





File No. 100002  
El Paso County  
Sketch  
Filed 10-29- 1952  
~~BOB ARMSTRONG, Com'r~~  
By \_\_\_\_\_

Counter 22085

Sketch showing 2 A. Moverick 2nd 233 with its  
relation to 2 A. M. 2nd 231 according to J.W. 1st  
Survey recorded in the County Surveyors Records  
of El Paso County.

ALSO SHOWING THE LOCATION OF THE  
ARROYO OF THE CANYON AND THE LOCATION  
OF SURT. 233 AND 234 WHERE I THINK  
THEY DEPEND  
OCT 20, 1952  
J. W. 1st  
LICENSED SURVEYOR

El Paso Co. Sh. File #31



SURVEY	BLOCK	SECTION	CERT. NO.	TSP.	ACRES	PART OF SECTION	COUNTY
T & P RY CO	78	40	6886	4	64000		EL PASO

EL PASO CO TREAS      COURTHOUSE      EL PASO    TX 79901      4      106688      71

NAME      STREET ADDRESS      CITY AND STATE      INT. %      FILE NUMBER      COUNTY

REGISTER NUMBER	CL. NO.	DATE MO. DA. YR.	VOU./ TRF. NO.	GLO. A/C NO.	DESCRIPTION OF ENTRY	CODE	PRINCIPAL	INTEREST	FEES	LEDGER AND PAGE
12458 SAI306	* 13	083168 101668 110168		1601 1601 1601	BALANCE FWD INTEREST PAY ANNUAL INT	! - -	1,254.24*	.17* 50.33C 50.16*	.00*	221067 221067 221067
SAI305	* 13	083169 110169		1601 1601	BALANCE FWD ANNUAL INT	! -	1,254.24*	.00C 50.16*	.00*	221067 221067

11/17/69  
F.P. in office  
Forbes to Heard

1254.24  
50.16 To 11-1-69  
2.37 11-1-69 to 11-17-69  
.12 Penalt int to 11-17-69  
1306.89  
1306.60 Pd  
.29



\*

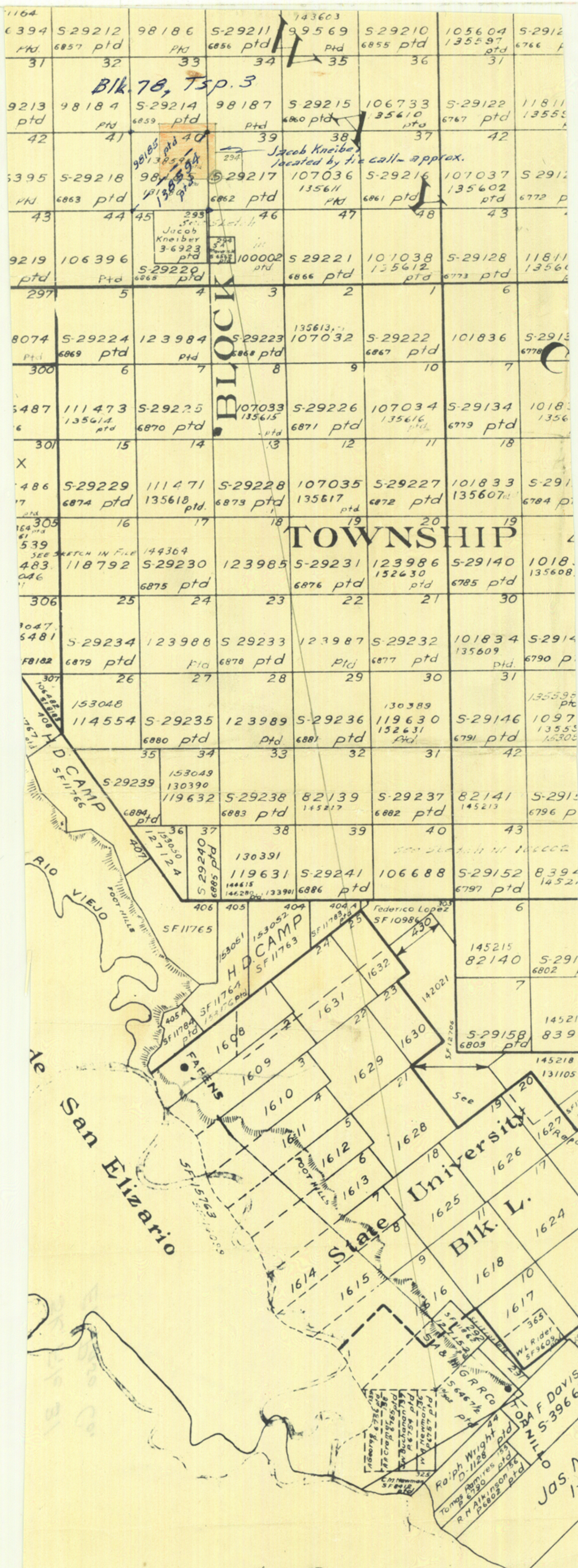
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EI PASO CO. St. File #31  
Counter 22087





Blk. 78, Tsp. 3

BLOCK

TOWNSHIP

San Elizario

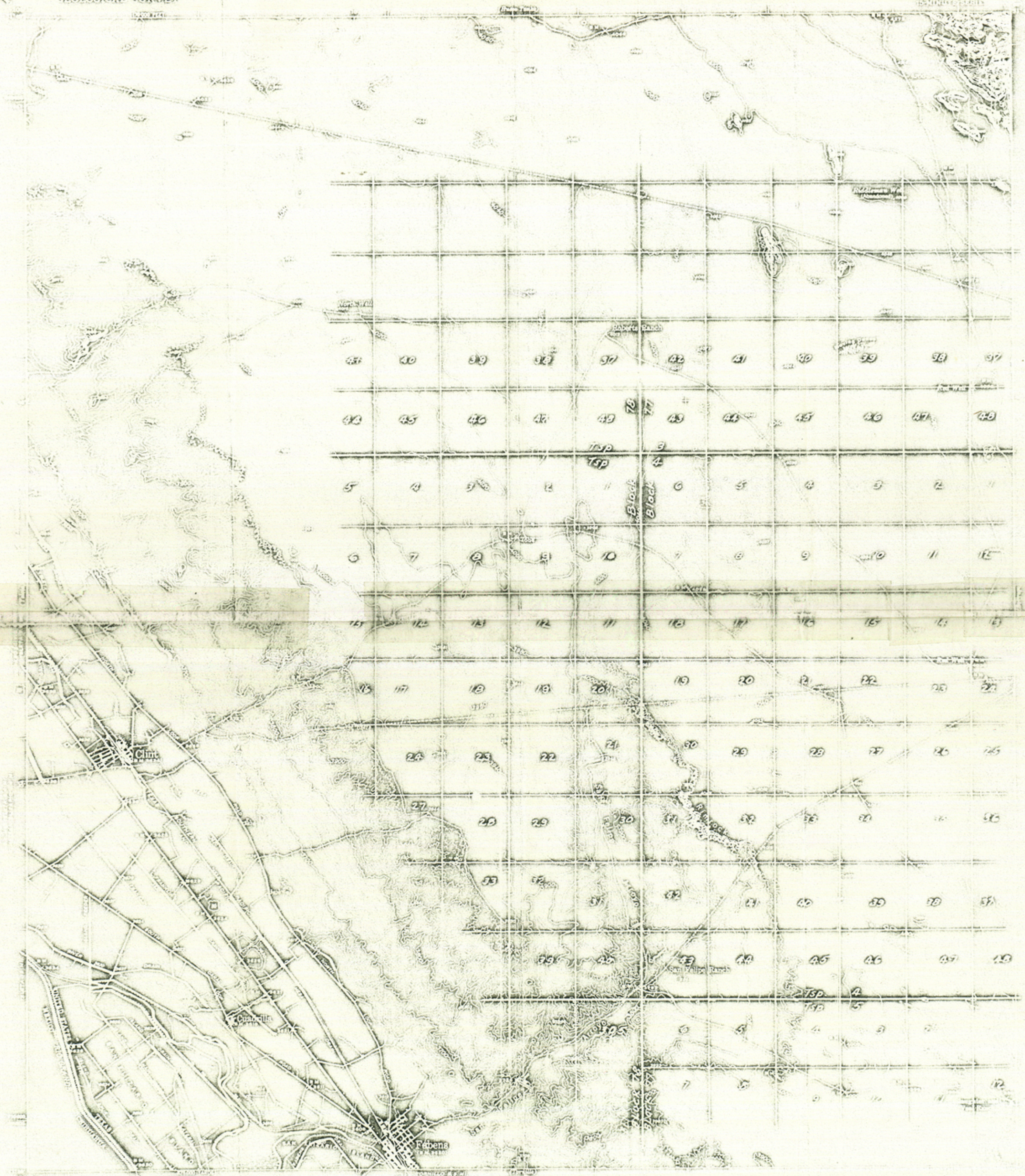
State University

Blk. L.

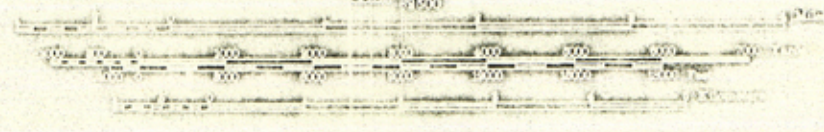


AGRICULTURAL SURVEY  
GENERAL OFFICE OF THE  
SPECIAL AGENTS

QUADRANT  
SOUTH-EAST



Designed by M. M. Starnes, General Supt.  
S. R. Starnes, Jr., Chief  
Surveyors 1939



Copyright 1939 by M. M. Starnes  
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AGRICULTURAL SURVEY  
GENERAL OFFICE OF THE  
SPECIAL AGENTS



File No. 100002  
El Paso County  
Topo  
Filed 10-29- 1952  
BOB ARMSTRONG, Com'r  
By.....

Sk. File # 31

Counter 22090



**TITLE GUARANTY COMPANY**

**GUARANTEES LAND TITLES AND LIENS**

CHESTER E. LOVELADY  
PRESIDENT & GENERAL MANAGER

August 16, 1968

STEWART TITLE COMPANY, AGENT  
118 N. KANSAS, EL PASO, TEXAS 79901

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

Dear Mr. Sadler:

Presently we have various property owners who are in a dilemma over the true location of Jacob Kneiber Survey 293, 320 acres, El Paso County, Texas. The General Land Office Map of 1921 places Jacob Kneiber Survey 293 in Section 45, Block 78, Township 3, T & P Railway Surveys. In examination of the title to the above two surveys, I find that the State of Texas issued a Patent dated May 7, 1875, and filed in El Paso County on November 11, 1899 to TELESFERO MONTES, for the Jacob Kneiber Survey 293, 320 acres. Whereas Section 45, Block 78, Township 3, T & P Railway Surveys, 640 acres was Patented to the Texas and Pacific Railway Company on January 28, 1886 and filed for record in El Paso County on August 2, 1942. Thereby the State Land Office Map of 1921 has two conflicting titles and due to the filing dates it is assumed that the title holders of Jacob Kneiber Survey 293 would have superior title on the basis of dates of Patent and filing dates of these respective Patents.

The El Paso County Tax Assessors Office indicates that the Jacob Kneiber Survey 293, 320 acres is located in Section 40, Block 78, Township 3, T & P Surveys, and have been all these years collecting taxes on this basis. This action was supposed to have been approved sometime in 1928 due to a correction to the State Map of 1921 from the Land Commissioner's office by letter, which is now no longer available. ✓

Regardless, all these years the El Paso County Tax Assessor has carried Jacob Kneiber Survey 293, 320 acres in the North Half of Section 40, Block 78, Township 3, T & P Surveys, and they indicate that there is room to place Jacob Kneiber 293 within Section 40 without conflict. In the meantime, Section 40, Block 78, Township 3, T & P Surveys has been Patented to the County of El Paso on

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Counter 22091



Mr. Jerry Sadler, Commissioner  
August 16, 1968

Page 2

October 17, 1961 and filed for record on October 19th of the same year. Thereby creating another conflict if attempted to locate Jacob Kneiber 293 within the boundaries of Section 40.

I hope the brief description of the problem that I have outlined above is a basis for your office to immediately investigate the conflicting titles due the Land Office Map of 1921, and assist the various owners of Jacob Kneiber Survey 293 in locating their property within its' rightful survey or Section number.

Should you need any further title evidence to clear up these conflicts, please contact me and I shall take it up with the various owners as to what your requirements are. The section owners are as follows: Section 40, Block 78, Township 3, T & P Railway Surveys, as stated previously is owned by the County of El Paso; Section 45, Block 78, Township 3, T & P Railway Surveys is owned by Horizon Properties Corporation, and has been subdivided into other units, with multitudes of lot owners; and Jacob Kneiber Survey 293, which is owned by approximately nine different owners.

Enclosed you will find survey Plat dated June 6, 1968 of Section 45, Block 78, Township 3, containing Jacob Kneiber Survey which was based on the 1921 General Land Office Map and letter of August 10, 1959 from V. E. Sterzing of the Engineering Division, General Land Office.

