

PIPER SURVEYING COMPANY

January 18, 1988

Garry Mauro, Land Commissioner
 General Land Office
 Stephen F. Austin Bldg., 1700 Congress Ave.
 Austin, Texas 78701

RECEIVED

FEB 04 1988

GENERAL LAND OFFICE

Attention: Jack Giberson, Chief Clerk

Re: Surveyors Report on the J. E. Parker's Estate, Hardlands Ranch, Ector County, Texas

Dear Mr. Giberson:

INTRODUCTION

The J. E. Parker Estate's Hardland Ranch, is located in the western part of Ector County. The ranch's location is on the southwestern edge of the Llano Estacado or Staked Plains, as it breaks into the Trans-Pecos area. It is typified by outcroppings of gypsum rock, which is how it received its name "Hardland Ranch".

PURPOSE

The primary purpose of this survey is to acquire patents on fifteen sections of land, which the J. E. Parker Estate accounts are paid in full on. For issuance of these patents, you require corrected field notes and filing fees to be paid. In performing the surveying for these sections to be patented, we have determined that there is some excess acreage, in sections previously patented, that the J. E. Parker Estate holds title to. Therefore we are submitting corrected field notes on all of the sections that the J. E. Parker Estate owns in this area. At some latter date, a deed of acquitances or corrected patents on these properties may be requested.

RECORD RESEARCH

The General Land Office records were researched, with all file jackets pulled on the subject sections and all adjoining sections, and copies made of the original field notes and corrected field notes, if any. Also, the roll sketches, sketch files, correspondence files, and old working sketch files of the General Land Office were pulled on this area and copies made of all the pertinent information. The field notes of each section were plotted on working sketches in the office of Shine and Associates. Additional research was done on a local level, with the records of several oil companies, with interest in the area, being researched for reference to and perpetuation of original monuments. The Ector County Survey Records were searched for surveys not of record in the General Land Office. Also, a trip to the offices of the Texas and Pacific Land Trust was made to secure a copy of Murray Harris map titled "MAP OF T. & P. RAILWAY, BIG SPRING TO ODESSA AS SHOWN BY RECENT SURVEYS".

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GENERAL LAND OFFICE

No. Sketch File 13
Ector County
T. & P. Reserve, Blk. 44, T-2-5 & Blk. 45
Filed Feb. 4 19 88
By Douglas Howard
See Pld. Sk 15
GARRY MAURO, Com'r

The J. E. Parker Estate's Hardland Ranch, as located in the western part of Ector County, Texas, the ranch's location is on the southwestern edge of the Little Blaine or Big Blaine, as it breaks into the Trans-Pecos area. It is typified by outcroppings of typical rock, which is how it received its name "Hardland Ranch".

The primary purpose of this survey is to acquire patents on fifteen sections of land, which the J. E. Parker Estate accounts are paid in full on. For reasons of these patents, you require corrected field notes and listed maps to be paid. In performing the surveying for these sections to be patented, we have determined that there is some excess acreage in sections previously patented, that the J. E. Parker Estate holds title to. Therefore we are submitting corrected field notes on all of the sections that the J. E. Parker Estate owns in this area, as soon as possible, a deed of purchase or corrected notes on these properties may be prepared.

RECORD SECTION

The General Land Office records were researched, with all file jackets pulled on the subject sections and all adjoining sections, and copies made of the original field notes and corrected field notes, if any. Also, the roll number, station list, correspondence files, and old working sketch files of the General Land Office were pulled on this area and copies made of all the pertinent information. The field notes of each section were checked on working sketches in the office of Ector and Associates. Additional research was done on a local level, with the records of several oil companies, with interest in the area, being researched for reference to any possession of original documents. The Ector County Survey Records were searched for surveys not of record in the General Land Office. Also, a trip to the office of the Texas and Pacific Land Trust was made to locate a copy of HARRY HULL'S REPORT TO THE BOARD OF T. & P. RESERVE, SIX SECTIONS TO BE PAID AS SHOWN BY RECENT SURVEY.

