

PECOS CO. ROLL SK. 146A.  
Re- S.F. 15891 Transcript  
of Hearing Apr. 23, 1957

(FLAT FOLDER)

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S. F. 15891

TRANSCRIPT OF HEARING  
PECOS COUNTY ROLLED SKETCH 146A  
(IN FLAT FOLDER)  
APRIL 23, 1957

*counter 48397*

HEARING OF THE APPLICATION TO PURCHASE AN ALLEGED VACANT AREA IN PECOS COUNTY, TEXAS, SCRAP FILE NO. S. F. 15891, FILED BY BLEVINS McKENZIE, HELD BEFORE THE HON. EARL RUDDER, COMMISSIONER OF THE GENERAL LAND OFFICE, IN AUSTIN, TEXAS, april 23, 1957.

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B E F O R E

HON. EARL RUDDER, COMMISSIONER  
OF THE GENERAL LAND OFFICE

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A P P E A R A N C E S

Hon. Byron L. Simpson, Surveyor, 12 South Irving, San Angelo, Texas.

PROPOSERS:

- Hon. Blevins McKenzie, Applicant, Tucumcari, New Mexico, appearing in behalf of himself.
- Hon. Maurice R. Bullock, P. O. Box 336, Fort Stockton, Texas, appearing in behalf of Hon. Blevins McKenzie, Applicant.
- Hon. Ray Willingham, Jr., 3106 West Ill., appearing in behalf of Northern Natural Gas Producing Company.

OPPOSERS:

- Hon. James K. Presnal, 1202 Perry-Brooks Building, Austin, Texas, appearing in behalf of E. H. Cox
- Hon. M. E. Spry, Odessa, Texas, appearing in behalf of Phillips Petroleum Company.
- Hon. Horace N. Burton, P. O. Box 791, appearing in behalf of Phillips Petroleum Company.
- Hon. K. M. Jastrow, Box 791, Midland, Texas, appearing in behalf of Phillips Petroleum Company.
- Hon. Alvis Vandygriff, 1202 Perry-Brooks Building, Austin, Texas, appearing in behalf of E. H. Cox
- Hon. Kirby Hillin, P. O. Box 2880, Dallas, Texas, appearing in behalf of Sun Oil Company
- Hon. Arch Clark, Box 2880, Dallas, Texas, appearing in behalf of Sun Oil Company

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Hon. J. A. Conklin, San Angelo, Texas, appearing in behalf of The University of Texas.

Hon. Myrtle Young, 4th Floor Land Office Building, appearing in behalf of The University of Texas

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Hon. Louise C. Harwood, 4th Floor Land Office Building, Austin, Texas, appearing in behalf of The University of Texas.

Hon. Burnell Waldrep, 1611 Woodlawn, Austin, Texas, appearing in behalf of The University of Texas.

Hon. Wm. W. Stewart, University of Texas, Austin, Texas, appearing in behalf of The University of Texas.

Hon. F. P. Edmondson, Box 4232, Odessa, Texas, appearing in behalf of Gulf Oil Corporation.

Hon. T. F. Henson, Box 1290, Fort Worth, Texas, appearing in behalf of Gulf Oil Corporation.

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TRANSCRIPT OF PROCEEDINGS

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PREPARED BY THE GENERAL LAND OFFICE

FROM RECORDING OF HEARING

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POST CO. R. N. 2K 142A

MORNING SESSION

10:00 O'CLOCK A. M.

APRIL 23, 1957

AUSTIN, TEXAS

WALLACE:

This is a hearing on the application of Mr. Blevins McKenzie, of Tucumcari, New Mexico, to purchase an alleged vacant area in Pecos County. The application is numbered S. F. 15891, and covers an area in Pecos County, about 23 miles Southeast from Fort Stockton, Texas, the county seat, and is bounded as follows, to-wit:

On the North by the South line of Surveys 19, 20, 21, and 22, Block 21, University Land; on the West by the East line of Survey 1, Block 22, University Land; on the South by the North lines of Surveys 4, 3, 2, and 1, Block 125, T. & St. L. R.R. Co., Original Grantee, and the North line of Survey 1, Block 216, Jane M. McCollum Survey; and on the East by the West line of Survey 1, Block 215, Jane M. McCollum Survey.

