

"THE TEXAS AND PACIFIC RAILWAY COMPANY RESERVATION AND LAND GRANT"

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Mr. Uran and Members of the Texas Surveyors Association:

IT IS indeed a pleasure to address your association on this particular topic. The Texas and Pacific Railway Company Reservation spans the entire state from Bowie County on the east to El Paso County on the west, while its land grant, which was the largest made by Texas to a single individual or private corporation, comprises more than five million acres of land located in sixty counties. Not only does the Texas and Pacific Railway Company Reservation and Land Grant represent an obscure but highly important chapter in the history of our state, but is a subject which I believe will be of particular *interest to each of you*, for the surveyor played an instrumental role in its development.

Ever since the American Colonies were first settled, there was a persistent effort to discover a direct passage across the North American Continent. When the scheme for the construction of a transcontinental railroad was first proposed by Asa Whitney in January, 1845, all routes south of the Forty-second Parallel were automatically eliminated, since they would have to traverse and terminate on Mexican soil. After the annexation of Texas and the acquisition of the Mexican Concessions, the picture changed radically. The discovery of gold in California, and the resulting frantic westward migration, convinced the entire nation that railway communication with the West Coast was essential. The army explorations under Major William H. Emory(1) and Captain Randolph M. Marcy(2) disclosed that the Southern Route near the Thirty-second Parallel presented few obstacles to the construction of a transcontinental railroad. However, it was also obvious that such a vast and expensive project could not be built without federal aid. The prospects of building a transcontinental railroad constituted a subject for animated discussion in the halls of the National Congress in 1850.

Prior to the Civil War, nearly all of Texas' population was concentrated along the Gulf Coast, or in the navigable portions of the Brazos, Trinity, Neches, Sabine and Red River valleys. The Texas Legislature was keenly aware that a faster and more efficient system of communication was necessary to secure the settlement and development of the state's vast uninhabited arid regions. Since Texas had retained title to all of its Public Domain upon entering the Union, it was in a unique position to offer liberal land grants to encourage the construction of railroads.

On February 9, 1850, a resolution (3) was passed by the Texas Legislature, which provided that if the United States would adopt the Southern Route for the construction of a national transcontinental railroad by March 4, 1851, it would give the Federal Government a right-of-way through Texas, plus ten sections of 640 acres each for every mile of track constructed. The

right-of-way was to be 200 feet wide, and the land grant was to be located in alternate sections within 10 miles of each side of such right-of-way. Due to the intense rivalry among the major cities along the Mississippi over the location of the eastern terminus of the line, this offer was not accepted.

In an effort to settle the controversy over the location of the route followed by the transcontinental railroad, Congress appropriated \$150,000.00 on March 2, 1853(4), for the surveying of the five proposed routes. In due time the Army's Corps of Topographical Engineers reported(5) that there were four feasible routes. Since all routes except the Southern Route along the Thirty second Parallel crossed unorganized Indian territory, the Southern Route was favored by the Secretary of War, Jefferson Davis, in his report to Congress in February, 1855(6). Its natural advantages of having the only year-round, snow-free pass through the Continental Divide, together with its low elevation and shorter length, made it particularly attractive from a cost standpoint.

Meanwhile, the controversy over which route the transcontinental railroad should follow had become even further complicated by the injection of serious sectional and constitutional questions into the National Congressional arguments. The failure of the United States to provide prompt encouragement for the construction of a railroad to the Pacific was extremely disappointing to Texas. The Texas Legislature was, therefore, very receptive to private railroad proposals. During 1852 and 1853 it incorporated five separate and distinct Pacific Railroads(7): Texas and Louisiana Railroad Company; Vicksburg and El Paso Railroad Company; Texas Western Railroad Company; New Orleans, Texas and Pacific Railway Company; and Memphis and El Paso and Pacific Railroad Company. Each of these companies was entitled to a donation of eight sections of land of 640 acres each for every mile of road constructed.

Month after month passed, and none of the Pacific Railroads had shown that they had the finances, or even the intention, to build the desired transcontinental railroad. Finally, the Texas Legislature decided a more liberal plan was necessary in order to entice the speedy construction of a railroad across the state. On December 21, 1853(8), an Act was passed, offering a larger land donation and creating a vast land reservation within which only such donated lands could be located to any acceptable individual or company which would agree to construct a first class railroad from:

. . . some point on the eastern boundary of the State of Texas not north of the Town of Fulton, in the State of Arkansas, to a suitable point on the Rio Grande, at or near the Town of El Paso . . . provided, that said road shall cross the rivers Trinity, Brazos, and Colorado as near the 32nd degree of north latitude as practicable.

The enterprise created by the Act was declared to be a body politic, and a corporation for a term of ninety-nine years under the name and style of "Mississippi & Pacific Railroad Company." The company was granted the right to form connections with other companies for the purpose of:

effecting the desirable and national object of construction a continuous and national railway from the Mississippi River to the Pacific Ocean.

The company was to receive a right-of-way not to exceed three hundred feet in width along its entire length through the Public Domain, the privilege

of utilizing all earth, stone, timber and other material located upon the public land within the vicinity of the line, the right of eminent domain, and a bonus of twenty sections of land of 640 acres each for every mile of road constructed and placed in operation. All vacant and unappropriated public land located east of the 103rd meridian between the 31st and 33rd Parallels, together with all of the Public Domain lying west of the 103rd meridian between the Parallels of 30° 30' and 32° north latitude were to be reserved by the state until the route of the road had been located. Once the company located its right-of-way, all vacant and unappropriated public land located within thirty miles of the right-of-way was to be reserved from location until it was surveyed by the Company into square sections of 640 acres each. Upon completion of fifty miles of track, the company was authorized to select and receive patents to twenty alternate sections for each mile of completed line. The Act required the contractor to deposit at least Three Hundred Thousand Dollars (\$300,000.00) in gold or silver, evidences of debt of the State of Texas, or other good par stock, as a guarantee that the company would build at least fifty miles of acceptable lines within eighteen months from the date of the contract.

A group of speculators, who had previously received a New York Charter to build a transcontinental railroad under the name and style of the "Atlantic and Pacific Railroad Company," applied for the concession, but failed to make the necessary deposit. Since no other acceptable applications were submitted, the Mississippi & Pacific Railroad Company and its reservation lapsed on January 1, 1857 (9).

The Act of December 21, 1853, is of particular importance to the study, because it prevented the appropriation of the lands located within the vast Mississippi & Pacific Railroad Company Reservation by settlers during a period when northeast and north central Texas were rapidly growing and developing. In the meantime, the Memphis and El Paso and Pacific Railroad Company was re-chartered under the name and style of the "Memphis, El Paso and Pacific Railroad Company" by an Act dated February 4, 1856 (10). The new company was authorized to construct a railway from a point on the eastern boundary of the state between the Salt Fork of the Red River and the Red River to a point on the Rio Grande River opposite or near El Paso. The Act contained detailed provisions governing commencement and diligent prosecution of construction of the line and surveying of the reservation. The fifteenth section of the Act provided:

That all land within eight miles on each side of the extension line of said road, shall be exempt from location or entry from and after the time such line shall be designated by survey, recognition or otherwise. The lands hereby reserved shall be surveyed by the company . . . and the alternate or even sections reserved for the use of the State . . .

