

See Rld sks. 36A, 36B

File No. Sketch File 31

STONEWALL County
Report - Corrected field notes - H.C. DOZIER
No. 38 (SF-7367) & Ghent Sanderford (M-40116)

Date Filed: August 15, 2001

David Dewhurst, Commissioner
By Douglas Howard

counter 37308



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Report of a survey made for corrected field notes for the H. C. Dozier Survey Number 38, (SF 7367) and the Ghent Sanderford Survey (M-40116) being in the northeast corner of Stonewall County and bearing about 17 miles northeast from the City of Aspermont, Texas. Said survey and field notes being made by request of Mr. Jack Scarbrough who purchased these lands from the State of Texas December 1998. Reference in reading this report to an attached map and photographs made of recovered corners. All fieldwork was tied to Tri. Station "Kiowa2 ET" using RTK GPS methods and Trimble 4400 receivers. All measurements and coordinates are Grid NAD 83, TXNC U.S. Surveyors feet then converted to varas.

This area of Stonewall County is known as Kiowa Peak as shown on the USGS 7.5 minute quadrangle "Kiowa Peak". The entire area between the Salt Fork of the Brazos River on the south, up to the H. & T. C. Railroad Company, Block 13 on the north and being bounded by the Brazos River on the east and the H. & T. C. Railroad Company Survey, Block "D" to the west has a history of survey problems and contention. Below please find a brief chronological history of this area including original surveys, court decrees, surveyor's reports and findings from this current survey along with comments and reflections in bold.

October 10, 1860

*Field Notes by B. R. Milam, Young District Surveyor for the William Marshall Survey No. 60. NOTE: At the northwest corner, called Mt. Louisa to bear South 17 1/3° West -- ****SEE COURT DECREE "March 26, 1955"**- re: relocation stone mound recovered by Boren...was found that Kiowa Peak was not visible from this point... from a recovered stone mound 229.24 varas north of this point Kiowa Peak is visible and bears S 17° W. See sketch attached to original field notes. Chain carriers are Wm. Powell and S. H. Peveler.***

October 10, 1860

Field notes by B. R. Milam, Young District Surveyor for the R. Pusey Survey No. 61 P.O.B. bears 230 varas north from northwest corner of the Wm. Marshall Survey No. 60... Pile of rock on point of mountain... Thence west crossing creek rock mound on side of mountain... Thence south crossing creek to rock mound with cedar on knob witness. No variation given. Chain carriers are S. H. Peveler and Wm. Powell.

January 1, 1869

Field Notes for the Daniel Martindale Survey No. 1, by D. Bullion, Jack Land District Surveyor. P.O.B. is at the fork of the Double Mountain and the Salt Fork of the Brazos River; thence N 80° W 2000 varas. A pile of rocks and a solid rock marked "X" for P.O.B. (as the southeast corner). Thence N 15° W for 1344 varas to a stake; thence S 75° W for 1344 varas to a stake; thence S 15° E for 1344 varas to a stake; thence N 75° E to P.O.B. Chain Carriers are J. F. Watson and John Higgins. No variation given. See sketch on face of these field notes showing relationship with Martindale Surveys No. 2, 3, and 4.

See Court decision District Court Minutes 3, Page 132 April 25, 1910, rules southeast corner to be a recovered set stone marked "X" to which "SEM" was added. This was the stone set by State Surveyor George Williams during surveys made September 1902. See Williams report stating he recovered an old stone mound from which a solid rock marked "+" bears N 42 3/4° W at 6 varas. Mr. Williams from his findings in making ties to Block "D" believed that this stone mound with "+" witness was actually at the southwest corner of the Martindale Survey No. 1 rather than at the southeast as called for in the original field notes. From this stone mound he ran N 85° 10' E at 1344 varas and set a large stone for the southeast corner of said Martindale No. 1.

Also note on the G.L.O. field notes that it appears that the bearing calls were cardinal directions, north, south, east and west with the new orientation being inserted as an after thought.

January 1, 1869

Field Notes for the Daniel Martindale Survey 2, by D. Bullion, Jack Land District Surveyor. No variation given. Ties to Martindale Survey 1, see sketch on face of field notes showing relationship with Surveys No. 1 and 3. Beginning at the northeast corner of Martindale No. 1 (stake per field notes of No. 1); thence S 75° W for 1344 varas to a stake; thence N 15° W for 1344 varas to a stake; thence N 75° E for 1344 varas to a stake; thence S 15° E for 1344 varas to a pile of rocks (southwest corner), thence S 15° E to P.O.B. Chain carriers are J. F. Watson, and John Higgins. No variation given.

Also note on the G.L.O. field notes that it appears that the bearing calls were cardinal directions north, south, east and west with the new orientation being inserted as an after thought.

January 2, 1869

Field Notes for the Martindale Survey No. 3, by D. Bullion, Jack Land District Surveyor. No variations given. P.O.B. at northeast corner of Martindale No. 2; thence N 16° W for 4560 varas to stake; thence west for 1344 varas to a pile of rocks, thence north for 1344 varas to a stake, thence east for 1344 varas to a flat rock marked "X", thence south to P.O.B. Chain carriers are J. F. Watson and John Higgins. See sketch attached to these field notes. See George Williams report September 1902 indicating he recovered this rock "X".

