

WALKER LAND SURVEYING

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Alpine, TX

79830

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David Dewhurst, Commissioner

By Douglas HowardSee RID. SK. 138

TO: The Honorable David Dewhurst
 Commissioner of the Texas General Land Office
 Date: July 1, 2000

SURVEY REPORT
 SOUTHWEST PRESIDIO COUNTY

This report concerns the location for patent of several tracts of land in G.H. & S.A. Ry. Co. Block 12, D. & P. Ry. Co. Block 3, Tex-Mex Ry. Co. Block 2 and T. & P. Ry. Co. Block 2. This survey is being conducted at the request of the owners of said lands, M. D. Bryant Family Trust, for issuance of patents. This report will discuss the survey history, retracement techniques and construction conclusions for each of the above Blocks of Surveys.

The following is a list of the various Blocks of Surveys in the order of their seniority which needed to be retraced in order to establish the proper location of the tracts involved.

<u>Orig. Grantee</u>	<u>Block</u>	<u>Surveyor</u>	<u>Date of Survey</u>
T. & P. Ry. Co.	2	(Original) L. E. Edwards	1873
T. & P. Ry. Co.	2	(Original ground survey) Murray Harris	1884
T. & P. Ry. Co.	2	(Re-survey) S. A. Thompson	1884
T. & P. Ry. Co.	2	(Re-survey) J. F. Baker	May, 1957
G.H. & S.A. Ry. Co.	12	(Original) L. E. Edwards	September, 1875
G.H. & S.A. Ry. Co.	12	(Re-survey) J. B. Ammerman	May, 1889
D. & P. Ry. Co.	3	(Original) Dan Buckley	June, 1880
Tex-Mex Ry. Co.	2	(Original) W. J. Glenn	June, 1882
Tex-Mex Ry. Co.	2	(Re-survey) Paul Hesse	October, 1890

T. & P. Ry. Co. Block 2

ORIGINAL SURVEY

Beginning in 1852, land grants were made to railroad companies for the laying of track. In 1854, a General Railroad Act was passed that granted to any railroad company that would lay twenty five miles of track, 16 sections of land per mile. It was the responsibility of the railroad company to locate the land, while also locating a like amount for the State. These lands were usually surveyed in Blocks of Surveys, or Sections, of 640 acres each., the odd numbered Surveys being granted to the railroad and the even numbered Surveys reserved to the State.

T. & P. Ry. Co. Block 2 borders the Rio Grande river, which is considered a navigable stream. Texas law states that all lands lying on navigable watercourses "shall front one-half of the square on the watercourse and the line running at right angles with the general course of the stream, if circumstances of the lines previously surveyed under the laws will permit." This means that the distance along the water course is half that of a square Survey or Section, or 950 varas, and the lines running away from the watercourse would be approximately 3800 varas long to make 640 acres.

T. & P. Ry. Co. Block 2 was originally surveyed and field notes returned by L. E. Edwards in 1873. Due to the lack of any definitive calls for monuments, it is believed that Mr. Edwards was not on the ground in this Block.

In 1884, Murray Harris traversed along the Rio Grande and established many of the river corners of the various Surveys in Block 2. Mr. Harris' field book no. 135 is on file in the General Land Office and offers a detailed description, both in pictures and words, of his traverse along the river with the monuments set and witnesses established. As with all surveyors of the time, the instrument Mr. Harris used for running his lines would have been a large compass, with the declination, or difference between magnetic North and true North, set in.



Since the time of Mr. Harris' traverse, the Rio Grande river and its banks have changed considerably in the area of Block 2. For one thing, due to damming and irrigation, the level of the water upstream from Presidio has diminished. Another is the presence of the saltcedar tree, which was introduced in the middle part of the 1900's to help curb erosion along the river. The saltcedar tree is a fast growing tree with an enormous thirst which has taken over and choked the banks of the Rio Grande in this area. At the time of Mr. Harris' work, the river bank was easily traveled and was populated mainly by cottonwoods, to which he made many witness ties as he established the various Survey corners. Today, much of the entire floodplain of the Rio Grande in the vicinity of Block 2 is thickly covered by saltcedar, making access to the riverbank difficult in places, impossible in others. Other changes to the river include flooding and a re-channeling project carried out by the Army Corps of Engineers in the late 1970's and early 80's.

