

S.F. - 15408
Bob Reid

Applicants Exhibits 1 and 2.
Opponents Exhibits 1-7.
Copy of Transcript of Hearing.

counter 44567

SCRAP FILE NO. 15408

BOB REID

counter 44565

HEARING ON SCRAP FILE NO. 15408, APPLICATION BY BOB REID, HELD BEFORE THE COMMISSIONER OF THE GENERAL LAND OFFICE, IN AUSTIN, TEXAS, JANUARY 30, 1953

B E F O R E

HON. BASCOM GILES, COMMISSIONER

AND

HON. JOHN SIMMONS, CHIEF COUNSEL

A P P E A R A N C E S

PROPONENTS:

Hon. Bob Reid, San Angelo, Texas, the applicant

Hon. E. R. Sedgwick, Tulia, Texas, appearing in behalf of the applicant

OPPONENTS:

Hon. Geo. W. McCleskey, Central American Life Building, Lubbock, Texas, appearing in behalf of landowners in vicinity of alleged vacancy

Hon. G. H. Nelson (Nelson & McCleskey, Attorneys), Central American Life Building, Lubbock, Texas, appearing in behalf of landowners in vicinity of alleged vacancy

Hon. Homer Newberry, Floydada, Texas, appearing in his own behalf, landowner

Mrs. Homer Newberry, Floydada, Texas, appearing in her own behalf, landowner

Hon. J. L. Heim, Jr., 1315 Alta Vista, Austin, Texas, appearing in behalf of Mrs. Maggie Heim

Hon. J. W. Harper, M. D., Crosbyton, Texas, appearing in behalf of himself

Mrs. John A. Lloyd, Floydada, Texas, appearing in her own behalf, landowner

APPEARANCES (CONT'D.)

OPPONENTS:

- Hon. J. E. Thurston, Floydada, Texas, appearing in behalf of Mrs. Ella Thurston
- Hon. S. G. Appling, Corsbyton, Texas, appearing in his own behalf
- Hon. James O. Anderson, 2009 58th Street, Lubbock, Texas, appearing in his own behalf
- Hon. John Himmel, Corsbyton, Texas, appearing in his own behalf
- Hon. John A. Lloyd, Floydada, Texas, appearing in his own behalf
- Hon. L. L. Jones, Rt. #2, Floydada, Texas, appearing in his own behalf
- Hon. Allan B. Smith, Crosbyton, Texas, appearing in behalf of Geo. W. Smith and Mrs. Henry Hollis
- Hon. W. Earl Edwards, Floydada, Texas, appearing in his own behalf, landowner
- Hon. William Smith, Rt. #2, Floydada, Texas, appearing in behalf of Mrs. R. C. Smith
- Hon. W. A. Latta, Rt. #2, Crosbyton, Texas, appearing in behalf of himself
- Hon. A. M. Battey, Floydada, Texas, appearing in his own behalf
- Hon. Milton Harrison, Floydada, Texas, appearing in his own behalf
- Hon. Glad Snodgrass, Floydada, Texas, appearing in his own behalf
- Mrs. Glad Snodgrass, 503 West California, Floydada, Texas, appearing in her own behalf, property owner
- Mrs. Tilford Taylor, Floydada, Texas, appearing in behalf of herself and husband
- Hon. R. B. McCravey, Rt. #2, Floydada, Texas, appearing in behalf of Mrs. T. E. McCravey
- Hon. J. M. Massie, Floydada, Texas, assisting friends who own land involved
- Hon. E. H. Spears, Rt. #2, Floydada, Texas, appearing in his own behalf

APPEARANCES (CONT'D.)

OPPONENTS:

Hon. H. E. Powell, 3505 E. 4th Street, Lubbock, Texas, appearing in behalf of Mrs. L. M. Powell

Hon. L. O. Adams, Floydada, Texas, appearing in behalf of P. D. Adams Estate

Hon. Anton Pinter, Floydada, Texas, appearing in his own behalf

Hon. McManey, Rt. #2, Floydada, Texas, appearing in his own behalf

Hon. J. M. Harrison, Floydada, Texas, appearing in behalf of J. M. Harrison, landowner

Hon. Charlie E. Wright, Route, Floydada, Texas, appearing in his own behalf, landowner, S. E. 1/4 Sec. 22

Hon. F. B. Estep, Floydada, Texas, appearing in his own behalf

Mrs. C. T. Morrison, Rt. #2, Floydada, Texas, appearing in behalf of the Morrison Farm

Hon. C. T. Morrison, Jr., Rt. #2, Floydada, Texas, appearing in behalf of C. T. Morrison Farm

Mrs. J. C. Newsome, 301 E. Tennessee Street, Floydada, Texas, appearing in behalf of J. C. Newsome Farm (320 acres)

OTHER APPEARANCES:

Hon. W. D. Newell, Floydada, Texas, Surveyor

TRANSCRIPT OF PROCEEDINGS

AGNES E. MILLER

STENOTYPE REPORTER

I N D E X

WITNESS

EXAMINATION BY:

W. D. Newell	Reid	13
	McCleskey	28
	Reid	57
	Reid	112
Glad Snodgrass	McCleskey	60
	McCleskey	110
J. M. Massie	Nelson	67
A. M. Battey	McCleskey	74
Mrs. Tilford Taylor	McCleskey	78
S. J. Appling	McCleskey	81
	Reid	87
John Lloyd	McCleskey	87
Earl Edwards	McCleskey	89
Will A. Latta	McCleskey	92
J. M. Harrison	McCleskey	93
L. O. Adams	McCleskey	96
Mrs. J. C. Newsome	McCleskey	98
R. B. McCravey	McCleskey	101
	Reid	104
	Nelson	105
	McCleskey	105
John Himmel	McCleskey	106

(NOTE: All exhibits in the files of the General Land Office)

MORNING SESSION9:00 O'CLOCK A.M.JANUARY 30, 1953AUSTIN, TEXAS

COMMISSIONER GILES: Ladies and Gentlemen, the hearing has been called this morning, 9:00 o'clock A. M., on the Bob Reid application in Floyd County, known as Scrap File No. 15408. Under this application appointment of Mr. W. D. Newell, County Surveyor of Floyd County, was made by this office so that he might go upon the ground and report to this office the facts surrounding this application.

Our procedure here is to have Mr. Newell to present to this hearing such information as he found upon the ground. At the conclusion of his presentation we will be glad to hear from the proponents of the application and any additional information that they want to submit or bring out; then any and all opponents will be given an opportunity to be heard and then any additional evidence by anyone.

In case the hearing justifies it or there is a desire on the part of anyone, we would be glad to have a legal brief if the attorneys care to present it to the Commissioner before a decision is reached in this case. Of course, sufficient time will be allowed for that before action is taken on the file, if that is the desire of the attorneys or anyone interested in it. We will be glad to

have it.

We will now proceed with the hearing as outlined and ask Mr. Newell to point out and tell us what he did and what he found in connection with this application. Mr. Newell, will you be sworn?

* * * * *

MR. W. D. NEWELL, being duly sworn,
testified as follows:

COMMISSIONER GILES: Just tell us your procedure.

A I think I can tell the procedure.

COMMISSIONER GILES: If you will stand over there and talk just a little bit louder.

A O. K., if I can. In making this survey I started, of course, in the immediate neighborhood and checked the conditions on the ground as they existed there. This fill reported to be along the west side of Section No. 32 extended between the J. C. Fowler and the J. T. Ball Survey. I checked several years ago. I think it was in 1927, doing some other work. I found a stone at the northeast corner of No. 32. We found a stone in the road at the southeast corner of No. 32.

Q (By Commissioner Giles) Southeast?

A Southeast of No. 32. That is as located in the ground, that's in the road as located now. Checking across to the road on the west side of No. 32 we only found a mile in there across that south line. We checked around it.

Q In other words, you found no excess on that south line?

A We didn't find any excess there. And in checking around the J. W. Ball we found a stone at the fence corner at the southwest corner of the J. W. Ball.

Q You take that to be the original stone?

A They are practically the proper position from the stone we found in the road at the southeast corner of No. 32. They may vary two or three varas.

Then the question came up as to the proper location of No. 32. Checking there the records I find that No. 32 takes its location from the Eddy Sparks Survey. Eddy Sparks gets its location from Section No. 49, Block No. 28, H. & T. N., in Crosby County. I ran a line. Mr. W. D. Twichell located this corner of No. 49 in 1906. In 1938 I was working with Mr. George Mayes, County Surveyor of Crosby County, and we found that stone and I identified it as being the stone set by Mr. Twichell. In nineteen, I believe that was 1947, Mr. Lider, G. A. Lider, and I were, we made a survey of, a number of surveys of the Leonard Estate. At that time we re-located that stone and located a stone as described by Mr. Twichell at the northwest corner of No. 49. When I made, in making this survey in question now, we went a mile south and looked for the southeast corner of No. 49 but that was in a road and we failed to find any stone at that point. Taking the northwest and the northeast corners of No. 49 we turned an angle, a right angle, 90-degree angle, and proceeded

north to a point in the road that was 5,084.2 varas to a point in the public road. We turned an angle there of 90 degrees and went west 2,689.2 varas. Then we turned a 90-degree angle there and ran north 1919.4 varas to a point in the public road in front of the church at Mount Blanco. There we followed the road turning at an angle of 40 minutes to the left, or to the west, to a point in the road 1395.3 varas. That was just an angle point. At that point we checked on the U. S., on the U. S. G. S. -- oh, I'll get it right in just a second -- we checked on the U. S. Coast and Geodetic Triangulation Point and to determine the course that we were running. It developed from that check that the line from the corner, the northeast corner of No. 49 ---

COMMISSIONER GILES: A little louder, please.

A From the northeast corner of Section No. 49 to the point in the public road 5,084.2 varas north we determined that that line was running on a true north course. And all of our courses are based on that finding. We base all of our calls from there on on the assumption that we were on the meridian, true meridian and that passes through the Triangulation Station Heim.

Q (By Commissioner Giles) Station what?

A Heim. H-e-i-m. I believe that is the name of that station. We continued north to a point in the road on the south side of

Eddy Sparks Survey and there we ran a course north 89 degrees and five minutes east a distance of 2643.6 varas. That was to a point in the center of the public road along the east side of Eddy Sparks Survey. We came back to a point in the south line, ran a course south 89 degrees and five minutes west 1336.7 varas to a point in the public road to the south, that would be the southwest corner of the Eddy Sparks as it is located, now located on the ground. From that north, ran north no degrees and 16 minutes west 2,046.8 varas to a point in the public road. From that point we ran west 89 degrees and 44 minutes, that was south 89 degrees and 44 minutes west, that's 3,798.6 varas and there we found a slight jog in the road and we ran north no degrees and 16 minutes west 23 varas to get back in the road. We used, using that point then as zero we ran south 89 degrees and 44 minutes west nineteen hundred and five varas to a point two and three-tenths varas north of the stone we found at the southeast corner of No. 32.

Q Can you give me the relationship of your findings on the ground to the call ties by which these surveys were constructed? In other words, you have outlined how you retraced it. How does that compare with the calls in the surveys, the locative calls of the surveys in the original instance?

A I'm not sure whether I could give you that.

Q We can check that.

A That exact data.

Q I thought you had the comparison so I could have it in mind.

A I believe I made a note here on this distance. I can give you this, the Eddy Sparks Survey calls for the north, for the southeast corner Eddy Sparks to be 11,000 varas north and 50 varas west of the northeast corner of Section No. 49.

Q Well, you made that reconciliation. I understand it's in your report. We can get it from that, you don't have it in your mind, is that right?

A I don't have the exact figures in mind.

Q I understand it's here. We can get it from that. That's all right.

A We continued our course south 89 degrees and 44 minutes west, at 3805.4 varas to a point in the public road and that point was five-tenths of a vara south and four and eight-tenths varas west of the fence corner there in closing Section No. 32. We then, from there we ran north no degrees and 09 minutes west, up the road along the west side of Section No. 32. At 204 varas we passed a fence line and we continued on to 1155 varas to a fence line there, that would be on the northeast corner of the James Fowler Survey. We turned an angle and ran south 89 degrees and 47 minutes west, following the fence a distance of 951 varas. There we found a stone set on the west side of an old fence corner. We came back to the point 204 varas north of the point at the southwest corner of No. 32, ran a line south 89 degrees and 49 minutes west with the fence line between the James Fowler and the J. C. Fowler Surveys. At 950.4 varas we found a three-quarter inch pipe on the west side of a fence corner. From that

point we ran south no degrees and 24 minutes east 952 varas and found a stone set at a fence corner at that point which would be at or near the southwest corner of the J. C. Fowler Survey.

The J. C. Fowler and the James Fowler Surveys were tied in their field notes to Section No. 26, Block N. In the chain of field notes Section No. 26, Block N, ties to Section No. 24, Block No. 2, B. & B. The question came up as to the proper location of the two Fowler Surveys. We went into Crosby County, checked Mr. W. D. Twichell's records, found a stone at the southwest corner of Section No. 19. We found a stone at the southeast corner of Section No. 19 and a stone at the northeast corner of No. 19. The stone at the northeast corner fit Mr. Twichell's description perfectly. The stone at the southeast, either the stone at the southeast corner there at the fence corner or the bearing stone had been disturbed because that line didn't, they didn't correspond. The course and distance was both off slightly.

From the three stones we found set in No. 19 we produced a line north along the east line of No. 22 and No. 23, established a corner of No. 23. We produced the line along the west side of No. 22 and No. 23, that's Block No. 2, B. & B., and established the corner of, the common corner of No. 23 and No. 24, Block No. 2, which is also the southeast corner of Block No. 26, of Section No. 26, Block N. We found that producing that line we were running on a different course to the fence line between No. 26

and the Fowler Surveys. The course that we located Section No. 26, that course would be north no degrees and 20 minutes east. The fence along the west side of the Fowlers, on the west side of the J. C. Fowler, that fence, or running from the stone to the pipe is a course of north no degrees and 24 minutes west, from the pipe at the southwest corner of the James Fowler Survey to the stone at the northwest corner, that course is north no degrees and nine minutes west.

I believe that that about covers the course that I, with one exception, that I ran a line from the southeast corner of No. 32 or from the stone I ran south a course of south no degrees and five minutes east to a point in the public road. That distance was 2396.3 varas and using that as zero we ran a course south no degrees and one minutes east 1490.7 varas to a point 12.3 varas east of an old stone mound supposed to be the original southeast corner of the G. H. Ball Survey.

COMMISSIONER GILES: Mr. Reid, did you want, you or your attorney want to ask additional questions?

MR. REID: I would like to introduce the field notes.

COMMISSIONER GILES: Talk a little louder.

MR. REID: I would like to introduce the field notes and certificates of the following surveys. First, they are here -- I believe you say just to name them and you put in at the office?

COMMISSIONER GILES: Yes, I should have stated at the

Counter 44577

outset, any record in the Land Office is considered a part of the hearing, be glad to have you refer to it, not going to exclude anything in our records, we're going to look at it. If you want it particularly pointed out, be glad to have you do so, all the sketches, maps, files, statements, field notes, affidavits and other things over there, we will certainly take the liberty of looking at them.

MR. REID: That's been the previous practice.

COMMISSIONER GILES: That's correct.

MR. REID: The field notes and certificates of surveys in Floyd County, the Eddy Sparks, the original field notes of Survey No. 21, C. N. Morris, Survey No. 22, J. C. Malloy, Survey No. 31, A. B. & M., Survey No. 32, P. D. Adams, and the G. W. Ball No. 9717, J. W. Ball being No. 9686, A. A. Lomax, SF-1716, Surveys Nos. 22 and 23 and No. 19, Block No. 2, B. & B. And the corrected field notes for No. 19 by W. D. Twichell made May 12th, May 21st, 1906, Survey No. 26, W. L. Laycock, Block N, Survey No. 20, and then the pre-emption survey W. L. Laycock No. 9680, and the James Fowler Survey, Pre-emption No. 9681, J. C. Fowler Survey, P-9713, and the original and corrected field notes of Survey No. 49, Block No. 28, H. & G. N. Railroad Company Survey in Crosby County. These field notes by Mr. Twichell will show that he did this under the law and approved April 2, 1887, Chapter 115.

EXAMINATION

BY MR. REID:

Q Mr. Newell, you've been the County Surveyor about 22 years I believe you said in Floyd County?

A I have been surveying that long. I was appointed County Surveyor in 1939.

Q I see. How long have you been working in Floyd County?

A About 26 years.

Q You know of any of these surveys that I have named that have been fenced or any of the fences on these surveys that's been built since the time that you started surveying in the county? In other words, they have all been there more than 26 years that you know of?

A This particular neighborhood I believe they have. I don't remember of there being any changes since I've been surveying in that particular neighborhood.

Q Now, the Eddy Sparks, you know who and when it was located on the ground to be fenced?

A We don't know definitely.

Q Would it be prior to 1906?

A I can testify that the fence was there prior to 1906.

Q You know who surveyed it for the fence line?

A We don't have no record, definite record.

Q For the southeast corner of the Eddy Sparks would you say that the original corner, is that the fence corner or out in the road

counter 14579

from the fence corner, southeast?

A Just what, just don't know what you mean there.

Q Well, from what you see there on the ground would you say that the surveyor when he located the Eddy Sparks and built the fence would put the corner out in the road or was it over where they built the fence do you think?

A I believe the records show that fence, that fence was moved to open a road.

Q Be out in the road?

A It would be out in the road.

Q About how far from the fence corner east and south would you think that would be?

A I believe that road, the road on the east, I believe that's a 40-foot road and about 20 feet, the road on the south I think is a 60-foot road which would make it about 30 foot.

Q Now, if the Eddy Sparks was located before Mr. Twichell marked his corner for No. 49 we could use that corner and Mr. Twichell's corner under the holdings wherever he moves it wouldn't move that corner away from its location, if it were made before Mr. Twichell did his corner. Now, take that corner and use it for the original corner, the original location of Eddy Sparks, then let's go west call distance 3971 varas and then go north call distance in the field notes 3971. Now, at those two points did you find anything there that would be an original corner on the Eddy Sparks?

A No.

Q You nowhere around it. Then No. 21 built off the northwest corner of Mr. Sparks, is that right?

A That's right.

Q Then let's go 1900 varas west for that, No. 22 built off of No. 21, northwest of No. 21?

A That's right.

Q It goes 1900.8 varas?

A Yes.

Q And No. 31 built off the northwest of No. 22, 1900, No. 32 builds off No. 31 from its northwest corner, 1900 varas. Now, how far east would that point be from the center of the road on the west side of Section No. 32, can you tell me?

A You were coming along a line here.

Q In the field notes ---

COMMISSIONER GILES: Both of you, if you don't mind face this way a little more and force yourselves if you have to to speak a little louder. We can't quite hear you.

A I didn't check this line. I checked a line a mile south and came across the south side of those sections.

COMMISSIONER GILES: Better name which sections again.

A The south line of No. 21, south line of No. 22, No. 31 and No. 32.

Q Now, all of our distances called for in those surveys just named and Eddy Sparks, all call to run west and north. Now then, can

you tell me how far west and north from the center of the road, the point at the center of the road for the Eddy Spraks corner would the northwest corner of No. 32 be east of the center of the road that runs along the west side of Survey No. 32?

A I can't tell that distance just off hand there. My information would. We could add that up and we have data there that would give us that exact distance.

MR. REID: Can we let him put that in later?

COMMISSIONER GILES: You mean substitute a little later?

MR. REID: Put the distance in.

COMMISSIONER GILES: You mean you can substitute the distance in the hearing?

MR. REID: Yes, sir.

COMMISSIONER GILES: That will be all right.

Q (By Mr. Reid) Now, from down at the corner of No. 19, Block No. 2, B. & B., that corner was located by Mr. Twichell on the same authority he surveyed over here for No. 49. Now, at the southeast corner of No. 19 I believe you said the bearing and distance from the bearing rock to the stone mound didn't fit the call exactly?

A That's right.

Q How big is that rock that is marked 'X'?

A That, if I remember that rock was probably two feet long and 18 inches wide.

Q You know how deep in the ground it is?

A We didn't dig to see how deep. It was laying flat almost flush or even with the surface.

Q Did you find it had been moved?

A There was no way of telling whether it had been moved or not. It was, the sod was grassed over all around the stone.

Q Be more likely that the stone mound had been moved than the bearing, if the fence there at the stone mound, why, probably disturbed that and then rebuilt it?

A There was a fence there three ways from that.

Q They could have disturbed that one, though, more than likely did than they would have this other, you think?