Hoping to hear from you in the near future regarding this matter, I remain,

Sincerely,

Albert A. Mestan  
Title Examiner

AAM/su  
Encl.

J<sup>2</sup>  
Counter 22092





GENERAL LAND OFFICE

AUSTIN, TEXAS

78701

August 23, 1968

JERRY SADLER  
COMMISSIONER

Stewart Title Guaranty Company  
118 N. Kansas  
El Paso, Texas 79901

Attention: Mr. Albert A. Mestan

Re: Jacob Kneiber, Survey No. 293,  
Abst. 51, El Paso County, Texas  
File: Bexar 3-6923

Dear Sir:

Pursuant to your letter of August 16, 1968 concerning the location of the captioned survey, we have examined the respective files in this office pertinent to this matter, and the following is indicated.

The Jacob Kneiber survey was surveyed January 30, 1874 by J. Wilkin Tays and describes a tract of 320 acres located in El Paso County beginning at a point just below the junction of two arroyos known as the Arroyos of the Comales, from which point the South West corner of survey No. 291, made for SA&MG RR Co. bears S. 10° E. 30,500 varas; Thence North 1344 varas; West 1344 varas; South 1344 varas and E. 1344 varas. This survey was patented May 7, 1875 and after title passed from the State the land office has no further record of ownership.

The T&P RR Co. surveys were made by Jacob Kuechler in 1879 and will be junior to the location of the Jacob Kneiber.

The official land office map in use from 1888 until 1902 has the Kneiber survey delineated overlapping the common corner of Sections 32, 33, 40 and 41, T&P RR Co., Block 78, Tsp. 3; the approximate West 2/3rds covering Sections 32 and 41 and the approximate center line coinciding with the South boundary lines of Sections 32 and 33.

The official land office map in use from 1902 until 1908 has the Kneiber survey delineated in the South East corner of Sec. 40, T&P RR Co., Block 78, Tsp. 3, with some overlap on Sections 39, 45 and 46.

The official land office map in use from 1908 until 1921 has the Kneiber survey delineated near the North East corner of Sec. 40, T&P RR Co., Block 78, Tsp. 3, with a slight overlap on Sec. 39.

The present official land office map in use since 1921 has the Kneiber

*El Paso SK. File 31*

*Counter 22093*



Stewart Title Guaranty Co.  
August 23, 1968

survey delineated approximately in the North East corner of Sec. 45, T&P RR Co., Block 78, Tsp. 3.

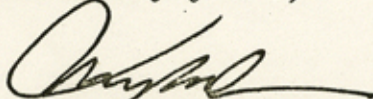
The SA&MG RR Co. Survey No. 291, which is the survey mentioned in the tie call in the Kneiber, calls for adjoiners with Survey 44, Ralph Wright; however, it also calls for adjoiners to the Jesse Burdett Survey No. 52 that is located along the SE line of El Paso County.

Mr. J. W. Carter, licensed surveyor of El Paso, filed a map and report in the land office in 1952 in which he proposes the theory that the San Felipe Arroyo in the South East part of T&P RR Co., Block 78, Tsp. 4, is the arroyo called for in the Kneiber survey. Mr. Carter would then locate the Kneiber survey in the North East corner of Sec. 40, Block 78, Tsp. 4.

The location of this Kneiber survey on the ground apparently is a problem of the individual owner or owners in sustaining their occupation of their respective tracts.

A certified copy of the patent to the Kneiber survey may be had for \$1.50 and a paper copy of the official land office map may be had for \$3.00.

Sincerely yours,

  
JERRY SADLER, COMMISSIONER

JS/ves

Counter 22094



October 14, 1969

Honorable Colbert Coldwell  
Judge, El Paso County  
Office of County Judge  
El Paso, Texas 79901

Dear Sir:

Regarding the recent articles in the newspaper pertaining to the problems being created by a parcel of land known as the Jacob Kneiber Survey #293 and the County's recent Auction sale of land, I would like to propose a solution that would be a final solution without creating a chain-reaction of new problems.

The El Paso County Tax Assessors Office indicates the Jacob Kneiber Survey #293, 320 acres, to be located in Section 40, Block 78, Township 3, El Paso County, and have been all these years collecting taxes on this basis.

This is due to the action taken in 1928 by the Land Commissioner's office, Austin, Texas and at that time a correction of the State Map of 1921.

Proposed Solution:

El Paso County Judge and Commissioners Court to confirm this as the location of the Jacob Kneiber Survey #293, then complete your transaction on the Auctioned land.

I am one of the owners of a portion of Jacob Kneiber #293, and after reading the news articles I contacted the other eight owners, each owner has agreed to accept this as the most logical, economical, and time saving solution for all parties concerned. All owners would be agreeable for Jacob Kneiber Survey #293 to be recognized by all departments of El Paso County Government (including the Tax office) as being in Section 40, Block 78, Township 3, El Paso County, Texas.

This can be done without creating a conflict of Titles involving a multitude of Lot owners, and would not interfere with your lease of 320 acres to the Girl Scouts of America.

Hoping to hear from you soon regarding this matter, I remain.

Sincerely,

Mrs. Larone Price

(Enclosed a copy of Tax office record)



RECEIVED  
MAY 11 1970  
General Land Office

IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS  
SIXTY-FIFTH JUDICIAL DISTRICT

LORANE PRICE, a feme sole, CHARLES A. SCOTT, RALPH P. SHERMAN, W. T. CAVENDER, J. H. HINTON, A. E. SKIFF, JOE A. MORGAN, MEDDIE (MRS. WESLEY) MORRIS and HENRY A. HOUGH,

Plaintiff,

vs.

THE STATE OF TEXAS and COUNTY OF EL PASO, TEXAS,

Defendants.

Filed 23 APR A. D. 19 70  
at 4:35 o'clock P.M.  
J.W.A. JOHNSON, Clerk, District Courts  
El Paso County, Texas  
BY S. Fred Henschler DEPUTY

No. 70-1397

PLAINTIFFS' FIRST AMENDED ORIGINAL PETITION

TO SAID HONORABLE COURT:

Come now LORANE PRICE, a feme sole, CHARLES A. SCOTT, RALPH P. SHERMAN, W. T. CAVENDER, J. H. HINTON, A. E. SKIFF, JOE A. MORGAN, MEDDIE (MRS. WESLEY) MORRIS and HENRY A. HOUGH, Plaintiffs, complaining of THE STATE OF TEXAS and the COUNTY OF EL PASO, TEXAS, Defendants, and files this their First Amended Original Petition and states that the facts hereinafter contained are true.

I.

Plaintiffs LORANE PRICE, CHARLES A. SCOTT, W. T. CAVENDER, J. H. HINTON, A. E. SKIFF and JOE A. MORGAN are all residents of El Paso County, Texas; Plaintiff RALPH P. SHERMAN is a resident of Tarrant County, Texas; Plaintiff MEDDIE (MRS. WESLEY) MORRIS is a resident of Lubbock County, Texas, and HENRY A. HOUGH is temporarily residing in the Republic of South Korea.

II.

On the 1st day of September, 1969, each Plaintiff was, and still is the owner in fee simple of the property hereinafter described and as hereinafter indicated, all of which property is located in the State of Texas, County of El Paso:

Plaintiff:

Property Description:

Lorane Price

Southwest 1/4 of the Northeast 1/4 and the West 1/2 of the Southeast 1/4 of the Northeast 1/4 of the JACOB KNEIBER SURVEY #293, located in Section 40, Block 78, Township 3, T. & P. RR. Survey in El Paso County, Texas.

Counter 22096



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General Land Office

Charles A. Scott

West 1/2 of the North 1/2 of the Southwest 1/4 of the JACOB KNEIBER SURVEY #293, located in Section 40, Block 78, Township 3, T. & P. R.R. Survey in El Paso County, Texas.

Ralph P. Sherman

South 1/2 of the Southwest 1/4 of the JACOB KNEIBER SURVEY #293, located in Section 40, Block 78, Township 3, T. & P. R.R. Survey in El Paso County, Texas.

W. T. Cavender

East 1/2 of the Southeast 1/4 of the Northeast 1/4 of the JACOB KNEIBER SURVEY #293, located in Section 40, Block 78, Township 3, T. & P.R.R. Survey in El Paso County, Texas.

J. H. Hinton

North 1/2 of the Southeast 1/4 and the East 1/2 of the North 1/2 of the Southwest 1/4 of the JACOB KNEIBER SURVEY #293, located in Section 40, Block 78, Township 3, T. & P.R.R. Survey in El Paso County, Texas.

A. E. Skiff

South 1/2 of the Northwest 1/4 of the JACOB KNEIBER SURVEY #293, located in Section 40, Block 78, Township 3, T. & P. R.R. Survey in El Paso County, Texas.

Joe A. Morgan

South 1/2 of the Southeast 1/4 of the JACOB KNEIBER SURVEY #293, located in Section 40, Block 78, Township 3, T. & P. R.R. Survey in El Paso County, Texas.

Meddie (Mrs. Wesley) Morris

North 1/2 of the Northeast 1/4 of the JACOB KNEIBER SURVEY #293, located in Section 40, Block 78, Township 3, T. & P. R.R. Survey in El Paso County, Texas

Henry A. Hough

North 1/2 of the Northwest 1/4 of the JACOB KNEIBER SURVEY #293, located in Section 40, Block 78, Township 3, T. & P.R.R. Survey in El Paso County, Texas.

### III.

On said September 1, 1969, said Plaintiffs were in possession of such premises hereinabove described; and afterward on the 1st day of December, 1969, the Defendants, through their agents, servants and employees unlawfully entered upon and dispossessed each of the Plaintiffs of each of the above described premises and withheld from the said Plaintiffs the possession thereof.

WHEREFORE, Plaintiffs, LORANE PRICE, a feme sole, CHARLES A. SCOTT, RALPH P. SHERMAN, W. T. CAVENDER, J. H. HINTON, A. E. SKIFF, JOE A. MORGAN, MEDDIE (MRS. WESLEY) MORRIS and HENRY A. HOUGH, pray that said Defendants be cited to appear and answer this Petition in writing, and that Plaintiffs have judgment for the title and possession of the above



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MAY 11 1970

General Land Office

described premises, for damages, for costs of suit and for such other and further relief as they may be entitled to at law or in equity.

HARDIE, GRAMBLING, SIMS & GALATZAN

By 15/ William B. Hardie  
William B. Hardie

Attorneys for Plaintiffs  
P. O. Drawer 1977  
El Paso, Texas 79950

CERTIFICATE OF SERVICE

I certify that on this 22nd day of April, 1970, I mailed a copy of this, Plaintiffs' First Amended Original Petition, to Enrique H. Pena, County Attorney for El Paso County, El Paso City-County Building, El Paso, Texas, 79901.

15/ William B. Hardie  
William B. Hardie

A TRUE COPY, I CERTIFY  
J. W. A. JOHNSON, District Clerk  
By Deella Frumby  
DEPUTY



September 11, 1970

Mr. James Quick  
Assistant Attorney General  
Austin, Texas 78711

Re: Jacob Kneiber Survey, Abst. 51,  
El Paso County, Texas. Land  
Office File 3-6923, 98185, 131180,  
and 138594

Dear Sir:

In compliance with your request for summary information concerning the captioned survey as to the delineation of this survey on the El Paso County Maps throughout the respective years, we have examined these Maps and the field note calls for this survey and the field notes for the various T. & P. Ry. Co. surveys which might have been considered to be in conflict with said Kneiber survey.

Surveyor J. Wilkin Tays surveyed the Jacob Kneiber survey January 30, 1874 by virtue of land certificate No. 427 issued for the German Emigration Co. Tays compiled two sets of field notes, each bearing the same date and recording certificate; however, one was filed in the Land Office February 23, 1874 and the other February 1, 1875. On April 25, 1874, Surveyor Tays wrote a certificate that was filed in the Land Office May 4, 1874, in which certificate he corrects the point called for in the connecting line of the Kneiber, from the North point of Survey No. 52 to read "the SW corner of Survey No. 291, S. A. & M. G. Ry. Co., recently patented, which is the same point, etc."

The field notes filed February 1, 1875 contain the corrected tie call mentioned in the certificate, which reads: "From which point the South West corner of Sur. No. 291 made for S. A. & M. G. Ry. Co. bears S.10°E. 30,500 vs. distant".

The Kneiber survey was patented May 7, 1875 on the field notes which were filed February 1, 1875. These field notes bear the following endorsement in pencil just below the patent endorsement: "This survey was entered before the creation of the reserve and is therefore a good location. Feb. 4, 1875."



September 11, 1970

Before continuing further, we will state that the T. & P. Ry. Co. sections in this area were first surveyed by Jacob Kuechler in January and February 1879, and apparently Kuechler had no knowledge of the Kneiber survey as he did not recognize any conflicting senior surveys in T. & P. Ry. Co., Blks. 78, Tsp. 3 & 4.

Also to be taken into consideration is the location of the Samuel A. Maverick survey of 80 acres, surveyed by Joseph Wilkin Tays January 30, 1874 and calling to begin at the SE corner of the Kneiber, without further locative calls. This survey was patented February 10, 1875.

