

PECOS CO ROLLED SK 157

Re: SF-16116, C.M.Frost Application

1. Map-Exhibit A
2. Ltr. from I.M.Wilford 8/24/62
3. Copy of GLO Working Sk. Apr. 18, 1914
4. Ltr. from I.M.Wilford 8/15/62
5. Copy of ltr to I.M.Wilford 8/16/62
6. Exhibit 2 - Field Notes
7. Copy of sk. by A.N.Lee dated 7/18/29
8. Transcript
9. Copy of Rld. Sk. 155 with GLO pencil notes.

county 48558

SF-16116

File No. 157
Pecos County
Called State
 Filed 3/28 1963
 JERRY SADLER, Com'r
 By J. E. [Signature]

SURVEYED BY ME ON THE GROUND, MAY 21-24, 1962

LICENSED STATE LAND SURVEYOR

NOTE
BEARINGS ARE TRUE, BASED ON POLARIS OBSERVATION
AT N. E. CORNER OF J. S. YELL, S.F. 13201
VARIATION 10-3/4° E.

$$I'' = 300 \text{ v.}$$


BLK. 109

NAOMA N. REIZENHOWER

BLK. 143

T. & ST. L. R.Y.

T B S L R Y

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841

counter 18559

(2)

I. M. WILFORD
NIELS ESPERSON BUILDING
HOUSTON, TEXAS

ATTORNEY AT LAW

August 24, 1962

File No. 157
Pecos County
Rollled Sketch
Filed 3/28 1963
JERRY SADLER, Com'r
By V. E. Hays

Honorable Jerry Sadler
Commissioner, General Land Office
Austin, Texas

Re: S. F. 16116, Pecos County
C.M. Frost, Applicant

Dear Sir:

20

In applicant's argument which was forwarded to you on August 20 we referred to a sketch prepared in the General Land Office under date of April 18, 1914. I enclose a copy of this sketch herewith.

Yours very truly,

I. M. Wilford

IMW/c
Encls.

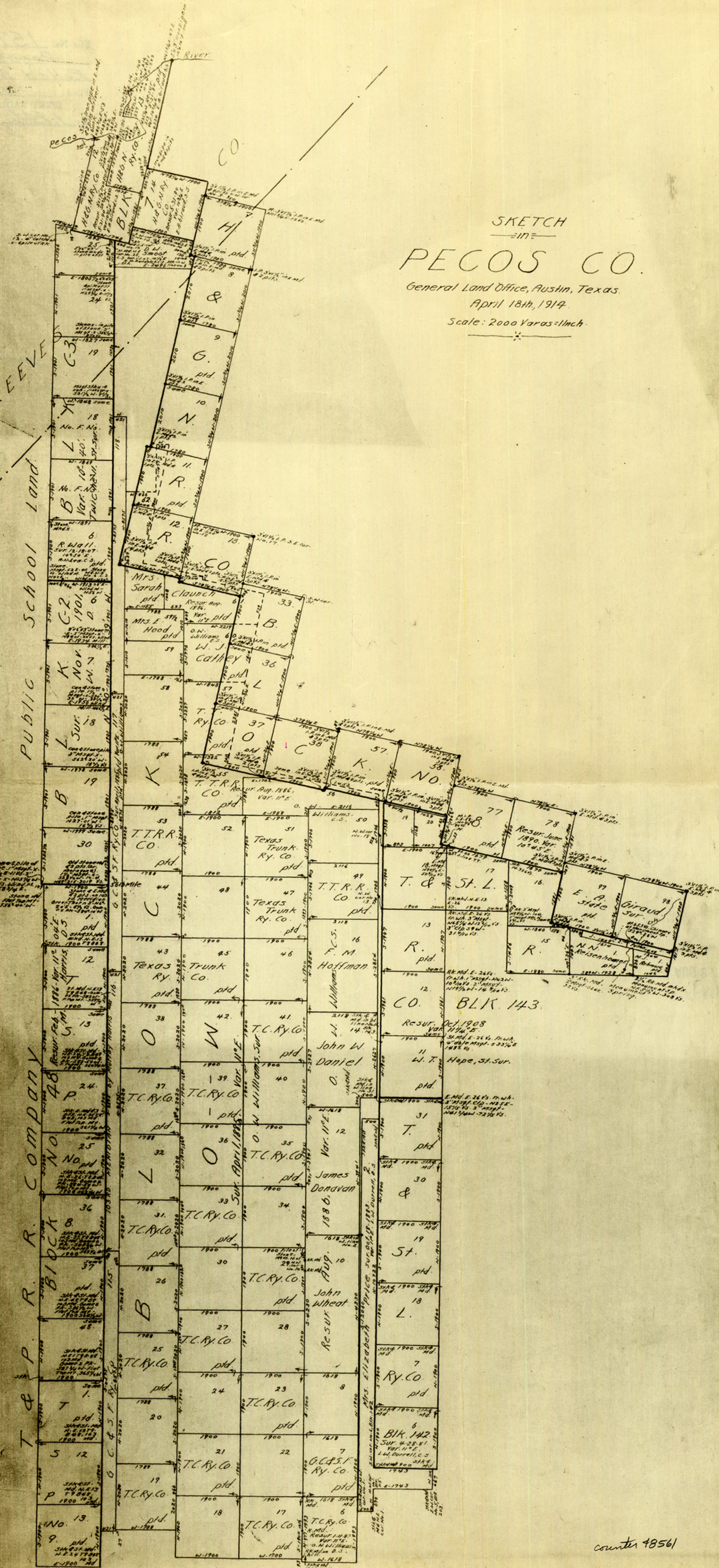
RECEIVED

AUG 27 1962

General Land Office

counter 18560

REEVE
PUBLIC SCHOOL LAND
T & P. R. COMPANY
BLOCK NO. 48



SKETCH
= 1" =
PECOS CO.
General Land Office, Austin, Texas.
April 18th, 1914.
Scale: 2000 Varas = 1 inch.

counter 48561

File No. 157
Pecos County
Relled Sketah
Filed 3/28 1963
JERRY SADLER, Com'r
By [Signature]

1

counter 78562

RECEIVED
AUG 27 1962
General Land Office

A

Chief Clerk

ATTORNEY AT LAW

I. M. WILFORD
NIELS ESPERSON BUILDING
HOUSTON, TEXAS

August 15, 1962

File No. 157
Pecos County
Roller Sketch
Filed 3/28 1963
JERRY SADLER, Com'r
By [Signature]

Honorable Jerry Sadler
Commissioner, General Land Office
Austin, Texas

Re: S.F. 15116; Application of C.M. Frost
Pecos County

Dear Mr. Sadler:

I have read the badly garbled transcript of the hearing on this application. It is so inaccurate, it is ridiculous.

From the standpoint of the applicant's and the public's interest, one of the most important aspects of the case is the fact that the surveyor, when he prepared and filed corrected field notes in 1885, remained anchored to his original west line and merely moved his east line farther to the west, which was exactly the wrong way to move it if he wanted adjoinder with senior surveys to the east. And so, there were many references to his staying "anchored" to the west line. But the transcript says "he stayed accurate to the west side. He built his corrected field notes in every instance off of the northwest corner of the survey to the south so he is building on and staying accurate to his monumented line which everybody knows about and he thoroughly understood".

Immediately below that bit of garbling, which appears on page 3 of the transcript, there is this statement: "He called for 1618 varas when he made his turn to the right again and of course the laying in of 14 of this correcting" where we were speaking of his turn to the right "in the course of the laying in of (No.) 14 of his corrections".

In the course of establishing that Mr. Draper had made certain erasures and changes on his linen map on instructions from the Land Office, he was asked, at the top of page 16, concerning a line "which had been erased", but the transcript has it "which is in a rut".

RECEIVED
AUG 16 1962

General Land Office

counter 18563

1
Q

Page 2.

At page 16, the third question from the bottom of the page, as written, has to do with the north line of "Survey 6" whereas the question actually inquired about Survey 56. 50

At the top of page 19 we asked the witness if he followed Mr. Giberson's instructions, but the question in the transcript is "You filed in Mr. Giberson's instructions".

correct

In the second question from the bottom of page 27 the witness was being asked concerning the movement of Mr. Williams' east line to a position farther west and this gets garbled into "his field line".

It does not prejudice applicant in any substantial way that statements of his counsel have been distorted beyond recognition because that can be straightened out in the argument which we intend to file. The most important thing in this transcript is the testimony of Mr. Draper, and we request you to consider an appropriate way to have his testimony examined so that the questions which were actually asked are shown in the record and the answers he actually gave are also shown in the record. If you would like to have Mr. Draper and representatives of the applicant come to Austin, that will be entirely satisfactory with us.

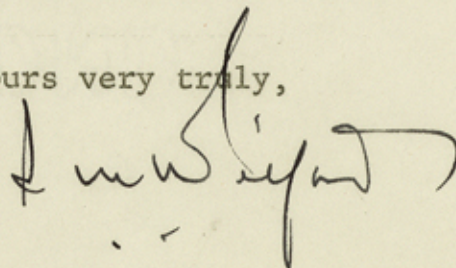
On page 6 the transcript has Mr. Draper saying "Mr. Lee's corner was out at that point and we swept this one by plunging the other line on south and then intersecting back from the southern southeast corner of 14"; he may have "set" instead of "swept" and he may have "run" instead of "plunged" and he may have done some "projecting" instead of "intersecting". Only Mr. Draper will know.

We will be pleased to hear from you at your convenience.

Yours very truly,

IMW/c

cc: Mr. C.M. Frost
Mr. Otha Draper



RECEIVED

AUG 16 1962

General Land Office

Counter 48569

Q2

5
File No. 157
Pecos County
Rolled Sketch
Filed 3/28 1963
JERRY SADLER, Com'r
By V. E. Stegman

August 16, 1962

Mr. I. M. Wilford
Attorney at Law
Niels Esperson Building
Houston, Texas

Dear Mr. Wilford:

This will acknowledge your letter dated August 15, 1962 in which you refer to S. F. 15116. This filing was made by Mr. Homer E. Stephenson and W. E. McCorquodale covering an area in Orange County made in the early part of 1950. You must be referring to S. F. 16116 made by Mr. C. M. Frost of Houston, Texas covering alleged vacant land in Pecos County filed in March of 1962.

We appreciate your interest in this vacancy and assure you that all evidence will be considered and I hope to render a decision on the matter after I have had ample opportunity to consider all the evidence available.

Sincerely yours,

JERRY SADLER, Commissioner

JS/JG

cc: Mr. Otha Craper
Mr. C. M. Frost

counter 48565

File No. 157
Pecos County
Relled Sketch
 Filed 3/28 1963

THE STATE OF TEXAS }
 COUNTY OF PECOS } SURVEY NO. _____
 (APPLICANT)

JERRY SADLER, Com'r
 By J. E. H. H. H.