A Well, that could be possible.

Q Be your judgment?

A I just would hesitate to answer that question. I found a stone setting there in the ground but had the markings that fit Mr. Twichell's description.

Q How close was it to the fence post?

A I don't believe I show there but it was some two feet, I think, from the fence corner.

Q If we move that rock to fit the course and distance from the marked rock you would be some two varas east and probably two-thirds of a vara south of its present location, wouldn't you?

A I don't recall just what that distance was.

Q Now, read your course and distance from the map.

A There I found a sandstone ---

MR. NELSON: For the purpose of the record, if you will state where you are starting from now, please, sir.

A At the southeast corner of Section No. 19, I say there that I found sandstone set at the fence corner, stone marked 'NE-18' from whence a large flat stone marked 'X' bears south 24 degrees and 50 minutes east 147.9 varas. That is the note I made there.

Q (By Mr. Reid) Mr. Twichell's bearing reads for the stone marked 'X' to be south 24 degrees and 35 minutes east, 146.7 varas. Now, if you locate the marked rock at Mr. Twichell's call where he said he put it, then go north over the stone mound at No. 19, go straight north course over that, you have his direction there, then for the balance of his surveys in Block B. & B.?

A I see.

Q And make the northeast corner of No. 23 set the course and distance from his southeast corner of No. 19, you would be a little different from where you are now up there on your map, you would be west and a little south of it?

A Be west a few feet.

Q Then you go west for the northwest corner of No. 23, Southeast of No. 26, you would be west and south of that corner and then go to the northwest corner of No. 26, locate it 1900 varas from that point. Now then, I want you to give me the distance from that point across to the east fence in the James Fowler Survey, I want to put that in the record.

A I would have to calculate that.

MR. REID: Well, I'll see if we can do that like we did the other.

COMMISSIONER GILES: That will be all right.

Q (By Mr. Reid) From that point of No. 26, that point, 1900 varas, those courses be north and west, they call to be north and west and place them on the map and then give us the distance from there over to the fence on the east side of the James Fowler Survey. Now, from that point north across the Laycock Survey, like to have that distance and over to the northwest corner of No. 32 when it is measured from the northeast corner of No. 21.

A Northeast?

Q Northeast corner of No. 21.

A Yes, sir.

Q Total distance from the northwest corner of No. 26 east to the east line of No. 21. Now, in these surveys of the Eddy Sparks, Nos. 21, 22, 31, 32, and all the others mentioned there, all the others on your map north of No. 19, did you find any corners that you would say are in the original position? You have some stones set, find some stones set. Are there any of those stones that you could positively say are exactly, that the original surveyor put them on the ground?

A Are you referring to the locating surveyor?

Q The man that said in the field notes of the James Fowler, the J. C. Fowler, they call to begin with what he calls a set stone.

Now, did you find any of them you could positively identify as being in the position that man put them there?

A We find set stone but there was no marks and as I remember the field notes, the original locator didn't say that he marked any stones.

Q No, sir. But he said he began at a set stone for the corner of No. 26. Now, did you find that stone where you think he set it?

COMMISSIONER GILES: Which corner did you mention?

MR. REID: Beginning corner of the James Fowler, the beginning corner of the James Fowler.

COMMISSIONER GILES: It's pretty hard to hear you. This lady is having a little difficulty here. Look this way 'kinda' when you talk, that will help a little bit.

Q (By Mr. Reid) The question is, did you find the set stone at the northwest corner of the James Fowler called for in the original field notes?

A We, I'll say this, we found a stone that was, showed evidence to have been set for a land mark on the west side of the fence corner of the fence inclosing, be the James Fowler Survey.

Q (By Commissioner Giles) Let me ask him this question right there. There are not too many other stones in that area, not only at this corner but a lot of others, that's not what you would call a stony country?

A That's, the stones, any stone you find there has been carried there and placed there for a purpose.

Q That's the point I was trying to make, not what you would call a rough, stony country?

A Not a stony country, that part.

Q (By Mr. Reid) At the place where you found the set stone any other stones there, just one?

A There were probably two or three pieces of stone set by this fence corner, they were set in a group.

Q The stone that is set in the ground, is it setting against the fence corner?

A They were setting, they were all three, I might say if I remember right there were three pieces, all setting in the ground and a portion of one was resting against the post.

Q How about the one down at the southwest corner of the James Fowler and the northwest corner of the J. C. Fowler?

A At this point?

Q Yes, sir, is that the same way?

A That's a pipe. We didn't find any stone at that point, that was a three-quarter inch pipe.

Q (By Commissioner Giles) What about the age of that pipe? Was it recent or pretty old or real old?

A Well, it was, didn't show to have been set, well, I would say that it had been set less than 50 years. It would have to have been set over 50 years to have been the original corner.

Q (By Mr. Reid) Its marker, not called for in the field notes?

A It is not called for, that's right. It is re-location; that

pipe was set by someone making a re-location there.

Q The distance from the north line of the J. C. Fowler to the north line of the James Fowler is 950 varas. Then from the northwest corner of Section No. 32 coming south 700 varas there is an excess in there between the Laycock and the north line of the James Fowler, is there not?

A There is excess distance in it. I couldn't say which side it would be.

Q I wish you would make a plat at the north end of this survey that you show in there on that little map and show me where the fences are and the roads are when you come down 700 varas from the northwest corner of Section No. 32 and show the north fence of the James Fowler Survey and the south fence of the Laycock Survey and file it -- you understand what I mean now? If there is an opening between the Laycock and the James Fowler, then I want to see how wide that is and how far, how much that will be in the road there at that corner.

COMMISSIONER GILES: He doesn't show any road in there now. Is there a road going west out of there on the south line of the Laycock?

A No, a turn row in through the field.

COMMISSIONER GILES: Are you talking about a line going west along the Fowler?

MR. REID: The road on the west side of No. 32 but an excess between the Laycock north line and south line and

noth line line of the Fowler and south line of the Fowler.

COMMISSIONER GILES: What is it you want him to show? He shows a fence already.

MR. REID: I want him to make a smaller sketch showing how much of that strip going along the south side of the Laycock would be in the road at that point, be covered by my filing, the north side.

A I don't quite understand. There is no road across the north side of the Fowler or south side of the Laycock.

MR. REID: I mean the road running north and south along the north side of No. 32.

COMMISSIONER GILES: I'm sorry, I don't understand either. I don't quite get what you're getting at. I though maybe I was the only who who doesn't understand, doesn't seem the surveyor understands either. I would like to know what you are trying to find out that isn't on there.

MR. REID: The distance from the south line of the Fowler to the northwest corner of No. 32 scales more than the call distance for the Laycock Survey and the James Fowler and the J. C. Fowler.

COMMISSIONER GILES: Excessive in that distance, yes, I can see that on the map.

MR. REID: Now, there is a little area on the south line when you plat it up, an area on the south line of the

Laycock between it and the James Fowler that is not covered by their field notes. Survey No. 26, Block N, scales a thousand varas from this line, from the south line to the north line, so the way I scale that there ought to be about 80 varas somewhere in there.

COMMISSIONER GILES: It's in there, he doesn't have any way of showing that. I mean it's shown on the working sketch.

MR. REID: He has the fences tied in there?

COMMISSIONER GILES: Doesn't he show the distance down to the fence, is that what you mean you want him to show? He told you how far north he went here and turned west, that mark the fence?

A Yes, sir, then I show from the southwest corner of No. 32 the distance to the road on the north side of No. 32.

COMMISSIONER GILES: I think what you're trying to say is some excess in the James Fowler and Laycock and you don't know quite where it is and you just want him to see what he thinks. Is that what you're trying to say?

MR. REID: No, sir. I know some excess in there but at this corner of the Fowler the fence sits west of the road and it is west of the road on the Laycock. Now, if there is a strip not in the field notes of the Laycock not in the field notes of the Fowler, I want to see if my file would cover that at the corner out in the road.

counter 44590

COMMISSIONER GILES: Well, can't you reach that determination without him, I don't see quite what that has to do with it, let's admit and I think our working sketch shows that it is excessive. Now, as to just where that land belongs, whether it belongs in the Laycock or in the Fowler or excess in either one or whether there is a strip between them is really three different possibilities.

MR. REID: Yes, sir. Now, if you give No. 26 1900 varas from this line its corner will be here and the Fowler will come along here and the strip would be right along there, north of the Fowler and south of the Laycock. If it goes on over to the west line of No. 32 then be covered by my filing, 30 or 40 varas square, part of it be in the road.

COMMISSIONER GILES: I don't think that's material, something we will have to get later on, determine whether your application covers it, what you're really talking about.

MR. REID: Whether it would be in the filing.

COMMISSIONER GILES: That might, our determination, that could be worked out even after we reach a determination, if we hold that it is vacant and we can check on that, we'll probably want to determine whether there is any excess in the Laycock and whether those people are entitled to purchase as excess, or whether in the Fowler. I don't know anything the surveyor could say that would throw any light on it, if he has anything he wants to say.

counter 44591

I couldn't quite understand the question myself; that's the reason I got into it. I don't think it is material at this time, whether he thinks it is in your application, that's a determination we can reach a little later on.

MR. REID: I could explain it to Mr. Newell later and make a plat of it and furnish you with that, showing you what I'm trying to tell you.

COMMISSIONER GILES: That will be all right, will save time. I don't think that's a vital point. Anything else, Mr. Reid?

MR. REID: No, that's all.

MR. McCLESKEY: Mr. Commissioner, Mr. Nelson and I represent the land owners who are contesting or protesting the granting of this application.

I think it might be well for us in the beginning before we direct any questions to Mr. Newell to explain generally our theory of this whole situation in order that even ahead of these questions you might have some direction as to where we're going, trying to get to.

It is our contention that the Eddy Sparks tract was surveyed in 1901 upon the ground and that at that time or immediately thereafter there was placed upon that survey a fence and although the field notes of that survey do not call for any permanent monuments that we can find, still that fence was put down upon the survey and that fence has

remained in the same location at all times from that date down to the present time with the sole exception of some little set-backs for road purposes. We believe, then, that the fencing of the Eddy Sparks Survey is of vital importance to this proceeding.

We also wish to show in our questioning of the surveyor the various, some rocks over there in the vicinity of Section No. 32, the P. D. Adams Survey, as they relate to the fences which are also on the ground over there and which have been on there since approximately the time of that survey in 1901. Pointing out to the Commissioner the fact that our surveys are senior and prior to the Twichell Surveys in 1906; that is, the Twichell location of the corners in Section No. 19, Block No. 2, B. & B., and the northeast corner of No. 49, Block No. 28, down in Crosby County.

In order for the record and to save our position in this respect we do want to take exceptions to the application itself before going further. We believe it to be an illegal application in that it has not shown in the application itself the names of all interested parties as required by Article 5124-C, Sub-Section 6 (c), I believe it is. It names the Standard Oil Company, Dallas, Texas. We would offer in evidence the original of an oil and gas lease executed by Mrs. Minnie Adams, a widow, to the Standard Oil Company of Texas, this instrument showing to have been

counter 44593

recorded in the office of the County Clerk of Floyd County on February 3, 1947. We would ask permission to withdraw the original after examination and substitute for it a 'photo' copy.

We are willing to proceed with the hearing but we would like to do so subject to that objection to the application.

COMMISSIONER GILES: Is that the only discrepancy or are there others in the application?

MR. McCLESKEY: With respect to, that's the only discrepancies we point out, yes, sir.

COMMISSIONER GILES: This copy will be filed as a part of the record.

EXAMINATION

BY MR. McCLESKEY:

Q Mr. Newell, will you take this map which I hand to you and examine it and tell us whether or not you made the original tracing from which that map is, was made as a 'photo' copy?

A That's right.

Q Mr. Newell, what does that map show?

A That map, I endeavored to show the sections, the land that was directly affected by the location of the Eddy Sparks Survey. All of the adjoining surveys show, take their location indirectly from the location of this point.

Q (By Commissioner Giles) The southeast corner of the Sparks?

counter 74594

A Of the Eddy Sparks Survey.

Q When was the map made?

A I prepared this map, I would say, about three weeks ago.

Q (By Mr. McCleskey) Mr. Newell, is it true or not that in order to find a vacancy over here where it has been applied for that it will be necessary to determine and find that the Eddy Sparks is located upon the ground too far west from where it ought to be?

A I think that's correct.

Q And if the Eddy Sparks tract is moved either to the east or to the west, how will that affect all of the other sections shown upon this map, will they move with it?

A According to my way of thinking they would. The information that I have, why, they would move with the original survey.

MR. McCLESKEY: For the purpose of identification I am going to mark this map that we have been talking about as D-2. We offer in evidence this map that we have identified as D-2.

Q (By Mr. McCleskey) Now, of course, this Eddy Sparks tract is the same one that you have been talking about in your previous testimony, is that right?

A That's right.

Q Located in Floyd County, Texas?

A That's right.

Q These other sections, Nos. 21, 22, 31, 32, and so forth, are the

counter 4595

same tracts you have been referring to up here on this blueprint that you have been testifying about?

A That's right.

Q Mr. Newell, I noticed in your testimony that you refer to a stone mound actually upon the ground at the southeast corner of Section No. 32, A. B. & M., P. D. Adams Survey there in Floyd County. Where was that stone with reference to the fence line which is there upon the ground?

A That stone is directly east and 30 feet east of, directly east of the fence that extends west and 30 feet east of the north-south fence bounding the road.

Q Is there a road there running north and south?

A There is.

Q Is that stone out in the road?

A It's in the road and practically in the center of the road.

Q Mr. Newell, when did you first come out to Floyd County?

A We came to that Floyd County in 1903, in September, 1903.

Q Have you been living out there in that country ever since?

A Been there ever since.

Q Do you recall that fence around Section No. 32 has been there a long number of years?

A I think I could testify that it had been there over 20 years.

Q You don't recall exactly when you first saw it there?

A No.

Q Now then, the fence, of course, is set back out of the road

counter 74594

over marking it, not the property line but setting back to where the folks use that land up to the edge of the road, is that correct?

A Yes, sir.

Q What is the width of that road running north and south where you found the stone at the southeast corner of No. 32?

A That's a 60-foot road.

Q (By Commissioner Giles) What type of construction, what is the condition of the road?

A Just a dirt road.

Q Not gravelled?

A No.

Q Not paved?

A No. (Indicated by shaking his head)

Q (By Mr. McCleskey) Have you examined the records of the General Land Office to determine whether or not field notes were made Section No. 32, not Section No. 32 either, but of the J. T. Ball Survey and whether or not those field notes refer to a stone at the northwest corner of the J. T. Ball Survey?

A J. T. Ball, the field notes of the J. T. Ball?

Q I beg your pardon, the J. W. Ball tract is the one I should have been referring to.

COMMISSIONER GILES: Don't you mean the G. W. Ball or do you ---

MR. McCLESKEY: He's got it J. W. Ball up there.

counter 44597

A It's the one that lies directly south of Section No. 32 at the southeast corner.

Q (By Mr. McCleskey) Yes, sir, and now in order for us not to have any difference of opinion about what we're talking about, there is on the Commissioner's desk over here another map showing a tract of land lying immediately south of the southeast corner of Section No. 32 known as the G. W. Ball tract. Would you come over and look at that and see if that is the same tract we are referring to as the J. W. Ball on your map?

A That's right, that's the same tract.

Q Now, back to our question, have you examined the records of the General Land Office to determine whether or not the field notes of the G. W. or J. W. Ball tract call for a stone at the northwest corner of that tract?

A I have, yes, sir.

Q You have?

A Yes, sir.

MR. McCLESKEY: We want to introduce in evidence File No. 9717, Instrument No. 2.

COMMISSIONER GILES: That's Bexar pre-emption?

MR. McCLESKEY: Bexar Pre-emption, which are the field notes made in January, 1897, calling for a stone and a mound and four pits.

Q (By Mr. McCleskey) Now, Mr. Newell, does that stone there appear to have been one that has been in the ground a long time?

counter 4598

A Yes, it was a stone that had been covered there many years.

Q Could it have been there since 1897, did it give that appearance?

A Well, it could have. It was very hard flinty limestone.

Q Did you take it as the stone which Mr. Prewitt called for in these field notes?

A I would say that it was.

Q Now, Mr. Newell, also in these same field notes Mr. Prewitt in his survey goes around that tract of land, the G. W. or J. W. Ball?

COMMISSIONER GILES: Refer to it as the G. W. Ball.

Q (By Mr. McCleskey) From now on I'll refer to it as the G. W. Ball tract of land. I see the field notes also refer to it as the G. W. Ball tract.

COMMISSIONER GILES: Original file, so it must be right.

Q (By Mr. McCleskey) Yes, sir. Around at the southwest corner of the G. W. Ball tract did you find another stone?

A We found a stone at the fence corner there.

Q Now, these field notes of Mr. Prewitt call for a stone at the southwest corner of the G. W. Ball tract?

A That's right.

Q Did you take that stone which you found at the southwest corner of the G. W. Ball tract to be the stone which Mr. Prewitt called for in his field notes?

A It was located near enough to the position called for to where

that it could be accepted. The course and distance, as I remember, lacked probably a vara of checking and it was not set as deep in the ground as the other stone but it showed, the general practice of surveyors would accept the stone as being correct, being as near in the position as called for.

Q Are those stones now found at both the northeast corner and southwest corner of the G. W. Ball Survey of such a type and nature of stone that they would have to have been brought in from some other location and placed there?

A They were.

Q In other words, you don't find any stones like those types there in that area naturally?

A That area has no stones, natural stones in the soil.

Q (By Commissioner Giles) Let me ask this question, what is the condition of the soil at those particular places, plowed land, pasture grown up in grass, natural meadow, what is the condition of the land?

A The southeast corner, the stone that we are discussing now, is pasture land on the south.

Q (By Mr. McCleskey) Is that the southwest corner?

A The southwest, that's right, the southwest corner. It is pasture land on the south; it is in cultivation north. It is a fence corner, protected by the corner. The one at the northeast is in a road, it's covered.

Q (By Commissioner Giles) How about the one at the northwest

corner?

A We didn't find anything at the northwest corner.

Q How about the distances between the stones, are they excessive over the original field notes or are they approximately correct?

A They are approximately correct, probably a vara or so short of the original call.

Q (By Mr. McCleskey) Mr. Newell -- were you through, sir?

COMMISSIONER GILES: I'm through.

Q (By Mr. McCleskey) As I understand your testimony that you have previously given here, the fence around Section No. 32 is so located upon the ground as to prevent any vacancy being found if that fence is properly located, is that correct?

A That's correct.

Q Now, how do these stones, both the one at the northeast corner of the G. W. Ball tract and the one at the southwest corner of the G. W. Ball tract, compare with the location of that fence, is the fence properly located according to those two stones with the exception of the road set-back?

A They would be located within a reasonable area of the survey.

Q Now, Mr. Newell, those roads in that area out there, they are what we commonly refer to as farm roads, is that correct?

A That's right.

Q Are they, are the fences set back to permit those roads to go through there by order of the Commissioners' Court or by cooperation of the parties who own the land? Is that the

practice in that country?

A That is the practice. Most of them are set back by order of the Commissioners' Court.

Q Do you know of your own knowledge whether or not that fence along the east line of Section No. 32 has ever been moved back for a road purpose, to allow a road?

A Yes, I can testify that that was moved.

Q Half the distance of the road, half the width of the road?

A There was a road there, think that road was only 40 feet wide when I first became acquainted with that. In the last 20 years it was widened to a 60-foot road, at that time, what I have knowledge of the fence being moved.

Q When it was widened from 40 to 60 feet the fence was moved back to give some additional land for road purposes?

A Additional land, yes, sir.

Q Other than that you know of any movement of that fence since you first knew of it being there?

A No, I don't.

Q Now, Mr. Newell, up there at the northeast corner of Section No. 32 that we have been talking about, did you, I believe you said you also found a stone there?

A Not at this particular time.

Q In 1927?

A In 1927 I made a survey there locating a four-acre tract that the community bought for a cemetery. At that time I found the stone

in the road intersection which would be at the northeast corner of Section No. 32.

Q Now, was that stone, you did not find that stone again when you surveyed it for this particular application, is that correct? Is it out in the road now?

A It is in the road and at the end of a pavement. They have paved up to that point and if we had found the stone we would not know whether it had been disturbed with the machinery or whether the original stone. In making this pavement they used what we call the caliche base which contains quite a bit of stone and it would have been difficult to tell whether that was, that stone had been disturbed or whether that was part of the original stone or some that had been hauled in there. We didn't spend any time looking for that stone.