The original file jackets for both the Kneiber and Maverick surveys bear a reference to El Paso County Sketch File 11. This sketch appears to be an office sketch and is undated. A red line is projected N 10° W from the North corner and from the West corner of Survey No. 291 with an arrow connecting the two lines; however, the line projected from the North corner appears to have been used in delineating the Kneiber and Maverick surveys on this sketch.

At this point we will mention the various copies of instruments taken from the Land Office records, which have been referred to and others that will be referred to in this discussion. These are as follows:

1. Copy of the present El Paso County Map dated June 1921 and in use as of this date.
2. Copy of office sketch delineating the locations of the Kneiber and Maverick surveys as they are approximately located on the El Paso County Maps dated 1888, 1902 and 1908.
3. Sketch in SF-8412 showing beginning corner of S. A. & M. G. R. R. Sur. 291.
4. Topo Map & Sketch filed in Land Office File 100002.
5. El Paso County Sketch File 18 -- Litho map of El Paso County on which town of San Elizario appears.



September 11, 1970

6. El Paso County Sketch Files 19 (2 Maps) -- Litho maps of the Tex & Pacific Ry. Co. lands, C. J. Canda, S. U. Drake & W. Strauss, Proprietors, showing Arroyo de los Comales from Fabens through Blk. 78, Tsp. 4 and Blk. 78, Tsp. 3.
7. Field notes of S. A. Maverick.
8. Field notes of Section 45, T. & P. Ry., Blk. 78, Tsp. 3.
9. Field notes of Section 40, T. & P. Ry., Blk. 78, Tsp. 4.
10. Field notes of S. A. & M.G. Ry. Sur. 291.
11. El Paso Sketch File 11.
12. Surveyor Tays' Statement re. corrected survey 291.
13. Patented field notes survey 293, Kneiber.
14. Cancelled field notes survey 293, Kneiber.
15. Request to Surveyor for a survey to be made of the Kneiber and Maverick.

You will note from examining the field notes and maps presented that the Kneiber and Maverick surveys have been delineated upon the official Land Office maps of El Paso County in a number of different locations throughout the respective years. To explain this discrepancy, we refer to the vague manner in which the field notes describe the Kneiber survey; i.e., "beginning at a point just below the junction of the two Arroyo's known as the Arroyos of the Comales. From which point the SouthWest corner of Survey No. 291, made for the S. A. & M. G. R. R. Co., bears S10°E 30,500 ya distant."

The fact that none of the field notes for the T. & P. R. R. Co. surveys include calls for the Kneiber & Maverick surveys, or passing calls for the Arroyo de los Comales, further complicates the problem. As a consequence, the draftsman must rely completely upon the connecting line call for the S. A. & M. G. R. R. Co. Survey in order to place



September 11, 1970

the Kneiber and Maverick surveys on the map. To further confuse the issue, the position of the S. A. & M. G. R. R. Co. on the map is dependent upon the construction of the adjoining river surveys, which in turn can only be located from tie calls in adjoining junior surveys on the North, which can be readily noted by studying the El Paso County Map.

The official Land Office map of El Paso County, dated June 1921, reflects the position of the Kneiber as conflicting with T. & P. R. R. Co., Section 45, Blk. 78, Tsp. 3, and the position for the Maverick as conflicting with T. & P. R. R. Co., Section 46, Blk. 78, Tsp. 3. (Section 46 being the companion School Section for Section 45, certificate 6865.) Now, in 1952 at the time in which the purchasers of Section 46 from the State desired to pay all monies due and secure a patent from the State of Texas, the Land Office requested corrected field notes for the Section in order to honor and delete the area for the senior S. A. Maverick survey, which condition was reflected on the 1921 map of El Paso County. Pursuant to the request for these corrected field notes, J. W. Carter, Licensed State Land Surveyor of El Paso, Texas, submitted corrected field notes to the Land Office for Section 46 revealing the Section to contain 637.8 acres; however, in so doing Mr. Carter maintained that the Kneiber and Maverick surveys were not located on the ground as delineated upon the 1921 El Paso County Map but were actually located in T. & P. R. R. Co. Blocks 78 and 79, Tsp. 4. In support of his contention, Mr. Carter submitted a report, sketch and copy of a Topographical Map of El Paso County, Edition of 1945, which Topo map revealed the existence of an arroyo known as San Felipe Arroyo, and which arroyo appeared to be the missing Arroyo of the Comales not shown on the official Land Office maps. The patent to Section 46, T. & P. Ry. Co., Blk. 78, Tsp. 3, was issued on the corrected field notes of Mr. Carter November 7, 1952.

Subsequent to the issuance of the patent to Section 46, the jacket cover for Land Office file 106688 for Section 40, T. & P. Ry. Co., Block 78, Tsp. 4, was endorsed in pencil to the effect that a possible conflict might exist between this survey 40 and the Jacob Kneiber survey, also a reference notation was made on the El Paso County Map in the area of Section 40, Block 78, Tsp. 4 and Sections 43 and 44, Block 77, Tsp. 4, as follows: "see sketch in 100002."

The Land Office has filed corrected field notes for Section 40, T. & P. R. R. Co.



September 11, 1970

On May 11, 1970 the Land Office received and filed corrected field notes and sketch by L. C. Landon, dated April 28, 1970, for Section 40, T. & P. Ry. Co., Blk. 78, Tsp. 4. These field notes and sketch do not call for or reveal the location of any arroyo.

Sincerely yours,

R. C. Wisdom  
Director, Surveying Division

VES/RCW/ca  
Encl.

Counter 22103



JOHN A. GRAMBLING  
WILLIAM J. MOUNCE  
WILLIAM T. DEFFEBACH  
HAROLD L. SIMS  
WILLIAM B. HARDIE  
MORRIS A. GALATZAN  
MALCOLM HARRIS  
SAM SPARKS  
WILLIAM T. KIRK

W. DEAN HESTER  
WILEY F. JAMES, III  
DONALD F. HAGANS, II

GRAMBLING, MOUNCE, DEFFEBACH, SIMS, HARDIE & GALATZAN  
ATTORNEYS AND COUNSELORS AT LAW  
SEVENTH FLOOR, EL PASO NATIONAL BANK BUILDING  
P. O. DRAWER 1977  
EL PASO, TEXAS 79950

AREA CODE 915  
TELEPHONE 532-3911

January 15, 1974

The Honorable Robert Armstrong  
State Land Commissioner  
Austin, Texas

Dear Mr. Armstrong:

This is to confirm my arrangement with your  
secretary in Austin yesterday for a meeting with  
you on January 25, 1974.

I have two clients from Fort Worth who will  
meet me in Austin on the evening of the 24th, and  
we will be at your office about 9 a.m. to discuss  
with you the matter of the location of the Jacob  
Kneiber Survey #293 in El Paso County, Texas. One  
of the gentlemen is Lewis Walker, a Licensed Surveyor,  
who has obtained copies of documents from your office  
and he will want to get some more information from  
your people on the day we meet with you. I would  
estimate that the meeting would take about 1/2 an  
hour in the morning, and then we would have to meet  
in the afternoon after you have gotten the informa-  
tion from your files that we will require to complete  
our discussions.

This is a very important meeting to my clients, and  
I hope that you can give us this time. If there is  
any reason whatsoever why this arrangement does not  
suit you, please let me know as soon as possible.

I am sorry we missed each other both in El Paso  
and Austin. I am looking forward to seeing you again.

Best regards.

Sincerely yours,

*William B. Hardie*  
William B. Hardie

WBH:pc

40

Counter 22104



# SEMPCO, INC.

3208 SOUTH MAIN STREET, Fort Worth, Texas 76110



SURVEYING - ENGINEERING - MAPPING - PLANNING

Phone 926-7876  
Area Code 817

Louis M. Hawkins, R.S.  
Fred A. Barnett, R.S.  
David A. Watson, R.S.  
Don M. Wood, R.S.  
John L. Hawkins, R.S.

Robert Bartlett, R.S., 1922-1970

January 3, 1974 *L.H.*

Mrs. Lorane Price  
Mrs. Meddie B. Armstrong  
Mr. Charles A. Scott  
Mr. Joe A. Morgan  
Lt. Col. Henry A. Hough  
Mr. A. E. Skiff  
Mr. Carl L. Skiff  
Mr. W. T. Cavender  
Dr. J. Houston Hinton  
Mr. Ralph P. Sherman  
c/o Mr. Ralph P. Sherman  
5124 James Avenue  
Fort Worth, Texas 76115

Re: The Jacob Kneiber Survey  
No. 293  
El Paso County, Texas

Ladies and Gentlemen:

This report is addressed to you as the owners of the Jacob Kneiber Survey. The undersigned is a Licensed State Land Surveyor whose registration is dated the 28th day of December, 1946.

## ARTICLE ONE

The undersigned was first made aware of the fact that a problem concerning the location on the ground of the Jacob Kneiber Survey No. 293 existed, in September of 1969 when Mr. Ralph Sherman visited our office at 3208 South Main Street, Fort Worth, Texas and delivered to us a file including correspondence and other data that had been accumulated by various individuals, including owners of the Kneiber Survey. This file also included data from the General Land Office in Austin, Texas and other interested parties. After relaying a considerable amount of information and background data to the undersigned, Mr. Sherman requested that I make a trip to the General Land Office of Texas, in Austin, and that I report to him of my findings upon my return. He also requested that I offer any suggestions that I felt would be of assistance to you and to your legal representatives in resolving the problem. On Thursday September 25, 1969 the undersigned went to the General Land Office and researched certain available records relative to the Kneiber Survey with a view toward a possible determination of the true location of the Survey, and



in particular an effort was made to review all available data which would be of interest to a Land Surveyor who was preparing himself to go on the ground and to make a survey and mark the corners of the property under consideration. The results of this trip to the General Land Office in 1969 were reported to you through a letter to Mr. Sherman dated September 30, 1969, and in a personal report to Mr. Sherman. At this time Mr. Sherman advised us that certain legal procedures were under way which were directed toward a resolution of this problem, and if our services were needed in any way, we would be advised by him and we could discuss the possibility of further involvement at that time.

In December, 1973 Mr. Sherman contacted us again and advised us that we should prepare ourselves to visit with your legal counsel in El Paso and to learn from him the details of developments concerning the location of the Kneiber Survey which had developed since 1969. Mr. Sherman also advised us at this time that after the proposed meeting with your legal counsel in El Paso we should plan to revisit the General Land Office in Austin and make whatever supplemental research we felt might be appropriate, based on information gained from the meeting we would have had with your counsel in El Paso.

#### ARTICLE TWO

The undersigned arranged a meeting with your legal counsel, Mr. William B. Hardie, in El Paso on December 26, 1973. The meeting was held between 10:30 A.M. and 1:30 P.M. in Mr. Hardie's office on the 7th floor of the El Paso National Bank Building. Mr. Hardie had made ready for my use, a considerable file of correspondence and exhibits concerning the case and which were very effective in helping me to understand the background of the procedures that have been followed to this time in an effort to establish the location of the Jacob Kneiber Survey. At the conclusion of the meeting, Mr. Hardie provided me with copies of the correspondence and exhibits. We agreed that the undersigned would go to the General Land Office and make a thorough search of the records with a view toward developing a new strategy for a solution to the problem. The undersigned advanced a theory that sufficient evidence exists in the Land Office to support the preparation of a request to be prepared by Mr. Hardie and presented directly to the Land Commissioner and/or the Attorney General, that the State of Texas recognize the conflict between the location of the Jacob Kneiber Survey and Section 40, Block 78, Tsp. 3 T & P Railroad Company Survey, El Paso County, Texas and that the patent to the Jacob Kneiber Survey was senior to the patent to Section 40 and that the owners of the Jacob Kneiber Survey would be given possession of that tract of land by a decree or other appropriate action from the Commissioner of the General Land Office or the Attorney General. This procedure would be based on the assumption that your dealings would be directly with the Land Commissioner or the Attorney General, and that



