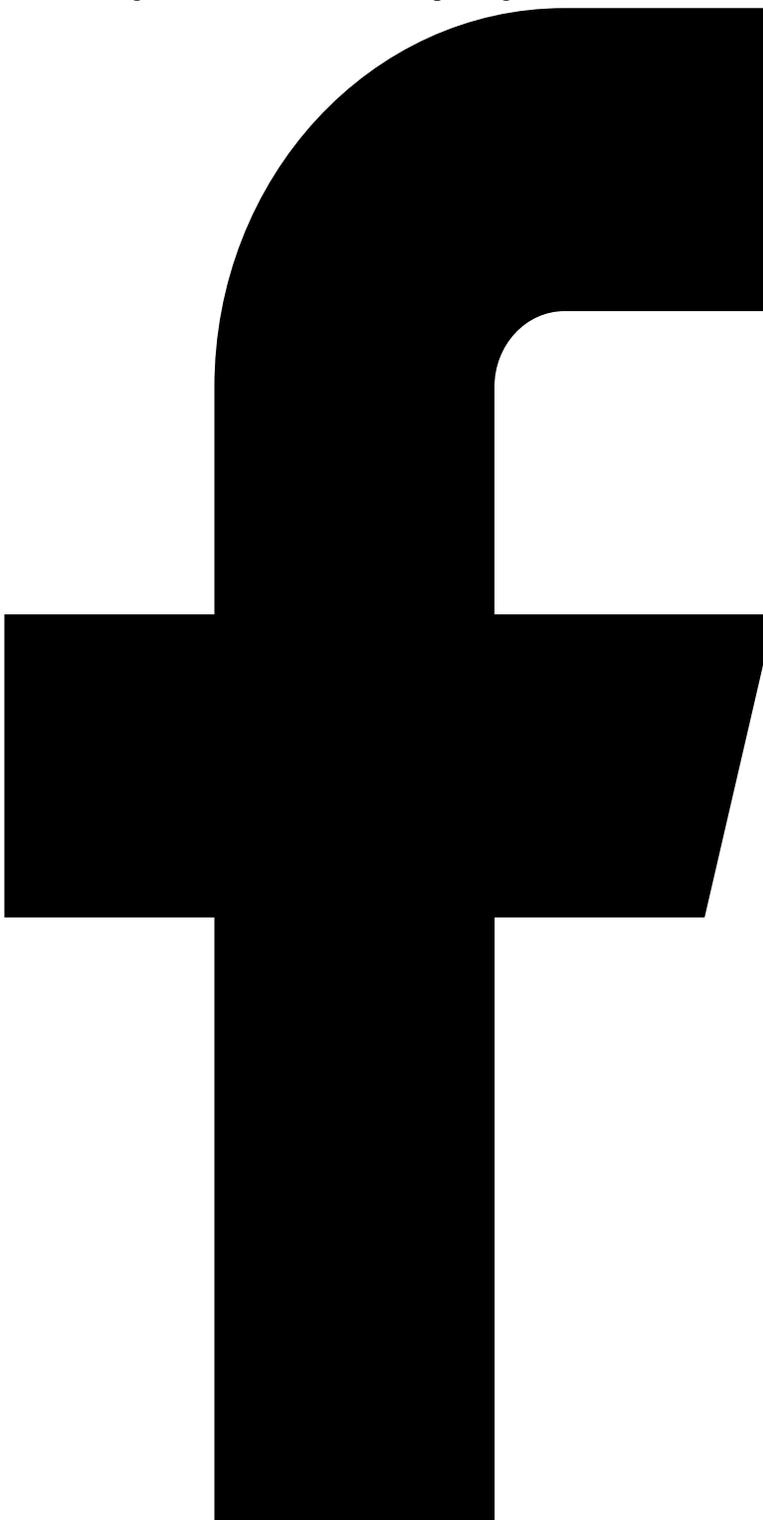
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