



N/7  
LISTED

# The Attorney General of Texas

September 23, 1982

MARK WHITE  
Attorney General

Supreme Court Building  
P. O. Box 12548  
Austin, TX. 78711-2548  
512/475-2501  
Telex 910/874-1367  
Telecopier 512/475-0266

1607 Main St., Suite 1400  
Dallas, TX. 75201-4709  
214/742-8944

4824 Alberta Ave., Suite 160  
El Paso, TX. 79905-2793  
915/533-3484

1220 Dallas Ave., Suite 202  
Houston, TX. 77002-6986  
713/650-0666

806 Broadway, Suite 312  
Lubbock, TX. 79401-3479  
806/747-5238

4309 N. Tenth, Suite B  
McAllen, TX. 78501-1685  
512/682-4547

200 Main Plaza, Suite 400  
San Antonio, TX. 78205-2797  
512/225-4191

An Equal Opportunity/  
Affirmative Action Employer

Mrs. Lorene Ramsey  
Secretary to Chief Clerk  
General Land Office  
Stephen F. Austin Bldg.  
Austin, Texas 78701

Re: Case Nos. 6700 and 6705  
District Court  
Midland County, Texas

Dear Lorene:

I enclose herewith copies of the original files in the District Clerk's records of Midland County, Texas, of the two above-mentioned causes of action about which you recently asked.

Yours very truly,

*J. Milton Richardson*  
J. Milton Richardson  
Assistant Attorney General

JMR:gh  
Encl.

CERTIFICATE BOND  
25% CATION FIBER

counter 31587



The Attorney General of Texas

September 25, 1988

File No. Sketch File 19  
Midland  
Case Nos. 6700 & 6705, 70<sup>th</sup> Judicial Dist.  
Filed Jan. 11  
By GARRY MAURO, Com'r  
Douglas Howard 19 88

MARK WHITE  
Attorney General

Supreme Court Building  
P.O. Box 13848  
Austin, TX 78711-3848  
512/463-3801  
Telex 512874-1307  
Telecopier 512/463-3888

1107 Main St., Suite 1400  
Dallas, TX 75201-4700  
512/462-8844

4824 Alberta Ave., Suite 180  
El Paso, TX 79905-2793  
915/233-2484

1720 Dallas Ave., Suite 202  
Houston, TX 77055-0988  
713/680-0988

808 Broadway, Suite 312  
Lubbock, TX 79401-3478  
806/745-2328

4303 N. Fossil, Suite B  
McAllen, TX 78501-1628  
915/682-4247

200 Main Plaza, Suite 400  
San Antonio, TX 78205-2197  
214/225-4197

An Equal Opportunity  
Affirmative Action Employer

*J. Milton Richardson*  
J. Milton Richardson  
Assistant Attorney General

LHR:gh  
Hncj

NO. 6700

KELLY STEPHENS ET AL.

V.

T. M. MARKHAM ET AL.

---

IN THE 70TH JUDICIAL DISTRICT  
COURT OF MIDLAND COUNTY, TEXAS

---

PLAINTIFFS' ORIGINAL PETITION

---

FARL A. BROWN  
P. O. Box, Dallas, Texas

ROSS MADOLE  
P. O. Box, Dallas, Texas

R. T. WILKINSON, JR.  
P. O. Box, Dallas, Texas

STUBBSMAN, McRAE & SEALY  
McClintic Bldg., Midland, Texas  
ATTORNEYS FOR PLAINTIFFS

---

MAY 1 1952

Clara Pugh, Court Clerk, Midland Co., Texas

By *Lucille Johnson* Deputy

FILED  
MAY 1 1952

NO. 6700

KELLY STEPHENS ET AL.

V.

T. M. MARKHAM ET AL.

IN THE TENTH JUDICIAL  
DISTRICT COURT OF  
MIDLAND COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

TO SAID HONORABLE COURT:

Now come KELLY STEPHENS, who resides in Johnson County, Texas, and MAGNOLIA PETROLEUM COMPANY, a private corporation duly incorporated under and by virtue of the laws of the State of Texas, with its principal office and place of business at Dallas, in Dallas County, Texas, plaintiffs, complaining of T. M. MARKHAM, who resides in Harris County, Texas; BASCOM GILLES, COMMISSIONER OF THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, who resides in Travis County, Texas, and PRIOR DANIEL, ATTORNEY GENERAL OF THE STATE OF TEXAS, who resides in Travis County, Texas, defendants, and for cause of action plaintiffs will respectfully show the Court the following:

1.

On the 18th day of February, 1952, plaintiffs were and still are the owners in fee simple of the following described land situated in Midland County, Texas, to-wit:

TRACT A:

Being 16.93 acres situated in Midland County, Texas, about 14 miles North 69° East from Midland, the county seat, and further described as follows, to-wit:

BEGINNING at a point in a road from which a 12 inch mesquite stump bears North 33° 30' West 133 varas and a windmill bears North 76° 39' West 837.8 varas, being the point fixed by Byron L. Simpson for the Southwest Corner of the tract of

land denominated by the Commissioner of the General Land Office as Tract No. 3 under M.A. 43004 in the name of James C. Wilson, Jr.;

THENCE North 14° 54' West 923 varas;

THENCE North 75° 06' East 102 varas;

THENCE South 15° 05' East 923 varas;

THENCE South 75° 06' West 105 varas to the place of beginning, and being the tract denominated Tract No. 3 by the Commissioner of the General Land Office in an award dated February 18, 1952, made to James C. Wilson, Jr. under file M.A. 43004.

TRACT B:

Being 38.36 acres situated in Midland County, Texas, about 13½ miles North 77° East from Midland, the county seat, and further described as follows, to-wit:

BEGINNING at the point fixed by Byron L. Simpson for the Northeast Corner of a tract of land denominated by the Commissioner of the General Land Office as Tract No. 4 under M.A. 43004 in the name of James C. Wilson, Jr.;

THENCE South 15° 05' East 1868.4 varas;

THENCE South 75° 08' West 118.3 varas;

THENCE North 14° 52' West 1868 varas;

THENCE North 74° 55' East 111.1 varas to the place of beginning, and being the tract denominated Tract No. 4 by the Commissioner of the General Land Office in an award dated February 18, 1952, made to James C. Wilson, Jr. under file M.A. 43004.

