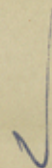


CAUSE NO. 16,282
STATE OF TEXAS vs MICHAEL MEEHAM et al
District Court of Travis County, Nov. 24, 1902

- 1 Letter from John T. Hill, 1/5/1951. Letter, 11/8/1950.
Copy of letter from Commissioner to Hill, 1/10/51. Certified copy of Judgment.
- 2 Copy of Judgment.
- 3 Photostatic copy of Plaintiff's Third Amended Original Petition.
- 4 Photostatic copy of Defendant's First Amended Original Answer.
- 5 Photostatic copy of endorsement on tracing of map made by W. H. Emory & Jose Salazar.
- 6 W/P of map of Rio Grande area, depicting towns of Isleta, Socorro, Elgeario, etc.
- 7 W/P of map of land granted to inhabitants of Presidio de San Elizario by the
Legislature of Texas, Feb. 5, 1853.
- 8 Copy of "Listing of Certain Papers and Documents in GLO having a bearing on the
Title to the University Lands in El Paso County for Research Purposes."

Filed 1/15/1951



JOHN T. HILL
ATTORNEY AND COUNSELLOR AT LAW
EL PASO, TEXAS
1259 Ohio Avenue

RECEIVED

November 8, 1950

NOV 22 1950

REFERRED TO MAP

Hon. Bascom Giles
Land Commissioner
General Land Office
Austin, Texas

RE: San Elizario Land Grant
El Paso County, Texas

Dear Sir:

On November 24th, 1902, in Cause of the State of Texas versus Michael Meehan et al, # 16,282 in the Judicial District Court of Travis County, Texas, a judgment was entered in favor of defendants establishing the boundary line between the State of Texas and defendants involving the boundary between what is now called University Land, being Block L, University Land, and the San Elizario Land Grant of El Paso County, Texas. A certified copy of this judgment is hereby enclosed for your convenience. You will please return the same when you have entered it in your record. Said judgment has been duly recorded in the deed records of El Paso County, Texas. Your office can procure a copy from the district clerk of Travis County, Texas, or you can use this copy for your record.

In the latter part of August 1949 I personally contacted one of your deputies at the Land Office in Austin, who informed me that there was no record of the above judgment establishing the boundary line at Fabens in El Paso County, Texas, between the state lands, Block L, and the San Elizario Land Grant. He then requested that I permit him to make a photostatic copy of the field notes that appeared in the record opinion of the judge delivered just prior to the entry of judgment. These notes are made a part of the record. Subsequently to this contact with your deputy, I had the district clerk of Travis County make a certified copy of the pleadings and the judgment, which was sent to me in El Paso. I presume that the reason this judgment was not put on the public land records at the time it was entered on November 20th, 1902, was because the State, through its attorney general, gave notice of appeal, and the judgment became final because the state did not perfect the appeal, which is shown by a certificate made by the district clerk of Travis County, Texas, to the effect that there is nothing in the record of said Suit # 16,282 showing that the State of Texas, acting through its attorney general or by any other proceeding, perfected the appeal as prayed for at the time the district court entered the judgment. Therefore, said judgment became final and the boundary established is the legal boundary between Block L of the state land, which is now designated as University Land, and the San Elizario Land Grant that has been

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recognized and established by law enacted by the legislature ratifying and approving the grants of the King of Spain and the government of Mexico prior to the Texas Revolution and the admission of Texas as a state of the United States, as shown by the Treaty of Guadalupe Hidalgo between Mexico and the United States.

The failure of the authorities to treat said judgment as a final judgment after the time expired for the attorney general to perfect said appeal or to start some other proceedings to set aside the judgment, has caused a conflict of titles among the inhabitants of the town of Fabens. That is, there have been illegal leases, sales and contracts made by the citizens and others involving the lands around Fabens in El Paso County, Texas, because they have treated land as state land, land that in fact is in the San Elizario Grant and never was state land. Specifically stated, the Fabens Townsite Company, which Mr. H. D. Camp and others organized, acquired lands lying between the G. H. and S. A. Railroad right of way and said Block L, including all the San Elizario Grant Lands, except what others may have owned, northwesterly, northerly and easterly of the town of Fabens from said railroad right of way to the southeasterly, northerly and southwesterly boundary between said Block L and said railroad. This boundary line is designated in the judgment referred to herein by natural markers which are described as the "foothills." It will be seen from the judgment and the accompanying plat referred to by the judgment as the boundary, that the decree of the court approves the act of the legislature of February 5th, 1853. The survey begins at a monument near the town of San Elizario, which monument marks the boundary between the Socorro Grant and the San Elizario Grant. This boundary bears northerly $73\frac{1}{2}$ degrees east, extending to the foothills bordering on the east bank of the Rio Viejo, and thence southeasterly along said hills down the Rio Viejo to the point of said foothills which is nearest to a point where the junction of the Rio Viejo and the Rio Grande existed in the year 1853. This point in 1853 was 1,006 varas from the upper corner of the Ralph Wright survey # 44, thence in a straight line to the juncture of the said Rio Viejo and Rio Grande. This point is south of Fabens and is a southeast point of the island. Thence following the river northwesterly to the point of beginning near San Elizario.

It will be seen that the northwesterly, northerly and easterly boundary of the San Elizario Grant is established by fixed and permanent natural monuments named as the foothills, and that all the land between the river and said foothills was at the time a portion of the San Elizario Grant, and none of that land ever belonged to the State of Texas, and any title attempted to be acquired through the State of Texas is absolutely void. It has also been established by the Supreme Court of Texas and by the law that adverse possession does not run against the state, and that title cannot be acquired to private land by adverse possession, by anyone settling on private land believing the title to be in the state. That is, those who are trying to hold Fabens Townsite land by adverse possession on the theory that they took possession believing it to be state land.

Taking into consideration the foregoing facts, I am enclosing a portion of a map drawn by H. E. McDonald, a draughtsman, purporting

to show the boundary between the University Land, Block L, and the San Elizario Grant that fails to take into consideration the judgment referred to in this statement. There are blocks and surveys on the McDonald map designated as Texas land that are in truth and in fact San Elizario Grant Land, and have never been state land, the title coming through the grant, and on the state plat they are designated as 405 A and 405.