Q Then it is your testimony that along the north line of Section No. 32 in an east-west direction there is now a paved road?

A No, it stops at the corner of No. 32. It is along the north line of No. 31 for a short distance.

Q I see.

A But stops near the corner or at the corner of No. 32.

Q (By Commissioner Giles) The intersection there is paved or topped?

A No, just paved up to, didn't pave the whole intersection, just paved up to a line and stopped there in front of the store and school house.

Q But it is your statement you knew the stone was there, you located this four-acre tract from that stone and it is now fenced, of course, and still upon the ground?

A That's correct.

Q (By Mr. McCleskey) Now, although you didn't find the stone upon your survey for this application, were you able to fix for certain and definitely the location where that stone should be from other monuments there that you knew about?

A In a reasonable degree from the location of the corners of this four-acre tract.

Q I believe your report shows that you were able to fix the location of that stone where it should be?

A That's right.

Q Mr. Newell, where is that stone or the proper location of that stone at the northeast corner of Section No. 32 with reference to the fence as it actually exists upon the ground there at the northeast corner of Section No. 32?

A For some distance there there is no fence around the school ground. They just have posts set back to keep the cars from driving up to the school house proper.

Q Well, here's ---

A The fence line, the general fence line from the south up to the north side of the cemetery, that distance would be 30 feet west of a line passing through the stone I found at the southeast corner and the point where I would fix for the location of the stone at

the northeast corner.

Q Would that be half the distance of the road, that 30 feet?

A Be half of the road.

Q Then it is your testimony that all of Section No. 32 is paved, is fenced except this tract up here around the school ground in the extreme northeast corner, is that correct?

A That's right.

Q And if the fence on the east line of Section No. 32 were extended north to where it would intersect the extended north fence going east that point of intersection of those two extended lines would be approximately 30 feet west of where the proper location of the stone is, is that correct?

A That's right.

Q Have you also examined the records of the General Land Office pertaining to the field notes made in 1900, in August of 1900, covering that tract of land up there, the school tract of land out of the northeast corner of Section No. 32?

A I have.

Q Do they call for a stone?

A They call for a stone at each of the four corners of that tract of land. We searched for the other three corners but didn't find any. We didn't find those corners.

Q Back in 1927 when you found that stone up there at the northeast corner of Section No. 32 was it generally the same type of stone that you found down at the southeast corner of No. 32?

A It was.

Q And if I asked you the same questions about it as to its nature and whether or not it had been there a long time that I asked you about the stone at the southeast corner would your answers be substantially the same?

A Yes.

Q Did you take that stone you found in 1927, in the northeast corner of No. 32 to be the stone called for in the field notes found in Instrument No. 3? In the file, Floyd County School Land File? File No. 61418?

A I did.

MR. McCLESKEY: We also offer in evidence these field notes made in 1900.

Q (By Mr. McCleskey) Then, Mr. Newell, if those stones, the three stones we've been talking about, namely, at the northeast corner of No. 32, at the southeast corner of No. 32, and the one at the southwest corner of the G. W. Ball tract, if they were properly located upon the ground and if they were the stones set under these two surveys, the field notes that we have referred to, would there be any vacancy over there? Would any vacancy be permitted under this application which is being heard here?

A No, there wouldn't be.

Q That would close and be no vacancy over there?

A That's right.

Q Now, Mr. Newell, you referred also, I believe, in your opening

statement here to stones which you found at the northwest corner of the James Fowler Survey. That is this point here. Did that stone appear to have been located there for a long period of time?

A It did, yes.

Q Sufficiently long to have possibly been the original stone that the surveyors put back there when it was originally surveyed?

A It could have.

Q Did you take it to be that?

A Yes, I believe that was the construction I placed on that.

Q If that stone were sufficiently, were properly located and was the original surveyor's stone marker upon the ground, would there be any vacancy permitted under this application?

A I don't think so.

MR. McCLESKEY: I believe that file has already been offered in evidence and no point in duplicating it but if it hasn't been we offer it.

Q (By Mr. McCleskey) Also, Mr. Newell, you referred to a stone which you found at the southwest corner of the J. C. Fowler Survey. Will you point that out on the map to us, please, sir, right down there. Did that stone appear to have been there a long period of time?

A It did.

Q Sufficiently long to have, to be considered the location which the original surveyor put there?

A It could have been.

Q Did you take it as such?

A Yes, we accepted it in the construction.

Q Now, if that stone were properly located as the original corner made by the surveyor, would there be any vacancy permitted under this application?

A No.

MR. McCLESKEY: We also offer in evidence the file showing that location of that stone.

Q (By Mr. McCleskey) Now, Mr. Newell, you say you came out to that country in 1903?

A Yes, sir.

Q Do you recall whether or not there was a fence around the Eddy Sparks tract at that time?

A I wouldn't know about that particular year. It was in the spring of 1904 or 1905 that I crossed that pasture with my father and it was fenced at that time.

Q Is the Eddy Sparks tract the same tract of land that folks out in that country used to refer to as the old Four Section Pasture?

A That's what it has been known as the last 50 years.

Q Do you know whether or not that fence which is now situated around the four sides of the Eddy Sparks tract is now situated upon the ground in the same location as it was when you first knew of it back yonder in the spring, did you say of 1904 or 1905?

A It was in the spring probably 1905. I'm not sure about the date.

Q You know whether or not it is in the same location now that it was then or approximately so?

A I would say approximately because been roads opened up on three, on about three and a half sides of it, of that. There was a road opened up across the north, one across the east and one across the south and half of the west.

Q Now then, is it your belief that that fence since 1904 or 1905, when you knew of it being located there, has been changed any in its location up to the present time other than to set back for road purposes?

A I don't think so.

Q You don't think it has been changed other than that. Are you familiar with the records as to what the S. Pointer Survey shows in 1901 of the Eddy Sparks tract?

A He in my records, in the record books of Floyd County, in the Floyd County Surveyor's records we have a corrected field notes of the Eddy Sparks Survey and S. Pointer makes the notation that he filed the corrected field notes. Whether he made the survey for this correction we don't know because he shows the signature of the field notes to be C. W. or W. C. Holt, I don't remember just how his initials are but Mr. Holt was the original locator and he was filing, Mr. Holt made some corrections or filed a statement about the corrections about that time. And whether or not Mr. Pointer made the survey our record doesn't

show.

Q (By Commissioner Giles) Pardon me for interrupting but another matter has begun to press me. There are one or two points I want to bring out right here and we can insert at a different place in the record and not interrupt yours. Let me ask you this, Mr. Newell, I believe you have located what you said were stones at the pretty well established No. 32 and the J. C. and James Fowler. You haven't yet satisfied the applicant on the amount of area north and south. I would like for you to make this point clear. I believe you have already testified but I would like to hear you do it again, your east-west distance in No. 32 from what you consider the east line to the west line is, what distance is it, is it exactly a mile or excess or is it precisely right?

A I think we show that 1901 varas.

Q Now, is the same thing true then of the J. C. Fowler and the James Fowler, their east-west distance is exactly?

A We show this line between the James Fowler and the J. C. Fowler to be 1900, to be 950.4 varas east and west.

Q Well, then, I understand the James Fowler and the J. C. Fowler and Section No. 32 and the J. T. Ball and W. L. Laycock, according to your information and evidence here, to be one and the same line?

A That's right.

Q Now, can you give us or do you have sufficient information here to give us the distance from your established recognized northwest

corner of No. 32 south to the fence as occupied between the Laycock and the James Fowler, do you have that information available?

A We show 1901.2 varas to the point in the road at the northwest corner of No. 32, that is, from the point at the southwest corner.

Q Of No. 32?

A Of No. 32.

Q All right.

A We show the fence at 1155 varas.

Q North of the southwest corner of No. 32?

A That's right.

Q All right, now you have on your sketch your established distance for the west, for the north-south distance of the west line of the J. T. Ball, do you not?

A That's right.

Q And then by deduction or subtraction you can arrive at what you consider or at least the fence line of the Laycock Survey, is that right?

A That's right.

COMMISSIONER GILES: As far as I'm concerned, that's the main thing I wanted to bring out. I'll ask you people to excuse me. The hearing can be continued along over whatever evidence you want. We will have the transcript, we can study it and I want you to take whatever

time that you need to make the record complete.

I'll ask you to excuse me. I have another matter pressing me.

MR. McCLESKEY: Thank you.

MR. NELSON: Thank you.

MR. SIMMONS: You can proceed.

Q (By Mr. McCleskey) Mr. Newell, back over here to the Eddy Sparks tract again, do you know whether or not Mr. Pointer lived out at Floydada in 1901, whether he was actually there?

A He was County Surveyor for two years.

Q At that time?

A At that time.

Q Now, although you weren't there in 1901 do you know a lot of residents out there who are even here today and going to testify who were there in 1901?

A Yes, there's a number of them.

Q Did they report to you Mr. Pointer was actually living there in Floyd County at the time?

A Some of them.

Q Did he actually make many of those surveys whether he made this particular one, he actually make many of those surveys upon the ground?

A The records in our, the Floyd County Surveyor's records show that he did, the only evidence I have.

Q Now, actually you don't have any reason to doubt that he made

this survey upon the ground, namely, the Eddy Sparks Survey, do you?

A No.

MR. McCLESKEY: And we tender in evidence the survey made by Mr. Pointer, being Instrument No. 5 in the File No. 1-1662, Floyd County, Fannin First Class, File No. 1-1662.

Q (By Mr. McCleskey) Do you know whether or not the Eddy Sparks tract is the old Four Section Pasture which has been a land mark in that country since the turn of the century?

A I think so.

Q And folks have recognized it as being a place from which they could take measurement for the location of land in that area, is that correct?

A That's right.

Q Now, Mr. Newell, back again once more, is it your testimony that in order for there to be a vacancy declared that the Eddy Sparks tract would have to be moved to the east from the location at which it is located upon the ground?

A That's right.

Q And then pull those sections to the west of it to the east with it in order to leave that vacancy over there?

A That's right.

Q And in doing that that will affect all of these tracts of land shown in D-2 here?

A That's right.

Q Now, Mr. Newell, as you survey across from the Eddy Sparks tract across to Section No. 32, is that fence around the Eddy Sparks tract properly located upon the ground as it relates to those stones at the northeast and the southeast corners of Section No. 32 or within a few feet of where they should be?

A To a reasonable degree of error it would be, oh, some three or four varas, I would say, a difference there.

Q In other words, no such difference as this approximate 32 varas that are alleged in this application?

A No.

Q Mr. Newell, you know the lay of that land out there generally, do you not, as to its slope generally over the area, of course not completely level but which direction generally does the land slope in that country?

A The general slope is to the south and to the east.

Q To the south and to the east, and is it highly developed country, is it in cultivation?

A Practically all in cultivation.

Q Are there irrigation water wells in that area?

A Quite a number.

Q Just a few or a large number of them?

A I would say some 15 or 20 wells in the area.

Q Now, Mr. Newell, as you come north from the northeast corner of Section No. 49 here, down in Crosby County, Block No. 28, it is approximately what, five and a half miles from there up to the

south line of the Eddy Sparks tract?

A That's right.

Q Do you know how much error there would have to be in direction in order to create an error up there in the tier of sections in line with the Eddy Sparks tract to create an error of 30 or 35 varas? Would it be less than 10 minutes?

A Be approximately 10 minutes. I don't know just the exact distance.

Q Is that much error, a ten minutes' error, considered within the bounds of reasonable error by surveyors generally?

A Modern day surveyors would say that would be excessive. In early days ---

Q Now, in early days, what year are you talking about?

A Before 1900. The surveyors only recorded the difference of a quarter of a degree, 15 minutes. That was as near as they recorded their variation, difference.

Q I just want to make certain I understand your testimony. The fence lines around the Eddy Sparks tract are so situated upon the ground as to be properly located if those stones at the northeast and the southeast corners of Section No. 32 properly locate those corners, is that correct?

A I think that's right.

Q All right, sir.

A If I understand your question.

MR. McCLESKEY: I believe that's all the questions

we have.

- Q (By Mr. Simmons) Before I ask anyone else, I would like to ask the surveyor, did you survey the A. A. Lomax laying between the southwest part of the G. W. Ball Survey and the northeast corner of Section No. 23 in Block No. 2?
- A Just a little tract right there, about 17 acres.
- Q Did you measure the east-west distance on that exactly as it is on the ground?
- A Yes, I have, whether I show here on this, but I did make it actually, did make a measurement from the line, the east line of Section No. 23 over to the stone that I found.
- Q That you found on the G. W. Ball?
- A Yes, sir.
- Q Do you remember whether or not that was, the distance was less than that called for in the Lomax field notes?
- A It was.
- Q It was less?
- A Yes.
- Q You remember how many varas less?
- A No, I don't remember the exact amount.
- Q The reason I asked this, take the east-west distance of the G. W. Ball, that is, on the Land Office working sketch taken from the original field notes, the east-west distance of the G. W. Ball Survey, the A. A. Lomax Survey and Section No. 23 in Block No. 2 of the Brooks & Burleson Sections, according to my calculation

it is about 2,882.4 varas east-west.

A Yes, sir.

Q Whereas if you add the east-west distance in the P. D. Adams Section No. 32 and the James Fowler Survey east-west distance it is about 2,851.2 varas which is approximately 32 varas which is the alleged vacancy.

A In surveying the Ball, we were mixed up in our designation of those two tracts there, but the Ball tract now that lays directly south of that little 32-acre, that 17-acre tract, whatever it is there ---

Q Would you come over to this working sketch and identify it better?

A You show it as G. H. Ball.

Q It is the one below the G. W. Ball and the A. A. Lomax?

A Right. In surveys that I have made in the past definitely show that that survey has been reduced, the east-west distance has been reduced. I don't think ever filed corrected field notes on that but they have reduced the acreage in their deeds and the amount of land that has been transferred is definitely reduced. I made a survey on that here a few years ago and that, also we found that it is reduced, the east-west distance of the A. A. Lomax.

Q That's what I wanted to know, where that discrepancy was.

MR. SIMMONS: Anyone else representing the opponents

to the vacancy?

MR. McCLESKEY: We have one or two more questions but want to ask of you time for a drink of water.

MR. SIMMONS: We might recess for about ten minutes. Everyone who would like a drink of water or cup of coffee, be back at five after eleven.

HEARING RECESSED FOR TEN MINUTES

MR. SIMMONS: All right, proceed.

EXAMINATION

BY MR. McCLESKEY:

Q Mr. Newell, I believe we are about ready to proceed again after this recess. Are you familiar with the location of the roads and the fences situated in this area here between the Eddy Sparks tract on the east and the Section No. 32 on the west?

A Yes, I am.

Q Now, I'm talking about those roads and fences that are actually in existence upon the ground out there.

A That's right.

Q Are those roads and fences situated properly upon the ground if the fence around the Eddy Sparks tract and the stones at the northeast corner and the southeast corner of Section No. 32 are properly located?

A To a reasonable degree they are correct.

Q Are they correct within the reasonable realm of error?

A That's right, some two or three varas.

Q I see.

A One way or the other.

Q Is that true of both the roads and those fences around that, the tracts in between?

A I believe there's a road on each of the section lines.

Q And are those sections there in between the Eddy Sparks and Section No. 32, are they fenced and cross fenced for those quarter sections in there, generally?

A A part of them are. Some of them just have the road ditches as the outline and no fences, moved the fences on part of them.

Q But the fences that are there and the roads that are there are the ones you spoke about when you said they are properly located if the Eddy Sparks fence and the stones on those east corners of Section No. 32 are properly situated?

A That's right.

Q Now, Mr. Newell, do you know from your experience in examining various records in the General Land Office as well as examining records in Crosby and Floyd Counties, Texas, that many of those old surveys in Block No. 28, H. & G. N. Railway Company Surveys, down in Crosby County, Texas referred back to the location of Dewie's Lake on the White River?

A Many of the surveys show course and distance from Dewie's Lake to a spot on both in the territory and on the maps.

Q And actually many of those surveys depend upon the location of Dewie's Lake for fixing the location upon the ground, isn't that correct?

A That's right.

Q Now, do you know whether or not there is any agreement between folks who lived out there and surveyors that worked out there as to the location of Dewie's Lake? Was that a point that could be readily affixed and go out and fix upon the ground today?

A There is very little evidence of a lake there at the present time and there is some argument as to where the lake actually was located.

Q Do you know whether or not some of these surveys even show Dewie's Lake to be in different quarters of that Section No. 37 down in Block No. 28, variation as to the location?

A Maps in the Land Office and in some of the early plats show a variation in the location of the lake. I think they have one map that shows it on Section No. 36, other maps show it in different positions on Section No. 37. Now, that's in Block No. 28, H. & G. N., in Crosby County.

Q In Crosby County?

A Yes.

MR. McCLESKEY: Mr. Simmons, we offer in evidence a number of instruments here, I believe they all came from the same file. Is this a list of these instruments, Mr.

Shirriffs?

MR. SHIRRIFFS: No, it's not; those all in the sketch files.

MR. McCLESKEY: These are all from the sketch files, one I noticed is File No. 1, Sketch No. 2.

MR. SIMMONS: Call for County sketch file, refer to them by the number after that.

MR. McCLESKEY: All right, Sketch B. Is that sufficient reference on that out of the same file and file No. 7 out of the same file, file No. 11 out of the same file, File No. 1-A out of the same file, File No. 15 out of the same file and File No. 1-B out of the same file.

MR. SIMMONS: All Crosby County Sketch Files.

MR. McCLESKEY: Now, rather than go into each of those, just invite your attention to the fact that they do show various locations of Dewie's Lake and in addition to that show variations in the location of Eddy Sparks tract as it relates to the northeast corner of Section No. 49 running up to variations of as much as two miles of the location of the Eddy Sparks tract. They are all very ancient surveys and we offer that to present to you the fact that in the old days there was not even then an agreement as to the location of Dewie's Lake upon which all this must depend or as to the location of the Eddy Sparks tract as they ran up from Dewie's Lake showing that there is even a possibility that

due to the difference of opinion among surveys that the location of the northeast corner of Section No. 49 may have been in error where Mr. Twichell put it down.

Q (By Mr. McCleskey) Incidentally, Mr. Newell, do you know from your examination of the Land Office records as to what change Mr. Twichell made when he located the northeast corner of Section No. 49, Block No. 28, down in Crosby County in December of 1906?

A I have been unable to determine just what change, if any, was made. I searched for that but up to the present I have been unable to determine just what the change may have been.

Q My recollection is some of the records pertaining to that refer as to at the time re-location of the northeast corner of Section No. 49, indicating that there was some variation from where it had been theretofore recognized.

A I believe so. I know the field notes refer to as being corrected field notes.

Q Yes, sir, but the surveys of Mr. Twichell which fixed the northeast corner of Section No. 49, Block No. 28, in Crosby County, and the three corners, northeast, southeast and southwest corners of Section No. 19, Block No. 2, B. & B., in Crosby County, those were all 1906 surveys?

A I believe that's right, probably started in late 1905 and he was in there a period of over a year.

Q I believe dated December, 1906?

A I believe those two are about that date.

MR. McCLESKEY: That's all, thank you.

MR. SIMMONS: Anyone else representing the opponents to the alleged vacancy wish to cross examine Mr. Newell at this time?

MR. McCLESKEY: I don't mean that's all the testimony or evidence.

MR. SIMMONS: You can introduce additional evidence later. The proponents of the alleged vacancy are now given a chance to sum up or add any additional evidence that they care to.

MR. REID: I would like to ask Mr. Newell a few questions, then I'm through.

MR. SIMMONS: All right.

EXAMINATION

BY MR. REID:

Q In 1927 when you and Mr. Lider used the rock found at the northeast corner of No. 32 do you know who put the rock there?

A No.

Q You know who put the one at the northeast corner of the G. W. Ball Survey?

A We don't know. Mr. Pointer describes them in his field notes of the Ball Survey. No way of identifying those rocks because he don't say that he made any mark on them and we didn't find any mark. The only thing we find, a big limestone there in the road.

