



See Rld. Sk. 3

JERRY PATTERSON, COMMISSIONER

Sketch File 10County Lee

Milam 3-1859 NW Part - 58.406 ac.

Date Filed: August 12, 2010

by: Douglas Howard

SURVEYOR'S REPORT

This report of along with the accompanying plat and field notes description were prepared pursuant to a request for survey from the Asset Management Division of the General Land Office (GLO) on August 4, 2009. The survey is the remainder Northwest Part of the William G. Lilley Survey Milam 3-1859, Lee County, Texas, and is about 22.5 miles N53°W from the county seat of Giddings. The land surveyed is unimproved woods and brush made up with primarily post oak and cedar. It is about 90% wooded and brushy in deep sand with some common Bermuda and native grasses. The west corner of subject tract is about one mile from Luminant Mining's, Three Oaks lignite mine office on Farm to Market Road 696. This survey was limited to retracing GLO surveyor James E. McCarty's 1976, GLO surveyor Clinton H. Sumrall's 1989, and Lee County Surveyor Louis Knox's 1993 surveys.

RESEARCH

Research was performed from the records of the GLO to include the original archive files, Sketch Files, Working Sketch Files, Rolled Sketch files, and historic maps in the GLO Archives. Lee County Working Sketch File Number 21 was created for this survey project. Research was performed and obtained from the Lee County Clerk, the Lee County Appraisal District, and the Lee County District Clerk. Review of the records was performed at the Lee County Surveyor custodian's office; maps for the subject and adjoining surveys from Botts Title Company (formerly Lee County Land and Abstract Company) in Giddings, Texas; records and maps for adjoining tracts of land from Luminant Mining in Elgin, Texas; records and Maps for adjoining tracts of land from Metcalfe and Sanders, Co, Inc., c/o Loomis Partners, Inc., in Austin, Texas; historic and current United States Department of Agriculture (USDA), Agricultural Stabilization and Conservation Service (ASCS) aerial imagery; and United States Geological Survey Topographic Quad sheets housed in the Texas Natural Resources Information System Office, Austin, Texas, in preparation for this survey.

HISTORY

The following is a chronological listing of the original surveys in area of concern by order of their seniority:

<u>Survey</u>	<u>Original Survey Date</u>	<u>Surveyor</u>	<u>Corrected Date</u>	<u>Surveyor</u>
Elisha Pruitt	04/15/1838 ¹	Thos. H. Mays		
Wm G. Lilley	12/18/1858	N. M. Thornton	3/1-5/1976	James E. McCarty
M. C. Miller, Hrs., Survey No. 3	05/07/1871 ¹	Thos. C. Thomson		
NE Pt. Wm G. Lilley	09/14/1989 ¹	Clinton H. Sumrall		
SW Pt. Wm G. Lilley	12/16/1993 ¹	Louis Knox		

The Elisha Pruitt Survey is a Bastrop First Class Headright (Bastrop-1-432) being one-third (1/3) of a league of land surveyed by Thos. H. Mays. This survey is 800 varas by 4630 varas beginning at the east corner of the Enoch Harris Survey No. 22, it being 26 labors also surveyed by Mays. Said beginning point is on the bank of a small creek and he calls for the north corner to be "...on the divide between the Colorado and Brazos waters"... These are the only two natural monuments surveyor Mays calls for in his field notes. He calls for witnesses at all corners and also calls the south line to adjoin said Harris Survey No. 22 but no other adjoiner calls.

The William G. Lilley Survey is filed as Milam-3-1859. The survey was filed in the GLO by virtue of an affidavit administered by the Deputy Surveyor, N. M. Thornton, of Milam Land District as required under the preemption act of February 13, 1854 for 160 acres. It was surveyed by N. M. Thornton to be 850 varas by 1062.5 varas. The file is endorsed "State owned

¹ Indicates Patent Field Notes.

surveyed school land. 4/12/67, (signed) Jack Giberson, Chief Clerk." This survey was apparently forfeited because the applicant did not fulfill the occupancy obligation. The absence of the required Preemption Certificate of Occupancy is not found in the file, which may explain this endorsement on the file jacket. Surveyor Thornton begins on the north boundary line of said Pruitt Survey "...560 varas from John G. Willett's corner..." He calls for witness trees at all corners and he too calls for adjoiners where appropriate. All corners are called to be "stakes" except the point of beginning where the artificial monument call is omitted. There are no natural monuments called for in the field notes prepared by surveyor Thornton.

