

D-470

1405

Jasper, Texas  
March 17th, 1944

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

Re: Resurvey Abst. 406, Walter Starkey Survey,  
Newton County.

Dear Sir:

I herewith report that I made a resurvey of Abst. 406, Walter Starkey, Jas. Bounty No. 86, and found said survey to contain only 653.73 acres not in actual conflict on the ground with senior surveys as against 1280 acres called for in the original field notes and patent.

The Walter Starkey was originally surveyed by C. A. Nation on December 4th, 1872 and patented on September 24th, 1875 (No. 243, Vol. 15).

Aside from the large acreage shortage I would like to point out that:

First, the original field notes have been altered with no apparent authority and by persons unknown as far as the records are concerned;

Second, the field notes appearing in the patent of said survey differ in several instances from the original field notes;

Third, the endorsements on the original field notes and the file jacket suggest that the patent should be cancelled and corrected by new field notes;

Fourth, a letter from the General Land Office to C. H. Howard, dated March 5th, 1891 Correspondence Vol. 302, Page 316 and Mr. Howard's report to the General Land Office, dated February 2nd and 3rd, 1892 in file No. 215, Jasper Preemption, Abst. 768, Wm. Kinabrue Survey bear out the fact that a cancellation of the patent is in order.

The attached map is presenting my field work of the Walter Starkey Survey and reference is hereby made to the corner numbers corresponding with the description in this report.

In the original field notes C. A. Nation began his Walter Starkey survey as follows:

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"Beginning at a stake on E. Mansils W. line 85 varas N.  
40° W. of his S. W. corner from which  
A pine bears N. 31° E. 10 varas and  
A pine bears S. 76° W. 6.5 varas."

The field notes contained in the Starkey patent read as follows:

"Beginning at a stake on E. Mansils W. line 85 varas N. 11°  
W. from his S. W. corner, Pine brs. N. 31° E. 10 vrs.,  
Do. S. 76° W. 6.5 vrs."

I was unable to identify the Southwest corner of the E. Mansell by M. B. Lewis' bearings (April 23rd, 1840) but I located both bearings as made by A. DuBose in June 1884 for the T. J. Notgrass field notes and who says at the southwest corner of the E. Mansell: "(Bearings gone) made corner. . ."(Point 1).

From this corner I went N. 3° 21' W. 86.4 varas and found a location from which:

A pine stump 25" brs. N. 32° W. 10.0 vs. and  
A pine stump 18" brs. S. 77° W. 6.5 vs.,

thus identifying the original beginning corner of the Starkey Survey. (Point 2)

From point 2 I went W. and at 68.4 varas intersected the West line of the E. Mansell survey (15), continued same line West at 2837.1 varas from point 15 intersected at point 3 the east line of the Peter Anthony. The Peter Anthony was surveyed by M. B. Lewis in April 1840 and is therefore senior to the Starkey. Please note that the Starkey field notes call this distance to be 3853.0 varas and the Starkey Patent 4150.0 varas. Both distances call to go to the east line of the Peter Anthony Survey. The southeast corner of the Peter Anthony at point 21 is partially identified and well recognized.

From point 3 I went N. 0° 18' W. 1013.2 varas along a well marked and fenced line to point 4 which is the well recognized northeast corner of the Peter Anthony. C. H. Howard in his report to the General Land Office dated February 29, 1894 described this corner: ". . . his (P. Anthony) N. E. corner original brgs. gone but found brgs. thus, a pine x old is N. 30° E. 7.4 vs." At this location a pine stump brs. N. 30° E. 7.4 varas and an old fence corner from which a fence is running south and west brs. S. 60° 30' W. 1.8 vrs.

