

File 1

El Paso County

West from Greenwich 106° 21'
Do. 31° 46' 55"

Counter 21883

Hon R. M. Hall

Commissioner of the
General Land Office -

In the
matter of the Pre-emptors L. D. Briswell and
L. H. Thompson in El Paso County, Texas we
desire to respectfully submit the following for
your consideration -

1st The Pre-emptions are off of the southern boundary
of the Moses Hughes Survey No one (1) and
are part of what was formerly supposed to have
been the J. W. Jennings Survey No (2) two.
See map A, hereto attached for the position
of said Pre-emptions -

2nd We have two theories, each based on a
separate state of facts, and both showing the land
pre-empted to be vacant, upon which we rely.

The first set of facts is that the original
file of the Moses Hughes No one (1) under which it
was surveyed is as follows - "Beginning - on the
East Bank of the Rio Grande just where the Santa Fe
and Chihuahua road descends the bank of said
river at the place known as the Paso del Norte
crossing running thence down with the meanders
for a front of Two thousand five hundred and
twenty varas &c -" See Ex - X for the file of the
Moses Hughes - by H. C. Fontaine & letter of
the Surveyor of Bexar Co. to show the date of
said file. - We file herewith the affidavits of
Genisendo Pedregon, Nemesis, Barla, Price Cooper,
Julio Profencio, Francisco Salzedo, and Clement Dora
to show that in 1850 the Yrigoyen front on

1 Crossing of the Rio Grande was about 600 varas below
2 the Ponce Ford. That said Yrigoyen Ford was the
3 main crossing of the Rio Grande at said Paso
4 del Norte in 1849 and 1850 and was known as the
5 Santa Fe and Chihuahua ford. & that the Ponce
6 Ford was not made until latter part of 1850 see
7 Ex G.

8 Again we further submit herewith a
9 sketch marked Ex-M- showing the Santa Fe crossing
10 in 1849 to be at the S. W. Cor of the Moses Hughes -

11 We further submit as Ex A. map showing the
12 vacancy.

13 Now if we are correct in claiming that
14 the Santa Fe and Chihuahua crossing called for
15 in the file of the Moses Hughes Survey No (1) one
16 is identical with the ford now called and known
17 as the Yrigoyen Ford, then it follows that the
18 Yrigoyen crossing is the true beginning point of
19 the Moses Hughes Survey and that the point of 2500
20 varas on the river will push it some 600 varas down
21 the river, further than the maps show it to be. &
22 that it will in consequence take some 600 varas
23 off the North boundary of what has been considered
24 part of the W. Cummings Survey No (2) two -
25 Inasmuch as the Moses Hughes is a void survey
26 that strip is vacant land liable to the pre-emption
27 of Griswell & Thompson -

28 3rd Let us now take up the other facts which lead
29 to the same conclusion to wit: That the Griswell
30 & Thompson surveys, were, when they filed their
31 pre-emption, vacant land. The present survey on
32

of El Paso County found and identified the S.E. Corner of the R.P. Tompkins Survey No (9) mine. From thence he ran by the calls of the surveys up the river, giving each survey its complement of land. The Surveyor also found the S.W. Corner of Survey No 12 P. H. Duggan, and evidently thinks he found the S.W. Corner of the Justo Rodriguez. He ran out the entire block of 12 surveys put in, in 1849 by R. B. Hays and found they fit the north bank of the Rio Viejo, and that the S.W. Corner of the Moses Hughes Survey No (1) one is at the Grigoyan ford or crossing. See the original report of the Surveyor now in said preemption files of Criswell & Thompson.

This method also makes the land vacant when it was preempted by Criswell & Thompson.

With this we hand you Certified Copies of field notes of surveys Nos 40, 53, 54, 55, & 57 under D. U. made by H. L. Deffendoffer Surveyor of El Paso County in 1853, & 4. I am a careful examination of the surveys you will find that Sur. # 53, begins at the lower corner of Sur No 1 (Moses Hughes) made by Robt Hays, but calls for entirely different bearings, to those given in the field notes of Moses Hughes, thus showing that the Surveyor Deffendoffer did not find the true corner of the Hughes Survey. Again if the S.W. corner of 53 was located at the true S.E. corner of the Hughes, then the S.E. corner of # 54 & S.W. Cor of # 55, would fall at the S.E. corner of the P. H. Tompkins No 9, but as before the Surveyor fails to find the bearings called for in

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Cummins's field notes, but calls for different bearings
For these reasons we are inclined to believe that Mr
Deftendorf did not know where the true Corner of
the Hughes Survey was, and that all of his work
was based on the supposition that the Hughes
S.W. or beginning Corner, was at Ponce's ford instead
of the Grigoren Ford.