Thos. C. Thomson surveyed the Heirs of Matthew C. Miller's Third Class Headright (Milam-3-2197) by virtue of Conditional Headright Certificate Number 37, for 320 acres. The survey is a six-sided polygon with lines of varying length. Surveyor Thomson begins at the southwest corner of the Albert Nantz Survey Milam-1-217, Lee County, Texas. Surveyor Thomson calls for a branch on the north line of his survey and the westernmost south line in his field notes. He calls for marked witnesses at each corner except the west corner of said Lilley Survey. He does not call for artificial monuments at any of his corners except for "...a PO tree mkd D..." for the southwest corner of his survey.

GLO surveyor James E. McCarty, Licensed State Land Surveyor (LSLS) filed corrected field notes for the William G. Lilley Survey for 163.14 acres on March 1-5, 1976. Surveyor McCarty begins his survey at "...a stone, found set for the Southwest corner of the William G. Lilley Survey and a corner of the Matthew Miller Survey in the North boundary line of the Elisha Prewitt [sic] Survey." He set five-eighth (5/8) inch iron rods at the south and east corners calling the south corner to be "...the Southwest corner of the M. C. Miller Survey in the North boundary line of the Elisha Prewitt [sic] Survey." He neither calls his resurveyed east corner to be the east corner of said Lilley Survey nor does he call it to be an interior ell corner of the J. C. Price Survey, Milam 3-1485. Surveyor McCarty witnesses a "car axle" being on the north line of his survey 15.62 varas N58°38'15"W (the bearing of his north boundary line) from this east corner. He does not call for witnesses at any other corner but does call for adjoining surveys on the boundaries of his survey. There are no calls for natural monuments in the field notes prepared by surveyor McCarty.

On September 30, 1986, Doris S. Ferguson's agent filed her application for patent under Texas Constitution, Article VII, Section 4a. GLO surveyor Clinton H. Sumrall, LSLS, filed field notes for 50 acres of land; the survey is designated the Northeasterly Part of the William G. Lilley Survey in file number 154494. Surveyor Sumrall begins his survey at the east corner of the Lilley Survey and is the same type of artificial monument surveyor McCarty set in 1976 (a five eighth (5/8) inch iron rod). He also witnesses an "...axle found..." akin to the one surveyor McCarty references, it being the same distance from said east corner but having a slightly different bearing. Surveyor Sumrall sets one half (1/2) inch iron rods at the southeast, south, and west corners of his survey. He witnesses a five eighth (5/8) inch iron rod as the south corner of said Lilley Survey from his southeast corner, it presumably the perpetuated south corner of said Lilley Survey set by surveyor McCarty. Surveyor Sumrall witnesses a "...set stone in stone mound found for the west corner of said Lilley Survey..." from his west corner, presumably the perpetuated west corner of said Lilley Survey witnessed by surveyor McCarty. Surveyor Sumrall calls his north corner to be an "...axle found..." which is the same call surveyor McCarty calls to be "...[a] corner of the Matthew Miller and the northwest corner of the said Lilley Survey". There are neither calls for natural monuments nor calls for witness trees recited in surveyor Sumrall's field notes. He does call for adjoining survey where appropriate.

On December 16, 1992, Mrs. Vernon R. (Hazel) Hobbs filed her application for patent under Texas Constitution, Article VII, Section 4a. Louis Knox, Lee County Surveyor, filed field notes for 56.870 acres of land; the survey is designated the Southerly Southeast Part of the William G. Lilley Survey. The survey is triangular in shape with the northwest line being 656.71 varas in length, the east line being 741.14 varas in length, and the south line being 866.37 varas in length. Survey Knox begins his survey S60°56'55E a distance of 201.74 varas from a "...set stone marked "X" found in a large rock mound at the West corner of said William G. Lilley Survey..." There are neither witnesses nor natural monuments called out in the field notes of surveyor Knox. He does call out adjoining survey line where appropriate. Surveyor Knox calls and recognizes the stone in rock mound for the west corner of said Lilley and the southernmost southeast corner of said Miller Survey. He says that he recovered surveyor Sumrall's southeast

one half (1/2) inch iron rod for corner. Surveyor Knox mentions that he recovered "... a 5/8 inch iron rod found at the East corner of said Ferguson and or William G. Lilley Survey, the Southeast corner of the M. C. Miller Survey, No. 3, in the Southwest line of the John Price Survey..." According to surveyor Knox's Survey Report (see Item Number 6 in file Milam 3-1859), it is his "...opinion that the iron rod Mr. McCarty placed for the South corner did not extend to the true line of the Prewitt [*sic*] Survey, and [I have] therefore used a set stone found in the existing fence along the Northeast line of the Prewitt [*sic*] Survey as a basis for the alignment of that survey even though [this] monument found is not called for in any of the field notes found in the working sketches or of record". Indeed, the cumulative distance of surveyor Knox's east line is 871.01 varas versus McCarty's 855.48 varas. Surveyor Knox states that he recovered surveyor McCarty's five eighth (5/8) iron rod but decided to hold a monument with no apparent dignity to establish the north line of said Pruitt Survey.