The Act granted the company sixteen sections of 640 acres of land each for every mile of road constructed and placed in running order. The company could receive eight certificates for 640 acres each per mile upon the grading of a minimum of five miles of roadbed. Subsequently, on March 20, 1861, the Legislature passed an Act (11), over the Governor's veto, which permitted the Memphis, El Paso and Pacific Railroad Company and all other railroad companies to receive ten certificates per mile, instead of eight,

for each five-mile segment of line which was graded and ready for super-structure.

In order to protect its reservation, the Memphis, El Paso and Pacific Railroad Company formally designated the location of the center line of its route and reservation across the entire breadth of the state. The center line was described as:

COMMENCING at the U. S. Mound No. 97 on the boundary line between the State of Texas and Arkansas;

THENCE in a straight line N 79° W to a point at which the North line of the land entered in the name of Wm. Young crosses the boundary line between the Counties of Bowie and Red River;

THENCE in a straight line N 77½° W to a point on the boundary line between the Counties of Red River and Lamar, 8300 varas North of the point at which the North line of the land entered in the name of John Pew crosses the boundary line between the Counties of Red River and Lamar;

THENCE in a straight line S 86¾° W to the Southeast corner of a survey made in the name of Claiborne Chisum, Assignee of Asa German;

THENCE S 75¾° W to the point at which the Southern line of the survey made in the name of Mary Johnson crosses the boundary line between the Counties of Lamar and Fannin;

THENCE in a straight line S 66¾° W to the Southeast corner of Grayson County on the West boundary line of Fannin County;

THENCE in a straight line S 67° W to a point on the boundary line between Collin and Denton Counties, 2 miles South of the Northwest corner of Collin County School Land Survey 12;

THENCE S 67° W, crossing the Denton and Wise County boundary line, at a point due West of the Southwest corner of a survey made in the name of Jackson Chester, to a point on the boundary line between the Counties of Wise and Parker, 5540 varas due West of the Northwest corner of the County of Tarrant;

THENCE in a straight line S 63° W to a point on the boundary line between the Counties of Parker and Palo Pinto at which the North line of the survey made in the name of R. Starr crosses the boundary line of said Counties;

THENCE in a straight line S 64° W to the Brazos River at a point where the South line of a survey of land made in the name of D. Mahoney touches said river;

THENCE in a straight line S 84° W to a point on the boundary line between the Milam and Bexar Land Districts due East of the Southeast corner of Survey 4 made in the name of Jas. H. Caruthers;

THENCE in a straight line S 77° W to a point 8 miles South of the Southeast corner of New Mexico;

THENCE due West to the Pecos River;

THENCE in a straight line due West to a point on the Rio Grande River 8 miles due South of the 32nd degree parallel of North Latitude.

All of the lands located on each side and within eight miles of said center line constituted the Memphis, El Paso and Pacific Railroad Company Reservation. A map and written designation were filed in each of the Land Districts through which the route passed. A copy of the map and designations were also filed in the General and Office on June 20, 1857 (12). The Supreme Court of Texas(13) has recognized the sufficiency of the description contained in such map and designation and held that the Act did not require the actual surveying and monumenting of the boundaries on the ground in order to set the lands embraced therein aside as a reservation.

By March 1, 1860, the company had surveyed, sectionized and numbered all the sections and fractional sections of vacant land located within the reservation from the east boundary of the state to the crossing of the Brazos and Colorado Rivers. The company had also graded more than fifty miles of roadbed west of Texarkana before the Civil War halted further operations (14). The company received 360 certificates for having graded forty-five miles of roadbed west of the state line on December 4, 1860. Fifty additional certificates were received by the company in December, 1861, for five miles of graded roadbed on its Jefferson branch line. Although the Memphis, El Paso and Pacific Railroad Company had received and could locate these certificates covering a total of 262,400 acres of land, title to such land would not, according to its charter, vest in the company until track had been laid upon the roadbed for which the certificates had been issued.

Since the Civil War had caused unforeseen delays and hardships which tended to jeopardize the charters and grants of many Texas railway companies, the Texas Legislature passed a relief Act on November 13, 1866 (16) which extended the restrictions and limitations imposed upon most railroads for a period of ten years. Shortly after the passage of this Act, interest in the Memphis, El Paso and Pacific Railroad Company and its immense reservation and land grant picked up.

In 1867 and 1868 the company issued ten million dollars worth of bonds, secured by mortgages on the land it would be entitled to receive for building the first three hundred miles of the road. Approximately five and one-third million dollars worth of these bonds were sold in France, where it was not readily apparent that the company had not acquired marketable title to the lands embraced within its reservation. Only a small fraction of the funds raised in France were used in the construction and equipping of the Memphis, El Paso and Pacific Railroad Company.

The French Bond Scandal, together with the purported termination of the company's reservations under the Ordinance of August 29, 1868 (18) and the fifth section of Article X of the Constitution of 1869 (19), completely destroyed public confidence in the Memphis, El Paso and Pacific Railroad Company. The Ordinance of 1868 allowed the heads of families who had settled upon vacant lands lying within the Memphis, El Paso and Pacific Railroad Company Reservation the right to acquire the 80-acre tract

upon which they resided. The fifth section of Article X of the Constitution of 1869 provided:

All public lands heretofore reserved for the benefit of railroads or railway companies shall hereafter be subject to location and survey by any genuine land certificates.

The company was placed in receivership by its creditors on July 6, 1870 (20). In a bold effort to save the bondholders' investment, the Receiver, John A. C. Gray, filed suit in 1871 to restrain Governor Edmund J. Davis and Jacob Kenchler, Commissioner of the General Land Office of the State of Texas, from interfering with or infringing upon the company's land reservation and grant. The United States Supreme Court (21) found that the company had timely performed all of the conditions prescribed by the Act of February 4, 1856, except those rendered impossible by Texas entering the Civil War. The court concluded by holding that the provisions of the Ordinance of August 29, 1868, and Constitution of 1869, insofar as they attempted to abridge the Memphis, El Paso and Pacific Railroad Company's land reservation and grant, were null and void, because they were contrary to Section 10 of Article I of the United States Constitution, which prohibits any state from passing an Act which would impair the obligation of a contract. The Governor and Commissioner of the General Land Office were enjoined from issuing patents on any odd numbered sections within the reservation to anyone other than the Memphis, El Paso and Pacific Railroad Company, or its assigns.

The land grant mortgages were foreclosed in May, 1872, and all of the property and franchises of the Memphis, El Paso and Pacific Railroad Company were conveyed to Enoch L. Fancher, who executed a Declaration of Trust to the effect that he held title to such property in his name for the benefit of the French bondholders. Fancher acquired the company's charter, fifty-five miles of graded roadbed, about six miles of completed line, one locomotive, and 284 unlocated land certificates (22).