The purpose of this hearing is to afford the Applicant and all interested parties the opportunity to present evidence and arguments to support their contentions as to whether or not the vacancy exists as alleged, and to present information to the Commissioner which, when reviewed in connection with the information already filed in the Land Office, will provide a sufficient basis for him to determine the vacancy question. Under the usual procedure, the Applicant and other proponents and opponents are all given the opportunity to make an opening statement. Then the surveyor appointed under the law by the Commissioner of the General Land Office will be sworn in and will give a narrative report of his findings. He will then be examined by the proponents and cross-examined by the opponents. Additional evidence and witnesses may be presented by both sides. All interested parties and Applicant are permitted to make a closing statement. Ordinary court rules of procedure are not imposed here, but we do ask that you keep the questions and discussion within the bounds of relevancy.

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The proponents may make an opening statement if they wish to do so.

**BULLOCK:** I am Maurice R. Bullock, a lawyer practicing in Fort Stockton, Texas, representing Blevins McKenzie, the Applicant in this hearing. Mr. McKenzie is a rancher. The records show that he lives in Tucumcari, New Mexico, but he was born and reared on or near this property in question, whose father before him ranched this property, and who is still operating the ranch on the property concerned with in this vacancy hearing. I don't believe that Mr. McKenzie, himself, would care to make an opening statement at this time, but he certainly will be available for questioning by anyone concerned with any matter that might arise.

**WALLACE:** Does anyone else care to make an opening statement?

**WALDREP:** My name is Burnell Waldrep, and I represent the University of Texas. The status of the University, of course, revolves around the Frank Friend surveys, and we have originally indicated that the Frank Friend survey is predicated upon a legislative mandate, being Chapter 282, Acts of the 41st Legislature, which has been received previously by the Commissioner of the General Land Office. The pertinent portion of that particular Act is as follows: being codified as article 2603a, Vernon's Civil Statutes, and is, in part, as follows: "It is hereby made the duty of the Board to cause to be done such surveying or resurveying of the blocks and subdivisions thereof of University lands as may be necessary to enable the lines of the blocks and sections and fractional sections to be determined and identified and have such corners as may be necessary to that end permanently marked. When it is impractical to establish such lines and corners as originally surveyed or when such sections have not been actually surveyed on the ground, the blocks shall be surveyed or resurveyed and divided into surveys of sections and fractional sections, and as many corners thereof as may be necessary for the identification shall be permanently marked." Now, there was subsequent legislation, of course, as to the authority to carry forth this mandate of the Legislature. Pursuant to that authority, the University of Texas has done extensive surveying of this land. They are revolving, of course, around the Frank Friend monumented lines. Now, it concerns us at this time to move these about, naturally, as you can all see, and we think that the legislative intent has been accomplished, and the survey completed, and that the Frank Friend monumented line has now become established. The significant

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thought in this connection is that considerable emphasis has been placed upon his monumented lines, and that a great sum of money have been invested in reliance thereupon. Of course, in this particular instance, the South line is definitely recognized in this proceeding, and at a subsequent time in the hearing, we would like to introduce evidence in support of the Frank Friend monumented line. Thank you.

WALLACE: Does anyone else care to make an opening statement? If not, we will proceed with the narrative of the survey by Mr. Simpson. Will you take the stand, please, Mr. Simpson, and be sworn? Do you swear that the testimony that you are about to give at this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

SIMPSON: I do.

WALLACE: You may proceed.