FIELD NOTES of a survey of 309.20
 Acres of land made for C.M. Frost

by virtue of his application filed with the Surveyor of Pecos County, on the day of March, 1962, under the laws regulating the sale and lease of unsurveyed school land. Said land is situated in Pecos County, about 19 miles N19°W from Fort Stockton, the county seat, and is described by metes and bounds as follows, to-wit:

Beginning at a $\frac{1}{2}$ " iron pipe set in the north boundary of Survey 16, Block OW, F.M. HOFFMAN Survey, Pecos County, Texas, for southwest corner this survey, from which a pebble mound set by A.N. Lea in 1929 for the southwest corner of Survey 49, Block OW, TT Ry Survey, and the patented northwest corner of Survey 16, bears S89°44'W, 2118 varas;

Thence N00°15 $\frac{1}{2}$ 'W, parallel to and 2118 varas easterly at right angle from the west boundary of Surveys 49 and 50, Block OW, at 1705.7 varas set a $\frac{1}{2}$ " iron pipe from which a 1x2" stake at the northwest corner Survey 49 and southwest corner Survey 50 bears S89°44 $\frac{1}{2}$ 'W, 2118 varas; continuing, in all 3368.6 varas to a $\frac{1}{2}$ " galvanized iron pipe in pebble mound set by A.N. Lea, being in the patented south boundary of Survey 56, Block OW, for northwest corner this survey, from which a $\frac{1}{2}$ " galvanized iron pipe in pebble mound, set by A.N. Lea for the northwest corner Survey 50, bears S89°44 $\frac{1}{2}$ 'W, 2118 varas;

Thence N89°44 $\frac{1}{2}$ 'E, with the patented south boundary of Survey 56, at 516 varas pass a $\frac{1}{2}$ " iron pipe at the southeast corner of Survey 56, in all 531.5 varas to a point in the patented west boundary of Survey 19, Block 143, T & St L Ry, for northeast corner this survey;

Thence S00°13 $\frac{1}{2}$ 'W, with the west boundary of Survey 19, 799.3 varas to a point in the patented north boundary of Section 18, Block 143, for an east corner this survey, from which the patented southwest corner of Survey 19 bears S00°13 $\frac{1}{2}$ 'W, 33.6 varas;

Thence N89°46'W, with the patented north boundary of Section 18, 12.4 varas to a $\frac{1}{2}$ " galvanized iron pipe for northwest corner Section 18, and an interior corner this survey;

Thence South with the patented west boundary of Section 18, at 863.8 varas pass a 1x2" stake, in all 1900.8 varas to a 1" galvanized iron pipe at the southwest corner of Section 18, for an interior corner this survey;

Thence S89°45'E, with the patented south boundary of Section 18, 34.2 varas to a point in a northerly projection of the patented west boundary of Section 13, Block 143, for an east corner this survey;

Thence S00°17 $\frac{1}{2}$ 'W, at 24.4 varas pass the patented northwest corner of Section 13, continuing with west boundary of Section 13, in all 668.3 varas to a point in an easterly projection of the north boundary of Survey 16, Block OW, F.M. HOFFMAN Survey, for southeast corner this survey;

Thence S89°44'W, at 30.9 varas pass a 2" iron pipe and pebble mound set by A.N. Lea for the patented northeast corner of Survey 16, continuing with north boundary of Survey 16, in all 531.5 varas -

to the place of beginning.

(over)

counter 18566

(PAGE)

Variation 10 3/4° E

Earl Foote

Surveyed May 21-24, 1962

Bill Wagnon

Chain Carriers

Richard Knox--Instrument Man

I, Otha Draper, Licensed State Land-~~County~~ Surveyor of Ector County, Texas, do hereby certify that the foregoing survey was made by me on the ground, according to law, on the date and with the Chain Carriers aforesaid, duly qualified, and that the limits, corners, and boundaries with the marks of the same, natural and artificial, are truly and correctly described and set forth in the foregoing plat and field notes, just as I found them on the ground.

Otha Draper

Licensed State Land Surveyor--
County Surveyor

Filed for record in my office, the _____ day of _____, 19____, at _____ o'clock _____ M, and duly recorded the _____ day of _____, 19____, in Book _____, Page _____ of the Field Note Records of _____ County, Texas.

County Surveyor--County Clerk

IMPORTANT NOTICE

The written report of the survey which is required to accompany the above field notes must show whether the above described tract of land is situated within five (5) miles (state exact distance) of a well producing oil, gas, or other minerals in paying quantities.

I, Otha Draper, do hereby certify that the character and reasonable market value of the land included within the limits of the within field notes are as follows:

Soil (state character) Alkali Timber None Value \$ No appraisal made. per acre (including timber)

Otha Draper

Licensed State Land Surveyor--
County Surveyor

(V.B.Y.T.C.V.I.E.)

Pecos } Co Rld SK 157

counter 48567

July 20, 1925

TANLEA County Surveyor of Pecos County Texas do hereby Certify that the foregoing sketch truly represents the connections made and that the distances and courses are true and correct and that the corners are as I found them or made them between the 1st day of April, and the 1st of July 1933

BRUSH LINES.
© MADE BY ME
© ORIGINAL CARVERS.

J. S. BOYLES, C. E.
260 Stewart Bldg.
HOUSTON 2, TEXAS

Pecos Co. Rld. Sk. 157

RECEIVED
JUL 27 1962
General Land Office

RECEIVED
JUL 27 1962
General Land Office

File No. 157 County _____
Pecos
Relled Sketch
Filed 3/28 1962
JERRY SADLER, Com'r
By [Signature]

count 18569

HEARING OF AN APPLICATION TO PURCHASE AN ALLEGED VACANT
AREA IN PECOS COUNTY, TEXAS, NO. S. F. 16116, FILED BY MR. C.M.
FROST, HELD BEFORE THE HONORABLE JACK GIBERSON, CHIEF CLERK
OF THE GENERAL LAND OFFICE, IN AUSTIN, TEXAS, WEDNESDAY,
JULY 25, 1962.

BEFORE

HON. JACK GIBERSON, CHIEF CLERK

IN ATTENDANCE:

For the General Land Office:

Hon. Jack Giberson, Chief Clerk
Mr. Ray Wisdom, Engineering Director
Mr. Vic Sterzing, Engineering
Mr. Don Goldston, Legal Director
Mr. George Luhn, Sales and Leasing

Proponents:

Mr. C. M. Frost, Applicant, Houston, Texas
Mr. I. M. Wilford, Houston, Representing Mr. C. M. Frost
Mr. J. S. Boyles, Houston, Texas

Opponents:

Mr. Maurice R. Bullock, Fort Stockton, Tex, Representing Ira, Nelson Lethco
Mr. Jack T. Akin, Midland, Texas Representing Mobil Oil Company
Mr. Kirby Hillin, Dallas, Texas, Sun Oil Company
Mr. Nelson Lethco, Toyahvale, Texas
Mr. Ira Lethco, Fort Stockton, Texas
Mr. T. F. Henson, Roswell, New Mexico, Gulf Oil Corp.
Mr. Robert W. Fuller, Midland, Texas, Gulf Oil Corp.
Mr. David W. Stephens, Gulf Oil Corp.
Mr. Paul W. Wiseman, Midland, Texas, The Atlantic Refining Co.
Mr. E. D. Brandt, Houston, Texas, Humble Oil Company
Mr. J. F. Godfrey, Midland, Texas, Mobil Oil Company
Mr. W. R. Belcher, Mobil Oil Company
Mr. J. Frank Johnson, Midland, Texas, Representing Ralph Lowe

Opponents (continued)

Mrs. A. H. Dunlap, Austin, Texas

Mr. Fred Cliett, Fort Stockton, Texas

Gov. John F. Simms, Jr., Trustee, Albuquerque, New Mex. Representing
H. F. Raynolds Trust

Mr. C. C. Cool, Midland, Texas, Representing Atlantic Refining Co.

Mr. H. N. Strickland, Midland, Texas, Humble Oil & Refining Co.

Interested Parties

Mr. C. J. Montgomery, Houston, Texas, Tidewater Oil Company

Mr. R. D. Robuck, Hobbs, New Mexico, Mobil Oil Company

Mr. R. A. Estes, Midland, Texas, Humble Oil & Refining Co.

TRANSCRIPT OF PROCEEDINGS

Prepared by the General Land Office from a Recording of the Hearing

9:30 A. M.

Wednesday, July 25, 1962

General Land Office

Austin, Texas

R'

GIBERSON: This is a hearing pursuant to an application of Mr. C. M. Frost to purchase certain tracts alleged to be vacant in Pecos County, Texas. The application of Mr. Frost is numbered S. F. 16116. The Commissioner appointed Mr. Otha Draper as surveyor to represent the Land Office. Please identify yourself when you speak as this hearing is being recorded. Also identify any points on the map that you refer to. Everyone will be given an opportunity to be heard before this is over. We are not going to follow the rules of evidence that they follow in court. We feel that we are qualified to sort out what evidence is acceptable and what is not. That will be our procedure. The alleged vacant land in Pecos County is about 16 miles north, northwest from Fort Stockton, the county seat, and is bounded as follows, to-wit:
On the East by Sec. or Survey Nos. 19, 18, 13, 12, & 11 in Blk. 143, T & ST L Ry Co., and No. 31 in Blk. 142, T & ST L Ry Co;
On the West by Sec. or Survey Nos. 56, 50, 49, 16 & 14 of Blk O W. On the North by the 110.9 acres, known as S. F. 13201, J. S. Yell, patented to Pecos County by Patent No. 36, Vol. 27-B of the State of Texas, dated March 7, 1957.
On the South by (a) 255 acres known as the West part of the North 1/2 of Survey 2, Blk 203 1/2, Certificate 831, Mrs. Elizabeth Price, patented to Joshua S. Reynolds by Patent No. 282, Vol. 25-B, of the State of Texas, dated Sept. 1, 1955, and (b) 893.29 acres known as the East part of the North 1/2 of said Survey 2, patented to Joshua S. Reynolds by Patent No. 268, Vol. 27-B, of the State of Texas, dated Sept. 25, 1957.
Do the proponents have an opening statement?

WILFORD: I represent the applicant. My opening statement will be brief. Our position is this. The principal portion of this vacancy is to the east of surveys 49 and 50 in Blk OW as those surveys were put in by Mr. O. W. Williams whose field notes were dated in April 1885 and whose corrected field notes were in August, 1885. Our position here is that the west line of the eastern tier of surveys in blk O W was a well monumented land as laid and put in by Mr. Williams who knew exactly where he was and has been found at all times since; Lee found it in '29, Soleras found it since, and the gentleman who made this survey found it. The east west distance originally called for by Mr. Williams for those two surveys was 2400 varas and the background of that 2400 is a little interesting because he put in that eastern tier beginning at Survey 1, south. He put in No. 2 and No. 3 skipped 4 and 5 as I remember it and came on up. He called the east west distances to those lower surveys to be 1900 varas and he has a lot of double sections so it was easier for him to put them in 3800 north and south, 1900

east and west. Mr. Williams in 1885 had before him, in reference to senior surveys to his east, only the work by Mr. Durrell and it was his original work. Mr. Durrell had put in blks. 142 and 143 in April of 1881. He had put in blk. 115 which is to the south but does not quite adjoin 142, later as I remember in the same year. Now in 1883 Mr. Durrell had put in Sections 1 of Surveys 1 and 2 of blk 203 1/2 and he built those on his west line of his blk 115 and his blks. 142 and 143. You can tell from building and using his work, and building working sketches from his work, that's Durrell's work, that he thought that the west line of blk 115 was on the same north south line as the west line of his 142 and 143, and so when October of 1883 came he put in Surveys 1 and 2 of Blk 203 1/2 to the west of and adjoining 115 and 142 and 143 and filling in a little key that separated 115 from 142. He called, when he got to his northeast corner which he had sitting against 142, to run west to a stake and mound 500 varas and then he came on south and he had a survey in there, blk 203 1/2 insisting that those two surveys 1 and 2 which had an east-west distance of exactly 500 varas and he called for nothing to the west for his corners except stake and mound. Now so it was when Mr. Williams put in his southern surveys beginning with No. 1 of this eastern tier in blk O W. That is all Mr. Williams had to go by. Now as I say he monumented his west line and it is still monumented and the lower surveys, 1 for example and 2 and so on up thru No. 10 and 12, had an eastwest call distance of 1900 varas and also a call to be on the west line of blk 203 1/2. When he reached where he thought he would be at the northwest corner of 203 1/2, that is of No. 2 which is what we call the Elizabeth Price, he turned east following the command of Mr. Durrell's work exactly 500 varas and thought he was on the west line of blk 142 and he continued then to build his surveys to the north, he made that turn in the course of Survey No. 14, and so surveys the north line of 14 had a call distance of 2400 varas. He simply added the 500 varas which Mr. Durrell said was the width of 203 1/2 to the 1900 varas which he had established as east and west distances in building his surveys to the south. He has this 2400 varas and he still calls for adjoiner with the surveys to the east he does it with blk 142, he does it with 143, he has passing calls for the corners in those surveys. Now then his surveys were built in this order. He started building to the south No. 1 for example as I recall it was December 10, 1884, the original field notes and as they proceeded north they got up later in the month; the 12th the 15th, even the 20th, but they were all in the month of Dec. until he got to 49, 50 and 56, the three northern surveys in the eastern tier. Those he put in his original