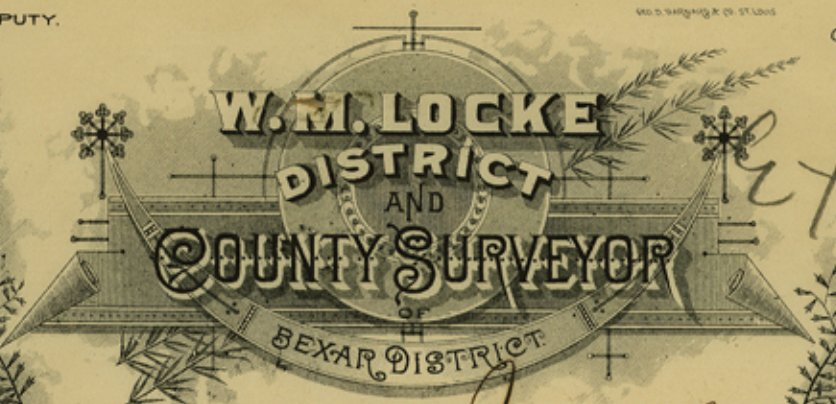
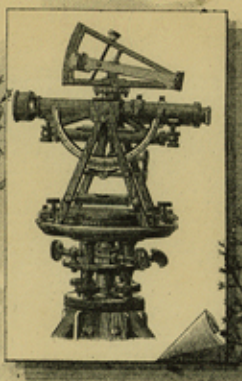
If there was no other proof
as to where the S.W. Corner of the Hughes was,
then the connecting call in the Ponce field
notes for that Corner would hold. By statements
accompanying the field notes of the Preemptions
of L.H. Thompson & D. Criswell now on file
in G.L.O. it is shown that the S.W. Cor of the
Duggan, S.E. Corner of D.P. Cummins No 9 and
the S.E. Corner of J.R. Cook No 4 have been definitely
located and identified, and that the S.W.
Corner of the Hughes located from this Corner
falls at the Grigoren ford and not the
Ponce. This is proof that the call for the
S.W. Corner of the Hughes contained in
the Ponce field notes is erroneous, especially
if it shown that Mr Deftendorf never
identified any of the Corners of the Hughes
or Cummins surveys and merely based his
work on the supposition that Hughes S.W.
Cor was at the Ponce Ford, it being the
main crossing at that time.

Respectfully Submitted
Reuben Thurston, Director
Atty for Criswell & Thompson

WILL. H. BONNELL DEPUTY.

No. 5 541949 & 21 57 12005

BEXAR DISTRICT
COMPRISES THE FOLLOWING
COUNTIES:



BEXAR,
CROCKETT,
SUTTON,
SOLEICHER,
LIPSCOMB,
OCHILTREE,
ROBERTS,
HEMPHILL,
GRAY.

San Antonio, Texas June 13th 1888

Miss Rector Thompson & Rector
Austin Texas

Gentlemen,

Herewith I return you the Certified Copy of
the H. C. Fountain. File and in so doing
allow me to say that if said file had
have been dated in the original the Copy
would have been dated, but as there was
no date to the origl. we can't give the
Copy a date.

Respectfully
W. M. Locke
D. S. B. D.

P.S. The date of the file preceding the Fountain
file is Dec 29th 1848, and the one following
is dated Jan 4th 1849.

Henry C Fountain's Application

1st

In Sir I hereby make application for the entry of Sundry Locations of which the annexed is a Plat in your office to-wit - Headright of Moses Hughes, for one League & one Labor of Land.

Beginning on the East bank of the Rio Grande just where the Santa Fe and Chihuahua Road descends the bank of said River at the place known as the Passo Del Norte crossing running thence down with the meanders of river for a point of two thousand five hundred and twenty (2520) varas and thence so as to include the Survey between two parallel lines running due East from the River base so far as to give the quantity required -

for Fountain's 2nd

The Headright of James R. Cook for one League and one Labor - Beginning at the Lower River corner of Moses Hughes League and Labor and also to be surveyed with same description of Meets and bounds -

3rd

The Headright of Gusto Rodriguez, for one League & one Labor Beginning at the lower River corner of J. R. Cook's League & Labor as represented in the above as well as the annexed Plat -

4th

The Headright of John L. A. One League & one Labor as represented in the foregoing Plat -

5th

The Headright of Jesse B. Atkinson, One & one Labor as described in the annexed Plat -

San Antonio

6^s The Headright of D. P. Cummins,
One, third League, as marked in the
Plat.

