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E. S. REST  
PROFESSIONAL CIVIL ENGINEER  
LICENSED LAND SURVEYOR  
202½ W. ERWIN ST.  
TYLER, TEXAS

March 18, 1953

Re: Report on Deed of Acquittance Application,  
J. K. Rice and Malachi Tucker Surveys,  
Collin County, Texas

SURVEYOR'S REPORT

Hon. Bascom Giles, Commissioner  
General Land Office  
Austin, Texas

Dear Sir:

The attached map shows the results of my survey of the J. K. Rice, Malachi Tucker and adjoining surveys. You will note that on this map actual bearings and distances are designated in slant lettering while called bearings and distances are shown in vertical letters. Fences, marked trees and other ground data are shown by conventional symbols.

In preparing for field work in this area, I had a search made of the General Land Office records for patent notes, field notes, abandoned or cancelled field notes, surveyor's statements, certificates, sketches, etc., on all of the surveys in the area affected. From this information I prepared a patent and field note map which I used as a guide in determining both field work and office study.

I also had abstracts of surveys before me describing numerous deeds not only as to present owners but to their predecessors in title. Working sketches were made of these deeds and a complete study was also made before going to the field as to the distances set out, trees called for at corners, adjoinder calls and calls for survey lines and corners.

This report is to show my actual findings on the ground to support my conclusions that the attached field notes properly describe the J. K. Rice survey and Malachi Tucker survey and a Deed of Acquittance should be issued thereon.

The Malachi Tucker and J. K. Rice surveys were laid down by Surveyor M. W. Allen and the field notes dated May 16, 1850. In my study of the General Land Office information, I found that the surveys in this area could be grouped into two general classifications. In the first of these groups, I placed all those surveys laid down prior to the survey and establishment of Peter's Colony, while in the second, I placed all those surveys which were laid down subsequent to the survey and establishment of Peter's Colony. (The Tucker and Rice surveys fall in the latter classification.) I found

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that it was possible to join the two groups of surveys together through Surveyor George White's field notes of the John McGarrah Survey, dated July 31, and August 1, 1854, and through Surveyor N. R. Parrish's field notes of the James Herndon Survey, dated Dec. 9, 1854. However, I noted that when the two groups were joined together in this manner, those surveys laid down prior to the establishment of Peter's Colony were at approximately a 3° variation from those of the Peter's Colony group, although their field notes in most cases recited the same bearings.

In M. W. Allen's field notes of the Malachi Tucker Survey, he called to begin at the southeast corner of the James M. Feland Survey, which he had laid down seven days prior. He called for the lower east line and upper south lines of the Tucker to adjoin the west and north lines, respectively, of the H. L. Upshur Survey, and called for the north line to adjoin the south line of the Andrew Stapp 640 acre survey. In the field notes of the Rice Survey, Allen called to begin at the southeast corner of the Andrew Stapp Survey which he had laid down only eight days prior and called to adjoin the Malachi Tucker on the west and the H. L. Upshur on the south. However, I noted that in the field notes of the John McGarrah Survey, laid down four years later by White, the distance between the Stapp and Upshur Surveys was called to be 753 varas, while in Allen's field notes of the Rice and Tucker Surveys, this distance was called to be only 641 varas. It was apparent to me, from this information, that a mistake had been made in either the field notes of the John McGarrah Survey or in the field notes of the J. K. Rice and Malachi Tucker Surveys, or both. Only a ground survey would clear up this situation.

After I spent considerable time in study of all of the General Land Office information, I went to the field and made the survey. In this survey, I found that evidence of many of the survey lines had vanished, due to the common ownership of the tracts on either side. Many of these survey lines now run across cultivated areas where it is impossible to pick up any trace of their former location. However, I did find that it was possible to establish several of the survey corners in this area from natural objects which I was able to locate on the ground and which had been called for in the field notes of these surveys. I found that three of these survey corners were particularly applicable to location in this manner and I have used these as a basis for establishing all of the surveys in the area covered by this report. I have designated these corners on my plat by the letters "A", "B" and "C", and in order to properly understand and evaluate my location of the surveys in this area, a brief discussion of each will be of value.