R

field notes which were dated April of 1885. Now he began his original surveys in which he built every survey except No. 1 on the northeast corner of the survey below it. Every one was built that way. Now the first corrected notes Mr. Williams filed in respect to that eastern tier was in August of 1885 and they related to 49, 50 and 56. He did in August 1885. It was December, 1886 and January, 1887 before he corrected to the south, but his corrections were consistent and uniform and the principle involved is precisely the same in respect to each one and you can see exactly what Mr. Williams is doing. What he did in correcting his field notes was to reduce his east west distance for something in the order of 280 varas. You can tell that he pulled it away from his east side, that that is what he took off. He stayed accurate to the west side. He built his corrected field notes in every instance off of the northwest corner of the survey to the south so he is building on and staying accurate to his monumented line which everybody knows about and he thoroughly understood. He reduced, for example, the call distance east and west of 49 and 50 and the adjacent line in 56 to 2116 varas. Now down below take for example No. 1 and 2 or take for example the south line of No. 14. He called for 1618 varas when he made his turn to the right again and of course the laying in of 14 of this correcting. He called again for that run to be 500 varas and again he thought, and then he called for the west line of blk 142 and as he went up in 49, 50 and 56 he was calling for passing corners of surveys in those senior blks to the east 142 and 143. Interestingly enough he changed those calls too. He did not know quite where he was north and south, and he certainly did not know where he was east and west. Now the thing that distinguishes this case, and the thing that the applicant will hang his hat on, is the fact that he did reduce, he continued to call on the east after his reduction of his east distance continued to call to be on those senior surveys to adjoin the west lines of them, 203 1/2, 142, 143. Now actually the distance across there is in the order of 2600 varas and so instead of going the right way to get to his adjoiner he feared he was in conflict and drew back to the west, that 280 plus varas and he did it consistently in every one of his surveys. Now this might be some difficulty, it certainly would not be as clear and simple as it is from the applicant's standpoint if Mr. Williams had never corrected his field notes. Now they patented 49 on his corrected field notes and they did it in the course of the same year as I recall in which the correction was made if not in the same year, very quickly afterwards. It was to the railroads and 50 has been sold perhaps it has been paid for, it has not been patented and some portions not involved here have been. Now

1st tier

anchored

anchored

on his
corrections

count 78574

those two surveys Mr. Williams corrected, he was surveying 49 and 50 under one certificate, one certificate for the Railroad, half of it, and one section for the School Fund. The Railroad took it by patent called for 2116 east and west. Now this is the interesting thing that Mr. Williams did and so we know exactly what he intended to do. Previously 49 and 50 both had north and south call distances of 1504 varas and in his correcting of August 1885, those north south distances became 1706 varas. He raised those two surveys from north to south by 202 varas or the whole certificate for the two sections 404 varas, and he did it to compensate for his reduction of the eastwest distance and moving his east line back to the west to avoid his suspected conflict, and so he gave that Railroad an area measured by two definite dimensions which he understood thoroughly the arithmetic of, 2116 by 1706 and he did them both that way and as a consequence of that his corrected field notes in August, 1885 for 56 moved, it is hard to explain. There are two south lines of 56, the westerly south line runs from Railroad surveys to the west and intersects the west line of 50 as originally laid in as I recall it around 219, but some number of varas in that order. Now when he corrected it, no it was the other way. That line came in and had to come down to the south to get to the northwest corner of 50 and when he shoved 49 and 50 to the north to pay the debt, the State's debt to the Railroad, and supply the School Fund an equivalent of acreage, he moved that line up in to 56 and so had it changed to 56. That is why 56, the south line which comes in from the west, intersects now the west line of 50 and you go up to the north from there to get to the northwest corner and then he went back east the same 2116 varas. Now this one case in the books, there are all kinds of cases about adjoiner controlling, course and distance, the purposes to find out the surveyors intention to follow in his footsteps, to ignore as few as what he says to get the end result that he must of meant. There is a lot of law about that; the Camp Case, the Turner Case where Mr. Yates tried to get all the vacancy and did not quite get it and his adjoiners were spread apart. It is interesting that in this very area this very obvious has spread apart Williams calls for 56 to join the Railroad blk to the north, they did it in the Yell survey. The one case in the books that rules this case is Humble vs. State. Inside of the Austin Court a writ of error was refused and I will discuss the caselater in the day.

GIBERSON: Are there any more questions from the proponents? Would the opponents like to make a statement?

- BULLOCK:** I am Maurice Bullock, I represent the opponents Ira Lethco, Nelson Lethco and John F. Sims, Trustee, who are land owners and each of whom are present here. The opponents do not care at this time to discuss the facts of the survey as such other than to say this. The position of the opponents is that the whole system of work done by Judge O. W. Williams both in his original field notes and in his corrected field notes shows that it was his purpose and intent to adjoin that eastern tier of surveys in Blk O W, Surveys 14, 16, 49 and 50 to adjoin them with blks 142 and 143. The errors that he apparently did make in his call distance certainly did not indicate any intent on his part to leave a vacant strip but both the original and the corrected field notes show a purpose and intent to include all of that land over 2 blks 142 and 143 and we submit that the effect of what he did regardless of his mistakes as to distance in both instances was to include as a matter of law all of the area there in the blk O W Survey so that because of the adjoiner there would be no vacancy. We do not believe that this would be controlled by the Humble Case, actually by the old well established principle of the Maddox vs. Fenner or Maddox vs. Turner which ever is the early case back in 1880.
- GIBERSON:** Are there any other statements? If not I will ask our surveyor Mr. Otha Draper to stand and be sworn in. **DRAPER SWORN IN.** Would you take that pointer and explain the steps that you took in making your survey on the ground and trace your maneuvers with that pointer.
- DRAPER:** This map on the left is more or less the working sketch showing the construction of 49 and 50 built on that call distance off the west boundary and this would be the map that is filed in the Land Office showing 49 and 50 called for adjoiner to the east blk line. We began our survey at the northeast corner of the J. S. Yell Survey, File 13201 which had been monumented with high plunger accompanied by Jack Silliman based on Mr. Lee's ties into the Jerol corner of Section 57 in blk 8. We ran south from that point on Lee's version of the blk line that he had constructed in surveying the Yell scrap file, found the southeast corner of the J. S. Yell end to conform with Lee's call as actually monumented by Mr. Silliman.
- GIBERSON:** For the purpose of the records let me ask you, when you identify one of these corners if you feel that you have relocated the original corner and would you point out to us in your opinion if you have relocated the original corner, please.
- DRAPER:** Are you referring to the original survey such as Durrell and Williams?

GIBERSON: Any corner that you come to, or anything that might be of importance, please identify everything clearly.

2nd Book
 DRAPER: As we ran south we triangulated Hopes and Walkers corners over a mile east of block line. Russell Walker had surveyed the patent section 18. All of his corners are in Mr. Hope's corners or reference corners are in along this line. We tied those to a block line here as we ran south. Mr. Hope's resurvey of block 143 calls for a definite tie at the Rhodes corner here and Hope's survey of 19 and 20 were built over from that. As we ran on south we set up right here for the northeast corner of Section 50 and tied over to Mr. Lee's pipe out here which is set as a southeast corner of Section 2.

WILFORD: May the witness when he puts that corner as he did say where he is speaking of monuments of Mr. Lee. Please identify the corners.

DRAPER: We extended Lee's or ran on south up on Lee's line and passed the pipe that Walker had set here which was on Lee's line at the northwest corner of Section 18. We passed a 1 by 2 stake set by Silliman here which was also on Lee's version of the block line and conforms with Silliman's survey of this 80 acres. We find Walker's pipe in at the southwest of 18, Lee's pipe is in at the patented northeast corner of Section 16, block O W. At the southeast corner of the north part of 16, Lee's pipe is in and rock mound and some distance west of there is the pipe of Silliman which was set in there, surveys of part of a strip along the east part of the south part of 16. He carried that line on south to the eastern southeast corner of 14 or the north^{east} corner of Survey 2, block 203 1/2. Mr. Lee's corner was out at that point and we swept this one by plunging the other line on south and then intersecting back from the southern southeast corner of 14, here Mr. Lee's corner and Silliman both being at this point close together and on his call distance up and over the set distance. We continued our traverse on around the southerly boundaries of 14, set the southwest corner of 14 which would be a relocation of Mr. Lee's version of it by extending a line south from his two corners up here. Then we ran north on this west boundary of 14, 16, 49, which is the northerly extension previously set by Lee of Mr. Williams corner down further south. We find a corner in here that is the east quarter of Section 40 as set by Lee and Silliman both in here. This is an elongated road. All of these have either been torn out or covered up, up to here and Lee's old pebble mound at the north-

east

west of 16. We tied across through on this line continued on north down Lee, in at the northeast of 47, Selliman's stake in at the southwest of 50, tied across here and tied in with Mr. Silliman's survey here, continued on north and tied into Lee's corner 51 and northwest of 50 and back across here. Then we went back to the southwest of 14 and plunged Lee's line south... corners here, Lee's corners southeast of 35 Silliman's corner of 34 and the old original stone mound at the northeast of 29 and the 2 reference mounds of Williams on a little farther south on the east boundary of 29 and that is as far as we tied south and tied into Williams. Then we came back over here to Hope's reference corner and ran to Hope's corner southeast of 17 and carried that line on east and tied in into Durrell's original rock mound which was his original southeast corner of 16. Then we ran south and tied to Durrell's original mound here, then on the inset we tied on across here, checked for the monuments Fran's corner which we do not identify in the original as called for it, and we ran on across to the east boundary of block 142 and 143 to Mr. Hope's survey, rather his resurvey of block 143 and his southeast corner of 143, then we ran south along this line tying in and checked Mr. Hope's ties to Durrell's corners in block 112 T & C Ry. and on to the southeast corner of block 142 which Durrell's original corner. Then we ran west from that 2 miles to the southeast of Section 3, Durrell's corner which is has marked stone and has a car actually set by Mr. Good-fellow and then we ran north and tied into Durrell's corner there. Then we set up the construction of the block line, West boundary of block 143 and 142 based on the individual patents of different sections which created this off set staggered line. We have Section 19 patented by Hope and this construction was built as mentioned before by coming over the call distance tied to this corner, by coming over the call distance from his reference corner down here and joining those 2 points together set up this corner prorated excess of his 2 sections and taking this westerly and intersecting this one on a prorated distance. That sets the west boundary of Hope's survey somewhat east of Lee's and also overlapping Walker's survey of 18. Walker's survey was constructed by coming up from the point that Lee had set when he ran his J. S. Yell Survey and came up on the block line he tied across to this mound of Durrell's that Walker had apparently run north from Lee's point that he had set here the same distance of Durrell's corners here and then ran easterly Durrell's corners and divided that into 3 equal parts to construct 18, and then section 14 below it was patented on Durrell's survey. I set up the construction of Durrell's block line by running a point theoretically four miles west of this

mound on the due west bearing and even four miles west of the northeast corner of 15 at block 143 and joining those two together set up the west block line of both blocks. Mr. Hope's location of the common east block corner of the two blocks is very close call distance bearing, is built up on the north on these off set corners. I used that and set up a line due west and intersected the other line except the block corners, built all of the sections in the western part of the two blocks based on the field construction. That swings the line back to the east of the Lee and Faulkner's line and Section 13 in Lee's line is on a true north south bearing and Hope's line generally runs about a quarter of a degree to the west of north and Durrell's about a quarter of a degree east of north. So we will have to change that direction on 13. I brought that line on down until it crossed out of section 13 and based on Durrell's and intersected the north boundary of 12 as based on Hope's survey. Hope's survey here was built on a call distance and an extension of bearing of his lines back over to the east, although I can show monuments on this....and made an off set here to get back to the northwest corner of Hope's survey of 12, then around south of his west boundary until we intersected the North boundary of 11 and based on Durrells which overlaps both surveys, and a slight jog west to get Durrells northwest corner of 11, then south with it causing the bob line based on the survey of Durrell and on to an easterly extension of the north boundary of the Survey 2 in block 203 1/2. Back across to Lee's line which was patented to the east boundary of 14 and 16. That consisted of 2 or 3 tracts of land based on this construction.

GIBERSON: Before we leave this map and go to another one, I want to get some points clear in my mind. Beginning with 19 and 20 in block 143, that was patented on Hope's field notes, and 18 was patented on his notes.

DRAPER: No sir, 18 was patented on Russell Walker's field notes.

GIBERSON: Regardless of who patented it, tell me how you put in the west line of 19. Did you find the original corners that Hope put on the ground, build its course and distance?

DRAPER: Hope did not set anything west of the line 1 mile east of the block line, but Hope came around the Section 77 and up part way on it and then ran due north again when he got his width that he wanted. From this point he tied into Durrell's corner here and from the triangle there it helped double calculation to show that he had a 17.5 vara off set width.

GIBERSON: Did you find Durrell's corner?

DRAPER: Yes sir.

GIBERSON: You found his corner and Hope tied to that corner?

DRAPER: Yes sir.

GIBERSON: Then what did you do, build that west line course and distance?

DRAPER: I built the north boundary of 20 and 19 both. They were based on Hope's call distance.