When I consulted your chief deputy in the Land Office the last of August 1949, I showed him the enclosed topographic map made January 1907, that portion of which is marked "Inhabitants of Presidio de San Elizario" and which contains the surveys including Fabens and the surrounding lands in the boundaries of the San Elizario Grant, and which purports to show the foothills that are the markers of the boundary line between what is now the University Land of Texas and mark Block L joining the northwesterly, the northerly and the easterly portion of the San Elizario Grant near Fabens, Texas. Your representative said that the map I showed him was a copy of the map that they had on file, and that it was the map and plat followed by the state in making sales and contracts with private citizens. The number of surveys that we are concerned with in locating the Fabens Townsite Company's surveys, which lands are now owned by persons who have purchased lots from the Fabens Townsite Company and the subsequent owners of said Fabens Townsite Company who were and are R. F. Davis, deceased, and his successors who came into possession and ownership of his estate by will on May 31st, 1944 at the time said R. F. Davis died. The surveys which are in question are numbered on your map "405" and "405 A" westerly of the Fabens Townsite land and the part of which may conflict with the Fabens Townsite Company's land or the R. F. Davis interest. Also adjoining said-named surveys 405 and 405 A on the east on your map are surveys marked 1608 and 1609. Adjoining 1609 there are other surveys numbered 1608 to 1611, which are also numbered 1, 2, 3, 4, etc. These surveys above-numbered have the representations of the foothills crossing them. This boundary line of the Grant meanders with the foothills, but the boundary in the judgment is straight. The engineer who made the field notes on the map which designates H. F. McDonald as the draughtsman, evidently intended these markings representing the foothills to be the boundary between the state land and the San Elizario Grant. We have no information as to the authority of this survey, and it does not conform with the survey fixing the boundary between the state land and the San Elizario Grant land as shown by the description of the Grant in the judgment herewith presented for your examination, which judgment also has attached field notes in the form of a map of the whole Grant. This map conflicts with the map that I am sending you with these papers and which your deputy told me was a copy of your records and the only one that you had in your office as a guidance in establishing the boundary between the state land and the San Elizario Grant.

My clients claim that the state authorities, acting through the Commissioners Court of El Paso County, Texas, have wholly ignored the ownership of the organizers of the Fabens Townsite Company

in and around the town of Fabens, and have cut a ditch from the north-east portion of the Fabens Townsite Company's land in a southwesterly direction across the entire townsite. This ditch is one hundred feet wide and from ten to thirty feet deep. It drains the water that flows down the canyon from the mesas north of Fabens, which water naturally, before the ditch was cut, flowed south and easterly of the Fabens Townsite Company's land. This water was diverted so as to drain, by this ditch, through the entire Townsite land, and empties into the Rio Viejo, a branch of the Rio Grande, north of the town of Fabens, thereby appropriating more than twenty acres of the land of the owners of the Fabens Townsite Company, and mutilating and damaging the topography of the whole addition which has been mapped and a large portion of it sold and been built upon by residents.

REMARKS

The foregoing letter was for the purpose of showing the necessity of granting the following requests. Before you do the work, please inform me what the costs may be and also whether it will be necessary for me to personally go to Austin to explain the situation so that you may better understand what I need and want.

REQUESTS

I

Examine that portion of the map designated as surveys 405, 405 A and 1608, upon which Fabens is situated; also 1609. These are also numbered 1, 2, 3, 4, etc.

II

Examine such map as you have of this portion included, and locate the boundary as your information or maps now show to be established between the University Land and the San Elizario Grant.

III

By photostatic copy or otherwise, furnish such portion of the above-named sections showing the location of the boundary line in question that your office has heretofore considered as being the established boundary in question.

IV

Examine the description and boundaries of the San Elizario Grant as stated in the judgment of the District Court herewith sent you, in Cause # 16282, and locate that portion of the boundary shown by the map approved by the judgment in the said map drafted by H. F. McDonald above-referred to; that is, I desire that you show the conflict, if any, in the boundary that has heretofore guided you in land transactions and the boundary established by the court. I am of the opinion that the Fabens Townsite Company is entirely on the San Elizario Grant, and that the surveys referred to above include as government land a part of the San Elizario Grant.

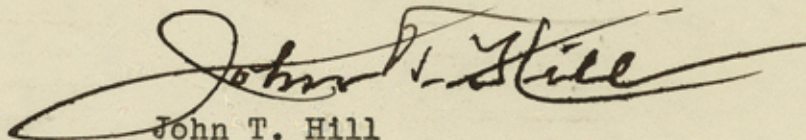
CONCLUSION

My contention is that the judgment shows the legal and correct boundary between the San Elizario Grant and the University Land and other land belonging to the State of Texas, and that the boundary that is used and followed by the state does not correspond with the boundary established by the judgment, which is the true boundary. If the data sent you, together with the data which you have in your office, shows the conflict, I would like to have the map of it showing the conflict.

You will find enclosed a photostatic copy of the record made by the clerk of the District Courts of Travis County, Texas, on February 1st, 1950, the clerk then being Mr. O. T. Martin, Jr., the number of which case on court docket is 16282. You will preserve the enclosed photostatic copy, and upon request return it to me at my expense.

Please let me know what you can do and how much it will cost.

Very truly yours,



John T. Hill

JTH:gk

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EL PASO CO. RLD. SK. No. 44

JOHN T. HILL
 ATTORNEY AND COUNSELLOR AT LAW
 1259 OHIO AVENUE
 EL PASO, TEXAS

January 5, 1951

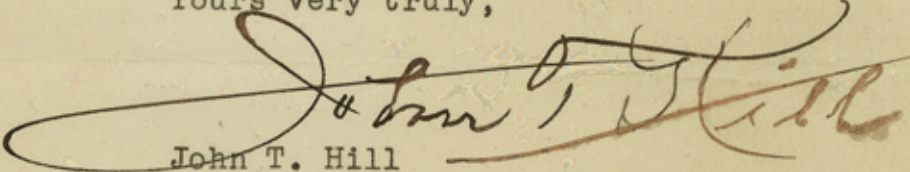
Honorable Bascom Giles
 Land Commissioner
 Austin, Texas

Dear Mr. Giles:

I have before me your U. S. Post-Office return receipt for some maps, a long letter, and other documents concerning the title at Fabens, Texas, of the Fabens Townsite Company Addition. These were sent you to determine the conflict, if any, of the San Elizario Grant at Fabens with Block L of the University Land, especially that portion of the Grant on which are surveys 405 and 405A which appear to conflict with the Grant. You will understand what I mean by examining the map made by the state engineers following the field notes of the suit. I sent you a certified copy of the judgment of this suit, dated November 1902, to which you can refer for correct field notes.