- Q Did you begin at the center of the road on the east side of the Eddy Sparks Survey and take that for the east line of the Eddy Sparks and go west to the west fence of the Eddy Sparks Survey as it is surveyed now, what is that distance? From the center of the road on the east side of the Eddy Sparks to the west fence as used for the Eddy Sparks pasture, how far is it?
- A We could add that up, be the sum of 1336.7 varas and 2643.6, that would be the sum of those two, would be that distance.
- Q Now, the little Lomax Survey was surveyed, I believe, in 1901 by Mr. Pointer. He filed the field notes originally for 197 and some varas wide, the Land Office called on him for a correction and to give them the location of No. 23, northeast of No. 23. Then he later filed a corrected set of field notes with a plat and his corrected field notes give the Lomax 235 varas wide and they accepted that and on the back of those field notes the notations, when patented the land they said correct on the map of Floyd County. Now, this work was done in 1901, Mr. Twichell's corrected location of 1920 in Block B. & B. and was done in 1906 or 1907?
- A Correct.
- Q If Mr. Pointer had a point down there for the original corner of the Block B. & B. and located his corner of No. 23, he certifies that that is correct on his field notes, certifies correct on the map in the Land Office and was patented before Mr. Twichell done his work according to the field notes we have on file. You

are familiar with all those field notes?

A Yes, sir.

Q That's what you find that actually was taken at that time according to the field notes?

A Yes, we find here that those field notes of record in my office.

MR. REID: Yes, sir. I believe that's all I have.

MR. SIMMONS: Anyone else representing the proponents of the vacancy, anyone for the alleged vacancy like to add anything at this time?

MR. NELSON: We want Mr. Glad Snodgrass.

MR. SIMMONS: Are you through with Mr. Newell?

MR. NELSON: As far as we know, we are.

MR. SIMMONS: Both sides? Since he is sworn in I want to know whether to dismiss him. You are dismissed, Mr. Newell. Thank you, sir.

(Witness Excused)

* * * * *

MR. NELSON: I believe we might hear better if Mr. Snodgrass would come around and sit here by the reporter. Mr. Massie, Mr. Battey, and Mrs. Tilford Taylor, Mr. S. G. Appling, Mr. John Lloyd, Mr. Earl Edwards, Mr. Will Latta, Mr. Harrison, Mr. L. O. Adams, Mrs. Newsome, Mr. McCravey -- swear them at one time, save you some time on that because the testimony will be short.

(Reporter's note: Witnesses duly sworn)

MR. GLAD SNODGRASS, being duly sworn,
testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q Give the reporter your name, please?

A Glad Snodgrass. G-l-a-d.

Q Where do you live?

A Flo ydada, Floyd County.

Q What is your business out there?

A I have a men's clothing store; farming, too.

Q Have you been out in that country a while?

A Yes, sir.

Q How long?

A 1891, that would be 61 years, wouldn't it? Sixty-two years.

Q Sixty-two years, I believe. Now, you're talking about Floyd County, is that right, you've been a resident since 1891?

A Yes, sir.

Q It's interesting to note the first white settler came there about seven years earlier, is that right?

A That's right.

Q Since you've been out there, Mr. Snodgrass, are you familiar with the area down there in which this application for a land vacancy has been filed?

A Well, yes, I am very well acquainted with the situation down there, better in the early days than I am now.

- Q Do you own some land of your own over the country in various places?
- A Yes, sir.
- Q You own some land down in that area?
- A Yes, sir.
- Q Back in the early days do you recall there being any fences down in the general vicinity of this proposed vacancy?
- A Yes, sir, there was a place we called it the Four Sections. We kids all knew it as the Moody Land, rich people in Galveston, I believe, that owned it, but we knew it as Moody Land which we called Four Sections.
- Q Is that the same as designated on the map we've been talking about as the Eddy Sparks Survey?
- A Yes, sir.
- Q Do you recall there being a fence on that land?
- A I do, along 1903.
- Q Along 1903?
- A Yes, sir.
- Q Do you know where that fence was located around that, was it all the way around the Four Section pasture?
- A The way I remember it was. I was just a kid, I don't remember too much, I know it was there.
- Q Can you tell us as then located as compares to the location of the fence around the Eddy Sparks today?
- A I know it was there, it could have been.

Q You think approximately the same?

A I think it is.

Q Your belief, it is the same place with the exception of the set-back for road purposes?

A Yes, in the early days some fellow moved that fence, a fellow by the name of John Sparks moved a certain line of fence and I remember that the citizens or somebody made him move that fence line back to where it is.

Q That movement on the north line of the Eddy Sparks?

A I think it was.

Q Didn't affect the east or south fences?

A Yes.

Q So far as you know and now believe that fence is situated upon the ground now in the same place it has been at all times since?

A Yes.

Q With the exception of the set-back for the road, is that correct?

A That's correct.

Q Do you know whether or not there has been a fence around Section No. 32 for some period of time?

A That's what we call the P. D. Adams Survey, isn't it?

Q Yes, sir. Do you recall when you first remember a fence being around the P. D. Adams Survey or Section No. 32?

A Well, I couldn't say exactly but I would say in 1892 or 1893, somewhere along there, I'm going to say one of those years, my

father, I believe one of the Adams traded my father 18 head of calves for 80 acres of land along in that tract way back. Then we called him Deck Adams, P. D. Adams, he came in and filed on this land in 1892, I won't be positive, along about that time.

Q That fence along Section No. 32 situated in approximately the same place on the ground now as it was back there when you first remembered it?

A I think it was; of course, little changes I wouldn't know.

Q Changes for road purposes?

A I never heard of any argument over the fence lines and you generally hear it.

Q That fenced area around the P. D. Adams tract been generally known as the land mark?

A All those fences.

Q All those fences recognized as land marks?

A Yes.

Q And now since that time, when you first came out there -- now, we're not going to ask you to tell your exact age, were you a boy in your teens, you remember back what happened?

A I can remember then better than I can now.

Q But you were a boy up to where you knew, where you could recognize fences and travelled over the country?

A Bareback.

Q Bareback?

A Yes.

Q Mr. Snodgrass, can you tell us the, whether or not that area down in there is a developed agricultural area now?

A Yes, it is.

Q Are there irrigation wells in that country?

A Yes, sir, quite a few.

Q Can you tell us whether or not that land slopes generally to the south and east?

A I believe it does, yes.

Q Do you have some idea as to where the location of the irrigation wells in that country are, generally are they located to the east, west, or north or south of the tract of land upon which situated?

A Well, we locate on a high point. You might catch it 'most anywhere. I think mine is on the location of the northeast corner of the tract of land.

Q Northeast corner?

A But it would be, go out and survey a high point, that's where your well would be.

Q Most of the wells down in that country due to the fact the land slopes to the east and south are located on the northwest corner of the tract?

A I guess that's right.

Q Do you know approximately how many irrigation wells would be affected by this sliding of the land generally in that area of

the Eddy Sparks tract if a vacancy were declared?

A To my best knowledge right about 39 wells.

Q Thirty-nine wells. Can you tell the Commissioner here the approximate cost of putting down an irrigation well in that country?

A I just completed one, yes. Depends on what kind of trade but it's around ten thousand dollars.

Q About ten thousand dollars per well?

A Yes, sir.

Q Do you know whether or not those people in placing those irrigation wells generally at the northwest corners of their tracts of land have relied upon those roadways and fences in that country that have been there all these years?

A Oh, yes.

Q No question about their relying upon them?

A Yes.

Q That's true of all those people in all that big tract of land in the Eddy Sparks?

A Yes.

Q Is there anything pertaining to this application for a vacancy that you think of that you may know about of your own personal experience that hasn't been brought out here either by you or Mr. Newell in his testimony?

A No, I would like for some old-timers to show me Dewie's Lake.

Q Have you heard of Dewie's Lake since you have lived out there since

1891?

A I never heard of it till this come up, tried to find it and tried to find some old-timers' records describing it, talked to some old-timers, and none of my kinsfolk can find it.

Q What did you find in talking to these old-timers talking about Dewie's Lake?

A About like myself, didn't know where it was.

Q Can't locate it?

A The record says 200 varas long and 400 varas wide of water, nine miles of Crosbyton on McKenzie's Trail on White Fish Creek or Draw. We used to call it Crawfish Draw in the early days. I don't know where it is.

Q Is it not true you find the old-timers differ among themselves as to where Dewie's Lake is supposed to be?

A That's right.

Q These old-timers even claim to have gone swimming a long time ago, did you run on them?

A I never did hear of any of them.

Q The old-timers differ?

A I think some claim down close to the crossing. I don't remember any lake ever being there.

MR. McCLESKEY: I believe that's all, unless you have something else.

MR. SIMMONS: Pardon me a minute.

MR. NEWELL: I might add to my statement, the fellow

who originally surveyed this Four Sections, W. C. Holt, surveyed and patented in 1874, that was the original.

MR. SIMMONS: Excuse me, I was going to say, Mr. Reid, if you or your attorney wish to cross examine this witness or any other witness just motion and I'll give you the opportunity.

(Witness Excused)

* * * * *

MR. J. M. MASSIE, being duly sworn,
testified as follows:

EXAMINATION

BY MR. NELSON:

Q Mr. Massie, state your name to the court.

A J. M. Massie.

Q And where do you live?

A Floydada, Texas.

Q And how long have you lived at Floydada?

A Since the middle of April, 1902.

Q You had a brother, I believe, who came there before you did, did you not?

A Went there in '89.

Q Came there in 1889?

A That's right.

Q You and your brother, I believe, were engaged in the land business there at Floydada?

A He started in the land business in 1890 and I came there in 1902.

Q And that business has been continuously in operation and is still in operation to this day?

A That's correct, from 1890 to the present time.

Q State whether or not in the operation of that business your records reveal anything with reference to what is known as the Eddy Sparks Survey or the Four Sections Pasture that was owned by the Moody's at the time that you came to Floyd County.

A Well, at the time I came ---

Q If it does.

A Yes. I find a good many letters in our files from, well, say, about the latter part of 1902 on.

Q When do your records show that your business, your firm took over the supervision of the Eddy Sparks Four Section Pasture for the Moody's?

A I think the formal letter doing it, authorizing us to do it from the Moody interests was April 13 or 11, 1903.

Q I hand you a letter here dated April 13th, this purports -- is that the original letter that you find in your file?

A Yes, sir, that's correct.

Q This letter is dated April 13, 1903 and addressed to Mr. W. M. Massie. Was that your brother?

A That's right.

Q Operating the business with whom you later became a partner in 1902 or 1903?

A I became a partner in 1908.

Q You began working when?

A When I went there in 1902.

Q In 1902 when you went there?

A Yes, sir.

Q Who is that letter signed by, please, sir?

A W. L. Moody & Company of Galveston.

Q Were you in that office when that letter was received, of April 13, 1902?

A Yes, sir.

MR. NELSON: We offer this letter, Mr. Commissioner. We would like to have a photostat substituted for it. This is the photostat there. So you might have it in your mind -- it's short -- may I read the pertinent portion: "We are in receipt of a communication from Dr. R. C. Andrews under date of the 2nd inst. He informs us that he is going to retire from the land business and advises us to have you as agent for our tract of land in that County. We understand this tract has been fenced and is pasture land. Dr. Andrews has been our agent for a number of years paying taxes and looking after the land generally and no doubt can give you all information necessary in regard to the land. We suppose your fees will be the regular fee for paying taxes, etc. We had this land fenced some time ago and were under the impression that we could get an income from it. Please ascertain from Mr. Andrews all about this matter and advise us."

counter 74635

Q (By Mr. Nelson) Now, is that land that he talks about there the Eddy Sparks Four Section Pasture that has been talked about in this hearing?

A Yes, sir, because that's the only land they owned.

Q That is the only land they owned. All right. Now ---

A That land was in the name all the while of W. L. Moody, not W. H. Moody & Company.

Q That's the only W. L. Moody land you ever handled in that county?

A Yes, sir.

Q And you know that to be this Four Section Pasture of the Eddy Sparks Survey that has been testified about here?

A That's right.

Q Now, Mr. Massie, of your own knowledge I wish you would tell the Commissioner hearing this cause when you know that there was a fence around this Four Section Pasture?

A Well, I definitely know it was there when we took charge of the land.

Q On the date of this letter?

A This letter and I think I am perfectly safe in saying, I know it was there in the latter part or during the year 1902.

Q All right. Do you know that that fence, is it your testimony that fence that was there then with the exception of set-backs for road purposes, is it the same fence that was there at that time?

A No question about that.

Q All right, same location?

A Same location, except on the north and on the east and on the south and on the south half about of the west fence, that's the same fence except set back for public roads.

Q All right.

A And I think the road on the south, I went down and rode around, I think it's 50 feet and the north part of the fence on the west side, I'm sure it's exactly where it has always been, never changed.

Q Mr. Massie, I hand you a letter, I mean an instrument here. State whether or not that's the original of that instrument.

A This is the instrument, yes, my brother signed it.

Q Is that the original signature of your brother?

A That's correct.

Q W. M. Massie?

A That's correct.

Q What is the date of the instrument?

A Well, the 24th day of June, A. D. 1943.

Q State whether or not that instrument shows to have been recorded in the deed records as the original instrument in Floyd County, Texas?

A That's right.

Q And when was it filed?

A Filed for record 9:00 o'clock A. M., June 23, 1943, Margaret Collier, Clerk County Court.

counter #4637

MR. NELSON: Floyd County, Texas. We offer in evidence this instrument and substitute, if you will, a photostatic copy of it. For the purpose of showing the fencing of this land, it is a recordable instrument in the Deed Records, for the purpose of showing the information with reference to the fence that was around this particular Four Section Pasture.

Q (By Mr. Nelson) State whether or not Mr. W. M. Massie, your brother, is now deceased?

A Yes, sir, died January, 1949.

Q And therefore cannot testify in this trial, of course. Now, I believe you said that is his original signature?

A Oh, yes.

Q All right, and it came, did you take it?

A I got it from the file and handed it to you.

MR. NELSON: We offer that for such other information as it may show but the one paragraph in particular I wish to read, Mr. Commissioner: "As agent for said W. L. Moody, together with W. M. Massie & Bros., Real Estate Agents maintaining an office at Floydada, in Floyd County, Texas, have represented said W. L. Moody and his successors in title and ownership of said above described tract of land continuously and up to the present time--looking after and leasing said land for such owners, and that said tract of land has been fenced continuously since said year 1903 to the present time except for minor changes in some of the lines of fence enclosing said land made on account of public roads and at one time, many years ago, a part of one string of the fence enclosing said land was set back temporarily by an adjoining land owner, but that said string of fence so removed or set back by such adjoining land owner was promptly reset in its original

counter 44638

position, when demanded to do so by the agents and representatives of said W. L. Moody."

We offer that as coinciding with testimony that has been given by Mr. Snodgrass with reference to the fence being taken down.

Q (By Mr. Nelson) I hand you another letter here dated February 8, 1904. Is that the original of that letter?

A Yes, sir, it is.

Q Taken from your files?

A Yes, sir, I gave it to you.

Q Is that letter addressed to your brother, W. M. Massie?

A That's right.

Q About whom you have already testified?

A Yes, sir.

Q By whom is that letter signed?

A W. L. Moody & Company.

MR. NELSON: We offer a photostatic copy of this letter so that he may retain the original. So that the opposition may hear without having to read all of it: "We duly received your favor of 21st ult., enclosing the two notes of J. W. Golden \$100.00 each covering lease, also enclosing us copy of lease favor of J. W. Golden for the 2792 acres Eddy Sparks Survey."

We offer that tying it down to the same land. That's the only thing in that letter that serves any purpose for this hearing, but does identify for the Eddy Sparks Survey.

Q (By Mr. Nelson) Now, you don't know, do you, Mr. Massie, how long before 1902 that the fence may have been there?

A No, but I'm sure I do know it was there in 1902.

Q All right. Is there any other, in order that we may make it as brief as we can, is there any other information with reference to this matter that you have in your mind that you can give to the Commissioner, whether it has been asked you or not?

A Well, I don't know if there is, might just substantiate what I have just said by saying this, it was my duty as a young fellow in a buggy checking into these things. I was the one who made the rounds.

Q You know actually from having been over the ground many times?

A Frankly many, or many, many, many times all through the years.

MR. NELSON: I believe that's all.

MR. SIMMONS: Mr. Reid, do you have any questions?

MR. REID: No.

(Witness Excused)

* * * * *

MR. A. M. BATTEY, being duly sworn,
testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q State your name, please, sir, to the reporter.

A A. M. Battey, Floydada, Floyd County, Texas.

Q How long have you lived out in Floyd County?

A Went over there in 1905.

Q Been living in Floyd County ever since?

A Yes, sir.

Q Mr. Battey, at the time, Mr. Battey, when you moved out there do you recall there being a fence around the Eddy Sparks Survey?

A Well, it was already fenced. My father owned a piece of land right north of that. That fence was there when he bought that. I know it was. I don't know when it was fenced but it was fenced in 1905.

Q In other words, fenced since before 1905?

A Yes.

Q That fence been on the ground in that location since that time?

A Been a road put on the west, two or three little roads, that's all, wasn't nothing there at first before, fenced, there wasn't no roads, just a trail went through there, a lot wasn't fenced.

Q In other words, that was open country?

A Open country.

Q That fence around the Eddy Sparks was a land mark?

A Yes, sir.

Q Recognized as such?

A We always thought that's where we would start from to find out anything.

Q If we asked you the same questions we asked the other witnesses about the Eddy Sparks location, the fences around it, how long

- it has been there, would your answers be substantially the same?
- A Yes, sir.
- Q Do you think of anything else that you might know about that hasn't been testified to by these other witnesses or you haven't testified to that would throw any light on this situation?
- A I know Deck Adams' place was there when we come there, all fenced just like it is today except the road on the west.
- Q Is that this tract of land we've been calling No. 32, P. D. Adams?
- A Yes.
- Q Like Mr. Snodgrass, you remember him as Deck?
- A Remember him as Deck, been to the house many times, knowed all the boys and girls.
- Q When you got there Section No. 32 was fenced?
- A Yes, sir.
- Q Was it also recognized as a land mark?
- A Yes, sir.
- Q You did some surveying back in those days?
- A I carried the chain and I done the brain work, the school house there, off there; a graveyard taken off the northeast corner of that section.
- Q And you say you did the chain carrying at that time and the brain work on the surveying back in those days you recognized the fence around No. 32 and around the Eddy Sparks tracts as being land marks?

A Yes, sir.

Q Which you could depend on as a surveyor?

A Yes, sir.

Q Has the fence around Section No. 32 up there been in the same location as it was in, back in 1905 when you got there?

A If they moved any of it I haven't missed it.

Q Do you believe it to be in the same location?

A I know in the same place except around the school house, taken down around the school house and up to the graveyard, that's all, some posts sitting back in there.

Q So, actually, in 1905 the fence ran all the way around No. 32, even around the east side and north side of where the school house is now?

A All except the school house, just like it was then.

Q Back then just square all the way around the section?

A No, a little wooden school house, it got afire and we had to build a bigger one.

MR. McCLESKEY: O. K. That's all, thank you, Mr.

Battey.

MR. SIMMONS: Mr. Reid, do you have any questions?

MR. REID: No.

(Witness Excused)

* * * * *

MRS. TILFORD TAYLOR, being duly sworn,
testified as follows:

counter 79673

EXAMINATION

BY MR. McCLESKEY:

Q Will you give your name, please, ma'am?

A Mrs. Tilford Taylor, Floydada, Texas.

Q Mrs. Taylor, how long have you lived in Eloyd County?

A I moved to Floyd County, landed the 26th day of April in 1901.

Q 1901?

A Yes, sir.

Q Now, when you moved out there where did your folks settle down in the county with reference to this application for a vacancy?

A Well, we settled there in, I guess it was about, possibly three miles east of this Four Section Pasture.

Q That's the Eddy Sparks?

A And just a little south, yes.

Q That's the Eddy Sparks tract?

A Yes.

Q What is that date, in 1901?

A 26th day of April.

Q 1901?

A Yes, sir.

Q Now then, Mrs. Taylor, did you know this man Pointer?

A Yes, sir.

Q That we have talked about here, S. Pointer, the surveyor?

A He stayed at our house, my father's house.

Q You saw him?

A Yes, sir.

Q Was that in 1901?

A Yes, sir.

Q I believe he had been there before you got there?

A I suppose he had, in the county, I suppose.

Q He had been in the county before you got there?

A I suppose so, he was the surveyor then.

Q Your folks got well enough acquainted, your folks Hugh A. Roberts, is that it?

A Yes.

Q And your folks got well enough acquainted that a brother of yours was named after him?

A My brother born the 16th day of August, 1901 and named after Mr. Pointer.

Q So you knew the man pretty well and was your brother named for Mr. Pointer, the surveyor?

A Yes, sir.

Q Do you know whether or not Mr. Pointer made some actual surveys on the ground in that country?

A Oh, yes, surveyd all around in that part at that time.

