

D-735

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February 10, 1944

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

Dear Sir:

Re: Abst. 623, A. J. Rigsby, Jasper County, Texas.

This report covers a certain area in Northwestern Jasper County, locally known as the Aldrich Area. A map reflecting the true findings on the ground is attached herewith and reference is hereby made to the numbers for corner descriptions. A careful transit survey upon the ground and a diligent study of all available records of the General Land Office discloses the fact that there exists an excess of 131.2 acres which is a part of Abst. 623, A. J. Rigsby Survey.

In working this area on the ground I started at the North corner of Abst. 72, Marvin Bill (1) and identified same as to its original field note calls by A. I. Shelby (10-9-1838) and which bearings are also called for by William Armstrong for the interior South corner of Abst. 954, H&TC Section 252 (2-3-1861) as follows:

- A. I. Shelby (Marvin Bill) Pine "ML" N. 11° E. 2-5/10 vs.
10-9-1838 Pine "ML" S. 40° W. 3 vs.
- J. G. Barker (1943) Pine stump hole N. 11° E. 2.7 vs.
Pine stump hole S. 40° 30' W. 2.3 vs.

From there I went S. 35° 14' E. and passed over the identified corners 24 and 25 of Abst. 223, H&TC Section 253, made by William Armstrong (2-3-1869) in the line of Marvin Bill Survey. At point 26 I was unable to locate the original bearings called for by A. I. Shelby for the Marvin Bill or Solomon Shearwood Survey. This line from 1 to 26 is well recognized and measured 1489.1 varas. (F/N call 1444.0 varas)

Returning to point 1, I ran the Northwest line of Marvin Bill Survey and passed corners 17, 20, 22, 3 and 2. I failed to find the original bearings on the Neches River called for in the Marvin Bill and Robt. Slaughter field notes. The well marked line from corner 1 to the old Neches River Bank (2) which is diagonally about 60 varas from the present low level waters edge, is S. 54° 36' W. 6054.1 varas (F/N call S. 55° W. 5980 varas).

On October 20th, 1847 M. B. Lewis surveyed Abst. 436, Robt. Slaughter and Abst. 170, Chas. Harwood. I re-surveyed these two surveys on the ground and found evidence of both bearings at the NW/C of the Chas. Harwood (6) and

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at the NE/C of the Robt. Slaughter (3). I measured the NL of Robt. Slaughter (3 to 5) and found its length 1943.1 varas (F/N call 1942 varas) and the NL of Chas. Harwood (5 to 6) 1403.2 varas (F/N call 1395.0 varas). These lines 6 to 7 and 5 to 8 are well recognized on the ground and not in controversy. In other words, at the end of the year 1847 the Marvin Bill, the Robt. Slaughter and the Chas. Harwood surveys were laid out as found and recognized today.

Dated February 3rd, 1869 William Armstrong surveyed H&TC Sections 247, 248, 249, 252 and 253 of which all sections except 248 have been patented under the original field notes by Armstrong.

H&TC Section 247 is located on the West by the identified corners 9 and 6. I located the East line at corner 4 by both of its original bearings although the distance on the ground from 5 to 4 is 183.9 varas short and the distance from 5 to 4 is 194.0 varas short of its field note call reducing thereby the acreage in H&TC Section 247 by about 63.0 acres.

H&TC Section 248 is located on the ground by its original bearings at corners 4, 3 and 14. Sherwoods Creek, according to the original field notes of Section 248 is crossing the North line of Section 248, 201 varas West of its Northeast corner and I found the center of the Sherwoods Creek at 208 varas. The distance from corner 3 to 4 is 1510.1 varas (F/N 1315 varas) or 195.1 varas in excess, offsetting the same shortage in distance between corners 4 and 5. The North line of H&TC Section 248 between points 10 and 14 measured 2105.4 varas as against 1958.0 varas in the field notes call or an excess of 147.4 varas.

Up to and including February 3rd, 1869 the area between points 21, 2, 7, 9 and 14 and North of points 14, 15, 16 and 17 were completely surveyed, thus leaving the area between points 14, 15, 16, 17 and 21 unsurveyed at that time.