7^s The Land Warrant of J. P. Cummins
N^o. 3910. for 1280. acres as designated in
the Plat.

8^s The Headright of J. P. Cummins
for 640 acres as in Plat.

9^s The Donation Warrant, D. P. Cummins
for 640. acres, as in Plat.

10^s The Land Warrant - J. R. Cook for
640 acres

11^s The Headright, Wm. Macey, for 640 acres
which please notice as the Law provides
in such cases.

12^s The Headright of L. H. Duggins, with
below Wm. Macey, - H. C. Fountain,

I, W. M. Locke Dist Sur & Secy
Dist do hereby Certify that the
foregoing is a true and correct copy
of the Original on record in my
Office in file Book N^o. 1. Pp 299,
300, & 301

Given under my hand at San Antonio
Texas, this 5th day of June 1888.
W. M. Locke,
D. S. & Secy.

Ex y

1 The State of Texas } Before me the
2 County of El Paso } undersigned author-
3 ity personally appeared Guisindo
4 Pedregon a citizen of El Paso County
5 Texas to me well known who being
6 by me duly sworn, deposes and says
7 That he has resided in El Paso County
8 Texas since the year 1846. That during
9 the years 1848, 1849 and 1850 he resided near
10 Maggsville in said county, that he was
11 personally and well acquainted with the
12 fords and crossings of the Rio Grande
13 at the town of Paso del Norte, that the
14 Yrigoyen ford or crossing was about six
15 hundred varas below the Ponce ford and
16 some eight hundred varas below or east
17 of the present short-car stables.

18 That said Yrigoyen ford was the main
19 crossing of the Rio Grande at said Paso
20 del Norte in 1849, and was known as the
21 Santa Fe and Chihuahua ford or crossing
22 that said Ponce ford or crossing
23 was not made or used until the later
24 part of the year 1850. Guisindo Pedregon

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26 Given to and subscribed before me this 21st
27 day of June A.D. 1888

28 A. E. Doubt
29 Notary Public El Paso Co Tex
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The State of Texas } Before me the under
county of El Paso } signed authority person
ally appeared Demetrio Barola, a
citizen of El Paso county Texas to me
well known who being duly sworn
deposes and says that he has resided
in El Paso county since 1848.

That during the years 1848, 1849, and 1850
he resided near Maggoffinsville in
said county, that he was personally
and well acquainted with ~~said~~ the fords
and crossings of the Rio Grande at
the town of Paso Del Norte, that the
Gregory ford or crossing was about
six hundred varas below the Ponceford
and seven or eight hundred varas
below or east of the present street car
Stables, that said Gregory ford
was the main crossing of the Rio
Grande at said Paso Del Norte in
1849 and was known as the Santa Fe
and Chihuahua ford or crossing -
that said Ponceford or crossing was
not made or used until the latter part
of the year 1850. Demetrio Barola

Sworn to and subscribed before me on this
the sixteenth day of June A. D. 1888.

G. W. Mahd

Notary Public

El Paso, Texas

The State of Texas
County of El Paso Before me the
undersigned Authority personally
appeared Price Cooper a citizen of
El Paso County Texas to me well
known who being by me duly
sworn according to law, deposes
and says, That he has resided
in El Paso County Texas since the
year of 1843 - That during the years
1848, 1849 and 1850, he resided near
Magoffinsville in said County
That he was personally acquainted with
and knew well the fords and cross-
ings of the Rio Grande at the town
of Pass del Norte, That the Yrigoyen
ford or crossing was about six hun-
dred varas below the Pance ford,
and seven or eight hundred varas
below or east of the present street
car stages, That said Yrigoyen ford
was the main crossing of the Rio
Grande at said Pass del Norte in 1849
and was known as the Santa Fe and
Chihuahua ford or crossing, That
said Pance ford or crossing was not
made or used until the later part
of the year of 1850 -

Price Cooper
Sworn to and subscribed before me on
This the 12th day of June A. D. 1858
J. P. Clark

Clerk County Court, El Paso Co. Texas
By M. J. Clark, Dep.