TRACT C:

Being 17.61 acres situated in Midland County, Texas, about 14 miles North 68° East from Midland, the county seat, and further described as follows:

BEGINNING at the point fixed by Byron L. Simpson for the Northeast Corner of the tract of land denominated by the Commissioner of the General Land Office as Tract No. 15 under M. A. 43004 in the name of James C. Wilson, Jr.;

THENCE South 15° 05' East 989.9 varas;

THENCE South 75° 06' West 102 varas;

THENCE North 14° 54' West 989.6 varas;

THENCE North 74° 55' East 98.9 varas to the place of beginning, and being the tract denominated Tract No. 15 by the Commissioner of the General Land Office in an award dated February 18, 1952, made to James C. Wilson, Jr. under file M.A. 43004.

2.

On the said 18th day of February, 1952, plaintiffs were in possession of such premises, and the defendants unlawfully entered upon and dispossessed them of such premises and withheld from plaintiffs the possession thereof.

3.

If further pleading be necessary, plaintiffs allege and will show the Court that the Commissioner of the General Land Office of the State of Texas, purporting to act under the Act of June 19, 1939, being Chapter 3, Acts of the 46th Legislature of the State of Texas, Regular Session, made an award to T. M. Markham, assignee of James G. Wilson, Jr., of the area described in Tracts A, B, and C above, which attempted award to T. M. Markham is wholly void and without any force and effect because the land included in said award was not vacant and unsurveyed land and was not subject to disposition under the above Act, and had been theretofore duly and legally patented by the State of Texas and included in senior patents which are valid and subsisting, and said award constitutes a cloud on the title of plaintiffs herein.

WHEREFORE, plaintiffs pray that Bascom Giles, Commissioner of the General Land Office of the State of Texas, and Price Daniel, Attorney General of the State of Texas, each be served with a certified copy of this petition as provided by the above Act of June 19, 1939; that T. M. Markham be cited to appear and answer herein as required by law; that plaintiffs have title to and possession of the above-described tracts of land and that the above-mentioned

award be removed as a cloud on the title of plaintiffs to such tracts; and that plaintiffs have judgment for costs of suit and such other and further relief as they may be entitled to.

EARL A. BROWN  
P. O. Box 900  
Dallas, Texas

ROSS MADOLE  
P. O. Box 900  
Dallas, Texas

R. T. WILKINSON, JR.  
P. O. Box 900  
Dallas, Texas

STUBBEMAN, McRAE & SEALY

By Hamilton E. McRae

McClintic Building  
Midland, Texas

Attorneys for Plaintiffs

THE STATE OF TEXAS, |  
COUNTY OF MIDLAND. |

I, Lucille Johnson, Clerk of  
the District Court of Midland County, Texas, do hereby  
certify that the above and foregoing is a true and correct  
copy of Plaintiff's Original Petition filed on the 15th  
day of May, A. D. 1952 at 2:00 o'clock, P.M., in cause  
No. 6700, styled KELLY STEPHENS, ET AL, PLAINTIFFS VS.  
T. M. MARKHAM, ET AL, DEFENDANTS, as same appears on file  
in this office among the papers in said cause.

Given under my hand and seal of office this 15th day  
of May, A. D. 1952.

Lucille Johnson, Clerk District  
Court, Midland County, Texas

By, *Blanche M. Phelps.*

Deputy



NO. 6700

KELLY STEPHENS, ET AL           |       IN THE DISTRICT COURT OF  
VS.                                 |       MIDLAND COUNTY, TEXAS  
T. M. MARKHAM, ET AL           |       90TH JUDICIAL DISTRICT

ORIGINAL ANSWER OF THE DEFENDANT,  
T. M. MARKHAM

TO THE HONORABLE JUDGE OF SAID COURT:

Come now T. M. Markham, one of the defendants in the above captioned cause, and especially shows:

I.

He denies each allegation of fact contained in plaintiffs' petition.

II.

He pleads not guilty to the wrongs and trespasses charged in plaintiffs' petition.

Henry H. Brooks  
Henry H. Brooks  
1401 Capital National Bank Building  
Austin, Texas

Attorney for Defendant, T. M. Markham

No. 6700

KELLY STEPHENS, ET AL		IN THE 70TH JUDICIAL
		DISTRICT COURT OF
v.		MIDLAND COUNTY, TEXAS
T. M. MARKHAM, ET AL		

---

ORIGINAL ANSWER OF DEFENDANTS,  
BASCOM GILES AND PRICE DANIEL

---

Now come Bascom Giles, Commissioner of the General Land Office of the State of Texas, and Price Daniel, Attorney General of the State of Texas, in their official capacities, two of the defendants in the above-entitled and numbered cause, for and in behalf of the State of Texas and the Permanent Free School Fund of Texas, and file their original answer to the original petition heretofore filed by plaintiffs Kelly Stephens and Magnolia Petroleum Company, and would respectfully show the following:

I

Defendants deny all and singular the allegations contained in plaintiffs' original petition.

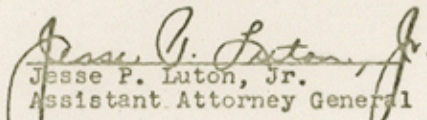
II

Defendants plead that they are not guilty of the wrongs, charges, and trespasses alleged in plaintiffs' original petition.

WHEREFORE, defendants pray that plaintiffs take

nothing by their suit and that defendants go hence with  
their costs and for such other and further relief, general  
and special, to which defendants may be entitled.

PRICE DANIEL  
Attorney General of Texas

  
Jesse P. Luton, Jr.  
Assistant Attorney General  
Attorneys for Bascom Giles  
and Price Daniel, Defendants

HENRY H. BROOKS  
ATTORNEY AT LAW  
1201 CAPITAL NATIONAL BANK BUILDING  
AUSTIN, TEXAS

September 3, 1952

Miss Lucille Johnson  
District Clerk, Midland County  
Midland, Texas

Re: No. 6,684 - C. A. McClintic, et al  
vs. T. M. Markham, et al, in the  
District Court of Midland County, Texas

No. 6,700 - Kelly Stephens, et al  
vs. T. M. Markham, et al, in the  
District Court of Midland County, Texas

No. 8,705 - Stanton Brunson, et al  
vs. T. M. Markham, et al, in the  
District Court of Midland County, Texas

Dear Madam:

I enclose herewith disclaimers which you will please  
file in each of the above captioned cases.