any problems relating to the patent from the State of Texas to the County of El Paso for Section 40, Block 78 Tsp. 3 would be resolved between the County and State without involvement on the part of the owners of the Jacob Kneiber Survey. This plan also assumes that it will not be necessary to make an on the ground survey in order to establish the location of the Kneiber Survey. The undersigned visited the General Land Office in Austin, Texas on December 27, 1973 and researched records which were considered to be relevant to the location of the Kneiber Survey. Mr. Ed McCarty of the Land Office, Engineering Department, assisted me in using the files and in locating records and maps. I spent approximately 8 hours in the Land Office reading requests for surveys, instructions to surveyors, surveyors field notes, patent notes, correction notes for surveys, letters and land office maps. I also examined certain maps in the archives and consulted Ms. Virginia Taylor regarding the meaning of certain Spanish terms and words, and in particular the meaning of the word comales. This word has taken on a special significance because the instructions to the surveyor and the original field notes of the surveyor described the point of beginning for the Kneiber Survey to be at a point "just below the junction of the two arroyos known as the arroyos of the comales from which point the SW corner of Survey 291 S A & M G Railroad Company bears S 10 degrees E 30,500 varas". The reference to the point "just below the junction of the two arroyos" makes the beginning point and its identity ambiguous because a point "just below the junction of the two arroyos" is not a definite point that could be located on the ground without discovery of a monument or a stake or other points set by the original surveyor, whereas the tie to the SW corner of Survey 291 being S 10 degrees E 30,500 varas is a definite point that can be re-established if Survey 291 can be re-established. Reports indicate that Survey 291 is definitely located and can be found on the ground, consequently it is assumed that a point N 10 degrees W 30,500 varas from the SW corner of this Survey 291 could also be established. However, the fact remains that the description of the beginning point for the Kneiber Survey is ambiguous and interpretation of the true meaning and intent of the original surveyor is required, and would be absolutely necessary prior to such time as an on the ground survey would be undertaken. It is the considered opinion of the undersigned that an interpretation by the District Court or other judicial authority would be a prerequisite to any field surveys which might be undertaken. Land Certificate No. 427, Fisher and Millers Colony, was issued to Jacob Kneiber by G. H. Sherwood, Commissioner, on the 17th day of October, 1857 for 320 acres of land. A certified copy of this document was obtained. A request for a survey of this property was made on or about the 15th day of March, 1873 in a letter from Telesforo Montes, et al to Mr. J. W. Tays, Surveyor of El Paso County, from San Elizario, Texas in which Montes requests that Mr. Tays begin just below the junction of two arroyos about 7 miles NE from the lower end of the quadrea and that he run 1344 varas N, W, S, and E. Montes also requested in this document that Mr. Tays survey 80 acres of land beginning at the SE corner of the above



described survey and run 1672 varas E, N, W and S by virtue of another Land Certificate issued to S. A. Maverick on the 25th day of January, 1858. It is interesting to note that no further reference is made in this document to the quadrea or which quadrea is referred to. The quadrea means a townsquare or center of the town. A certified copy of this document was obtained. The original field notes for the Kneiber Survey as prepared by the surveyor, Mr. Tays, read as follows: "Beginning at a point just below the junction of two arroyos known as the arroyos of the comales, from which point the N point of Survey 52 made for A. F. Crosby bears S 10 degrees E 30,500 varas distant; THENCE N 1344 varas to a stake; THENCE W 1344 varas to a stake; THENCE S 1344 varas to a stake; THENCE E 1344 varas to the place of beginning.

This survey is dated January 30, 1874 and signed by Mr. Tays. Mr. Tays later prepared a statement that he was correcting the point of beginning for the Kneiber Survey and his corrected notes bear the same date, that is the 30th of January, 1874 and the point of beginning is described as follows: "Beginning at a point just below the junction of the two arroyos known as the arroyos of the comales from which point the SW corner of Survey 291 made for the S A & M G Railroad Company bears S 10 degrees E 30,500 distant (in this case the word vara was omitted after 30,500, it is assumed he meant varas); THENCE N 1344 varas to a stake; THENCE W 1344 varas to a stake; THENCE S 1344 varas to a stake; THENCE E 1344 varas to the place of beginning."

A copy of this document and the field notes which were corrected in the previous document have been obtained. It is interesting to note that the surveyor made no mention whatever of the quadrea nor did he make any tie to the quadrea which was referred to in the request for survey from Mr. Montes. It is considered to be significant that the surveyor chose to make a tie to the SW corner of Survey 291 to provide a more definite location for his survey and it is also significant to note that the same surveyor, Mr. J. W. Tays, had surveyed Survey 291 the 15th of October, 1873, which was prior to his survey of the Kneiber Survey 293. A copy of the original field notes for Survey 291 was also obtained. On the 7th day of May, 1875 a patent was issued by the Governor of the State of Texas to Telesforo Montes assignee of Jacob Kneiber for 320 acres of land and described as follows: "in El Paso County about 35 miles S 83 degrees E from Fort Bliss by virtue of Fisher and Millers Colony Certificate No. 427 issued to Jacob Neiber by G. H. Sherwood, Commissioner, October 17, 1857 and transferred to Telesforo Montes by a regular chain of transfer March 7, 1872. Beginning at a point below the junction of the two arroyos known as the arroyos of the comales from which point the SW corner of Survey 291 S A & M G Railroad Company bears S 10 degrees E 30,500 varas; THENCE N 1344 varas to a stake; THENCE W 1344 varas to a stake; THENCE S 1344 varas to a stake; THENCE E 1344 varas to the place of beginning." Signed by the Governor on the 7th day of May, 1875. A copy of this document was obtained.



It is to be noted here that the patent was issued on the original surveyors description and includes the definite tie to the SW corner of Survey No. 291. In 1879 the T & P Railroad Company Surveys were made by Jacob Kuechler, who was the Deputy Surveyor and the principal Surveyor for the T & P Railroad Company. It appears that at the time Mr. Kuechler made the surveys for the T & P Railroad Company, he overlooked the fact that he was covering the location of the Kneiber Survey No. 293. He could have overlooked the Kneiber Survey because it was often customary in those days to actually stake only the block corners for a survey such as the T & P Railroad Company Survey and the detailed staking of the individual sections would be made at a later time. The original field notes for Section 40, Block 78 Tsp. 3 of the T & P Railroad Company Surveys were prepared from a survey made February 1, 1879 by Mr. Kuechler and they read as follows: Field notes for a survey of 640 acres of land made for the T & P Railroad Company in accordance with provisions of an act entitled "An act to adjust and define the rights of the T & P Railroad Company passed May 2, 1873, said survey situated on the waters of Comales Creek, a tributary of Rio Grande River Survey 40, Block 78 Tsp. 3, 20 miles S 74 degrees E" (and it does not say from what). It does recite "beginning at a stake set for SW corner of Survey 34, SE corner of Survey 33 and NW corner of Survey 39 and then proceeds to describe a square 1900 varas on each side. The field notes are signed by Mr. Kuechler as Deputy Surveyor and principal Surveyor of the T & P Railroad Company and dated February 1, 1879. A copy of this document was obtained. It is significant to note the Surveyor refers to Comales Creek and that Survey 40 is located on Comales Creek, because here again the word comales is brought out in a set of original field notes and it is entirely possible that the Comales Creek referred to by Mr. Kuechler in 1879 is the same as the arroyos of the comales referred to by Mr. Tays in 1874. In any case, I was unable to discover any maps which had been prepared prior to 1952 in which a reference is made to either Comales Creek or the arroyos of the comales. In fact the only mapped reference I have found to the arroyos of the comales or Comales Creek is on a map prepared by a Mr. J. W. Carter, Licensed Land Surveyor in 1952, and in this case he acknowledged that he has no way of being sure that the San Felipe Arroyo which he has labeled arroyos of the comales is one and the same. I also obtained certified copies of the original field notes Sections 45, 44, 41 and 39 of Block 78, Tsp. 3 and in each case the Surveyor has referred to the sections as being located on the waters of Comales Creek, a tributary of Rio Grande River. In this connection, I submit that Comales Creek is just as indefinite as the reference to a point "just below the junction of the arroyos of the comales" as it relates to enabling a Surveyor to go on the ground and actually establish a definite point of beginning. Again it is to be emphasized that a definite tie for a point on a senior survey is necessary to enable the Surveyor to locate the tract to be surveyed. On August 23, 1968 in a letter addressed to Mr. Albert A. Mestan of Stewart Title Guaranty Company in El Paso, Texas, Mr. Jerry Sadler, Commissioner of the General Land Office in Austin,



advised that the official land office map in use from 1888 until 1902 showed the Kneiber Survey overlapping the common corner of Sections 32, 33, 40 and 41 of the T & P Railroad Company, Block 78 Tsp. 3 and he states that the approximate W two-thirds covering Sections 32 and 41 and the approximate center-line coinciding with the S boundary lines of Section 32 and 33. He continues to say that the official Land Office map in use from 1902 until 1908 showed the Kneiber Survey in the SE corner of Section 40 T & P Railroad Company, Block 78 Tsp. 3 with some overlap in Sections 39, 45 and 46, and he continues, the official Land Office map in use from 1908 until 1921 shows the Kneiber Survey near the NE corner of Section 40 T & P Railroad Company, Block 78 Tsp. 3 with a slight overlap in Section 39. He also says the present official Land Office map in use since 1921 has the Kneiber Survey delineated approximately in the NE corner of Section 45 T & P Railroad Company, Block 78 Tsp. 3. In this letter Mr. Sadler also points out certain particulars concerning the location of Survey 291, which is the Survey mentioned in the tie call to the Kneiber and he also mentions that Mr. J. W. Carter, Licensed Land Surveyor of El Paso, filed a map and report in the Land Office in 1952 in which Mr. Carter suggested the theory that the San Felipe Arroyo in the SE part of T & P Railroad Company, Block 78 Tsp. 4 could be the arroyo of the comales called for in the Kneiber Survey notes. Mr. Carter then would locate the Kneiber Survey in the NE corner of Section 40, Block 78 Tsp. 4.

Mr. Sadler further states that the location of the Kneiber Survey on the ground apparently is a problem of the individual owner or owners in establishing or sustaining their occupation of their respective tracts. I have what appears to be the original letter from Mr. Sadler. It appears that the location of the Kneiber Survey as shown on the various official land office maps has been scaled to be N 10 degrees W 30,500 varas from the platted position of the SW corner of Survey 291. There is no evidence to my knowledge, that anyone has recovered any of the original corners of the Kneiber Survey on the ground. In any case, it appears to be abundantly clear that a conflict exists between the surveyed location of the Jacob Kneiber Survey and at least one of Sections 32, 33, 41, 40, 39, 45 and 46, Block 78, Tsp. 3 T & P Railroad Company Survey, and it is also clear that the patent to the Jacob Kneiber Survey is senior to the patents to any of the sections referred to in Block 78 Tsp. 3 T & P Railroad Company Survey. Copies of the various official Land Office maps referred to above have been obtained. On June 20, 1907 a letter was written to J. J. Terrell by Mr. F. M. Pogue from Pecos, Texas in which Mr. Pogue is making an application for land as "additional to home tract applied for" and his letter states in part "your two letters of June 18th received. Please examine again for lease on Section 16, Block 78 Tsp. 3 T & P Survey, El Paso, County. I am sure the El Paso lease record does not show Section 16 on the lease. This section I applied for. Also I am of the impression that J. Kneiber, Section 209 is Section 40 in conflict, is not in good standing. In that event



I should have it. Will say award as much of my applications to purchase land as are subject to purchase. Let me know at once and I will be glad to select the additional at once. Respectfully F. M. Pogue". The meanings in the letter from Mr. Pogue are unclear and he refers to a Section 16 for reasons not readily apparent and he also refers to J. Kneiber as being Survey 209 and we know it to be Survey 293. However, it is clear that Mr. Pogue is aware of a conflict between Section 40, Block 78 Tsp. 3 T & P Railroad Company Survey and the Jacob Kneiber Survey. It is also to be noted that an addition in pencil has been made on the face of the application "for land as addition to home tract applied for", No. 40-S-29217 appears about one-half in conflict on the SE with 293 J. Kneiber 3-6923 patented". This appears to be a note made in the General Land Office. A copy of this document was obtained. October 3, 1952 Mr. J. W. Carter, Licensed Land Surveyor of El Paso, Texas prepared a plat in which he shows the location of the Jacob Kneiber Survey to overlap Section 40, Block 78 Tsp. 3 T & P Railroad Company Surveys and he also showed the Jacob Kneiber Survey to overlap Section 40, Block 78 Tsp. 4 of the T & P Railroad Company Surveys stating on his plat - "sketch showing S. A. Maverick Survey 294 with its relation to S A & M G Survey 291 according to J. W. Tays surveys recorded in the County Surveyors Records of El Paso County, prepared October 3, 1952, J. W. Carter. "Also showing the location of the arroyos of the comales and the location of Surveys 293 and 294 where I think they belong , October 20, 1952, J. W. Carter, Licensed Surveyor". It is to be noted that Survey 294 is an 80 acre survey made by J. W. Tays, February 9, 1874, which is dependent upon the Jacob Neiber 293 surveyed by J. W. Tays, February 9, 1874 and a reference to Survey 294 must, of necessity, involve the Jacob Kneiber 293. A copy of this document was obtained. In addition to obtaining the copies of the documents previously referred to herein, copies of many other documents including correspondence, General Land Office exhibits, maps from the Geological Survey Office of the Department of the Interior and general highway maps were acquired. All of these exhibits and the data shown thereon has been taken into consideration in the preparation of this report.