The failure of the Memphis, El Paso and Pacific Railroad led its leading and principal stockholders to form the Southern Transcontinental Railway Company on July 27, 1870. Of course, the assets of the Memphis, El Paso and Pacific Railroad Company were still being held and operated by its Receiver and Trustee. The Act (23) incorporating this company authorized it to construct a first class railroad from Texarkana to El Paso, following as closely as possible the route of the Memphis, El Paso and Pacific Railroad survey, and a branch line from Texarkana to Jefferson. Since the Constitution of 1869 prohibited further land grants, the only land donations given the company were a two hundred-foot wide right-of-way through the Public Domain and small tracts of public land, not to exceed forty acres, for station sites and other necessary railroad facilities. The Southern Transcontinental Railway Company was also authorized to purchase the property and franchises of the Memphis, El Paso and Pacific Railroad Company, and given the right to join the Southern Pacific Railroad Company in building a single line west of the one-hundredth meridian. No road was constructed by the Southern Transcontinental Railway Company, but surveys and some grading were done on the branch line running between Clarksville and Jefferson, Texas.

The Southern Pacific Railroad Company, as the successor to the Vicksburg and El Paso Railroad Company, was also authorized to build a transcontinental railroad between the east boundary of the state and El Paso. The company was to receive (24) sixteen alternate sections of 640 acres of

land each for every mile of line constructed and accepted. The location of its route between Swanson's Landing on Caddo Lake and Fort Phantom Hill, by way of Marshall, Dallas and Fort Worth, was designated in 1859. By 1872 the Southern Pacific Railroad Company had constructed 58½ miles of track between Longview and the eastern boundary of the state, where it connected with the Vicksburg, Shreveport and Texas Railroad Company. For such construction, it received 889 certificates, for a total of 569,000 acres of land (25). It owed no debts other than \$250,000.00 which it had borrowed from the Public School Fund under the Act of August 13, 1856 (26).

After the promulgation of the Constitution of 1869, the Legislature sought to encourage the cooperation of the Southern Pacific Railroad Company and the Southern Trans-Continental Railway Company by offering them \$6,000,000.00 worth of 8% State bonds if they would project their respective lines to a point west of the east boundary of Shackelford County, and agree to jointly build a single line westward from such junction point to the Rio Grande River. The Legislature reserved the option to redeem such bonds by exchanging land certificates totaling 1,4440 acres for each \$1,000.00 bond, or in the alternative, substituting a land grant or donation in favor of the two companies of twenty-four sections of 640 acres of land for each mile of railroad constructed after the passage of the Act, in the event the Constitution was subsequently amended in order to permit the granting of public land to encourage railroad construction (27). The junction point of the two roads was subsequently changed by the Act of November 25, 1871 (28), to a point:

... within three miles of the junction of the West Fork
and the Clear Fork of the Trinity River, and on the
south side of said rivers . . .

The junction point of the two lines was formally fixed and designated on May 6, 1872, as being located on the T. P. Rutledge Survey, immediately west of the city limits of Fort Worth (29).

The Southern Trans-Continental Railway Company and Southern Pacific Railroad Company realized that, in addition to the assistance given them by Texas, they would need federal aid, in order to build across the sparsely settled southwestern desert territories. The two companies, therefore, caused a bill to be introduced in the third session of the Forty-first Congress for the incorporation of the Texas Pacific Railroad Company for the purpose of building a transcontinental railroad along the Southern Route.

By Act of Congress approved March 3, 1871 (30), the Texas Pacific Railroad Company was incorporated, with authority to construct and operate a railroad from Marshall, Texas, to San Diego, California. The company was to receive forty sections of public land for each mile constructed in New Mexico and Arizona and twenty sections for each mile built in California, upon the condition that the entire project be completed within ten years. The grant was to be located in alternate 640-acre sections in a reservation extending twenty miles on each side of its right-of-way. A two hundred-foot wide right-of-way was also given to the company through the federal Public Domain along its entire route. A supplemental Act approved on May 2, 1872 (31), changed the name of the enterprise to the Texas and Pacific Railway Company, and authorized it to operate any existing road between Marshall and Shreveport. It is interesting to note, in passing, that the Texas and Pacific Railroad, which was the fourth and last of the federal transcontinental

land grant railroads, is the only railroad now operating in Texas under a federal charter.

The next step in the plan was to merge the Memphis, El Paso and Pacific Railroad Company, the Southern Pacific Railroad Company, and the Southern Trans-Continental Railway Company into the Texas and Pacific Railroad Company. On March 21, 1872, the Texas Pacific Railroad Company purchased all of the assets of the Southern Pacific Railroad Company, which included its charter, equipment, and 286 unlocated land certificates, the consideration being three million dollars worth of Texas Pacific land grant bonds, plus the assumption of the \$250,000.00 debt due the School Fund(32). Nine days later the Texas Pacific Railroad Company exchanged one million dollars worth of its land grant bonds for the entire assets of the Southern Trans-Continental Railway Company(33). On October 22, 1872, the United States Circuit Court for the Western District of Texas ordered Enoch L. Fancher, Trustee, and John A. C. Gray, Receiver, to convey all of the property and franchises of the Memphis, El Paso and Pacific Railroad Company, including 211½ unlocated land certificates, to the Texas Pacific Railroad Company, in consideration of the sum of \$150,000.00 cash to be paid to the Receiver, and its covenant to exchange 13 acres of land in the State of Texas for each \$100 French bond. The bondholders were given the preferential right to select any lands donated to the Texas Pacific Railroad Company within the Memphis, El Paso and Pacific Railroad Company Reservation: provided they agree to the exchange prior to January 1, 1876. In compliance with the court's decree, the Receiver and Trustee, on June 17, 1873, conveyed the assets of the Memphis, El Paso and Pacific Railroad Company to the Texas and Pacific Railroad Company, subject to said covenants (34).

The merging of these three companies into the Texas and Pacific Railway Company, the successor of the Texas Pacific Railroad Company, did not extinguish their separate charters and franchises. In order to finally define and adjust the numerous conflicting rights acquired by the Texas and Pacific Railway Company, the Texas Legislature passed a comprehensive Act on May 2, 1873 (35), which put to rest all of the complicated legal questions which had arisen out of the patchwork of legislation which had preceded it. The Texas and Pacific Railway Company was authorized to construct a branch line from Marshall by way of Jefferson to connect with its main line not more than six miles west of Texarkana. Its main line on the Southern Trans-Continental route was to be projected westward from Texarkana to Sherman and thence southward via Denton to the junction point near Fort Worth. The main line on the Southern Pacific route was also to be projected westward from Longview to the junction point. A single line was to be built westward from the junction point to the Rio Grande River near El Paso. The branch line, or eastern leg of the parallelogram, formed by the Texas and Pacific Railroad Company's track system was to be completed by August 1, 1873. The northern leg was to be constructed by July 1, 1874. The western leg was to be built by January 1, 1875. The southern leg was to reach the junction point by July 1, 1874. Construction west of the junction point was to proceed at the rate of one hundred miles per year. In lieu of all other donations made to its predecessors, the Texas and Pacific Railway Company was to receive twenty alternate sections of 640 acres each for every mile of main or branch line completed in good substantial running order. The Act specifically provided that if the company should fail to timely complete any portion of such construction, it would forfeit its land grant, except for the lands donated

for portions theretofore completed. The Act also contained the following extremely important proviso:

. . . in no case shall the State be in any way liable for deficiency of Public Domain.

This legislation was permitted under the Constitutional Amendment of March 19, 1873, which permitted the legislature to encourage railroad construction by making grants of land not to exceed 20 sections for each mile constructed (36).