Yours truly,

*Henry H. Brooks*

HHB:mwy

cc- The Attorney General of Texas  
Attention: Mr. Jesse P. Luton, Jr.  
State Capitol  
Austin, Texas

cc- Messrs. Perkins, German, Mims & Bell  
Attention: Mr. Kelly Bell  
Allen Building  
Midland, Texas

cc-Messrs. Stubbeman, McRae & Sealy  
Attention: Mr. Hamilton E. McRae  
McClintic Building  
Midland, Texas

cc-Messrs. Turner, Rodgers, Winn, Scurlock & Terry  
Attention: Mr. George S. Terry  
1010 Republic Bank Bldg.  
Dallas, Texas

NO. 6,700

KELLY STEPHENS, ET AL           |           IN THE DISTRICT COURT OF  
VS.                                   |           MIDLAND COUNTY, TEXAS  
T. M. MARKHAM, ET AL           |           70TH JUDICIAL DISTRICT

DISCLAIMER OF THE DEFENDANT,  
T. M. MARKHAM

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now T. M. Markham, one of the defendants in the above captioned cause, and disclaims all right, title and interest to the land, and all interest in land, described in plaintiff's petition herein, and respectfully prays that he be discharged as a party defendant, and that no costs be adjudged or taxed against him, and for such further relief as he may be entitled to in the premises.

*Henry H. Brooks*  
Henry H. Brooks  
1401 Capital Nat'l Bank Bldg.  
Austin, Texas

Attorney for Defendant,  
T. M. Markham

FILED



NO. 6705

IN THE DISTRICT COURT IN  
AND FOR THE 70TH JUDICIAL  
DISTRICT COURT OF MIDLAND  
COUNTY, T E X A S

PLAINTIFFS' ORIGINAL PETITION:

STANTON BRUNSON, ET AL  
PLAINTIFFS  
VS.  
T. M. MARGHAM, ET AL  
DEFENDANTS

LAW OFFICES OF  
PERKINS, GERMAN, MIMS AND BELL  
ALLEN BUILDING  
MIDLAND, TEXAS

**FILED**  
MAY 16 1957  
By *W. H. Mims*  
Deputy  
Chief District Court Midland Co., Texas

Counter 31601

NO. 6705

STANTON BRUNSON, ET AL		IN THE DISTRICT COURT
PLAINTIFFS		IN AND FOR
VS.		THE 70TH JUDICIAL DISTRICT
T. M. MARKHAM, ET AL,		OF
DEFENDANTS		MIDLAND COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

Come now Stanton Brunson, a resident of Lubbock County, Texas; Sohio Petroleum Company, a corporation organized under the laws of the State of Ohio, with a permit to do business in the State of Texas, and with an office at Houston, Harris County, Texas; and The Standard Oil Company (Ohio), a corporation organized under the laws of the State of Ohio, with a permit to do business in the State of Texas, and with an office at Houston, Harris County, Texas, hereinafter called Plaintiffs, each complaining of T. M. Markham, a resident of Harris County, Texas; Bascom Giles, Commissioner of the General Land Office of the State of Texas, a resident of Travis County, Texas; The Honorable Price Daniel, Attorney General of the State of Texas, a resident of Travis County, Texas; Magnolia Petroleum Company, a corporation organized under the laws of the State of Texas, with an office at Dallas, Texas; M. H. O'Daniel, a resident of Coahoma, Howard County, Texas; E. I. O'Daniel, a resident of Coahoma, Howard County, Texas; O. D. O'Daniel, a resident of Coahoma, Howard County, Texas; Mlonia Bass and husband, A. C. Bass, residents of Coahoma, Howard County, Texas; Mary E. Brown and husband, J. E. Brown, residents of Coahoma, Howard County, Texas; Amy Echols and husband, Leroy Echols, residents of Coahoma, Howard County, Texas; G. E. Farley, a resident of Stevens, Pierce County, Washington; H. M. Park, a resident of Stevens, Pierce County, Washington; R. I. York, a resident of Midland, Midland County, Texas; Edwin W. Pauley, a resident of Los Angeles, Los Angeles County, California;

counter 31602



Claude L. Cameron, a resident of Los Angeles, Los Angeles County, California; Donald R. MacPherson, a resident of Los Angeles, Los Angeles County, California; William R. Pagen, a resident of Los Angeles, Los Angeles County, California; E. E. Fogelson, a resident of Dallas, Dallas County, Texas; George Noland Drilling Company, Inc., of Tulsa, Tulsa County, Oklahoma, hereinafter called defendants, and for cause of action against such defendants, plaintiffs would show the Court as follows, to-wit:

I.

Plaintiffs would show the Court that on or about the 1st day of January, 1952, they were lawfully seized and possessed of the following described tract of land, holding and claiming the same in fee simple, to-wit:

Said land is situated in Midland County, about 15-1/2 miles South 77° East from Midland, the county seat, and is described by notes and bounds as follows, to-wit: Beginning at a point in the East line of Susannah Wright Survey No. 4, Block No. 37, Township 2 South; for the S. W. corner of this Survey, and the N. W. corner of S. F. 15182; Thence with the East line of said Survey No. 4, and the East line of Susannah Wright Survey No. 3, Block 37, Township 2 South, N 15° 19' W at 143.0 varas pass a set stone in a scattered rock mound for the original N. E. corner of said Survey No. 4 and the original S. E. Corner of said Survey No. 3, in all 1929.0 varas to the S. W. corner of S. F. 15183, and the N. W. corner of this Survey; Thence with the South line of said S. F. 15183, N 74° 29' E 113.3 varas to a point in the West line of Survey No. 31, Block 36, Township 2 South, T. & P. Ry. Co. for the N. E. corner of this Survey, and the S. E. corner of S. F. 15183; Thence with the West line of said Survey No. 31, and the West lines of Surveys L2 and L3, S 15° 05' E at 1.6 varas pass the S. W. corner of said Survey No. 31 and the N. W. corner of said Survey No. L2, at 1917.3 varas pass the S. W. corner of said Survey No. L2 and the N. W. corner of said Survey No. L3, in all 1920.0 varas to the S. E. corner of this Survey, and the N. E. corner of S. F. 15182; Thence S 75° 02' W 105.3 varas to the place of beginning; the said tract being otherwise described as Tract Number 16 in the report of Byron Simpson, approved in the General Land Office on February 18, 1952, and in General Land Office File Number M. 13604;

except that the plaintiffs, Shell Petroleum Company and Standard Oil Company (Ohio) are the owners in fee simple of the oil, gas and mineral leasehold estate in and to only that portion of the

above described tract which lies north of the extension westward of the line between the north half of said Section 42, Block 36, Township 2 South, and the south half of said Section.

II.