SIMPSON: As was pointed out, I was appointed by the Commissioner to make the survey on the McKenzie application and to report the facts at this hearing. I would like to begin with Survey No. 310, located here (points) on the map, that survey being the senior survey in this area. It was originally surveyed by Mr. Thomas Wilkinson Tays, in, 5/20/74, prior to the time that the University was located on the ground. Mr. Tays, in locating Survey No. 310, called for a bearing on the head of the West Escondido Spring, and he also calls for a rock mound in the center of an old mesal camp. The spring, naturally, being the most prominent landmark in that area (inaudible). The old spring is still there, flowing today, I presume like it has been through the years. In addition to the bearing Mr. Tays took on the head of the Springs, Mr. O. W. Williams, just recently, in the adjoining survey around Survey No. 310, took bearings from the Northwest corner (inaudible), some of which are still there. In locating the Northwest corner of Survey 310, I backed up from the head of the Spring to a point in the mesal oven (inaudible), which would be 218 varas North 3151 West from the Spring to the point in the mesal oven. The mesal oven is probably as large as this room, kind of dipped out in the middle, and it has one large rock in the center of it, which would be the corner. From that fixed point (inaudible) located the Northwest corner of the Stage Stand, the bearing that we found was South 13½° East. Now, I'd like to point out in that respect that the courses shown on this map are those of Lambert (inaudible), Texas, being something like 1° 10' at variance. So your actual bearing from that mound to the Northwest corner of the survey would be something like South 16° East; Mr. Williams said South 18° East. Coming

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next to the University land, Block 21, which was originally surveyed by Mr. R. N. Thompson in 1879; Mr. Thompson calls for several stone mounds within the block. However, it was only at one corner that he made any call for a bearing, and that bearing was tied to the head of the West Escondido Spring. In making my survey of the area, I began at West Escondido Spring's head, N.W. corner of Block 21, and came on to the East line of Block 21, and extending my line South along the East line of Surveys 8, 13, 16 and 21, in Block 21, University lands, looking for stone mounds that Mr. Thompson called for, one being at the Northeast corner of Survey 13, in Block 21, and another being at the Northeast corner of Survey 21, Block 21. These points, where I had stopped to look for a mound -- I not only found one, I found several, so, having no bearings, it was, you might say, impossible for me to identify either of them as original monuments. However, we do have a beginning call for Survey No. 1, Block 21, I want to read it: "Begins at a stone mound on top of a mountain, 35544 varas East from the Southeast \_\_\_\_\_ (inaudible) Fort Stockton. \_\_\_\_\_ (inaudible) or 1100 varas West 2680 varas North from the head of the West Escondido Spring." That is the call with which I am primarily interested, 2680 varas North and 1100 varas West of the Spring. Mr. Friend, in making his resurvey of Block 21, also used that locative call for Block 21. In other words, he began at the head of the Spring, recognizing that call, 2680 varas North and 1100 varas West, \_\_\_\_\_ (inaudible) the University blocks, and located the called distances, giving them 1900.8 varas to the mile, and he does not show to have found any original Thompson monuments. In the adjoining surveys to the South, namely Surveys 1, 2, 3 and 4, Block 125, Texas and St. Louis, these \_\_\_\_\_ (inaudible) surveys were surveyed by Mr. Durrell in 1881. In making his survey, Mr. Durrell, in his field notes, calls for a monument, a stone mound three feet high at the Northeast corner of Survey No. 10, Block 125. At the Southeast corner of Survey No. 10, Block 125, he calls for a rock set on end, three feet high, with other rocks around the base. At the Southwest corner of Survey No. 3, he calls for a pile of stones. There are other corners in this block made by Mr. Durrell which can be identified on the ground. I have located them, and I think that they are original corners, and they also were located by Mr. Lea in his resurvey of this area, as being the original corners set by Mr. Durrell. Surveys 1, 2, 3 and 4 do not have adjoinder calls for the South line of the University. For some reason Mr. Durrell failed to call for adjoinder with the University, or else he didn't know where he was. Mr. Durrell, in locating Survey No. 1, Block 216, in 1884, which was after the time he located Surveys 1, 2, 3, and 4, Block 125, called to begin at the Northeast corner of Survey No. 1, Block 22,