I have shown corner "A" as the southwest corner of the Andrew Stapp Survey, which is called for in both the Tucker and Feland field notes. I found that the field notes of the Stapp Survey call for its southwest corner to be on the bank of a deep gulley and 475 varas south of a creek. I was able to find both the gulley and the creek on the ground, and due to the angle at which the creek flows and the position of the gulley, it was possible for me to locate

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this corner very accurately from its relation to each of them. Corner "A" as I have established it, lies in the old east-west occupation found along the north lines of the Feland, Tucker, Rice and McGarrah Surveys, and I have used this corner, together with the occupation, to establish each of the aforementioned survey lines.

The corner I have designated as "B" on the plat is the southeast corner of the James Feland Survey and the southwest corner of the Malachi Tucker Survey. The field notes of both of these surveys call for two spanish (red) oaks as witnesses at this corner. I found that the only red oak in the vicinity of this corner was one 24" in diameter standing in the south edge of the right-of-way of State Highway #24. I noted that when this tree was used as one of the witnesses to establish the common corner of the Feland and Tucker Surveys, that the common line of the two surveys agreed closely in bearing and distance to their field note call. I also noted that the corner lay in the occupation along the south line of the Feland and Tucker Surveys, and that the distance from this corner to Wilson's Creek agreed closely with the passing call recited for this creek in the field notes of the Tucker Survey. Furthermore, I found that the corner lay call distance north of the occupied south line of the Searcy 310 acre (A-829) survey. For these reasons, I have considered corner "B" as an original corner of the Feland and Tucker surveys and have shown it partially circled in red on the plat.

Corner "C", as I have designated it on the plat, is the occupied common corner of the William H. Hunt, Major W. Bailey, James Herndon and Leonard Searcy 320 acre surveys. I have used this corner because it is in exact agreement with the Hunt passing calls for streams on its west and south lines near the southwest corner.

When I had established corners "A", "B" and "C" as I have described, I found the relation of each of these corners to the other agreed closely with their field note relation each to the other. This field note relation is established through the field notes of the Tucker and the Searcy (A-829) surveys. I, therefore, used corners "A", "B" and "C" as the foundation on which to build my location of the surveys in this area.

The oldest survey in this area is the William H. Hunt, which was surveyed in 1841 by William C. Twitty and patented on his field notes. I did not do sufficient field work to enable me to locate the entire Hunt. However, I have established the entire north and west lines and a portion of the south line, using occupation together with the field note distances. When I had established the Hunt in this manner, I noticed that the bearings of the north and south lines varied approximately 3° from their field note calls and that the west line varied 1° 46' from its field note call. Since I had already considered the possibilities of this variation occurring, which I pointed out earlier in this report, I considered this ground evidence as a verification of my earlier platted discrepancies.



Like the Hunt, the H. L. Upshur 320 acre survey was laid down on Oct. 23, 1841, by William C. Twitty. The patent on the Upshur survey was issued on April 29, 1845. In my establishment of the Upshur survey, I placed the east line, as called, along the west line of the Hunt survey and gave it its called distance from the Hunt northwest corner. I then used this east line as a base, locating the remainder of the Upshur Survey in its proper field note relation from it. In this position, I found that the east and west lines both agreed with occupation and that all the bearings continued to vary  $1^{\circ} 46'$  from their field note calls. The north and south lines of the Upshur are not occupied. As I have re-established the Upshur Survey, it contains 319.96 acres, which is 0.04 acre short of the call as shown in the patent.

The Leonard Searcy 320 acre (A-828) survey was laid down by George White on Jan. 16, 1854, and patented on his field notes on Apr. 7, 1855. I found a notation by the General Land Office on the back of the Searcy field notes, which together with information I found on old plats, and calls for adjoinder with a Browning Survey recited in the Upshur field notes, indicates that the Searcy Survey occupies the same position as the Browning Survey. From this information I assumed that the Browning Survey was laid down at approximately the same time as the Upshur and Hunt Surveys, therefore, establishing the relation of the Searcy 320 acre survey to the older Upshur and Hunt surveys.