ORIGINAL SURVEY

The Hardlands Ranch is located entirely within the Texas and Pacific Railroad Survey, in the area known as the Eastern Reserve (east of the Pecos River with original bearings of N13⁰W etc.). The original field notes are co-written by W. C. Powell and Murray Harris, with Powell writing the north half of each block and Harris writing the south half. These notes call only for stakes and earth mounds with pits. Therefore, based only on the notes, we would be unable to locate them. The field work, that these notes are based on, was performed in the spring of 1876, with two field crews under the supervision of W. C. Powell and Jas. A. Peck. The field books, which each kept, show some rock mounds and witnesses. In 1931, by a special Legislative act, copies of these books were placed into the General Land Office and public domain with other survey records of the Texas and Pacific Railroad. However there appears to be at least one book missing, maybe more. Because over a period of many years, there have been several different plottings of these books, none of which have shown the survey of the west or east line of Block 44, T-2-S, or the eastern four miles of the south line. But, when W. C. Powell went easterly two miles from the southwest corner of Block 44, T-2-S, he calls to have struck (closed) on a previously set point.

EARLY RETRACEMENT SURVEY

In a retracement survey along the centerline of the reservation and some of the block and township lines by Murray Harris in 1884, and plotted on map titled "MAP OF T. & P. RAILWAY BIG SPRING TO ODESSA AS SHOWN BY RECENT SURVEYS", he shows to have recovered several stake and earth mounds with pits and also some rock mounds. In our area of interest, he shows to have surveyed the north, east, and easterly one mile of the south line of Block 44, T-2-S. This map is included in those recorded in 1931 at the General Land Office with the field books. In the retracement of the east line of said block he shows to have found many of the original mounds and stakes. Therefore this line must have been surveyed and its record lost in a missing book.

USE OF ORIGINAL FIELD BOOK CORNERS

Murray Harris, one of the original surveyors, use of and perpetuation of these original field book corners in 1884, shows that they did not intend to abandon their lines, but only omitted them in haste preparing their recorded field notes. This is strengthened by the ruling of the courts in at least two cases in the area. In the case of Gulf vs. Outlaw 150, sw. 2d., 777 (Block 44, T-1-S), the courts held that exterior lines of the block and township were surveyed on the ground and not in question or open to dispute. Also, in Wheeler vs. Stanolind Oil Co. 252, S.W. 2d., 149 (Block 46, T-1-S), the court stated that the east and west lines of Block 45, T-1-S were surveyed on the ground and not open to question. In both cases, they affirmed the field book corners as the footsteps of the original surveyors.

SYSTEM OF CONSTRUCTION

The only original (field books) corners in these blocks are along the block and township lines as shown in the field books. Also, no one has ever reported to have found an original corner in these blocks except, along the block and township lines. Therefore, we located all of the possible original corners, either by direct ties or by reference ties on previous surveys by others, and single prorated the lost corners along the block and township lines between the located corners as shown on the accompanying map. The system of construction, used to locate the interior corners in this survey, is the common corner construction based on protraction of the interior section corners from the exterior of each block and township, except in the case of Block 45, T-2-S, which has no locative monuments on the south or west lines. The protraction or dividing of the blocks and townships into sections by constructing straight lines is the most logical and equitable division for these sections. We feel that the inclusion of common corner is a important factor because of several key factors.

(1) On March 22, 1889, Chapter 90 of the acts of the 21st legislature called for the excess acreage to be placed in the school Sections except in circumstances list in Sections 4 and 5 of the act.

Section 4 stated the provisions of this act shall not apply to nor affect the rights of the third persons heretofore acquired in good faith.

Section 5 provided, that nothing in this act shall apply to any lands for which patents have been issued.

(2) On July 20, 1891 the State of Texas instituted suit against Canda, Drake, and Strauss the then owners of the Texas and Pacific lands. They answered with a cross suite for fee simple title to all odd numbered sections covered by this report. The judgment was entered on January 22, 1893 with the State being awarded certain lands not covered by this report, and awarding legal and equitable title to all odd numbered surveys covered by this report to the defendants. The judgment also provided that the State take nothing except the land specifically awarded to the State.

(3) Passage of House Bill #9 on June 19, 1939 allows for purchase of excess acreage permissive and not mandatory.

FIELD SURVEYING PROCEDURE

Horizontal control traverse was extended from USC&GS station "DUBLIN-1909" using conventional electronic traverse with a one second Kern DKM-2AT theodolite and an AGA Geodimeter 112 distance meter. Horizontal and vertical angles were read in both direct and reverse motions, with at least two sets of horizontal measurements on all traverse legs. Distance measurements were taken in two different units and compared, to eliminate blunders in reading and recording.

Primary control was extended around each block and township to locate all existing monuments of record and reference

monuments set to perpetuate lost corners. Closures were made on USC&GS stations "COLE-1935", "DOURO-1909", and several other traverse points set by myself on previous surveys. Closures were all acceptable with ratios from 1:20,000 to 1:60,000 approximately, which falls within the Texas Surveyor Association's Horizontal Control Survey, (Category 7), 2nd order classification.