GIBERSON: Is Durrell's corner the only one you found? The original, is that right, in those 2 surveys or in that area right up there?

DRAPER: Up in this North part.

GIBERSON: Let's drop down to 18. How did you build 18 up?

DRAPER: 18 was patented on Russell Walker's survey and the corners are all in.

GIBERSON: How did you put in 18?

DRAPER: Mr. Walker put it in and it is on here the same way as it is patented.

GIBERSON: How did you put it in. What did you do to construct 18?

DRAPER: I found Walker's section corners as he called for them on the ground.

GIBERSON: You found his original corners on the ground?

DRAPER: Yes sir.

GIBERSON: His four corners, so that you did not have any problem the way that you set it up?

DRAPER: No sir.

GIBERSON: Did that conform with Hope at the top, his west line?

DRAPER: No sir, Walker's survey is overlapping. The north boundary of 18 is overlapping the construction of Hopes up here and a strip and off set both ways down here at the southeast corner.

GIBERSON: Drop down to 13. That is patented on the corrected field notes by Hope. Is that right?

DRAPER: No sir, it is patented on Durrell's.

GIBERSON: It was patented on Durrell's original. What did you find there? in that section, how did you fill that west line up?

DRAPER: I built it off the construction that I discussed down here, based on Durrell's calls from his nearest monuments.

GIBERSON: From a known corner?

DRAPER: Yes sir.

GIBERSON: You found Durrell's known corner, then what did you do, build course and distance?

DRAPER: Yes sir.

GIBERSON: And that is the way that you put in the west line of 13, right?

DRAPER: That is right.

GIBERSON: Now let us drop down to 12. According to this working sketch that was patented on Hope's field notes, is that right?

DRAPER: Yessir.

GIBERSON: And how did you build up 12?

DRAPER: Hope's east corners are his reference corners to these corners are in on the ground and I built the west line on the call distance even a mile over, set in the direction by extending a line across here. This one was based on a prorated bearing between here and the one a mile lower.

GIBERSON: You found Hope on the ground then, is that right?

DRAPER: Yes sir.

GIBERSON: What did you do on 11?

DRAPER: 11 was also patented on Durrell and his construction is the same as section 13.

GIBERSON: Would you build course and distance off of 13 up here, or just project your lines?

DRAPER: Well, I built 13 and 11 on the same pattern, by projecting westerly from his nearest monumented corner.

GIBERSON: Now 11, is that the one we have just been over? What about 31 in block 142?

DRAPER: It is the same and 11 and 13 are patented on Durrells.

GIBERSON: 30 is patented on Durrells, is that right?

DRAPER: We did not get into 30.

GIBERSON: Let us go to block O W. I want to clarify something. 50 is unpatented, is that right? There is a little rectangle survey there patented on Silliman's notes isn't there?

DRAPER: It is described as the east half of the southwest quarter.

GIBERSON: How did you build 50?

DRAPER: The south boundary of it is the boundary set up by Silliman in his survey of this 80 acre tract, his monuments are in at all 4 of his corners that he called for, a stake at the 2 south section corners which are in on the ground.

GIBERSON: What did they call for here according to the original field notes on the 50 they are staking mounds back on the southwest corner.

DRAPER: That was the old Durrell call which would just be a fictitious corner.

GIBERSON: Do you think that Silliman relocated that bow line?

DRAPER: No. Silliman's survey was based on Lee's construction of the hed line up thru here. I would say exactly roughly speaking with Lee's construction, and the stakes he is calling for at the corner are simply 1 by 2 stakes that Silliman set himself.

GIBERSON: How did you know where to put the west line of 50?

DRAPER: It is monumented by Lee's line which is an extension of Williams line, is monumented on up to the northwest corner of 50 which is a patent off set corner of Section 56.

R

GIBERSON: Did you find that corner?

DRAPER: Yes sir.

GIBERSON: That inner corner of 56?

DRAPER: Yes sir. Both of these corners are in Lee's corners.

GIBERSON: 56 is that patented on Lee's notes?

DRAPER: No sir, it is patented on Russell Walkers.

GIBERSON: But you recognize Lee rather than Walker's on that off set corner, is that right?

DRAPER: Lee's off set call conforms with Williams original off set call.

GIBERSON: The survey was patented on Walkers?

DRAPER: They all agreed together. Lee was following Williams and Walker was simply following Lee.

GIBERSON: You were the subsequent surveyor to the original, relocated the original, in your opinion is that right?

DRAPER: Yes sir.

GIBERSON: What did you do on 49? 49 has been patented.

DRAPER: It has been patented on the original notes of Williams and the boundary of 49 was pinned down by the south boundary of 50 and the north boundary of 16. The north boundary of 16 is monumented at both corners by Lee and was patented by Lee.

GIBERSON: 49 patented by Lee?

DRAPER: I said 16. The south boundary of 49, and the north boundary of 16.

GIBERSON: Yes, but this 49 was patented on notes that were filed in 1885 by Williams according to this sketch. It was in there a long time before Lee came in and wrote notes on 16, wasn't it?

DRAPER: Yes sir, Lee's line his north extension of Williams line over here is conforming with Williams call.

GIBERSON: Did you find anything on the ground, put in by Williams?

counter 48583

DRAPER: No sir.

GIBERSON: On 49?

DRAPER: No sir, nothing southeast of 34.

GIBERSON: When you found that Williams corner at the southeast of 34 building course and distance would that conform with your construction here at 49?

DRAPER: It would conform with Lee's except with a very slight excess.

GIBERSON: I know, but I am talking about Williams. Did he survey all this up here?

DRAPER: Yes sir, he followed field notes on it, but in my opinion he never monumented it on the ground.

GIBERSON: He did set a corner at 34, is that right?

DRAPER: Yes sir, and further south. Lee ran north of that on the call distances of Williams and the only discrepancy is that Williams had an off set call nearer some 49 varas which was extended or finally put in to Section 50, in other words Lee built these sections to the west on the even mile then dropped back to 219 vara off set call and then built these 14 and 16 and 49 up into the north on Williams off set call and through the error which was some 45 varas short in Section 50, that is why it is not coming up with exception to No. 6 in 49.

GIBERSON: Now 16 was patented on Lee's field notes wasn't it.

DRAPER: Yes sir.

GIBERSON: And you are showing a strip between 16 and this block to the east 143 aren't you, an unpatented strip there on your map?

DRAPER: Yes sir.

GIBERSON: Did you find Lee on the ground?

DRAPER: On the east boundary of 16? We find him at the northeast corner.

GIBERSON: You found his corner as set by Lee?

DRAPER: Yes sir, and the east corner of 16 and on south.

GIBERSON: This 14 was that patented on Silliman's notes?

DRAPER: The west part was patented on Silliman's and the east strip was patented on Lees.

GIBERSON: Did you find any original monuments on the ground in that area?

DRAPER: We find Lee and Silliman both in at this point.

GIBERSON: Did you find the original corners?

DRAPER: I found their corners, yes. On the west boundary of 14 there were 2 of Lees and Silliman's corners indicated.

GIBERSON: Original corners that you accepted, is that right?

DRAPER: Yes sir.

GIBERSON: At this time I have no further questions. Would anyone else like to question the surveyor?

AKIN: I am Jack Akin from Mobil. Are you familiar with the description in the field notes on which section 56, block O W was patented? Did that call to begin the west line of Section 19, blk 1?

DRAPER: I would have to check it to see. Yes I believe that he started at the southeast corner of the J. S. Yell.

GIBERSON: Herman, would you get the field notes on 56. We will have those in just a minute.

WILFORD: You may use mine.

DRAPER: Beginning at a 1 by 2 stake in the west line of 19, block 143, being north 70 and 15 west 75 varas south 004 west 75, we found 1 and a half inch out of the southeast corner of 57.

AKIN: And the west lines of surveys 19 and 143 runs south to where?

DRAPER: Runs south to the west line of 19.

GIBERSON: Are you reading from Walkers notes now, his patented notes?

DRAPER: Yes sir, runs south to a 1 by 2 stake on the northeast corner of 15.

AKIN: The northeast corner of 16, block O. W.

R

DRAPER: Then goes west across the path.

GIBERSON: Does anyone else have a question at this point?

WILFORD: My name is Wilford and I represent the applicant. Mr. Draper, did you prepare a linen map of which that map on the right on this board is a print?

DRAPER: Yes sir.

WILFORD: Is this the linen map?

DRAPER: Yes sir.

WILFORD: May we have that map put over the print of it?

GIBERSON: Is this the Land Office copy of the map?

WILFORD: Yes, it is a Land Office map.

GIBERSON: We could put it up, but this is an exact copy of the map.

WILFORD: Yes, but certain erasures appear on that map that do not appear on this map.

GIBERSON: All right, put it up. Before you start Mr. Wilford, let me point out that we do have two maps on the board of two different constructions in that area. Rather than dwell on the regulars or anything these maps are on file in the Land Office. We recognize both maps that are on the board. One shows one construction and the other shows the other for information purposes, and all records in the Land Office are also in evidence.

WILFORD: Mr. Draper, the linen map which is now on the board is a map that you prepared and filed with your report with the Land Commissioner, is that correct?

DRAPER: Yes sir.

WILFORD: And the map immediately behind it is a print of this linen map, is that true. Now when did you prepare your linen map? By that I mean when did you begin to prepare your linen map?

DRAPER: We started it after we finished our traverse around these sections on the ground work. We went back later to make additional ties.

counter 48586

*have been
erased*

WILFORD: Now on the linen map in the eastern part of survey 50 and 49, block O W I see lines running from the north line of 50 to the south line of 49 which is in a rut. Was there a line there at the place I designated?

DRAPER: No, on the preliminary of the linen map there was.

WILFORD: But on this very map, and you put that line there, didn't you?

DRAPER: Yes sir.

WILFORD: I see here where that erased line crosses the north line of 49 just below that. It looks like there used to be on here a set of 1/2 inch I P. Were those words on that linen map as you originally prepared that linen map?

DRAPER: Yes sir.

WILFORD: Now interpret that for us. Does it mean that you had set a 1 inch or 1/2 inch, or whatever it is, iron pipe at that point?

DRAPER: Yes sir.

WILFORD: I know this is a similar indication that there had been set a 1/2 inch I P where that erased line intersects 49. Was that on this linen map as you originally prepared it, set 1/2 inch I P?

DRAPER: Yes sir.

WILFORD: Did you actually set an iron pipe at that point?

DRAPER: Yes sir.

WILFORD: Notice at the northern end of this ⁵⁰ erased line, where it intersects the north line of Survey ^{5th belt} 6, block O W, that there are two concentric circles and here it says 1/2 I P and pebble mound (A N L). Now interpret that for us.

DRAPER: That was set by A. N. Lee.

WILFORD: And you actually found that pipe?

DRAPER: Yes sir.

WILFORD: Now I notice if that line were extended north to the north line of 56 that you have here or rather was on this linen map 3/4 inch

R

I P (Bent) and you have two concentric circles there, so right at 529 varas cut the line from the northeast corner of 56 is patented. Did you find that pipe? Whose pipe was that?

DRAPER: Well, it will conform with the position call of Mr. Lee.

WILFORD: Would you please explain how this line got here, why it was put here and subsequently erased? The line that I have referred to in this record, it being in the eastern portion of 50 and 49.

DRAPER: I had set the pipes and gone on the map which is shown on the other map based on the call distance from the west boundary, and I brought the preliminary map down to the Land Office and discussed the construction and how we would present the map, the area shown on the map and in talking to the Land Office I was given the idea that the call to adjoiner would hold on that and the control over the distances so I changed the notes leaving out any in 49 and 50 because of the call of adjoiner.

WILFORD: Now you say you brought a preliminary map to the Land Office at that conference at which this idea was given you about the call for adjoiner. Was the preliminary map this linen map in some earlier form?

DRAPER: It was a print of the linen map.

WILFORD: It was a print of this linen map. Now, is the map on the left which is an unsigned map dated..... talked about a survey on the ground in May 21-24, 1962, that line below it has Licensed State Land Surveyor but is not signed. Is this print the preliminary map that you actually brought to the Land Office to that conference at which some suggestion was made to you to give effect to the adjoiner? This is the map, is that correct?

DRAPER: Yes sir.

WILFORD: Then would you mind putting your initials in the upper left hand corner of this map. Also, a capital A. This map, now lettered in the upper left hand corner with a capital A and lettered by you, O D, is the preliminary map you brought to the Land Office and had a discussion here in the Land Office, is that right?

