

D-678

JAMES K. AVERA

STATE LICENSED  
ENGINEER AND SURVEYOR  
HOLCOMBE-BLANTON BUILDING  
SAN ANGELO, TEXAS

RECEIVED

March 14, 1942

MAR 16 1942

Mr. Bascom Giles  
Commissioner  
General Land Office  
Austin, Texas

REFERRED TO MAP

Dear Mr. Giles:

Map enclosed, also.

Enclosed are corrected field notes for Surveys No. 50, 64, 76, and 78, Blk. 35, H. & T. C. R. R. Co., No. 8, G. C. & S. F. R. R. Co. and No. 12, T. C. R. R. Co., Blk. R, all in Upton County, Texas, as surveyed recently by me for Burleson and Johns Estate. This survey was made at the instruction of Mr. C. D. Johns, attorney, Nixon Bldg., Corpus Christi, Texas, who said that they plan to patent these Surveys.

Construction of Surveys in Blk. 35 was based on that of State Surveyor M. W. Neyland, 1888, whose work apparently is the accepted for this Blk.; J. J. Goodfellow did some work in the area South of these Surveys in recent years and connections to it with our work seem to agree within reason.

In most instances, there was little doubt about whether the corner was the same as made by Neyland and the bearings given in field notes agree with those shown by him, reasonably well. The South cor. of Sec. 78 and the South cor. of No. 66 as used by me are the same as used by Mr. Goodfellow; Neyland's cor. seems to have been destroyed, but the bearings and relation with other corners indicate that these places are the same or reasonably near. The West corner of 76 is in the residential district of the town of McCamey with no indication of Neyland's corner, so I prorated between the South cor. of 66 and the N. cor. of 76. The South cor. of 51 has been destroyed by an old road, so I used the West corner of 50 and the West cor. of 76 (as located above) to locate the West lines of Surveys No. 50, 51, 64 & 65, giving each the same distance that its NE line showed on the ground. Bearings at the South cor. of 51 show that this agrees reasonably well with Neyland's work. The old stone mound used for the North

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cor. of Sur. No. 50 seems to fit all calls and the other nearby corners within reason. It is actually in the head of a draw, on the North side of a mountain and the West end of a Mt. (brg.) agrees well with Neyland's call; the marked rock called for was not to be found, though we made an extensive and long search for it. There was an large "X" marked on a rock about N 2° W 24.4 varas from this old mound, but the mark appears to have been made in recent years and does not agree with any of the calls. I believe the slight shortage shown for the North line of 50 is due to the fact that the line is across deep draws and high ridges with careful measurement difficult; we measured practically all of this work carefully and I triangulated from carefully measured base lines in every instance where the surface was too rough for good measurement as a check or correction of our work.

To locate Survey No. 8, G. C. & S. F. R. R. Co., I used course and distance as shown; No. 8 apparently conflicts with No. 2, J. Nidever, but 8 is senior. To locate No. 12, T. C. R. R. Co. was quite a difficult task, but after making all necessary connections and checking numerous records it worked out unusually well. The main control points for locating this Sur. 12, were SW cor. of Section 11, Blk. 3-1/2, CCSD&RGNGRRCo., the East line of said Blk. 35 and the West lines of Teer No. 4, King 1, and Nidever No. 2. Sur. No. 12 is junior to all of these. The SW cor. No. 11 and the West lines of said Nos. 4, 1 & 2 were established by the State vs. W. A. Tunstill, et. al, Judgement No. 55429, dated Dec. 7, 1937, filed in Upton County Deed Records Vol. 53, page 253. A recent plat by J. Silas Pitman showing this corner (SW11) is filed in your office; we identified it and found the Mesquite bearings called for. Our courses and distances agree unusually well with those given in this judgement and you will note that this leaves more acreage in Sur. No. 13 than originally called for.

We have used unusual care with this work both in checking records and on the ground and I feel that it is correct, though I realize that we could have overlooked some point or points and will welcome any criticism. Please let me know whether our work meets with your approval and I will ask Mr. Johns to write concerning patents, etc.

Very truly yours,

jka

*James K. Avera* counter 38887

B'

March 25, 1942

Mr. James K. Avera  
Licensed State Land Surveyor  
Holcombe-Blanton Building  
San Angelo, Texas

Dear Mr. Avera:

Your letter of March 14 enclosing corrected field notes of Sections 50, 64, 76 and 78, Block 35, H. & T. C. Ry. Co., 8, G. C. & S. F. Ry. Co., and 12, Block R, T. C. Ry. Co. in Upton County, Texas has been received, together with sketch of the area.

I have examined and approved your corrected field notes of all four sections in Block 35, but am returning the field notes of Sections 8 and 12, together with your sketch. I think a more plausible construction of the east line of Block R would be to connect the S. W. corner of Section No. 11, Block 3 $\frac{1}{2}$ , C. C. S. D. & R. G. N. G. Ry. Co. with the E. corner of Section No. 7, G. C. & S. F. Ry. Co., Block R. This would eliminate the jog at the N. corner of Section 8, Block R. I suggest that you make this change on your sketch and correct your field notes to conform to this construction unless you can furnish sufficient reason for holding to the construction now shown on your sketch. Also, show on the sketch all the old corners upon which you based this work, together with the corners which you established in your recent survey, and show how you identified the W. corner of Section 7, Block R.

Since Section No. 2, John Nidever, was sold prior to Sections 8 and 12 it has the preference right over these two surveys and is also a patented survey. In submitting your field notes of Sections 8 and 12 please tie to the W. line and corners of Section 2.