Q I believe you told me you didn't know for sure since his field notes are dated in January, 1901 you couldn't know for sure he actually surveyed the Eddy Sparks?

A No, I couldn't swear.

Q You know he was out there making actual surveys on the ground in that area?

A Yes.

Q Now, Mrs. Taylor, do you recall the fence around the Eddy Sparks tract?

A Not at first. Now, I know it was there and old enough, it would, it almost fell down in 1908 and people crossed it, just step on the thing and the horse go across it, so near down.

Q How are you so certain of that year, 1908?

A Because my husband moved there.

Q Mr. Taylor moved there, Mr. Taylor moved out to Floyd County in 1908?

A Yes, sir.

Q And at that time you knew the fence was old enough that it was not in good shape?

A It was very muchly down.

Q I see. Do you know whether or not that fence is still in the same location upon the ground now as it was in 1908 when you can first remember it with the exception only of the set-backs of the road?

A Yes.

Q Is it in the same place?

A' I am almost positive it is in the same place with the exception of the road.

Q Mrs. Taylor, you have heard the testimony of the other witnesses here. Do you think of anything else pertaining to this alleged vacancy that you might know about it that you haven't testified to?

A No, I don't know, I never did hear of any vacancy in there until

this came up.

Q Now, you, too, know that country is built up and highly developed, used for farming purposes, have irrigation wells in there, don't you?

A Yes.

Q And it is rather thickly populated now?

A Well, yes, much more.

Q Much more so than when you got married?

A When I moved there, considered 22 miles from my father's place to Floydada.

Q Ranch country?

A And about five houses between our home and Floydada.

MR. McCLESKEY: Thank you, Mrs. Taylor.

MR. SIMMONS: Mr. Reid, any questions?

MR. REID: No.

(Witness Excused)

* * * * *

MR. S. G. APPLING, being duly sworn,

testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q You are S. J. Appling?

A S. G.

Q How do you spell it?

A A-p-p-l-i-n-g.

Q Mr. Appling, where do you live, please, sir?

A I live at Mount Blanco, about 16 miles northeast of Crosbyton.

Q Can you speak up a little louder so all may hear you, if you will, please, just a little louder, speak up a little louder.

Is Mount Blanco in Crosby County?

A Yes.

Q This Eddy Sparks tract is very near the south line of Floyd County and north line of Crosby County, isn't it?

A That's right.

Q How far do you live from the Eddy Sparks tract?

A About two miles and a half.

Q Back to the southeast?

A South.

Q How long have you been living out there in that country?

A Oh, almost 40 years.

Q That would put it back to what, about nineteen ---

A 1913. I moved in October of 1913.

Q 1913?

A Yes, sir.

Q Have you been living out there continuously since that time?

A Yes, sir.

Q When you moved out there do you recall there being a fence around the Eddy Sparks tract?

A Yes, sir.

Q Around that Four Section Pasture?

A Yes, sir.

Q You know whether or not that fence is still around that Four Section Pasture?

A Yes.

Q Is it in the same location now as it was when you first discovered it in 1913 with the exception of the set-back for road purposes?

A Yes, sir.

Q Identical location?

A Yes, sir, as far as I know, yes, sir.

Q Mr. Appling, do you know the nature of that country with respect to whether or not it is being used for farm purposes?

A Yes, sir.

Q Is it?

A Yes, sir.

Q Is it an irrigated section of country?

A I control six wells.

Q You have what?

A Six wells.

Q You have?

A Yes, sir.

Q You live on some land shown in this map?

A Yes, here's mine, this and this.

Q So you live on some of the lands alongside to Eddy Sparks tract?

A Yes.

Q And do you have some irrigation wells in that section of the country?

A Yes.

Q I'm talking about sections, not talking about 640 acres of land, talking about an area.

A Quite a bit of land, yes, sir, some in Floyd County.

Q You have some irrigation wells in that area?

A Yes.

Q How many?

A Six; that is, me and my boys.

Q Yes. Mr. Appling, does that country slope generally to the south and east?

A Yes, sir.

Q now where do you generally put irrigation wells?

A West and northwest, on the west of the place most every time.

Q In other words, if you were talking about an irrigation well, of course I know an irrigation well doesn't water a whole section of land, if you were talking about irrigation well, here's an example, to be put on Section No. 24, generally in that country that irrigation well should be located in the northwest corner so the water will flow down hill to the south and east?

A That's right.

Q That is the purpose of putting it over there?

A That's right.

Q As a result of that slope they put irrigation wells or you put

them in that area?

A Yes, sir.

Q You put them pretty close to that west line?

A Most all of ours are.

Q Right up against it?

A Yes.

Q Water all your lands?

A Right.

Q These six wells you know about, if this land in that country were slid to the east about 32 varas which is about 90 feet roughly how would that affect the irrigation wells that you have control of?

A Get two of them.

Q Get two of them?

A Yes, sir.

Q In other words, wind up with irrigation wells on your neighbor's land instead of yours?

A That's right.

Q He in turn in order to use it would have to flow uphill to the west to get the use of it?

A That's right.

Q That's 'kinda' hard to do?

A That's right.

Q Now then, do you know how many irrigation wells would be affected

In that area if this land slide goes to the east?

A I think be about 20, I think.

Q You heard Mr. Snodgrass testify about the cost of irrigation wells in that country. Is that about right?

A About ten thousand dollars besides the motor.

Q Ten thousand dollars per well?

A Yes.

Q Now, Mr. Appling, do you think of anything else that you might help on, help the Commissioner in arriving at a decision that you haven't testified to and nobody else has testified to?

A Not any more. Around the other place, No. 32, I think it was there.

Q When you got out there in 1914 the fence was around Section No. 32 also?

A Yes.

Q Has it been in the same location since that time?

A Yes, sir.

Q Was it an old fence?

A I don't think be old when I got there, no, but Mr. Adams lived on it.

Q You don't know how old but it was there?

A It was there, I was on the place at that time.

Q Do you think of anything else?

A No, sir.

MR. McCLESKEY: We have no further questions.

MR. SIMMONS: Mr. Reid, do you have anything?

EXAMINATION

BY MR. REID:

Q Mr. Appling, your fences all been there more than 25 years?

A Yes, yes.

MR. REID: That's all.

(Witness Excused)

* * * * *

MR. JOHN LLOYD, being duly sworn,

testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q You are Mr. John Lloyd?

A J. A. Lloyd, yes, sir.

Q Where do you live?

A I live a mile south of Floydada.

Q How long have you lived in Floyd County?

A Since 1916.

Q Continuously up to the present time?

A Yes, sir.

Q Mr. Lloyd, are you familiar also with this area, the Eddy Sparks tract and Section No. 32, that we've been talking about this morning?

A Yes, sir. The first land we bought was the section west of the west side of the Eddy Sparks Survey and that was where Mr. Linder,

the surveyor, started to survey ours out.

Q All right, in other words, when your place just to the west of Section No. 32 was purchased you employed the County Surveyor, Mr. Lider, to survey it off and he began with that fence on the west side of Section No. 32?

A Yes, sir.

Q He tied to Section No. 32?

A Southwest corner, I believe it is.

Q Are we talking about Section No. 32 or the Eddy Sparks tract?

A Eddy Sparks.

Q Eddy Sparks, so here where I have been referring to Section No. 32 I should have been referring to the Eddy Sparks tract as far as your testimony is concerned?

A Yes, sir.

Q Now then, Mr. Lloyd, if you were asked the same questions these other witnesses have been asked about that fence and location back there when you got there and its location now where it has been at all times in between, comparison between the two locations, would your testimony be the same as theirs?

A Yes, sir.

Q Do you think of anything else you might add to this that we haven't gone into?

A I don't think of anything else.

MR. SIMMONS: Mr. Reid, do you have any questions?

MR. REID: No.

(Witness Excused)

* * * * *

MR. McCLESKEY: Mr. Simmons, we would like for the record to show that for the purpose of making the hearing as brief as possible we are just asking the general questions of the witnesses once the trend of the testimony has been established. If that's all right with you, if you want us to go into it ---

MR. SIMMONS: I would rather you would do like you are doing, wind it up sooner. Mr. Reid, don't hesitate if you want to cross examine any of the witnesses.

* * * * *

MR. EARL EDWARDS, being duly sworn,
testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q You are Mr. Earl Edwards?

A Don't call me Mister, but my name is Earl Edwards.

Q Where do you live?

A Southeast of Floydada, about 15 miles.

Q Where do you live with reference to the Eddy Sparks tract?

A Just west.

Q Between it and Section No. 32?

A Yes.

Q How long have you lived in Floyd County?

A Since 1917.

Q 1917?

A Yes.

Q Do you remember seeing a fence around the Eddy Sparks tract and Section No. 32 when you first came there?

A Yes.

Q Is that fence, those fences still in the same locations as they were then?

A Much the same except for the road.

Q Road set-backs?

A Yes.

Q If you were asked the same questions as these other witnesses have been asked about those fences and locations, the locations down there, the development of that country with respect to agriculture and irrigation wells and things like that, would your answers be substantially the same?

A Yes. We have one well, it's just exactly in the northwest corner and we found the high point for another one, going to drill this spring that is the same way, exactly in the northwest corner, right on the line.

Q In other words, you know from experience?

A Yes.

Q The high points on the tracts of land are generally up on the northwest corner of each tract?

A Very much so. Ours is exactly right on the corner.

Q By reason of that fact the irrigation wells are put in that location?

A That's right.

Q Do you think these other men are about right on the cost of digging wells and equipment for equipping them?

A Yes, that's about right.

Q In that land sliding to the east about 90 feet your wells would be affected?

A Be worthless to the folks that slip over on me. Of course, I couldn't use them.

Q Couldn't use on the other man's land?

A That's right.

Q The other man couldn't use without building an elevated ditch?

A The one we slip over on couldn't use it.

Q Couldn't run it uphill?

A No.

Q Is there anything else you think about that might help us on this that we haven't asked you about?

A No, I don't know of anything.

MR. McCLESKEY: All right, that's all the questions we have.

MR. SIMMONS: Mr. Reid, do you have any questions?

MR. REID: No.

(Witness Excused)

* * * * *

MR. WILL A. LATTA, being duly sworn,
testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q Your name is Will Latta?

A That's my name, W. A. Latta.

Q W. A. Latta?

A Yes, sir.

Q Where do you live?

A I live down southeast of Floydada in Crosby County.

Q Where do you live with respect to the Eddy Sparks tract?

A About two and a half miles south of it.

Q How long have you lived out there in Floyd and Crosby Counties?

A I have lived in Crosby County, I moved there in 1916, fall of 1916.

Q 1916. And have you lived there continuously since that time?

A Yes, sir.

Q Do you recall seeing a fence around the Eddy Sparks tract when you got out in that country?

A Yes, sir, I do.

Q How about Section No. 32?

A How's that?

Q How about Section No. 32, a fence around it, too, do you remember?

A Well, as well as I could recollect a fence there but I don't

know too much about it.

Q Still a fence around the Eddy Sparks tract?

A Yes, sir.

Q That fence in the same location now as it was when you got there?

A Yes, sir.

Q With the exception of the set-backs for road purposes?

A With the exception of the road. I worked in 1917, I worked a hundred and some odd acres in the northwest corner of the Eddy Sparks Survey, 1917 and 1918.

Q So you know positively it's still in the same place?

A Yes, sir.

Q If you were asked the same questions that we have asked these other witnesses about the country in general, the nature of it, the effect of the land sliding to the east, and the location of those fences would your testimony be substantially the same?

A Yes, sir.

MR. McCLESKEY: That's all from this witness.

MR. SIMMONS: Mr. Reid?

MR. REID: No.

(Witness Excused)

* * * * *

MR. J. M. HARRISON, being duly sworn,
testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q What are your initials, Mr. Harrison?

counter 44659

A J. M.

Q Mr. Harrison, where do you live with respect to the Eddy Sparks tract?

A Well, I live in Floydada at the time.

Q How long have you lived in Floyd County?

A I come to Floyd County in 1917, September 13th of 1917.

Q Did you at that time have occasion to be down in the area of the Eddy Sparks tract?

A No, not at that time. I did move to a brother-in-law's of mine just a mile west of this tract of land.

Q When was that?

A That was in 1917.

Q I see.

A But I lived at Fairview about 15 miles northeast of Floydada for three years.

Q You went down to see your brother-in-law occasionally?

A Oh, yes, brother-in-law lived just a mile, just a mile northwest of this tract of land.

Q That is the Eddy Sparks tract?

A That's the Eddy Sparks tract of land.

Q You also saw the fence back as far as 1917?

A Yes, I did, yes, sir.

Q If you were asked the same questions about the location of that fence now as it compares to the location of it back in 1917 that we have asked these other witnesses, would your answers be

the same?

A I know in the same place except what space was used there for a road.

Q Would your testimony also be the same about the effect of land slid down there with respect to irrigation wells and improvements and fences?

A That's exactly right, that's exactly what it will do to them.

Q Move the location of the roads?

A Why, sure.

Q A farmer would have the road running down through part of his land there?

A That's right.

Q Do you think of anything else you can add to this other than what we have asked about?

A No, nothing. I know I've chased wolves over that land many a time and repaired the fence around it one time. That was in 1921, I think, I repaired this fence around it.

Q Repaired the fence, didn't move the location of it?

A Certainly not, no, sir.

MR. McCLESKEY: I believe that's all. Thank you, Mr. Harrison.

MR. SIMMONS: Mr. Reid, you have any questions?

MR. REID: No.

(Witness Excused)

* * * * *

Counter 77661

MR. L. O. ADAMS, being duly sworn,
testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q You are Mr. L. O. Adams?

A Yes, sir.

Q Where do you live, Mr. Adams?

A On Section No. 32, in Floyd County.

Q How long have you lived in Floyd County?

A Forty-two years and two weeks.

Q You must have been born about, some place in that country?

A I was that day.

Q Are you related to Mr. P. D. Adams?

A He is my father.

Q Otherwise known as Deck Adams?

A Yes, sir.

Q Mr. Adams, have you lived in that vicinity at all times since?

A I have lived, the only place I have ever lived.

Q Only place you have ever lived. Do you know whether or not, you know how long there has been a fence around Section No. 32?

A Well, as far as I can remember.

Q As far as you can remember?

A I know since big enough to remember always fenced.

Q Do you know from talking with your Dad about when that fence was built?

A Well, I don't remember him ever saying when he put the fence up.

He moved on that place in 1892.

Q Your family been on there ever since?

A Yes, sir.

Q You know from talking with any other members of the family, could you place, could you go back and place that fence there at an earlier date?

A Well, I'm sure that it's where it has been.

Q Since about what time?

A Well, I'm sure since he fenced it. In 1913 or 1914 be as far as I could remember it.

Q Well, do you know from talking with any members of your family when he may have fenced it?

A No, I don't know as I have ever asked anybody else.

Q That fence been in the same location since then with the exception of road set-backs?

A Yes, sir.

Q Still is?

A He had a bunch of horses, I know I walked down in the pasture to drive them up many a day and it was fenced at that time.

Q Were you a little boy at that time?

A Yes, sir.

Q Do you remember the fence around the Eddy Sparks tract?

A I remember it being fenced as far back as I can remember.

Q It's still in the same location?

A Yes, sir.

Q The fence around No. 32 still in the same location?

A Yes, sir.

Q If you were asked the same questions we asked the other witnesses, the effect of the land slide on improvements and the road and things like that, would your answers be the same?

A Yes, it would.

Q Do you think of anything else we haven't asked you about that you might throw any light upon this proceeding?

A Not that I can think of.

MR. McCLESKEY: All right, thank you, Mr. Adams.

MR. SIMMONS: Do you have any questions, Mr. Reid?

MR. REID: No.

(Witness Excused)

* * * * *

MRS. J. C. NEWSOME, being duly sworn,
testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q What are your initials, Mrs. Newsome?

A Mrs. J. C. Newsome.

Q Where do you live?

A In Floydada.

Q How long have you lived in Floyd County?

A I came there in 1911.

Q 1911?

A Yes. (Indicated by nodding her head)

counter 44667

Q Back about the time you came there did you have occasion to be down in the vicinity of the Eddy Sparks tract and Section No. 32?

A Well, I don't remember being down in there anyways in maybe several years after we moved there. We were looking around at different places and I imagine it was something like about 1914 when we went down through that country. It seems that was about the only place that really had a fence about it then.

Q Are you talking about Section No. 32 and the Eddy Sparks tract?

A The Four Sections we called it.

Q The Four Section Pasture?

A Yes. (Indicated by nodding her head)

Q You know whether or not those fences still are around there?

A You see, we bought a farm west of it, half section due west.

Q West of what?

A Of the Four Sections and we bought that. We have had that about 35 years and the fences were there then, I remember very distinctly.

Q And still there?

A And still in the same place.

Q Except for the road set-back?

A Yes, well, I believe there was a road partly there, I don't know whether it was set back, I know a road there.

Q You know the nature of that country, generally farming section?

A Yes.

Q If you were asked the same questions we asked the other witnesses, the effect of the land slide on the wells and improvements and the road and things like that, would your answers be the same?

A Yes, and I think considering the homes, mostly the homes are on the west side, too, a lot of nice homes going to have to be moved.

Q In other words, your homes ---

A Are nearer toward the town, you see, Floydada on the west side not far from the wells.

Q In other words, some loss as to the wells in the 90-foot slide?

A I have a son-in-law, will lose home, wells and all.

Q Do you have anything else that would help the Commissioner in making this determination in this proceeding that we haven't already developed?

A Well, I don't believe the road and the high lines, run through the fields, be maybe in the middle of the fields.

MR. McCLESKEY: All right, we have no further questions from this witness. Thank you, Mrs. Newsome.

MR. SIMMONS: Mr. Reid, you have any questions?

MR. REID: No.

(Witness Excused)

* * * * *

MR. R. B. McCRAVEY, being duly sworn,
testified as follows:

counter 44664

EXAMINATION

BY MR. McCLESKEY:

Q You are Mr. R. B. McCravey?

A Yes, sir.

Q Where do you live?

A Floydada.

Q How long have you been living in Floyd County?

A Forty-four years.

Q Put you there in about 1910?

A Well, born in 1909, I'll be 44 April 23d, this year.

Q Were you born in Floyd County?

A Yes, sir.

Q Been living there ever since?

A Yes, sir.

Q Did you have occasion back when a small child to get in the area around the Eddy Sparks Tract and Section No. 32?

A Yes, sir.

Q You remember fences being around those two tracts?

A About the only thing that stopped us going on across, Section No. 32 and the other.

Q Where did you live down in there?

A First lived till I was about five years old about five miles north of there, then moved down.

Q Do you own some land adjoining this alleged vacancy?

A My mother does.

Q Your mother does?

A Yes, sir.

Q Do you know whether or not those fences are in the same location as the day you can first remember them?

A Yes, sir, they are.

Q And the land was generally open pasture land as far back as you can remember with the exception of the fences around the Eddy Sparks tract and Section No. 32?

A Yes, sir.

Q They were known as land marks?

A Yes, sir.

Q You have heard the questions we have asked these other witnesses about the nature of that country and location of fences and improvements and irrigation wells, and so forth. Would your testimony be the same as these other witnesses if asked the same questions?

A Yes, sir.

Q Do you think of anything else you might know about that would help the Commissioner in making a determination of this application?

A Oh, nothing, only back here, I disremember what year it was, back about 1925, between 1925 and 1928 my Dad showed on the county map that this vacancy might be here and he wrote either the Land Commissioner, I believe the Land Commissioner -- of course, he's dead, but mama said she knows that, I can remember

what he was talking about. They told him there wasn't any vacant land because he and Mr. Deck Adams was going to file on it, either one that had it under fence. I was something like five years old. So he went ahead and had our place surveyed there and the markings are still around our place, the pipe at the southwest corner you called for was there then. Mr. Lider surveyed that and still there. And they told him then or he got it somehow or other and I thought he wrote down here, they told him there wasn't any vacant land.

Q He would have filed if there had been any there?

A Yes, sir.

Q But he didn't?

A He didn't.

Q Now, one other question here, Mr. McCravey, over here in this area of the alleged vacancy, the exact area itself ---

A Yes, sir.

Q Is there any vacancy on the ground there, do the tracts use a common fence?

A No, sir, no vacancy.

Q Use a common fence?

A Fence and road as far as it goes.

Q No vacancy on the ground?

A No, sir.

Q Do you think of anything else that might help us in making a determination of this matter?

A Well, all the measurings we have ever done surveying ours out, surveyed 950.4 varas square and ours there fits right up against Section No. 32 and is there, all the measuring I know anything about.