Secondary control was extended into each block to locate additional monuments of record and not of record. This traverse was performed in the same manor as the Primary control with closures of between 1:15,000 and 1:40,000 which is well within Texas Surveyors Association's 3rd order classification. These traverse control points were also used to layout the monumentation of section corners to be discussed later in this report.

CONSTRUCTION OF BLOCK 44, T-2-S

The location of this block and township along the north and east lines is based on the Original Field Book Corners as perpetuated by Murray Harris in 1884, as found on this survey or relocated from references made by Exxon's field crew in 1930. The easterly one mile of the south line is the same as the said north and east lines. Five of these monuments were tied on this survey, since they still are in existence today. Two of these monuments which have been remonumented by other surveyors, with sufficient record to support their position, were tied. Five other monuments had been destroyed and had to be repositioned from the old reference ties.

The remaining part of the south line and the west line is a different problem. In this area, a detailed search of the T & P original field books will show that W. C. Powell on March 27, 1876 surveyed up from the south and turned east for 2 miles and struck or closed 14 varas south and 76 varas west of a previously set point. In the field book he gives only four locative calls, which are stakes and rock mounds. We made a very careful and diligent search for these mounds but could not find them. Also, we could find no record of these mounds being found by others. Along the west line we could not find any record of a T&P surveyor ever being on the ground. Therefore, we adopted Twichells plunger coupling position as set in 1902, in the survey of the Public School Lands, Blocks B-15, B-16, and etc, for the southwest corner of Block 44, T-2-S. It has been uniformly used in the Public School Lands, University Lands and the Corrected Field Note Surveys in the T. & P. RR. system in this area. Presently, at this position there is a 2" iron pipe with sufficient record information to insure its proper position.

From this corner north each mile, William Alley in 1930, set four iron pipes. We accept the first three of these because they conform to a single proration between Twichell's said southwest corner and the Original Field Book at the northwest corner of this block and township. The second and third of these pipes were patented as the east corners of Section 26, Block 45, T-2-S. The last is excessive in length and is not a patented monument, therefore, it is omitted from our construction for these reasons.

The remaining exterior corners of this block and township

must be considered lost and their position established by single proration. Then the interior section corners of this block can be established by protraction, as discussed earlier in this report.

The previously patented even numbered Sections in this block and township, approximately eight, are based on a offset or staggered construction, therefore they do not conform to the present law or rulings of the courts and were not considered controlling to this survey. These even numbered patented Sections which four are in our immediate area, with two being under Parker Estate ownership or Family ownership could be remedied by corrected patents.

CONSTRUCTION BLOCK 45, T-1-S,

The exterior lines of this block and township are well established on the ground based on the Original Field Book Corners. We have located and tied thirteen of these corners on this survey. They are well accepted by many surveyors on the whole. The northeast corner of this block has been destroyed by the construction of a highway but, another surveyor has reset a 1" iron pipe in the west ditch in the original position reasonably well verified by ties to other corners.

The south part of this block and township is covered by a survey by R. E. Estes in 1941, which is our area of interest. His construction is based on the common corner construction with all interior corners set by protraction. This is the same construction which we are basing our survey on. The problem with adopting his construction is that he omitted three original field book corners from his construction of 1941, which he had accepted in a survey in Section 44, in December 1927, and certified to on a sketch filed in the General Land Office January 9, 1928. These monuments are in existence today and must be used to locate the footsteps of the original surveyor.

The southwest corner of this block and township was not monumented with a permanent monument by the original surveyors and no other original corners exist to the west or south of this point in the T.&P. RR. system. Therefore, it must be located on a projection of the original monuments on the west and south lines. This is the same manor in which Estes located this corner in 1940 therefore we have adopted his position from reference ties, his pipe having been destroyed by a brush removal operation. In his 1941 survey of this block and township he set 2 iron pipes at section corners which we found on this survey on the second and forth mile north from this corner near the prorated distance to the Original Field Book Corner found at the northwest corner of Section 19 therefore we accepted them for this survey.

The patent surveys in the south part of this block and township on the even numbered performed by R. E. Estes in 1941 call for no permanent interior corner monuments. These surveys are dated during September of 1941 and a sketch dated October 16th, 1941 filed in the General Land Office depicting these surveys. Then ten days later, Estes filed another map of the block and township with the same calls for course and distance etc. but it calls for marked pipes at some of the corners. This map conforms to the deed of acquittance surveys that Estes performed during October of 1941. The few iron pipes that can be

located today, sometimes differ as much as ten or fifteen varas from where course and distance establishes the patented position. Therefore, there is no interior patented corner monuments in our area of interest and the best way to locate the previously patented land is to protract the block and township again from the exterior, including the omitted field book corners which we have done.