DRAPER: Yes sir.

WILFORD: About when did that occur?

Counter 18588

DRAPER: June 1, 1962.

WILFORD: What was the purpose of your coming to the Land Office on that occasion?

DRAPER: I wanted to discuss with the Land Office what construction to make and how to set up theoretical construction of the boundaries of the vacancy.

WILFORD: Since this is a print that you marked A and had to be run from a linen, and this is the linen which you now have before you, this print was run from this linen at a time when this erased line was on the map and had not been erased. Is that correct?

DRAPER: Yes sir.

WILFORD: So you had gone to whatever trouble that is to show that line that now erased line on this preliminary map and you had gone to the trouble to set iron pipes, about which I had just questioned you of some 500 varas we will say to the west of the adjoiner line, that is true isn't it?

DRAPER: Yes sir.

WILFORD: With whom did you have your conference with in the Land Office at this June 1 meeting?

DRAPER: I talked with Mr. Wisdom and Mr. Giberson.

WILFORD: Tell me the substance of conversation with Mr. Wisdom.

DRAPER: Most of the discussion of the construction was with Mr. Giberson.

WILFORD: Then tell me the substance of that conversation.

DRAPER: I mentioned the call for adjoiner and Mr. Giberson said the call for adjoiner should hold up and there would not be any vacancy in the east part of the 49 or 50 and to present my map accordingly.

WILFORD: So the line was erased and I assume that your field notes as you actually filed them with your report were prepared inconsistent with the erasure of that line. By that I mean you gave effect to adjoiner in preparation of the field notes that you actually filed?

DRAPER: Yes sir.

correct sketch

WILFORD: You filed in Mr. Giberson's instructions?

DRAPER: Yes sir.

WILFORD: If you had not have come down here, what method would you have filed?

DRAPER: I don't know. I did not assume that it was my job to decide what the vacancy was.

WILFORD: But you had made the preliminary guess that you would locate the line by course and distance as so showed on your linen map, that was your preliminary idea. Mr. Giberson told you that the adjoiner call would hold up, told you to draw your map accordingly and you did, and that is the map you filed with your report. Those things are exactly correct aren't they?

DRAPER: Yes sir.

WILFORD: How many conferences have you had with me?

DRAPER: Just one personally.

WILFORD: All right, we talked over the phone a few times.

DRAPER: Yes sir.

WILFORD: Have we talked about the validity or invalidity of any of this surveying or these conclusions in any telephone conversations?

DRAPER: No sir.

WILFORD: You did tell me over the phone that Mr. Giberson had told you the adjoiner calls would stand up and to draw your map accordingly?

DRAPER: Yes sir.

WILFORD: Now yesterday at your motel room we did discuss your work in the field, is that correct?

DRAPER: Yes sir.

WILFORD: How many times, that is how many conferences have you had with the applicant, Mr. C. M. Frost of Houston?

DRAPER: Other than yesterday only one time.

counter 48590

WILFORD: He was there with me at your motel, is that true?

DRAPER: Yes sir.

WILFORD: Mr. Stuart Boyles of Houston was there also.

DRAPER: Yes sir.

WILFORD: Did we make any suggestion to you as to any interpretation that you should make of your work on the field notes?

DRAPER: No sir.

WILFORD: Now what other conferences have you had since you completed your field work? Have you had any conferences with anyone about what you did in your conclusions, other than Mr. Wisdom and Mr. Giberson?

DRAPER: No sir, after I talked with Mr. Giberson and he suggested that we tie in the, into Durrell, set up a construction there, we did that in the field, then I mailed it all in.

WILFORD: You did a little field work after you had your conversation with Mr. Giberson, in 142 and 143?

DRAPER:q Yes.

WILFORD: Because I do notice that you now put the west line in the block 142 and 143.

DRAPER: Yes

WILFORD: And with zig zag interpretation whereas in your linen map as originally drawn in which map A is a print, you showed that as going north and south line, so the field work you did after talking with Mr. Giberson also suggests to you the need to make the west line of 142 and 143 a zig zag line and now expressed in your linen map, is that right?

DRAPER: That is right.

WILFORD: I noticed when I came in this morning just after 9:00 that you were here and probably 8 or 9 other people. What time did you get here this morning?

DRAPER: I came in the office before 8:00.

R

WILFORD: How did that happen?

DRAPER: I was supposed to be here at 8:30, an hour prior to the hearing.

WILFORD: How did you know you were supposed to be here.?

DRAPER: In my notice of the hearing it said so. In order to discuss the presentation of what we had done.

WILFORD: With whom?

DRAPER: With the Land Office, the letter was signed by Mr. Sadler.

WILFORD: All right, when you got here did you discuss that presentation?

DRAPER: Not except just very informally, a few words just prior to the meeting, I talked with Mr. Giberson. He gave me no instructions as to how to present it.

WILFORD: You did have a preliminary conversation with him?

DRAPER: Yes sir.

WILFORD: Any body else?

DRAPER: I talked with Mr. Wisdom.

WILFORD: The gentlemen here from Fort Stockton who represents the opponent, was he present?

DRAPER: The two Lethco brothers, I talked with them.

WILFORD: May I have for the record, Mr. Bullock were you invited to be here this morning for the preliminary conference?

BULLOCK: I was not.

WILFORD: You were not invited, how did you know it was going to occur?

BULLOCK: I did not know the preliminary conference was going to occur.

WILFORD: Mr. C. M. Frost, as the applicant may I have for the record whether you had any advice of the preliminary conference?

FROST: No, I did not.

counter 48592

- GIBERSON: Let me point out that this was not a formal conference. The only instructions that Mr. Draper had were at an open meeting in this room where everyone was present, no one was particularly invited but everybody was welcome.
- WILFORD: Mr. Draper, I have here a plat styled on the part of Pecos County prepared by Mr. Lee under date of July 20, 1929. On this map he says in effect, this is what he means, when a circle is a single circle that was made by him where you have concentric circles or what looks to me like concentric circles the original corners. If you will observe this map and help me interpret this. Does this mean that Lee in 1929 actually found a 4 foot mound at the northwest corner of No. 1, Block O W?
- DRAPER: Yes sir.
- WILFORD: Does this mean that this item at the northeast corner of 78 in block O W that Lee found an old stone mound there which he called original corner?
- DRAPER: Yes sir.
- WILFORD: And that is in the west line of...
- GIBERSON: Wilford, are you going to offer that in evidence?
- WILFORD: Yes.
- GIBERSON: Could we mark that as Exhibit 1. I think the map speaks for itself. He can't tell what that map means. If you want to take up time by asking him what Lee meant by putting marks on his map you can go ahead.
- WILFORD: I do. This will be Frost's Exhibit No. 1. I have so indicated in the upper left hand corner. It came out of the Land Office I don't have to do that do I, Mr. Giberson?
- GIBERSON: Just offer any evidence you want to, as I pointed out at the beginning we will decide what is valuable and what is not.
- WILFORD: The same thing is true then of these other concentric circles, for example, here is one in the east line of 73 the west line of the No. 3, block O W. Where are the 3 Williams monuments that you found?

DRAPER: Northeast of 29 and then the two reference mounds just south of there on the east boundary.

WILFORD: Now you actually found those?

DRAPER: Yes sir.

WILFORD: Did you read a copy of the letter in the General Land Office records where the Commissioner had asked Lee to explain what those three mounds in the east line of 29 were and who made them?

DRAPER: Yes sir.

WILFORD: Did you see Lee's reply?

DRAPER: Yes sir.

WILFORD: It is in the file in the Land Office also and we refer to it for the records, in that he told him they were Williams monuments didn't he?

DRAPER: Yes sir.

WILFORD: And didn't he say that he sighted down here to a monument on a ridge and got the direction and then he went around pointed it to the north from there and then he set his own monuments to every mile to the north. Is that correct?

DRAPER: Yes sir.

WILFORD: When you, as you have done on your linen map, place the west line of 49 as you have placed it, you are on or are you not on the Williams west line? I do not mean that you were actually there but it is the same, north, it is north of the line that he was on at his three monuments that you referred to and you found that what you took to be the southwest corner of 49, Mr. Lee's monuments that he told the Commissioner about in that letter.

DRAPER: Yes sir.

WILFORD: You found another one up here at the northwest corner of 50, didn't you?

DRAPER: Yes sir.

R

WILFORD: And you found this monument that I have already referred to you at the north end of the erased line on this linen map some 516 varas west of the adjoiner line on the north line of 50. YOU found that pipe there, that is the Lee pipe isn't it?

DRAPER: Yes sir.

WILFORD: Now is it your testimony that this map does depict the location on the ground of the west line of surveys 49 and 50?

DRAPER: Yes sir.

GIBERSON: I would like to clarify a point. He said that is a Lee pipe, could you tell me how you identified that as a Lee pipe? Are there any markings on it to indicate that it is or is not a Lee pipe?

DRAPER: No sir.

GIBERSON: Nothing on there. Could any body have set that pipe?

DRAPER: I don't think anybody did set it.

GIBERSON: Anybody could though couldn't they?

DRAPER: That is possible.

WILFORD: Mr. Draper, you have testified that you found as a bent 3/4 inch iron pipe at the place indicated on this linen map of yours in the north line of 56 some 529 varas northwesterly from the east line. You found that pipe didn't you?

DRAPER: Yes sir.

WILFORD: Now didn't Lee in his call for the Yell survey call to begin at that place?

DRAPER: Yes sir.

WILFORD: And did he not call that to be the northeast corner of Section 56, block O W? And was not that survey patented on those field notes? The Yell survey? so the Land Office recognized that in the patent for the Yell as being the northeast corner of 50 did it not, and Lee had a monument there and they referred to it, is that correct?

counter 48595

- DRAPER: I don't know, I would say that they recognized it, but they accepted the notes after he...
- WILFORD: We are not talking about how binding it is, but they did recognize it, in a way of talking. Now the south line, is the south line of 49 as you have shown it on this linen map? Is that coincident with the north line of 16 as patented?
- DRAPER: Yes sir.
- WILFORD: How do you know that is true?
- DRAPER: The call distance on 49 checked on the ground with 1706 varas I believe was called on the west boundary of 49. He simply made that by Lee's line.
- WILFORD: This north line of 50 as you show it on this map, is that coincident with the easterly south line of 56 as patented on Walker's field notes?
- DRAPER: Yes sir.
- WILFORD: Now did you find on the ground or have you found anywhere anything that indicated to you that Durrell when he put in 142 and 143 to the east of both of them, monumented the west line of 142 or 143?
- DRAPER: He put it in the east of O W. Do you mean O W was not there at the time. I find no evidence that he monumented the west boundaries.
- WILFORD: Do you find any evidence that Mr. Williams monumented the east boundary of his block O W, say from Survey 16 on to the north in the eastern tier? Have you checked Williams arithmetic on the dimensions in the area of 49 and 50? Originally called for 2400 varas east and west, 1504 varas north and south. Have you checked that out to see if that would be 640 acres?
- DRAPER: I have checked the resurvey, I check^{ed}/for 2400 at the time.
- WILFORD: If you were permitted to express an opinion as to why someone did something in 1885 would you say that this is a fair statement that Mr. Williams believing that he was in conflict with his original field notes dated April, 1885 calling for runs from this west line to east 2400 varas feeling that he was in conflict that he drew back to the west to avoid that conflict and that he went farther north with the Surveys 49 and 50 to compensate in terms of area for the shrinkage in that east west connection. Would you say that is a fair conclusion?

R

DRAPER: I think so.

WILFORD: If you had a certificate to 1280 acres and you were surveying out two sections, one for the Railroad and one for the School and you had done what Lee did here, that is you set them in first in April, 1885 north south connections of 1504 east west connections 2400 and called for adjoiners and then shrank them back to 2116 and went to the north, is that exactly what you would have done, to satisfy that 1288 acres of difference? Is that a way to satisfy the 1288 certificate when you shorten this dimension, the east west dimension, to lengthen the north south dimension by 404 varas and he pushed 56 just farther to the north by that 404 varas. Now when Williams was putting in his east tier in block O W, was there any work for him to rely on for the positions of 203 1/2 and 142 and 143 other than the Durell original work in 1881 and 1883?

DRAPER: No.

WILFORD: Did Mr. Williams do a logical or illogical thing when he reached what he thought was the northwest corner of 203 1/2 during the course of the survey of No. 14, block O W, then turned to right angles at that point and running east 500 varas and think that he was on the west line of 142, is that a logical thing for him to think?

