

WALKER LAND SURVEYING  
 405 E. AVE. "B"  
 ALPINE, TX  
 79830  
 915-837-7272

TO: The Honorable David Dewhurst  
 Commissioner of the Texas General Land Office

RE: Patent surveys in T. C. Ry. Co. Block 318, Brewster County

Date: April 15, 2001

File No. Sketch File 56 County Brewster  
123669 & 123670, T.C. Ry., Blk 318  
 Date Filed: June 18, 2001  
 By David Dewhurst, Commissioner  
Douglas Howard

SURVEY REPORT

This report concerns the survey of Survey 4, Abstract no. 6843, School file no. 123669 and Survey 6, Abstract no. 6844, School File no. 123670, T. C. Ry. Co. Block 318, Brewster County. This survey was conducted at the request of the owners to obtain a plat and field notes of said Surveys for patent purposes.

This survey was conducted on the Texas Coordinate System, South Central Zone, utilizing a Trimble Global Positioning System (GPS), a Wild T-2 and a Wild D14L Distomat. Triangulation stations "CALA" and "NEVILLE" were tied for this survey. NAD 1983 data was converted to NAD 1927 using NGS computer program CORPSCON. The records of the General Land Office in Austin as well as the records of the Brewster County Surveyors Office were researched for this project.

The following is a list of the Surveys and/or Blocks of Surveys which needed to be retraced in order to establish the location of said Surveys 4 and 6, indicating the date of the original survey and the name of the surveyor who performed it.

Survey	Grantee	Block	Original Surveyor	Date Of Original Survey
All	G.H.& S.A. Ry. Co.	13	L. E. Edwards	September 2, 1875
Resurvey	" "	" "	J. B. Ammerman	June, 1889
All	A. B. & M.	"A"	L. E. Edwards	July 26, 1875
All	B.& B.	"B"	L. E. Edwards	July 26, 1875
All	J. V. Massey	"C"	L. E. Edwards	July 27, 1875
All	B. S.& F.	"D"	L. E. Edwards	July 27, 1875
Surveys 57, 72 and 73,	G.H.& H. Ry. Co. Block A-1,		A. Boyle	January 25, 1881
Surveys 1 and 2,	G.H.& H. Ry. Co. Block A-2,		A. Boyle	March 7, 1881
All	T.C. Ry. Co.	318	S. A. Thompson	Nov. 4, 1881

The following is a discussion of the evidence of record and on the ground as well as the conclusions drawn based on said evidence for the retracement of the above Surveys and Blocks necessary for establishing the position of the Surveys involved in this survey.

## G.H.& S.A. RY. CO. BLOCK 13

### Original survey

G.H.& S.A. Ry. Co. Block 13 was originally surveyed and field notes returned by L. E. Edwards, Deputy Surveyor under A. H. French, District Surveyor, El Paso District, in September of 1875. Curiously, the field notes in the files of the General Land Office in Austin have the date of July 24, 1875 scratched out and the date September 2 written above while the field note records in Brewster County have only the date September 2.

The field notes of Mr. Edwards in Block 13 have no calls for identifiable monuments, only calls for "stk & mnd" and an occasional "earth mound". This is common in some large railroad Blocks where the surveyor appears not to have been on the ground but simply wrote field notes for the various Surveys within the Block. This situation has long been referred to by Texas surveyors and Texas courts as "office surveys".

The field notes of Block 13 do, however, have calls to adjoin G.H.& S.A. Ry. Co. Block 8, also surveyed by Mr. Edwards on July 8, 1875 lying to the Northwest of Block 13. Block 8 is a large Block, with 604 Surveys. With a few exceptions, the original field notes of Block 8 also have no calls for identifiable monuments.

### Corrected survey

In 1889, J. B. Ammerman, State Surveyor, resurveyed and wrote corrected field notes for Blocks 8 and 13. R. M. Hall, Land Commissioner at the time, approved and co-signed these corrected field notes. Mr. Ammerman's notes contain numerous calls for specifically described monuments, mostly marked rock mounds, set during the course of his resurvey. Many of these mounds are locatable today and provide the framework for retracing the location of Blocks 8 and 13.