Also note on the G.L.O. field notes that it appears that the bearing calls were cardinal directions north, south, east and west with the new orientation being inserted as an after thought.

January 3, 1869

Field notes for the Richard Haley Survey by Bullion, Jack District Surveyor. Chain carriers are John Higgins and J. T. Watson. No Variation given. Commencing at the southeast corner of the Martindale Survey No. 3; thence S 15° E for 600 varas to a stake the northeast corner of this survey; thence east 400 varas to a stake, thence south 676 ¼ varas to a stake; thence west 676 ¼ varas to a stake; thence north 676 ¼ varas to a stake; thence east 276 ¼ varas to the P.O.B.

See Affidavit of Adverse Possession dated May 14, 1955, as recorded in Volume 133, Page 119.

June 1871

Recording date of field notes for the Mamuella Cordova Survey, signed by E. Boon, Surveyor of Jack Land District with no date as surveyed on the ground, no reference for variation, and patented Volume 1C, Page 122, Stonewall County Patent Records. P.O.B. at northeast corner of the Martindale Survey 3. Flat rock for corner marked "X"; thence west 2600 vs. to a stake; thence North 5100 varas to a stake; thence East 5100 varas to a stake; thence south 5100 varas to a stake; thence west 2500 varas to P.O.B. See sketch on face of field notes. Chain carriers are John Higgins and Jon Wats. See May 1931 Day vs. Floyd.

July 22, 1872

Field Notes for the William Murray Survey by E. Boon, Jack Land District Surveyor. Chain Carriers are J. F. Floyd, and E. M. Collum. (See Jack Land District Field Notes, at bottom of page reference. To E. Boon, S.J. & L.D.) Beginning at the southwest corner of Martindale No. 3; thence west 1344 varas to a pile of stones in a flat from which a stone marked "X" bears due north at 4 varas, also another stone bears due west at 5 varas; thence north 400 varas a ravine, 1247 varas a branch in a deep ravine, 1344 varas a pile of stones on the west side of a small cedar mound, from which a small cedar marked "X" bears N 17° W at 15 varas, also a pile of stones on another cedar mound bears N 13° E at 28 ½ varas; thence east 1344 varas to a stake, the northwest corner of Survey No. 3, also a rock marked "X", thence south with west boundary of said survey for 1344 varas to P.O.B. "Bearings marked X". Note that Bullions field notes for Martindale Survey No. 3 called for stake at northwest corner.

August 23, 1872

*File date for undated Field Notes by I. N. Hawkins, Jack District Deputy Surveyor for the Daniel Kitchens Survey. P.O.B. at the southwest corner of the Haley Survey; thence West at 230 varas Cottonwood Branch, at 400 varas a deep ravine, at 950 varas to a pile of stones from which a flat rock marked "X" bears N 52° E at 7 varas, another stone bears N 5° W at 5 varas (**this corner recovered and identified this 2001 survey**); thence North at 200 varas a ravine at 580 varas a deep ravine, at 950 varas to a pile of stones and a flat sand rock marked "X"; thence east to a stake; thence South 273 ¾ varas to the northwest corner of Haley survey, and with it's west boundary line 950 varas to the P.O.B. No Variation given. Chain carriers are S. Stephens and C. M. Collum. Patented on these Field Notes.*

See Affidavit of Adverse Possession dated May 14, 1955 as recorded in Volume 133, Page 119.

January 20, 1874

*Field notes by J. J. Metcalf, Palo Pinto District Surveyor for T. & N. O. Section No. 1, Block. 1. P.O.B. 1060 varas north of the southeast corner Cordova survey. Stakes at all corners. Chain carriers are James Goins and James McComb. **Probably office survey.***

Field notes by J. J. Metcalf, Palo Pinto District Surveyor for T. & N. O. Section No. 2, Block 1
P.O.B. northwest corner No. 1. Stakes at all corners. Chain Carriers are James Goins and James McComb. Probably office survey.

January 21, 1874

Field notes by J. J. Metcalf, Palo Pinto District Surveyor for T. & N. O. Section No. 4, Block 1
P.O.B. northwest corner No. 3. Stakes at all corners. Chain carriers are James Goins and James McComb. Probably office survey.

December 5, 1881

Field notes and sketch by Windsor Robinson, Deputy surveyor of Clay District, with Chain Carriers W. LeMoin and J. Young, with variation of 11° E shows connection line from northeast corner Martindale No. 3 to northeast corner T. & N. O. No. 3 being the southeast corner of Wm. Marshall Survey No. 60.

June 9, 1883

Corrected Field Notes by C. P. Benson, Jack District Surveyor for the J. G. Eustis Survey No. 1, variation 10° 30' E. (See Corrected Field Notes November 5, 1951)

June 18, 1883

Corrected Field Notes by C. P. Benson, Jack District Surveyor for the J. G. Eustis Survey 2 with variation still being 10° 30' E. (See Corrected Field Notes November 5, 1951.) See attached Sketch.

November 12, 1888

R. Brittain Survey by Jack District Surveyor. Chain Carriers are L. R. London and Reed. Variation 10° E; begins at northeast corner Kingston Survey; runs

northeast with tie line; pile of rock at each corner; with witness trees; 1344 varas east - west; 762 varas north - south. THESE FIELD NOTES CANCELLED.