From point 4 I went S. 89° 16' W. 1215.9 vrs. with the north line of the P. Anthony Survey and along a fenceline to the southeast corner of the J. L. Baker Survey:

M. B. Lewis (4-22-1840): Pine S. 15° E. 2.0 vrs.  
Pine N. 64° W. 5.8 vrs.

C. A. Nation (12-4-1872): Pine S. 15° E. 2.0 vrs.  
Pine N. 64° W. 5.8 vrs.

Jas. G. Barker (1943): Pine stump hole S. 15° E. 2.0 vrs.  
Pine stump hole N. 64° W. 5.8 vrs.

C. H. Howard in his resurvey says:

"Thence W. with Anthony's plain line 1214 vrs. The southeast corner of J. L. Baker original brgs. gone found them thus, a pine N. 47° W. 2.8 vrs. and Do. S. 58° E. 3.2 vrs."

However I was not able to quite fit C. H. Howard's bearings.

From point 5 I followed a well marked line N. 0° 36' W. at 621.0 varas I found a branch (M. B. Lewis call 600.0 vrs. and C. H. Howard call 620.0 vrs.) and at 1448.6 varas at point 6 found the recognized northeast corner of the Wm. Kinnebrew Survey. C. H. Howard called for "A stake" at this point. (I was unable to locate the northeast corner of the J. L. Baker nor the southeast corner of the Wm. Kinnebrew).

From point 6 I west S. 89° 31' W. 17.0 vrs. to point 7 which is the recognized southeast corner of the J. A. Wilkinson Survey. M. B. Lewis had an oak and an ash for bearings and C. H. Howard found a stump hole for the oak and an ash S. 51° E. 7.6 vs. instead of S. 51° 30' W. 7.0 vs. Mr. C. A. Woods, former County Surveyor of Newton County made the following notation in his field book on this corner on August 26, 1908: "Ash S. 51° E. 7.8, old call for Ash S. 51° W. 7.6, Red Oak gone."

Though we did not find any evidence of the Ash, Mr. C. A. Woods checked this location and recognized same as he found it in 1908. The difference in length of the field note calls in the S. line of the Wilkinson and the Kinnebrew north line is 17 varas.

From point 7 I ran N. 1° 33' W. 495.1 varas (Field note call 500.0 for the E. L. of the Wilkinson) to the northeast corner of J. A. Wilkinson (point 8) where I partially identified his corner. C. A. Woods on August 26, 1908 gave one of the bearing trees (White Oak N. 27° E. 1.0) and another White Oak S. 80° W. 4.0 vrs. I found White Oak stump 22" N. 27° E. 1.0 and a White Oak stump 21" S. 78° W. 3.7 vrs. Found no evidence of Oak S. 41° 30' E. 4.0 (By M. B. Lewis) or Oak S. 41° 30' W. 6.0 (By C. A. Nation).

From point 8 I measured along the well marked south line of the Benjamin Williams survey east 273.3 varas to point 9 which is the recognized northwest corner of the E. Spencer Survey. (Abst. 404). No original bearings were found at this point. In Court case No. 99441, styled Houston Oil Company et al vs. Sam Irvine et ux, in District Court of Newton County, involving an encroachment in the northern part of this survey, a judgment was rendered on June 7th, 1922 in favor of the plaintiff and recorded in Vol. 25, Page 35 Deed Records of Newton

County, Texas, in which the location of the northwest corner of the E. Spencer was involved as follows: "Beginning at a stake for the northeast corner of the J. A. Wilkinson Survey, in the south line of the Benjamin Williams Survey, from which a White Oak Stump marked X bears north 22 east 1 vara, a White Oak marked X bears south 79° west 4 varas, and another White Oak marked X bears north 50 east 4.6 varas;

"Thence east with the south line of said Williams Survey and the north line of the Walter Starkey Survey, at 274 varas to a stake for corner, being the upper northeast corner of said Starkey Survey, and the northwest corner of the Elisha Spencer Survey, from which a White Oak marked X bears north 71 west 30.2 varas and a small black gum marked X bears south 31 east 14 varas;

"Thence south with the east line of said Starkey Survey and the west line of said Spencer Survey. . . ."