Although the numerous changes to the Rio Grande, both natural and man-made, have altered the river and its banks, there are still stable banks, unchanged because of their geologic structure. It is along these stable banks that some of Mr. Harris' original monuments can be recovered. This recovery is also helped by the fact that Mr. Harris tended to traverse the upper banks of the river away from the actual water's edge, although this was not always the case. This can be seen in Mr. Harris' field book no. 135 quite well due to his detailed topographical depiction of his traverse. Also, many of the bearing calls taken by Mr. Harris to distant natural objects both in Mexico and the United States can be observed today.

In October of 1884, S. A. Thompson, Presidio County Surveyor at the time, wrote Corrected Field Notes, for Block 2. Most patents in Block 2 were issued on these Corrected Field Notes. Mr. Thompson adopted the work of Mr. Harris but changed the numbers of the Surveys as follows: Murray Harris Survey number 50 would be S. A. Thompson number 52.

SURVEY BY J. F. BAKER, 1957

In 1957, J. F. Baker, Licensed State Land Surveyor, surveyed and wrote Corrected Field Notes for Surveys 14 through 18, Block 2. The patents to these Surveys that were issued based on S. A. Thompson's Corrected Field Notes were cancelled and new patents issued on the Notes of Mr. Baker.

In his effort to retrace Mr. Harris in this area, Mr. Baker found several of Mr. Harris' monuments and made a rather curious discovery: apparently Mr. Harris was running on courses that were about 5deg.30 minutes left of true. This rotation can be verified by finding and occupying of Mr. Harris' recovered monuments and observing a bearing to the same natural object called for in Mr. Harris' field book and subsequent Corrected Field Notes of S. A. Thompson. This presents a situation that was dealt with by Mr. Baker in his re-survey and is also dealt with at this time.

CONCLUSIONS AND CONSTRUCTION

Since the time of Mr. Harris and Mr. Thompson's surveys, all subsequent surveyors in Block 2 have attempted to locate the monuments set by Mr. Harris and retrace the lines run by him. Following the footsteps of the original surveyor is one of the most cardinal rules of retracement in all Texas surveys. Where the original surveyor actually ran his lines and set his monuments control over where he **thought** he ran said lines and set said monuments.

As stated earlier, Mr. Baker discovered that Mr. Harris was apparently running along courses which were approximately 5deg.30' left of true. This is evident from Mr. Baker's plat and Corrected Field Notes on file in the Presidio County Survey Records and the records of the General Land Office.

As can be seen on the plat accompanying this report, we have also located several of the monuments of Mr. Harris and have turned to the natural objects referred to by him. These monuments are described on said plat, with the State Plane bearings observed as well as the bearings called for by Mr. Harris (converted to State Plane) recited.

The question then became: If Mr. Harris was indeed running along courses that were approximately 5deg.30' left of true, how far up or down river in Block 2 did this situation extend? Block 2 extends from about five miles downstream from the town of Candelaria to about 35 miles upstream. As can be seen on our plat, the bearing relationship between Mr. Harris' call bearings to natural objects (State Plane) and the observed bearings at the Northwest corners of Surveys 4, 13 and 18 reflect a consistent variance of an average of 5deg.38' left of true bearing. Other monuments called for by Mr. Harris were recovered as shown but his witnesses were cottonwood trees which have long since vanished.

(PAGE 2 OF 7)



counter 34935

Up river from the Northwest corner of Survey 18 there were several calls for monuments by Mr. Harris and Mr. Thompson. After a thorough search for each one, where physically permissible, it was concluded that they have been destroyed. However, to further prove the existence or non-existence of the approximate 5deg.30' bearing variance from true, a position for each of the monuments along the river called for by Mr. Harris was calculated along his river traverse calls, incorporating a 5deg.38' variance left of true, which I believe is the best **average** variance from call, based on the relationship of his call bearings to sharp natural monuments and the observed bearings. Also incorporated into the calculated positions of said corners was a 2deg.47' theta angle, an average for Block 2, to effectively establish State Plane coordinates on said corners. By triangulation, State Plane coordinates of the natural objects called for (an example being the "natural bridge in Mexico" which is called for at the Northwest corners of Surveys 26 and 28), can be established. Then from the calculated coordinates of the positions of the destroyed corners to the positions calculated for the natural objects called for, a reasonable reconstruction of the bearing relationship between the calls of Mr. Harris and true can be ascertained. As can be seen, the variance of approximately 5deg.38' left of true is still "observed" at the Northwest corners of Surveys 26 and 28.