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University land. Mr. A. N. Lea, Deputy Surveyor, later resurveyed this Survey 1, and it was patented on his corrected field notes. The same is true for Section 2, Block 125, it was patented on Mr. Lea's corrected field notes. Also Survey No. 10, it was patented on Mr. Lea's corrected field notes. The patented position of those surveys as shown by the lower line of S. F. 15891, the same being the North line of Block 125, as shown on my map. This is also in conformity with with the original monuments set by Mr. Durrell in this block. We have this situation: Mr. Durrell, in locating Block 125, did not adjoin with the University; he has monuments on the ground that can be relocated; some of the surveys are patented on Mr. Lea's work, and they can be relocated. \_\_\_\_\_ (inaudible) South of the South line of Block 21 as located by Mr. Friend. If you honor Mr. Friend's work, \_\_\_\_\_ (inaudible) his beginning call for the head of West Escondido Spring, you will have a strip, distance between the North line of Block 125 and the South line of Block 21, University lands. I believe that's about all I can say right now, unless someone wants to ask some questions about it.

- WALLACE: Does the Applicant desire to examine the witness at this time?
- BULLOCK: My name is Maurice R. Bullock, attorney for the Applicant, Blevins McKenzie. Mr. Simpson, you say that, following the work of Mr. Friend, that the vacancy would exist as you have found it there. Now, following your own efforts to retrace the steps of the original surveyor, R. N. Thompson, it would still stand the same way, would it not?
- SIMPSON: Yes, it would.
- BULLOCK: You did not, however, attempt to resurvey the West line of this series of University blocks, over toward Fort Stockton, did you?
- SIMPSON: No, Sir, for this reason: Mr. Thompson, as I said, calls for only one bearing, for the Northeast corner of Survey No. 1, \_\_\_\_\_ (inaudible) only stone mounds. There is no way to identify the stone mounds on the ground actually; there are stone mounds there, whether they are Thompson's or not it would be impossible to say.
- BULLOCK: Are there any stone mounds in the exact location of any of the surveyed corners as you would put them there?
- SIMPSON: On the University lands?
- BULLOCK: Yes, Sir. Along the University lands.
- SIMPSON: I don't believe there is.

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BULLOCK: Going back over here to these monuments that you have termed "original Durrell monuments", would you describe them a little more in detail and give your reasons for believing they are original Durrell monuments?

SIMPSON: Well, taking the Northeast corner of Survey No. 10, as you probably know, my father was a surveyor before me. And he also did extensive work in this area during his time. He located \_\_\_\_\_ (inaudible) Durrell corners in this area, and at the Northeast corner of Survey No. 10 he also \_\_\_\_\_ (inaudible). From his field book I can tell \_\_\_\_\_ (inaudible) that he was using when he located the Durrell corner, and that was back in 1927. Now, the monuments themselves are good monuments, large monuments, and they are perpetuated not only by my father & Mr. Lea, but also Mr. Williams. I don't know of any surveyor who has questioned the fact that they are Durrell corners.

BULLOCK: Does the location of the corner as you found it at the Northeast corner of Survey 10, Block 125, correspond with the location of the Southeast corner of that same survey as monumented by the monuments you found?

SIMPSON: Yes, Sir. You will see from my map, from the Northeast corner to the Southeast corner of Survey No. 10, the Southeast being one of Durrell's corners, I find a distance of 1908.5 varas between those monuments.

BULLOCK: At those locations did you find any other near-by monuments which could be man-made monuments and could have been original corners?

SIMPSON: No, Sir. \_\_\_\_\_ (inaudible) but nothing to compare with these very definite mounds.

BULLOCK: There are a rock and similar \_\_\_\_\_ (inaudible) described in the original Durrell field notes?

SIMPSON: Yes, Sir. Mr. Durrell's field notes call for large mounds. At the Southeast corner of Survey No. 10, they call for a rock set on end three feet high, with other rocks around the base.