The increased land donation made it necessary to enlarge the Memphis, El Paso and Pacific Railroad Company Reservation. The original sixteen-mile reservation east of the 100th meridian was continued as designated in 1857. The portion of the reservation lying between the 100th meridian and the southeast corner of New Mexico was increased from eight miles to forty miles on each side of the center line. The portion of the reservation lying between the southeast corner of New Mexico and the Rio Grande was to extend from 16 miles to 80 miles south from the 32nd parallel. All public lands located within the portion of the reservation lying east of the 100th meridian were reserved for the benefit of the company until January 1, 1876. All unappropriated lands located within the boundaries of the reservation west of the 100th meridian were to revert to the Public Domain on January 1, 1880.

Under this arrangement, the Texas and Pacific Railway Company promptly commenced construction operations at three different places. By November, 1873, it had completed 124 miles of line between Longview and Dallas, 69 miles of line between Marshall and Texarkana, and 56 miles of line between Sherman and Brookston. After the Panic of 1873 hit, it was impossible for the company to raise the funds necessary to continue construction. The company's land grant was temporarily protected by an Act passed in the spring of 1874 (37), which granted a one-year extension for the completion of all internal improvements, and the Act of March 15, 1875 (38), which further extended the time for the completion of its construction obligations for an additional six-month period.

In order to resume construction and save its grant, the Texas and Pacific Railway Company entered into a contract with the California and Texas Railway Construction Company in March, 1875, whereby it would timely complete the segments of main line between Brookston and Texarkana and between Eagle Ford and Fort Worth, in consideration for an \$8,000.00 per mile first mortgage and a \$17,000.00 per mile second mortgage. These two construction mortgages were secured by a mortgage lien on all the company's track located east of Fort Worth. Prior to July 1, 1877, the company had completed 179.73 miles of line between Longview and Fort Worth, 155.12 miles of line between Texarkana and Sherman, and 69.05 miles of line between Marshall and Texarkana. These figures include approximately 23.6 miles of sidings and turnouts. In consideration for the construction of said 404 miles of East Texas track, the state issued the company 8,083 land certificates, for a total of 5,173,120 acres of land (39).

The company was unable to extend its line to Weatherford, Texas, within one year from the date it reached the junction point, as required by the Act of March 15, 1875. Therefore, its right to receive further land donations from the State of Texas automatically terminated on July 1, 1877.

For nearly four years the western terminus of the road remained at Fort Worth. It was not until the company was reorganized in 1880 that con-

struction was resumed. During 1880 and 1881, the road was hurriedly built westward a distance of 523 miles to a point near the town of Sierra Blanca, where it met and connected with the Southern Pacific Company (40) on December 16, 1881 (41).

Under the Act of May 2, 1873, the Texas and Pacific Railway Company could acquire approximately 14 million acres of land in Texas by timely constructing its road across the state. Whenever ten or more miles of track had been completed and placed in running order, the Commissioner of the General Land Office was to issue the company twenty certificates for 640 acres of land each for every mile of line so completed. The statutory plan for locating these certificates was relatively simple. The company, at its sole cost and expense, was to:

... cause to be surveyed two sections of six hundred and forty (640) acres each, for each certificate adjoining, and shall return to the General Land Office the field notes and maps of the same; and the Commissioner of the General Land Office shall thereupon number said sections so surveyed, and shall cause to be issued to said Company, or its Assignees, patents to the odd sections, the even sections being reserved to the State for the school fund . . .

The Reservation was divided into three divisions (42)—the Eastern Division covering the portion located east of Fort Worth; the Brazos Division embracing the segment lying between Fort Worth and a point on the Jones-Taylor County Line 42 miles west of Fort Phantom Hill; and the Pecos Division extending west from said point to the Rio Grande River.

A preliminary reconnaissance of the reservation made in 1873 disclosed that it contained approximately 15½ million acres of vacant public lands. Since one-half of such land had been set apart for the school fund, this left less than 8 million acres available for the company. This meant if the company earned the entire 14 million acres, that about 6 million acres would have to be located outside its reservation. It was, therefore, imperative, since the more desirable portions of the Public Domain were rapidly being appropriated, that the company exhaust the public lands within the reservation as soon as possible, in order to be in a position to locate any remaining certificates outside the reservation.

As a result of the erroneous opening of reservation under the Constitution of 1869, practically all of the lands which the Memphis, El Paso and Pacific Railroad Company surveyed and sectionized east of Fort Worth, but had not located, were usurped by homesteaders. There was little the company could do to remedy the situation, because by 1872 its rights had been barred by the Statutes of Limitations. The loss of these lands was extremely disappointing, since they were some of the most valuable lands within the reservation. The company was only able to locate approximately 3,000 acres in the eight counties through which the Eastern Division of the reservation ran (43). Such lands are embraced within scattered small blocks and fill-in surveys. These lands were located by local professional surveyors under contracts with the company at a cost of approximately \$18 per section.

The Brazos Division of the reservation had not been invaded nearly as badly as the Eastern Division. The company contracted with local professional surveyors to locate its certificates on the lands which had been sectionized by the Memphis, El Paso and Pacific Railroad Company. The portion of the

Brazos Division lying west of the Brazos River was sectionized and located by company surveying crews. Much of this surveying work was done in 1873 and 1874 by W. C. Powell. The general surveying scheme employed in this area was to subdivide the reservation into rectangular blocks, each containing 96 square sections of 640 acres. These blocks were 6 miles wide and extended 8 miles on each side of the center line. The east and west block lines ran perpendicular to the center line, while the north and south lines ran parallel to the center line. The company located slightly more than 523,000 acres of land within the seven counties comprising the Brazos Division of the reservation (44).

The original 16-mile reserve within the Pecos Division of the reservation was practically intact. However, the Houston and Texas Central Railway Company had, prior to the date of the extension of the reservation, appropriated most of the land adjacent to and on both sides of the original reserve lying east of the Llano Estacado. Between 1873 and 1876, the company was busily engaged in surveying the portion of the Pecos Division of the reservation lying east of the Pecos River. During this period approximately 2,111,000 acres were located for the benefit of the company in that 21-county segment of the reservation (45).

The first step was to survey and monument the center line along the "Line of Recognition" designated by the Memphis, El Paso and Pacific Railroad Company on June 20, 1857. The center line survey was commenced at a point on the 100th meridian, which was located S. 45° E. 7,310 varas from Fort Phantom Hill, and run west from this point on a course of S. 77° W., a distance of 195 miles. Commencing at the initial point, monuments were erected at 1-mile intervals along its entire length. The monuments were usually either earth mounds and pits or stone mounds. These monuments became known as "mile points." The original monuments were re-marked in 1885 with a cedar post set in a heavier stone mound. Since then, the monuments have also been known as "mile posts." The 195th-mile point is located approximately 12 miles southeast from the southeast corner of New Mexico.