### ARTICLE THREE

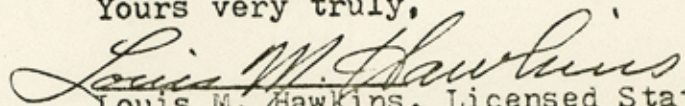
It is to be noted that the undersigned has been primarily concerned in accumulating data and facts which might assist him in going on the ground to make a field survey of the Kneiber Survey No. 293. Any comments which have been offered and which constitute an opinion concerning information assimilated during the investigation is a reflection of the views which would be taken if a field survey is required and would be a portion of the evidence considered a prerequisite to such a survey. However, it is to be noted as previously mentioned in this report, that the beginning point as described in the original field notes for the Kneiber Survey, is subject to more than one interpretation and it is doubtful that the best interest of our clients would be served by undertaking a survey in the field prior to a judicial decision setting forth the identity of the true point of beginning



for the Jacob Kneiber Survey No. 293. It is also to be noted that 30,500 varas is 16.04 miles and a very minor deviation in alignment would have a marked effect on the position of the terminal point at the end of a line which might be run North 10 degrees W 30,500 varas from the SW corner of Survey 291. In fact, a swing of 1 minute of angle would be responsible for a displacement of the terminal point of more than 24 feet and 5 minutes of angle would cause a displacement of more than 123 feet. Which is to say that any position established for the beginning point of Survey 293 based on a tie to Survey 291 more than 16 miles away, would be subject to a very critical review as to the technical standards required to retrace the original Surveyors footsteps. In fact it might become quite a point of contention whether the present day Surveyor with his modern equipment was truly and accurately retracing the footsteps of a Surveyor who had performed his work almost 100 years ago. These facts and the fact that Section 40 appears to be the only Section in the near vicinity of the true location of the Kneiber Survey 293 which is not privately owned and which has not been subdivided to some extent, but which is still owned by the County of El Paso and which apparently has not been reconveyed to other parties makes it a reasonable proposition that the decision be made to place the Kneiber Survey 293 in Section 40, Block 78 Tsp. 3, T & P Railroad Company Surveys, which is to say it appears that the least conflict with private titles would be created by this particular placement of the Kneiber in Section 40, Tsp. 3. It is also important to recognize the fact that the County of El Paso has been accepting taxes from the owners of the Kneiber Survey for many years on the basis that the Kneiber and Section 40, Block 78 Tsp. 3, T & P Railroad Company Survey are one and the same. Any other location would probably lead to extensive litigation. We therefore respectfully submit that you authorize Mr. Hardie to consider this report and the attached exhibits and to conduct whatever additional investigation he deems necessary to prepare a request of the Land Commissioner and/or the Attorney General that the Jacob Kneiber Survey 293 be placed in Section 40, Block 78 Tsp. 3 T & P Railroad Company Survey and that they make this decision based upon the records without the necessity of additional field surveys. If this suggestion meets with your approval and Mr. Hardie agrees that this is a reasonable procedure and that we have a reasonable chance of success, the undersigned is prepared to accompany Mr. Hardie to the Land Commissioner's Office as early as mid January, 1974, at which time we would present this proposition for his consideration.

We appreciate the opportunity that we have had to participate with you in this matter and to prepare this report. We shall look forward to hearing from you regarding your decision and we stand ready to assist you in any way that is available to us.

Yours very truly,

  
Louis M. Hawkins, Licensed State  
Land Surveyor and Reg. Pub.  
Surveyor No. 196



# SEMPCO, INC.

3208 SOUTH MAIN STREET, Fort Worth, Texas 76110

SURVEYING - ENGINEERING - MAPPING - PLANNING

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Louis M. Hawkins, R.S.  
Fred A. Barnett, R.S.  
David A. Watson, R.S.  
Don M. Wood, R.S.  
John L. Hawkins, R.S.

Robert Bortlett, R.S., 1922-1970

March 11, 1974

Mrs. Lorane Price  
Mrs. Meddie A. Morris  
Mr. Charles A. Scott  
Mr. Joe A. Morgan  
Lt. Col. Henry A. Hough  
Messrs. A. E. Skiff and Carl L. Skiff  
Mr. W. T. Cavender  
Dr. J. Houston Hinton  
Mr. Ralph P. Sherman  
The Owners of the Jacob Kneiber Survey

Mr. William B. Hardie  
Attorney for the Owners

Re: Jacob Kneiber Survey 293  
El Paso County, Texas

Ladies and Gentlemen:

On March 7, 1974 at 2:00 P.M. the undersigned attended a meeting in the office of Mr. Jack Giberson, Attorney and Chief Clerk for the General Land Office, Stephen F. Austin State Office Building in Austin, Texas. The meeting was also attended by Mr. Austin Furst, Attorney at Law and Assistant Attorney General, State of Texas, Mr. Ed McCarty and Mr. Herman Forbes, Engineers on the technical staff for the General Land Office, and Mr. Ralph Sherman. Mr. Giberson called the meeting to order and after some preliminary remarks concerning the purpose of the meeting, he invited the undersigned to present your request for an action by the General Land Office. Specifically this request is one in which the Land Office is being asked to rescind a Patent issued to the County of El Paso in 1961 for Section 40, Block 78, Township 3 Texas and Pacific Railroad Company Surveys, El Paso County, Texas. This is also the same request which has been personally presented to Mr. Bob Armstrong, Commissioner of the General Land Office in January, 1974.

Mr. Giberson made available a very complete file of information and Messrs. McCarty and Forbes were very cooperative in assisting us in the use of these records. Mr. Furst also had a good background knowledge of the problem and it is my understanding that he has handled, on behalf of the State, certain legal transactions concerning the Kneiber Survey. I spent approximately one hour discussing the matter and in this period I presented a summary of the evidence I have developed from my research in the General Land Office and other sources during the past two years. I will recount some of the more important points that were covered during the meeting.

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El Paso County, Texas  
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MAR 13 1974

General Land Office

The Jacob Kneiber Survey was surveyed by J. W. Tays, Licensed State Land Surveyor in January, 1874 and on May 7, 1875 a Patent was issued to Telesfero Montes, assignee of Jacob Kneiber. Mr. Tays provides two references for his point of beginning and it was agreed by all parties that the most reliable reference would be the one which calls for a tie to the Southwest corner of Survey 291 to bear South 10 degrees East 30,500 varas distant. It was also agreed by all parties that the Patent to the Jacob Kneiber Survey is senior. Mr. Giberson was in wholehearted agreement with the undersigned that, based on the plotted position of the Jacob Kneiber Survey on the General Land Office base map, a conflict could exist with Section 40 and/or one or more of the adjacent sections in Block 78, Township 3. This is a very important consideration because the validity of our entire proposal is based on the assumption that a survey on the ground would support this particular conclusion. Which is to say that all parties are in agreement that a survey on the ground would place the Kneiber Survey in direct conflict with Section 40 and/or one or more adjacent sections. It was also discussed, during the meeting, that the owners of the Jacob Kneiber Survey had been occupying and paying taxes to El Paso County for many years prior to 1961, on the Northwest 320 acres of Section 40, Block 78, Township 3, Texas and Pacific Railroad Company Surveys, and until 1961 the owners of the Jacob Kneiber Survey felt that their land was located in Section 40 and they were not aware that the State of Texas intended to Patent Section 40, Block 78, Township 3 to El Paso County which would operate to create a conflict with the Patent to the Jacob Kneiber Survey. However, in 1961 the State of Texas did, in fact, issue a Patent to El Paso County for Section 40, Block 78, Township 3 and the Patent included a stipulation that the land would be used by El Paso County for park purposes and a reversionary clause was inserted to protect the State of Texas in the event the land was used by El Paso County for any purpose other than those called for in the Patent. After a thorough discussion of this point, the undersigned requested that Mr. Giberson arrange to rescind the 1961 Patent to the County of El Paso on the grounds that the 1961 Patent created a conflict with the Jacob Kneiber senior Patent and that the General Land Office was in error, in 1961, in issuing the Patent to the County of El Paso. Mr. Giberson stated that he could not rescind the 1961 Patent unless he had positive knowledge that the Jacob Kneiber Survey was in conflict with Section 40, Block 78, Township 3 and he stated that he felt such information could only be developed as the result of an on the ground survey so that a true location for the Jacob Kneiber Survey could be established to his satisfaction. He also commented that if the undersigned could provide information, through the engineering department of the General Land Office, which would establish the location of the Kneiber as being in Section 40, he would be agreeable to making a determination that the conflict exists without the benefit of a new on the ground survey. At this time the undersigned brought to Mr. Giberson's attention the fact that an on the

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El Paso County, Texas  
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General Land Office

ground survey which would begin at the Southwest corner of Survey 291 and proceed North 10 degrees West 30,500 varas would place the Kneiber Survey in the near vicinity of Section 40, Block 78, Township 3, but most likely the survey would involve one or more of the sections adjacent to Section 40. It was also noted that virtually all of the sections adjacent to Section 40 had been patented to other parties prior to 1961 and that many of these adjacent sections had been reconveyed to other parties by Horizon Land Company and others and as a result of these reconveyances, an on the ground survey which might involve properties other than Section 40 would create a conflict with possibly dozens of property owners and in turn lead to extensive litigation procedures and the undersigned suggested that if this happened the State of Texas would still be involved in the problem of being called on to account for having issued conflicting Patents. The main difference, in this case, would be that in Section 40 it would only be necessary to "make peace" with the County of El Paso and if an on the ground survey were to establish a conflict with any other adjacent sections, dozens of people could be involved and a very complicated and disagreeable situation could develop.

*could not  
as a matter  
of law.*

Mr. Giberson felt that, based on available information, he was not justified in rescinding the Patent issued to El Paso County on Section 40 in 1961. However, it is suggested that the General Land Office does have ample evidence to make a determination as to whether the Jacob Kneiber Survey should be left in Section 40, Block 78, Township 3 where it was assumed to be until 1961. This evidence includes the original survey by J. W. Tays, a letter from Mr. F. M. Pogue written to the Land Commissioner on June 20, 1907 in which Mr. Pogue points out that he understands that a conflict existed between the Jacob Kneiber Survey and Section 40, the General Land Office maps themselves dated 1902, and the fact that this location was recognized by the owners of the Jacob Kneiber Survey and the County of El Paso up until 1961 when the conflicting Patent was issued, and numerous other documents and records which are on file in the General Land Office and which have been examined by Mr. Giberson and his staff. Because of the importance of this matter and considering the number of people who would be involved and probably adversely affected by an on the ground survey, it is recommended that we continue to seek relief from the State of Texas and that an on the ground survey be delayed until you are satisfied that you have no recourse. In this connection, we submit to the recipients, in Austin, Texas, of copies of this letter that our proposal be re-examined and that the consequences of a refusal be re-evaluated in the light of additional costs, litigation, and the fact that the State of Texas could handle a problem with El Paso County very easily, as compared with handling the same problem with perhaps dozens of unhappy property owners. As a practical matter, it seems that this aspect of the problem should be given first priority by all State officials who may be involved and it is to be hoped that such will be the case.

*NO WAY*



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El Paso County, Texas  
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In the interest of saving time and as a means of bringing the matter to the attention of those parties who appear to be involved, we have taken the liberty of mailing copies of this report directly to the State officials listed below. This is a very important matter to all of you, as owners of the Jacob Kneiber Survey, to all the property owners in the vicinity of Section 40, Block 78, Township 3 and to all of the State officials who have jurisdiction in this matter. We sincerely hope that a solution can be found which will remove the conflict created by the 1961 Patent to El Paso County.

Yours very truly,

*Louis M. Hawkins*  
Louis M. Hawkins

LMH:jr

cc: The Honorable Bob Armstrong  
Commissioner of the General Land Office

Mr. Jack Giberson, Attorney at Law  
and Chief Clerk of the General Land Office

Mr. Austin Furst, Attorney at Law  
Assistant Attorney General

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Sketch File 31  
Louis Hawkins Report  
to

William B. Hardie

El Paso Co.

Assistant Attorney General  
Austin First, Attorney at Law  
Mr. Jack Oiberson, Attorney at Law  
Honorable Bob Armstrong  
Commissioner of the General Land Office

Yours very truly,  
Louis M. Hawkins

*[Handwritten signature]*

by the 1901 Patent to El Paso County.  
a solution can be found which will remove the conflict created  
who have jurisdiction in this matter. We sincerely hope that  
Section 40, Block 28, Township 3 and to all of the State officials  
Kneller Survey, to all the property owners in the vicinity of  
a very important matter to all of you, as owners of the Jacob  
report directly to the State officials listed below. This is  
involved, we have taken the liberty of mailing copies of this  
matter to the attention of those parties who appear to be  
in the interest of saving time and as a means of bringing the

March 11, 1914  
Page 4 of 4 pages  
El Paso County, Texas  
Jacob Kneller Survey, 203

RECEIVED  
MAR 13 1914

Counter 23117



JOHN A. GRAMBLING  
WILLIAM J. MOUNCE  
WILLIAM T. DEFFEBACH  
HAROLD L. SIMS  
WILLIAM B. HARDIE  
MORRIS A. GALATZAN  
MALCOLM HARRIS  
SAM SPARKS  
WILLIAM T. KIRK

W. DEAN HESTER  
WILEY F. JAMES, III  
DONALD F. HAGANS, II

GRAMBLING, MOUNCE, DEFFEBACH, SIMS, HARDIE & GALATZAN

ATTORNEYS AND COUNSELORS AT LAW  
SEVENTH FLOOR, EL PASO NATIONAL BANK BUILDING  
P. O. DRAWER 1977  
EL PASO, TEXAS 79950

AREA CODE 915  
TELEPHONE 532-3911

January 15, 1974

The Honorable Robert Armstrong  
State Land Commissioner  
Austin, Texas

Dear Mr. Armstrong:

This is to confirm my arrangement with your  
secretary in Austin yesterday for a meeting with  
you on January 25, 1974.