FINDINGS

It is apparent that surveyor Mays made an on the ground survey when he wrote the field notes for said Elisha Pruitt Survey because of the natural and artificial monuments called out in his field notes. Surveyor Mays connects this survey to other surveys in the area and provides bearings and distances to witness trees for each corner.

Surveyor Thornton made an on the ground survey of said William G. Lilley Survey because of the artificial monuments and calls for adjoiners in his field notes. He connects this survey to other surveys by calling the point of beginning to be 560 varas from an adjoining survey. He also references the northeast corner of said Lilley Survey to J. C. Price's southwest corner, it being 35 varas distant.

Surveyor Thomson calls for witness trees at each corner that match adjoining survey's witness calls but curiously he does not call for monuments at any corner except for the southwest corner. The calls for witnesses to match adjoining surveys facilitated the creation of a fill-in survey. His only witness call not matching the calls in adjoining surveys is at the southwest corner where it adjoins the Pruitt Survey.

Surveyor McCarty calls to begin at a stone found for the west corner of said Lilley Survey. This stone appears on a survey plat of survey by Marlton O. Metcalfe, noted surveyor in the Central Texas area, on May 25, 1960 (see Plan 9079, Metcalfe and Sanders, c/o Loomis Partners, Inc., Austin, Texas). It is unclear whether surveyor Metcalfe set or found this monument. The axle used by surveyor McCarty for the north corner appears on the Metcalfe plat. Surveyor McCarty recovered another axle set by Mr. Metcalfe near the east corner of said Lilley Survey. The distance between Metcalfe's north and east corners of said Lilley Survey is shown as being 1047.5 varas. Mr. McCarty held a bearing between the two Metcalfe axles and held the called distance of 1062.5 varas to establish the east corner of said Lilley Survey. The distance between the set stone and the axle set by Metcalfe is in general conformance with the distance in the original field notes by surveyor Thornton. Surveyor McCarty may have considered the axles the best evidence of the original corners of said Lilley Survey.

Surveyor Sumrall finds the perpetuated corners that Mr. McCarty either recovered or set to establish said Northeasterly Part of the Lilley Survey. He recites the corners set by McCarty as being the corners of said Lilley Survey whereas McCarty does not. The calls are in close conformity of the corrected field note calls and it is believed Sumrall recovered McCarty's perpetuated corners of said Lilley Survey.

Surveyor Knox finds the perpetuated south corner McCarty set in his resurvey of said Lilley Survey but chooses to ignore it. He set a five eighth (5/8) inch iron rod on line between the west corner of said Lilley Survey and a one (1) inch iron pipe at a set stone he found for the northeast corner of the Pruitt Survey. The Southerly Southeast Part of the Lilley Survey adjoins Sumrall's survey of the Northeasterly Part of the Lilley Survey on its northwest line. Surveyor Knox's plat of survey shows the south and east corner of said Northeasterly Part of the Lilley Survey to be marked with five eighth (5/8) inch iron rods found, however his field notes recite one half (1/2) inch iron rods found. According to Knox's Surveyor's Report, the west corner of said Southerly Southeast Part of the Lilley Survey is set at the intersection of an old fence and the north line of said Pruitt Survey and the south line of said Lilley Survey.