That on the 1st day of January, A. D. 1952, the defendants, T. M. Markham, Bascom Giles and Price Daniel, unlawfully entered on said premises and ejected plaintiffs therefrom, and unlawfully withheld from plaintiffs the possession thereof.

III.

If such further pleading be necessary, plaintiffs would show the Court that on the 18th day of February, 1952, the Honorable Bascom Giles, Commissioner of the General Land Office, purporting to act under the Act of June 19, 1939, made an award to the defendant, T. M. Markham, assignee of James C. Wilson, Jr., of the above described land, which attempted award to the said T.M. Markham was at its inception and is now wholly void and without any force or effect for the following reasons:

- (a) Because the land included in said award was wholly within the bounds of lands previously titled and patented.
- (b) Because the application made in the above proceeding, bearing Land Office File Number MA 43004, and upon which the said award was based, failed to name as respondents or interested parties, persons owning and claiming an interest in the land allegedly covered by said application, and said award and the land adjoining same, to-wit: Section 42, Block 36, Township 2 South, and the Branch Wright Survey No. 3 in Block 37, Township 2 South, Texas and Pacific Railway Company Survey, Midland County, Texas; the said parties not so named owning and claiming interests as follows:

North Half of South Half of Section 42:

- G. E. Karlen - 61/128 of 8/8 Working Interest (hereinafter referred to as W. I.);  
Edwin W. Pauley and R. L. York - 1/16 of 7/8 Overriding Royalty Interest (hereinafter referred to as O. R. I.);  
G. E. Karlen and R. M. Burk - 3/128 of 8/8 O. R. I.;  
Edwin W. Pauley - 897/3200 of 8/8 O. R. I.;  
Claude L. Cameron - 1/50 of 8/8 O. R. I.;  
Donald R. MacPherson - 1/100 of 8/8 O. R. I.;  
William R. Pagar - 1/100 of 8/8 O. R. I;

South Half of South Half of Section 42:

- Edwin W. Pauley and R. L. York - 1/16 of 7/8 O. R. I.;  
E. E. Fogelson and George Moland Drilling Company, Inc.,  
105/128 of 8/8 W. I.

Susannah Wright Survey No. 3:

- M. H. O'Daniel - 1/8 of 1/8 Royalty Interest (hereinafter referred to as R. I.);  
E. T. O'Daniel - 7/40 of 1/8 R. I.;  
O. D. O'Daniel - 7/40 of 1/8 R. I.;  
Udonia Bass and husband, A. C. Bass - 7/40 of 1/8 R. I.;  
Mary E. Brown and husband, J. E. Brown - 7/40 of 1/8 R. I.;  
Amy Echols and husband, Leroy Echols - 7/40 of 1/8 R. I;

and none of the foregoing parties had any notice whatever of any character of the filing of said application or of the survey conducted pursuant thereto, or of any hearing held by the Commissioner of the General Land Office on said application, or of the decision therein, and, therefore, the same is wholly void. Such purported award having been spread on the public records of this State, it constitutes a cloud on the title of the plaintiffs.

Plaintiffs allege that the defendants, Mamolia Petroleum Company, M. H. O'Daniel, E. T. O'Daniel, O. D. O'Daniel, Udonia Bass and husband, A. C. Bass, Mary E. Brown and husband, J. E. Brown, Amy Echols and husband, Leroy Echols, G. E. Karlen, R. M. Burk, R. L. York, Edwin W. Pauley, Claude L. Cameron, Donald R.

MacPherson, William R. Pagen, E. E. Fogelson and George Heland Drilling Company, Inc., are claiming an interest in lands adjoining the above described Tract 16, and by reason of such fact, they are proper and necessary parties to an adjudication of the controversy herein.

WHEREFORE, plaintiffs pray that the defendants and each of them be cited to answer this petition; and that the Honorable Bascom Giles, Commissioner of the General Land Office and the Honorable Price Daniel, Attorney General of the State of Texas, each be served with certified copies of this petition, as provided by sub-section j of Article 5421c, Section 6, of the Revised Statutes of Texas; that the purported award made by the Commissioner of the General Land Office of the above described land be removed as a cloud on the title of these plaintiffs, and that the plaintiffs have judgment for the title and possession of the above premises, for costs of suit and for such other and further relief as they may be entitled to receive.

PERKINS, GERMAN, MIMS AND BELL  
100 Allen Building  
Midland, Texas

By Kelly Bell  
Kelly Bell

ATTORNEYS FOR THE PLAINTIFFS

THE STATE OF TEXAS  
COUNTY OF MIDLAND

I, MADGE B. WALLIS, Clerk of the District Court of  
Midland County, Texas, do hereby certify that the foregoing is a  
true and correct copy.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT

this 20 day of September A.D., 19 82

MADGE B. WALLIS, District Clerk by Sean Hall Dep.  
Sean Hall

NO. 6705

STANTON BRUNSON, ET AL           |           IN THE DISTRICT COURT OF  
VS.                                   |           MIDLAND COUNTY, TEXAS  
T. M. MARKHAM, ET AL           |           70TH JUDICIAL DISTRICT

ORIGINAL ANSWER OF THE DEFENDANT,  
T. M. MARKHAM

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now T. M. Markham, one of the defendants in the above captioned cause, and especially shows:

I.

He denies each allegation of fact contained in plaintiff's petition.

II.

He pleads not guilty to the wrongs and trespasses charged in plaintiff's petition.

Henry H. Brooks  
Henry H. Brooks  
1401 Capital National Bank Building  
Austin, Texas

Attorney for defendant, T. M. Markham

No. 6705

STANTON BRUNSON ET AL.

V.

T. M. MARKHAM ET AL.

IN THE  
70TH JUDICIAL DISTRICT COURT  
OF MIDLAND COUNTY, TEXAS

ORIGINAL ANSWER OF DEPENDANT MAGNOLIA PETROLEUM COMPANY

Now comes MAGNOLIA PETROLEUM COMPANY, a defendant in the above-entitled and -numbered cause, and for answer herein pleads as follows:

1.

As shown by plaintiffs' original petition, this defendant is made a party to this suit upon the allegations of Paragraph IV of plaintiffs' petition which alleges that this defendant claims an interest in lands adjoining the tract of land described in plaintiffs' petition by reason of which it is a proper and necessary party to an adjudication of this case. This defendant alleges that the East boundary line of Survey 4, Block 37, Township 2 South, T. & P. R.R. Company, Midland County, Texas, is a common line with the West boundary line of Survey 43, Block 36, Township 2 South, T. & P. R.R. Company, Midland County, Texas, and that the East boundary line of Survey 3, Block 37, Township 2 South, T. & P. R. R. Company, Midland County, Texas, is a common line with the West boundary line of Survey 42, Block 36, Township 2 South, T. & P. R.R. Company, Midland County, Texas, and that no vacant and unsurveyed land exists between said sections.