The next monument found called for by Mr. Harris with bearing calls to distant natural objects is the Northwest corner of Survey 38. From this rock mound on the high bank of the Rio Grande, Capote peak can be seen crisply. Although Chinati peak was also called for, it is very round-topped and not a crisp observation point. Our State Plane bearing to Capote peak from this rock mound is S.71deg.57'E. while Mr. Harris' call is S.71deg.28'E. (State Plane), or a difference of 0deg.29' left of true. This would indicate that Mr. Harris was back on true, or nearly so, at some point between the Northwest corner of Survey 28 and the Northwest corner of Survey 38.

By calculating downstream from the Northwest corner of Survey 38 along bearings that incorporated a rotation of 0deg.29' left of call and calculating upstream from the Northwest corner of Survey 18 along bearings that incorporate a variance from true of 5deg.38' left of call, positions of the various Survey corners can be established. By plotting these positions, theoretically the point where the bearing "shift" occurred will become apparent. This turned out to be the Northwest corner of Survey 30. The relationship between the position of this point calculated downstream from the Northwest of Survey 38 to the same point calculated upstream from the Northwest corner of Survey 18 was within about 300 feet apart.

At this point Mr. Harris calls for a "stone mound on small sandstone ridge at foot of smooth earth, one large sandstone rock marked "X". At this location we found what I believe to be Mr. Harris' monument. Although one large sandstone rock was found in a stone mound as described, no marked "X" could be seen. Unfortunately, Mr. Harris had no bearing calls from this point with which to make a comparison. This situation leaves us with a rather unique situation: the original locating surveyor ran out Block 2 along two very different sets of bearings. Therefore, in order to perpetuate Mr. Harris' footsteps, two very different bearings must be incorporated in our construction.

The retracement technique for the part of Block 2 from the Northwest corner of Survey 10 to the Northwest corner of Survey 30 is:

1. From the monuments called for by Mr. Harris along the river calculate back along a bearing which reflects the average consistent variance from true call 5deg.38' left of true (N.47deg.09'E. State Plane) the distance calls to establish the back corners of those particular Surveys
2. By proportioning along the river at right angles to this bearing (S.42deg.51'E.), the distances for each individual Survey can be established.
3. The relationship between the total offset calls in the field notes and the total offset found to exist between the back corners as established by the above technique is proportioned and added to or subtracted from each of the back offset calls. This will establish the back lines of Block 2.
4. From these back positions, the "side lines" of the various Surveys are established along the above mentioned bearing of N.47deg.09'E. **to the river bed as it exists today.** The bed of the river along the banks must be established by the Gradient Boundary method to separate the State owned bed from the upland.

The retracement technique for the part of Block 2 from the Northwest corner of Survey 30 to the Northwest corner of Survey 38 is:

1. From the monument found for the Northwest corner of Survey 38 calculate back along a bearing which represents the variance of 0deg.29' left of call (N.52deg.18'E.) the record distance to establish the Northeast corner of said Survey 38.
2. From the monument found for the Northwest corner of Survey 30 calculate back along the above bearing the call distance to establish the Northeast corner of Survey 30.
3. By proportioning by the above described technique for the width of each Survey and the offset distances along the back lines, each Survey is constructed.



Survey 31 is patented, Survey 30 is not. Therefore, that portion of Survey 30 in conflict with Survey 31 must yield to the position of said Survey 31.