I have two clients from Fort Worth who will  
meet me in Austin on the evening of the 24th, and  
we will be at your office about 9 a.m. to discuss  
with you the matter of the location of the Jacob  
Kneiber Survey #293 in El Paso County, Texas. One  
of the gentlemen is Lewis Walker, a Licensed Surveyor,  
who has obtained copies of documents from your office  
and he will want to get some more information from  
your people on the day we meet with you. I would  
estimate that the meeting would take about 1/2 an  
hour in the morning, and then we would have to meet  
in the afternoon after you have gotten the informa-  
tion from your files that we will require to complete  
our discussions.

This is a very important meeting to my clients, and  
I hope that you can give us this time. If there is  
any reason whatsoever why this arrangement does not  
suit you, please let me know as soon as possible.

I am sorry we missed each other both in El Paso  
and Austin. I am looking forward to seeing you again.

Best regards.

Sincerely yours,

*William B. Hardie*  
William B. Hardie

WBH:pc

*El Paso SK File 31*

*Counter 22118*



August 24, 1994

Hon. Garry Mauro, Commissioner  
Texas General Land Office  
Stephen F. Austin Building  
1700 North Congress Avenue  
Austin, Texas 78701-1495

File No. Sketch File 31  
El Paso County  
Surveyors Report  
Filed 21 October 19 94  
GARRY MAURO, COMMISSIONER

SUBJECT: REPORT OF SURVEY  
JACOB KNEIBER SURVEY NO. 293,  
EL PASO COUNTY, TEXAS

By C.B. Thomson

Dear Sir:

Since the Kneiber Survey was patented in 1875 and does not contain excess acreage, it is my understanding that the filing of the corrected field notes and attached plat in the General Land Office requires no official action other than acknowledgement of their receipt, however, I have been asked by your Director of Surveying, Mr. Ben Thomson, to prepare a report on my recent resurvey of the Jacob Kneiber Survey No. 293.

Last fall, I was retained by representatives of several of the current owners of the Kneiber Survey to determine if it was possible to accurately locate its corners on the ground. After an extensive investigation, I concluded that it was possible and I was instructed to proceed with an on-the-ground survey to set its boundary. I set and marked the corners of the Kneiber Survey No. 293, as described in my corrected field notes and shown on the accompanying plat, dated August 3, 1994.

I found the Kneiber Survey to be completely located within Survey 40, Block 78, Township 3, of the Texas and Pacific Railway Surveys. The fact that the Kneiber Survey was overlapped by Texas and Pacific Railway Surveys conducted in 1879 came as no surprise, but the fact that it fell in Survey 40 instead of Survey 45, as shown on the current General Land Office Map, was definitely not anticipated.

In order to locate the Kneiber Survey, it is first necessary to locate the Southwest corner of the S.A. and M.G. RR. Co. Survey No. 291, since it is the only definite point to which the Kneiber Survey is referenced. I found no physical evidence of this corner on the ground because Survey 291 overlapped the senior San Elizario Grant and its original position was obliterated many years ago. The Southeast corner of Survey 291, along with its accessories has also been lost or obliterated by the Bureau of Reclamation's relocation of the channel of the Rio Grande River in the 1930's. I was able to locate monuments on the Southeast boundary of Survey 291 where it intersects the Southeast and Northeast boundary of the San Elizario Grant and also monuments on the Northeast boundary and at the Northwest corner of the alternate S.A. & M.G. RR. Co. Survey No. 292. All of these monuments have been accepted as correct by surveyors and tenants for many, many years. These corners have been found and tied by Otha Draper, L.S.L.S., when he surveyed Block L, University Lands, in 1972, then again by W.C. Wilson, Jr. during his resurvey of the Daughtery-Gibbs Block in 1984.



I extended a line Northeast through the monuments on the Southeast boundary of Survey 291 and another line Southeast through the monuments on the Northeast boundary and at the Northwest (most Northerly) corner of Survey 292. At the point where these lines intersect, I established the Northeast (most Easterly) corner of Survey 291. The angle at this intersection is  $89^{\circ}52'00''$  which I found within acceptable limits of the original field note calls. The distance between this intersection and the monument at the Northwest corner of Survey 292 is 2827.76 varas, as compared to the original measured distance of 2828 varas.

Since I found no evidence of its existence on the ground, I established the Northwest (most Northerly) corner of Survey 291 at the midpoint of the line between the Northwest (most Northerly) corner of Survey 292 and my position for the Northeast (most Easterly) corner of Survey 291.

I adjusted the called distance of 3264 varas for the Southeast boundary of Survey 291 to 3263.723 varas, based upon the ratio of my derived distance of 1413.88 varas for its Northeast boundary to the original call of 1414 varas. I established the Southeast (most Southerly) corner of Survey 291, 3263.723 varas Southwest of my position for its Northeast (most Easterly) corner.

I made the Northwest line of Survey 291 parallel to the monumented Southeast boundary, and to set my position for the Southwest corner of Survey 291, I intersected it with a line deflected  $45^{\circ}$  off the Southeast boundary, from my position for the Southeast corner. I derived a coordinate value of  $X=202,237.00$  ft.,  $Y=692,822.07$  ft., Texas Central Zone, N.A.D.-27, for the Southwest corner of Survey 291, so established.

From my position for the Southwest corner of Survey 291, I ran a trial line North  $10^{\circ}$  West, 30,500 varas, determined the theta angle at the center of the Kneiber Survey No. 293, and placed the Southeast corner of the Kneiber Survey at a point, from which my location of the Southwest corner of S.A. & M.G. RR. Co. Survey No. 291 bears a true course of South  $10^{\circ}$  East, a distance of 30,500.00 varas. I then ran West, North, and East, 1344.00 varas each course, and set the remaining corners of the Kneiber Survey.

As I stated previously, the General Land Office Maps of El Paso County prepared in 1921 and 1977 show the Kneiber Survey in Survey 45, instead of Survey 40, where my survey positions it. It is my belief that this map location was apparently plotted from the South or Southeast corner of Survey 291, not its Southwest corner. This was and still is an easy mistake to make since three sides of Survey 291 were originally laid out at  $45^{\circ}$  to North and the Southwest and Southeast corners were positioned North and South of each other. Fortunately, Surveys 291, 292 and 293 were all originally surveyed by Joseph W. Tays, within a few months of each other, and the field notes of Surveys 291 and 292 clearly indicate what Tays considered to be the Southwest corner of Survey 291. If the most Southerly corner of Survey 291 (called Southeast corner by Tays) is mistaken for its Southwest corner, it moves the plotted location of the Kneiber Survey 2000 varas too far South. If the map compiler only had the Kneiber Survey field notes to work from, which is probably the case, it is easy to understand why the Kneiber Survey was plotted in Survey 45.




The correspondence records of the General Land Office should reflect the numerous attempts of the current owners to resolve where the Kneiber Survey was located. The main obstacle not only has been re-establishing the Southwest corner of Survey 291, but also the 30,500 vara distance that had to be measured after it was located. Until the advent of electronic measuring equipment, considering the terrain that had to be traversed, survey costs were prohibitive.

Another problem has been the Tay's call, "beginning at a point just below the junction of two aroyas, known as the Aroyas of the Comales". J.W. Carter in his report filed with his resurvey of Survey 46, Block 78, Township 3, in 1952, identified the Aroyas of the Comales as being the same that is now known as the San Felipe Arroya. He stated this would place the Kneiber Survey Northeast of Fabens at point below where the San Felipe Arroya empties into the Rio Grande Valley and in the vicinity of Survey 40, Block 78, Township 4. To place the Kneiber Survey in this area would require proving that Tay made an error of approximately 19,000 varas or almost 10 miles in his beginning call. El Paso County Rolled Sketch File 19, prepared by Paul McCombs in 1905, shows the Aroya de los Comales and its relationship to the T. & P. Ry. Co. Surveys. It shows the Southern end at approximately the same location as depicted by J.W. Carter, but it also shows the Aroyas lying to the East and to the North of Survey 40, Block 78, Township 3. It even indicates a junction of branches of the Aroyas being about 3-1/2 miles North of Survey 40. At the very least, McCombs map proves that someone, besides Tays, believed the Aroyas of the Comales to be in the immediate area of Survey 40, Block 78, Township 3 and my on-the-ground location of the Kneiber Survey. Current U.S.G.S. topographic maps indicate a wide North-South depression that supports McCombs location of the Aroya, and also explains the use of the Spanish word "Comales", that means wide, flat, and pan-like, when the Aroya was originally named.

In conclusion, I feel my location of the Kneiber survey is correct, based upon all existing evidence. Since the Kneiber Survey is senior to Survey 40, it follows that Survey 40 must yield to the extent they are in conflict. Believing the location of the Kneiber Survey to be in the adjacent Survey 45 to the South, the State issued a conflicting patent to the County of El Paso in 1961 with the stipulation "in the event any portion of said property shall ever cease to be used for public park purposes, then in that event the property herein described shall automatically revert to the State and the Fund to which it originally belonged without recourse by the County of El Paso". I think that there is enough evidence, both of record and on the ground, that proves portions of this land have ceased to be used for public park purposes, which, if true, would void the patent and eliminate any concern in the matter for the General Land Office, unless it chooses to contest my location of the Kneiber Survey. I hope the latter will not be the case, as I assure you that I have carefully and diligently conducted my survey and followed the footsteps of the original surveyor to the best of my ability.

Sincerely,



Robert L. Pounds  
Licensed State Land Surveyor

wsfile: glo-k293.rpt



File No. Sketch File 31  
El Paso County

Surveyors Report

Filed 21 October 1994

GARRY MAURO, COMMISSIONER

By C.B. Thompson

Another problem has been the Tay's call, beginning at a point just below the junction of two arroyos, known as the Arroyos of the Comales. J.W. Carter in his report filed with his survey of Survey 40, Block 78, Township 3, in 1952, identified the Arroyos of the Comales as being the same that is now known as the San Felipe Arroyo. He stated this would place the Knicker Survey Northeast of El Paso at point below where the San Felipe Arroyo empties into the Rio Grande Valley and in the vicinity of Survey 40, Block 78, Township 3. To place the Knicker Survey in this area would require proving that Tay made an error of approximately 19,000 yards or almost 10 miles in his beginning call. El Paso County Rolled Sketch File 19, prepared by Paul McCombs in 1905, shows the Arroyo de los Comales and its relationship to the T. & P. Ry. Co. Survey. It shows the Arroyos lying to the East and to the North of Survey 40, Block 78, Township 3. It even indicates a junction of branches of the Arroyos being about 3-1/2 miles North of Survey 40. At the very least, McCombs map proves that someone, besides Tay, believed the Arroyos of the Comales to be in the immediate area of Survey 40, Block 78, Township 3 and my on-the-ground location of the Knicker Survey. Current U.S.G.S. topographic maps indicate a wide North-South depression that supports McCombs location of the Arroyo, and also explains the use of the Spanish word "Comales", that means wide, flat, and pas-like, when the Arroyo was originally named.

In conclusion, I feel my location of the Knicker survey is correct, based upon all existing evidence. Since the Knicker Survey is senior to Survey 40, it follows that Survey 40 must yield to the extent they are in conflict. Believing the location of the Knicker Survey to be in the adjacent Survey 45 to the South, the State issued a conflicting patent to the County of El Paso in 1901 with the stipulation "in the event any portion of said property shall ever cease to be used for public park purposes, then in that event the property herein described shall automatically revert to the State and the Fund to which it originally belonged without recourse by the County of El Paso." I think that there is enough evidence, both of record and on the ground, that proves portions of this land have ceased to be used for public park purposes, which, if true, would void the patent and eliminate any question in the matter for the General Land Office, unless it chooses to contest my location of the Knicker Survey. I hope the latter will not be the case, as I assure you that I have carefully and diligently conducted my survey and followed the footsteps of the original surveyor to the best of my ability.

Sincerely,

  
Robert L. Pounds  
Licensed State Land Surveyor  
waffie: gto-4293.rpt





File No. 31  
El Paso County  
Sketch File  
Filed May 13 1970  
JERRY SADLER, Com'r  
By V.E. Haring

File 106688 &  
Jacob Kneiber Survey  
293 - Correspondence  
re Protest and  
issuance of patent.  
Also re Sec. 40,  
T. & P. Ry. Co., Blk. 78,  
Tsp. 3 S.  
Copy of Plaintiffs'  
Petition Dist. Ct.  
Cause 70-1397  
Louis Hawkins Report  
See File 106688  
for additional info.