November 12, 1888

L. R. London Survey by A. J. Gibson, the Young Land District Surveyor and 1344 varas east - west by 672 varas north - south with pile of rock and witness trees at corners. THESE FIELD NOTES CANCELLED.

May 26, 1891

Field notes by E. Boon, Jack Land District for the Wm. Smith Survey. Chain carriers are J. S. Dary and J. T. Walters. No variation given. References to adjoin Haley Survey and run along the south and east line of Haley; stakes at all corners; calls north-south east-west; see sketch on face of field notes.

June 28, 1892

R. Brittain Survey, corrected field notes by F. O. Aiken, Stonewall County Surveyor. Chain carriers are M. Pitts and Johnny Hagle. Varas $9^{\circ} 30'$ E to P.O.B. at the northeast corner of Daniel Kitchens. THESE FIELD NOTES CANCELLED.

June 29, 1892

L. R. London Survey Field Notes by F. O. Aiken, Stonewall County Surveyor; THESE FIELD NOTES CANCELLED.

August 1, 1892

F. O. Aiken, Stonewall County Surveyor for the L. R. London Survey. THESE FIELD NOTES CANCELED.

May 15, 1894

District Court Minutes, the Brazos and Croton Creek Mining and Manufacturing vs. J. R. Mamian; RE: William F. Maury Survey, also, Martindale Survey No. 4. South of the river.

March 17, 1898

CORRECTED FIELD NOTES for the L. R. London Survey by J. J. Hale, Stonewall County Surveyor; Chain carriers are H.B. Hale and W. R. Fustian. Variation $9^{\circ} 34'$. Patented P.O.B. 450 varas. North of the northeast corner of William Smith Survey; 1344 varas east-west, 672 varas north-south.

October 9, 1900

*Report by W. R. Sandefer on Green Harrison Letterhead with sketch to G.L.O. regarding his retracement of surveys Maury, Martindale, Wm. Smith Started from southwest corner Kitchens and checked bearings to "X" rock and found 3? minutes East, **(this corner recovered and identified in 2001 survey)**. Ran out the Wm. Smith... then was shown a corner of the W. F. Lowery by L. W. Wade, then ran east variation $1^{\circ} W$ as found to bear on rocks at southwest corner same, at 1345 varas old stone mound; thence east 1344 varas finding old hack line 1344 varas set stone for southeast corner Martindale No. 3; thence north 1344 varas find large sand rock marked "X"; thence east at 1340 varas west bank of river **This locative call for the "X" to be 1340 varas west of the river is found to conform to the "X" recovered by State Surveyor George Williams and this 2001 survey.** This report and sketch indicate that Maury & Martindale No. 3 run mostly due north - south and east - west, claims to have found old hack lines. **Note that he places the Maury northwest corner some 865 varas east of the southwest corner of the Cordova survey.** Also calls to have set stone for the southeast corner of the Martindale No. 3*

Calls to have ran south from his established southeast corner of Martindale No. 3 and searched for the southeast corner of Martindale No. 1 a stone mound and stone marked "X". Says " But from what I can find out from the settlers here one J. H. Doleman destroyed this corner in order to put in preemption to the east." From his established southeast corner of Martindale No. 1 he ran $S 75^{\circ} W$ 1285 varas to a point for the southeast corner of the Cammons Survey, continuing same course at 237 varas find large rock mound 35 varas south of line. Then ran $N 15^{\circ} W$ 2688 varas point for northwest corner crossing several deep canyons at

2888 varas find old stone mound, both of these mounds were deeply embedded in the ground and showed that had been there a long time, and no doubt they are the stone mounds called for in Cammons field notes as no other surveyor has ever run on the variation of 1° W as found the W. F. Maury and Martindale No. 3 ... "there is no use to look for the southeast corner of D. Martindale No. 1 it being destroyed by J. H. Doleman was very zealous to locate settlers anywhere he could get them to believe there was vacant land he would go back to east line of Block D, H. & T. C. and run east 7300 varas show space between that point and the river and of course this looked plausible to the settler. I looked all over the country I ran south looking for solid rock marked "X" but could not find anything. I spent 2 days looking for this corner and am sure it will never be found" ... report continues to discuss location of G. H. & H. surveys.

January 11, 1902

Report by Geo. Williams, State Land Surveyor see Sketch No. 13 also ... discusses re-tracement of old survey south of Brazos River in area of Eli Chandler, Peter Delaney, and Jessie Gray surveys, this is the area of the 10x Pasture or Ranch to the south of the river.

March 17, 1902

Canceled Field Notes by Green Harrison for Ed Howard Survey No. 6.
Second set of Canceled Field Notes by Green Harrison.
Third set of Field Notes by Green Harrison. Patented

September 22, 1902

See Report by Geo. Williams No. 18, also sketch and original sketch in roll file of General Land Office. "Having made investigations on the ground to identify the Daniel Martindale Surveys No. 1, 2, & 3, the W. F. Maury and Manuella Cordova League and Labor and other surveys in the northeast corner of Stonewall County and southeast corner of King County, beg to report the results ...". Discusses tie from northeast corner of H. & T. C., Block D. to recovered stone mound with witness "+" for southeast corner of Martindale No. 1. Also discusses variation used by Dinkins for the location of Block D. Geo. Williams set a large stone to mark the southeast corner of Martindale No. 1 at 1344 varas N $85^{\circ}10'$ E from the stone mound which he called the southwest corner of Martindale No. 1 and Dinkens had called the southeast corner of Martindale No. 1. Note see original

field notes for Martindale No. 1 which call for the pile of rocks and rock marked "X" as the southeast corner. See District Court min. Volume 3, Page 132 fixing southeast corner of Martindale No. 1 at large rock marked "X" with the following letters cut into said rock above said "X" S.E.M.