The procedure employed in the Brazos Division of subdividing the 16-mile reserve into 96-section rectangular blocks was continued in the extreme eastern portion of the Pecos Division. Commencing just west of Colorado City, the T&P surveyors divided the 80-mile reservation into a system of townships and blocks which was built off the center line. Township lines were run on the ground parallel to the center line at intervals of 8 miles. The block lines were run at right angles to the center line every 6 miles. Therefore, surveying calls for S. 77° W. and N. 13° E. are standard throughout the eastern portion of the Pecos Division of the reservation. The township lines north of the center line were designated as Townships 1 through 5 North, while those located south of the center line were referred to as Townships 1 through 5 South. Each township is also a block. The tiers of blocks were numbered consecutively from east to west from 28 through 46. A block in the township system was 6 miles wide by 8 miles long, and contained 48 sections (46). While the T&P surveying crews set monuments along the township and block lines, they did not survey the interior sections located within said blocks and townships. On the basis of such minimum field work, field notes were written for the various sections and forwarded to the General Land Office. Since they had not been surveyed and monumented, the interior sections were office surveys and had only theoretical boundaries (47).

The very early retracement surveyors discovered that there were marked irregularities in the called courses and distances within the Pecos Division of the reservation. This is not surprising, however, when you consider the urgency for the completion of the surveys, the distances covered, and the adverse conditions confronting these pioneer surveyors. It must be remembered that they were working out of covered wagons in a hostile desert country many miles from the safety of the nearest settlement or army post.

Since the company was required to alienate portions of its land grant within specified periods (48), its policy was to locate its certificates only upon agricultural lands, for they could be disposed of more rapidly and would increase traffic over the line when it was eventually built. Following this policy, the company rejected over 1½ million acres of land located within the reservation east of the Pecos River under the Act of April 29, 1879 (49). Shortly thereafter, the public lands remaining within this portion of the reservation were thrown open to sale under the "Fifty Cent Law of 1879" (50).

Confronted with the early expiration of its reservation, the company employed Jacob Kuechler to locate most of its remaining 2,600 land certificates in the portion of the Pecos Division of the reservation lying west of the Pecos River. It was estimated that this portion of the reservation contained 6,805,760 acres, which was more than enough land to absorb all of the company's certificates. Kuechler did not survey the land section by section or even block by block. His instructions were merely to commence his survey at Clark's Monument on the Texas-New Mexico boundary near the Pecos River and run a sufficient amount of line to explore the country and locate the lands called for in the certificates prior to January 1, 1880. Over 1,000 miles of line in the reservation was run by compass, and chain with monuments being set each mile. Upon completion of his field work, Kuechler went to Austin and platted the monuments which he had erected. Based upon this minimum amount of surveying, he drew parallel lines through these points and subdivided the reservation into townships and blocks. Commencing at the New Mexico line, the townships extended southward a distance of 80 miles, and were number 1 through 10. The tiers of townships were subdivided into blocks measuring 6 by 8 miles, and were numbered consecutively from 53 through 82. Beginning at the Pecos River, they extended westward to El Paso. The original map shows all sections to be 1900 varas square, but there was actually a large excess in all of this work. After preparing his map, Kuechler filed field notes in the General Land Office for all of the sections covered by his survey. His work was accepted and became the official survey. Kuechler located approximately 1,655,000 acres for the benefit of the company in 5 counties west of the Pecos River.

While Kuechler was still working on his field notes, a discrepancy in the location of the south boundary of the reservation was discovered. It seems that as a result of the excess contained in his work, the south boundary of the reservation was located 4 miles too far south. In 1883, Paul McCombs, under instruction from the General Land Office, retraced Kuechler's work. As a result of McCombs' work, the company was required to surrender its patents to approximately 34,000 acres located south of the south boundary of the reservation, and to locate the floated certificates upon the excess acreage in the oversize sections within the 80-mile reservation west of the Pecos River. McCombs' work has not been accepted by the General Land Office, and the only official recognition thereof is the interlineations made in red ink upon Kuechler's original field notes, showing the true distances of the section

lines and total acreage embraced therein (51). McCombs' retracement work disclosed that the company had acquired approximately 1,649,000 acres by virtue of Kuechler's original survey (52).

Kuechler, however, was not the only one to locate land within the western portion of the reservation for the company. In conjunction with its 1876 surveys east of the Pecos River, the company had located some 196,000 acres in the area west of Fort Stockton. An additional 45,000 acres had been located along the Rio Grande River in 1873. This gave the company about 1,890,000 acres within the portion of the reservation located in 6 counties west of the Pecos River (53).

In addition to the acreage located within the reservation, the company located over 761,000 acres of land outside the boundaries of its reservation in 26 counties (54). A portion of this land was acquired by virtue of the 286 certificates purchased from the Southern Pacific Railroad Company (55). The 211½ certificates received from the Memphis, El Paso and Pacific Railroad were also located outside the reservation (56). This was permissible under the 16th Section of the Act of February 4, 1856, which provided that certificates received for grading operations could be located:

. . . upon odd sections within the reservation or upon other vacant and public lands in the state . . . in the same manner and under the same rules as headright certificates (57).

A major portion of the land situated outside the reservation was acquired by virtue of 1,000 certificates issued to the company pursuant to Section 8 of the Act of May 2, 1873, which provided:

. . . the certificates of land to which said Texas and Pacific Railway Company may be entitled under the provisions of this Act, shall be located within the reservation . . . except one thousand certificates of six hundred and forty (640) acres each . . . which certificates may be located upon any of the public domain . . . not within said reservation (58).

Over 300,000 acres were located west of the Pecos River by L. E. Edwards outside of the reservation in 1873 (59).

In 1882 the Texas Legislature became aware of the fact that the state had issued certificates representing approximately 8 million acres of land more than were then unappropriated. Most of these outstanding certificates had been issued to railroad companies and veterans of the Civil War. To assist and protect the veterans, an Act was passed on April 22, 1882, which declared that all the Public Domain subject to location by the owners of railroad certificates had been exhausted, and that all laws insofar as they granted land or certificates for the construction of railroads, canals and ditches were repealed (60). The Texas and Pacific Railroad Company was fortunate, in that it had been able to locate nearly all of its certificates prior to the passage of this Act. Texas and Pacific Railway Company certificates representing only 5,760 acres were barred by this Act (61).

In keeping with the covenant entered into with the Trustee and Receiver of the Memphis, El Paso and Pacific Railroad Company, one thousand certificates, good for 640,000 acres of land, were placed in care of the Fidelity Insurance and Safe Deposit Company of Philadelphia as a trust, awaiting final disposition of the French bondholders (62). These certificates were

located upon lands lying within the Brazos and Pecos Divisions of the reservation, which had been selected prior to January 1, 1876. Patents for the selected lands were issued to the Fidelity Insurance and Safe Deposit Company in 1876 (63). In August, 1876, the Franco-Texan Land Company was incorporated under the laws of Texas, with a capital stock not to exceed \$5,340,000, which was to be paid only in the land grant mortgages of the Memphis, El Paso and Pacific Railroad Company. The lands were formally conveyed to the Franco-Texan Land Company in 1878 in exchange for the cancellation of the French bonds (64).