What I would like to know is, what you think of it and what I should do to correct any of the conflicts. Or do you want me to go to Austin and talk to you about it? Please answer.

Yours very truly,



John T. Hill

JTH:gk

RECEIVED

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REFERRED TO MAP

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BASCOM GILES, COMMISSIONER
DENNIS WALLACE, CHIEF CLERK

General Land Office

State of Texas

Austin

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January 10, 1951

Mr. John T. Hill
Attorney and Counsellor at Law
1259 Ohio Avenue
El Paso, Texas

Dear Mr. Hill:

I acknowledge receipt of your letter of November 8, 1950 together with enclosures, and your letter of January 5, 1951 concerning the boundaries of the San Elizario Grant in El Paso County.

I have carefully considered your letter and in connection with my study of the matter, I have obtained the complete record of this case from the District Court files of Travis County. In connection with this examination, I have several observations to make. First, the photostat copy of map designated by you as Enclosure No. 2 was prepared by the County Surveyor of El Paso County on September 9, 1898, and said map consequently was not endorsed by the Legislature of Texas in the Act of February 5, 1853. My interpretation of this sketch is that same is Surveyor Parker's conception of the boundaries of the grant. This survey and sketch, however, was not presented to and approved by the General Land Office as depicting the correct boundaries of this grant.

You state on page two of your letter that "it will be seen from the judgment and the accompanying plat referred to by the judgment as the boundary that the decree of the court approves the Act of the Legislature of February 5, 1853." I am in agreement with you as to the fact that the court approved the boundaries of the grant as fixed by the Act of the Legislature in February, 1853, but I am not in agreement with you to the effect that the judgment referred to the plat as being the boundary. The judgment fixes the boundary of the San Elizario Grant as,

"Commencing on the Rio Grande at the point where the established line of division between the towns of Socorro and San Elizario strikes said river for the Northern boundary, and thence running north 73 1/2° East with the South line of the

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Page #2
Mr. John T. Hill
January 10, 1951

Socorro grant to the hills bordering on the Eastern bank of the Rio Viejo, and, Thence Southeast along with said hills down the river Viejo, to the point of said hills which is nearest to the point where the junction of the Rio Viejo and Rio Grande existed in the year 1853 (and which point of junction at said time is found by the court to be one thousand and six varas from and above the upper corner on the river of the Ralph Wright Survey No. 44), and, Thence, in a straight line to said point of junction, and, Thence with the boundary line between the United States and Mexico to the place of beginning; the said line down the hills East of the Rio Viejo to follow the foot of the hills....."

It will be noted from the above adjudication of boundaries that no reference is made to any plat or exhibit which may have been introduced in evidence in Cause No. 16282 in the District Court of Travis County, November 24, 1902. The Eastern or Northeastern boundary of the grant is merely described as following the foot of the hills without reference to any map or straight lines. The second paragraph following this adjudication of boundaries in said judgment reads as follows:

"It appearing to the Court that the three straight lines claimed by the defendant in their pleading in connection with the maps introduced in evidence by the defendants, as forming the Eastern boundary of said grant, includes some land West of the foot of the hills lying East of the Rio Viejo;"

It will be noted that the court does not in this paragraph adopt the straight lines and the map for the boundaries of the grant. The court in this paragraph merely states that the boundaries claimed by the defendants as forming the East boundary of said grant includes some land between the foot of the hills and the Rio Viejo. From my investigation of this matter, it appears that the Eastern or Northeastern boundary of the San Elizario Grant is fixed by the court as running with the foot of the hills bordering the Rio Viejo, and such judgment does not attempt to fix the position of the hills. The present official County Map of El Paso, a portion of which you forwarded with your letter, in my opinion correctly shows the position of the foot of the hills and, consequently, the boundaries of the San Elizario Grant. The foot hills, as reflected on our map, have been delineated thereon from contours shown by the U. S. Coast and Geodetic Survey Maps, and I know of no better means of determining the foot of the hills, unless some court of

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Page #3
Mr. John T. Hill
January 10, 1951

competent jurisdiction should, as a result of a ground survey, describe a line by metes and bounds as being the foot of the hills and the boundaries of the San Elizario Grant.

It will be noted from this official map that the portion of the University Surveys below the foot of the hills are shown as being inferior to the San Elizario Grant. The survey, reflected by the plat which you enclosed with your letter showing the University Land, Block L, in El Paso County prepared by J. A. Conklin, Special Surveyor, has never been officially adopted by this department as being the boundary between the University lands and the San Elizario Grant, and I do not believe that the acceptance of this survey by the General Land Office could possibly waive the State's claim to any lands above the foot of the hills, the boundary fixed by District Court of Travis County in said Cause No. 16282.

I am returning herewith the various maps and sketches enclosed with your letter, but I am retaining the certified copy of the judgment, as I have no other certified copy of same on file in this office.

Sincerely yours,

BASCOM GILES, COMMISSIONER
OF THE GENERAL LAND OFFICE

DW:rj
Encls.

cc - Hon. Scott Gaines
University of Texas Lands
University of Texas
Austin, Texas

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RECEIVED

NOV 22 1950

REFERRED TO MAP

IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS

November 24, 1902.