The State of Texas
El Paso County Before me the
undersigned Authority personally appeared
Julio Probenicio, Clemente Parra and Francisco
Chalzo
who being by me duly sworn depose and
say that they were living at Paso del Norte
in the year 1849. That they were well
acquainted with the ford and crossing
of the Rio Grande opposite said town
used during the years 1849 to 1852.
and that the main or principal wagon
road leading from Paso del Norte to
Santa Fe, crossed said Rio Grande
at what was known as the Gigoyen
ford, which was about six hundred yards
east of the present street car stables.
and further that the Ponce ford or
crossing was not the principal ford
or crossing till the town of Franklin was
first settled which was about 1852.

The Gigoyen ford was also called the
Santa Fe crossing in the years 1849 to
1852.

Witness
Victor Ochoa
Julio ^{his} Probenicio
Francisca ^{his} Chalzo
Clemente ^{his} Parra

Sworn to and subscribed before me on this
the 23rd day of May 1888.

F P Clark
C C Clark Co Tx
By H Hley
Deputy.

Ex N

State of Texas.

Survey N^o 40.

District of El Paso. }

Field Notes of a Plat of a survey of 599 acres of and 3215 varas of land made for Mariano Barita afs of Juan M^a Poncy it being land to which he is entitled in part by virtue of a Grant of land made to Juan M^a Poncy on the 24th Day of September A. D. 1827 by Agapito Albo as Justice of the peace of the town of El Paso, in part by an additional Grant made to said Juan M^a Poncy on the 4th Day of May A. D. 1830 by Jose M^a Cordova as Justice of the Peace of the Town of El Paso.

Said Survey is N^o 40 in Section N^o 1 situated on the Rio Grande oposite the town of El Paso del Norte.

Beginning at a stake set on the bank of the Rio Grande which bears N 67 1/4 W. 2428 varas from the S. W. corner of Survey N^o 1 A. Cottonwood 10 in. in diam. bears N. 58° E. 35 varas; Thence East 1104 varas to a stake and stone heap; Thence N. 53° E. 1861 varas to a stake and mound (no notable objects near); Thence S. 26 1/2° E. 1340 varas along a ridge of earth to the bank of the Rio Grande to a stake A Tornillo or screw tree 6 in diam bears N. 10° W. 20 varas another screw tree 5 inches in diam. bears N. 25° E. 14 varas; Thence along the Rio Grande with its meanders 3903 varas to the place of beginning.

Bearings marked = Surveyed March 25th 1853.

Mr Bonnier

Pelijo Garcia } Chain carriers.

An Arable land.

J. W. L. Tiffenderffer, District Survey for El Paso Dist. hereby certify that the Survey designa

ted in the foregoing plat and field notes was made according to law and that the limits, boundaries and corners of the same together with the marks natural and artificial are truly described therein and that the same is recorded in my office in book N^o. 1. page 29.

San Elizario, March 25th 1853. W. L. Tiffenderffer
District Surveyor El Paso District.

I, J. W. Eubank, Surveyor of El Paso County, do hereby certify, that the above is a true and correct copy ^{of field notes} of Survey N^o. 40. as they appear in Transcribed Record Book A. page 29.

Given under my hand at El Paso City, this 3rd day of May 1888.

J. W. Eubank
Surveyor of El Paso County.

State of Texas.

District of El Paso } Survey N^o 53.

Field Notes of a Survey of 320 acres of land made for James W. Mayoffin as of Geo. Taylor it being part of the land to which he is entitled by virtue of a Donation land certificate N^o 399 issued to George Taylor by the Adjutant General James S. Gillette the 10th day of December 1851 for 640 acres of land.

Said Survey is N^o 53 in Section N^o 1 situated on the Rio Grande about one and a half miles below the town of El Paso.

Beginning at a stake on the banks of the Rio Grande set for the lower corner of Survey N^o 1 as made by Robert B. Hays from which a Cottonwood 10 inches in diam. bears N 45° E. 4 varas a Willow 5 inches in diam. bears S. 32° E. 11 varas;

Thence N. 2430, 5 varas to a stake and mound;

Thence East 672 varas to a stake and mound;

Thence South 2945, 5 varas to a stake from which

a Cottonwood 6 inches in diameter bears N. 10½° E

15 varas; Thence up the Rio Grande with its

meanders 672 varas to the place of beginning

bearings marked ≡ Surveyed Feb. 4th 1854

Sebastian Oroscio } Chain
Pablo Ramirez } Carriers.