On April 13th, 1872 J. C. Haralson surveyed a tract of 160 acres in the name of T. J. Farrow beginning his field notes S. 55° W. 400 varas from Sherwoods Creek on the "N. boundary line of Marvin Bill's Survey." Since Sherwood Creek is not called for in the Marvin Bill's field notes Haralson's field notes do not connect with any definite point to a survey. From the measurement on the Marvin Bill's North line the beginning point with reference to Sherwood Creek would be at point 21 of our map. According to Haralson's field notes his survey was laid out in a 950 varas square parallel to Marvin Bill's Northwest line. These field notes were canceled by corrected field notes.

On September 9th, 1881 R. B. Blake, Deputy Surveyor, Jasper County, surveyed 160 acres for T. J. Farrow, beginning at the Southeast corner of Section 248, but he did not give any bearings at that point.

"Thence North with the East line of said Section No. 2/248 at 1322 set a stake in line for corner from which a Pine 3 ft. in diameter brs. S. $17\frac{1}{2}^{\circ}$ W. 7.5 varas distant, and a Pine 2 ft. in diameter brs. N. 52° E. 8.4 varas distant.

Thence East at 950.4 varas set a stake for corner from which a Pine 20 inches in diameter brs. S. 42° W. 2.8 varas distant, and a Pine 2 ft. in diameter brs. N. 65° W. 14.6 varas distant.

Thence South at 657 varas intersected the N. W. line of the Marvin Bill 1280 acre survey, set stake in line for corner from which a Post Oak 10 inches in diameter brs. S. 44° E. 10 varas distant, and a Red Oak 20 inches in diameter brs. S. 35° W. 8.4 varas distant.

Thence S. 55° W. with the N. W. line of Marvin Bill's survey 1160 varas to the place of beginning, containing 160 acres of land. Surveyed September 9th, 1881."

I identified the location of this survey on the ground as lying between corners 3, 18, 19 and 20. This set of field notes was also canceled by corrected field notes and it will be later discussed in this report.

On September 5th, 1881 R. B. Blake surveyed a tract of 105.5 acres made for A. C. Jordan, which was patented in the name of A. J. Rigsby, Abst. 623. In his field notes he states that he corrected same on April 19th, 1882. He began his survey "at the S. E. corner of a pre-emption survey lately made for T. J. Farrow on the N. W. line of a 1280 acre survey in the name of Marvin Bill."

I did identify this corner (two hardwood bearings called for) at point 20.

"Thence N. 55° E. with said Marvin Bill line 1325 varas to a corner of School Section No. 252 H&TC RR Company survey a stake for corner from which a Pine 12 inches in diameter brs. N. 80° E. 5 varas and a Pine 8 inches in diameter brs. S. 7° W. 7 varas distant."

H&TC Section 252 at this point calls for a stake and by course and distance this section corner on the ground is located and recognized at point 17. However, I was unable to prove bearings to the most Easterly corner of the Rigsby Survey at that location nor did I find any evidence N. 55° E. 1325 varas from point 20,

"Thence West with the South line of Section No. 252 1106 varas to the S.W. corner of said Section." No bearings are called for at this location by the section field notes (16).

"Thence North with the West line of said Section No. 252, 92 varas to the S. E. corner of Section 249" (15).

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William Armstrong in his field notes for the SE/C of Section 249 gives the following bearings:

Wm. Armstrong (H&TC Sec. 249): Pine 20" S. $40\frac{1}{2}$ ° E. 13 vs.
2-3-1869 Pine 10" N. 75° W. 5 vs.

J. G. Barker (1943) Pine stump 21" S. $40^{\circ}30'$ E. 13.8 vs.
Pine stump hole N. $75^{\circ}0'$ W. 5.7 vs.

The distance from point 15 to 16 is 92.0 vs (called distance).

"Thence West with the South line of said section 249, 929 varas to the N.E. corner of Section No. 248." I ran from points 15 to 14 a distance of 959.7 varas (called distance 929.0 varas) and found as mentioned before the identified NE/C of Section 248 (unpatented) at point 14 as follows:

Wm. Armstrong (NE/C H&TC Sec. 248): Pine 18" N. 37° W. $4\frac{1}{2}$ vs.
(2-3-1869) Pine 16" S. 24° E. 5.0 vs.

J. G. Barker (1943) " " " : Pine stump 25" N. $37^{\circ}0'$ W. 5.0 vs.
Pine stump hole S. $24^{\circ}0'$ E. 4.7 vs.

Sherwood Creek is located 208.0 varas West of this location (F/N call in Section 248 201.0 varas).