Q (By Mr. Simmons) Which tract, the James Fowler?

A The one next to the Laycock.

Q (By Mr. McCleskey) Point it out on the map.

Q (By Mr. Simmons) It's the James Fowler, the one on the north?

A It's the James Fowler. And I've been down there on the ranch a lot and Mr. Montgomery, he come back there in about 1892 and I've been at the ranch working and doing, been surveying, I'll say, ever since about 10 years old. I do know these corners are where everybody thought that they were right, see, and that's absolutely correct. Mr. Montgomery, he was an old-timer there, he said the same thing.

EXAMINATION

BY MR. REID:

Q I wanted to ask if there's a lane on the west side of No. 32?

A What?

MR. SIMMONS: He asked if a lane on the west side of
No. 32.

Q (By Mr. Reid) Is there a lane on the west side of No. 32?

A The west side of Section No. 32?

Q Yes.

A Yes, sir, there is a lane, a road designated as a road in 1909.

MR. REID: That's all.

EXAMINATION

BY MR. NELSON:

Q I understand designated as a road in 1909?

A Yes, sir.

EXAMINATION

BY MR. McCLESKEY:

Q One other question, Mr. McCravey, a church on Section No. 31
across from the shool house?

A Yes, sir.

Q Close to the section line of No. 32?

A Yes, sir.

Q Within 90 feet of it?

A Closer than that.

Q So the church property would be affected, too?

A Yes.

Q I believe the cemetery and school are back here in Section No. 32, c
on the east side of it?

A Yes, also a store over on that Section No. 31, too.

Q Has that church been there a long time?

A Well, I'll say, I disremember, just when it was built, but I
remember my Dad putting on, working on the building, I don't
remember what year, be about, oh, I would say 20 years there
anyhow, probably somewhere along there.

Q All right, are you through, Mr. McCravey?

A Mr. Battey, who has already been sworn and testified, says that in 1909 he gave the land for that church. Is that correct, Mr. Battey?

MR. BATTEY: That's right.

MR. McCLESKEY: That's all, thank you, Mr. McCravey.

(Witness Excused)

* * * * *

MR. JOHN HIMMEL, being duly sworn,

testified as follows:

EXAMINATION

BY MR. McCLESKEY:

Q You are Mr. John Himmel?

A Yes, sir.

Q You live at Crosbyton?

A Crosby County.

Q And how long have you been out in that country?

A About 28 years.

Q Are you familiar with the Eddy Sparks tract?

A Well, I have known it about 21 years.

Q You know the fence has been around it when you got there?

A Yes, sir.

Q Same place up to the present time?

A Yes, sir.

Q If you were asked the same questions about the Eddy Sparks tract and Section No. 32 that we have asked the other witnesses, would your answers be the same?

A Yes, sir.

Q Now, Mr. Himmel, there's one other thing you might throw additional light on. Have you driven over that country and made a determination as to how many irrigation wells would be affected by a land slide of 90 feet?

A Something like 22 or 23 wells.

Q Something like 22 or 23 wells?

A Yes.

Q In other words, that many irrigation wells that are within 90 feet of the west line of the property upon which they are situated?

A Something like that.

Q Is the cost of those wells stated about right about which these other men testified?

A If you had good luck, all right; if not, wells cost you 15 or 20 thousand before you get through with it.

Q Also, are there improvements, homes and barns that would be affected by a land slide of 90 feet to the east?

A Yes.

Q Good homes?

A Nice homes.

Q Substantial homes?

A Yes.

Q Is there anything else you think of that you might help us on?

A No, I don't think of a thing.

Q Mr. Himmel, for the purpose of the record and rather than put on a lot of witnesses here, do you see here in the room quite a large number of people who live out in Floyd County and some down in Crosby County who own land in this area affected as shown on D-2 there? Do you see them in the room?

A Most all of these people are property owners.

Q Are there 40 or 50 possibly?

A About 42 property owners.

Q In that area?

A That are here from that area.

Q That are here from that area. You have talked to most of them, if not all of them?

A Yes, sir, most of them.

Q Do you know if those people, these people in this room who are here this morning, if they were put on the stand and put under oath and asked the same questions their testimony would be the same as we have heard here?

A Generally it would be the same.

MR. McCLESKEY: That's all, thank you, Mr. Himmel.

MR. SIMMONS: Any questions, Mr. Reid?

MR. REID: No.

(Witness Excused)

* * * * *

counter 44679

MR. NELSON: For the purpose of saving time, we would like to show these people here who would testify to substantially the same facts, no use of piling up the record or taking up the Commissioner's time in doing that, but if anybody wants it, the opposition or the Commissioner, or anybody wants them put on they are here available and we tender them as witnesses upon the same line of testimony to show these land marks and such as shown heretofore.

May I ask, is there any other witness we have not put on the stand who has any additional information or light you think you might shed on this question?

MR. SIMMONS: I might say this, Mr. Nelson, for the benefit of you all who weren't here. I spoke to Mr. Nelson before the hearing and I said we would allow the testimony as to the wells and improvements and what effect the slide would have but the effect will not control any land matter decision of law which they understand.

MR. NELSON: We understand.

MR. SIMMONS: And the idea of introducing the testimony here to impress on the Commissioner the importance of a small tract of 10 acres, and due consideration will be given all persons here.

MR. NELSON: Thank you, sir.

MR. McCLESKEY: We also offer in evidence the official Land Office, General Land Office original map, and invite your

counter 49675

attention to the fact that it shows no vacancy in the location that is applied for here.

We also offer in evidence the present official General Land Office map shown to have been made in 1933 and it likewise shows no vacancy in the location which is applied for here.

MR. SIMMONS: Anything else?

MR. McCLESKEY: I believe that gets it all at this time. We also point out that the Standard Oil Company of Texas which is a lease holder upon this land has not been given notice of this hearing and is not represented at this hearing.

One further question of Mr. Snodgrass here.

* * * * *

MR. GLAD SNODGRASS, having been duly sworn, returned to the stand testifying further as follows:

EXAMINATION

BY MR. McCLESKEY:

Q Mr. Snodgrass, is there now a producing oil well on Section No. 32?

A Yes, sir.

Q Is it known as the Minnie Adams No. 1?

A Yes, sir.

Q Was it drilled and now operated by the Standard Oil Company of Texas?

A I couldn't answer that, that's my opinion, as to who drilled it, I cashed the checks.

Q You know approximately when it was completed as a producer?

A No, I couldn't answer that.

MR. McCLESKEY: That's all.

(Witness Excused)

* * * * *

MR. NELSON: I would like to know the date of completion.

MR. ADAMS: The 17th day of July, 1952.

MR. NELSON: That's all, I believe.

MR. McCLESKEY: I believe that's all.

MR. SIMMONS: Counsel for the opponents care to sum up, first, Mr. Reid, do you have something to add before we close the hearing?

MR. REID: Yes, sir. Is Mr. Newell here?

MR. SIMMONS: We excused him. We can recall him.

MR. REID: Not going to take long. I want to introduce Land Office Map of October, 1904, and I want to introduce the enlarged section of the Land Office map of July, 1933.

MR. SIMMONS: We will get our copy in the office.

MR. REID: Now, Mr. Newell, I want to ask you ---

MR. SIMMONS: Before you ask Mr. Newell we'll swear him back in.

MR. W. D. NEWELL, being duly sworn,
testified further as follows:

EXAMINATION

BY MR. REID:

Q What is the distance across this little Lomax Survey on the map Exhibit D-2?

A We didn't show any distance there. I show it here as being 185.3 varas.

Q You scaled that and tell me what it is on this plat.

A That plat?

Q Yes, sir.

A A hundred feet to the inch.. This plat?

Q Yes, sir, on Exhibit D-2.

A Well, according to that scale it scales 185 varas, less than 200.

Q This map was made from field notes, you didn't do any work on the ground to make this map?

A This map was prepared to show the section numbers, the area that was affected by the location of the Eddy Sparks and we were not attempting to show exact distances on this map.

Q But you made the map from the field notes of all these surveys?

A We made, we fitted them together from the field notes as they fell in place from the field notes, that's correct. But we didn't attempt to show exact distances on this map, just to the relative location position of one survey to the other and we didn't attempt

to show any distances. We did scale them to fairly close.

MR. SIMMONS: Excuse me, Mr. Reid, would it help expedite things if I would say the Commissioner won't consider Exhibit D-2 as an official map or record in considering whether or not the vacancy exists or does not exist.

MR. REID: I wanted as a matter of record how he made the map, he didn't survey the lands.

MR. SIMMONS: What I mean is I assure you we will not use the opponent's Exhibit D-2 in determining this, in the decision.

A I'll clarify, the only survey I made is the one shown with this map, this report, and the small map and report that accompanied it, that accompanied the papers that I turned in to the Land Office.

MR. REID: That's all I wanted to know.

A I think you have a copy of that.

MR. REID: They didn't work on the ground to make Exhibit D-2.

MR. SIMMONS: We will not use D-2 in making a determination.

Do you have anything further, Mr. Reid?

MR. REID: No.

MR. SIMMONS: You are excused.

(Witness Excused)

* * * * *

MR. NELSON: That's all, Mr. Commissioner, as far as we are concerned.

MR. SIMMONS: On behalf of the Commissioner, certainly appreciate the interest you have taken and the way you have conducted yourselves while here.

MR. NELSON: We have a petition showing the land owners and the description of the lands each one owns which we would like to offer.

MR. SIMMONS: All right. If nothing further, I declare this hearing closed.

WHEREUPON IT BEING 12:35 O'CLOCK P. M. THE HEARING WAS CLOSED

STATE OF TEXAS
COUNTY OF TRAVIS

I, Agnes E. Miller, Reporter, State Board of Control, hereby certify that this and the foregoing 113 pages constitute a true transcription of my stenotype notes taken of the hearing on Scrap File No. 15408, filed by Bob Reid, held before the Commissioner of the General Land Office, Austin, Texas, January 30, 1953.

Witness my hand on this the 5th day of July, 1953.

Agnes E. Miller

counter 44680

FLOYD CO. ROULLED SKETCH
NO 9 FLAT FOLDER.

153

File No. 8. 7. 15408

2 Loyal County

Manuscript of Hearing

Filed July 10, 1953

BASCOM GILES Court

Don May Weaver
File Clerk

counter 44681



ESTABLISHED 1855

W. L. MOODY & CO.

Bankers & Cotton Factors

GALVESTON, TEXAS.

April 13, 1903

Mr. W. M. Massie,

Floydada, Texas.

Dear Sir,-

We are in receipt of a communication from Dr. R. C. Andrews under date of the 2nd inst. He informs us that he is going to retire from the land business and advises us to have you as Agent for our tract of land in that County. We understand this tract has been fenced and is pasture land. Mr. Andrews has been our Agent for a number of years paying taxes and looking after the land generally and no doubt can give you all information necessary in regard to the land. We suppose your fees will be the regular fee for paying taxes etc. We had this land fenced some time ago and were under the impression that we would get an income from it. please ascertain from Mr. Andrews all about this matter and advise us.

With best wishes,

Yours very truly,

W. L. Moody & Co.
W. L.

counter 44682

S.F. 15408

FLOYD COUNTY

①

OPPONENTS EXHIBIT:

Rd. sp. #9

Opp - No. 1

counter 44683

APPLICANT'S EXH

S.F. 15408

FLOYD COUNTY.

①

Rld. sk. #9

counter 44684



Inger JW. Anderson Wollman G.W.T & P. Ry. Co. A & B W.L. Boerner J.V. Massey 69805 135972 A.C.H. & B. 61428 75616 S-11071 S-11082 45194 S-11091 R.B. King 56796 75276

W.S. Adams P.8360 C.A. Neilson P.8193 A.L. Anderson P.8189 L. Anderson S.F.1334 J. Bryant P.8214 J.W. Hyman P.8217 J.W. Cummings P.8370 76048 J.A. Alfman S.F.445 J.A. Sparks S.F.3267 J.C. Cooper S.F.1554 M.W. Maxwell S.F.450 O. Cahill P-9382 J.A. Sparks S.F.3641 W.D. B. S.F.3

J.V. Massey S-11135 W.L. Laycock 58186 J. Fowler P.9681 P.D. Adams 51529 A.B & M S-11084 J.C. Malloy 54206 Seale & Morris S-11092 Eddy Sparks 1-1662

S-10830 42113 S-10821 J.H. Ball S.F.1216 J.C. Malloy 54207 J.C. Malloy 54206 A.B & M S-11086 J.C. Malloy 54207 B.S & F S-11089 M.E. & P.R.R. Co. S-11322 M.E. & P.R.R. Co. S-11487

B-&B-Block-2 S-10823 42112 J.H. Ball S.F.1216 Ann Ball 50500 B.S & F S-11089 M.E. & P.R.R. Co. S-11322 M.E. & P.R.R. Co. S-11487

S-10826 46798 C.U. Connelle S-15897 T.T. R.R. Co. S-11096 H.C. Smith 129893 T.T. R.R. Co. S-11323 J.F. Hough 128443 C.U. Connelle S-15896 M.C. Smith 133184 T.T. R.R. Co. S-11323 J.F. Hough 128443

copy of Part of
H.L. O. map
Traced July 1933



ESTABLISHED 1866

W. L. MOODY & CO.

BANKERS & COTTON FACTORS

GALVESTON, TEXAS. Feb. 8th, 1904.

Mr. W. M. Massie,
Floydada, Texas.

Dear Sir:--

We duly received your favor 21st ult., enclosing the two notes of J. W. Golden \$100.00 each covering lease, also enclosing us copy of lease favor of J. W. Golden for the 2792 acres Eddy Sparks survey.

We note what you say in regard to Dr. Andrews and would, of course, treat your letter in confidence. We are writing the Doctor today, asking him to kindly send us a statement showing the state of his account at the time he turned the charge of this property over to you. In this way, we think we will be able to get the information desired.

We think that lease money should be paid in advance, but in this instance we understand that it was practically impossible to make collection in advance, however, in future we will ask you to kindly insist on payment being made in advance.

With best wishes, we remain,

Yours very truly,

W. L. Moody & Co.
per Fred W. Catterall

counter 4965

S. F. 15408

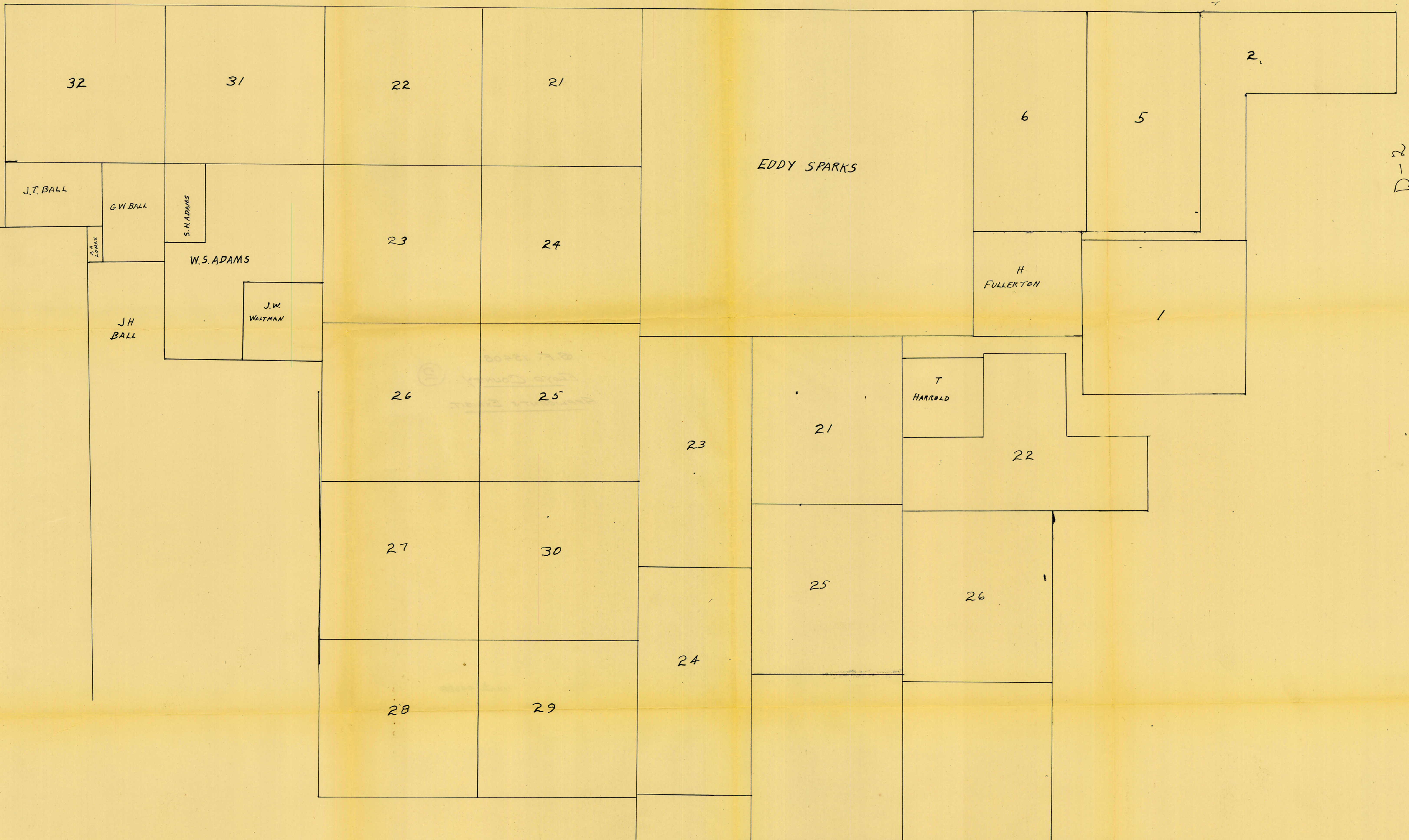
FLOYD COUNTY

(2)

OPPONENTS EXHIBIT.