Sincerely yours

HUvR:mh  
F-89098-9-91134  
Encl-3

BASCOM GILES, COMMISSIONER  
OF THE GENERAL LAND OFFICE

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JAMES K. AVERA  
STATE LICENSED  
ENGINEER AND SURVEYOR  
HOLCOMBE-BLANTON BUILDING  
SAN ANGELO, TEXAS

March 30, 1942

RECEIVED

APR -1 1942

Mr. Bascom Giles  
Commissioner  
General Land Office  
Austin, Texas

REFERRED TO MAP

Dear Sir:

Your letter of March 25 enclosing my sketch and field notes for Survey No. 12, TCRRCo., Blk. R, and Survey No. 8, GC&SFRRCo., all in Upton County, Texas, has been received.

Undoubtedly, the original intention was that the East line of Blk. R should be straight between the SW cor. Sec. 11, Blk. 3-1/2, CCSD&RGNGRRCo., and the East cor. of Sec. No. 7, GC&SFRRCo., as mentioned in your letter. However, I believe that the original survey dates, the conflicts and the court judgement (see my letter of March 14th) will govern otherwise, and will create the jog as shown.

There seems no doubt that these Surveys are "office surveys" with no monuments called for on the ground; the records show that Surveys No. 2, Nidever - No. 12, TCRRCo., and Nos. 7 & 8, GC&SFRRCo. were surveyed originally by J. W. Armstrong, Dep. Surveyor, Tom Green County, Texas, under proper authority. Original survey of No. 12 shows to be May 21, 1884 - corrected field notes by said J. W. Armstrong for Nos. 7 and 8 show to be made March 18, 1884 (we did not find original field notes for 7 and 8, but they had to be prior to this date) - f. notes for No. 2 show that it was surveyed in March 4, 1884. According to these dates, No. 7 & 8 are senior over No. 2, but No. 2 is senior over No. 12. In like manner, No. 1, King and No. 4 are senior to other Surveys of Blk. R lying NW of No. 12 according to dates of original surveys. It seems that date of original survey would control seniority rather than date of sale; too, it has been my understanding that even though a survey has been patented, if that survey or portion of it includes all or part of a senior survey, then the senior survey holds and any part of patented survey that conflicts with a senior survey has to give way to this senior. I know there are variations from this in specific

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cases, but feel that seniority will govern in this case.

Evidently, the State vs. Tunstill judgement, referred to in my letter of March 14, is based on the same construction used by me, because it fits almost exactly with our findings and construction. This judgement establishes the SW lines of Surveys No. 4, 1 and 2 which automatically determines the position of the East line of Blk. R; even if we were to disagree with this construction, I do not believe that we could alter it in view of this decision.

The West corner of Sec. 7, Blk. R, was placed by course and distance from East corner of Sur. No. 77, Blk. 35, which places it on the NE line of Sur. 76 as shown on sketch; original notes for No. 7 call for "stake on NE line of Survey No. 76 . . . . Thence S 50° E 1923 vs. to place of beginning".

My corrected field notes for Sur. No. 12 call to tie to No. 2, as suggested in your letter, but I did not call for tie to No. 2 in notes for No. 8 purposely, since we found No. 8 in conflict with No. 2 and since No. 8 is senior to No. 2.

All of the above has been my conclusion after much study, calculations and research work both in the field and office and I have carefully reviewed everything since receiving your letter. I realize that you have a basis for the suggested changes and that they may even out-weigh my contentions, but I wish to submit this added detail information for your consideration and study, and to see if it will meet with your approval under these conditions. I am returning sketch and the two sets of notes by me so that you will have them before you for further study; if I am still "off of the track" please give me dates, data and specific references so that I can satisfy my own mind as to any necessary changes.

I will be glad to show all of the old corners connected to with detailed descriptions on sketch; since practically all of these are in Blk. 35 and the 4 Sections (corrected field notes) have been approved already, I will wait until I learn whether this remaining work meets with your approval before making any changes or additions to the map. This will save time and expense in case of any further changes.

Very truly yours,

*James K. Aver*

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April 2, 1942

Mr. James K. Avera  
Licensed State Land Surveyor  
Holecombe-Blanton Building  
San Angelo, Texas

Dear Mr. Avera:

Your letter of March 30 enclosing corrected field notes of Sections 8 and 12, Block R in southwestern Upton County, Texas has been received, together with a sketch of this area.

I have compared your sketch and field notes with the court decree of the State vs. W. A. Tunstall, Cause No. 55429, and have noted on the sketch a distance of 2670.4 varas for the southeast line of Survey No. 3. You show this distance to be 2605.3 varas.

As stated in my letter of March 25, please indicate on your sketch all original corners in this area and also all corners along the northeast line of Sections 3, 5, 6, 7, 8, 4, 11, 12, 13, 8 and 7 as called for in the court decree. I am therefore returning the sketch and also the field notes of Sections 8 and 12 so they may be returned with the sketch.

Sincerely yours

BASCOM GILES, COMMISSIONER  
OF THE GENERAL LAND OFFICE

HUvR:mh  
89098-9-91134  
MF-20073  
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Sk. File No. 35

Upton County

Jas. K. Avera Letter's In-Re H+T.C.  
Bik 35 and Bik. R.

Filed April 8, 1942

BASCOM GILES, Com'r

Ulron Rosenberg  
File Clerk

See Upton Co.  
Rolled Sk. 26