J. W. L. Diffenderffer, District Surveyor of El Paso District do hereby certify that the survey designated in the foregoing plat and field notes was made according to law and that the limits, boundaries and corners of the same together with the marks natural and artificial

are truly described therein and that the same is recorded in my office in book N^o. 1 page 43.

W. L. Tiffenderffer
District Surveyor El Paso District.

San Elizario, Feb. 4th 1854.

J. J. W. Eubank, Surveyor of El Paso County, do hereby certify, that the above is a true and correct copy of Field Notes of Survey N^o 53. as they appear in Transcribed Record Book A. page 43.

Given under my hand at El Paso City, this 3rd day of May 1888.

J. W. Eubank
Surveyor of El Paso County.

State of Texas.

District of El Paso. } Survey N^o: 54.

- Field Notes of a Survey of 320 acres of land made for James W. Magoffin as of George Taylor it being part of the land to which he is entitled by virtue of Donation Land Certificate N^o: 399 for 640 acres of land issued to George Taylor by the Adjutant General James S. Gillett the 10th day of December 1851.

Said Survey is N^o: 54 in Section N^o: 1, situated on the Rio Grande about two miles below the Town of El Paso.

Beginning at a stake on the banks of the Rio Grande set for the lower corner of Survey N^o: 53. from which a Cottonwood 6 inches in diam. bears N. 10¹/₂° E. 15 varas;

Thence N. 2563 varas to a stake and mound;

Thence East 672 varas to a stake and mound;

Thence South 2813 varas to a stake on the banks of the Rio Grande from which a mesquite on a hillock bears N. 45° E. 8 varas; Thence up the Rio Grande with its meanders 672 varas to the place of beginning.

Bearings marked ≡ Surveyed Feb. 4th 1854.

Sebastian Crossco. } Chain
Pablo Ramirez } Carriers.

J. W. L. Tiffenderffer, District Surveyor for El Paso District hereby certify that the Survey designated in the foregoing plat and field Notes was made according to law and that the limits, boundaries and corners of the same together with the marks

natural and artificial are truly described therein and that the same is recorded in my office in book N^o. 1. page 44.

W. L. Tiffenderfer.

District Surveyor El Paso District.

Juan Elizario, Feb. 4th 1854.

I, J. W. Lubank, Surveyor of El Paso County, do hereby certify, that the above is a true and correct copy of Field Notes of Survey N^o. 54. as they appear in Transcribed Record Book A. page 44.

Given under my hand at El Paso City, this 3rd day of May 1888.

J. W. Lubank
Surveyor of El Paso County.

State of Texas. } Survey No. 4.
District of Texas } Field Notes of a Survey
of 26 Acres of Land, made for James R.
Cook it being the land to which he is entitled
by virtue of Certificate issued by the Board
of Land Commissioners for Washington
County. — Said Survey is No. 4. in Section
No. 15. situated on the Rio Grand about
two miles below the town of El Paso del Norte.
Beginning at a stake set on the bank of the
Rio Grand for the S.E. corner of Survey No. 3.
from which a Cottonwood 5 in. dia. Cr. N. 26
W. 26 vs. and a Cottonwood 7 in. dia. Cr. N. 26
6 1/2 vs.

Thence North 10198 vs. to stake & mound.
Thence East 2550 vs. to a stake & mound.
Thence South 9911 vs. to a stake set on the bank
of the Rio Grande from which a Willow 4 in.
dia. Cr. N. 50 W. 26 vs., a Willow 5 in. dia.
Cr. N. 55 W. 26 vs.

Thence up the River with its meanders
to the place of Beginning.

Bearings marked X. Wm. Greene } C.
Surveyed Oct 1st 1849. Wm. Emory. } C.

12 Acres Arable, the balance pasture land.
A. Robt. B. Fays, Deputy Surveyor of Texas
District do hereby certify that the survey
designated by the foregoing plat and
field notes was made by me according
to law, and that the limits boundaries

and corners of the same, together with the marks natural and artificial are truly described therein.

Robt. B. Hays.

Dept. Sur. Texas Dist.

J. S. McDonald District Surveyor of Texas District, do hereby certify that I have examined the foregoing plat and field notes and find them correct, and that they are recorded in my office, in Book A. No. 5. page 252.

San Antonio.

J. S. McDonald

December 17. 1849. Dist. Surveyor Texas District.

General Land Office.