BULLOCK: Did you find a rock there approximately three feet high?

SIMPSON: Let me get my field book and describe what we did find there. At that particular corner we found a large old rock mound there, with a large rock lying down, but it's not standing up, and it looks like a part of the rock is broken off.

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BULLOCK: Describe, if you will, Mr. Simpson, the monument you found at the Southwest corner of this vacant area as surveyed by you.

SIMPSON: There would be no corner at the Southwest corner, \_\_\_\_\_ (inaudible) corner from, 81.4 varas West of the Southwest corner.

BULLOCK: What is the nature of that monument?

SIMPSON: That monument also is a <sup>large</sup> rock mound. Mr. Lea, in making his resurvey of that particular \_\_\_\_\_ (inaudible) survey, calls for original stone mound, Northeast corner of University lands, Block 22. That's what he states in his field notes. Now, that particular corner has been run off \_\_\_\_\_ (inaudible) stone mound.

BULLOCK: Did you find sufficient evidence of it to convince you that it is the original mound?

SIMPSON: There is plenty of evidence to convince me that it is the mound \_\_\_\_\_ (inaudible) by Mr. Lea. It fits, in other words, in this particular area. In other words, it matches this corner here (points) \_\_\_\_\_ (inaudible).

BULLOCK: You mean the Southwest corner of Survey 3, Block 125?

SIMPSON: Yes, Sir.

BULLOCK: As you know, Mr. Simpson, there is now pending before the Commissioner of the Land Office for determination by him another vacancy application, possibly two more, one of which would involve the West boundary line of this particular series of University blocks. Would your determination of the South boundary line of the University blocks adjoining the vacant area as you have found it have any bearing upon the location of the West line as you see it?

SIMPSON: No, Sir, I don't believe it would. I am actually using Mr. Friend's position for the South line of Block 21; that is the only way it affects this particular application. If Mr. Friend's line is correct, then this application \_\_\_\_\_ (inaudible) be there. But, East and West has no bearing on this filing.

BULLOCK: No further questions.

WALLACE: Does anyone else care to examine the witness? Any opponents who would like to cross-examine the witness?

BULLOCK: This is Maurice R. Bullock again. May I make one further request at this time, please? May we consider as a part of the record in this hearing the original field note description of the pertinent University surveys to

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the North and the pertinent surveys to the South, as related by Mr. Simpson. Consider all those as in the record. Just the adjoining surveys, not the block, just the adjoining surveys -- not adjoining, but the surveys in the University blocks immediately to the North of the vacancy in question here and the surveys in Block 125, Texas and St. Louis, original grantee, and Survey 1, Block 216, Jane McCollum. The surveys adjacent to the vacant area.

VANDYGRIFF: By each of the individuals.

BULLOCK: That is correct.

RUDDER: They shall be so considered.

WALLACE: Now, does anyone care to cross-examine the witness?

BROOKS: In your examination of the records involving University surveys, did you find that any of the old surveyors who surveyed in that area after Thompson had indicated in their reports and field notes that they found any Thompson corners in there?

SIMPSON: I imagine you would say that Mr. A. N. Lea would be one. He said that is the original Northeast corner of Survey 1, Block 22, University land. There are probably more. I believe Mr. Holt made the next line in there, and I don't remember whether he referred to any original monuments or not.

BROOKS: You say that you're not sure whether Mr. Holt relocated any Thompson monuments?

SIMPSON: I don't remember. He ran a connecting line from the head of West Escondido Spring going North, and if he did, I don't know.

BROOKS: One other question. Did you check the Thompson tie to the Survey at Fort Stockton?

SIMPSON: No, I did not.

GRAHAM: This is J. P. Graham, attorney for the Land Office. Mr. Simpson, can you give us your idea as to the date of the fence shown on your plat along the alleged vacancy?