Report continues that Martindale surveys were laid out with no variation so Williams found that call of N 15° W to be actually N 4°50' W and lines called S 75° W to be S 85°10' W. Williams also states that there is an error in the original field notes of Martindale No. 1 calling for the stone mound and "+" on solid rock calling to be at the southeast corner of said survey, rather he believed it to be at the southwest corner. From the set stone he placed for the southeast corner of the Martindale No. 1 he ran S 69°50' E (as corrected for variation difference he found) for 2000 varas and landed on a sand bar at the forks of the Brazos Rivers. Also he found that a tie to the recovered "+" for the northeast corner of the Martindale Survey No. 3 would fit this southeast corner of Martindale as he had re-established it. He also describes finding and holding as original corners at the northeast, northwest and southwest corners of the Martindale No. 3 as well as the southwest corner of the W. F. Maury Survey. Note that Mr. Williams locations of the Martindale No. 3 and Maury Survey's will also agree very closely with passing calls for drains on the west line of the Maury Survey.

Mr. Williams also surmises that the original surveys Martindale No. 1, 2, & 3 were done by Surveyor Bullion in 1869, while field notes for the W. F. Maury and Kitchens surveys had no date surveyed on the ground but were signed by Mr. J. N. Hawkins. He proposes that Mr. Hawkins did not do this work on the ground but that the Maury & Kitchens were laid out at the same time as Martindale surveys by Bullion in 1869.

See May 1931 District Court Day vs. Floyd

Note that there are two sketches one with neatly lettered text while the second is written and contains more notes.

July 11, 1903

Letter from Geo. Williams to G.L.O. regarding his connecting line made in August of 1902, states that he may have been in error as to proper location of Martindale No. 1. The stone mound identified by him, as the southwest corner may be actually the southeast corner as called for in the field notes. See Court Decree June 10, 1910, Brazos River and Croton Creek Mining vs. Pittcock regarding location this corner. Continues that while in Aspermont later new light was shed on this question. Discovered that there had been a court case regarding the ownership of the Martindale certificates. J. B. Tompkins and his brother; J.

B. Tompkins bought two of the certificates at an auction in Weatherford for the Brazos and Croton Creek Mining Co. They employed surveyor Bullion to survey the land. This showing that the land was located by the mining company and it is reasonable that Martindale No. 1 and 2 were surveyed to cover the supposed mineral region.

He describes an old shaft and remains of building on the Cammons Survey some 300 varas northwest of the northwest corner of Martindale No. 1 as located by him. One of the chainmen who was with Bullion says the surveys were placed to cover the rough country and that the shaft was on one of the Martindales. He suggests that a further examination be made.

July 30, 1903

Letter from Green Harrison responding to Geo. Williams letter of July 16, 1903, making several points that the Williams location of Martindale Surveys No. 1, 2, and 3 would throw them too far east to cover the mining shafts as found on the ground.

November 12, 1903

Corrected field notes for the R. Brittain Survey, by Green Harrison, Stonewall County Surveyor. Chain carriers are Joe Harrison and Bud Miller. P.O.B. set stone at southwest corner of L. R. London Survey; fills in space between south boundary line of London and north boundary line of William Smith Survey; reduced from 160 acres to 71 ½ acres; see sketch on face of field notes. Patented on these field notes.

November 1, 1904

Turner vs. Robertson, Owens, etal. District Court Minutes, Volume 2, Page 409; Decision against the plaintiffs.

January 23, 1905

See G.L.O. report and sketch file No. 15 from Green Harrison. In reply to Geo. Williams' suggestions of July 11, 1903. Mr. Harrison calls to have began at pile