By the Act of 1854, the G.H.& S.A. Ry. Co. was awarded patents to the odd numbered Surveys in Blocks 8 and 13, with the State retaining title to the even numbered Surveys. In the judgement rendered in STATE VS. G.H.& S.A. RY. CO., Brewster County District Court, 1893, Cause no. 101, the State recovered the railroad Surveys in, among others, Blocks 8 and 13. These Surveys were reclassified as School Land and repatented accordingly. These patents are based on the corrected field notes of Mr. Ammerman and those surveyors who perpetuated his locations.

### Conclusions and Construction

As can be seen on the plat accompanying this report, we have located Mr. Ammerman's monuments along the South and East lines of Block 13 as shown. The rock mound in the South line of Survey 77 is a point on line as called for by Mr. Ammerman. Elephant Mountain lies just to the East of this mound so the Southeast corner of said Survey could not be set. An intersection of the South and East lines of Block 13 as shown would establish the position of the Southeast corner of Survey 77, which is also the Southeast corner of Block 13.

### A.B.& M. BLOCK "A", B&B BLOCK "B", J. V. MASSEY BLOCK "C" AND B.S.& F. BLOCK "D"

As indicated in the table above, Blocks "A", "B", "C" and "D" were all surveyed by L. E. Edwards on July 26 and 27, 1875. Due to the lack of calls for identifiable monuments, it is believed that they are all "office surveys", with no original monuments having been set.

### Subsequent Surveys

In the records of Brewster County and the General Land Office there are plats and field notes of surveys made by others in Blocks "A", "B", "C" and "D". R. S. Dod, W. M. Harmon, John Stovell, H. R. Gard and J. P. Dod all have plats or corrected field notes reflecting subsequent surveys made in these Blocks dating from the early 1900's to the 1950's. These plats and field notes indicate various monuments found or set by these surveyors, some of which were recovered during the course of this survey and are shown on the accompanying plat.

In May of 1999 I conducted a survey for patent of several tracts in Blocks "A", "B", "C" and "D". A plat of this survey is on file in Brewster County Rolled Sketch #153 and the Survey Report is in Sketch File #55. The conclusions discussed below reflect the decisions made in these Blocks at that time.

### Conclusions and Construction

Blocks "A", "B", "C" and "D" constitute what is known as a "system" of surveys. A system of surveys is defined in STANOLIND OIL & GAS, et al. v. STATE, a Texas Supreme Court case dated Feb. 3, 1937, 101SW2nd.801, as "Where designated block was system of connected surveys made by the same surveyor at same time; the surveys being built one upon the other from the south to the north." The case of BROOKS et al. v. SLAUGHTER, Court of Civil Appeals, Jan. 7, 1920, 218SW632, refers to a system by stating "All corners and field notes of a system of surveys may be looked to in locating any of the surveys in the system, and it is not necessary that the surveying be done on the same date, but it is only necessary the work be continuous from day to day and connected as part of the series of surveys."

These Blocks were all surveyed originally by L. E. Edwards on July 26 and 27, 1875. Block "A" has adjoiner calls to G.H.& S.A. Block 13, Block "B" calls to adjoin Block "A", Block "C" calls to adjoin Block "B" and Block "D" calls to adjoin Blocks "B" and "C". As stated earlier, the original field notes of Block 13 are dated September of 1875, which would essentially make it junior to Block "A", the field notes of which were dated July 26. However, the field notes on file in the General Land Office files for Block 13 have a date of July 24 scratched out and the September date written above, indicating perhaps that the field notes for Block 13 were actually written earlier than Block "A" and then changed. The above mentioned Blocks are senior to and have no adjoining calls to other surrounding Surveys or Blocks.