SIMPSON: It would be hearsay, but I do know it's an old fence. I credit \_\_\_\_\_ (inaudible) on either line, it's out there in the middle, but I believe Mr. McKenzie could tell you a lot better than I could.

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- MCKENZIE: I am Blevins McKenzie, and if I remember right, that fence was built in 1927. Alf Harral built it. Dad came into that country in 1896, and we have been the lessors of that land, that University land, since then. We've been using this land. In 1921, my Dad went broke, and sold all that land to Alf Harral, and all the other people up there. In 1927 was when we first put in the sheep fence; we had cattle up there then, and Alf Harral is our neighbor there, and he fenced that in there with sheep wire. That was in, if I remember it, in 1927.
- GRAHAM: Was he leasing the University land?
- RUDDER: If we're going to put this testimony of record, let's have Mr. McKenzie sworn.
- WALLACE: Do you swear that the testimony that you are about to give at this hearing is the truth, the whole truth, and nothing but the truth, so help you God?
- MCKENZIE: I do.
- WALLACE: Do you want to repeat your questions, now?
- GRAHAM: Yes, Sir. Can you give us the date that the fence was built, the fence as shown on Mr. Simpson's plat, and by whom?
- MCKENZIE: The fence was built around 1927 by G. A. Harral. My dad went broke in 1921 and they sold all that land, and Alf got that land in 1924 or 1925. We were running cattle at that time and he wanted to run sheep. There was a fence there, and he tore that fence down and put a sheep fence up there. It was built in 1927.
- GRAHAM: Was there an older fence? A cattle fence?
- MCKENZIE: No, that was all one ranch. Alf bought that part when my dad went broke, so they cut that country, they had to refence it because it was all one pasture there before. So that was the first time some of that fence had ever been put in there. We had a horse pasture there, but it didn't run along that line.
- GRAHAM: Harral bought the land to the South of the fence on the plat?
- MCKENZIE: That's right.
- GRAHAM: Did he lease it for the University?
- MCKENIE: No, not any of that. This University block has been, we've been the lessors of that since my Dad came there in 1894, 1896, something like that. We own that

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Section 310, there. We bought that.

- GRAHAM: May I ask you one more question? At the time that that fence was built, did you consider it the boundary between the University and the other land?
- MCKENZIE: It wasn't built between the University -- this particular Block 216, we've been using it since 1927. Instead of coming down and fencing that, they set it across here, because they didn't figure that the land was worth fencing out. So we've been using this particular piece since 1927, and we've \_\_\_\_\_ (inaudible).
- GRAHAM: What do you mean, he fenced across Survey 1, Block 216, about one section down?
- MCKENZIE: That's right. The fence goes approximately across there (points). This fence over here, ...
- GRAHAM: That's along the South line of the University.
- MCKENZIE: Yes, Sir. Alf Harral built that fence, too. But, of course that was between him and the University. But, that was our line, too, between us and 10, \_\_\_\_\_ (inaudible). He's just been using his side of the fence, and we've been using our side of the fence.
- GRAHAM: That's all.
- WALLACE: Mr. Simpson, do you consider the line, as surveyed by Friend, to be in the same position as the original line by Thompson, of the South line of University Block 21?
- SIMPSON: I have no way of knowing. If you take the field notes at face value, using the beginning call -- it starts \_\_\_\_\_ (inaudible) head of West Escondido Spring -- ignoring the stone mounds called for, it would be. In other words, the same called distance as Mr. Thompson called for. However, if Mr. Thompson accurately located his stone mounds in this area, \_\_\_\_\_ (inaudible).
- WALLACE: Do you consider the corner shown at the Northeast corner of Section 1, Block 22, to be an original Thompson monument, or corner?
- SIMPSON: I couldn't say. I don't know whether it is or not. It's a stone mound, and Mr. Thompson actually called for one, but, it could be or couldn't be.
- WALLACE: Would you say that Mr. Holt, in resurveying that, identified that as being the original Northeast corner?
- SIMPSON: No, Mr. Lea.
- WALLACE: A. N. Lea. He did identify it as being the original Northeast corner, an original monument?