No. 16,282 THE STATE OF TEXAS VS. MICHAEL MEEHAN, ET AL

On the 24th day of November, 1902, came on to be heard this cause when came the State of Texas by her attorney general and the defendants hereinafter named who were personally served with citation, appeared by their counsel and the defendants hereinafter named who were cited by publication to appear and answer herein appeared by Millard Patterson and C. N. Buckler, their attorneys ^{ad} litem heretofore appointed to represent said defendants by order of this court, and who had accepted said appointment and answered herein for said defendants cited by publication as their attorneys ad litem;

And thereupon, it appearing to the Court that the following named defendants had disclaimed by written disclaimer filed herein any interest in or claim to any of the lands embraced in this suit;

IT IS ORDERED by the Court that said defendants so disclaiming go hence without day; that they have and recover of the plaintiff herein all their costs in this behalf incurred; Said defendants so disclaiming and who are hereby dismissed with their costs are W. B. Merchant, John Atter, J. P. Dieter and C. H. Silliman;

The plaintiff also dismisses its suit as to the Galveston Harrisburg and San Antonio Railroad Company, defendant herein, and it is ordered that said defendant go hence without day and recover of and from the plaintiffs herein its costs; And the plaintiff also dismisses its suit as to the following named defendants who have not been served with citation or cited by publication in this cause, and

IT IS ORDERED that they be dismissed from this cause with their costs, said defendants not served are M. E. Pierce, _____ Kettleon, _____ Degetan, A. Q. Wings, and M. Lowenstein; And as to the other defendants in the cause, the cause was then submitted to the Court upon the pleadings, evidence and arguments of counsel, and taken under advisement by the Court; And on this the 6th day of December, 1902, the Court having fully considered the cause, the following decree is rendered;

Mr. Meehan

counters 17740

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IT IS CONSIDERED by the Court and so ordered, adjudged and decreed that the boundaries of the grant of land, made to the inhabitants of Presidio de San Elizario under the act of the Legislature of the State of Texas, of February 5th, 185³4, and for which patent issued under said act, be fixed and established as follows:

(7 Commencing on the Rio Grande at the point where the established line of division between the towns of Socorro and San Elizario strikes said river for the Northern boundary, and thence running north 73 1/2° East with the South line of the Socorro grant to the hills bordering on the Eastern bank of the Rio Viejo, and, Thence Southeast along with said hills down the river Viejo, to the point of said hills which is nearest to the point where the junction of the Rio Viejo and Rio Grande existed in the year 1853 (and which point of junction at said time is found by the Court to be one thousand and six varas from and above the upper corner on the river of the Raiph Wright survey No. 44), and, Thence, in a straight line to said point of junction, and, Thence with the boundary line between the United States and Mexico to the place of beginning; the said line down the hills East of the Rio Viejo to follow the foot of the hills, and,

IT IS FURTHER ordered, adjudged and decreed that the title of the defendants to all of the lands within said boundaries be established and free from any claim on the part of the plaintiff and that as to the lands within said boundaries the plaintiff, the State of Texas, take nothing;

IT APPEARING to the Court that the three straight lines claimed by the defendant in their pleading in connection with the maps introduced in evidence by the defendants, as forming the Eastern boundary of said grant, includes some land West of the foot of the hills lying East of the Rio Viejo;

IT IS ORDERED, Adjudged and Decreed by the Court that the plaintiff, the State of Texas, do have and recover of and from all of the defendants herein, except those who have been heretofore in this judgment dismissed, all of the lands embraced in the plaintiff's third amended original petition not included within the boundaries of the San Elizario grant as above fixed;

The defendants in whose favor this judgment is rendered establishing the boundaries of the San Elizatio grant and against whom this judgment is rendered in favor of the State for such portion of the land sued for as is not included in said boundaries, are as follows:

F. A. Gray, Jr., Chas. F. Rau, Ft. Dearborn National Bank, Mrs. Carrie Loomis, Andreas Madrid, J. D. Hunnicutt, Mary C. Hoffman, J. B. Watkins, A. H. Gleason, H. L. V. Hoffman, Lobeta Alarcon, Gorgonia Alvilla, Juan Apodaca, Denasio Renteria, Isabel Sanchez, R. L. Meyer, Apolinio Musguez, Jose Siera, Jose Maria Alrulruger, Valentine Archelete, T. N. Collins, Perferio Garcia, Perfeta Ortez, Agripina Lujan, Adavidjern Chaves, Vidal Garcia, Juan Surnega, B. F. Hosier, C. F. Davis, J. A. Cole, Mrs. Freda Schuff, Leo Walkup, Geo. Cushing, Juan Valdez, Emily Michera, Juan N. Garcia, S. W. Boring, Jno, Lopez, Max Weber, Numa Raymond, Solomon Schultz, R. A. Loomis, Kate M. McKelligan, W. A. Morehouse, Jesus Maria Olguin, Canuta L. Maese, Rayes Sambrano, the above named defendants were served by publication;

Wm. Hamilton, Jesus Arrollos, Antonio Gonzales, Pablo Castillo, J. Augel Bernal, Lino Guerra, Jose Maria Talamantes, Maria Jose Lopez, Maximo Aranda, Gaspar Giron, Maria Loiz Boroga, Jacinto Lucerro, Millard Patterson, M. Webber, Dan Kelley, Michael Meehan, Z. T. White, Pedro Telles, Viego Lolla, Rio Grande Land & Irrigation Company, Jesus Bobis, Miguel Garcia, W. T. Robinson, J. C. Wilcox, Juan Lopez, C. G. Gaal, R. P. Sargent, Nicholas Madrid, Alvino Arres, Apolinio Chaves, Crespín Borrero, J. M. Lujan, Ishmael O'choa, Donocias Urtelago, Benigna Escajeda Pedro Perez, Thomas Garcia, Salcido Sisto, A. M. Loomis, A. Krakauer, Clements Perez, H. Schugt, Juan Armendariz, Laura A. Loomis, Dorette Krahmer, Calvin S. Babbitt, Pedro Condera, Lehman & Harris, H. G. Ross, Adolph Solomon, Refugio Alarcon, W. J. Harris, Jose Maria Lolla, the above named defendants were personally served;

It is further ordered, adjudged and decreed that one half of costs of this cause be adjudged against the plaintiff, the State of Texas, and that the other half of the costs of this cause be adjudged against those defendants above named who have been personally served with citation in this case, and that execution shall issue against the defendants against whom this judgment for costs is rendered for the satisfaction thereof;