As discussed earlier, the position of the various Surveys in Block 13 can be established based on the monuments and calls in the field notes of J. B. Ammerman. Likewise, the position of the various Surveys in Blocks "A", "B", "C" and "D" can be located from the calls in the original field notes of L. E. Edwards and by incorporating the calls and monuments of the subsequent surveys of record mentioned above. Where a true course is used to establish a line, North, South, East and West would be related to a bearing established near the center of the system. All courses and distances indicated on the plat accompanying this report are based on the Texas State Plane Coordinate System, South Central Zone. A theta angle of  $-2\text{deg}.13'$  established near the center of the "system" of Blocks "A", "B", "C" and "D" indicates that a "True North" bearing would be North  $2\text{deg}.13'$  East, State Plane bearing, and a "True East" bearing would be South  $87\text{deg}.47'$  East.

A rock mound in a fence line indicated on the plat of H. R. Gard, Brewster County Rolled Sketch #93, was recovered for this survey and accepted as the common corner of Surveys 7 and 8, Block "C", and Surveys 17 and 18, Block "B". Another rock mound, also shown on Mr. Gard's plat, was found and accepted as the common corner of Surveys 10, 11, 14 and 15, Block "B".

The bearing between the Ammerman monument found for the Southwest corner of Survey 78, G.H.& S.A. Block 13, and said rock mound for the Southwest corner of Survey 10, Block "B" is South 2deg.05'30" West, by intersecting along this bearing to the South with a due West bearing from the rock mound at the common corner of Surveys 7, 8, 17 and 18 mentioned above, we can establish the position of the common corner of Survey 10, Block "C" and Surveys 14 and 15, Block "B". By perpetuating this same bearing of South 2deg.05'30" West along the West Blocks line of said Block "B" and "C" and intersecting with the nearest accepted positions to the East using a due West bearing, the Northwest and Southwest corners of Survey 11, Block "C" can be established.

The Highway "strip map" and the deeds into the State for Right-of-Way purposes of Highway 118 indicate that the West Block line of Blocks "B" and "C" is within the Highway Right-of-Way. This construction would keep this Block line within said Right-of-Way.

### **G.H.& H. Ry. Co. Blocks A-1 and A-2**

#### Original Survey

G.H.& H. Ry. Co. Blocks A-1 and A-2 were originally surveyed and field notes returned in January of 1881 and March of 1881, respectively, by Archibald Boyle. The field notes of Mr. Boyle indicate that he set a string of rock mounds along the East line of Block A-1, which is, for the most part, the West line of Block A-2.

In Block A-2, the field notes for Survey 1 call to begin at the Northeast corner of Survey 57, Block A-1. Then run North, at 770 varas cross old road, 950 varas in all to the Northwest corner of said Survey 1. Mr. Boyle does not have any calls for identifiable monuments in A-2 except along the West line of the Block, where he has passing, or offset, calls of 950 varas to the adjoining Surveys in Block A-1. Block A-2 does not call to adjoin the senior J. V. Massey Block "C" lying to the East and, of course, has no adjoiner calls to the junior Block 318 lying to the North.

#### Subsequent surveys

In October of 1985, Byron Simpson, LSLS, performed a survey of the 02 Ranch which takes in most of Blocks A-1 and A-2. His plats are filed as Rolled Sketches 146A and 146B in the records of the General Land Office. Mr. Simpson wrote Corrected Field Notes for Deeds of Acquittance on several Surveys in the vicinity, including Blocks A-1 and A-2. His plat indicates the monuments found along the East line of Block A-1, including the Northeast corner of the Block.

#### Conclusions and Construction

Block A-1 can be established from the original monuments within the Block and along its East line and utilizing bearings that would best follow the monumentation of Mr. Boyle.