I established the east and north lines of the Searcy coincident with corresponding lines of the Hunt and Upshur Surveys, as its field notes called. I then placed the west and south lines of the Searcy parallel to the east and north lines, and found that the lines agreed with their field note calls with the exception of the  $1^{\circ} 46'$  variation in each of the bearings. Of the four lines of the Searcy, only the south line is occupied, and this occupation is in agreement with the south line as I have established it. That occupation which I have shown to the east of the west line is along a deed line, and should not be misconstrued as the occupied position of the survey line. As I have re-established the Searcy survey, it contains 319.96 acres, which is 0.04 acre short of the call as found in the patent.

As mentioned earlier in this report, the John McGarrah 606 acre survey was laid down on July 31 and August 1, 1854, by George White, and the patent was issued on White's field notes on Nov. 13, 1855. To satisfy the purpose of this report, I found it necessary to locate only the upper west and portions of the north and south lines of the John McGarrah survey. I placed the north and west lines along occupation and the south line along the north line of the Upshur and Hunt surveys, as called. In this position, I noted that the upper west line was 23 varas excessive and that the bearings of the McGarrah lines do not agree very closely with those recited in its field notes. However, neither did these bearings as recited in the field notes of the McGarrah, agree with bearings recited in field notes of adjoining surveys. I found that, with the south line of the McGarrah established along the north lines of the Upshur and Hunt surveys, as called, the creeks along this line agreed closely with the passing calls for them recited in the field notes of the McGarrah survey.



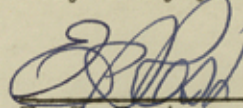
The Malachi Tucker 320 acre survey and the J. K. Rice 54 acre survey were laid down on May 16, 1850, by M. W. Allen. The Tucker was patented on Feb. 29, 1856, and the Rice was patented on Oct. 5, 1855.

I have located the north, west and lower south lines of the Tucker survey using the corners "A" and "B", which I have discussed previously, together with occupation. I established the lower east line, as called, along the west line of the Upshur to its northwest corner. From this point I established the upper south line of the Tucker along the north line of the Upshur, as called, to its intersection with the upper east line which I had placed along occupation. When I had established the Tucker survey in this manner, I found that the north, west, upper east and upper south lines were all excessive, while the lower south line and lower east line were deficient. The greatest excess I found to be in the upper east line which exceeded call by approximately 125 varas. I found the greatest deficiency in the lower east line which was approximately 81 varas short of call. You will notice that the passing call for the creek near the upper south-east corner is approximately 40 varas short of the field note call.

In relocating the J. K. Rice survey, I placed its north, east and west lines along the occupation. I then established the south line eastwardly from the southeast corner of the Tucker survey, and along the north line of the Upshur survey, as called. As I have established them, all the lines of the J. K. Rice survey are excessive, with the greatest excesses being approximately 125 varas in the west line and approximately 136 varas in the east line.

It is my opinion that I have closely retraced the boundaries of the Malachi Tucker and the J. K. Rice surveys, as laid down by M. W. Allen on May 16, 1850, and that the Tucker survey contains 339.38 acres, as compared to call of 320.0 acres, thus being excessive by 19.38 acres, and that the Rice survey contains 66.61 acres, as compared to a call of 54 acres, being excessive by 12.61 acres. As I have established these surveys, all adjoinder calls have been honored and the lines agree with the boundaries of the adjoining surveys. It is my recommendation, therefore, that the applicants be issued Deeds of Acquittance to the 19.38 acre excess in the Malachi Tucker survey, and the 12.61 acre excess in the J. K. Rice survey, as I have established said surveys and described them in the attached corrected field notes.

Very truly yours,



E. S. Rest,  
Licensed State Land Surveyor

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