To this judgment of the Court, the plaintiff, the State of Texas, excepts and in open court gives notice of appeal to the Court of Civil Appeals for the Third Supreme Judicial District of the State of Texas;

And upon application of the plaintiff it is ordered that a statement of facts may be made up, approved and filed within ten days after the adjournment of this court;

By agreement of counsel and consent of the Court,

It is further ordered that all of the original maps and sketches introduced in evidence in this case may be sent us as a part of the record and shall be considered as part of the statement of facts;

And the plaintiff further excepts to the conclusions of law and fact filed herein by the judge of this court;

Court adjourned and again met each day except Sundays and on Monday, December 15, 1902, and thereupon the following proceeding

THE STATE OF TEXAS :
:
:
COUNTY OF TRAVIS :

I, O. T. MARTIN, JR., Clerk of the District Courts,
within and for the State and County aforesaid, do hereby certify
that the within and foregoing is a true and correct copy of
Judgment

in Cause No. 16,282, wherein

The State of Texas is

Plaintiff__

and

Michael Meehan, et al, are

Defendant^s

as the same appears on file and of record in this office.

Given under my hand and seal of office,
at Austin, Texas, this the 16th day
of June, 1950.

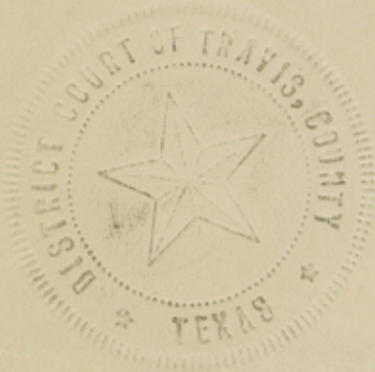
O. T. MARTIN, JR.
Clerk, District Courts, Travis County,
Texas

By O.T. Martin Jr. Deputy.



THE STATE OF TEXAS |
COUNTY OF TRAVIS |

I, O. T. Martin, Jr., Clerk of the District Courts,
within and for the State and County aforesaid, do hereby
certify that in Cause No. 16,282, Wherein:
THE STATE OF TEXAS IS PLAINTIFF AND
MICHAEL MEEHAN, ET AL ARE DEFENDANTS, the Records of this
office disclose that notice of appeal was given in the above
numbered and entitled cause, but the appeal was never perfected.



Given under my hand and seal
of office, at Austin, Texas,
this the 16 day of June
1950.

O. T. Martin, Jr.
Clerk, District Courts, Travis
County, Texas.

By O. T. Martin, Jr.

E. Paso Co. Rolled Sketch # 44

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ENCLOSURE I

Judgment, District Court, Cause # 16282, Travis County, Texas

The State of Texas vs. Michael Meehan et al.



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cc Judgment

State of Texas

vs

Michael Melhan et al

252

county 4447

FILED FOR RECORD

JUN 21 1950

AT 2:50 O'CLOCK P.M.

RAYMOND L. TELLES, Jr.
County Clerk, El Paso Co., Texas

By W. T. Duncan Deputy

June 27, 1950

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Hill

6/16/50

(SEAL)

By: *Georgie E. Menden* Deputy

Witness my hand and the seal of the County Court of said county of office in El Paso, Texas, the day and year last above written.

Raymond L. Telles, Jr., County Clerk,

CERTIFICATE OF RECORD.

The State of Texas, }
County of El Paso, }

I, Raymond L. Telles, Jr., County Clerk in and for said County, do hereby certify that the foregoing instrument of writing with its certificate of authentication, was filed for record in my office, on the

21 day of June A. D. 1950 at 2:30 o'clock P. M. and duly recorded the 2 day of June A. D. 1950 at 9 o'clock

A. M. in the Deed. Records of said County, in volume 979

on page 9

Witness my hand and the seal of the County Court of said county of office

in El Paso, Texas, the day and year last above written.

Raymond L. Telles, Jr., County Clerk,

By: *Georgie E. Menden* Deputy

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IN THE DISTRICT COURT OF TRAVIS COUNTY, TEXAS

November 24, 1902

NO. 16,282

THE STATE OF TEXAS VS. MICHAEL MEEHAN, ET AL

On the 24th day of November, 1902, came on to be heard this cause when came the State of Texas by her attorney General and the defendants hereinafter named who were personally served with citation, appeared by their counsel and the defendants herein after named who were cited by publication to appear and answer herein appeared by Millard Patterson and C. N. Buckler, their attorneys and litem heretofore appointed to represent said defendants by order of this court and who had accepted said appointment and answered herein for said defendants cited by publication as their attorneys ad litem;

And thereupon, it appearing to the Court that the following named defendants had disclaimed by written disclaimer filed herein any interest in or claim to any of the lands embraced in this suit;

IT IS ORDERED by the Court that said defendants so disclaiming go hence without day; that they have and recover of the plaintiff herein all their costs in this behalf incurred; Said defendants so disclaiming and who are hereby dismissed with their costs are W.B. Merchant, John Atter, J. P. Dieter and C. H. Silliman;

The plaintiff also dismisses its suit as to the Galveston Harrisburg and San Antonio Rail Road Company, defendant herein and it is ordered that said defendant go hence without day and recover of and from the plaintiffs herein its costs; And the plaintiff also dismisses its suit as to the following named defendants who have not been served with citation or cited by publication in this cause, and

IT IS ORDERED that they be dismissed from this cause with their costs, said defendants not served are M. E. Pierce, _____ Kettleston, _____ Degetan, A. Q. Wings, and M. Lowenstein; And as to the other defendants in the cause, ^{the cause} was then submitted to the Court

upon the pleadings, evidence and arguments of counsel, and taken under advisement by the Court; And on this the 6th day of December, 1902, the Court having fully considered the cause, the following decree is rendered;

IT IS CONSIDERED by the Court and so ordered, adjudged and decreed that the boundaries of the grant of land, made to the inhabitants of Presidio de San Elizario under the act of the Legislature of the State of Texas, of February 5th, 1853, and for which patent issued under said act, be fixed and established as follows:

Commencing on the Rio Grande at the point where the established line of division between the towns of Socorro and San Elizario strikes said river for the Northern boundary, and thence running north $73\frac{1}{2}^{\circ}$ East with the South line of the Socorro grant to the hills bordering on the Eastern bank of the Rio Viejo, and, Thence, Southeast along with said hills down the river Viejo, to the point of said hills which is nearest to the point where the junction of the Rio Viejo and Rio Grande existed in the year 1853 (and which point of junction at said time is found by the Court to be one thousand and six varas from and above the upper corner on the river of the Ralph Wright survey No. 44) and, Thence, in a straight line to said point of junction, and, Thence with the boundary line between the United States and Mexico to the place of beginning; the said line down the hills East of the Rio Viejo to follow the foot of the hills; and,

IT IS FURTHER ordered, adjudged and decreed that the title of the defendants to all of the lands within said boundaries be established and free from any claim on the part of the plaintiff and that as to the lands within said boundaries the plaintiff, the State of Texas, take nothing;

IT APPEARING to the Court that the three straight lines claimed by the defendants in their pleading in connection with the maps introduced in evidence by the defendants, as forming the Eastern boundary of said grant, includes some land West of the foot of the hills lying East of the Rio Viejo;

IT IS ORDERED, Adjudged, and Decreed by the Court that the plaintiff, the State of Texas, do have and recover of and from all of the defendants herein, except those who have been heretofore in this judgment dismissed, all of the lands embraced in the plaintiff's

third amended original petition not included within the boundaries of the San Elizario grant as above fixed;

The defendants in whose favor this judgment is rendered establishing the boundaries of the San Elizario grant and against whom this judgment is rendered in favor of the State for such portion of the land sued for as is not included in said boundaries, are as follows: F. A. Gray, Jr., Chas. F. Rau, Ft. Dearborn National Bank, Mrs. Carrie Loomis, Andreas Madrid, J. D. Hunnicutt, Mary C. Hoffman, J. B. Watkins, A. H. Gleason, H. L. V. Hoffman, Lobeta Alarcon, Gorgonia Alvilla, Juan Apedaca, Denasio Renteria, Isabel Sanchos, R. L. Mayer, Apolinio Musguez, Jose Siera, Jose Maria Alrulruger, Valentine Archelete, T. N. Collins, Perferio Garcia, Perfeta Ortez, Agripina Lujan, A Davidjern Chaves, Vidal Garcia, Juan Surnega, B. F. Hosier, C. F. Davis, J. A. Cole, Mrs. Freda Schugt, Leo. Walkup, Geo. Cushing, Juan Valdez, Emily Michers, Juan N. Garcia, S.W. Boring, Jno. Lopez, Max Weber, Numa Reymond, Solomon Schultz, R. A. Loomis, Kate M. McKelligan, W. A. Morchouse, Jesus Maria Olguin, Canuta L. Maese, Rayes Sambrano, the above named defendants were served by publication;

Wm. Hamilton, Jesus Arrollos, Antonio Gonzales, Pablo Castillo, J. Augel Bernal, Lino Guerra, Jose Maria Talamantes, Maria Jose Lopez, Maximo Aranda, Gaspar Giron, Maria Loiz Boroga, Jacinto Lucerro, Millard Patterson, M. Webber, Dan Kelley, Michael Meehan, Z. T. White, Pedro Telles, Viego Lolla, Rio Grande Land & Irrigation Company, Jesus Bobis, Miguel Garcia, W. T. Robinson, J. C. Wilcox, Juan Lopez, C.G. Gaal, R. P. Sargent Nicholas Madrid Alvino Arres, Apolinio Chaves, Crespin Borrazo, J. M. Lujan, Ishmael O'Choa, Donociaas, Urtelogo, Benigna Eacajeda, Pedro Perez, Thomas Garcia, Salcido Sisto, A.M.Loomis, A. Krakauer, Clemente Perez, H. Schugt, Juan Armendariz, Laura A. Loomis, Dorette Krahmer, Calvin S. Babbitt, Pedro Condera, Lehamn & Harris, H. G. Ross, Adolph Solomon, Refugio Alarcon, W. J. Harris, Jose Maria Lolla, the above named defendants were personally served;

IT IS FURTHER ordered, adjudged and decreed that one half of costs of this cause be adjudged against the plaintiff, the State of Texas, and that the other half of the costs of this cause be adjudged against those defendants above named who have been personally served with citation in this case, and that execution shall issue against the defendants against whom this judgment for costs is rendered for

the satisfaction thereof;

To this judgment of the Court, the plaintiff, the State of Texas, excepts and in open court gives notice of appeal to the Court of Civil Appeals for the Third Supreme Judicial District of the State of Texas;

And upon application of the plaintiff it is ordered that a statement of facts may be made up, approved and filed within ten days after the adjournment of this court;

By agreement of counsel and consent of the Court,

It is further ordered that all of the original maps and sketches introduced in evidence in this case may be sent up as a part of the record and shall be considered as a part of the statement of facts;

And the plaintiff further excepts to the conclusions of law and fact filed herein by the judge of this court;

No. 16,282.

The State of Texas #
Vs. # In the District Court of Travis County,
Michael Meehan et al # Texas.