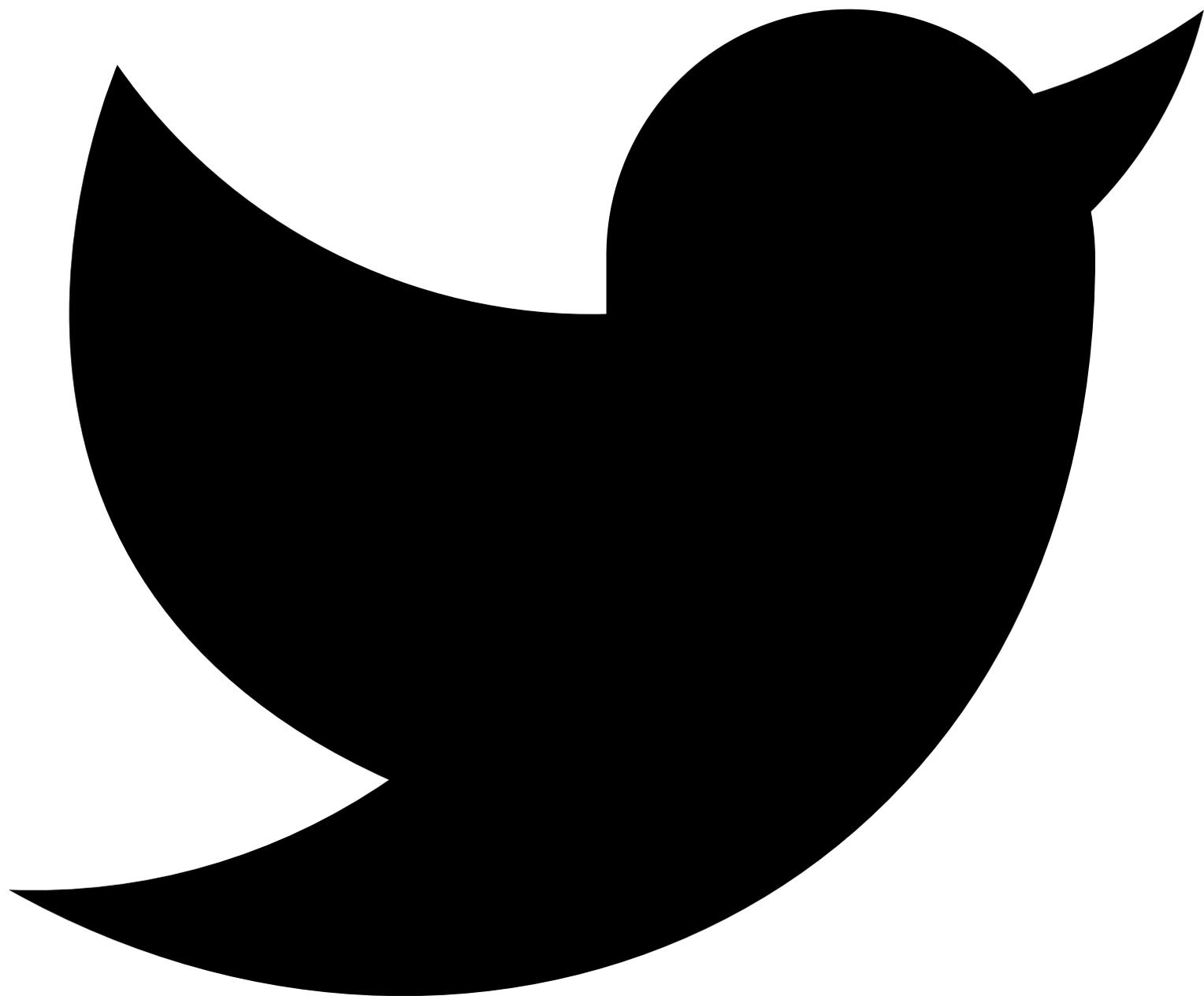
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