2.

For further answer herein, if further answer be required, this defendant adopts the allegations of Paragraph III of plaintiffs' original petition.

WHEREFORE, this defendant prays that judgment be entered, that the tract of land described in plaintiffs'

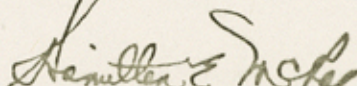
petition is not vacant and unsurveyed land, and further that the purported award made by the Commissioner of the General Land Office as set forth in Paragraph III of plaintiffs' original petition is wholly void, and defendant prays for such other and further relief as it may be entitled to receive.

EARL A. BROWN  
P. O. Box 900  
Dallas, Texas

ROSS MADOLE  
P. O. Box 900  
Dallas, Texas

R. T. WILKINSON, JR.  
P. O. Box 900  
Dallas, Texas

STUBBEMAN, McRAE & SEALY

By   
Hamilton E. McRae

McClintic Building  
Midland, Texas

Attorneys for Defendant  
Magnolia Petroleum Company

No. 6705

STANTON BRUNSON ET AL.

V.

T. M. MARKHAM ET AL.

IN THE

70TH JUDICIAL DISTRICT COURT

OF MIDLAND COUNTY, TEXAS

JOINDER BY DEFENDANT MAGNOLIA PETROLEUM COMPANY  
IN THE MOTION FOR SUMMARY JUDGMENT FILED BY  
PLAINTIFFS, STANTON BRUNSON, SOHIO PETROLEUM  
COMPANY, AND THE STANDARD OIL COMPANY (OHIO)

Now comes MAGNOLIA PETROLEUM COMPANY, a defendant in the above-entitled and -numbered cause, and hereby joins in the motion for summary judgment herein filed by plaintiffs, Stanton Brunson, Sohio Petroleum Company, and The Standard Oil Company (Ohio), and adopts the allegations of said motion.

WHEREFORE, defendant prays for such summary judgment.

EARL A. BROWN  
P. O. Box 900  
Dallas, Texas

ROSS MADOLE  
P. O. Box 900  
Dallas, Texas

R. T. WILKINSON, JR.  
P. O. Box 900  
Dallas, Texas

STUBBEMAN, McRAE & SEALY

By 

Hamilton E. McRae

McClintic Building  
Midland, Texas

Attorneys for Defendant  
Magnolia Petroleum Company



STANTON BRUNSON, ET AL,		IN THE 70TH JUDICIAL DISTRICT
Plaintiffs		COURT OF
v.		MIDLAND COUNTY, TEXAS
T. M. MARKHAM, ET AL,		
Defendants		

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FIRST AMENDED ORIGINAL ANSWER OF DEFENDANTS  
BASCOM GILES AND PRICE DANIEL

Now come Bascom Giles, Commissioner of the General Land Office of the State of Texas, and Price Daniel, Attorney General of the State of Texas, in their official capacities, two of the defendants in the above-entitled and numbered cause, for and in behalf of the State of Texas and the Permanent Free School Fund of Texas, and file their first amended original answer to the original petition heretofore filed by plaintiffs herein, and would respectfully show the following:

I

Defendants deny all and singular the allegations contained in plaintiffs' original petition.

II

Defendants plead that they are not guilty of the wrongs, charges, and trespasses alleged in plaintiffs' original petition.

III

Defendants, for and in behalf of the State of Texas and the Permanent Free School Fund of the State of

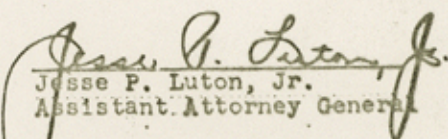
Texas, by way of counterclaim and cross-action would show the Court the following:

That on or about the 1st day of January, 1952, the State of Texas was lawfully seized and possessed or entitled to possession, for the benefit of the Permanent Free School Fund of Texas, of all the lands described in paragraph 1 of plaintiffs' original petition herein, holding and claiming the same in fee simple.

That on the 1st day of January, 1952, plaintiffs and those defendants other than T. M. Markham, Bascom Giles, and Price Daniel, all of which plaintiffs and defendants are herein designated as cross-defendants, unlawfully entered on said premises and ejected the State of Texas therefrom and unlawfully withhold from the State of Texas the possession thereof.

WHEREFORE, defendants pray that plaintiffs take nothing by their suit and that these defendants go hence with their costs; and defendants further pray that the State of Texas have judgment against cross-defendants for the title and possession of the above premises, for costs of suit, and for such other and further relief as defendants and the State of Texas may be entitled to receive.

PRICE DANIEL  
Attorney General of Texas

  
Jesse P. Luton, Jr.  
Assistant Attorney General

Attorneys for Defendants  
Bascom Giles and Price Daniel

NO. 6705

STANTON BRUNSON, ET AL		IN THE DISTRICT COURT
PLAINTIFFS		OF
VS.		MIDLAND COUNTY, TEXAS
T. M. MARKHAM, ET AL		IN AND FOR
DEFENDANTS		THE Tenth JUDICIAL DISTRICT

NOTICE

TO: Henry Brooks, Austin, Texas,  
Attorney of Record for the  
Defendant, T. M. Markham.

Please take notice that the plaintiffs, Stanton Brunson, Sohio Petroleum Company and The Standard Oil Company (Ohio), have this day filed a motion for summary judgment against T. M. Markham, a copy of which is enclosed herewith, and the Judge of the above Honorable Court has fixed the 23rd day of June, 1952, at 2:00 o'clock P. M., in the District Court Room of Midland County, Texas, as the time and place at which said motion shall be heard.

Copies of the motion and this notice have this day been sent to the attorneys of record for all of the other defendants in the case.

PERKINS, GERMAN, MIMS AND BELL  
100 Allen Building,  
Midland, Texas

By 

Holly Bell

ATTORNEYS FOR THE PLAINTIFFS

NO. 6705

STANTON BRUNSON, ET AL		IN THE DISTRICT COURT
PLAINTIFFS		OF
VS.		MIDLAND COUNTY, TEXAS
T. M. MARKHAM, ET AL		IN AND FOR
DEFENDANTS		THE 70TH JUDICIAL DISTRICT

MOTION FOR SUMMARY JUDGMENT

Come now Stanton Brunson, Sohie Petroleum Company and The Standard Oil Company (Ohio), plaintiffs in the above cause, and make this their motion for a summary judgment against T. M. Markham, one of the defendants herein, the grounds of such motion being as follows:

I.