of rock from which "+" bears $N 12^{\circ}45'$, as called for in original notes. "**Original call, a pile of rocks and a solid rock marked X**". He then ran $S 85^{\circ}10' W$, at 1344 varas calls to have found old rock pile in head of draw which seemed to be very ancient. **Original field notes call for stake at this corner.** He continues $S 85^{\circ}10' W$ at 2570 varas he found a rock set in the ground with several rocks piles around the same for the southwest corner of the P. Cammons Survey with nothing showing but a small portion of the larger stone. **Patented field notes call southwest corner of Cammons Survey to be a stake from which a pile of stones bears $S 75^{\circ} E$ at 60 varas,** Then Mr. Harrison returns to the monument he calls to be the southeast corner of the Martindale No. 3. and runs $N 4^{\circ}50' W$ and finds a stone mound which he says was built by Geo. Williams. This he calls as the northeast corner of the Martindale No. 3. Thence $N 85^{\circ}10' E$ to a small mound of stone on a prairie. Thence $N 4^{\circ}50' W$ for 1344 varas to an old pile of stone from which a cedar marked "X" bears $S 45^{\circ} E$ at 80 varas. He believed this monument to be very old but no record of who built it. Thence $N 4^{\circ}50' W$ for 4560 varas to a point on a small prairie where he found loose rocks but no corner monument. Thence he ran west at 1344 varas he went to a point from which a pile of stones bears $S 88^{\circ} W$ at 11 varas, continue west for a total of 2688 varas to a pile of stones in a cedar valley from which a rock marked "X" bears north at 4 varas another bears $S 88\frac{1}{2}^{\circ} W$ for the original southwest corner of the Maury. Says this old corner was covered by 2" to 4" cedars and could not have been occupied by a surveyor for many years. Thence north at 400 varas the bank of a ravine, at 1250 varas cross a deep ravine or creek, total distance of 1344 varas found nothing, but landed on the west slope of a hill. Thence east at 289 varas pass southwest corner of Cordova survey as set by Geo. Williams, continue same course for total of 2688 varas to rock corner in a ravine on solid rock. The rock was shaley and no marks could be found. Took this to be the northeast corner of the Martindale No. 3.

Mr. Harrison continues with list of reasons why his location of the Martindale and other surveys in the area must be correct: Number 1, the Martindale No. 1 and 2, and Cammons surveys were located by the Brazos & Croton Mining Company to cover what was known as Copper Mountain. Should these surveys be located as per Mr. Williams they would not cover the mountain area but flat lands to the east. Number 2, which Dr. B. W. Holcomb says that in fall of 1869 and winter of 1870 he was in the company of miners when tunnels and shafts referred to by Mr. Williams were dug. They had with them District Surveyor Bullion at that time located the Martindale Surveys No. 1, 2, 3, and 4 and that Numbers 1 and 2 were located to cover the principal part of copper mountain. That Martindales Number 3 and 4 were also located to cover copper outcroppings.

January 26, 1905

See correspondence from Green Harrison to General Land Office re: location of surveys in the area of Martindale No. 3. See Sketch No. 15 G.L.O. Asked for commissioner to send sketch to Geo. Williams for comments and have him write to Harrison wherein the sketch was not correct. Note this sketch does not agree with Sketch File 12A by W. R. Sandefer, Stonewall County Surveyor in report and sketch dated October 9, 1900. Sandefer showed the northwest corner Maury Survey to be 865 varas east of the southwest corner of the Cordova Survey. Shows the Martindale No. 3 and Maury to be north, south, east, west, recovering corner using a variation of $1^{\circ} W$, while the Wm. Smith Survey required a variation of $0^{\circ} 30' E$ to be running cardinal directions.

February 23, 1905

Letter from Geo. Williams in response to Green Harrison correspondence. His assigned task was to locate the G. H. & H. Surveys west of the Cordova. He had had a hard time getting any help in the area and only had limited information to work with while in the field. Work around the Martindale Surveys was gratuitous. He concludes that the old corner found by him was probably the southeast corner of Martindale No. 1 not the southwest as he had first thought. The southwest corner of Kitchens Survey was identified as original but did not search for other Kitchens corners, he was unsure if Kitchens should be placed as a no variation survey or not.

See Geo. Williams report and sketch of date September 22, 1902. This sketch does show the Kitchens south line as running $S 79^{\circ} 50' E$. The bearing between recovered southwest and southeast corner of the Maury Survey to be $S 79^{\circ} 12' E$ and between recovered northeast and northwest corners of the Martindale No. 3 to be $N 79^{\circ} 35' W$.

August 4, 1905

Corrected Field Notes for the Ed Howard Survey No. 5, by Green Harrison. P.O.B. at southwest corner of the R Britain Survey; thence north along west boundary line of the London Survey to a pile of stone in the south boundary line of the M. Cordova; thence west to an old stone mound in a ravine on solid rock marked "X" for the original northeast corner Martindale No. 3, south to the southeast corner of Martindale No. 3, west along to a pile of rock in the south boundary line of Martindale No. 3, south to a pile of rock in the north boundary line of the William Smith, east along the north boundary line of the William Smith

Survey to a pile of stone from which a flat rock marked "X" varas N 5° E at 6 varas, another marked "X" varas N 52° E at 7 varas; same being the original southwest corner of Daniel Kitchens Survey, north to the northwest corner of Kitchens, pile of stone and a flat rock marked "X"; thence east to the northeast corner of Kitchens; thence south to the northwest corner of Haley; and thence east to P.O.B. Patented on these field notes - see attached sketch.

October 22, 1909

Minutes of District Court: State of Texas vs. McGinty.

June 10, 1910

Final Decree of Brazos Croton Creek Mining vs. W.A. Pittcock.... Parties' waiver jury trial... Re-location of Martindale No. 1

April 25, 1910

April Term District Court ... Brazos Croton Creek Mining vs. W. A. Pitcock No. 878.