DRAPER: I don't know any basis. I don't know where he thought he could have been.

WILFORD: He had Durrell's work before him, that is what Durrell did, Durrell ran up 142 and turned west 500 varas and came south to 203 1/2.

DRAPER: You have to determine the north boundary of 2.

WILFORD: So when Lee got to what he thought was the north end of 2, block 203 1/2 and turned to the east 500 varas was the only thing for him to do if he wanted to stay on the adjoiner call. Is it your opinion that Lee later decided he would then conflict and pull back to the west, is that your conclusion, that he thought it would be conflict on the east for the seniors and he moved back to the, rather away from that conflict?

DRAPER: I don't know any other reason that he would.

coenter 48597

R

- GIBERSON: Let me interrupt you for just a minute, Mr. Wilford. If you have something to ask Mr. Draper about his work on the ground that is well and good, but to ask him what his opinion is on certain legal questions here about construction, I think we are just taking up time. I will ask you to confine your questions to actually what Mr. Draper found on the ground and his construction here of this purported vacant area, that is in accordance with Mr. Frost's application. As far as his conclusions about what someone else did, I don't think they would be of any value to the Commissioner in making his decision.
- WILFORD: I do not mean to be disrespectful, but I will have to ask the questions the way I think I should.
- GIBERSON: I have the right to overrule you on that so go ahead if you want.
- WILFORD: Mr. Draper, do you find anything from the data that you have examined or the field work you have done to indicate that the west line of block 142 and 143 at the time of the Williams work in block O W, was anything more than an unmarked line?
- DRAPER: No sir.
- WILFORD: Now what kind of terrain is that up in that country?
- DRAPER: Pretty flat along the bottom line, all the way down is pretty flat. A little bit of small brush, greasewood, mesquite, blackbrush, hard soil, alkali.
- WILFORD: Do you interpret the Williams corrected notes on 49 and 50 as leaving his west line as he originally placed it on 49 and 50?
- DRAPER: I do not think there would be any question on your moving the monumented west line.
- WILFORD: Do you think he stayed with it?
- DRAPER: Yes sir.
- WILFORD: And changed then with the drawing back of his ^{cough} (field) line to the position farther west?
- DRAPER: I think so.
- WILFORD: Tell us your experience Mr. Draper. You are a State Licensed Land Surveyor, are you not?

counter 48598

R

GIBERSON: I am going to object to that question. The Commissioner found him qualified when he appointed him as the surveyor.

WILFORD: I do not doubt his qualifications. Will you let me bring out a point?

GIBERSON: No sir, The Commissioner has appointed him and he has done the work. There will be a trial and you can bring out anything you want to.

WILFORD: I agree. I think he is well qualified and the applicant is well contented with his qualifications. I simply wanted the record to reflect it.

GIBERSON: I think it speaks for itself when the Commissioner makes the appointment of a man who has a license as a Licensed Land Surveyor, that he is qualified as a matter of law.

WILFORD: That is all.

GIBERSON: Mr. Draper, I want to ask you some questions? Do you know who employed you to do this work?

DRAPER: The General Land Office.

GIBERSON: Was that over a letter signed by Mr. Sadler?

DRAPER: Yes sir.

GIBERSON: When you came into this office, did you come in prior to this hearing for the purpose of instructions? You did come to this office asking for instructions pertaining to this survey didn't you?

DRAPER: Yes sir.

GIBERSON: I want you to tell us in your own words what took place in this discussion with the applicant and his attorney and Mr. Boyles in the motel room. Name the motel and tell me the time and what was the discussion as near as you can remember.

DRAPER: Mr. Wilford had called me prior to this conference some days ago and asked me to come down a day early so I could discuss this with him. We also had a pretty lengthy telephone conversation. I got in around noon yesterday and called Mr. Wilford at his hotel and they came by my room in the Austin Motel about 3:30.

counter 48599

R

- GIBERSON: Who came by?
- DRAPER: Mr. Wilford, Mr. Frost and Mr. Boyles. They talked with me an hour and a half or two hours.
- GIBERSON: What was the nature of your conversation?
- DRAPER: They asked me some questions pretty generally as Mr. Wilford has here about the Williams line as it is actually monumented on the road a mile west of the block line and if I found any corners in on the block line either set by Durrell or Williams. The conversation was of that nature.
- GIBERSON: Were all three of the men in on the discussion?
- DRAPER: Yes sir, they were present at all times.
- GIBERSON: This discussion was primarily on your work in the field? Your work and your findings?
- DRAPER: Yes sir.
- GIBERSON: Thank you, I have no further questions. Does anyone have any questions they would like to ask? Would anyone like to put on any witnesses? Does the proponent have a closing statement?
- WILFORD: I assume Mr. Giberson that this record will include the Land Office records and files pertaining to this problem without our specifying them at this hearing.
- GIBERSON: Yes sir, everything in the Land Office is in records.
- WILFORD: My closing statement will be this. We call particular attention to the original and corrected field notes by Mr. O. W. Williams of his surveys of the eastern tier in block O W No. 1 on the south and 56 on the east. We call particular attention to Mr. Durrell's earlier work of a few years ago in 142 and 143 on the east, block 115 just a little to the south of 142 and his survey Nos. 1 and 2 of block 203 1/2. In field notes which he filed the instructions there, particularly the call to run back to the east 500 which would put you on Durrell's west line on his blk. 142 and 143. Mr. Williams did not know and it shows quite clearly after two guesses that he did not know what he was talking about when he said he was on those west lines. It is very interesting to see that the State has patented a strip of

counter 48600

R

land some 975 varas wide which at the time Mr. Williams was at work in there was 500 varas wide, and was put in by Durrell in 1883. The State now patented that as being a strip 975 varas wide and they did it on Lee's works in 1929. Lee left Williams' south line of 14, which is a critical line, with 1618 varas which is exactly what Williams called for. Lee then turns north from the lower southeast corner of 14 and goes north 300 varas which Williams said he did in the corrected notes to reach the northwest corners of 82, block 802 1/2 all the way out to Mr. Williams. Then when he gets to 14 and 16 he surveyed those and his notes were used. I think Silliman redid some of his work on one of them, but Lee's construction and the State has kept them and patented them. Now instead of bringing 142 and 143 over to where Williams put them in, 2118 and 2116 whichever those two figures you use, they did the opposite. They took 14 and 16 out because Durrell thought that 142 and 143 had a west line which was merely an extension of the same north south line as the west line of 115. That very clearly appears, and it throws them off and if you will look at this land that is patented it will not appear from any map in this record, but it will from any other map in the Land Office, that the southwest corner of Survey 6 in block 142 which in the southwest survey in that block is to the east of the northwest corner of block 115. Now Durrell definitely had those in his mind as being on the same north south line because in putting in No. 2, block 203 1/2 he reached as he went north the northwest corner of 115, turned east a certain number of varas until he was on another survey, went north to the south line of 142. Then he went back west exactly the same number of varas he had been east, and called for the southwest corner of Section 6 in block 142, went north a call distance for the No. 2 of 203 1/2 and then west to stake a mound 500 varas. Now what happened to Mr. Williams was that he relied on Durrell and Durrell did not have 142 and 143 in proper relation to the west line of the survey of the blocks to the south. Now as I said a minute ago that strip instead of being 500 varas is 975 varas and it is interesting here that that is just the vacancy we have here approximately opposite at the east end of 49 and 50. That vacancy in there is in the order of 510.25 varas, is that correct Mr. Boyles? That vacancy is about 525 varas wide is it not?

BOYLES: Something in that order.

WILFORD: At the east end of those two surveys. I want to tell you what the Humble Case is and then I am through. It is the only case where this precise thing happened that Mr. Williams did here. In the Humble Case the man was surveying an I G N survey of 640 acres

counter 48601

as I recall, they were senior surveys to the south, to the east and to the north. He called to begin at the northwest corner of the senior survey to the south, and he called to run 1900 varas to the north and to be on the south line of a senior survey, I have the Goodrich in my mind and it may have been something else. Then he called to go east along that line and another adjacent senior survey a certain distance to the east and then to be at the northwest corner of the Senical Survey which is a senior survey, come south to 1900 and be at the southwest corner of that survey and on the north line of the survey which he used as the beginning back to the northwest corner of that senior survey to his place of beginning, and to contain 640 acres which would have satisfied that certificate. The Land Office rejected those field notes and shortly thereafter he resurveyed and he went north from the very same corner that he began with before something like 1595 or so many varas. Again he called to be at the south line of the senior survey to the north, just as Williams here when he went east a shorter distance called for the same adjoiner that he had previously called for. Then he went east and came south and he closed and he said he had within those calls 536 acres. Now the Railroad took a patent to them, they floated the certificate went to Webb County or somewhere and got the other 103 or 4 acres and so satisfied the certificate. Now the court said that it did not make any difference whether that senior line called for as adjoiner this reduced distance called for by his corrected notes. It did not make any difference whether it was a marked or unmarked line, but you could tell by looking at this thing the purpose of it. He shrank his survey down, reduced his acreage figure, the Railroad Company took it, went to Webb County and got the rest of it. Now in Williams case, Mr. Williams and again that in the Humble Case, he shrank it because he thought it was in conflict and he still was going to be adjoining that line. He thought he was on the line and he did it to avoid conflict, but he was wrong and they put that vacancy in there in this Humble State Case. Now Mr. Williams here if he had pulled back from his east line to 2116 varas east west call, say to the south line of 49, and had continued to run north 1504 as he did in his earlier April or original field notes and then had said I have 500, whatever that would multiply out 1504 by 2116, and then they had taken that and floated it and gone to another County you would have the exact case except in terms of names involved. Now instead of going to Webb County to get the acreage that they had left in that certificate he simply re-arranged 50 to the north which was surveyed under the same certificate for those School Funds

and re-arranged the handling of 56 to the north, shoved it up to compensate and to come out with the precise acreage. We know exactly what he did and as I said in my opening statement it is the case that rules this situation and puts that vacancy in there. Mr. Draper, if I may have your permission, have you prepared at my request field notes of a strip you would find to exist there between patented land if you gave effect to call course and distance for 49 and 50 and distinguished in effect and call adjoiner. Do you have those?

DRAPER: Yes sir.

WILFORD: Will you present them please. May we put them in evidence.

GIBERSON: Did you employ Mr. Draper to prepare these field notes?

WILFORD: I just asked him.

GIBERSON: Did you ask him pursuant to this vacancy to prepare those field notes?

WILFORD: I would not have the slightest way of answering that question what I did pursuant to anything. I did it in getting ready for this vacancy hearing.

GIBERSON: Mr. Draper, you are under oath, did Mr. Wilford employ you separately to prepare these field notes?

DRAPER: I would say that it would be separately in that it did not go in with the map and notes that I had presented to the Land Office.

GIBERSON: Are you going to bill him separately on this employment?

DRAPER: I was going to put it in with my other time, that is I had not discussed any separate billing.

GIBERSON: Had you discussed this with Mr. Sadler?

DRAPER: No sir.

GIBERSON: Thank you.

WILFORD: Mr. Draper, without respect to who pays for what and when, do you have a set of field notes which would show the unpatented and unsurveyed land to be east of 49 and 50 if you set those surveys up on a basis of course and distance as distinguished from the calls for adjoiner?

DRAPER: Yes sir.

WILFORD: Would you please present those. (Draper hands field notes to Mr. Giberson.) I mark them Frost Exhibit 2 and ask the Commissioner to consider them.

GIBERSON: We are filing these as evidence, not as field notes.

WILFORD: Mr. Draper, if the legal conclusion here is that adjoiner to call or give way to the distance calls for 49 and 50, then it is accurate to say that the vacancy which exists here is a composite of the field notes numbered 1 and 2 which you filed with your report using the adjoiner theory and this Frost Exhibit No. 1 which you just presented. It would be a composite of those three. Thank you.

GIBERSON: Does the opposition have a statement?

AKIN: I am Jack Akin from Mobil. I would like to briefly state that there is an abundance of authority in the law against the contentions made by Mr. Giberson that I do not feel compelled to relate to the Land Office because I am sure the legal question is meaning is involved here will be thoroughly appreciated.

GIBERSON: Do you purport to furnish us with some of that legal authority or are you just making that flat statement?

AKIN: If you care to, I will make the implications.

BULLOCK: I did not understand the counsel's statement as to what the abundance of authority contrary to the statement that was indicated having come to Mr. Giberson about the call to adjoiner.