File No. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
County, \_\_\_\_\_  
\_\_\_\_\_  
Filed \_\_\_\_\_ 19 \_\_\_\_\_  
BOB ARMSTRONG, Com'r  
By \_\_\_\_\_

JERRY SADLER  
COMMISSIONER  
GENERAL LAND OFFICE  
AUSTIN, TEXAS



Counter 22123



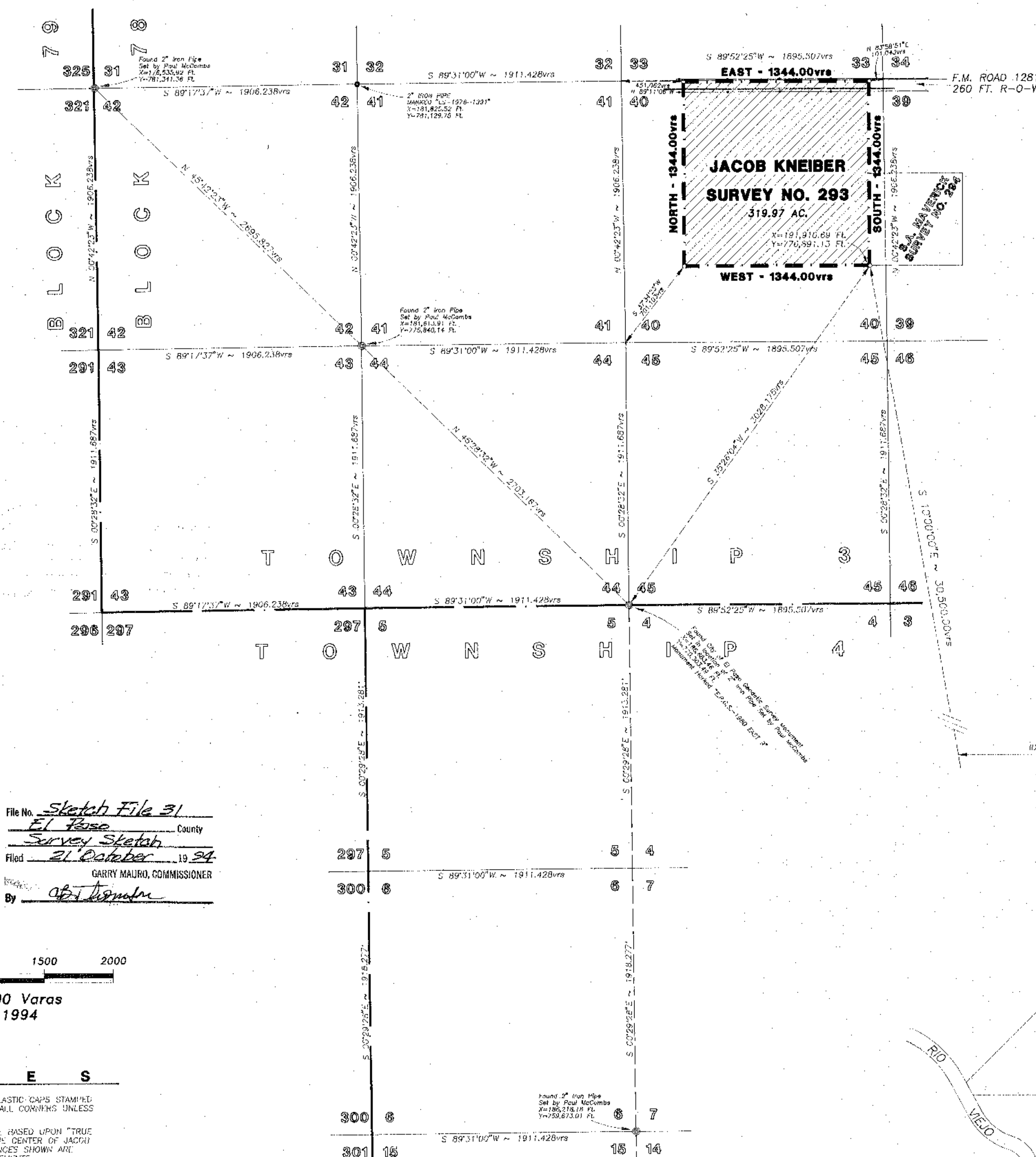
File No. Sketch File 31  
El Paso County  
Survey Sketch  
Filed 21 October 1994  
GARRY MAURO, COMMISSIONER  
By Robert L. Pounds

## PLAT OF SURVEY

of the  
JACOB KNEIBER SURVEY NO. 293  
and its  
LOCATION RELATIVE TO SURVEY 40,  
BLOCK 78, TOWNSHIP 3,  
TEXAS & PACIFIC RAILWAY SURVEYS,  
in  
EL PASO COUNTY, TEXAS

SURVEYED ON THE GROUND JUNE 1, THRU JULY 30, 1994.

Robert L. Pounds  
ROBERT L. POUNDS  
LICENSED STATE LAND SURVEYOR

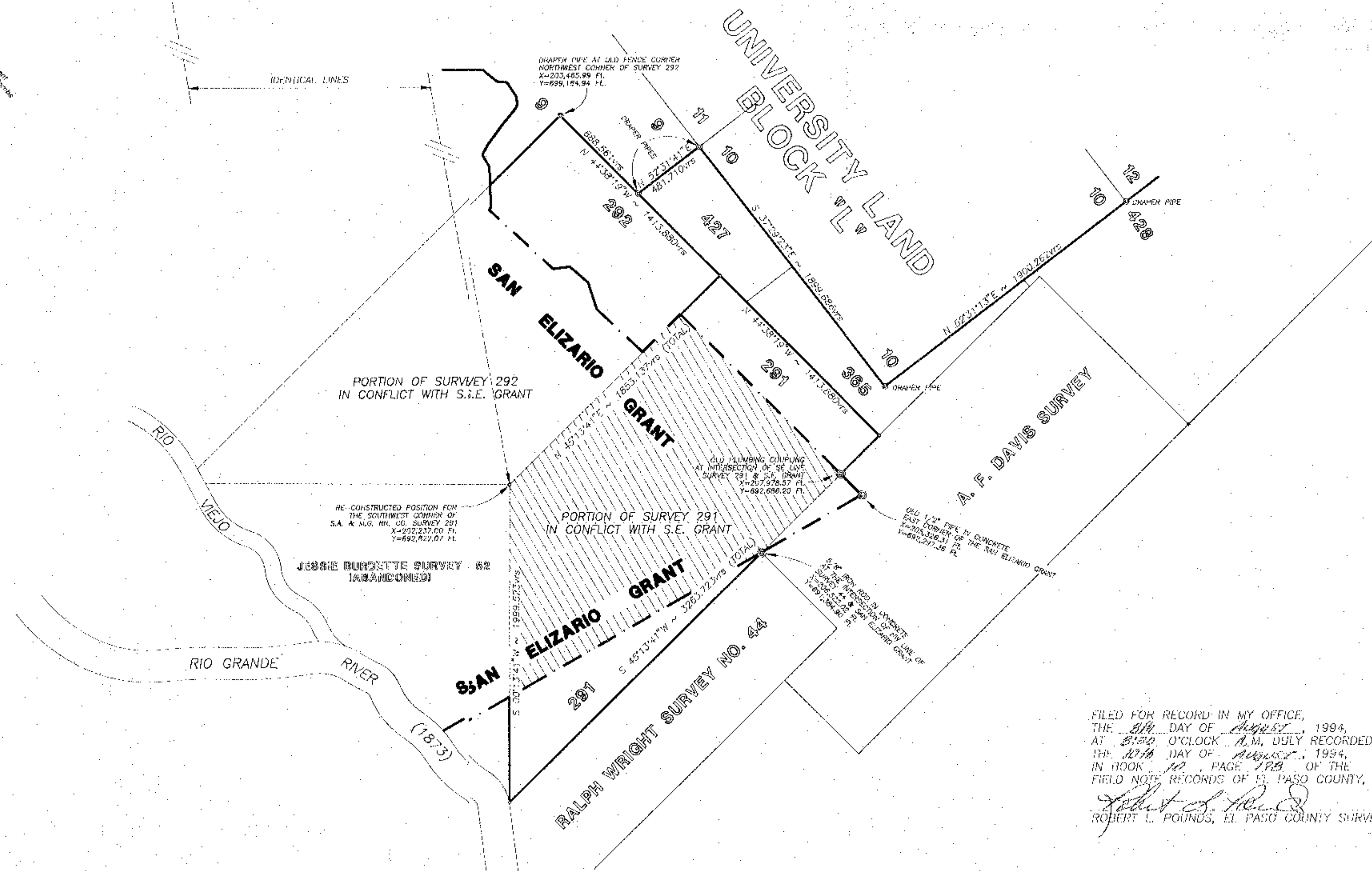


File No. Sketch File 31  
El Paso County  
Survey Sketch  
Filed 21 October 1994  
GARRY MAURO, COMMISSIONER  
By Robert L. Pounds

0 500 1000 1500 2000  
SCALE: 1"=500 Varas  
AUGUST 3, 1994

### NOTES

- 1/2" SQUARES WITH YELLOW PLASTIC CAPS STAMPED "TX1976 - NMEB48" SET AT ALL CORNERS UNLESS OTHERWISE INDICATED.
- BEARINGS SHOWN HEREON ARE BASED UPON "TRUE NORTH" AS DETERMINED AT THE CENTER OF JACOB KNEIBER SURVEY 293. DISTANCES SHOWN ARE HORIZONTAL SURFACE MEASUREMENTS.
- COORDINATE VALUES SHOWN HEREON ARE BASED UPON THE CENTRAL ZONE OF THE TEXAS COORDINATE SYSTEM - NORTH AMERICAN DATUM OF 1927.
- REFERENCES:  
FIELD NOTE RECORDS OF EL PASO COUNTY:  
SURVEY 291 - BK. 14, PG. 115 (15 OCTOBER 1973)  
SURVEY 292 - BK. 14, PG. 116 (15 OCTOBER 1973)  
SURVEY 293 - BK. 14, PG. 117 (20 JANUARY 1974)  
SURVEY 294 - BK. 14, PG. 118 (30 JANUARY 1974)
- CONSTRUCTION OF THE T. & P. RY. CO. SURVEYS AS SHOWN HEREON IS BASED UPON THE CORNERS ESTABLISHED BY PAUL McDONNELL IN 1884 UNDER THE DIRECTION OF W.C. WALKER, G.L.O. COMMISSIONER. THE CORNERS WERE ORIGINALLY WOODEN PILES BUT WERE RE-MONUMENTED WITH 2" IRON PIPES IN 1905 BY McDONNELL. (SEE LETTER DATED NOVEMBER 15, 1905, FROM McDONNELL TO W.H. ABRAMS FILED IN G.L.O.) McDONNELL PIPES WERE RECOVERED BY R.W. BAKER IN 1936.

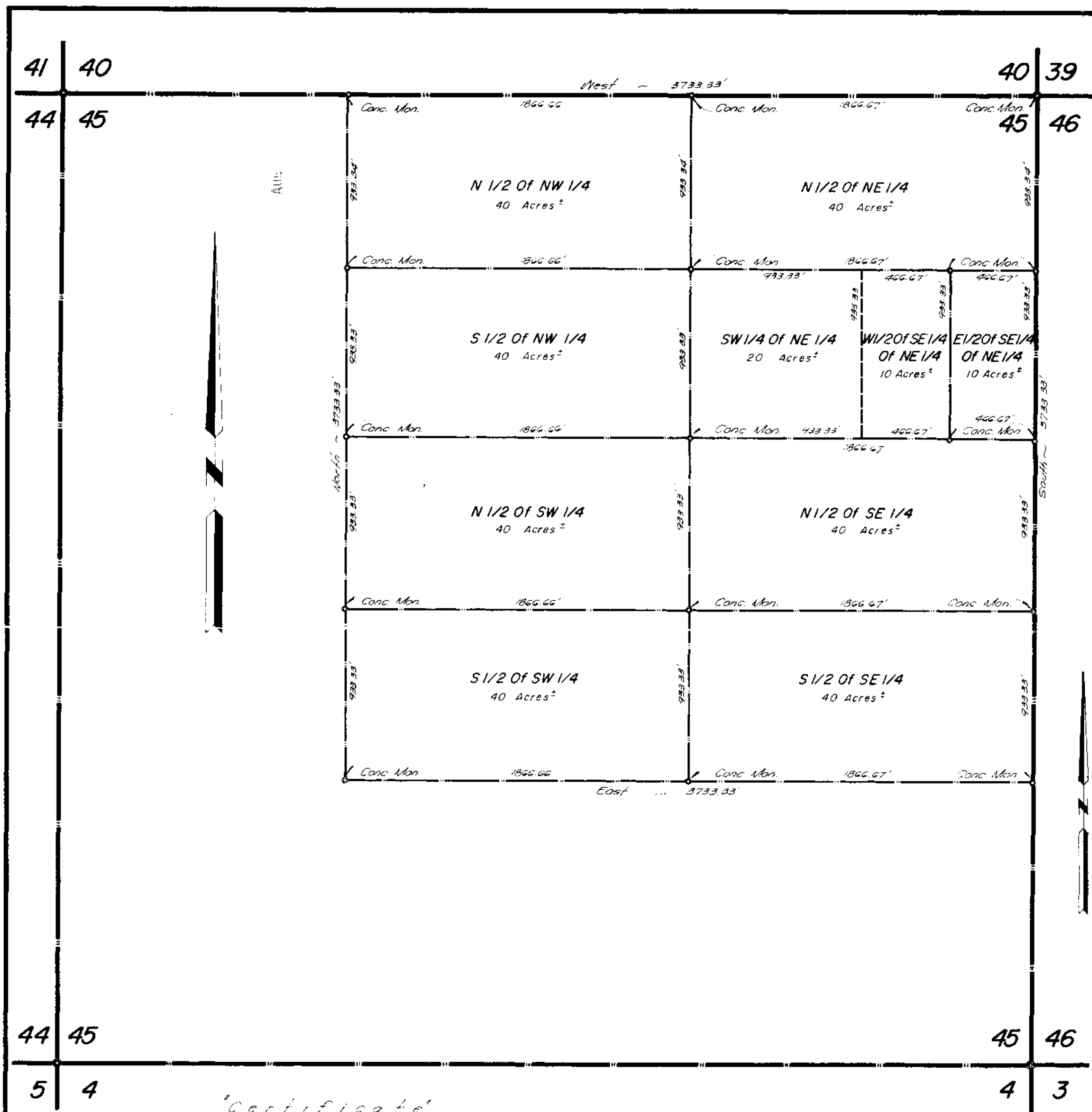


FILED FOR RECORD IN MY OFFICE,  
THE 21st DAY OF August, 1994,  
AT 2:50 O'CLOCK P.M. DULY RECORDED.  
THE 21st DAY OF August, 1994,  
IN BOOK 42, PAGE 168, OF THE  
FIELD NOTE RECORDS OF EL PASO COUNTY, TEXAS.  
Robert L. Pounds  
ROBERT L. POUNDS, EL PASO COUNTY SURVEYOR