The claims of the above named defendant arise out of and are based wholly upon an award to said defendant, as assignee of James C. Wilson, Jr., made on the 18th day of February, 1952, by the defendant, Bascom Giles, Commissioner of the General Land Office, purporting to act under the so-called Act of June 19, 1939 (Article 5421e, Revised Civil Statutes of Texas) in a proceeding identified in the General Land Office as MA 43004; the said award being based upon the application made in the said proceeding, a true copy of which is attached hereto as Exhibit "A". These plaintiffs allege that under the requirements of the above statute it was mandatory that all parties interested in the premises described in the petition herein or lands adjoining or overlapping should have been made parties respondent to the Land Office proceeding, and should have had notice of the filing of the application and of the subsequent proceedings therein; that as a matter of fact the said application failed to name or to give notice to the following persons owning and claiming interests in Section 42, Block 36, Township 2 South and the Susannah Wright Survey No. 3 in Block 37, Township 2 South, T. & P. Ry. Co. Survey, Midland County, Texas:

North Half of South Half of Section 12:

O. E. Carlen - 61/128 of 8/8 Working Interest (hereinafter referred to as W. I.);

Edwin W. Pauley and R. L. York - 1/16 of 7/8 Overriding Royalty Interest (hereinafter referred to as O. R. I.);

O. E. Carlen and R. M. Burk - 3/128 of 8/8 O. R. I;

Edwin W. Pauley - 897/3200 of 8/8 O. R. I;

Claude L. Cameron - 1/50 of 8/8 O. R. I;

Donald R. MacPherson - 1/10 of 8/8 O. R. I;

William R. Pagen - 1/100 of 8/8 O. R. I;

South Half of South Half of Section 12:

Edwin W. Pauley and R. L. York - 1/16 of 7/8 O. R. I;

E. E. Fogelson and George Noland Drilling Company, Inc. - 105/128 of 8/8 W. I.

Susannah Wright Survey No. 3:

M. H. O'Daniel - 1/8 of 1/8 Royalty Interest (hereinafter referred to as R. I.);

E. T. O'Daniel - 7/40 of 1/8 R. I;

O. D. O'Daniel - 7/40 of 1/8 R. I;

Udonia Bass and husband, A. C. Bass - 7/40 of 1/8 R. I;

Mary E. Brown and husband, J. E. Brown - 7/40 of 1/8 R. I;

Any Echols and husband, Leroy Echols - 7/40 of 1/8 R. I;

and none of the foregoing parties had any notice whatever of any character of the filing of said application or of the survey conducted pursuant thereto or of any hearing held by the Commissioner of the General Land Office on said application, or the decision therein, and, therefore, the same is wholly void.

II.

Twenty days from the commencement of the action have expired.

III.

There is attached hereto as Exhibit "B" asupporting affidavit setting forth the ownership of the above parties.

IV.

The pleadings, together with the Exhibits hereto show that

there is no genuine issue as to any material fact, and that these plaintiffs, the moving parties, are entitled to judgment against the defendant, T. M. Markham, as a matter of law, for the title and possession of the premises described in the petition, and cancelling and holding void the award made by the General Land Office in the above proceeding.

WHEREFORE, premises considered, plaintiffs pray for such summary judgment.

PERKINS, GERMAN, MIMS AND BELL  
100 Allen Building  
Midland, Texas

By 

Kelly Bell

ATTORNEYS FOR THE PLAINTIFFS

APPLICATION TO LEASE

(Applicant)

TO THE COMMISSIONER OF THE GENERAL LAND OFFICE, AUSTIN, TEXAS:

I hereby apply to lease the following described area, believed to be unsurveyed land now owned by the public free school fund, under the provisions of an Act approved June 19, 1937, and other laws relating to the leasing of unsurveyed school land.

The said tract of land is situated in Midland, Reagan, Martin and Glasscock Counties, Texas, and is bounded as follows, to-wit:

On the North by the Center line of the T. & P. Ry. Co. 80 mile reserve.  
On the East by the West lines of the West tier of Sections in Block 36 Townships 1 South, 2 South, 3 South, 4 South and 5 South, T. & P. Ry. Co. Surveys, as patented.

On the South by the South line of the T. & P. Ry. Co. 80 mile reserve.

On the West by the East lines of the East tier of Sections in Block 37 Townships 1 South, 3 South, 4 South and 5 South, T. & P. Ry. Co. Surveys as patented and the East lines of the East tier of surveys in Block 37, Township 2 South as patented.

3. The names and addresses of all owners or claimants of said land, or any interest therein, and of leases of every character thereon, adjoining, overlapping or including the said land, as ascertained from the records of the General Land Office, Austin, Texas, from the office of the County Clerk and the tax rolls of Midland, Reagan, Martin and Glasscock Counties, and from facts known to applicant, are as follows:

- |   |  |
|---|--|
| Midclair Oil & Gas Co., McClintic Bldg.,<br>Midland, Texas  | Andrew Paskins, 1511 W. Missouri,<br>Midland, Texas                |
| F. B. Harrell, Stanton, Texas                               | C. A. McClintic, McClintic Bldg., Midland,                         |
| Office Service Oil Co., Permian Bldg.,<br>Midland, Texas    | K. S. Boone, Midland, Texas  |
| Midwater Oil Co., McClintic Bldg.,                          | W. A. Hutchison, 311 W. C., Midland, Texas.                        |
| Paul Kallergue, 909 W. Louisiana St.,<br>Midland, Texas     | Mary B. Jenkins, Midland, Texas                                    |
| Midvale Oil & Ref. Co. Midland Tower,<br>Midland, Texas     | Leonard Prector, 1306 W. Wall, Midland, Texas.                     |
| Sea Oil Co., Midland Tower, Midland, Texas.                 | W. M. Schrock, Wilkinson Foster Bldg.,<br>Midland, Texas           |
| Dr. Jno. B. Thomas, McClintic Bldg. " "                     | W. L. Files, Midland, Texas  |
| Magnolia Petroleum Co., 315 W. Wall, " "                    | Mable M. Floyd, Midland, Texas                                     |
| Phillips Petroleum Co., Permian Bldg. " "                   | J. J. Perkins, McClintic Bldg., Midland, Texas                     |
| Keland Davidson, Wilkinson Foster Bldg. " "                 | M. S. Boone, c/o J. J. Perkins, McClintic<br>Bldg., Midland, Texas |
| Seaboard Oil Co., Petroleum Bldg. " "                       | Joe B. Calverley, Garden City, Texas.                              |
| Jed. H. Snowden, 750 W. 5, Ft. Worth, Texas                 | S. E. Elack, Comanche, Texas                                       |
| Allen Lake, Midland, Texas                                  | W. H. Lane, Garden City, Texas                                     |
| Weiner & Fryer, Ft. Worth Natl. Bldg.,<br>Ft. Worth, Texas. | Chas. J. Cox, Utopia, Texas  |
| Ted Weiner, Ft. Worth Natl. Bldg., Ft. Worth, Tex.          | C. J. Bryans, Garden City, Texas                                   |
| Gulf Oil Corp., Wilkinson Foster Bldg.,<br>Midland, Texas   | X. B. Cox, Garden City, Texas                                      |
| Ancrada Petroleum Co., McClintic Bldg.,<br>Midland, Texas.  | A. D. Neal Est., Big Springs, Texas.                               |
| Ohio Oil Co., Midland Tower Bldg., Midland,<br>Texas.       | P. F. Williams, Garden City, Texas                                 |
| E. E. Fogalson, Merchantile Bank Bldg.,<br>Dallas, Texas.   | W. E. Williams, Garden City, Texas                                 |
| York & Harper, 1st Natl. Bank Bldg., Midland,<br>Texas.     | E. B. Wilde, Garden City, Texas                                    |
| Frankel Bros., Houston, Texas.                              | Mrs. Aubrey Elliott, Kingsville, Texas                             |
| Jno. Barnett, 1301 W. Indiana, Midland, Texas.              |  |
| American General Oil Co., Midland Tower, Midland, Texas.    |  |

Texas & Pacific Land Co., 1st Natl. Bldg., Dallas.  
 O. R. Mallison, Permian Bldg., Midland, Texas  
 Atlantic Oil Prod. Co., McClintic Bldg., Midland, Texas  
 Stanolind Oil & Gas Co., 300 W. Illinois, Midland, Texas  
 Argo Oil Corp., Permian Bldg., Midland, Texas  
 J. H. Floyd, Midland, Texas  
 A. W. Hendriksen, 1st Natl. Bank Bldg., Midland, Texas  
 Tex Harvey, Permian Bldg., Midland, Texas  
 Union Oil Co., Wilkinson Foster Bldg., Midland, Texas  
 Fluid Oil Co., Merchantile Bank Bldg., Dallas, Texas  
 Earnedall Oil Co., Wilkinson Foster Bldg., Midland, Texas  
 Shelly Oil Co., 312 N. Big Spring St., Midland, Texas  
 Combined Oil Co., Ft. Worth Natl. Bank Bldg., Ft. Worth.  
 Amerada Petroleum Co., McClintic Bldg., Midland, Texas  
 W. H. Yates, Stanton, Texas  
 W. W. Clements, " "  
 H. L. Williams, " "  
 Paris Yarbrough, Loraine, Texas  
 W. T. Powell, Stanton, Texas  
 T. B. Stewart, " "  
 B. P. Myrick, " "  
 Arvilla J. Nichols, " "  
 L. W. Clark, " "  
 R. B. Creech, " "  
 W. E. Kelly, " "  
 Milt Yater, " "  
 Sasie B. Snyder, " "  
 H. C. Neal Est., " "  
 Kelly Stephens, " "  
 L. Mashburns, " "  
 Bobby Campbell, " "  
 Hugh Dixon, " "  
 Paul K. Jones, " "  
 J. W. Driver, Kermit, Texas  
 Mrs. J. R. Ragsdale, Stanton, Texas  
 W. K. Estes, " "  
 H. H. O'Daniel, " "  
 H. A. Mashburn, " "  
 Eula Casper, " "  
 H. A. Lowe, " "  
 J. P. Hilger, " "

I do not have any knowledge of any claimants other than those listed.

S/ James C. Wilson, Jr.  
 Jas. C. Wilson, Jr. Applicant  
 501 Sinclair Bldg., Ft. Worth, Texas.

Sworn to and subscribed before me this the 22nd day of January, A. D., 1951.

S/ Anne Watson (Anne Watson)  
 Ann Watson  
 Notary Public, Tarrant County, Texas.

(S E A L)

I, Max R. Schumann, Jr., County Surveyor of Midland County, Texas, and as  
 Custodian of the Surveyor's Records, hereby certify that the foregoing application was  
 filed for record on the 23rd day of January, 1951, at 8:05 o'clock A. M., and recorded in  
 Vol. 14, page 129, in Surveyors Records Midland County, Texas.

S/ Max A. Schumann, Jr.  
 Deputy County Surveyor, Midland County,  
 Texas



NO. 6705

STANTON BRUNSON, ET AL		IN THE DISTRICT COURT
PLAINTIFFS		OF
VS.		MIDLAND COUNTY, TEXAS
T. M. MARKHAM, ET AL		IN AND FOR
DEFENDANTS		THE 70TH JUDICIAL DISTRICT

AFFIDAVIT

THE STATE OF TEXAS  
COUNTY OF MIDLAND

In support of the motion of plaintiffs, Stanton Brunson, Sohio Petroleum Company and The Standard Oil Company (Ohio), for summary judgment in the above entitled and numbered cause, the undersigned affiant makes this affidavit and thereby on oath states the following:

I am over 21 years of age, of sound mind, have never been convicted of any crime or offense, and have personal knowledge of every statement herein made;

I am attorney of record for the plaintiffs in the above entitled and numbered cause, and I am authorized to make this affidavit;

Prior to the filing of the above suit, I examined the records of the Office of the County Clerk of Midland County, Texas, and can state on my own personal knowledge that the records of such county disclose that the following named parties own and claim interests in Section 42, Block 36, Township 2 South, and the Susannah Wright Survey No. 3, in Block 37, Township 2 South, T. & P. Ry. Co. Survey, Midland County, Texas, as follows:

North Half of South Half of Section 42:

G. E. Karlen - 61/128 of 8/8 Working Interest (hereinafter referred to as W. I.);

Edwin W. Pauley and R. L. York - 1/16 of 7/8 Overriding Royalty Interest (hereinafter referred to as O. R. I.);

G. E. Karlen and R. M. Burk - 3/128 of 8/8 O. R. I.;

EXHIBIT "B"