Now comes the State of Texas, plaintiff herein, by her Attorney General, and by leave of the Court first had and obtained, files this her third amended original petition in lieu of her second amended original petition filed herein on the 26th day of September, A. D. 1901, and for such amended petition plaintiff says:

Your petitioner, The State of Texas, who is hereinafter styled plaintiff, who brings this suit by and through her Attorney general, under the direction of the Governor of said State, and complaining of Michael Meehan, Salcido Sisto, J. C. Wilcox, ^{Liebman} Leham & Harris, a firm composed of Leham and W. J. Harris, Yshmael O'Choa, Clemente Perez, H. Schugt, John Alter, Mrs. Freda Schugt, a feme sole, A. Krakauer, W. B. Merchant, ~~Maximo~~ Aranda, Dorette Krahmer, Dan Kelley, Adolph Solloman, Juan Armendariz, J. M. Lujan, Jesus Cobas, J. P. Dieter, Laura A. Loomis, a feme sole, Calvin S. Babbitt, I. G. Gaal, M. Webber, A. M. Loomis, Z. T. White, Alvino Ares, Jesus Arrollos, Gasper Giron, Antonio Gonzalas, Maria Loiz Boroqa, J. Angel Bernal, Donociaas Urtelogo, Viego Lolla, William Hamilton, Nicolas Madrid, Crespin Borrasso, Jacinto Lucerro, Pedro Gondera, Thomas Garcia sr., H. G. Ross, W. F. Robinson, Miguel Garcia, Pedro Perez, Refugio Alacorn, Apolonio Chaves, Millard Patterson, Maria Jesus Lopez, Pablo Castillo, Lino Guerra, Jose Maria Talamantes, Benigno Escajeda, Pedro Telles, W. J. Harris, M. E. Pearce, Jose Maria Lolla, Juna Lopez, Kittleson & Degetau, a firm composed of Kittleson and Degetau, whose christian names are unknown to plaintiff, Jesus Arroyes, A. Q. Wingo, Loreta Alacorn, Gorgonio Alvilla, Juan Apodaca, Deriasio Renteria, Ysabel Sanchoes, R. L. Mayer, Alpolonio Musquez, Jose Sierra, Jose Maria Alrulgor, Valentine Archelete, T. N. Collins, Perferio Garcia, Perfeta Ortiz, Agripinia Lujan, Edavijern Chaves, Vidal Garcia, Juan Surnega, all of whom reside in the county of El Paso, State of Texas; R. P. Sargent, who resides in the county of Galveston, State of Texas, Charles F. Rau, who resides in the State of Wisconsin, county unknown to petitioner; A. H. Gleason, who resides in the county

and State of New York; P. A. Gray, Jr., who resides in the State of Massachusetts in county unknown to petitioner; J. B. Watkins, who resides in the county and State of New York; Mary C. Hoffman, a feme sole, and H. L. V. Hoffman, both of whom reside in the county of Santa Clara, State of California; Mrs. Carrie Loomis, a feme sole, who resides in the county of San Luis Obispo, in the State of California; Andres Madrid, who resides in the City and State of Chihuahua, in the Republic of Mexico; C. H. Silliman, who resides in the county of Tarrant, State of Texas; the Fort Dearborn National Bank, a banking corporation duly incorporated under the National Banking Act, and doing business and having its principal place of business in the City of Chicago, County of Cook, State of Illinois, whose officers are unknown to petitioner; J. D. Hunnicut, who resides in the county of Randolph, State of Missouri; The Rio Grande Land & Irrigation Company, a corporation duly incorporated under the laws of the State of Texas, whose agent, representative and manager is E. C. Roberts, who resides in the county of El Paso, State of Texas; The Galveston, Harrisburg and San Antonio Railway Company, a railroad corporation duly and legally incorporated under the laws of the State of Texas, having its principal office and place of business in the City of Houston, Harris County, Texas, and has for its Vice President and Manager, W. G. Van Vleck, and for its Treasurer B. C. Cushman, both of whom reside in Harris County, State of Texas; Rayes Sambrano, who resides in Guadalupe, Republic of Mexico; B. F. Hozier, C. F. Davis, J. A. Cole, Mrs. Frede Schugt, Leo Walkup, George Cushing, Juan Valdez, Emily Michers and Juan N. Garcia, whose residences are unknown to your petitioner; S. W. Boring and R. A. Loomis, each of whom reside in the State of California, county unknown; Jou Lopez and Katy M. McKelligan, each of whom reside in the Territory of Arizona, County unknown; Max Weber, who resides in the county of Garland, State of Arkansas; W. A. Morehouse, who resides in the State of Colorado, county unknown; N. Lewenstein, who resides in the county of Callahan, State of Texas; Numa Raymond, who resides in the Territory of New Mexico, county unknown to petitioner; Jesus Maria Olguin, Solomon Schultz and Canuta F. Maese, each of whom reside in the Republic of Mexico, State unknown to petitioner, hereinafter styled defendants, respectfully showeth: (2)

That the plaintiff, The State of Texas, is the owner in fee simple and entitled to the possession of the following described tract or parcel of land lying and being situated in the county of El Paso, State of Texas, to-wit: All that certain body of land lying and situated within the following lines and boundaries:

Beginning at a point where the International boundary channel of the Rio Grande, between the United States and Mexico as now marked and established, leaves the present channel of the river below the town of San Elizario and at the head of what is known as the island; thence down said International boundary channel of the Rio Grande as determined and marked by the two governments of Mexico and the United States to a point thereon where the line claimed by the inhabitants of the town of San Elizario to be the lower line of their grant, as hereinafter set out, strikes said channel; thence along said line so claimed by the said inhabitants of the town of San Elizario to be the south line of their grant, N. 60° E. about 4200 varas to the S. E. corner of said grant as claimed by the defendants as hereinafter set out; thence N. 30° W. 14000 varas; thence in a direct line in a Northwesterly direction to the present point of junction of the Rio Grande and the Rio Viejo, which point is about half a mile above Faben's Water Tank on the G. H. & S. A. Ry; and thence up the present channel of the Rio Grande with its meanderings to the place of beginning, containing about twenty thousand acres of land, more or less.

Plaintiff represents that the land within the aforesaid boundaries is the same as that sued for and described in the first amended original petition filed herein, and is covered by the location of certain University surveys set out therein as follows: 1, 2, 3, 4, 5, 6, 7, 8, 9, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 45, and 46 in Block L of the University lands, which said lands have been surveyed and appropriated for the benefit of the University of Texas.

4. That the plaintiff was, on, to-wit, the 1st day of August, 1895, in possession of said lands, and was at that date and is now entitled to the possession thereof.

That on said date the defendants, in violation of plaintiff's right, with force and arms unlawfully entered upon said lands and ejected plaintiff therefrom, and with like force and arms still keeps possession thereof, to plaintiff's damage five thousand dollars.