AKIN: No instant contention that the Humble Case as mentioned by Mr. Giberson...

GIBERSON: Now you are getting your names mixed up.

AKIN: This is very embarrassing, I apologize.

BULLOCK: I am Maurice Bullock. In closing I wish to point out that the regular field notes of Mr. Williams as the records will show, which have specifically been introduced as calls for adjoiner and this line in Section 50, Survey 50. Since these 2116 varas face the mound, the west line of Survey 18, block 143 at this

counter 48604

northeast corner of Survey 49, this block at the southeast corner of the survey. Now then, the testimony indicates that that is an unmarked line along the west boundary line, and our opponents respectfully submit, as does counsel for Mobil, that the Humble Case does not control and that a fair statement of the matter is contained in Volume 9, Texas Jurisprudence 2nd, page 520, section 32, I quote "the settled rule may now be considered to be that a call for an unmarked line will control course and distance cause, but the location of the line can be determined accurately from identified corners of adjacent surveys, the line in such case possessing the dignity of an artificial object", and citing the case of Maddox and others against Fenner which has been mentioned previously, which is reported in 15 S W 2nd, page 237 which is the old leading Supreme Court Case and numerous other cases since then. The situation as to the unmarked prairie line being somewhat different to the monumented line where you can prove that the surveyor did not get to it. We do not have that situation, it is respectfully submitted here and that therefore not only is there no vacancy as to the east part of surveys 49 and 50 where they would connect, but that there should properly be adjoiner all the way up and down since the other O W Williams field notes all call for adjoiners to the west boundary line of blocks 142 and 143.

- GIBERSON: If you are going to argue with this position I am not interested, but if you have something else you would like to say, I will be glad to listen.
- WILFORD: The applicant would like to know if he might file a short brief.
- GIBERSON: We will allow 30 days to file briefs if you would like to. Anyone can file, the proponents the opponents or any interested party. We will withhold this from the Commissioner's consideration for at least 30 days giving everybody ample opportunity to file any brief they would like. If everyone has been heard, then this will conclude the vacancy hearing. Thank you.

File No. 157
Pecos County
Roller Sketch
Filed 3/28 1963
JERRY SADLER, Com'r
By J. E. H. H. H.

Transcript of Hearing
re: SF.16116

counter 48606

CIBERSON:

glad to listen.
but if you have something else you would like to say, I will be
If you are going to argue with this position I am not interested.

WILFORD:

GIBBERSON:

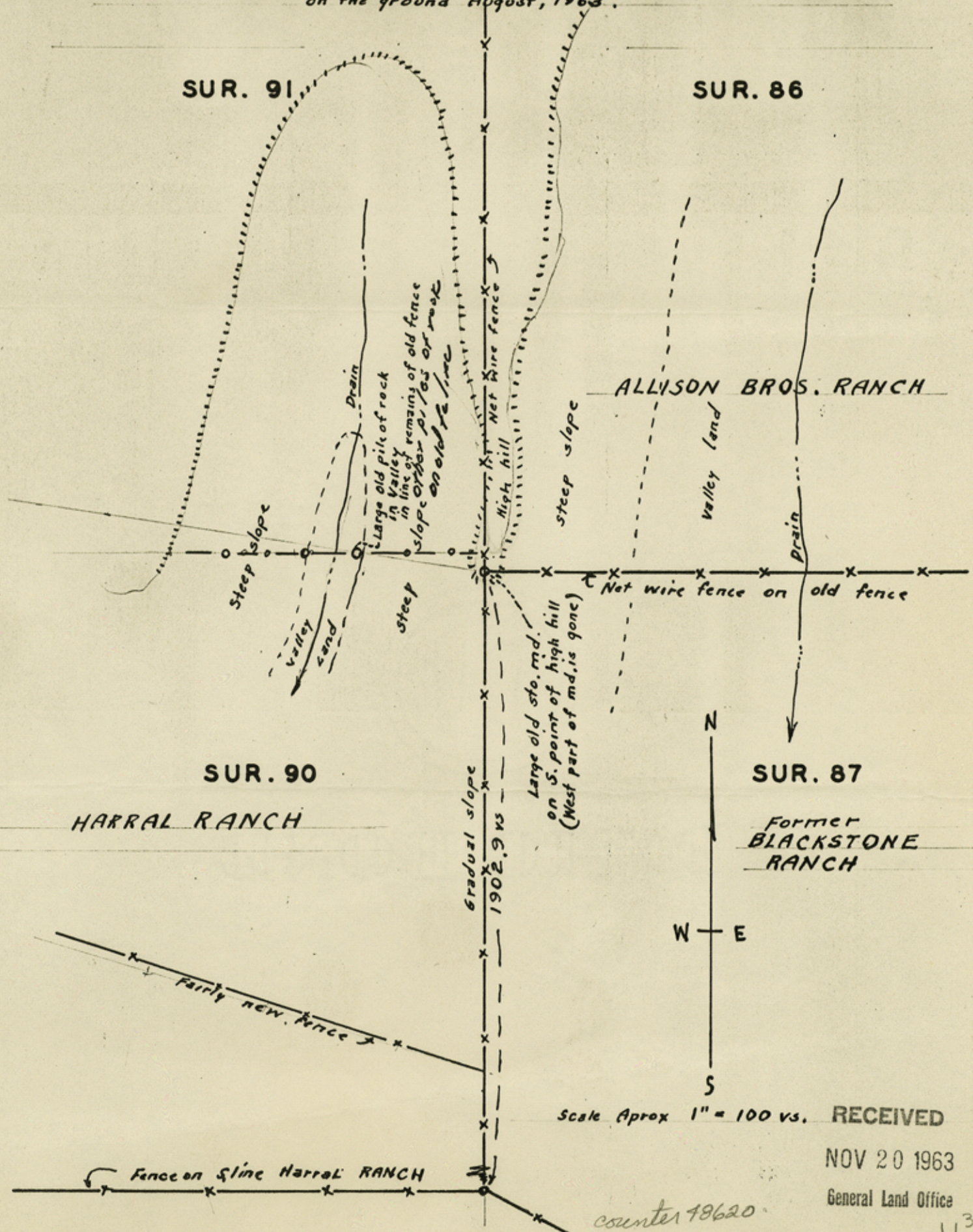
Thank you.

been heard, then this will conclude the vacancy hearing.

one can file, the proponents the opponents or any interested We will allow 30 days to file prefile if you would like to. Any-

SKETCH SHOWING - LOCATION OF S.W. CORNER OF SUR. NO. 86, BLK. A-2, T.C.R.R. CO. PECOS CO., TEX.

Sketch from the field work of H.L. George, Licensed State Land Surveyor.
on the ground August, 1963.



RECEIVED

NOV 20 1963

General Land Office

counter 19620

SIMPSON, NG, PRATT *and* ASSOCIATES
ENGINEERS - SURVEYORS
PETROLEUM CENTER
SAN ANTONIO 9, TEXAS

RECEIVED
NOV 12 1963
General Land Office

BYRON L. SIMPSON, P. E.
KUNG M. NG, P. E.
GILBERT A. PRATT, P. E.

6
REGISTERED PROFESSIONAL ENGINEERS
LICENSED STATE LAND SURVEYORS
REGISTERED PUBLIC SURVEYORS

November 11, 1963

Commissioner
General Land Office
Austin, Texas

Dear Sir:

Relative to the proper construction of Block A-2, T. C. Ry. Co., Pecos County, Texas, and other adjoining Blocks, I wish to take this opportunity to express my opinion.

From investigation of my files, which includes those of my father, J. A. Simpson, I find a vast amount of information concerning this area. In 1926, 1929 and 1936 my father did extensive surveying in this area and prepared three different maps. Mr. H. C. Barton made the original survey of this Block in 1881 and at several corners called for stone mounds with bearings and at several others called only for stone mounds or pebble mounds. It is the corners without bearings which have been controversial through the years. The maps prepared by my father in 1926 and 1929 reflect that he found numerous stone mounds which he thought possibly could be Barton corners. However, this construction was rejected by the General Land Office and a construction approved whereby only corners with bearings would be accepted. By way of explanation I wish to point out that there has been many surveyors in this area since the 1881 survey of H. C. Barton, and usually there are several stone mounds at every corner. If no bearings were called for there would be no way for a surveyor to tell one from the other. We know that R. S. Dod, A. N. Lea, J. J. Goodfellow, J. A. Simpson, H. L. George, J. B. Zant, Jack Silliman, Roscoe Simpson, C. C. Cook, myself and many others have done surveying in this area. Undoubtedly most of them left stone mounds at the different corners and to tell one from the other without bearings or other marks is nearly an impossible task. In fact, Mr. J. J. Goodfellow testified in one boundary suit that he found so many stone mounds that it was impossible to determine which had been set by the original surveyor. Another instance can be found from map and report recently filed by H. L. George. He reports that he found the original southwest corner of Section 86, Block A-2 (old stone mound on a high hill at a fence corner) and in his report describes the corner in detail. I submit that Mr. George did not find an original corner but found a stone mound set by A. N. Lea in 1928. If you will examine the map filed in the

counter 48621

VI

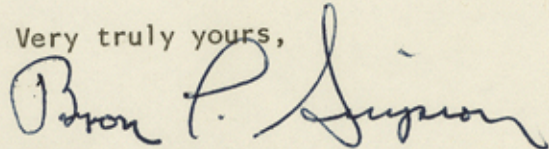
General Land Office
November 11, 1963
Page No. 2

General Land Office on July 20, 1928 by Mr. Lea I feel that you will agree. In fact Mr. Lea states that he set this corner. As to the question of occupation I wish to report that the entire west line of Block A-2 is fenced along a line, within a few varas as that reflected by the J. A. Simpson 1936 map.

I wish to point out that down through the years the various Land Commissioners have approved the map and work as shown on the J. A. Simpson 1936 map and many patents have been issued, based on this construction. Any change of policy at this time would cause chaos and confusion and possibly result in future litigation.

My brother, Roscoe Simpson, has recently filed in your office corrected field notes on Sections 66, 76, 78 and 88 Block A-2, Surveys 10 and 12 Block T and the N/2 of Survey 4, Block 162 $\frac{1}{2}$, for the purpose of obtaining patents. The field notes are in conformity with the J. A. Simpson 1936 map although they do not call for any natural or artificial monuments on the ground, whereby the calls for adjoiner would control. I respectfully request that the field notes be approved and patents issued.

Very truly yours,



Byron L. Simpson

BLS:cab

counter 18622 v²

December 4, 1963

Mr. Byron L. Simpson
Simpson, NG, Pratt and Associates
Petroleum Center
San Antonio 9, Texas

Re: H. C. Barton corners in
T.C.R.R.Co., Blk. A-2,
Pecos County, Texas

Dear Mr. Simpson:

In further reference to the questions concerning the location of the original H. C. Barton corner at the S. W. corner of Sec. 86 in the captioned block, this office has received a communication from Mr. H. L. George who elaborates at length as to the authenticity of the corner accepted in his survey.

In your letter to this office dated November 11, 1963, you state that the S. W. corner of the said Sec. 86 was placed there by Mr. A. N. Lea in 1928. In this connection we are enclosing herewith a copy of Mr. Lea's 1928 map, and you will note that he shows to have set such a corner; however, this corner would appear to have been set in proper relation to the Barton corners he has found and also on the high hill as called for by Barton.

In view of the map by Mr. Lea and the information submitted by you and Mr. George, the evidence seems to indicate that the S. W. corner of Sec. 86 as located by Mr. George in September, 1963 called an old stone mound on a high hill at fence corner, is the original or a replacement of the original Barton corner for the S.W. corner of said Sec. 86.

This office has been advised by the attorneys representing the land owners to the North and East of this Sec. 86 that their clients recognize and accept the fence corner at

Mr. Byron L. Simpson

- 2 -

December 4, 1963

the S.W. corner of Sec. 86 as being the corner of their property and will accept patents to their holdings based upon the corrected field notes of Mr. H. L. George.

If we did not already have the construction for Blocks A-2 and B-2, T.C.R.R.Co. surveys, as set up in the J. A. Simpson map J.A.S., it then of course would not be a problem as the original surveyors' footsteps are claimed to have been followed. Now that some of the surveys have been patented on the J.A.S. construction and others contemplated, it is altogether essential that a solution to this problem embody the elements of the theory of construction in the J.A.S. map together with the pattern of surveys indicated by the now claimed Barton corners.