Edwin W. Paulley - 897/3200 of 8/8 O. R. I;

Clonda L. Cameron - 1/15 of 8/8 O. R. I;

Donald R. MacPherson - 1/100 of 8/8 O. R. I;

William R. Pagan - 1/100 of 8/8 O. R. I;

South Half of South Half of Section 42:

Edwin W. Paulley and R. L. York - 1/16 of 7/8 O. R. I;

E. E. Fogelson and George Noland Drilling Company, Inc. -  
105/128 of 8/8 W. I.

Susannah Wright Survey No. 3:

M. H. O'Daniel - 1/8 of 1/8 Royalty Interest (hereinafter  
referred to as R. I.);

E. T. O'Daniel - 7/40 of 1/8 R. I;

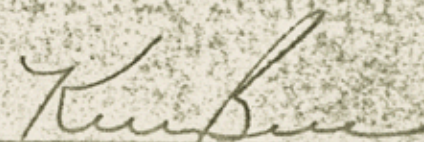
O. D. O'Daniel - 7/40 of 1/8 R. I;

Udonia Bass and husband, A. C. Bass - 7/40 of 1/8 R. I;

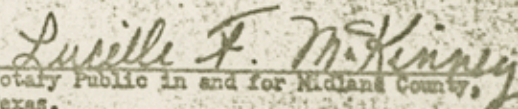
Mary E. Brown and husband, J. E. Brown - 7/40 of 1/8 R. I;

Ray Echols and husband, Leroy Echols - 7/40 of 1/8 R. I;

and that the premises described in the petition herein adjoin and overlap and/or are included in the land known as Section 42 and Susannah Wright Survey No. 3, identified above. See attached Exhibit "C".

  
Kelly Bell

SUBSCRIBED AND SWORN TO BEFORE ME this 9th day of June,  
1952, to certify which witness my hand and seal of office.

  
Notary Public in and for Midland County,  
Texas.

(S E A L)

County 31421

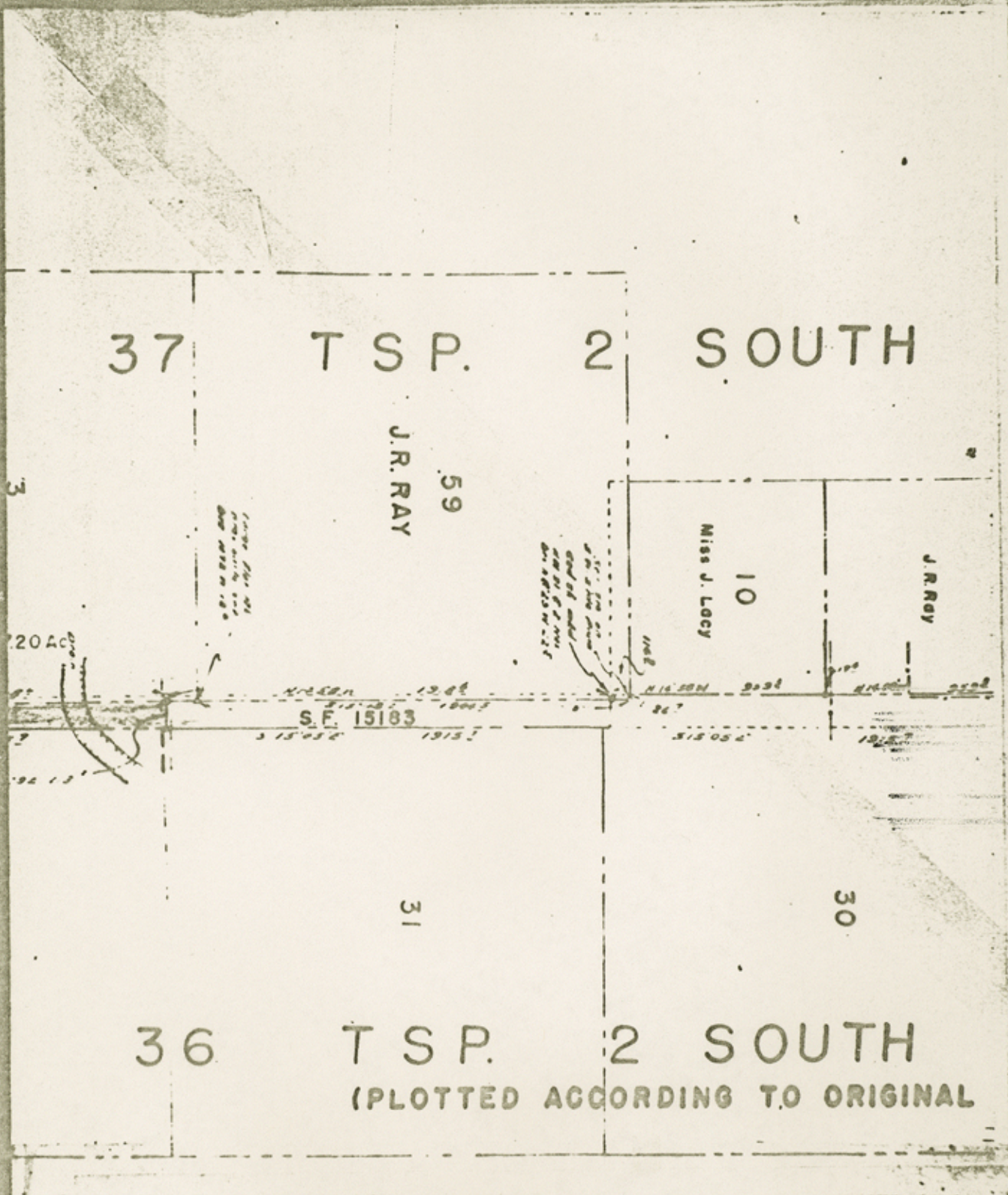


EXHIBIT "C"

Portion of Plat of Survey by Byron L. Simpson in MA 43004 (Township 2 South, Blocks 36 and 37, Midland County, Texas).

SUE. WRIGHT

42

B  
L  
O  
C  
K

B  
L  
O  
C  
K

4

SUE WRIGHT

43

Tract No 16-37

not an  
estate to be  
merged

116 1/2

S. F. 15182

470' 0"

Large part of property  
not in 509 22 H 274

116 1/2

116' 11" at cor post  
None data from 473  
570' 0" H 14-21-11  
Cor Rule 473 570' 0" H 22-5

B

B

0  
0

●  
●

Counter 31622