"Thence South with the east line of Section No. 248, 195 varas to the N.W. corner of a pre-emption survey made for T. J. Farrow." From point 14 I went South and at 195 varas did not find any evidence of a corner.

"Thence E. with Farrow's North line 950 varas to his N. E. corner."

"Thence South with his East line 657 varas to the place of beginning." I ran both of the two last mentioned calls and I did not find any markings along the lines nor any evidence at the supposed corners.

On September 24th, 1889 corrected field notes by R. B. Blake were filed at the General Land Office for the T. J. Farrow Survey, which was subsequently patented under these field notes on June 17th, 1890. The field notes are dated July 22nd, 1889 and read as follows: "Beginning at the S. E. corner of Section No. 248 H&TC RR Company on the Marvin Bill line for a connection."

"Thence North with the East line of said Section 106 varas to a stake in said line for the S. W. and beginning corner of this Survey from which a Pine 12 inches in diameter brs. N. 57° E. 6 varas and a pine 15 inches in diameter brs. S. 76° W. 3 varas." I found no definite proof of this corner at point 23.

#3

"Thence North continuing on said line 1189 varas to a stake in same line from which a pine 3 feet in diameter brs. S. $17\frac{1}{2}^{\circ}$ W. $7\frac{1}{2}$ varas and a pine 2 feet in diameter brs. N. 52° E. $8\frac{4}{10}$ vs." I ran this line which follows alongside of a graded road from point 23 North a distance of 1256.6 vs. (F/N 1189.0 vs.) and found at point 18 the following original bearings for the NW/C of the T. J. Farrow Survey:

Pine stump 33" S. 17° $30'$ W. 7.6 vs.
Pine stump hole N. 52° $0'$ E. 8.4 vs.

"Thence East 950 vs. set a stake for corner from which a pine 20 inches in diameter brs. S. 42° E. 3 vs. and a pine 2 ft. in diameter brs. N. 65° W. 15". The well recognized N. line of the T. J. Farrow (18 to 19) measured 965.7 vs. on the ground and at 19 I definitely located the original NE/C of the T. J. Farrow Survey thus:

Pine X (old) 22" S. 42° $0'$ W. 3.0 vs.
Pine stump 16" N. 66° $0'$ W. 14.2 vs.

It is noted that the first called bearing tree at corner 19 is S. 42° $0'$ W. on the ground whereas the corrected field notes read: S. 42° E. However on page 3 of this report the first canceled field notes to the T. J. Farrow by R. B. Blake called this bearing S. 42° W., therefore it is assumed that Blake made an error when he copied the corrected field notes for the Farrow Survey.

"Thence South 630 vs. to the North line of the Marvin Bill Survey, set a stake from which a Post Oak 10 inches in diameter brs. S. 44° E. 10 vs. and a Red Oak 20 inches in diameter brs. S. 35° W. 8 vs." In running South from the Northeast corner of the Farrow I followed a well marked and recognized line to point 20 a distance of 641.6 vs. (F/N call for the E/L of the Farrow is 630 vs. and for the Easterly West line of the Grigsby 657 vs.), and found the following bearings identifying the SE/C of the T. J. Farrow Survey:

R. B. Blake: Post Oak 10" S. 44° E. 10.0 vs.
(9-9-1881) Red Oak 20" S. 35° W. 8.4 vs.

R. B. Blake: Post Oak 10" S. 44° E. 10.0 vs.
(7-22-1889) Red Oak 20" S. 35° W. 8.0 vs.

Jas. G. Barker: Post Oak stump 13" S. 44° E. 10.6 vs.
(1944) Large hardwood stump hole S. 35° W. 8.5 vs.

"Thence South 55° W. 975 vs. set a stake in said Marvin Bill North line for corner from which a pine 15 inches in diameter brs. S. 8° W. $4\frac{8}{10}$ vs. and a pine 15 inches in diameter brs. N. $45\frac{1}{2}$ W. $5\frac{6}{10}$ vs." The line from 20 to 22 is well marked and the distance measured on the ground is 1048.6 vs. (F/N call 975.0 vs.) Corner 22 is on the South edge of an old field and it may be possible that for this reason I was not able to locate any evidence of the bearing trees called for.

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"Thence West 152 vs. to the place of beginning."

This line from 22 to 23 measured 146.0 vs. and is running along an old fence on the South side of a field and no old marks are found.