Finds of fact by Thomas L. Blanton, Judge of 42nd. Regarding the location of Martindale Survey No. 1. Established the southeast corner of Martindale No. 1 at stone marked "X" to which letters "SEM" were added. This was position established by State Surveyor George Williams, September 1902 and is the current position of this survey. See January 23, 1905 report by Green Harrison stating that he had interviewed Dr. B. W. Holcomb who claimed that in the fall of 1869 and winter of 1870 he was in the company of miners when tunnels and shafts were dug. They had with them District Surveyor Bullion at that same time who located Martindale Surveys No. 1 and 2 to cover these shafts while Martindale Surveys No. 3 and 4 were located to cover copper outcroppings. The Martindale Surveys No. 1 and 2 and Cammons Survey were to cover what he called the copper mountain.

April 26, 1910

Warranty Deed in Volume 175, Page 178 of Stonewall County Deed Records from Brazos & Croton Creek Mining to F. H. Mc Farland the following: Daniel

Martindale Surveys No. 1, 2, 3, and 4, Phillip Cammons Survey, Daniel Kitchens Survey, and the Richard Hailey Survey. "The Brazos and Croton Creek Mining and Manufacturing Company for the consideration aforesaid, binds the title to the above described lands and premises unto said F. H. Mc Farland, his heirs and assigns it having been in the quite, peaceable and exclusive adverse possession of all of said lands for more than ten years, except said Martindale Survey No. 1, from which it has recently ejected certain trespasser by judgment of the District Court of Stonewall County, Texas enter April 25, 1910, it having had possession also of said Survey No. 1 for the ten years prior to the entry of said trespasser."

Herein lies what appears to be the basis of the problems of location of surveys within this area. The Daniel Martindale Survey No. 1, being one of the first surveys located and therefore determining the location of later surveys has been misrepresented numerous times. If per Mr. Green Harrison's statement the Martindale Survey No. 1 was located to cover the "copper mountain" then why would the Brazos and Croton Mining Company file suite against W. A. Pittcock claiming to have had possession of the Martindale Survey No. 1 in a position that would cover good flat land and not the "copper mountain"?

August 12, 1912

G.L.O. Draftsman Statement Re: SF 6666.... Discusses Geo. Williams Report of 1902 showing Martindale No. 1, 2 and 3... Then according to statement by Geo. Williams July 11, 1903, which he states he may have been in error as to location of proper position of Martindale No. 1, Williams suggest further investigation. Then in January 1905 Surveyor Green Harrison files report and sketch of same territory showing the position of Martindale surveys and others to be 1344 varas west of Williams position. The location of Martindale No. 1 by the courts appears to have been based upon conclusion of fact and solely upon testimony of County Surveyor Jack Lee. "However true this may be it seems to place the surveys entirely off the locality where they were intended and at variance with findings of Green Harrison and statement by him and G. M. Williams.

May 1931

District Court of Stonewall County: Roy Day vs. William Floyd; It is therefore ordered adjudged and decreed by the court that the true east boundary line of the Cordova League and Labor Survey in Stonewall County, be, and the same is hereby fixed, determined and established as a line 5100 vs. long, extending north, running north and south, beginning at a point located on the south boundary line of said Cordova Survey, 2500 east of said shaley rock, identified by the witness, J.

F. Lee; and, that the true boundary line between the said T. & N. O. Railroad Co., Survey No. 3, in Stonewall County, TX, belonging to the Plaintiff, Roy Day, be and the same is hereby fixed, determined and established as a line 1955 varas long, extending south, running north and south, beginning at the northeast corner of same, also being the northwest corner of T. & N. O. Railroad Co. Survey No. 3, the J. B. Wilde Survey No. 4, and which line is located 357 varas east of the northeast corner of the M. Cordova League and Labor Survey. District Court of Stonewall County, Rec. Volume No. 6, Page 113 Court Minutes, 1931... See also Tex Southwest Reporter No. 971, 50 SW (2ND), Floyd v. Day. April 15, 1932.

From discussions with General Land Office personnel during the process of this survey (2001) it was believed that this court ruling not only settled the place of beginning for the Cordova Survey but would serve to locate the northeast corner of the Martindale No. 3 which controls the location of Martindale No. 3 and the W. F. Maury Surveys. See attached sketch for relationship between corner monuments found by many surveyors as original for these surveys and the location as set by court.

April 15, 1932

Court of Civil Appeals - Eastland: Volume 50, S.W. (2nd), Page 371; Floyd vs. Day. The only issue submitted to the jury was "Which do you find to be the correct beginning point for the Cordova Survey, the shaley rock identified by the witness, Lee (Point 106 on sketch), or the rock marked "X" (Point 68 on sketch), identified by the witness Rike?" The jury answered the question "The shaley rock identified by the witness, Lee."see surveyor statements re: location....

January 12, 1951

Field notes by H.H. Shadle for T. & N. O. Section No. 3 ~~Canceled~~

May 1951

Corrected field notes by D. W. Boren for Section No. 3, T. & N. O.

See Sketch of T. & N. O. No. 2 and 3 as well as conflict with Wm. Marshall No. 60 in T. & N. O. file Indicates that the south boundary line Marshall No. 60 is in line with south boundary line Campbell No. 50 on east side of river.

September 24, 1951

Field notes by D. W. Boren for SF 15282 Hugh G. White for 61.7 acres lying between the east boundary line T. & N. O. Section 1 and the river... **Patented.**

November 5, 1951

Corrected Field Notes by Ross Corlett for the J. G. Eustiss Survey No. 1.
Corrected Field Notes by Ross Corlett for the J. G. Eustiss Survey No. 2.