Following the selection of the lands for the French bondholders, the Texas and Pacific Railway Company instituted an extensive advertising campaign to encourage immigration to West Texas. During the next decade, the company sold nearly 1 1/4 million acres of its grant to farmers for cash or under contracts for sale. As a consequence of its inability to pay the interest accruing upon its several mortgages, the company was forced into receivership on December 16, 1885. In 1887 an agreement was entered into by and between the reorganization committee of the Texas and Pacific Railway Company and a committee representing the Income and Land Grant bondholders. The Income and Land Grant bonds were a first lien upon the company's lands. They primarily represented the considerations paid for the acquisition of the Southern Pacific Railroad Company and the Southern Trans-Continental Railway Company. Under this agreement, the bondholders were, among other things, to receive the 3,450,642.45 unsold acres of land held by the company, and were assigned the contractual obligations held by the company on the sale of an additional 381,234.25 acres of land. It was decided that legal title to the land and contracts should be vested in Charles J. Canda, Simeon J. Drake and William Strauss, under a Declaration of Trust dated February 1, 1888, which established the Texas Pacific Land Trust. The lands were formally conveyed to the Trustees under a series of 39 deeds dated August 4, 1887. In exchange for their bonds, the Income and Land Grant bondholders received Certificates of Proprietary Interest in the Texas Pacific Land Trust (65). The original purpose of the trust was to manage the lands until they could be profitably sold.

On July 20, 1891, Attorney General Charles A. Culberson filed a Trespass to Try Title suit against Charles J. Canda, Simeon J. Drake and William Strauss to recover 700,080 acres of land located in Hudspeth, Jeff Davis, Pecos, Presidio and Reeves Counties (66). The original petition in this suit did not allege any particular grounds for the recovery of the land, but contained merely the traditional pleadings for a Trespass to Try Title action. However, in its Second Amended Petition, the State alleged that at the time it instituted suit, the Trustees held 3,285,337 acres of land which had been originally donated to the Texas and Pacific Railway Company, which included 184,712 acres of land illegally granted for sidings and turnouts and 71,334 acres of land which had been originally located either within or outside the 80-mile reservation, but illegally lifted and relocated. The Trustees filed an Amended Answer, pleading first a general demurrer and general denial, and then asserting their title as innocent purchasers for value. In the alternative, the defendants alleged that if the State was entitled to recover the lands represented by the certificates issued for sidings and turnouts and illegally floated certificates, they should have the right to elect the lands to be surrendered. Three schedules were attached to the Defendants' Amended Answer. The first, or Exhibit "A," described all of the lands owned and claimed by

the Trustees. The second, or Exhibit "B," described the 184,712 acres of land which the defendants elected to surrender in the event the court held against them on the sidings and turnout issue. The final schedule, or Exhibit "C," described the lands selected to be surrendered if it was held that the certificates in question had been illegally floated.

By decree dated June 22, 1893, the District Court ordered that the State recover the lands described in Exhibits "B" and "C." The court further found that the defendants were the legal and equitable owners of all the lands described in Exhibit "A," except for those awarded to the State.

The decision in the Canda case is of particular interest to surveyors, since it has a direct bearing upon the problem of how to allocate excess acreage within the Texas and Pacific Railway Company reservation. Prior to March 22, 1889, it had been held that the individual surveys making up a block or larger subdivision were entitled to share the excess acreage contained in such block on a pro rata basis (67). In an effort to prevent railroad companies from receiving the excess acreage contained in their alternate odd numbered sections, the Texas Legislature passed an Act on March 22, 1889, which provided:

. . . All excess in said surveys or blocks of surveys are hereby donated and declared to belong to the public school fund of the state . . . (68)

This Act had the effect of limiting the odd numbered sections of the reservation to 640 acres and throwing the excess contained in the block into the even numbered sections. The Act of 1889 was in effect until September 19, 1938. On June 21, 1938, the Legislature passed the "Small Act," which provided:

In all cases where the area of a tract titled or patented exceeds the quantity called for in the title or patent, or where under the existing law the title to all or any part thereof shall or may be affected by the existence of such excess, then any person owning such survey or having an interest therein may pay for such excess acreage at such price as the empowered authority may fix . . . and . . . the Commissioner shall execute a deed of acquittance covering such land in the name of the original patentee or his assignees . . . (69)

Between 1889 and 1938 the Commissioner of the General Land Office required corrected field notes prior to patenting even numbered school sections in each case where the General Land Office suspected that there was excess acreage in the block concerned. In conducting re-surveys under these circumstances during the 1889-1938 period, surveyors were instructed to locate on the ground the odd numbered sections, holding them to their called courses and distances, and then placing all of the excess in the even numbered sections (70). The result of this scheme was to completely disregard the footsteps of the original surveyor and shatter the continuity of the block by breaking calls for adjoinder, and in some cases, even calls for monuments. In each instance where excess lands have been placed in the even numbered sections, it may be argued that since the title to all of the lands owned by the Texas Pacific Land Trust were validated by the judgment in the Canda case, the State had no authority, during the period from 1889 to 1938, to divest the trust as owners of the excess acreage in the odd numbered sections and arbitrarily place same in the even numbered sections. Therefore, it would

appear that all sections within the Texas and Pacific Railway reservation should be located on the ground, in accordance with their original positions given them by the surveyors who laid out the reservation.

Since the Trustees did not have authority to develop the minerals under the trust lands, it was decided to create a new company to manage same. On December 10, 1954, substantially all of the mineral rights of the lands owned by the trust were conveyed to the TXL Oil Corporation. As a result of this "spin off," the shareholders of Texas Pacific Land Trust received 400 shares of TXL Oil Corporation stock for each share of Texas Pacific Land Trust stock. Earlier this year the TXL Oil Corporation was merged into Texaco Inc.

IN CONCLUSION, I would like to reiterate upon three points:

1. Prior to the construction of the Texas and Pacific Railway Company, most of the territory between Fort Worth and El Paso was uninhabited and hostile. Its settlement and development was made possible primarily as a result of the facilities offered by the railroad. It is indeed fortunate that the Texas and Pacific Railway Company was able to obtain the financial resources to construct this 600-mile segment of its line, in spite of the State's withdrawal of its assistance.

2. The pioneer surveyors, who located the more than 5 million acres of the Texas and Pacific Railway Company land grant, performed a commendable feat, considering the adverse conditions, time and financial limitations under which they were forced to operate. This vast tract was surveyed for \$185,344.14 (71), or about 3½¢ per acre.