On January 6th, 1899 E. I. Kellie, County Surveyor of Jasper County, surveyed 160 acres for S. I. Perkins, being the N. E. quarter of Section 248, H&TC RR Certificate No. 140, patented November 20th, 1902. His field notes read as follows:

"Beginning at N. E. corner of said Section 248, from which a Pine 18 inches in diameter brs. N. 37° W. $4\frac{1}{2}$ vs. and a Pine 16 inches in diameter brs. S. 24° E. 5 varas;

Thence South on East line of said Section 950 vs. to stake from which a Pine brs. N. 70° W. 6 vs.;

Thence West 950 vs. to stake for corner from which a Pine 8 inches in diameter brs. S. 10° W. 6 vs.;

Thence North 950 vs. to corner from which a Pine brs. S. 7° E. 8 vs.;

Thence E. 950 vs. to place of beginning."

Subsequent work by Kellie proved the fact that he did not start his survey at the NE corner of H&TC Section 248 (point 14) but at point 13.

On June 13, 1903 Geo. W. Rawls surveyed for T. J. Farrow triangular tract of 1.8 acres which was excluded in the aforesaid notes by R. B. Blake and is located between points 3, 22 and 23. (Abst. 1034, H. S. Kinsey, School 107952).

On September 16th, 1920 E. I. Kellie, County Surveyor Jasper County, surveyed 369 acres of land for John O. Banks out of H&TC Section 248. According to his sketch and field notes he surveyed the area lying between points 4, 10, 11, 29, 28 and 3. My acreage calculation of this area on the ground is 369.9 acres.

With these field notes on record E. I. Kellie admits that he located the S. I. Perkins not in the Northeast quarter of H&TC Section 248 but between points 11, 13, 28 and 29. For self-explanatory comments I refer to the following letters on file in the General Land Office:

General Land Office to Jno. O. Banks dated 7-1-1920
E. I. Kellie to General Land Office dated 11-1-1920
General Land Office to John O. Banks dated 12-21-1920

From the endorsements on the original field notes of the Jno. O. Banks Survey Abst. 1066, File No. 144909 it seems evident that after previous objections this tract of land was finally awarded by the General Land Office.

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The balance of H&TC Section 248 or 111 acres was awarded to Mark Wiess, Abst. 713, School 33168. This tract covers the East portion of Section 248 or the area between 14, 21, 22, 23 and 13 of which only 66.32 acres are free of conflict.

From my field work on the ground and study of the records it appears that: First: In surveying the T. J. Farrow 160 acre tract, R. B. Blake by mistake started at the middle South corner of H&TC Section 248 instead of at the Southeast corner. Later the Farrow was subdivided and sold to various parties who settled years ago on the premises as it was surveyed on the ground.

Second: The S. I. Perkins was surveyed by E. I. Kellie not on the East line of H&TC Section 248 but erroneously on the West line of the T. J. Farrow as proven on the ground. This error was later indirectly acknowledged by the same surveyor (Kellie) who filed the field notes for the John O. Banks 369 acre tract.

It is evident therefore that the area between 14, 15, 16, 17, 20, 19 and 27 is on the ground, all a part of Abst. 623, A. J. Rigsby Survey, thus having an excess of 131.2 acres over and above the acreage called for in the Rigsby Patent. (105.5 acres). For comparison purpose the total acreage between points 17, 16, 15, 9, 6, 5, 3 and back to 17 is as follows:

<u>Survey</u>	<u>Field Note Acreage</u>	<u>Actual Acreage</u>
H&TC Sec. 247	640.0	592.3
H&TC Sec. 248		
Mark Wiess	111.0	Mark Wiess (free of conflict) 66.32
S. I. Perkins	160.0	S. I. Perkins 160.0
J. O. Banks	369.0	J. O. Banks 369.9
H. S. Kinsey	<u>1.8</u>	H. S. Kinsey <u>1.8</u>
	641.8	598.02
T. J. Farrow	160.0	171.6
A. J. Rigsby	<u>105.5</u>	<u>236.7</u>
	1547.3 Ac.	1598.62Ac

Respectfully yours

Gas. G. Barker
Gas. G. Barker, County Surveyor
Jasper County, Texas.

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Sketch File No. 26

Jasper County
Surveyor's Report of Re-survey
of A. J. Rigoby v H. & T. C. #248

Filed March 6 1944

Bascom Giles, Com'r

W. W. P. [Signature]
File Clerk

See Jasper Rolled Sk. #3 for
Surveyor's Sketch.