The Northwest corner of Survey 1, Block A-2 is established at the original call of 950 varas (949.73 State Plane) North of the original Boyle monument at the Northeast corner of Survey 57, Block A-1. As can be seen on the plat accompanying this report, we found a rock mound South 83deg.30' West 8.65 varas from the calculated position of the Northwest corner of Block A-2. Without any other identifying description of this point by Mr. Boyle other than a "rock mound" I do not accept it as Mr. Boyles' monument.

As can be seen on Mr. Simpson's plat, the bearings between the string of monuments along the East line of Block A-1 are all (except for the East line of Survey 41) running approximately 18 to 39 minutes to the left of true North. A bearing from the monument found for the Southeast corner of Survey 8, which is the Southeast corner of the Block, to the Boyle monument found for the Northeast corner of Survey 73, which is the Northeast corner of the Block, is North 1deg.53' East. This bearing is a good average of the bearings between the various monuments found at the corners of the Eastern tier of Surveys.

Therefore, from the position of the Northwest corner of Survey 1, Block A-2, as established above, a bearing perpendicular to the line run between the Southeast and Northeast corners of Block A-1, or South 88deg.07' East, State Plane, run Easterly until it intersects the West line of J. V. Massey Block "C" would establish the North line of said Block A-1.

### **T.C. RY. CO. BLOCK 318**

T. C. Ry. Co. Block 318 was originally surveyed and field notes returned in November of 1881 by S. A. Thompson. In his field notes, Mr. Thompson calls for a rock mound with a "cap rock" marked "A" at the Northeast corner of Survey 1, a rock mound with a cap rock marked "B" at the Southeast corner of Survey 1 and a rock mound with cap rock marked "M" at the Southwest corner of Survey 2. He also calls to adjoin B&B Block "B" and J. V. Massey Block "C". He does not call to adjoin Blocks A-1 or A-2 except to state that the Southwest corner of Survey 2 is "275 varas East and 443 varas North of the Northwest corner of Survey 1 in Block A-1". This was changed in the field note book in the Brewster County Surveyors Records to "A-2". Mr. Thompson has no bearing calls to witnesses from any of the corners in this Block.

In a position for the Southwest corner of Survey 2, Block 318, calculated from the Northwest corner of Survey 1, Block A-2, as established from the Northeast corner of Survey 57, Block A-1, we find no sign of a "rock mound 2' high marked "M" as called for by Mr. Thompson. Nor do we find a "rock mound marked "B" called for at the Southeast corner of Survey 1. Also, a position calculated for the Northeast corner of Survey 1, a "rock mound marked "A", falls on the sheer side of Kokernot Mesa and could not have been set in this position.

### **Subsequent Surveys**

In 1915, Wm. Harmon, Brewster County Surveyor at that time, wrote corrected field notes for Survey 4, Block 318. His position reflects the conflict that Block 318 has with Block A-1.

In 1941, John Stovell, Brewster County Surveyor, surveyed and wrote corrected field notes for Surveys 3 and 5, Block 318, upon which patents were issued. In his notes for Survey 3, Mr. Stovell called for the Southwest corner to be "a stone mound in the East line of Survey 72, Block A-1, a stone mound the N.W. corner of Sec. 1, Blk. A-2, brs. S.0deg.24'E. 162.2 varas". Then, when he comes down the East line of Survey 3 to its Southeast corner, his notes call for said corner to be "in the North line of a tract containing 83.6 acres". Obviously Mr. Stovell did not believe that the South line of Survey 3 was also the North line of Block A-2.

In 1951, Nick Thee, Licensed State Land Surveyor, attempted to retrace this part of Block 318. A plat of his work is filed in Vol. 6, P. 481, Corrected Field Note Records, Brewster County Surveyors Records, and a Survey Report is filed in Brewster County Sketch File #23 of the General Land office. Mr. Thee also wrote corrected field notes for Survey 6, which were accepted by Bascom Giles, Commissioner of the Genreal Land Office, and are in the GLO file for Survey 6. A letter stating Mr. Giles' approval of these notes for patent is on file in Vol. 120, P. 281, Brewster County Deed Records.