November 10, 1951

Report by Ross Corlett Re: MA 43477.... Ran over a very large area surrounding the Cordova Survey including the Martindale No. 3 area, Murray, Wm. Marshall, and R. Pusey surveys. Concludes that there was a Tract of unsurveyed Public School Land between the two Eustis Surveys and the H. & T. C. Survey. Stated that his construction would make the Eustis Survey No. 1 conflict with the Cordova Survey.

January 24, 1952

Field notes by Ross Corlett for SF 384016 39.4 acres South of T. & N. O. and east of Cordova. **From county records only**

January 15, 1955

Field notes for J.T. Orsborn 8.71 acres, **not patented.**

March 26, 1955

This is a Judgment of the District Court of Stonewall County. DEEP ROCK OIL CORP. vs. Courtenay Thompson, re: the location of Eustis Survey No. 1 and 2. Special issue No. 1: What do you find to be the correct northwest corner of the

William Marshall Survey, as established by Surveyor, Milam in 1816: the rock mound at the fence corner, identified by the witness Boren and Godeau, or a point 70 varas. North of said point identified by the witness, Polston? Answer: We the Jury answer: The rock mound at the fence corner, identified by the witnesses Boren and Godeau. It is, therefore, ordered ...by the court that the northwest corner of the William Marshall Survey is at a rock mound, partially buried 0.5 varas. West of a T fence corner, as identified by Boren and Godeau. (Note: See metes and bounds for the J. G. Eustis Survey No. 1.) (Note: See pg. 7: By referring to Manuella Cordova league and Labor Survey, as said Cordova Survey is located upon the ground by the judgment of the District Court of Stonewall Co., TX, in cause No. 1858, Day vs. Floyd, dated June 5, 1931, recorded in Volume 6, Page 113, District Court Minutes, in fixing the beginning point in the description of the J. G. Eustis Survey No. 1 as described above, it is not the intention of the Court by this judgment to determine the correctness of the jury's verdict or the judgment in said Day vs. Floyd suit except in so far as it relates to the boundary lines of said J. G. Eustis Survey No. 1, nor to make the judgment in said Day vs. Floyd suit binding on persons lines of said J. G. Eustis Survey No. 1 as above described. See metes and bounds of the J. G. Eustis Survey 2.

*See Page 10, No. III: "That, as between all parties to this suit, the location upon the ground of boundaries of those surveys. Immediately adjacent to the J. G. Eustis Survey No. 1 and 2 --- that is, all those surveys called for in the description of the boundaries of the J. G. Eustis Survey No. 1, and 2 hereinabove appearing -- is adjudicated in this case, and the lines and boundaries of those adjacent surveys called for in the above description of said J. G. Eustis Survey No. 1 and 2 are determined and held to be located upon the ground in the position and location described for such lines and boundaries in the above description of said J. G. Eustis Survey No. 1 and 2." *SEE METES AND BOUNDS for the C. B. Long Survey 1**

August 1955

Plat by D.W. Boren showing areas surrounding Cordova.

February 1983 thru, August 1986

Extensive file work by Sheppard Surveying Company, Inc. in area to south and west of William Smith Survey.

December 1988 thru December 1989

Survey work by W. F. Decker, L.S.L.S. and Chase Surveying in the area of Lee Doole and B. S. & F. Surveys.


May 2001

Resurvey of those surveys subject of this report.

As can be seen from the proceeding there are probably as many different constructions of the original surveys within this large area as there have been surveyors in the past 100 plus years. Not all of these surveyors have left as many records as Mr. Green Harrison the Stonewall County Surveyor and local attorney of the early 1900's and Mr. George Williams, State Land Surveyor who was in the area also in the early 1900's.

While those of us in the area during the 1980's had the benefit of USGS 7.5 minute Topo sheets and EDM's, and now Global Positioning equipment, we must also wade through all of those footprints left by other surveyors in the past 100 years. There is no shortage of rock monuments in the area, many of which were probably built with good intentions as best representing the footsteps of the original-locating surveyors. By use of all the tools at hand and information obtained from the General Land Office, Jack Land District Records, Stonewall County Courthouse, Chase Engineering and Surveying, and Sheppard Surveying, we have attempted to locate, identify and verify many of the monuments of record and have found some that have not yet been identified. For the final location of those pieces of land, subject to this report I have attempted to honor not only the footsteps of the locating surveyors as possible, but also the decisions of various court decrees.

Respectfully Submitted, July 28, 2001


Maxey Sheppard, LSLS



N.W.C. L.R. London

62

APR 14 2007


counter 37327

Orig S.W.C. R. Brittan Survey

338

MAY 12 2007

counter 37328

A photograph of a field site. A wooden stake is driven into the ground, with a red ribbon tied around it. The number '338' is printed in blue on the image. Several soil samples are visible, some in plastic bags and some in a red container. The ground is covered with dry grass and some green weeds.