3. It has been a pleasure to address you.

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3. H.P.N. Gammel, THE LAWS OF TEXAS (10 Vols., Austin, 1898), III, 589.
4. CONG. GLOBE, 32 Cong., 2nd Sess., 26.
5. SENATE EXECUTIVE DOCUMENTS, 33rd Cong., 2nd Sess., Document No. 78 (11 Vols.).
6. HOUSE EXECUTIVE DOCUMENTS, 33rd Cong., 2nd Sess., Document No. 91 (11 Vols.), III, 17.
7. H.P.N. Gammel, THE LAWS OF TEXAS, III, 1184, 1231, 1245, 1268 and 1433.
8. *IBID.*, IV, 7.
9. *IBID.*, IV, 56 and KIMMELL v. WHEELER, 22 Tex. 77
10. H.P.N. Gammel, THE LAWS OF TEXAS, IV, 80.
11. *IBID.*, V, 361.
12. RAILROAD CONTRACTS, FILE 4 (MSS., Records of the General Land Office, Austin, Texas).
13. HOUSTON & T.C. RY. CO. v. TEXAS & P. RY. CO., 8 SW, 498.
14. DAVIS v. GRAY, 16 Wall (U.S.) 203.
15. Andrew Forest Muir, THE THIRTY-SECOND PARALLEL PACIFIC RAILROAD IN TEXAS TO 1872 (MSS., Doctoral Dissertation, University of Texas, Austin, 1949), 134.
17. Cardinal Goodwin, JOHN CHARLES FREMONT (Stanford, 1930), 240-256.
18. H.P.N. Gammel, THE LAWS OF TEXAS, VI, 57.
19. *IBID.*, VII, 419.
20. FORBES v. R. CO., Fed. Cases, No. 4, 926.
21. DAVIS v. GRAY, 16 Wall. (U.S.) 203.
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23. H.P.N. Gammel, THE LAWS OF TEXAS, VI, 542.
24. *IBID.*, IV, 622.
25. Andrew Forest Muir, THE THIRTY-SECOND PARALLEL PACIFIC RAILROAD IN TEXAS TO 1870, 192.
26. H.P.N. Gammel, THE LAWS OF TEXAS, IV, 449.
27. *IBID.*, VI, 1523.
28. *IBID.*, VII, 202.
29. ANNUAL REPORT OF THE PRESIDENT OF THE TEXAS & PACIFIC RAILWAY COMPANY, May 20, 1872 (New York, 1872), 11.
30. UNITED STATES STATUTES AT LARGE, XVI, 673 - 679.
31. *IBID.*, SVII, 59 - 61.
32. ANNUAL REPORT OF THE PRESIDENT OF THE TEXAS & PACIFIC RAILWAY COMPANY, MAY 20, 1872, 6-8.
33. *IBID.*, 8 - 10.

34. ENOCH L. FRANCHER, TRUSTEE, AND JOHN A. C. GRAY, RECEIVER, OF THE MEMPHIS, EL PASO AND PACIFIC RAILROAD COMPANY, AND AS TRUSTEE, WITH THE TEXAS & PACIFIC RAILWAY CO., AGREEMENT, June 12, 1873 (New York, 1875), 1-19.
35. H.P.N. Gammel, THE LAWS OF TEXAS, VII, 1018.
37. *IBID.*, VIII, 177.
38. *IBID.*, VIII, 558.
39. S. G. Reed, A HISTORY OF THE TEXAS RAILROADS, 156, 362-364.
40. This company should not be confused with the Southern Pacific Railroad Company which was merged into the Texas and Pacific Railroad Company.
41. Albert C. Simmons, Jr., A HISTORY OF THE TEXAS AND PACIFIC RAILWAY COMPANY, (MSS., Masters Thesis, University of Texas, 1925), 41.
42. REPORT OF GEN. G. M. DODGE, MAY, 1874, (MSS., Records of the Texas Pacific Land Trust, Dallas, Texas), 2.
43. ABSTRACT OF ALL ORIGINAL TEXAS LAND TITLES COMPRISING GRANTS AND LOCATIONS TO AUGUST 31, 1942, (8 Vols., Austin 1942), I and II. A breakdown of such land by counties is shown on the Appendix hereto.
44. *IBID.*, II and VI. A breakdown of such land by counties is shown on the Appendix hereto.
45. *IBID.*, VI and VII. A breakdown of such land by counties is shown on the Appendix hereto.
46. STATE v. FLICK, ET AL, 180 SW 2d, 371.
47. GULF OIL CORPORATION, ET AL v. OUTLAW, ET AL, 150 SW 2d, 777.
48. H.P.N. Gammel, THE LAWS OF TEXAS, VII, 1022.
49. *IBID.*, VIII, 1475.
50. *IBID.*, IX, 80.
51. W. J. Powell, REPORT OF A RESURVEY OF TEXAS AND PACIFIC RAILWAY LANDS IN THE 80-MILE RESERVATION, (MSS., Records of the General Land Office, Austin, Texas), 10.
52. ABSTRACT OF ALL ORIGINAL TEXAS LAND TITLES COMPRISING GRANTS AND LOCATIONS TO AUGUST 31, 1941, VIII. A Breakdown of such land is shown by counties on the Appendix hereto.
53. *IBID.*, VIII.
54. *IBID.*, I, II, IV, VI, VII and VIII. A breakdown of such land is shown by counties on Appendix I.
55. The land certificates received from the Southern Pacific Railroad Company were located primarily in Brewster, Callahan, Childress, Edwards, Hall, Jack, Jones, Presidio, Real, Taylor and Stephens Counties.
56. A large portion of the lands acquired by virtue of the Memphis, El Paso and Pacific Railroad Company certificates is situated in Baylor, Clay, Dimmit and Wilbarger Counties.
57. H.P.N. Gammel, THE LAWS OF TEXAS, IV, 377.
58. *IBID.*, VII, 1018.
59. Deposition of W. H. Abrams, (MSS., Records of the United States Circuit Court for the Western District of Texas, El Paso, Texas, Cause No. 15, in Equity, ERNEST DALE OWENS v. TEXAS and PACIFIC RAILROAD COMPANY.)
60. H.P.N. Gammel, THE LAWS OF TEXAS, IX, 263.
61. S. G. Reed, A HISTORY OF THE TEXAS RAILROADS, 156.
62. FIFTH ANNUAL REPORT OF THE BOARD OF DIRECTORS OF THE TEXAS & PACIFIC RAILWAY CO. TO THE STOCKHOLDERS, AUGUST 9, 1876, (Philadelphia, 1876), 27.
63. ABSTRACT OF ALL ORIGINAL TEXAS LAND TITLES COMPRISING GRANTS AND LOCATIONS TO AUGUST 31, 1941, II, VI. These lands are located in Callahan, Denton, Fisher, Jones, Mitchell, Nolan, Palo Pinto, Parker, Scurry, Shackelford, Stephens and Taylor Counties.
64. R. C. Crane, "The Franco-Texan Land Company," WEST TEXAS HISTORICAL ASSOCIATION YEAR BOOK, XXV, 101.
65. HOWLAND S. DAVIS ET AL v. GEORGE C. FRASER ET AL, 319 SW 2d, 799.
66. THE STATE OF TEXAS v. CHARLES J. CANDA ET AL, (Records of the District Clerk's office, Austin, Texas), Cause No. 10351.
67. WELDER v. CARROLL, 29 Tex. 318.
68. H.P.N. Gammel, THE LAWS OF TEXAS, IX, 1131.
69. VERNON'S CIVIL STATUTES OF TEXAS, (Kansas City, 1962), Article 5421C-1.
70. LEONARD C. PROCTOR ET AL v. T. M. MARKHAM ET AL, 271 SW 2d, 685.
71. NINTH ANNUAL REPORT OF THE BOARD OF DIRECTORS OF THE TEXAS & PACIFIC RAILWAY CO. TO THE STOCKHOLDERS, AUGUST 10, 1880, 21.