Austin Texas.

May 10th 1888.

A. R. Hall, Commissioner of the General Land Office of the State of Texas, do hereby certify, that the above and foregoing is a true and correct copy of the original, as therein set forth, now on file in this office.

In testimony whereof, I hereunto set my hand, and affix the Impress of the Seal of said office, the day and year last above written.

A. R. Hall
Commissioner.

State of Texas.

District of El Paso. } Survey N^o 57.

Field Notes of a Survey of 320 acres of land made for James W. Mayoff in aid of N. W. Burdette it being part of the land to which he is entitled by virtue of Donation Land Certificate N^o 463 issued to N. W. Burdette for 640 acres of land the 6th day of October 1852.

Said Survey is N^o 57 in Section N^o 1 situated on the Rio Grande about one and a half miles below the town of El Paso del Norte

Beginning at a stake set for the South West corner of Survey N^o 53. on the banks of the Rio Grande from which a Cottonwood 10 inches in diam. bears N. 45° E. 4 varas a Willow 5 inch in diam. bears S. 32° E. 11 varas;

Thence N. 2562 varas to a stake and mound;

Thence W. 672 varas to a stake and mound;

Thence S. 2814 varas to a stake on the banks of the Rio Grande from which a Tornio or Screw tree 4 inch in diam. bears N. 20° E. 10 varas another Tornio bears S. 15° E. 13 varas.

Thence down the Rio Grande with its meanders 672 varas to the place of beginning.

Bearings marked ≡ Sebastian Crosscoy } Chain
Surveyed Feb. 15th 1854. Pablo Ramirez } carriers.

J. W. L. Tiffenderffer, District Surveyor for El Paso District hereby certify that the Survey designated in the foregoing plat and field Notes was made according to law and that the limits, boundaries and corners of the same

Together with the marks, natural and artificial are truly described therein and that the same is recorded in my office in Book No 1. page 49.

W. L. Tiffenderffer.

San Elizario, Dist. Surveyor, El Paso Dist.
Dec. 24.th 1853.

I, J. W. Eubank, Surveyor of El Paso County, do hereby certify, that the above is a true and correct copy of Field Notes of Survey No 57 as they appear in Transcribed Record Book A. page 49.

Given under my hand at El Paso City, this 3rd day of May 1885.

J. W. Eubank
Surveyor of El Paso County.

State of Texas

District of El Paso. } Survey N^o: 55.

Field Notes of a Survey of 320 acres of land made for Hugh Stevenson as of Edmund R. Talley it being part of the land to which he is entitled by virtue of land certificate N^o: 1160 3rd class issued to Edmund R. Talley for 640 acres of land by the board of Land Commissioners of Harris County on the 12th Jan'y 1852.

Said Survey is N^o: 55 in Section N^o: 1. Situated on the Rio Grande about two and a half miles below the town of El Paso.

Beginning at a stake on the banks of the Rio Grande set for the lower corner of Survey N^o: 54. from which a mesquite on a hillock bears N. 45° E. 8 varas.

Thence North 2868 varas to a stake and mound;
Thence East 672 varas to a stake and mound;
Thence South 2508 varas to a stake on the bank of the Rio Grande from which a cottonwood 12 inches in diam. bears N. 2 varas another cottonwood 16 inches in diameter bears N. 16 varas;
Thence up the Rio Grande with its meanders 672 varas to the place of beginning.

Bearings marked ≡. Surveyed Feb. 4th 1854.

Sebastian Crocco. } Chain
Pablo Remires } Carriers.

J. W. L. Tiffenderffer, District Surveyor for El Paso District do hereby certify that the Survey designated in the foregoing plat and field notes was made according to law and

E1 Paso 22 SB. File #1

that the limits boundaries and corners of the same together with the marks, natural and artificial are truly described therein and that the same is recorded in my office in book N^o 1. page 45.

W. L. Tiffenderffer

San Elizario

District Surveyor El Paso District.

Feb. 4th 1854.

I, J. W. Eubank, Surveyor of El Paso County, do hereby certify, that the above is a true and correct copy of Field Notes of Survey N^o 55 as they appear in Transcribed Record Book A. page 45.

Given under my hand at El Paso, City, this 3rd day of May 1855.

J. W. Eubank
Surveyor of El Paso County.

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El Paso Co

Report of Surveyors, R. B. Hayes
December 17, 1849. et al.
L. D. Criswell & L. W. Thompson.
et al.

C 16