G.H.& S.A. Ry. Co. Block 12

ORIGINAL SURVEY

G.H.& S.A. Ry. Co. Block 12 was originally surveyed and field notes returned by L. E. Edwards in September of 1875. The field notes of Mr. Edwards call for adjoiners to H.& T. C. Ry. Block 4. There are no other calls for adjoiner, other than to the various Surveys within the Block. Also, Mr. Edward's field notes have no calls for identifiable monuments, only calls for "stk & mnd" and an occasional "earth mound". Therefore, it is believed that Mr. Edwards was not on the ground in Block 12.

CORRECTED SURVEY

The Act of 1887, authorized the Commissioner of the General Land Office to have lands in which the State had an interest to be re-surveyed and located on the ground. In 1889, J. B. Ammerman, re-surveyed and wrote Corrected Field Notes for most, though not all, of Block 12. R. M. Hall, Land Commissioner at the time, approved and cosigned these Corrected Field Notes. Mr. Ammerman's notes, like those of L. E. Edwards, also have calls to adjoin H.& T. C. Block 4, but no others. These notes also contain numerous calls for specifically described monuments, mostly rock mounds with marked rocks, set during the course of Mr. Ammerman's re-survey. Many of these monuments are in existence today and where they can be found, they provide the framework for retracing the location of Block 12.

By the Act of 1854 mentioned earlier, G.H.& S.A. Ry. Co. was awarded patents to the odd numbered Surveys in Block 12, with the even numbered Surveys reserved to the State. However, in the judgement rendered in STATE VS. G.H.& S.A. Ry. Co., Brewster County District Court, 1893, Cause no. 101, the State recovered the railroad Surveys in, among others, said Block 12. These Surveys were reclassified as School Land and re-patented accordingly. These subsequent patents are based on the Corrected Field Notes of Mr. Ammerman and those surveyors who properly perpetuated his locations.

The Western part of Block 12 is spanned roughly North and South by the Sierra Vieja Rim. This is a very high, steep bluff. All of the monuments called for by Mr. Ammerman are on top of this high rim, with the exception of two called for at the Southwest corner and the Southeast corner of Survey 95 near the mouth of Capote canyon. These positions are near the bottom of the Old Mail Road, which was used at the turn of the century, and later, to bring mail from Mexico up to the top of the rim to the Post Office on the Brite Ranch. This old road was the only way off of the top of the Vieja Rim in this area. This, and the fact that Mr. Ammerman did not write Corrected Field Notes for the Southwestern part of Block 12, may explain why no other monuments are called for in this area.

In his Corrected Field Notes for Survey 125, Mr. Ammerman calls for a "stake in canyon for the NE cor. of this survey whence a RM on S. bank of canyon one rock mkd. S 37 v NE 125 brs. South 37 vrs. From said RM a sharp peak in valley brs. S.83deg.45'W. Black rock on top of yellow rocks brs. N.41deg.40'E. Red point over Black hills brs. S.73deg.55'E." The Northeast corner of Survey 125 is also the Southwest corner of Survey 95. This reference mound was located on the ground for this survey and will be discussed later in this report.

From the above Northeast corner of Survey 125, Mr. Ammerman calls to proceed "East at 520 vrs. point in all 1900 vrs. to a stake from which rock monument ... brs. N.21deg.09'E. 208 vrs. a boulder marked "X" brs. N. 67deg.14'E. 480 vrs. another standing in field brs. N.75deg.48'E. 351 vrs." Mr. Ammerman then proceeds "North at 272 vrs. cross creek..." In the vicinity of this corner the rock marked "X" was located for this survey and will be discussed in the conclusions for Block 12 below.

CONCLUSIONS AND CONSTRUCTION

As stated earlier in this report, the monuments and calls of J. B. Ammerman serve as the framework from which to locate the various Surveys in Block 12. The Surveys that we are interested in locating and describing for this survey on lie along the Western two tiers of Surveys. As can be seen on the plat accompanying this report, we have located the necessary monuments of Mr. Ammerman that will serve to locate this part of Block 12.