APPENDIX

LOCATION OF TEXAS AND PACIFIC RAILROAD COMPANY LAND GRANT

A. Within the Eastern Division of the Reservation:		
Bowie	24,672.22	
Collin	275.63	
Denton	5,189.86	
Fannin	810.50	
Lamar	910.96	
Red River	8,041.91	
Tarrant	4,893.60	
Wise	7,499.38	
Eastern Division -- TOTAL		52,593.06
B. Within the Brazos Division of the Reservation:		
Callahan	12,285.97	
Jones	58,347.60	
Palo Pinto	117,439.60	
Parker	99,730.69	
Shackelford	89,517.56	
Stephens	95,060.56	
Taylor	51,055.44	
Brazos Division -- TOTAL		523,437.42

C. Within the Pecos Division of the Reservation:

1. East of the Pecos River

Andrews	29,581.20
Borden	141,388.36
Coke	10,770.00
Crane	14,384.60
Dawson	102,566.70
Ector	221,909.75
Fisher	53,867.14
Glasscock	253,812.10
Howard	229,969.64
Kent	1,639.00
Loving	92,800.00
Martin	188,169.05
Midland	254,854.94
Mitchell	157,017.10
Nolan	173,181.54
Regan	18,341.52
Scurry	2,825.52
Sterling	44,953.24
Stonewall	6,864.00
Upton	96,232.20
Winkler	15,951.00

East of Pecos River — TOTAL 2,111,078.60

2. West of the Pecos River

Culberson	548,494.00
El Paso	178,722.00
Hudspeth	571,354.00
Jeff Davis	143,814.80
Pecos	121,272.98
Reeves	326,702.78

West of Pecos River — TOTAL 1,890,360.56

D. Outside the Reservation:

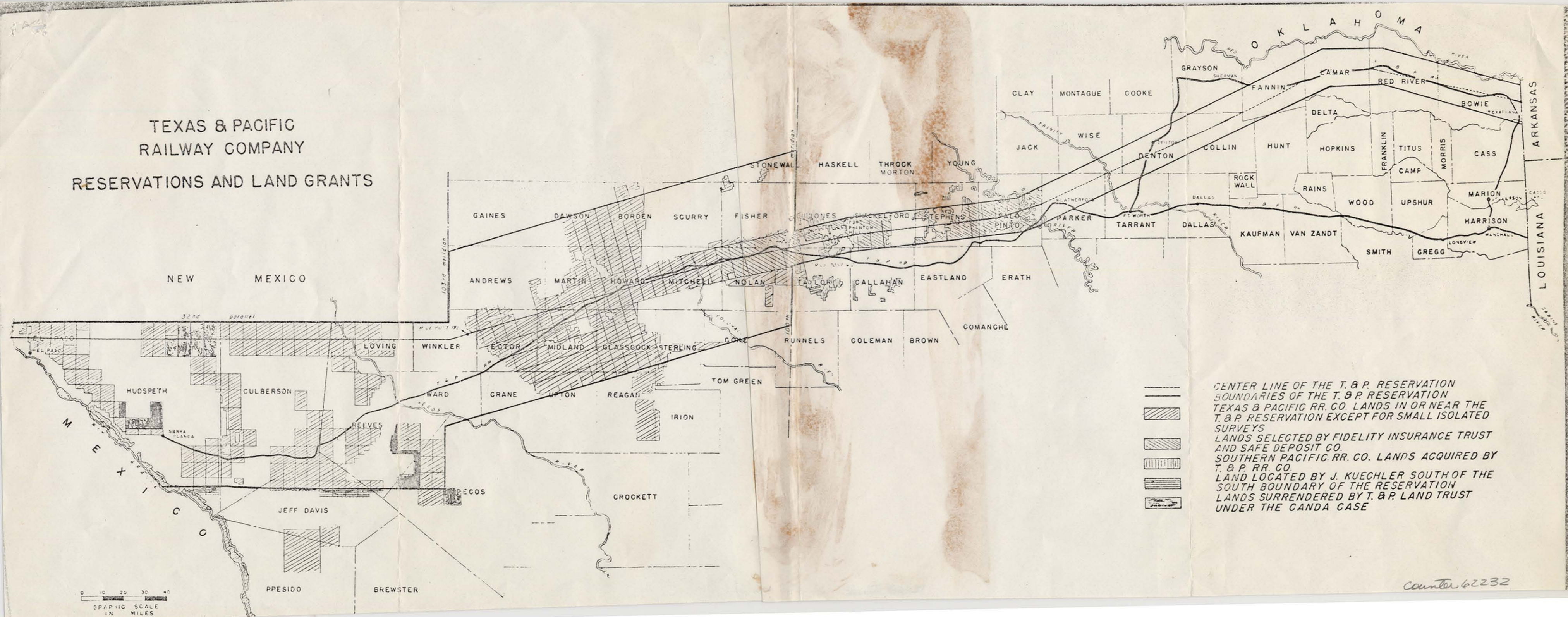
Baylor	561.00
Borden	17,920.00
Brewster	16,960.00
Briscoe	23,925.50
Callahan	9,651.65
Childress	27,128.00
Clay	13,440.00
Cooke	1,920.00
Dimmit	53,120.00
Edwards	12,820.00
Floyd	10,747.90
Hall	55,222.35
Irion	15,504.50
Jack	1,280.00
Jeff Davis	43,674.00
Jones	13,856.20
Motley	38,840.00
Pecos	57,890.00
Presidio	173,898.00
Raines	2,426.20
Real	2,560.00
Regan	96,509.00
Stephens	17,404.00
Sterling	11,724.00
Taylor	27,356.40
Wilbarger	13,419.00
Van Zandt	1,311.50

Outside the Reservation — TOTAL 716,051.60

GRAND TOTAL 5,338,521.24

NOTE: These figures have been hurriedly compiled from the Abstracts of Original Land Titles Comprising Grants and Locations to August 31, 1942 (8 Vols., Austin, 1942). However, they are not compatible with the figures set out in the Ninth Annual Report of the Board of Directors of the Texas & Pacific Railway Company, August 10, 1880. This report would indicate that the company acquired an additional 36,000 acres within the Brazos Division, 23,000 acres in the Pecos Division east of the Pecos River, and 18,000 acres in Eastland, Comanche, Crockett and Brown Counties. Since all the certificates issued to the Texas and Pacific Railway Company, Southern Pacific Railroad Company and Memphis, El Paso and Pacific Railroad Company were "returned" to the General Land Office, except for certificates representing 16,161 acres of land, it is evident that approximately 63,000 to 74,000 acres have not been accounted for herein.

TEXAS & PACIFIC RAILWAY COMPANY RESERVATIONS AND LAND GRANTS



- - - - - CENTER LINE OF THE T. & P. RESERVATION
 ———— BOUNDARIES OF THE T. & P. RESERVATION
 [Diagonal lines] TEXAS & PACIFIC RR. CO. LANDS IN OR NEAR THE
 T. & P. RESERVATION EXCEPT FOR SMALL ISOLATED
 SURVEYS
 [Cross-hatch] LANDS SELECTED BY FIDELITY INSURANCE TRUST
 AND SAFE DEPOSIT CO.
 [Vertical lines] SOUTHERN PACIFIC RR. CO. LANDS ACQUIRED BY
 T. & P. RR. CO.
 [Horizontal lines] LAND LOCATED BY J. KUECHLER SOUTH OF THE
 SOUTH BOUNDARY OF THE RESERVATION
 [Stippled] LANDS SURRENDERED BY T. & P. LAND TRUST
 UNDER THE CANDA CASE

0 10 20 30 40
 GRAPHIC SCALE
 IN MILES

Counter 62232