FILE NO. P-2527A

TEXAS G.L.O. COPY



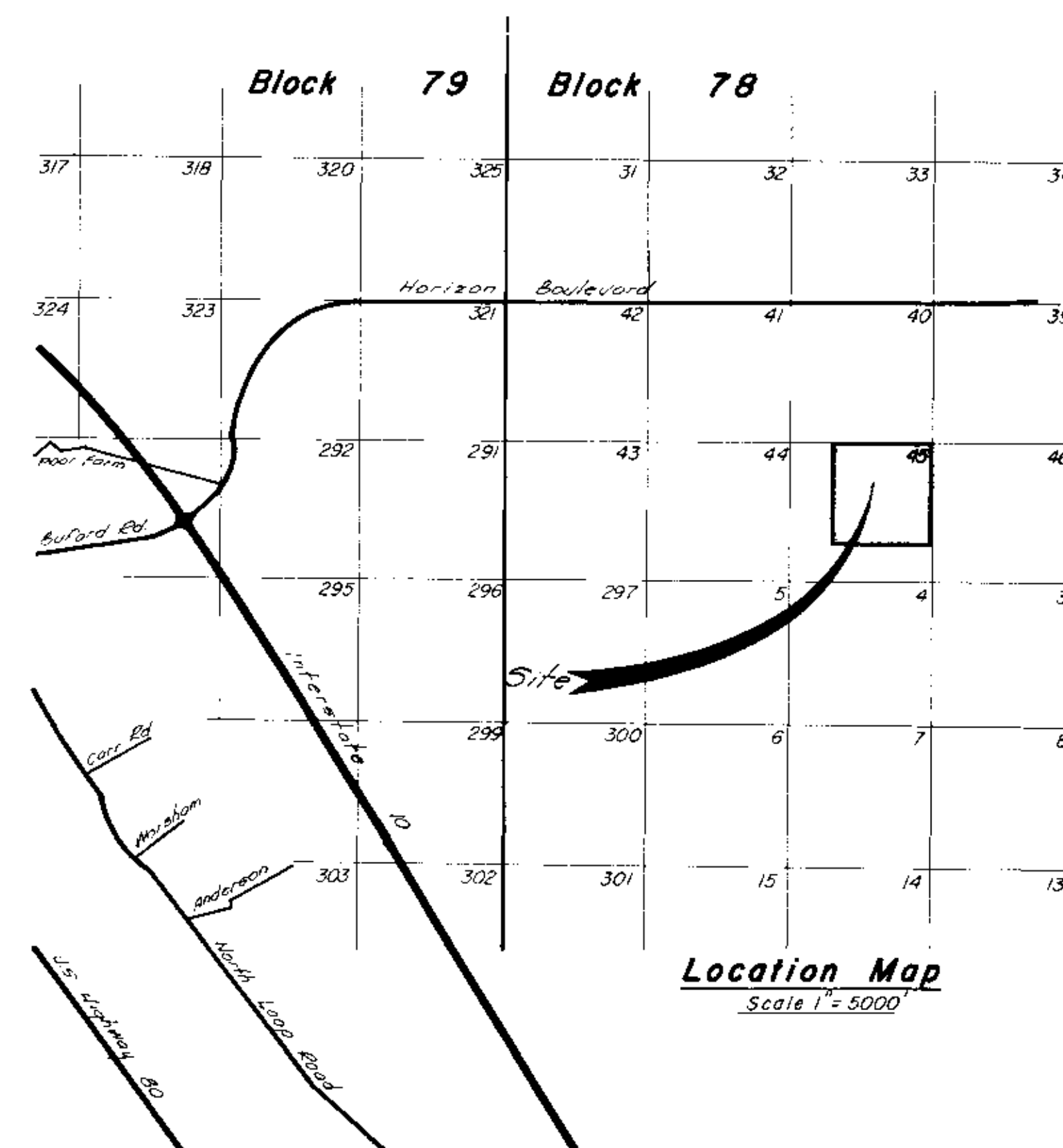


# **Plat Of Survey** **Of The Section 45 Block 78 Tsp. 3** **Location Of The Jacob Kneiber Survey 293**

Date: June 14-1968 Scale: 1" = 400'

Note:

This Survey is of the location of the Jacob Kneiber Survey 293 as shown on the General Land Office Map of 1921 and as indicated by a sketch made by U.E. Stenzing of the Engineering Division of the General Land Office in August 1959, in which the Kneiber Survey is shown situated in the North East portion of Section 45, Block 78, Tsp. 3 of the T & P R.R. Survey.



## "Certificate"

This is to certify that I am a Registered Professional Civil Engineer and that this map was prepared from field notes of an actual survey made by me or under my direction and that it is true and correct to the best of my knowledge and belief.

Basil R. Smith, P.E.  
Texas No. 12202

Basil Smith Engineering Co. El Paso, Texas.





GENERAL LAND OFFICE

AUSTIN, TEXAS

JERRY SADLER  
COMMISSIONER

78701

August 23, 1968

Stewart Title Guaranty Company  
118 N. Kansas  
El Paso, Texas 79901

Attention: Mr. Albert A. Mestan

Re: Jacob Kneiber, Survey No. 293,  
Abst. 51, El Paso County, Texas  
File: Bexar 3-6923

Dear Sir:

Pursuant to your letter of August 16, 1968 concerning the location of the captioned survey, we have examined the respective files in this office pertinent to this matter, and the following is indicated.

The Jacob Kneiber survey was surveyed January 30, 1874 by J. Wilkin Tays and describes a tract of 320 acres located in El Paso County beginning at a point just below the junction of two arroyos known as the Arroyos of the Comales, from which point the South West corner of survey No. 291, made for SA&MG RR Co. bears S. 10° E. 30,500 varas; Thence North 1344 varas; West 1344 varas; South 1344 varas and E. 1344 varas. This survey was patented May 7, 1875 and after title passed from the State the land office has no further record of ownership.

The T&P RR Co. surveys were made by Jacob Kuechler in 1879 and will be junior to the location of the Jacob Kneiber.

The official land office map in use from 1888 until 1902 has the Kneiber survey delineated overlapping the common corner of Sections 32, 33, 40 and 41, T&P RR Co., Block 78, Tsp. 3; the approximate West 2/3rds covering Sections 32 and 41 and the approximate center line coinciding with the South boundary lines of Sections 32 and 33.

The official land office map in use from 1902 until 1908 has the Kneiber survey delineated in the South East corner of Sec. 40, T&P RR Co., Block 78, Tsp. 3, with some overlap on Sections 39, 45 and 46.

The official land office map in use from 1908 until 1921 has the Kneiber survey delineated near the North East corner of Sec. 40, T&P RR Co., Block 78, Tsp. 3, with a slight overlap on Sec. 39.

The present official land office map in use since 1921 has the Kneiber

K<sup>1</sup>

COUNTER 76780



Stewart Title Guaranty Co.  
August 23, 1968

survey delineated approximately in the North East corner of Sec. 45, T&P RR Co., Block 78, Tsp. 3.

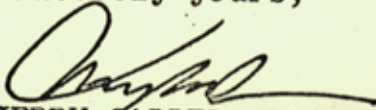
The SA&MG RR Co. Survey No. 291, which is the survey mentioned in the tie call in the Kneiber, calls for adjoiners with Survey 44, Ralph Wright; however, it also calls for adjoiners to the Jesse Burdett Survey No. 52 that is located along the SE line of El Paso County.

Mr. J. W. Carter, licensed surveyor of El Paso, filed a map and report in the land office in 1952 in which he proposes the theory that the San Felipe Arroyo in the South East part of T&P RR Co., Block 78, Tsp. 4, is the arroyo called for in the Kneiber survey. Mr. Carter would then locate the Kneiber survey in the North East corner of Sec. 40, Block 78, Tsp. 4.

The location of this Kneiber survey on the ground apparently is a problem of the individual owner or owners in sustaining their occupation of their respective tracts.

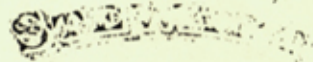
A certified copy of the patent to the Kneiber survey may be had for \$1.50 and a paper copy of the official land office map may be had for \$3.00.

Sincerely yours,

  
JERRY SADLER, COMMISSIONER

JS/ves





**TITLE GUARANTY COMPANY**  
GUARANTEES LAND TITLES AND LIENS

August 16, 1968

STEWART TITLE COMPANY, AGENT  
118 N. KANSAS, EL PASO, TEXAS 76901

CHESTER E. LOVELADY  
PRESIDENT & MANAGER

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

Dear Mr. Sadler:

Presently we have various property owners who are in a dilemma over the true location of Jacob Kneiber Survey 293, 320 acres, El Paso County, Texas. The General Land Office Map of 1921 places Jacob Kneiber Survey 293 in Section 45, Block 78, Township 3, T & P Railway Surveys. In examination of the title to the above two surveys, I find that the State of Texas issued a Patent dated May 7, 1875, and filed in El Paso County on November 11, 1899 to TELESFERO MONTES, for the Jacob Kneiber Survey 293, 320 acres. Whereas Section 45, Block 78, Township 3, T & P Railway Surveys, 640 acres was Patented to the Texas and Pacific Railway Company on January 28, 1886 and filed for record in El Paso County on August 2, 1942. Thereby the State Land Office Map of 1921 has two conflicting titles and due to the filing dates it is assumed that the title holders of Jacob Kneiber Survey 293 would have superior title on the basis of dates of Patent and filing dates of these respective Patents.

The El Paso County Tax Assessors Office indicates that the Jacob Kneiber Survey 293, 320 acres is located in Section 40, Block 78, Township 3, T & P Surveys, and have been all these years collecting taxes on this basis. This action was supposed to have been approved sometime in 1928 due to a correction to the State Map of 1921 from the Land Commissioner's office by letter, which is now no longer available. ✓

Regardless, all these years the El Paso County Tax Assessor has carried Jacob Kneiber Survey 293, 320 acres in the North Half of Section 40, Block 78, Township 3, T & P Surveys, and they indicate that there is room to place Jacob Kneiber 293 within Section 40 without conflict. In the meantime, Section 40, Block 78, Township 3, T & P Surveys has been Patented to the County of El Paso on

El Paso SK. File 31

COUNTER 76782



Mr. Jerry Sadler, Commissioner  
August 16, 1968

Page 2

October 17, 1961 and filed for record on October 19th of the same year. Thereby creating another conflict if attempted to locate Jacob Kneiber 293 within the boundaries of Section 40.

I hope the brief description of the problem that I have outlined above is a basis for your office to immediately investigate the conflicting titles due the Land Office Map of 1921, and assist the various owners of Jacob Kneiber Survey 293 in locating their property within its' rightful survey or Section number.

Should you need any further title evidence to clear up these conflicts, please contact me and I shall take it up with the various owners as to what your requirements are. The section owners are as follows: Section 40, Block 78, Township 3, T & P Railway Surveys, as stated previously is owned by the County of El Paso; Section 45, Block 78, Township 3, T & P Railway Surveys is owned by Horizon Properties Corporation, and has been subdivided into other units, with multitudes of lot owners; and Jacob Kneiber Survey 293, which is owned by approximately nine different owners.

Enclosed you will find survey Plat dated June 6, 1968 of Section 45, Block 78, Township 3, containing Jacob Kneiber Survey which was based on the 1921 General Land Office Map and letter of August 10, 1959 from V. E. Sterzing of the Engineering Division, General Land Office.

Hoping to hear from you in the near future regarding this matter, I remain,

Sincerely,

Albert A. Mestan  
Title Examiner

AAM/su  
Encl.

COUNTER 76783