(PAGE 4 OF 7)



counter 34937

In an attempt to best follow Mr. Ammerman's footsteps, it is necessary to look at the relationship of the bearing calls between the lines run and his bearing calls to natural objects to true bearings. In other words, if the field notes call for running "South" from one monumented corner to the next, what is the true bearing along that line? Likewise, if Mr. Ammerman recited a witness bearing from a monumented corner to a natural object, such as a mountain peak, how does that call bearing relate to a true bearing recorded from the same spot. By examining this relationship, it is possible to determine if Mr. Ammerman was running along courses that consistently varied from true. I believe that the evidence indicates that Mr. Ammerman was, in fact, running along lines that, for the most part, consistently varied an average of 0deg.30' left of true. This variance can be noted on the plat accompanying this report between found monuments. The courts have stated that if "no uniform variance from true course is found.....lines should be run on true course". (BROOKS vs. SLAUGHTER, 218 SW 623) Conversely, however, if a consistent variance is found, it would seem necessary to perpetuate this variance in order to more closely follow the surveyors' footsteps. Similarly, the courts have stated "that method of constructing the line should be adopted which will present an arrangement of several surveys as nearly identical with that shown by the original map as possible, instead of an observance of courses and distances, which would result in the destruction of the original configuration of the surveys." (LYON vs. WAGGONER, 83 SW 46) By incorporating this variance into the calculations, the integrity of the Block is best preserved.

The rock mound called for by Mr. Ammerman to be 37 varas South of the Southwest corner of Survey 95 was found intact. The bearing calls of Mr. Ammerman to natural objects check, proving that this mound is in its original, undisturbed position. However, it is badly out of position from a construction based on other existing monuments and must be disregarded in order to maintain a reasonable reconstruction of the Block.

In the vicinity of the Southeast corner of said Survey 95 we find no monument for the actual corner. Mr. Ammerman's notes call only for a "stake" at this point, not a rock mound. We do, however, find the rock at the North end of rock corral marked "X" called for by him to be N.67deg.14'E. 480 varas from said corner. Often, these witness calls can be locative of the actual corner. In other words, if the actual corner is not available, but a nearby witness is, the calls to that witness can be "backed in" to re-establish the position of the actual corner. However, if said witness can be considered unreasonably far from the corner, it may not be held to be locative. In this case, the marked rock is called to be 480 varas away, which is a quarter of a mile, across Capote creek and I believe should not be considered locative of the Southeast corner of Survey 95. A position for said Southeast corner established from existing Ammerman monuments utilizing the variance mentioned above will locate said corner in a position that reasonably matches Mr. Ammerman's call North to Capote creek (call= 272 varas, actual= about 250 varas) and the bearing to the marked rock, although the distance to said rock is somewhat shorter than call. Our actual tie to the marked rock from the calculated point for the Southwest corner of Survey 94 is N.63deg.50'E. 355 varas.

Finally, although other evidence in the Northeastern part of Block 12 may dictate a somewhat different approach to re-tracing Mr. Ammerman's footsteps in that area, I believe that the above construction approach to that part of the Block in the area of concern for this survey is best served by the above approach.

The Northwest corner of Survey 115 is established along the same course between the Ammerman monument at the Northeast corner and his line mound on the Vieja Rim call distance. The West line of Block 12 is established by intersection of said Northwest corner of Survey 115 and the Ammerman monument found for the Southwest corner of Survey 22 along a bearing of N. 2deg.15' E. (State Plane) and S.87deg.45'E.

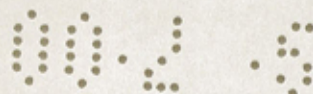
D.& P. RY. CO. BLOCK 3

D.& P. Ry. Co. Block 3 was originally surveyed by Dan Buckley in June, 1880. The field notes of Mr. Buckley for Survey 1 call for the Southeast corner to begin at the Southwest corner of Survey 123, G.H.& S.A. Block 12. There are no other calls for adjoiner in Block 3 except for the calls to other Surveys within the Block nor are there any calls for identifiable monuments or witnesses.

CONCLUSIONS AND CONSTRUCTION

As with other D.& P. Blocks in the area, it is believed that Mr. Buckley was not on the ground in Block 3. Without any evidence to the contrary, it is believed that Block 3 must be laid out beginning at the previously established position of the Southwest corner of Survey 123, Block 12, along the call courses of North-South and East-West 1900 varas per Survey, with true North being established at said beginning point.