- SIMPSON: In his field notes, he says "original stone mound, Northeast corner of University land, Block 22."
- WALLACE: Then if he was correct that this is an original Thompson mound at the Northeast corner of Section 1, Block 22, then the South line of Block 21, University lands, as resurveyed by Mr. Friend, would not be in the same position as the original Thompson line. Is that correct?
- SIMPSON: That is correct.
- RUDDER; Do you find any stone mounds along your North line of Surveys 1, 2, 3, 4, Block 125, that could have been the Thompson mounds?
- SIMPSON: Mr. Commissioner, I would like to point out that the South line of Block 121, University, Mr. Thompson didn't call for any stone mounds along that line, except that at the Southeast corner of 19. That's the only place he calls for a stone mound. The other places, he only calls for a stake.
- RUDDER: You found nothing along that line that would indicate that it is Thompson's line.
- SIMPSON: No, Sir. That is very rocky country.
- BROOKS: Mr. Simpson, is there any reason why you would give less credence to A. N. Lea's identification of that Northeast corner of Section 1, Block 22, than you do to his identification of the Durrell corners on the East side of Block 125?
- SIMPSON: Yes, Sir, there is. You have a system of Durrell corners in there which fit -- there's more than one -- and they are very well monumented \_\_\_\_\_ (inaudible). Mr. Lea located them, and I don't think there is any doubt that he knew they were Durrell corners. Over here we have only one corner to go by, and nothing else to proof it up.
- BROOKS: You think he wasn't sure, himself, when he identified the Northeast corner of Section 1, Block 22, University land?
- SIMPSON: All I know is that he said it was. Now, where he got his information, I don't know.
- BROOKS: But you say that you didn't make any extensive survey inside the University blocks to see whether there is a system there that would make that corner check out, as you have done with Durrell's survey?

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- SIMPSON: I did do this, Mr. Brooks. I was primarily concerned with Block 121, University lands. We do not have what Friend called for at all the corners in this block. There are only, I believe, 12 different corners called for, and he calls for stone mounds. We did attempt to locate stone mounds called for at the Northeast corner of 13, the Northeast of 21, and also at the Northeast corner of 6. As I stated, we found several stone mounds in there, and none of them could be identified as original stone mounds. And, actually, they don't seem to have any system. They don't fit out, I don't know why.
- BROOKS: There was nothing in that area that you are talking about that Mr. Lea and some of those other surveyors identified as being Thompson's original line?
- SIMPSON: None that I know of.
- WALLACE: Does anyone else care to cross-examine the witness? Any further questions by the proponents? We will excuse you from the stand, Mr. Simpson. Is there any further evidence to be offered either for or against the vacancy? Does anyone care to make a closing statement?
- BULLOCK: I am Maurice R. Bullock, attorney for the Applicant. I wish to emphasize on behalf of the Applicant, if I may, that a vast search has been made, and has indicated that there is no way at all of determining the South line of the pertinent University surveys, and that the only way remaining to us at this time is by course and distance, in accordance with R. N. Thompson's original field notes, which do, in this case, coincide North and South with the work of Mr. Friend, in this particular area. So that, as far as we can determine at this time, the Friend monumented line on the South is the Thompson line. That may or may not be the case in actuality, but with what is available to us at this time, that's the best we can do, and that is the way that I submit it should stand. We do have these monumented lines, though, with the next series of surveys to the South, which show Friend located South of that line, and there are no calls for adjoinder. I submit, and I believe the Commissioner should consider, that that is strong evidence that Mr. Durrell, the original surveyor of most of these surveys to the South there, was, himself, unable to locate anything that he could identify of the South boundary line of the University block. Now, as the Commissioner knows from other hearings before him and from the records on file in his office, the field notes of the surveys to the East and to the North, and we submit even to the West, call for adjoinder with the University blocks. This is the only area in which the Durrell field notes did not even, by any manner