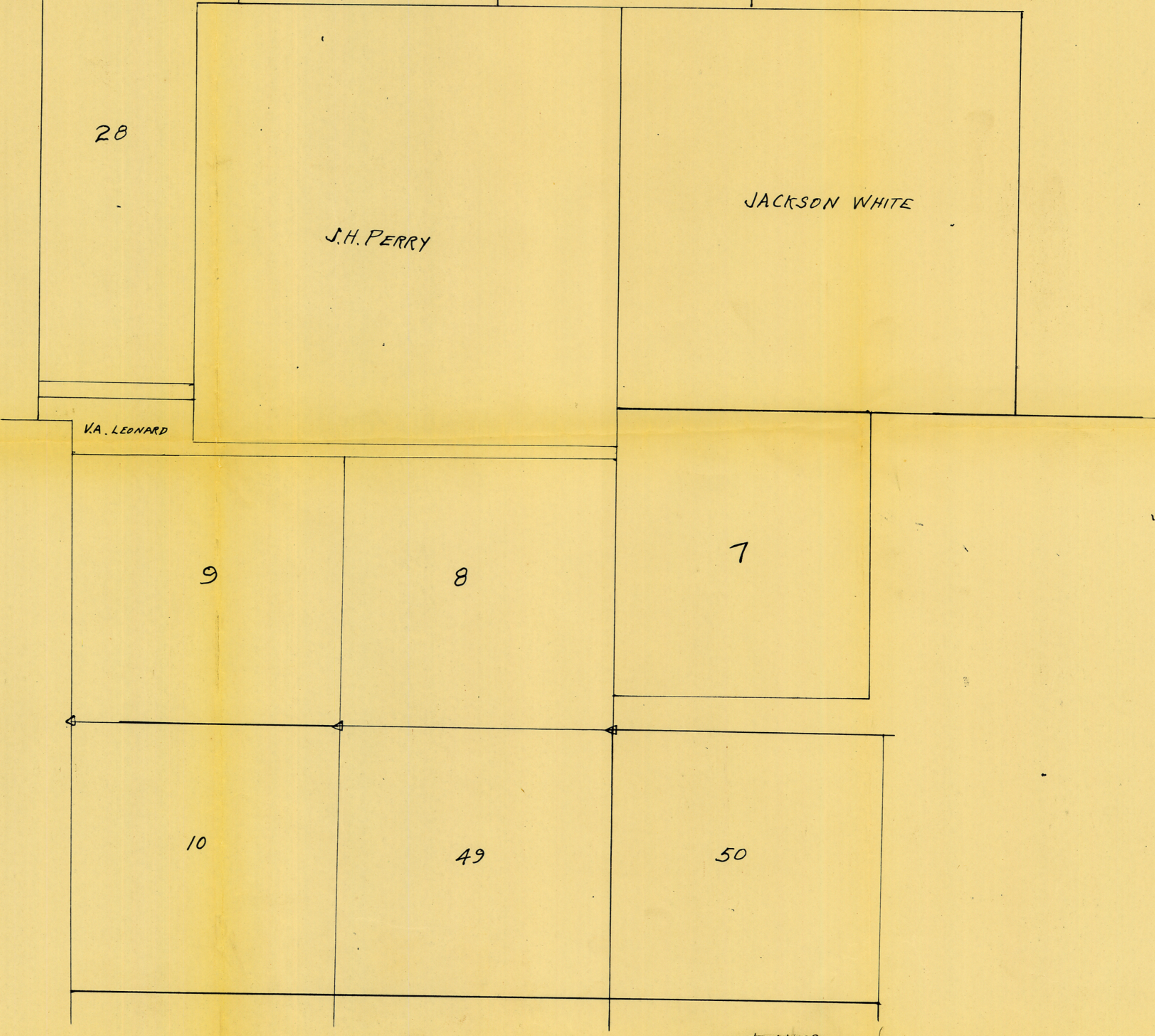
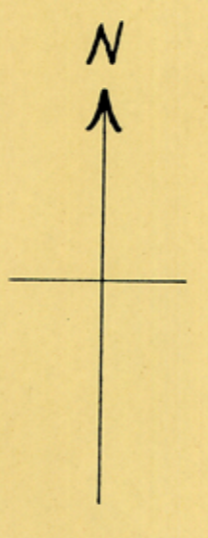
Opp # 3 Floyd Co. Rld. Sk. #9

counter 4687

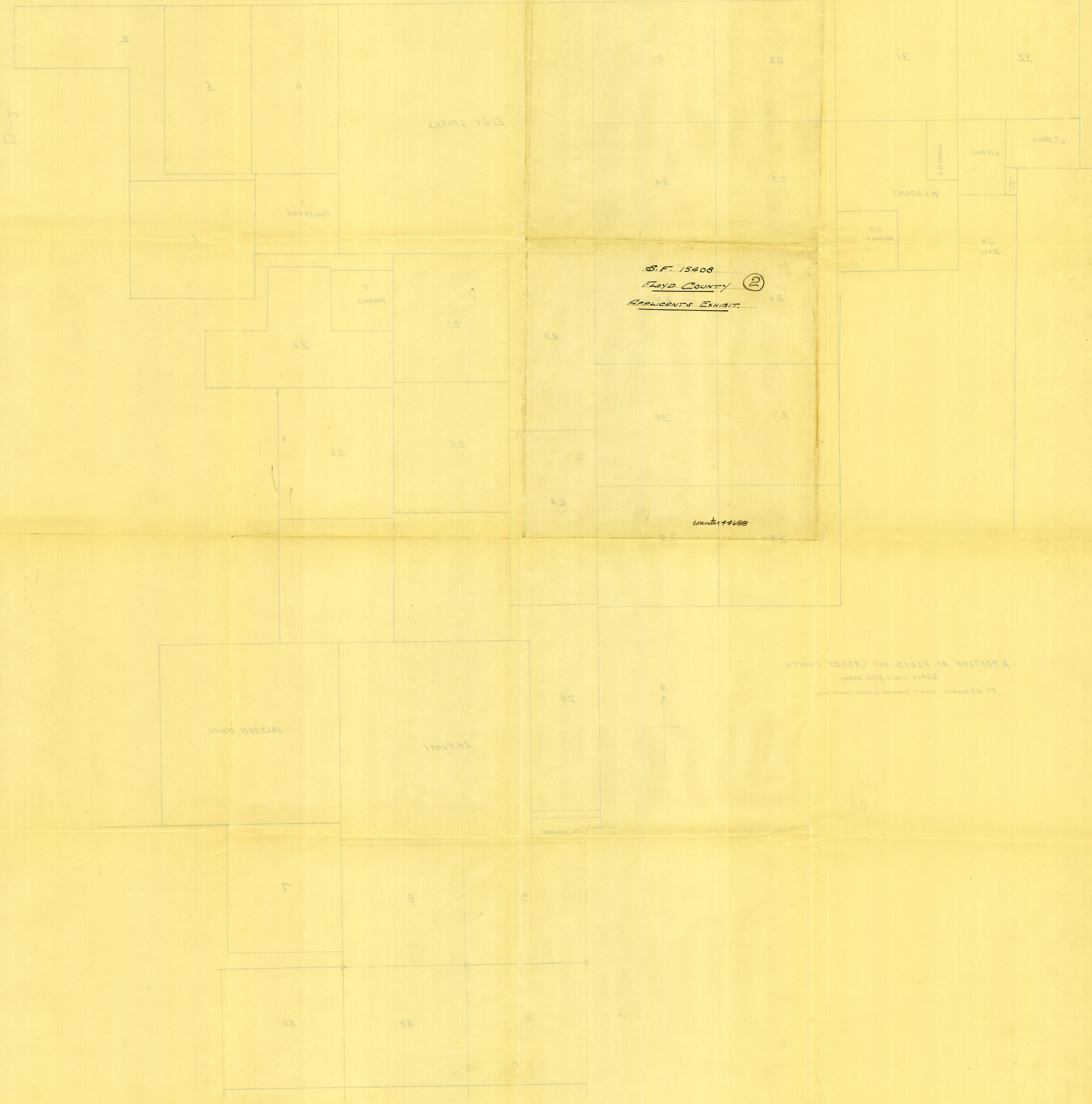


D-2

A PORTION OF FLOYD AND CROSBY COUNTY
 SCALE 1 IN. = 500 VARAS
 BY W.D. NEWELL COUNTY SURVEYOR OF FLOYD COUNTY TEXAS



count 94689



D-8

EDDY SPARKS

H FULLERTON

T HERRING

S.F. 15408
FLOYD COUNTY (2)
APPLICANT'S EXHIBIT.

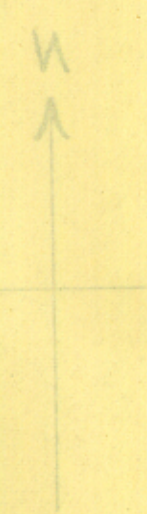
W.S. ADAMS

J.H. BALL

JACKSON WHITE

J.H. PERRY

A PORTION OF FLOYD AND CROSBY COUNTYS
SCALE 1 IN = 200 FEET
BY W.B. HARRIS, COUNTY SURVEYOR



1

2

3

4

5

6

count 14688

J. F. 15408

FLOYD COUNTY Rtd. SR. #9

OPPONENTS EXHIBIT.

3

NELSON & McCLESKEY
LAWYERS
616 LUBBOCK NATIONAL BANK BLDG.
LUBBOCK, TEXAS

counter 44690

THE STATE OF TEXAS
COUNTY OF FLOYD

There has been called to the attention of the undersigned an application to declare a vacancy now pending before the Land Commissioner of the State of Texas, which application was filed by Bob Reid and alleges there to be a vacancy approximately 32 varas in width east and west and situated on the west end of the J. T. Ball tract and on the west end of the south portion of Section No. 32, Certificate No. 34, A.B. & M. in Floyd County, Texas. The undersigned are all land owners in the area that would be affected if such strip is recognized as a vacancy; and as interested parties would respectfully present the facts hereinafter set out.

In the area here involved there are many long established improvements upon the ground including houses, barns, roads, fences, irrigation wells, and other improvements. The various improvements are situated so as to recognize and establish the location of the various tracts involved as they actually exist upon the ground and as they have actually existed and have been recognized upon the ground for fifty years or more. As these various tracts of land, adjacent to and in the vicinity of the alleged vacancy, are actually situated and recognized upon the ground for these many years, there is no vacancy.

If a vacancy should be declared to exist in accordance with the application above referred to, it would result in a moving or sliding of all of the boundary lines of the undersigned property owners to the east of their present locations. The natural slope of the land in the area affected is to the south and east and as a result of this the irrigation water wells, of which there are many in this area, have been located and dug in most cases as near to the vicinity of the northwest corner of each tract of land as has been practicable to do so. To move or slide the boundary lines to the

east would, in many cases, deprive the property owners of their irrigation water wells and of their improvements and would cause the relocation of fences and roads in a wide area and would involve the expenditure of and the loss of vast sums of money. By reason of the long recognized boundary lines, these improvements, roads, fences, and irrigation water wells have been located at their present locations. These boundary lines should continue to be recognized but the approval of the above referenced application would disturb and move them a substantial distance.

By reason of the long standing recognition of the present boundary lines in the area involved, and by reason of the substantial and wide spread disturbance and confusion, as well as loss of valuable property, which would result by reason of an approval of said application, the undersigned property owners do respectfully and urgently request that said application be denied and that it be declared that no vacancy exists as applied for in the above referenced application.

WITNESS OUR HANDS.

DATE PROPERTY OWNERS

PROPERTY OWNED.

1.2.53. John A Lloyd
 1-2-53 Maggie Belle Heinn
 1.2.53 Mrs J. C. Newson
 1.2.53 Charlie E. Wright
 1-2-53 W. Earl Edwards
 1-3-53 Tilford Taylor
 1-3-53 Troy Leonard
 1-3-53 W. C. Crawford
 1-3-53 Mrs R. F. Hall
 1-3-53 C. T. Morrison Jr.
 1-3-53 H A Powell
 1-5-53 Mrs Eupha D. ...
 1-5-53 Julia A. Stoggin

C. F. 15408

FLOYD COUNTY.

(4)

OPPONENTS EXHIBIT

Rld. str. #9

RECEIVED
MAY 2 1911

NELSON & McCLESKEY
LAWYERS
616 LUBBOCK NATIONAL BANK BLDG.
LUBBOCK, TEXAS

counter 74693

THE STATE OF TEXAS
COUNTY OF FLOYD

There has been called to the attention of the undersigned an application to declare a vacancy now pending before the Land Commissioner of the State of Texas, which application was filed by Bob Reid and alleges there to be a vacancy approximately 32 varas in width east and west and situated on the west end of the J. T. Ball tract and on the west end of the south portion of Section No. 32, Certificate No. 34, A.B. & M. in Floyd County, Texas. The undersigned are all land owners in the area that would be affected if such strip is recognized as a vacancy; and as interested parties would respectfully present the facts hereinafter set out.

In the area here involved there are many long established improvements upon the ground including houses, barns, roads, fences, irrigation wells, and other improvements. The various improvements are situated so as to recognize and establish the location of the various tracts involved as they actually exist upon the ground and as they have actually existed and have been recognized upon the ground for fifty years or more. As these various tracts of land, adjacent to and in the vicinity of the alleged vacancy, are actually situated and recognized upon the ground for these many years, there is no vacancy.

If a vacancy should be declared to exist in accordance with the application above referred to, it would result in a moving or sliding of all of the boundary lines of the undersigned property owners to the east of their present locations. The natural slope of the land in the area affected is to the south and east and as a result of this the irrigation water wells, of which there are many in this area, have been located and dug in most cases as near to the vicinity of the northwest corner of each tract of land as has been practicable to do so. To move or slide the boundary lines to the

east would, in many cases, deprive the property owners of their irrigation water wells and of their improvements and would cause the relocation of fences and roads in a wide area and would involve the expenditure of and the loss of vast sums of money. By reason of the long recognized boundary lines, these improvements, roads, fences, and irrigation water wells have been located at their present locations. These boundary lines should continue to be recognized but the approval of the above referenced application would disturb and move them a substantial distance.

By reason of the long standing recognition of the present boundary lines in the area involved, and by reason of the substantial and wide spread disturbance and confusion, as well as loss of valuable property, which would result by reason of an approval of said application, the undersigned property owners do respectfully and urgently request that said application be denied and that it be declared that no vacancy exists as applied for in the above referenced application.

WITNESS OUR HANDS.

DATE PROPERTY OWNERS PROPERTY OWNED.

1-3-1953

R. L. Johnson

1-3-1953

David L. Rhoades

1-9-53

Beulah, m. J.

1-26-53

Vesta Himmel

1-26-53

L. L. Jones

Mrs Henry Hollis

Geo W Smith

Allan B Smith

Mc Money

Emmer Lola money

W A Latta

1-2 1953	J. M. Harrison
1-2-1953	Homer Newberry
1-2 1953	Le T. Hammond
1-2 1953	J. H. Hammond
1-2 1953	W. H. Burch
1-2 1953	E. H. Brown
1-2-1953	S. Y. Appling
1-2-1953	Mrs. R. C. Smith
1-2 1953	A. M. Batley
1-2-1953	F. B. Erstep
1-2-1953	E. C. Baffin
1-2-1953	Anton Pinter
1-2-1953	L. O. Adams
1-2-1953	Lula Mae Carter
1-2 1953	M. C. Latta
1-2-1953 -	John. Himmel

S. F. 15408

FLOYD COUNTY

(5)

OPPONENTS EXHIBIT.

Rld. Sk. #9

NELSON & McCLESKEY
LAWYERS
616 LUBBOCK NATIONAL BANK BLDG.
LUBBOCK, TEXAS

Counter 44697

THE STATE OF TEXAS
COUNTY OF FLOYD

There has been called to the attention of the undersigned an application to declare a vacancy now pending before the Land Commissioner of the State of Texas, which application was filed by Bob Reid and alleges there to be a vacancy approximately 32 varas in width east and west and situated on the west end of the J. T. Ball tract and on the west end of the south portion of Section No. 32, Certificate No. 34, A.B. & M. in Floyd County, Texas. The undersigned are all land owners in the area that would be affected if such strip is recognized as a vacancy; and as interested parties would respectfully present the facts hereinafter set out.

In the area here involved there are many long established improvements upon the ground including houses, barns, roads, fences, irrigation wells, and other improvements. The various improvements are situated so as to recognize and establish the location of the various tracts involved as they actually exist upon the ground and as they have actually existed and have been recognized upon the ground for fifty years or more. As these various tracts of land, adjacent to and in the vicinity of the alleged vacancy, are actually situated and recognized upon the ground for these many years, there is no vacancy.

If a vacancy should be declared to exist in accordance with the application above referred to, it would result in a moving or sliding of all of the boundary lines of the undersigned property owners to the east of their present locations. The natural slope of the land in the area affected is to the south and east and as a result of this the irrigation water wells, of which there are many in this area, have been located and dug in most cases as near to the vicinity of the northwest corner of each tract of land as has been practicable to do so. To move or slide the boundary lines to the

east would, in many cases, deprive the property owners of their irrigation water wells and of their improvements and would cause the relocation of fences and roads in a wide area and would involve the expenditure of and the loss of vast sums of money. By reason of the long recognized boundary lines, these improvements, roads, fences, and irrigation water wells have been located at their present locations. These boundary lines should continue to be recognized but the approval of the above referenced application would disturb and move them a substantial distance.

By reason of the long **standing** recognition of the present boundary lines in the area involved, and by reason of the substantial and wide spread disturbance and confusion, as well as loss of valuable property, which would result by reason of an approval of said application, the undersigned property owners do respectfully and urgently request that said application be denied and that it be declared that no vacancy exists as applied for in the above referenced application.

WITNESS OUR HANDS.

DATE PROPERTY OWNERS PROPERTY OWNED.

1-4-53 Earl Crawford
1/5/53 J. W. Harper MD
1-5-53 Mrs Ella Shurston
1-26-53 B. B. Wickes

THE STATE OF TEXAS

COUNTY OF FLOYD

BEFORE ME, the undersigned authority, on this day personally appeared, W. M. Massie, well known to me, and known to me to be a credible person, who after being by me duly sworn says upon oath.

That he has resided in Floyd County, Texas, since the year 1889, and that he has been engaged in the Real Estate Business at Floydada, Texas, since the year 1890 to the present time.

That he (Affiant) is acquainted with a tract of 2792 acres of land, situated in Floyd County, Texas, known as the "Eddy Sparks Survey", Abstract No.100, Certificate No. 21/36, as said land has been located and fenced.

That he (Affiant) acted as agent for said above described tract of land since about the year 1903, looking after said land and handling it as agent for W.L.Moody, of Galveston, Texas.

That some years later, and after Affiant had been acting individually as agent for the owner of said land, he was joined in the Real Estate Business by his brother J. M. Massie, forming a partnership composed of Affiant W.M.Massie and his brother J. M. Massie, doing a general real estate agency business under the firm name of W. M. Massie & Bro.

That he (Affiant) first acting individually as agent for said W.L. Moody, together with W.M.Massie & Bro., Real Estate Agents maintaining an office at Floydada, in Floyd County, Texas, have represented said W.L.Moody and his successors in title and ownership of said above described tract of land continuously and up to the present time--looking after and leasing said land for such owners, and that said tract of land has been fenced continuously since said year 1903 to the present time except for minor changes in some of the lines of fence enclosing said land made on account of public roads; and at one time, many years ago, a part of one string of the fence enclosing said land was set back temporarily by an adjoining land owner, but that said string of fence so removed or set back by such adjoining land owner was promptly reset in its original position, when demanded to do so by the agents and representatives of said W.L.Moody.

That beyond the claim of the adjoining land owner, who, as above stated, set back a part of the fence enclosing said Eddy Sparks tract, he (Affiant) has never heard of any party or parties whomsoever asserting a claim to or ownership of said Eddy Sparks Survey, or any part of same, adverse to the claim of W.L.Moody and his successors in title and ownership.

That approximately 800 acres of said Eddy Sparks Survey has been cultivated in crops of different kinds for more than 20 years.

That said Eddy Sparks Survey is now under lease to N. A. Armstrong, as Lessee of the successors in title to the said W.L.Moody, Deceased, and has been under lease to said N.A.Armstrong continuously for approximately 20 years.

That W.M.Massie & Bro., as agents for the owners of said land, leased said land to N.A.Armstrong by lease dated September 15, 1923, as shown by Lease Contract of that date, recorded in Vol. 4, Page 353, Mechanic's Lien Records of Floyd County, Texas--said Lease being executed by "W.L. Moody, Jr," as Lessor, to the said N.A.Armstrong as Lessee, and to the best recollection of Affiant, said land has been continuously leased to said N.A.Armstrong since the Lease above mentioned was made, and down to the present time.

W.M. Massie

SWORN TO AND SUBSCRIBED BEFORE ME, This 24th. day of June, A.D.1943.

D.G. Ayres (D.G. Ayres)
Notary Public, Floyd County, Texas.

My Commission expires June 1, 1945.

counter 49700

THE STATE OF TEXAS ||
 ||
COUNTY OF FLOYD ||

BEFORE ME, the undersigned authority, on this day personally appeared, W. M. Massie, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 24th, day of June, A.D. 1943.

D. G. Ayres (D.G. Ayres)
NOTARY PUBLIC, FLOYD COUNTY, TEXAS.

My Commission expires June 1, 1945.

THE STATE OF TEXAS } THIS CERTIFIES THAT THE
COUNTY OF FLOYD } FOREGOING INSTRUMENT,
WITH ITS CERTIFICATE OF AUTHENTICATION, WAS
DULY RECORDED BY ME ON THE 28 DAY OF
June A. D., 1943 IN VOL. 85
PAGE 38 OF THE RECORDS OF Deed
OF FLOYD COUNTY, TEXAS.
Margaret Collins
COUNTY CLERK, FLOYD COUNTY, TEXAS
Maurice Burton DEPUTY

6-24-43
85-38
4:30

REGISTERED
RECORDED
INDEXED
COMPARED

Affidavit

W.M. Massie
To
The Public

S. F. 15408

FLOYD COUNTY

6

OPponents EXHIBIT

FILED FOR RECORD
At 9:00 O'clock A. M.
JUN 23 1943
Missout Cicler
CLERK COUNTY COURT
FLOYD COUNTY, TEXAS
BY _____ Deputy

75¢ due
J. J. Hamilton

counter 7902

7

OPPONENTS EXHIBIT S.F. 15408.
OIL, GAS AND MINERAL LEASE

THIS AGREEMENT, dated the 11th day of January, 1947,
 between MRS. MINNIE ADAMS, a widow, INDIVIDUALLY AND AS INDEPENDENT
ADMINISTRATRIX OF THE ESTATE OF HER DECEASED HUSBAND, P. D. ADAMS.
Route #2, Floydada, Texas.

hereinafter called "Lessor" (whether one or more), and STANDARD OIL COMPANY OF TEXAS
 hereinafter called "Lessee," WITNESSETH:

1. Lessor, in consideration of TEN AND NO/100-----(\$10.00)----- Dollars
 in hand paid, and of other good and valuable considerations, receipt of which is hereby acknowledged, of the royalties here-
 in provided, and of the agreements of Lessee herein contained, hereby grants, lets and leases exclusively unto Lessee for
 the purpose of prospecting, exploring, investigating, drilling and mining for and producing, saving, taking care of, treating,
 transporting and owning oil, gas and all other minerals (whether similar or not) together with all easements, privileges
 and rights useful or convenient for Lessee's operations thereon, or on adjacent lands, including the right (but not exclud-
 ing other similar rights) to lay pipe lines, dig canals, construct tanks, docks, pump-stations, telephone, telegraph and power
 lines, roads, railroads, warehouses, houses for its employees, and other structures, the following described land in _____

Floyd County, Texas, to-wit:

Being all of the West One-half (W- $\frac{1}{2}$) of Section Thirty Two, A. B. &
 M. Survey, Certificate Number 34, Abstract Number 1981, patented to P. D.
 Adams, September 15, 1914, and being of record in the Patent Records of
 Floyd County, Texas, and containing 320 acres, more or less.



and also any and all land and rights and interests in land owned or claimed by Lessor adjacent or contiguous to the land
 above described. Lessor agrees to deliver to Lessee any supplemental instrument deemed necessary or required by Lessee
 for a more complete or accurate description of the land and interest covered hereby.