The bearings mentioned in the aforesaid judgment were all established by Mr. C. A. Woods, former County Surveyor of Newton County and were found by me at points 8 and 9.

From point 9 I went S. 0° 37' E. 1341.1 varas with an old line to the recognized southwest corner of E. Spencer at point 10. This distance is 120.1 vs. excessive over the field note distance of the E. Spencer west line.

Thence I went N. 89° 39' E. 1418.35 vs. (Spencer Field Notes 1677.0 vs.) and found the recognized southwest corner of Abst. 38, J. G. Bingham Survey at point 11. From this point N. 75° E. I found Caney Creek at 1400 vs. whereas his distance in the J. G. Bingham field notes by M. B. Lewis is called to be 1433 vs.

Returning to point 11 I measured S. 75° 37' W. 196.5 vs. (Starkey F/N call S. 75° W. 150.0 vs.) to the recognized northwest corner of the David McMahan (Abst. 327) No bearings are called for here.

Thence I followed a fence line S. 15° E. 777.2 varas to point 13, the well recognized southwest corner of David McMahan (Field note call in the D. McMahan S. 15° E. 727.0 vs.). However I was unable to find the two bearings mentioned in the original field notes by Thos. Smith for the southwest corner of the McMahan Survey.

From point 13 I measured the south line of the D. McMahan Survey N. 74° 45' E. 1431.25 varas (Field note call N. 75° E. 1410.0 vs.) and located at point 14 the original bearings called for in the D. McMahan's field notes by Smith, dated Nov. 12th, 1860 as follows:

Thos. Smith (11-12-1860): Pine S. 77° W. 8 vs.  
Pine S. 18° W. 7 vs.

Jas. G. Barker (1943) Pine stump hole S. 77° W. 8.0 vs.  
Pine stump hole S. 18° W. 7.0 vs.

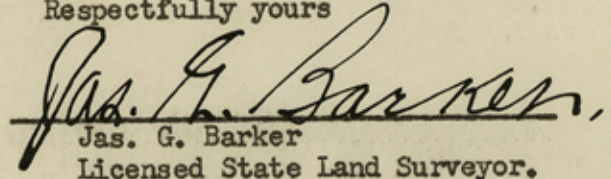
Thence I followed the well recognized W/L of E. Mansell S.  $40^{\circ} 25' E$ . 1556.5 vs. to the intersection of the southerly south line of the W. Starkey Survey (15) which point is west 68.4 vs. from the identified most southerly south-east corner of the original Starkey Survey (point 2).

CONCLUSION

Reviewing the files of the General Land Office and from the evidence found on the ground it is obvious that neither the original field notes nor the field notes contained in the patent conform with the conditions found to exist on the ground.

It is therefore recommended that the patent to the Walter Starkey Survey be cancelled and replaced by a new patent containing the accompanying corrected field notes which are based on an actual survey on the ground showing land not in conflict with other adjoining surveys.

Respectfully yours

  
Jas. G. Barker  
Licensed State Land Surveyor.



GENERAL LAND OFFICE  
JAN 8 - 1884  
RECEIVED

RECEIVED

APR 8 - 1944

GENERAL LAND OFFICE



Witnessed and attested my hand and seal this 13th day of April 1944.

Jas. G. Barker

*[Handwritten signature]*

Register of Deeds

with other adjoining parcels.

notes which are based on an original plat on the ground showing that not in conflict cancelled and returned by a new plat containing the accompanying collected plat.

If it therefore recommended that the same be returned to the holder thereof.

See Newton Co. Rolled Sk. 7 for Surveyors Sketch

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great corner of the original plat.

plat (12) which being to meet at the intersection of the

plat to be followed the map recorded

Sketch File No. 43

Newton County  
Jas. G. Barker's Report  
of Re-Survey of Walter Starkey

Filed April 13 1944  
Bascom Giles Com'r

W. von Rosenberg  
File Clerk

See Newton Co.  
Rolled Sk. 7 for  
Surveyors Sketch

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