As can be seen on the plat accompanying this report, because of the difference in bearings, as the East line of Block 3 is projected Northward, it increasingly conflicts with, and must yield to, the West line of the senior Block 12. This situation is very similar to the one that exists between D.& P. Block 2 and G.H.& S.A. Block 5 a few miles South of Block 12 as surveyed by Malcom Bamburg, LSLs, in 1992 and accepted by the General Land Office.



Since Survey 8, Block 3, and Survey 116, Block 12, are even numbered School Surveys, and both are unpatented, it is the date of the award from the State which would determine seniority. However, they were both awarded to the same person on the same date, May, 1926. Since G.H. & S.A. Block 12 is senior to D. & P. Block 3, this would dictate that the East half of Survey 8, Block 3, would yield to the West half of Survey 116, Block 12. Both the East half of Survey 8 and the West half of Survey 116 are being patented at this time.

TEX-MEX RY. CO. BLOCK 2

Tex-Mex Ry. Co. Block 2 was originally surveyed by W. J. Glenn in June, 1882. Mr. Glenn's field notes call to adjoin both G.H. & S.A. Block 12, D. & P. Block 3, T. & P. Block 2, Tex-Mex Ry. Co. Block 1, also surveyed by Mr. Glenn. It was discovered, however, that the configurations of Mr. Glenn's Surveys in Block 2 conflicted greatly with the position of T. & P. Block 2. Since no definite monuments were called for, it is believed that Mr. Glenn was not on the ground in Block 2.

CORRECTED SURVEY

From June, 1890, to August, 1890, Paul. Hesse, State Surveyor, ran a connecting line from the Southwest corner of the Louis Fuentes Survey, through D. & P. Block 1, to S. A. Thompson's monument for the upper river corner of Survey 1, T. & P. Block 2. He continued up-river to Mr. Harris' monument for the lower river corner of Survey 11, T. & P. Block 2, and up Capote creek to the Northeast corner of Survey 92, G.H. & S.A. Block 12, where he tied in the marked rock at the North end of the rock corral called for by Mr. Ammerman. This connecting line is important because I believe that it establishes the premise that Mr. Hesse was in a position to know where the locations of these Blocks were. Also, Mr. Hesse's Plat of Tex-Mex Block 2 on file in the General Land Office indicates that he intended to adjoin D. & P. Block 3 and T. & P. Block 2. Most of the patents issued in Block 2 were issued on the Corrected Field Notes of Mr. Hesse.

In September of 1890, Mr. Hesse wrote Corrected Field Notes for Block 2. Mr. Hesse's configuration of Tex-Mex Block 2 called to adjoin G.H. & S.A. Block 12, D. & P. Block 3 and T. & P. Block 2. The Corrected Field Notes of Mr. Hesse call for several rock mounds having been set, with definite descriptions and bearing calls to distant objects, indicating that he was, in fact, on the ground in this Block. These notes of Mr. Hesse were accepted by the General Land Office and cancelled the notes of W. J. Glenn in Block 2.

SURVEY BY PERRY THOMPSON

From November of 1961 till September of 1962, Perry Thompson did an extensive re-location survey in the vicinity of Tex-Mex Block 2. Mr. Thompson's plat is Rolled Sketch 105A in the General Land Office. Mr. Thompson located Mr. Ammerman's monuments in G.H. & S.A. Block 12, Mr. Harris' monuments in T. & P. Block 2 and Mr. Hesse's monuments in Tex-Mex Block 2. The conclusion of Mr. Thompson's survey was that Tex-Mex Block 2 did **not**, in fact, adjoin D. & P. Block 3 nor T. & P. Block 2 and therefore several Vacancies were created between said Blocks. Mr. Thompson wrote field notes for these Vacancies and some were subsequently patented from these notes in 1963.

U. S. DISTRICT COURT CASE

L. L. MCQUIRE VS. JERRY SADLER, TEXAS LAND COMMISSIONER, ET. AL.
CIVIL NO. 1313
JUNE 13, 1967

This case was tried in United States District Court and was, essentially, a case to determine the existence or non-existence of the above vacancies **after** they had been patented. The Judgement of said case states:

"The Findings of Fact and Conclusions of Law of the Special Master are adopted by the Court..."