If the interest of Lessor covered hereby is stated to be less than the entire fee or mineral estate, this lease nevertheless
 covers the entire interest in said land actually owned by Lessor. For the purpose of calculating all payments hereunder,
 except royalty, said land is estimated to comprise 320 acres, whether more or less.

2. Subject to the other provisions herein contained, this lease shall remain in force for a term of ten years from the
 date hereof, hereinafter called "primary term" and thereafter so long as oil, gas, or other mineral is being produced from
 said land or any operations are being conducted hereunder on said land, whether such production or such operations be
 concurrent or successive.

3. The royalties to be paid by Lessee are: (a) on oil, one-eighth of that produced and saved from said land, the same
 to be delivered at the wells into storage furnished by Lessor, or to the credit of Lessor into pipe line to which the wells
 may be connected; Lessee may from time to time purchase any royalty oil in its possession, paying the market price there-
 for prevailing for the field where produced on the date of purchase; (b) on gas, including casinghead gas or other gaseous
 substance, produced from said land and sold or used off the premises or in the manufacture of gasoline or other product
 therefrom, the market value at the well of one-eighth of the gas so sold or used, provided that on gas sold at the wells,
 the royalty shall be one-eighth of the amount realized from such sale; and (c) on all other minerals mined and marketed,
 one-tenth, either in kind or value at the well or mine, at Lessee's election, except that on sulphur the royalty shall be
 seventy-five cents (75c) per long ton. Lessee shall have the use, free of royalty, of water, (except water from Lessor's
 wells), oil and gas from said land for all operations hereunder, including, but not limited to, the repressuring of the oil
 and gas bearing formations, and for such purposes such gas may be injected at any point upon said land or on any other
 land upon the same structure or in the same pool. Lessor may use gas from any gas well on said land for stoves and in-
 side lights in the principal dwelling thereon out of any gas not needed for operations hereunder, by making Lessor's own
 connection at the well in a manner satisfactory to Lessee, at Lessor's sole risk and expense.

4. If drilling or mining operations are not commenced on said land on or before the 11th day of
January, 1948, this lease shall then terminate as to both parties unless Lessee on or before
 said date shall pay or tender to Lessor or to the credit of Lessor in First National
 Bank at Floydada, Texas or any successor, the sum of One Hundred

Sixty and No/100----- Dollars (\$ 160.00)
 hereinafter called "rental," which shall extend for twelve (12) months from said date the time within which drilling or
 mining operations may be commenced. Thereafter, annually, in like manner and upon like payments or tenders the com-
 mencement of such operations may be further deferred for successive periods of twelve (12) months each during the pri-
 mary term. The down cash payment is consideration for this lease according to its terms and shall not be allocated as a
 mere rental for a period.

5. If on any rental date there be neither operations in progress for the drilling of a well or mining or reworking
 operations anywhere on said land, nor production from any part thereof, this lease shall not terminate if Lessee on or be-
 fore said date shall make or resume the payment or tender of rentals as herein set forth; provided, if such operations be
 abandoned, or if production ceases from any cause, within a period of three months prior to any rental date, this lease
 shall not terminate, if, on or before the rental date next ensuing after the expiration of three (3) months from the date of

1-1

abandonment of such operations or cessation of production, additional drilling, mining or reworking operations are commenced anywhere on said land, or Lessee makes or resumes the payment or tender of rental. Wherever used in this lease the term "reworking operations" shall include, without limitation, reconditioning, deepening, plugging back, cleaning out or otherwise attempting to obtain, increase or restore production in a well. If at the expiration of the primary term of this lease oil, gas, or other mineral is not being produced, but on or before that date reworking operations or operations for the drilling of a well or excavation of a mine in search of such products are commenced anywhere on said land, then this lease shall continue in force so long as such operations are being continuously prosecuted; and such operations shall be considered to be continuously prosecuted if not more than three (3) months shall elapse between the completion or abandonment of one well and the beginning of operations for the drilling or reworking of another well. If, as a result of any such operations, oil, gas or other mineral is produced or production is restored, this lease shall continue in force so long as any of them is produced. If oil, gas or other mineral is being produced or is obtained from any part of said land at or after the expiration of the primary term hereof and such production shall for any reason cease or terminate, Lessee shall have the right at any time within three (3) months from the cessation of such production to resume drilling or reworking operations in an effort to obtain or restore production of oil, gas or other mineral from said land, in which event this lease shall remain in force so long as such operations are continuously prosecuted, as defined in the preceding sentence, and if such operations result in production of oil, gas or other mineral, so long thereafter as any of them is produced.

6. All payments or tenders of rental may be made by Lessee's check or draft mailed to Lessor at Lessor's post office address last known to Lessee, or delivered to Lessor, or mailed or delivered to any depository bank on or before the date of payment, and the date of mailing such check or draft shall be considered the date of payment of such rental. Should any depository bank cease to exist, suspend business, liquidate, fail or be succeeded by another bank, or for any reason fail or refuse to accept rental, Lessee shall not be held in default for failure to make such payment or tender of rental until thirty (30) days after Lessor shall have delivered to Lessee a proper recordable instrument, naming another bank as depository. Every bank herein or hereafter designated as depository shall, regardless of changes in ownership of said land or rentals or royalties, continue as depository of any and all sums payable hereunder, and shall be the agent of Lessor, his heirs, legal representatives, devisees and assigns. If more than one person is now or shall hereafter become entitled to receive rental hereunder, Lessee may nevertheless always pay or tender rental jointly to all such persons. If Lessee shall, in good faith and with reasonable diligence, attempt to pay any rental, but shall fail to pay or incorrectly pay some portion thereof, this lease shall not terminate unless Lessee, within thirty (30) days after written notice of its error or failure, shall fail to rectify the same.

7. Lessee may at any time and from time to time execute and deliver to Lessor or to any depository bank or place of record a release or releases covering all or any portion or portions of said land or any mineral or horizon thereunder, and thereby surrender this lease as to all or as to such portion or portions, or as to such mineral or horizon, and thereafter be relieved of all obligations as to the acreage, mineral or horizon surrendered. Thereafter the rental shall be reduced in the proportion that the acreage covered hereby is reduced by such release, or releases. Lessee shall nevertheless retain such rights of way easements and privileges over, upon and across the surrendered land as are necessary or convenient for its operations on the land retained by it.

8. In the event a well or wells producing oil or gas in paying quantities should be brought in on adjacent land, in which Lessor holds no interest whatsoever, and within six hundred sixty (660) feet of and draining the leased premises, Lessee agrees to drill such offset wells as a reasonably prudent operator would drill under the same or similar circumstances.

9. Lessee shall have the right at any time during or within a reasonable time after the expiration of this lease to remove all property and fixtures placed by Lessee on said land, including the right to draw and remove all casing. When required by Lessor, Lessee will bury all pipe lines below ordinary plow depth. No well shall be drilled within two hundred (200) feet of any residence or barn now on said land without consent of the owner of said house or barn unless this lease then covers less than five (5) acres. Lessee shall pay for damages to growing crops on said land caused by Lessee's operations.

10. The rights, powers and estate of either Lessor or Lessee hereunder may be assigned in whole or in part and also as to any mineral. Payments may be anticipated and made by Lessee before their due date, and no change of ownership, or right to receive any payments hereunder, however accomplished, shall be binding on Lessee until after notice thereof shall have been furnished Lessee by the person claiming the benefit thereof, and then only with respect to payments thereafter made. Notice of sale or assignment shall consist of a certified copy of the recorded instrument accomplishing same; notice of change of ownership or right to receive such payments, accomplished in any other manner (for example, by reason of incapacity, death or dissolution) shall consist of certified copies of recorded documents and complete proceedings legally binding upon and conclusive of the rights of all parties. Until such notice shall have been furnished Lessee, as above provided, the payment or tender of all sums payable hereunder may be made in the manner provided herein precisely as if no such change in interest or ownership or right to receive payment had occurred. The kind of notice herein provided shall be exclusive, and no other kind, whether actual or constructive, shall be binding on Lessee. If more than one person executes this lease as Lessor, or is now or shall hereafter become entitled, through change of ownership or otherwise, to share in or receive the benefits accruing to Lessor hereunder, this lease shall nevertheless always be operated and developed by Lessee as a single tract, without regard to any such division in or change of interest or ownership, or right to receive payment, which shall not operate to enlarge the obligations or diminish the rights of Lessee. In the event of assignment of this lease as to a segregated portion of said land, the rental payable hereunder shall be apportionable as between the several leasehold owners ratably according to the surface area of each, and default in rental payment or in performance of obligations hereunder by one shall not affect the rights of, or impose any obligations on, other leasehold owners hereunder. If ten (10) or more parties become entitled to royalty hereunder, Lessee may withhold payment thereof until furnished with a recordable instrument executed by all such parties designating an agent to receive payment for all.

11. Lessor warrants and agrees to defend the title to said land, but if the interest of Lessor covered hereby is stated to be less than the entire fee or mineral estate, Lessor's warranty shall be limited to the interest so stated. The royalties hereinabove provided are determined with respect to the entire fee or mineral estate and if Lessor owns a lesser interest (even though stated to be less), then without impairment of Lessor's warranty, the royalties to be paid Lessor shall be reduced proportionately. The rental hereinabove provided is determined with respect to the interest which this lease purports to cover, as hereinabove stated and if Lessor owns a lesser interest, the rental to be paid Lessor shall be reduced proportionately. Lessee at its option may discharge, in whole or part, any tax, mortgage, or other lien upon said land, or may redeem the same from any purchaser at any tax, execution or other sale, and may reimburse itself from any rentals and royalties accruing hereunder and shall be subrogated to such lien with the right to enforce same.

12. When drilling, or any other operation or act permitted or required hereunder, or the observance or performance by Lessee of any express or implied covenant, condition or requirement hereof, or the performance by Lessee of any act or thing, the non-performance of which would result in the termination of this lease or the loss of any rights of Lessee hereunder, is at any time or from time to time prevented, interrupted, delayed or suspended, directly or indirectly, by, as the result of, or in order to comply with, any law or any rule, regulation, order or requirement of any governmental commission, body or representative having or asserting jurisdiction, or by or as the result of an act of God, the elements, war, labor disputes, or any other cause beyond the control of Lessee, whether similar or dissimilar to the causes hereinbefore enumerated, or because oil, gas or other mineral is not being produced for lack of a market at the well or wells or mine at any time when oil, gas or other mineral could be produced in paying quantities hereunder if a market therefor at the well or wells or mine were available, then in any of such events, the period of such prevention, interruption, delay or suspension shall not be counted against Lessee, nor shall Lessee be liable for any loss or damage resulting therefrom, and, notwithstanding any of the terms and provisions hereof to the contrary, this lease shall not terminate, but shall continue in full force and effect during the full period of such prevention, interruption, delay or suspension (hereinafter called "period of suspension"), plus six (6) months after the termination of the period of suspension, and so long thereafter as this lease remains in force under its terms provided, nevertheless, that this lease shall not be continued in force by virtue of the provisions of this paragraph, unless Lessee commences or resumes the payment or tender of rental on or before the anniversary of the rental paying date of this lease next ensuing after the expiration of three (3) months from commencement of such period of suspension. Should such period of suspension commence or continue after the expiration of the primary term of this lease, such rental payments may nevertheless be made or tendered with like effect as though made or tendered on a rental payment date occurring during the primary term.

13. In the event Lessor considers that Lessee has not complied with all its obligations hereunder, both express and implied, Lessor shall notify Lessee in writing, setting out specifically in what respects Lessee has breached this contract. If, within sixty (60) days after receipt of such notice, Lessee shall meet or commence to meet the breaches alleged by

Lessor, Lessee shall not be deemed in default hereunder. The service of said notice and the lapse of sixty (60) days without Lessee meeting or commencing to meet the alleged breaches shall be a condition precedent to any action by Lessor for any cause hereunder. Neither the service of said notice nor the doing of any acts by Lessee aimed to meet all or any of the alleged breaches shall be deemed an admission or presumption that Lessee has failed to perform all of its obligations hereunder. In case, however, of cancellation or termination of this lease for any cause whatsoever, this lease shall, nevertheless, remain in force and effect as to a tract of land around each oil or gas well or mine producing, drilling or being worked on, containing the maximum number of acres prescribed or allocated to such well or mine under and pursuant to any spacing plan, regulation or order promulgated by the Railroad Commission of Texas or other governmental agency having jurisdiction and in effect at the time of such cancellation or termination; but if no such plan, regulation or order is in effect at such time, this lease shall, nevertheless remain in effect as to forty (40) acres around each such well or mine. In either event such tract of land shall be in the form of a rectangle to be designated by Lessee with the well at the center or at a location not less than the minimum distance from the boundary lines of such tract permitted by the spacing order, rule or regulation applicable thereto.

14. The word "Lessor" as used herein shall mean any one or more or all of the Lessors. All the provisions of this lease shall be binding on the heirs, legatees, devisees, legal representatives, successors and assigns of Lessor and Lessee. This lease shall be binding upon all who execute it, whether or not named herein as a party Lessor, and even though not executed by all parties named herein as Lessor.

15. Lessee is hereby granted the right and power, exercisable at any time and from time to time while this lease is in force and within twenty (20) years from the date hereof, but not thereafter, to pool and combine this lease as to all or any part or parts of the land covered hereby and Lessor's royalty under this lease with any other lease or leases as to all or any part of the land covered thereby and the royalty thereunder, or with other land, royalty and mineral interests in land, situated in the same general area as the land covered hereby, regardless of the ownership of such other leases, land, royalty or mineral interests, provided that for gas and/or condensate no unit created shall exceed six hundred and forty-seven (647) acres, and for oil no such unit shall exceed forty-three (43) acres. The exercise of such right and power shall be evidenced by written instrument executed by Lessee describing the land so pooled and combined. The entire acreage so pooled and combined into a unit and all drilling and other operations on, and production from, such acreage shall for all purposes of this lease, except as in this paragraph otherwise provided, be treated and considered as if such acreage were covered by, and such drilling and other operations were being conducted on, or such production were had from this lease, and such operations or production, even though not on or from land covered by this lease, shall nevertheless operate to continue this lease in force as to all land, minerals and rights covered hereby with like effect as though on or from the land covered hereby. Without impairment or change of any rights of Lessee under paragraph 11 hereof, Lessor shall receive as royalty on production from the pooled acreage only such portion of the royalty stipulated in paragraph 3 hereof as the amount of Lessor's acreage placed in the unit, or Lessor's royalty interest therein on an acreage basis, bears to the total acreage so pooled and combined in the particular unit involved, and such royalty shall be in lieu of the royalty provided in said paragraph 3. If by reason of cessation of operations on or production from a pooled unit, or for any other reason, Lessee determines to pay rentals which Lessee is permitted to pay under this or other leases covering land in any unit, such rentals shall be payable to the respective Lessors in this and such other leases in like manner as though such unit had not been created, and pooling hereunder shall not operate to pool such rentals. Lessee shall not be obligated to drill any offset wells on land covered hereby and not pooled, to offset wells drilled on a unit which includes any part of the land covered hereby. Should the acreage content of any unit be reduced by failure of title, or other event beyond the control of Lessee, Lessee shall not be liable to Lessor by reason thereof or be obligated to make any retroactive apportionment or adjustment of royalties theretofore paid, and in any such case, in addition to all other rights under this lease, Lessee shall also have the right to terminate the unit affected thereby by filing for record written notice of termination of such unit thereupon Lessee shall be relieved of all obligations thereafter accruing hereunder with respect to the unit so terminated.

16. If Lessee shall at any time while this lease is in force complete a well or wells on the leased premises or on land pooled therewith which shall be capable of producing gas, whether in paying quantities or not, the Lessee at its option may at any time and from time to time (notwithstanding any express or implied terms, conditions, covenants or provisions hereof to the contrary) suspend all production from such well or wells and all other operations and payments hereunder and pay to the Lessor, or to his credit in the depository bank named herein, as royalty in lieu of production, a quarterly sum equivalent to one-fourth of the annual delay rental specified in paragraph 4 hereof, paying the first such sum at or within thirty days after the beginning of the first calendar quarter after completion of such well or wells or any suspension of production therefrom and paying a like sum at the beginning of each successive calendar quarter, which sum so paid shall be considered as advance royalty and shall be charged against one-fourth of the first proceeds of royalty on the resumption of production from the leased premises or land pooled therewith; and, in the event of the exercise of such option by Lessee, this lease shall remain in force as long as such quarterly payments are made and as long after the resumption of production or operations as production may be had or operations are continued as elsewhere provided herein.

IN WITNESS WHEREOF, this instrument is executed as of the date first above written.

Witness to mark *A. B. ...* Her
Mrs. Minnie X Adams, Admrx.
 mark
 Witness to mark *E. L. ...*

SINGLE ACKNOWLEDGMENT
 (One or More Individuals)

STATE OF TEXAS }
 COUNTY OF Floyd }

BEFORE ME, the undersigned authority, on this day personally appeared Mrs. Minnie Adams
 known to me to be the person whose name ~~are~~ is subscribed to the foregoing instrument, and acknowledged to me
 that She executed the same for the purposes and consideration therein expressed, and in the capacity
 therein stated

Given under my hand and seal of office this the 11th day of January, A. D. 1947.

E. L. ...
 Notary Public in and for Floyd County, Texas.



My commission expires June 1, 1947

count 194705 1-2

1-11-47

REGISTERED
RECORDED
INDEXED
COMPARED

94-627
2
No.

Oil, Gas and Mineral Lease

FROM

Minnie Adams

TO

Standard Oil Co. of Texas

Dated _____, 19____

No. Acres _____

County, Texas _____

Term _____

This instrument was filed for record on the _____

2nd day of *February* 19*47*

at *2:20* o'clock *P.*M., and duly recorded in

Book *94*, Page *627*

of the records of this office.

Margaret Collier
County Clerk.

By _____, Deputy

When recorded return to

Standard Oil Co.

4600

1-2

HUSBAND AND WIFE JOINT ACKNOWLEDGMENT

STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared _____

and wife, _____, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration

therein expressed. And the said _____, wife of _____, having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the

said _____, acknowledged such instrument to be her act and deed and declared that she had willingly signed the same for the purposes and consideration therein expressed and that she did not wish to retract it.

Given under my hand and seal of office this the _____ day of _____, A. D. 19____.

Notary Public in and for _____ County, Texas.

My commission expires _____, 19____.

CORPORATE ACKNOWLEDGMENT

STATE OF _____
COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared _____

President of _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said corporation, and in the capacity therein stated.

Given under my hand and seal of office this _____ day of _____, 19____.

Notary Public in and for _____ County,

THE STATE OF TEXAS } THIS CERTIFIES THAT THE
COUNTY OF FLOYD } FOREGOING INSTRUMENT
WITH ITS CERTIFICATE OF AUTHENTICATION, WAS

DULY RECORDED BY ME ON THE *5* DAY OF
Feb A. D., 19*47* IN VOL. *94*

PAGE *627* OF THE RECORDS OF *Deeds*
OF FLOYD COUNTY, TEXAS.

Margaret Collier
COUNTY CLERK, FLOYD COUNTY, TEXAS
Minnie Burston DEPUTY