Following the evaluation of the records cited above, a search in the field for evidence of original survey corners was conducted. As mentioned above, Marlton O. Metcalfe had surveyed this area in 1960 and more than likely earlier because the 1960 Metcalfe plat of survey is labeled "Resurveyed". Said 1960 Metcalfe plat of survey calls for a set stone and two witness trees. A set stone in rock mound was recovered for the west corner of said Lilley Survey (see Figure 1), however witness trees were not found. Following an old barbed wire fence very near said set stone and rock mound in a northeasterly direction led to the discovery of a five eighth ($5/8$) inch iron rod for a deed corner; a car axle for a deed corner; another five eighth ($5/8$) inch iron rod; and finally another car axle (see Figure 2). The second car axle conforms to the distance Mr. McCarty recites in his corrected field notes for said Lilley Survey. This monument shall be referred to as the north corner of said Lilley Survey for the purposes of this report and will be referred to as such in the accompanying field notes. Another old barbed wire fence lead in a southeasterly direction and at about 1047 varas another car axle was encountered at the intersection of said old barbed wire fence and a newer barbed wire fence (see Figure 3). This is the car axle set by Metcalfe and recovered by McCarty, Sumrall, and Knox in the north line of said Lilley Survey. A diligent search to locate the east corner set by McCarty was performed but failed in recovering the called five eighth ($5/8$) inch iron rod set by surveyor McCarty. A one half ($1/2$) inch iron rod was found but was short of the called distance by about 15 varas. Since surveyor McCarty set and surveyors Sumrall and Knox recovered a five eighth ($5/8$) inch iron rod for this corner, the one half ($1/2$) inch iron rod was rejected and a point was calculated representing the east corner of the Lilley Survey and the Northeasterly Part of the Lilley Survey. Following a newer barbed wire fence in a southwesterly direction, a five eighth ($5/8$) inch iron rod at an eight (8) inch creosote fence post was encountered. A diligent search to locate the southeast corner of said Northeasterly Part of the Lilley Survey was unsuccessful in recovering the called one half ($1/2$) inch iron rod set by Sumrall. Since Sumrall set and Knox recovered a one half ($1/2$) inch iron rod, the five eighth ($5/8$) iron rod found was rejected and a point was calculated representing the southeast corner of said Northeasterly Part of the Lilley Survey. Following said newer barbed wire fence a five eighth ($5/8$) inch iron rod was found lying on top of the ground on its side. Continuing in a southwesterly direction following said newer barbed wire fence an iron rod with an aluminum cap stamped "LK RPS 1875 PROP CORNER" was recovered (see Figure 4). This monument is taken as the west corner of said Southerly Southeast Part of said Lilley Survey set by Knox, although this monument-type is not recited in his field notes. A diligent search for the five eighth ($5/8$) inch iron rod set at the south corner of the Lilley Survey by McCarty and recovered by Sumrall and Knox failed. A five eighth ($5/8$) inch iron rod was found about 11 varas from said search area and another iron rod one half ($1/2$) inch in diameter was found about 26 varas from said search area. Returning to said west corner of said Lilley Survey and following an old barbed wire fence in a northwesterly direction, a two (2) inch iron pipe with collar at a fence post was found at about 662 varas. The monument and distance calls agree with the information shown on a plat by Marlton O. Metcalfe dated on April 17, 1971 (see Plan 8582,



Figure 1: Set stone found in rock mound for the west corner of the William G. Lilley Survey. Inset: set stone marked "X".



Figure 2: Axle found for the north corner of the William G. Lilley Survey.

Metcalfe and Sanders, c/o Loomis Partners, Inc., Austin, Texas) where he shows it to be the southwest corner of said Heirs of the M. C. Miller Survey.

CONSTRUCTION

The **west line** of the Remaining Northwest Part of the Lilley Survey is established by holding a line between the set stone marked "X" found in rock mound at the west corner of the Lilley Survey, it being the **west corner** of this survey, and the car axle described above as the north corner of the Lilley Survey.



Figure 3: Axle found in the north line of the William G. Lilley Survey.

The **northeast line** of the Remaining Northwest Part of the Lilley Survey is established by recreating the southwest line of the Northeasterly Part of the Lilley Survey. Said southwest line is created by reestablishing the north, northeast, and south lines of the Northeasterly Part of the Lilley Survey per field notes by Mr. Sumrall as follows: 1) extending a line from the car axle at the north corner of the Lilley Survey through the car axle found in the north line of the Lilley Survey the called distance in Sumrall's field notes establishing a calculated position for the east corner of the Lilley Survey; 2) holding the bearing relationship and distance in Sumrall's field notes from said calculated east corner establishing a calculated position for the southeast corner of the Northeasterly Part of the Lilley Survey; 3) holding a line between said calculated southeast corner and the iron rod with an aluminum cap found stamped "LK RPS 1875 PROP CORNER", which is the **south corner** of the Remaining Part of the Lilley Survey; 4) setting a five eighth (5/8) inch iron rod with an aluminum cap stamped "Texas General Land Office EC A-205 SC A-400 NBL A-401" at the called distance for the south line of the Northeasterly Part of the Lilley Survey establishing the **east corner** and **southeast line** of the Remaining Part of the Lilley Survey; and 5) holding bearing relationship from said set east corner and intersecting the reestablished west line of said Lilley Survey. Said bearing-bearing intersection allows for the reestablishment of the **north corner** of the Remaining Part of the Lilley Survey where a five eighth (5/8) inch iron rod was set with an aluminum cap stamped "Texas General Land Office EBL A-232 NC A-205 WC A-400". The **south line** is established by holding a line between the iron rod with an aluminum cap found stamped "LK RPS 1875 PROP CORNER" and the Lilley Survey.



Figure 4: Iron Rod found with aluminum cap stamped "LK RPS 875 PROP CORNER" for the southeast corner of the Remaining Part of the William G. Lilley Survey.

William D. O'Hara

William D. O'Hara
Licensed State Land Surveyor



The research, field work, analysis, construction, and preparation of field notes, plat and report were performed by David A. McDaw, RPLS under my direct supervision. SD