"All proceedings in the land vacancy applications of M. D. Bryant, Nos. S. F. 16105, 16106, 16107, Presidio County, Texas, including but not limited to, the applications, hearings, decisions of the Land Commissioner, awards, sales, and patents, the record of the awards in the Presidio County Deed Records, in Vol. 165, at pages 245, 246, and the record of the patents in Vol. 127, Patent Records Presidio County, at pages 537-549, the Perry Thompson surveys, reports, plats field notes, be and the same are declared to be null and void and are cancelled and set aside in their entirety."

"All lands in Presidio County, between the senior Blocks, Texas and Pacific Block 2 and 5 on the West and Dennison and Pacific Ry. Block 3, Galveston, Harrisburg & San Antonio Ry. 12, Texas Mexican Ry. Block 1, and Martha A. Martin on the East, are part of and included in Texas Mexican Block 2. And there are no vacant unsurveyed lands as described lands as defined by Article 5421c, Vernon's Texas Civil Statutes between the above mentioned senior Blocks."

"All such described vacancy proceedings are declared to be of no force and effect....."

It is apparent from this decision that the court believed that the alleged Vacancies described by Mr. Thompson did not exist and, although patented, were null and void.



CONCLUSIONS AND CONSTRUCTION

From the time of Mr. Hesse's Corrected Field Notes and plat of Tex-Mex Block 2 in 1890, subsequent surveyors have based their surveys in Block 2 on a retracement of Mr. Hesse's configuration and monuments. Also, since the General Land Office cancelled the original field notes of W. J. Glenn in favor of the Corrected Field Notes of Mr. Hesse, and has issued many patents in this Block based on these notes, the same approach has been followed for this survey.

In the area of our concern, we have located the necessary Hesse monuments to reconstruct the Surveys to be patented at this time; these being Surveys 32, 38 and 40. As the plat accompanying this report will indicate, I have proportioned the North-South distance between Mr. Hesse's rock mounds found for the Northeast corner of Survey 40 and the Northwest corner of Survey 30 to establish the Southeast corner of Survey 40 and the Southeast corner of Survey 39, with the Southeast corner of Survey 31 being established call distance South of said Northwest corner of Survey 30. The Northwest corner of Survey 40 is established from Mr. Hesse's found witness mound the call 8 varas East. From said Northwest corner of Survey 40 a line run South parallel to the East line of Surveys 39 and 40 to intersect with a line run on a true West bearing (A State Plane bearing established near the center of Tex-Mex Block 2) from the Southeast corner of said Survey 39 establishes the position of Surveys 39 and 40 as located by Mr. Hesse as well as the East line and Southeast corner of Survey 38. The distance calls of Mr. Hesse from the Southeast corner of Survey 38 to the Northwest corner of Survey 40 are proportioned to establish the Northeast corner of said Survey 38. From this Northeast corner of Survey 38 a line run said true West bearing to intersect the Easterly line of T. & P. Block 2 establishes the North line of Surveys 37 and 38. This is in keeping with the adjoiner calls of Mr. Hesse to T. & P. Block 2 as well as the court decision discussed earlier in this report. From the Southeast corner of said Survey 38, a line run true West to intersect said East line of T. & P. Block 2 establishes the South line of Surveys 37 and 38. The call distances of Mr. Hesse for the South lines of said Surveys 37 and 38 is proportioned to establish the Southwest corner of Survey 38 and the Southeast corner of Survey 37. From this Southwest corner of Survey 38, a line run North parallel to its East line establishes the location and dimensions of Surveys 37 and 38.

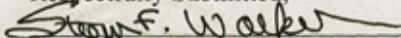
From the Southeast corner of Survey 31, a line run on said true West bearing to intersect the East line of T. & P. Block 2 establishes the South line of Surveys 31 and 32. The distance calls of Mr. Hesse for the South line of said Surveys are again proportioned to establish the Southwest corner of Survey 31 and the Southeast corner of Survey 32. Note that the Perry Thompson survey stopped the Western position of Surveys 32 and 37, as well as several others, at the distances called for in Mr. Hesse's Corrected Field Notes and did not extend them to adjoin T. & P. Block 2, thus creating a Vacancy between the two Blocks. Although it has often been a position taken by Texas courts to reject a call in the field notes of a junior Survey to adjoin a senior Survey if the court believed that the adjoiner call was made by conjecture, that was not the position taken by the US District Court case mentioned above. Also, as stated earlier, Mr. Hesse did tie into T. & P. Block 2 in his 1890 connecting line, indicating that he was in a position to know the location of that Block.