Your further comments or suggestions are welcome.

Yours very truly,

JS:ves

JERRY SADLER, COMMISSIONER

Encl.

A3

counter 18629 V4

HUGH L. GEORGE

OFFICE PHONE 655-5112

503 SOUTH WASHINGTON ST.

SAN ANGELO, TEXAS

September 10, 1963

Credit \$ 4.95

Acct. # 496

RECEIVED

SEP 13 1963

General Land Office

Mr. Jerry Sadler, Commissioner
General Land Office
Austin, Texas

Dear Mr. Sadler:

The following is a report of surveys that I have recently made in Pecos County, in Block C-4, G.C. & S.F. Ry. Co.; Block C-3, E.L. & R.R. Ry. Co.; and Block A-2, T. C. Ry. Co.

These Blocks were originally surveyed by H. C. Barton, from May until November, 1881. Not many corners were set, and they were rather widely separated. For that reason, it was necessary for me to do considerable field work in order to locate all the corners that would control the several Surveys on which I have prepared corrected field notes for patent. I have prepared corrected field notes of the following Surveys in Block A-2, T. C. Ry. Co., 62, 68, 70, 72, 74, 80, 82, 84 and 86. I have also prepared corrected field notes of Survey No. 20, Block C-3, E.L. & R.R. Ry. Co. These Surveys are owned by Mr. Lea T. Allison, but the mineral estate is divided and the patents will probably have to be issued in several different names. Mr. Truett D. Smith, of the law firm of Snodgrass, Smith, Rose & Finley, will be handling this matter.

The field notes have been delivered to Mr. Smith, and you will be hearing from him in the very near future. For the present, I am sending you a print of the map showing these Surveys, but in a few days, I will send you a duplicate tracing. The reason for this is, I will probably prepare some more field notes for Mr. Charles Cannon who also owns lands in that area, and if this is done, my map will also include the Cannon lands.

I began my survey at the Northeast corner of Survey No. 4, Block C-4, G.C. & S.F. Ry. Co. This corner is also the Southwest corner of Survey No. 25, Block 178, T.C. Ry. Co., and the Southeast corner of Block Z, T.C. Ry. Co. This is one of the corners that was adjudicated in the Yates Oil Field Suits, known as the Perry Hill corner. From there, I ran East and Southeast, tying in the Barton corners. All of these are shown on the map by three circles. I then ran Westward and Southwestward, and tied in many of the original Barton corners. They are shown in the same manner by three circles. Nearly all of the Barton corners were recovered.

counter 48625

5

Mr. Jerry Sadler

September 10, 1963

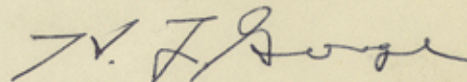
Page - 2 -

You will note that the corners along the North lines of Surveys 56, 61, 62, 68 and 73, in Block A-2 are farther East than the corners in Block C-3 and C-4. This probably came about by reason of the rough terrain that Barton had to traverse between the Northeast corner of Survey No. 5, in Block C-4 and the Northeast corner of Survey No. 9, in Block C-3. There is considerable excess between these two points. When Barton ran West, he followed a very flat valley, and you will note that his distances are almost field note call.

There is a shortage East and West between the Northeast corner of Survey No. 80, and the Southwest corner of Survey No. 86, in Block A-2. Unquestionably, Barton made some errors between these two corners. He calls for the Southwest corner of Survey 86 to be a stone mound on top of a high hill. This stone mound is still there, and is located on top of a high hill. From this corner, I ran West a sufficient distance to satisfy the field note call of 3800 varas, for the 2 miles. This point fell in the valley, and definitely proves that this corner could not have been located at that point.

I believe the map and field notes are self-explanatory, but if there is any question about any part of the survey, please let me know, and I will give any further explanation that you need.

Very truly yours,



Hugh L. George
Licensed State Land Surveyor

RECEIVED

SEP 13 1963

General Land Office

counter 48624

2522

HUGH L. GEORGE

OFFICE PHONE 655-5112
503 SOUTH WASHINGTON ST.

SAN ANGELO, TEXAS

September 26, 1963

Mr. Jerry Sadler, Commissioner
General Land Office
Austin, Texas

Dear Mr. Sadler:

Some time ago I secured from your office a photostatic copy of the rolled sketch in Pecos County with File No. JAS-1. I have gone over this sketch thoroughly and in my opinion it is completely inadequate to locate Blocks C4, C3 and A2. I notice on this map that only six original corners are shown whereas I have recovered nineteen original corners. As a matter of fact, in the entire area I failed to locate only two of Barton's corners, one being at the southwest corner of Survey No. 85 and the other being at the southeast corner of Survey No. 43 -- both in Block A2. In my way of thinking, this is a rather remarkable recovery.

You will note that the Barton corners that I have identified are scattered throughout the three blocks and give adequate control for the location of all of the surveys. The Simpson map could not possibly locate the surveys in the manner in which Barton located them.

It is still the rule, and I am sure always will be, that a present-day surveyor must follow the footsteps of the original surveyor. That is exactly what I have done in this area.

Very truly yours,

Hugh L. George

Hugh L. George

HLG:dr

RECEIVED
SEP 27 1963
General Land Office

counter 48627

Credit \$ 3.49
Acct. # 496

D-526
H. L. GEORGE ✓

OFFICE PHONE 5112

ROOM 207 "CENTRAL-NATIONAL" BANK BLDG.
503 South Washington Street
SAN ANGELO, TEXAS

September 27, 1963

8
RECEIVED

SEP 30 1963

General Land Office

Mr. Jerry Sadler, Commissioner
General Land Office
Austin, Texas

Dear Mr. Sadler:

This letter is with further reference to the survey I have recently made in Pecos County, Texas, in Block C4, G.C. & S.F. Railroad Company, Block C3, E.L. & R.R. Railroad Company and Block A2, T.C. Railroad Company.

I am in receipt of a composite map of surveys by J. A. Simpson and C. C. Cool, which has been put together by Vic Sterzing and sent to Mr. Truett Smith, attorney for the people that I represent. It appears from this map that J. A. Simpson found some of the original Barton corners in the three blocks mentioned above. In Block C3, he appears to have found the original northeast corner of Survey #9, the northeast corner of Survey #8, the northeast corner of Survey #5 and the southeast corner of Survey #1, all in Block C3. He also appears to have found the original Barton corners located at the northeast corner of Survey #56 and the northeast corner of Survey #61, both in Block A2. I make these statements because the distances as shown between these corners are substantially the same distances that I show. For instance, the distance along the north line of Survey #56, Block A2, is 1911.2 varas, whereas I find 1911.8 varas. West of the northwest corner of Survey #56, however, there are four other original Barton corners. Why these were not found and used is not explained on his map or in his report. Simpson did not find the southeast corner of Survey #42, the southeast corner of Survey #41, the northeast corner of Survey #40 and the southwest corner of Survey #39, all in Block A2. Neither did he find the southwest corner of Survey #86, also in Block A2. These corners are as important as any of the others and also can be identified as original corners as well as the others.

Simpson does not locate his lines on the Barton course and for that reason there is considerable difference in some of the lines of the surveys.

As I stated in my letter to you yesterday, a surveyor who makes a resurvey must follow the footsteps of the original surveyor. The first thing that the resurveyor must do is establish the course of the original surveyor. Otherwise, he cannot follow the original lines. There are very few original surveys in West Texas that were run on true course.

3

counter 48628

W'

But whatever course the original locator used, this course must be followed in the resurvey.

In the 5th Annual Texas Surveyors Short Course, I gave a paper titled "THE IDENTIFICATION OF ORIGINAL SURVEY CORNERS IN WEST TEXAS." This paper is carried in the report of that short course from Pages 44 to 50 inclusive. I wish you would read this paper so that you may better understand how identifications are made of original corners.

I testified in most of the cases in the Yates Field and I know that there was never any question about the original corners in Blocks C4, C3 and A2. There were many maps introduced in these cases and much surveying testimony about these corners. If there is any doubt in your mind, go to the supreme court records and look at the maps in some of these cases -- namely, Turner vs. Lee, the California Case, the Stanolind Cases and the Whiteside Case.

The construction placed on this area by C. C. Cool is not a proper one. I note on this map this sentence "ALL COURSES ARE BASED ON TEXAS PLANE COORDINATE SYSTEM SOUTH CENTRAL TEXAS." The Texas Coordinate System is not a law. It is merely a suggested practice for coordinating corners on the Lambert System. It is a good reference system for a surveyor's files but not useable in reconstructing original surveys. The man who designed the system had not even been born when Barton surveyed these blocks so how could his system possibly enter in any way in the construction of these surveys at this time?

C. C. Cool shows his north and south lines to run $N 1^{\circ} 36' E$ and $S 1^{\circ} 36' W$ instead of north and south. Do you realize in calculating these courses that this difference in calculations is 53 varas to the mile in an east and west direction. This tends to distort all the surveys inasmuch as it isn't following the Barton courses.

You will note that all the courses that I show between the Barton corners are very close to north and south and east and west except when I come south from the northern corners to the southern corners. This is explained in my first report and is something that happens frequently. If you will compute from the northeast corner of Survey #56 to the northwest corner of Survey #73 in Block A2, you will find that the northwest corner of 73 is only 6.05 varas north of the northeast corner of Survey #56. This definitely proves that I am following Barton's course. I would like to make this further comparison . . . the course from the southeast corner of Survey #42 to the southwest corner of Survey #86, both in Block A2, is $S 89^{\circ} 55' 16'' W$. This is only 4' and 44" off course. If I had not been following Barton's course, then I would not have been able to establish this result.

3 There is another feature that I want to call to your attention. The southwest corner of Survey #86 in Block A2 is the southwest corner of this ranch. For many years there has been a fence along the west line of the ranch and along the south line of the ranch. This fence is located exactly

counter 48629

W²

along these lines according to my survey. There is another reason why the southwest corner of the survey is so definite. Barton says it is a stone mound on a high hill. That is exactly where it is located. If you move west, you are not on the high hill. If you move east you are not on the high hill.

Now I come to the place which I think concerns the free public school land. Because of the distortion of courses, both by Simpson and by Cool, the free public school land will lose many acres of land. I could show this by giving examples throughout the area but for expediency, I will give you only a few which are representative. As stated, I feel sure that Simpson and Cool located the original northwest corner of Survey #4 and the original southeast corner of Survey #1 in Block C3. Their average distances for the north lines for these two surveys are approximately the same as I get. They show for the east line of Survey #1 an approximate distance of 1919 varas whereas my distance, based on the Barton course, is 1950.27 varas. The acreage for this survey according to an average of Simpson and Cool would be 644 acres as compared to my acreage of 649 acres. Now to move farther south, the acreage in Survey #63, according to Simpson and Cool, would be 662 acres as compared to 670 acres by my survey. This difference holds throughout the southern and western parts of the area. The great difference will be in Block 178, T. C. Railroad Company. I will give you two comparisons. Survey #12 in Block 178, according to the Simpson-Cool construction, would contain 654 acres whereas my construction would show 683 acres -- a loss to the school fund of 29 acres. Survey #10 in Block 178, according to the Simpson-Cool construction, would contain 647 acres whereas my construction shows 683 acres -- a loss to the school fund of 36 acres. I don't believe the free public school fund of Texas is entitled to sustain such loss.

I have been placed in a most embarrassing position. I have compiled Barton's original field notes. I have gone to the field and made a very careful survey. I have identified 95% of the Barton corners and I have made a construction of the surveys in the area based on methods that have always been used and which have been sustained by many decisions of the supreme court. This survey has cost my clients considerable money because it represents a rather large area of rough, brushy country. Now for the Land Office to say that they hesitate to accept my field notes because of other maps that have been submitted in error was most embarrassing.

My clients are in this position. The amount of acreage in the field notes to be patented is not important inasmuch as they are merely exchanging land and they have agreed with the other parties that all land will be patented so that the parties with which they are making the exchange may secure a loan.

3

counter 48630

221 X2 NLR 20 2008

W³

Mr. Jerry Sadler - Page 4
September 27, 1963

921 32 11 27 2055
I think the Land Office has a right to make new findings in view of new and positive evidence. It is certainly not good policy to correct an old mistake by making another one. If you won't patent these sections according to my field notes, which I know are correct, then will you be kind enough to patent them on the original field notes so that my clients can complete their transaction.

Very truly yours,

Hugh L. George

Hugh L. George

HLG:dr

3

counter 48631

W⁴