Mr. Thee's plat and report indicate that he found numerous rock mounds in this area. One of which is a rock mound marked "NW 10 Blk. C" at a fence corner for the Northeast corner of Survey 5, Block 318, which apparently was in the West Right-of-Way of Highway 118 at that time. Note that this rock mound is also shown on the plat of H. R. Gard, Rolled Sketch #93. However, the Highway Right-of-Way has now been widened and Highway construction has destroyed this mound. Several other mounds exist at or near other Survey corners and are indicated on Mr. Thee's plat. It is important to note that Mr. Thee's corrected field notes for Survey 6 call for its South line to be coincident with the North line of Block A-2.

#### Conclusions and Construction

It appears that the original surveyor of Block 318, S. A. Thompson, was either not on the ground or in a position that has defied detection. Mr. Thompson's call for the Southwest corner of Survey 2 to be 443 varas North and 275 varas East of the Northwest corner of Survey 1, Block A-1 would put this corner to be about seven miles South and seven miles West of the position established by Thee. Also, this location could not be in harmony with Mr. Thompson's calls for adjoiner to Blocks "B" and "C". If the field note book change to read Block A-2 instead of A-1 is correct, the position of the Southwest corner of Survey 2 would be about a mile and a half East and a half mile North of a position based on the Thee construction and would be radically out of place with Blocks "B" and "C".

As stated earlier, the Commissioner of the General Land Office in the early 1950's, Bascom Giles, approved of Mr. Thee's construction and field notes. It is this construction that we have attempted to retrace for this survey.

The West line of Block "C" and the South line of Block "B", as previously discussed, would be constructed from accepted monuments in those Blocks and would control the East and North lines of Block 318. By accepting the monuments indicated on Mr. Thee's plat and discussed in his report for Survey 4 and utilizing the positions calculated for the South corners of Survey 13, Block "B", we can establish the position of said Survey 4. Also, by accepting Mr. Thee's monuments for the Northwest and Southwest corners of Survey 6, and connecting to the established position of the Western corners of Survey 11, Block "C", we can locate said Survey 6. This position coincides closely with the dimensions of Mr. Thee's field notes for this Survey.

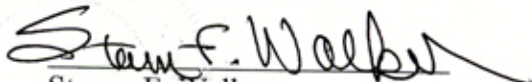
#### Possible Vacancy between Blocks 318 and A-2.

As indicated on the plat accompanying this report, if the Northwest corner of Survey 1, Block A-2 is established from the original call from the Northeast corner of Survey 57, Block A-1, and the Southwest corner of Survey 3, Block 318, is established as shown in the detail of that area, a gap would exist between the South line of Surveys 3 and 6, Block 318 and the North line of Surveys 1 and 2, Block A-2. This possibility is consistent with the lack of original adjoiner calls in the original field notes and the corrected field notes of John Stovell for Survey 3. However, it must be noted that the corrected field notes of Mr. Thee for Survey 6 call for the South line of said Survey to be coincident with the North line of Surveys 1 and 2, Block A-2. If these subsequent adjoiner calls are to be honored, the vacancy may not exist.

Curiously, the Highway "strip map" shows this possible vacancy, with an acreage figure of 0.54 acres within the Highway Right-of-Way. It is referred to as "Excess acreage between Survey 2, Block A-2 and Survey 6, Block 318" in a deed (Vol. 116, P. 146, D.R.) from Lykes Brothers, the owners of Survey 2, to the State for Right-of-Way purposes.

In discussions with the Surveying Department of the General Land Office, it was decided that by virtue of Mr. Thee's calls for adjoiner in his corrected field notes for Survey 6 and the uncertainty of the monumentation, especially at the Southwest corner of Survey 3, the South line of Surveys 3 and 6, Block 318, are coincident with the North line of Block A-2. However, an argument for the existence of vacant land lying between the North line of Block A-2 and the South line of Block 318 could be made.

Respectfully submitted,

  
Steven F. Walker