

See Rolled 56.8

D. 909

202½ W. ERWIN

OFFICE 4.7691
RES. 2.0034

RECEIVED
APR 28 1959
General Land Office

JOHN COWAN
LICENSED STATE LAND SURVEYOR
REGISTERED PUBLIC SURVEYOR
TEXAS - LOUISIANA

TYLER, TEXAS
April 17, 1959

RE: SF-16006, Asa M. Boles 55.67
Acres, Good Faith Claimant
Application, Rusk County,
Texas, Shiloh Area

SURVEYOR'S REPORT #45

Hon. Bill Allcorn, Commissioner
General Land Office
Austin, Texas

Dear Sir:

This filing affects a possible vacancy between the Abner Nail and Charles McKay Surveys in Rusk County. Both of these surveys were laid down by M. H. Wadsworth.

In order to more clearly present the problem I am submitting two maps. The first is a working sketch made from the records of the General Land Office and the second is a map showing the results of my ground survey.

MAP I - WORKING SKETCH

The preparation of this map was fairly simple. All of the surveys, except the James Bates, were platted in accordance with their field notes. The Bates was platted about 80 varas excessive in its east-west direction because of the calls in the John Weigl field notes.

Surveyor S. H. Hunt ran out the John Weigl in 1903 and his field notes were accompanied by a special sketch and a letter of detailed explanation of his findings. He found five of the original corners of the senior surveys that he was retracing. He also found the west line of the James Bates Survey on the ground 130 varas east of the east line of the Francis M. Hudman. To place the Bates west line as described by Surveyor Hunt requires approximately 80 varas excess in the north and south lines of the Bates. I have, therefore, relied upon Surveyor Hunt's statement in platting the west line of the Bates.

From the working sketch you will note that Surveyor M. H. Wadsworth laid down four surveys during the first six months of 1851 that were subsequently patented on his field notes. These were, in the order of seniority, the James Bates, James Luxton, James H. Smith and Abner Nail.

Of particular importance to this problem is the fact that Wadsworth laid down, or left room for, a 320 acre survey for Charles McCoy. The field notes on the James Luxton south line recite a call to pass the northeast corner of the McCoy 320 acre survey at 580 varas. The field notes on the Abner Nail call to go

counter 35591

around a 320 acre survey (1505 by 1200 varas) for Charles McCoy. There is no record in the General Land Office, nor in the Rusk County Surveyor's Records of such a survey. Hence, it is problematical whether or not Wadsworth or somebody else actually ran out the 320 acre survey for McCoy. There is no question that he intended to leave room for it when he described the Abner Nail. *(McCoy certificate for 320 a. - 120 a. bal. re-located Jan. 3. 3363)*
- G.L.O. note 6/5/59 V.E.S.

Further study of the working sketch reveals that Wadsworth did not know the relationship of the James Luxton with respect to the Villareal at the time of his survey of the Abner Nail. The records clearly indicate a conflict of Wadsworth's work with the senior Villareal Grant.

The 320 acre survey for Charles McCoy, as allowed for or run out, is shown by brown outline on the working sketch. The areas of conflict, the Nail and McCoy, with the Villareal are shown crosslined in yellow.

Further reference to the sketch shows that Wadsworth came back about two years later, in August 1853, and laid down the Charles A. McKay 200 acre survey. He apparently discovered the conflict of his earlier work with the Villareal because he shortened the east-west measurements about 100 varas. He made no effort to take up all the space previously left for the McCoy. The patented Charles McKay, therefore, does not occupy, according to the record, the area left by Wadsworth when he ran out the Abner Nail. The area between the patented Charles McKay 200 acre survey and the Abner Nail is shown shaded in blue and covers about 100 acres.

Before going on the ground I expected to find discrepancies similar to those shown on the record map.

MAP II - SURVEY PLAT

As shown by the survey plat I did sufficient ground work to establish the James Luxton, Charles McKay and M. D. Falkner surveys in their entirety. Portions of the Villareal, Hudson and Nail were also run.

I found no original survey corners and only three original deed corners. The deed corners are shown by small red circles at points A, B and C.

All of the survey boundaries except the east line of the James Luxton and lines D-E and E-F of the Abner Nail have been established in accordance with the three original deed corners and occupation. The Luxton east line was placed field note distance from the west line. Line D-E of the Nail has been relocated northward from the Hudson northwest corner. The length of this line will be discussed later. Line E-F of the Nail Survey is questionable. For the purpose of this report I have placed it 1200 varas from, and parallel to, the south line of the James Luxton. This was apparently Wadsworth's intention as reflected by his adjointer calls for the McCoy 320 acre survey.

As previously demonstrated by the working sketch, Wadsworth didn't know the relationship of the Luxton with respect to the Villareal. The Nail, as I have established it, conflicts with the Villareal as does the Hudson Survey.

Furthermore, it seems evident that Wadsworth didn't know the relationship between the Luxton and the Henry Hudson. There should be, according to the record, 1740 varas between the south line of the Luxton and the north line of the Hudson. There are only 1560 varas between these lines. It is not possible, therefore, to allow the call of North 540 varas in the Nail field notes from the Hudson northwest corner to the southwest corner of the McCoy 320 acre survey and still leave 1200 varas for the McCoy. In other words, line E-F can be established in two positions. One, as shown, 1200 varas from the Luxton south boundary line -- Two, 540 varas from the north boundary line of the Hudson. The dashed red line on the map shows the position of the Nail line if placed field note distance from the north line of the Hudson.

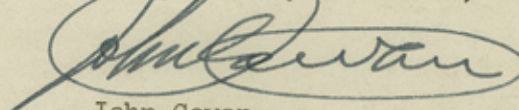
Line D-E, the southerly west line of the Nail, is short of called distance by about 180 varas. This deficiency is allowed in order to honor an adjoinder connection for a survey that may not have ever existed. On the other hand, corner "F" has been established in accordance with the Nail field notes when "backed in" from the southeast corner of the Luxton.

There is no question in my mind as to the proper establishment of corners "D" and "G". Corner "D" is the northwest corner of the Henry G. Hudson and the lower southwest corner of the Abner Nail, as evidenced by the adjoinder call in the Nail field notes and the similarity of the witness trees. Corner "G" is an occupied corner of the Nail and agrees with its field note position with respect to the James Luxton. It is evident, therefore, that in order to retrace Wadsworth one must proceed from corner "D" and ultimately arrive at corner "G". Since the two corners are not in proper field note relationship with respect to each other some adjustment, or liberty, must be taken in establishing the connecting boundaries. In my opinion there is no choice except to go northerly from corner "D" and southerly from corner "G". The resulting east-west line, line E-F, or some other line, must have an excess of about 100 varas. This, I think, is sound construction. What I am concerned about is the proper placement of the east-west line. Should line D-E be given field note distance and G-F shortened, or vice versa? The calls on both lines are of equal dignity. The decision, whatever it is, will affect about 50 acres of land.

For the purpose of presenting the problem I have given effect to line G-F and the resulting vacancy, shown shaded in blue, covers 101.13 acres.

The portion of this vacancy occupied by the Good Faith Claimant, Asa M. Boles, and covered by SF-16006, contains 55.67 acres. Field notes on this tract are enclosed herewith.

Respectfully submitted,



John Cowan
Licensed State Land Surveyor

JD:da

Attachments.