As can be seen on the plat, if the monuments of Mr. Hesse are used to control the final location of the above mentioned Surveys, a gap would be created between the East line of Surveys 39 and 40 and the West line of Surveys 35 and 36, D. & P. Ry. Co. Block 3. This was exactly what the Perry Thompson survey concluded and the Vacancies thus created and patented were the subject of the US District Court case discussed earlier. Therefore, in accordance with said case, the final construction of Surveys 39 and 40 must close this gap between Tex-Mex Block 2 and D. & P. Block 3 as well as T. & P. Block 2 while still maintaining a construction based as much as possible on the monuments and calls of Mr. Hesse, whose Corrected Field Notes cancelled the original field notes of W. J. Glenn. This has been accomplished by the following method:

- (1) The South lines of said Surveys 39 and 40 extend Easterly to intersect the West line of Surveys 35 and 36, D. & P. Block 3.
- (2) From a point established for the Northwest corner of Survey 40 from Mr. Hesse's witness monument as mentioned above, a line is run to connect to the Southwest corner of Survey 37, D. & P. Block 3. This method would be in accordance with said court decision by effectively eliminating any gap between the tow Blocks while maintaining as near as possible a construction incorporating the monuments and calls of Mr. Hesse.

The above methods of construction in all Blocks are based on instructions from the Surveying Department of the General Land Office. It should also be noted that while this survey conforms to the decision of the court, other patents in Tex-Mex Block 2 that were issued on the Corrected Field Notes of Mr. Hesse would need to be corrected to conform to said court decision.

Respectfully Submitted,



Steven F. Walker

Licensed State Land Surveyor

Date: July 1, 2000



WALKER LAND SURVEYING

104 E. Ave. "B"
Alpine, TX
79830
915-837-7272

TO: Roy Molina

RE: Patent Field Note Corrections

DATE: September 23, 2000

I hereby authorize the General Land Office to make the following corrections to my FIELD NOTES and CORRECTED FIELD NOTES filed in Presidio County Corrected Field Note Records on August 15, 2000.

(1) FIELD NOTES of Southwest $\frac{1}{4}$ of Survey 96, G.H. & S.A. Ry. Co. Block 12, Vol. 9, P. 257:

3rd line down from BEGINNING:

READS: "...WALKER 4425" set for the Northeast corner of said Survey 123..."

SHOULD READ: "...WALKER 4425" set for the Northeast corner of the South $\frac{1}{4}$ of said Survey 123....

(2) CORRECTED FIELD NOTES of Survey 107, G.H. & S.A. Ry. Co. Block 12, Vol. 9, P. 269:

1st line down from BEGINNING:

READS: "A point for the common corner of Surveys 107, 108, 117 and 118, said Block 12"

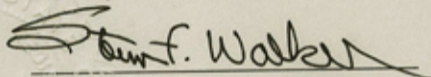
SHOULD READ: "A point for the common corner of Surveys 104, 107, 118 and 119, said Block 12"

(3) FIELD NOTES of Northeast $\frac{1}{4}$ of Survey 123, G.H. & S.A. Ry. Co. Block 12, Vol. 9, P. 279:

3rd line down from BEGINNING:

READS: "...WALKER 4425" set for the Northwest corner of the Southeast $\frac{1}{4}$ of Survey 96..."

SHOULD READ: "...WALKER 4425" set for the Northwest corner of the Southwest $\frac{1}{4}$ of Survey 96..."



Steven F. Walker
Licensed State Land Surveyor
Date: September 23, 2000

File No. SKETCH FILE 120A County

PRESIDIO

CORRECTIONS TO FIELD NOTES

Date Filed: SEPTEMBER 27, 2000

By David Dewhurst, Commissioner
Douglas Howard

See Rld. SK. 138