338

Rec Stn. Md. Orig.
S.W.C. R. Brittan

MAY 12 2001

counter 37329

N.W.C. L.R. London

62

APR 14 2001

counter 37330

N.E.C. Kitchens Survey

APR 14 2007

53

counter 37331

N.E.C. Kitchens

53

APR 14 2001

counter 37332

N.E.C. D. Kitchens Survey

53

APR 14 2007

count 37333

N.W.C. Kitchens Survey

46

APR 14 2001

coenter 37339

Orig. N.W.C. Kitchens Survey



46

APR 14 2001

counter 37335

A photograph of a field with a tree and a red ribbon. The field is filled with green grass and some taller plants. A tree trunk is visible in the background. A red ribbon is tied around a rock in the foreground. The text "Orig SWC Martindale No. 3" is overlaid on the image.

Orig SWC Martindale No. 3

41

APR 14 2007

counter 137336

Orig. SWC Martindale
No. 3

41

APR 13 2003

counte137337

S.W.C. Martindale No. 3

41

APR 14 2005

counter 37338

111 stn md on bluff



APR 14 2001

counter 37339



111 Station on bluff

APR 14 2001

counter 37390

111 Stn. Md. on Bluff



APR 14 2001

counter 37391



32 S.W.C. Pusey

APR 13 2001

counter 37342



32 S.W. Corner
R. Pusey Survey

APR 13 2001

counter 37343



26 N.W. C. Pusey

APR 13 2011

counter 37399



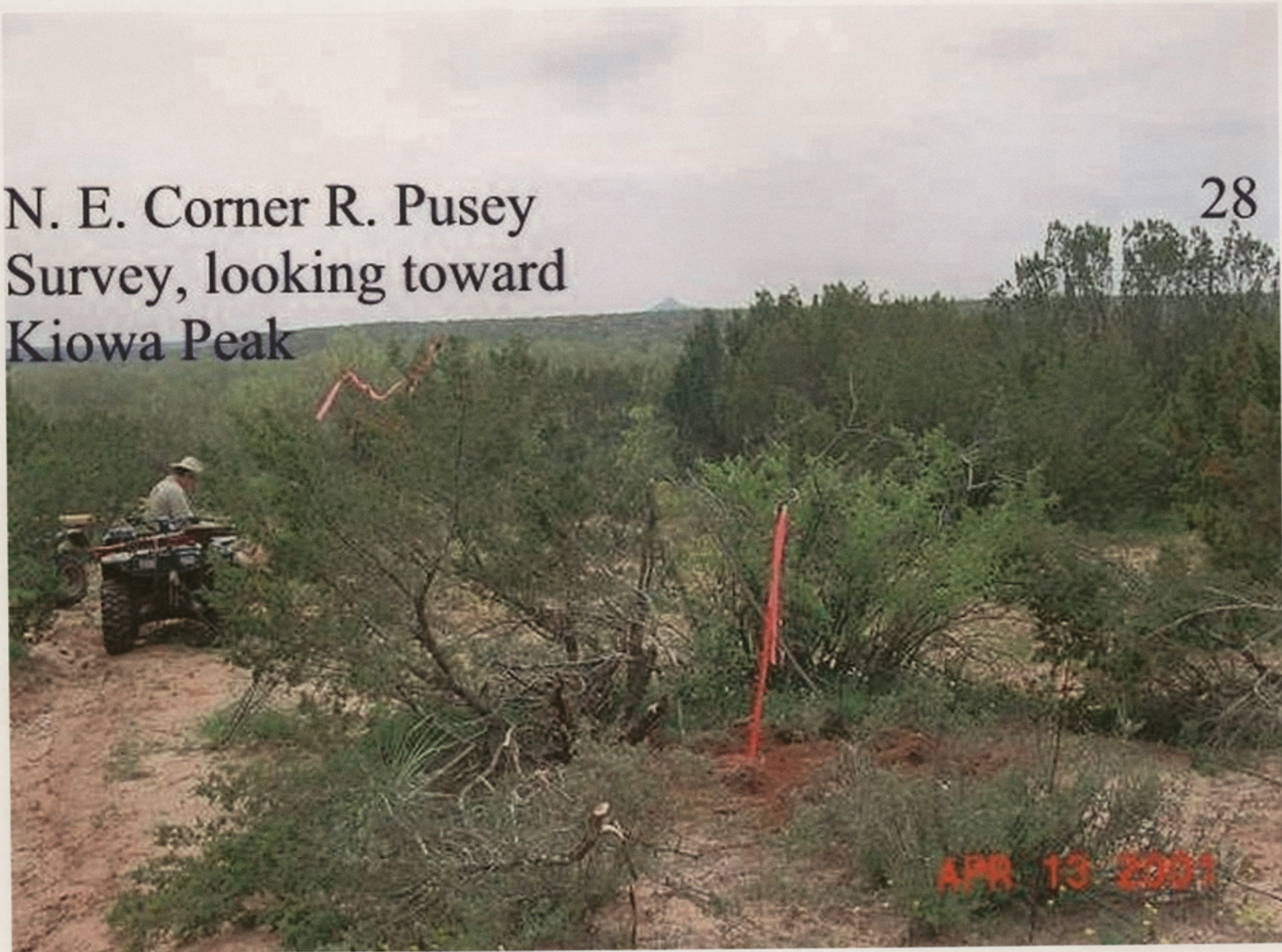
26 N.W. Corner
R. Pusey

APR 13 2007

counter 37395

N. E. Corner R. Pusey
Survey, looking toward
Kiowa Peak

28



APR 13 2001

counter 37346