of interpretation, or any stretch of the imagination, call for adjoiner with the University blocks. We submit, therefore, it is highly persuasive of the fact that, regardless of whether or not Mr. Durrell may not have been able to have located other lines of the University blocks, he was unable to locate that monumented South line; therefore he did not undertake to call for adjoiner. For that reason, in addition to the others pointed out by Mr. Simpson, we respectfully submit that Mr. Lea, a later surveyor, probably was in error in calling for the monument at the Northeast corner of Survey 1, Block 22, as being the original Thompson monument. For those reasons, therefore, we respectfully submit that, regardless of what information we may find with respect to any alleged vacant area, either to the West, to the East, or to the North of the University blocks, that in this area to the South, it is inescapable that there is that vacant area, and that it should be so declared.

WALLACE: Does anyone else care to make a statement?

WALDREP: I am Burnell Waldrep, The University of Texas, and without adding anything further to the hearing, if I may I would like to respectfully submit that, in keeping with established Land Office practices, that matters of record in the Land Office be considered in the same manner as if they were introduced into evidence during this proceeding, and in that connection, we refer to the, to Volume 15 of Frank Friend's surveys, with the certificate showing that it has been approved by the Commissioner of the General Land Office, in which there is incorporated a report by Mr. Friend, \_\_\_\_\_ (inaudible) to the entire West Escondido system. We feel, Mr. Commissioner, that, inasmuch as this represents the system, that it should be considered in that light. That is, that it has applications to the entire system, and that we should not lift the monumented lines in one particular area, in arriving at the extent of the University land, and something else in another area, in arriving at the extent of the University land. We feel that the record speaks for itself, and that the Frank Friend survey, which resulted in the monumented lines we are talking of, is a result of the mandate of the Legislature.

WALLACE: Does anyone else care to make a statement?

VANDYGRIFF: I am Alvis Vandygriff; I represent E. H. Cox, an Applicant for a vacancy lying along the extreme West side of University blocks 21-26 -- University blocks 26, 24, 23, and 22, rather. With respect thereto, there has been some question about the location of one particular point which has been described as the Northwest corner of Survey 1, Block 216, or the Southeast corner of Section 36, Block 23, and the Northeast corner of Section 1, Block 22, as established by

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Mr. R. N. Thompson, in his original survey, and as reestablished by A. N. Lea, at a later date. We submit to the Commissioner at this time that there is a monument that Mr. Simpson has identified on the ground as being in a position as called for by the original surveyor, and, in support of that, we feel that any re-survey, of course, is designed, and the surveyor is commissioned, to attempt to reestablish the original lines. We feel that there is one monument on this particular South line of University Block 21 that was monumented, and it being the only stone mound called for in that particular surveys. We further submit for consideration by the Commissioner that the entire ownership of the blocks of University lands is under one particular owner, and, consequently, would not be called upon to have surveys within the interior of the block, insomuch as the exterior boundaries might be. For that reason, we feel that a great deal of credit should be given to the relocation of this one particular point, that the original surveyor, we contend, established, and was reestablished by a later surveyor, and that Mr. Simpson, in his survey, finds at this particular time. We are only here in support of the findings at the other testimony that has been offered before the Commissioner at another hearing, in support of the surveys as made. In answer to Mr. Waldrep's question in respect to the surveys being of record in the Land Office, I think the Commissioner is familiar with the evidence that was presented with respect to those particular surveys, and that the certificate, or the authority of the Commissioner given to Mr. Friend, was not to make a new survey, but to reestablish the original survey, and we feel that he has certainly exceeded his commission in attempting to go in and disregard anything that he might have found, including the course, the variations and the distance called for by the original surveyor, when there are monuments to be established upon the ground.

WALLACE: Is there any further statement to be made by anyone?  
The hearing is then adjourned.

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IT BEING 10:55 O'CLOCK A.M., THE HEARING ADJOURNED.

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*FOR THE RECORD*