CONSTRUCTION OF BLOCK 45, T-2-S

This block and township differs in that it is only a partial township containing 28 sections of land being stair stepped in shape six miles wide along the north side and only one mile wide at the south side. The original T&P surveyors did survey an alternating line north and west from the southeast corner of this block and township to the northwest corner of this block and township. This survey line does not coincide with the west line of this block and township or does it call for any tangible monuments or references. Therefore, the stair stepped line is only theoretical in position and must be based on other monuments for its position.

This same construction problem was the motive in the Wheeler vs. Standolind Oil Company case. It states that the west line of Block 46 should be constructed parallel to the east line of Block 46 and conform to the general scheme of the T&P Blocks. In this case, it also states that the public school land surveyor could not alienate school lands and could not extent lines of patented (senior) surveys to include school lands.

The north line of this block and township is the same as the south line of Block 45, T-2-S, as previously discussed in this report and should not need further discussion. The east line of this block and township is the same as the west line of Block 44, T-2-S, and should also not need further discussion.

With the exterior section corners along the north and east lines already established, the interior section corners are simply positioned by projecting a line westerly from each of the established corners on the east line on a parallel line on the bearing of the complete north township line. Then doing the same from the established corners along the north line and where these lines intersect established the sections corners. This conforms to the ruling as previously discussed in the Wheeler case.

Previous corrected field note surveys in this block and township have not conformed to this system of construction. They have extended the location of the T&P surveys to abut the staggered line as established by W. D. Twichell in 1902. This system of construction was overturned by the Supreme Court in the Wheeler case as previously discussed in this report. Also the previous surveys of the even numbered or school sections in this block and township have attempted to locate excess acreage in the school sections. This is in direct conflict with the law under which this was administered. Since the odd numbered sections were patented in 1884 prior to the act and exempted under Section 5.

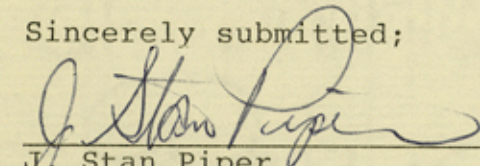
MONUMENTATION OF SURVEY

All section corners were monumented on this survey which were not previously monumented. Also, the quarter section corners on the northwest quarter of Section 14 were set. These corner monuments were set from the horizontal control traverse previously described in this report. After each corner was set, an instrument was set over the monuments, and several angles were observed to known positions, closing its location by resection. These checks were helpful in determining that we had met or exceeded the requirements for a Texas Surveyors Association Standard Land Survey (Category 1B Condition II).

CONCLUSION

We have performed a very careful and diligent survey, based on careful research, making a complete search for the footsteps of the original surveyors in this area. These footsteps were tied into the State Plane Coordinate System, with the best methods feasible. We studied the rulings of the courts pertinent to this survey, and derived a construction that is logical, equitable, and legal. We have prepared field notes, a map, and this report on this survey. We hope this report and survey will meet with your approval, if you have any questions please feel free to contact us.

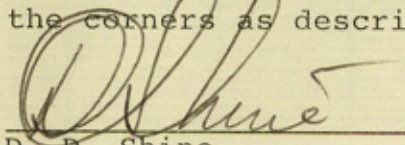
Sincerely submitted;



J. Stan Piper
Licensed State Land Surveyor
P.O. Box 252
Gardendale, Texas 79758

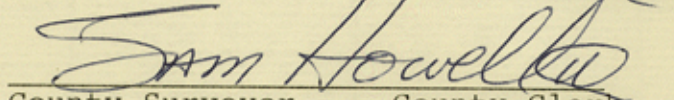


I, D. D. Shine, Licensed State Land Surveyor in and for the State of Texas, do hereby certify that the foregoing survey made by J. Stan Piper was done with my consultation, the study of all records and field work and resurveyed placement of all lines and the corners as described above are with my concurrence.



D. D. Shine
Licensed State Land Surveyor
Hardin County, Texas

Filed for record in my office, the 2nd day of Feb 19 88,
at 3 o'clock PM, and duly recorded the 2nd day of
Feb 19 88, in Book 7, Page 22 of the
Field Note Records of Ector County, Texas.



County Surveyor - - County Clerk