That on said 1st day of August, A. D. 1895, the said defendants without authority of law, took actual possession of said land as aforesaid, and without any authority of law whatsoever inclosed said land and erected fences on the same, and have ever since that time been unlawfully using, occupying and enjoying the same and grazing thereon large numbers of cattle, horses and sheep, and in all other ways appropriating to themselves the use, enjoyment and benefit of said premises, and that they are now so unlawfully using and enjoying the same, and appropriating to themselves the fruits and benefits thereof, and grazing thereon large numbers of cattle, horses and sheep; That the reasonable value of the use and occupancy of said land during the period of said occupancy by the defendants, as aforesaid, was and is five cents per acre per annum, amounting to one thousand dollars per annum from said date.

Plaintiff further avers that defendants have on said land two thousand head of cattle and five hundred head of horses and a large number of sheep and goats, all of which are grazed, kept and maintained on the said land by the defendants; and said defendants also have on said lands several miles of fence, several windmills and tanks and many other and valuable improvements, all of which are unknown to the State of Texas, and she is therefore unable to more particularly describe the same.

Plaintiff further avers that she fears that the said defendants will either remove said property or conceal the same before the writ of sequestration herein applied for can be issued and executed as provided by law, whereby the lien which the State of Texas has on said property will be wholly lost, or the State involved in other

(4)

5.

litigation unless they are restrained and enjoined from so doing by writ of injunction.

Premises considered, The State of Texas, plaintiff herein, prays that the defendants be cited to answer hereto as the law directs; that a writ of sequestration be issued directed to the sheriff of any county in the State of Texas demanding and requiring him to take into his actual custody all of the aforesaid land, cattle, horses and fences belonging to said defendants and which may be on said land, as well as all other property belonging to said defendants on said land, and that he hold the same subject to the further orders of this court; that the defendants be enjoined from selling or removing any of said property on said land during the pendency of this suit.

Plaintiff represents that the defendants have cut and removed from said land large quantities of timber and fire wood and have cut and destroyed the standing timber growing on said land to the damage of plaintiff fifty thousand dollars, in addition to the value of the use and occupancy thereof as aforesaid.

Plaintiff represents further that the defendants claim said lands under and by virtue of a certain grant made by the Legislature of the State of Texas, by virtue of an Act approved February 5th, 1853, to the inhabitants of the town of Presidio San Elizario of four leagues of land and under patent issued to the grantees thereunder.

Plaintiff represents that the lands so granted and patented is thus bounded and described:-

Commencing on the Rio Grande at a point where the established line of division between the towns of Socorro and San Elizario strikes the river for the Northern boundary, and following said line to the hills bordering on the eastern bank of the river Viejo; thence running Southeast along with said hills down the river Viejo to a point at which said Rio Viejo empties into the Rio Grande; thence up said Rio Grande from the mouth of the Rio Viejo to the place of beginning, containing four leagues more or less.

That it is claimed by the defendants that the point "at which said Rio Viejo empties into the Rio Grande" as called for in the field notes in said act and patent is located about 31,500 or 32,000 vares Southwesterly from the N. E. corner of said grant, and

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that the lands herein sued for are included within the boundaries of said San Elizario grant.

The plaintiff claims that the aforesaid point "at which the Rio Viejo empties into the Rio Grande" as called for in the field notes of said act and patent is located about 17,500 varas southeasterly from the N. E. corner of said grant, at the place described in the boundaries of the land herein sued for as being the present point of junction of the Rio Viejo and the Rio Grande about half a mile above Faben's Water Tank on the GH&SA Railway and that none of said land herein sued for lies within the boundaries of said San Elizario grant.

Plaintiff therefore sues, and defendants having been duly cited to appear and answer hereib, plaintiff prays that on final hearing hereof she have judgment establishing the lower boundaries of said San Elizario grant as herein claimed by plaintiff, as follows, to-wit: Beginning at the line of Sand Hills immediately east of the old channel of the Rio Viejo at a point directly opposite and nearest to the present point of junction of the old channel of the Rio Viejo and the Rio Grande; thence in a direct line to said junction; thence up the present channel of the Rio Grande to the point where the present channel leaves the international boundary channel, so as to leave all of the lands herein sued for, being substantially the same land sued for in plaintiff's original petition, without the limits of said San Elizario grant.

That plaintiff have judgment against defendants for the lands herein sued for, as described in the first part of this petition, establishing her title thereto and removing the cloud cast upon her title by the claim of the defendants aforesaid and for her rents and damages aforesaid and for costs. Plaintiff prays that writ or writs of possession and execution issue as many and as often as may be necessary to enforce such judgment.

But should it be determined that plaintiff is mistaken as to the boundaries of said San Elizario grant, as set out in the act aforesaid and the patent issued thereunder, and that said boundaries are and should be established as claimed by defendants aforesaid, then

(6)

and in that event plaintiff represents further:

That the said boundaries contain within their limits more than nine leagues, or about 40,000 acres of land, instead of four leagues or 17,712 acres as called for in said act.

That it was represented to the Legislature of the State of Texas by the inhabitants of the town of San Elizario and their agents in procuring said grant that the boundaries would include only four leagues of land or such small deficiency or excess thereof as might be comprehended within the meaning of the term "more or less"; and that relying and acting upon this representation and intending to grant to the said inhabitants of the town of San Elizario no more than four leagues of land or such small amount in excess thereof as might be reasonably provided for by the term "more or less", the exact quantity to an acre not being capable of accurate determination at that time, the State of Texas, acting through her Legislature made the grant aforesaid and her executive officers issued the patent thereunder as aforesaid.

Plaintiff represents that the Legislature and executive officers of the State had no knowledge of the location of the boundaries of said land, and were led to believe by the agents of the grantees who were active in procuring the passage of said act, that the same included only four leagues of land, instead of more than eight and a half leagues, the quantity really included in said boundaries, if it be determined that defendants' claim as to such boundary should be sustained.

Plaintiff represents that the inhabitants of the town of San Elizario and their agents either were, equally with the Legislature and executive officers of the State, mistaken as to the quantity of land included within said boundaries (if established as claimed by defendants) or knew that the same contained more than twice as much land as the State intended to grant and fraudulently misrepresented the true quantity contained to the Legislature and executive officers of the State, with the intent, by such fraud and deception, to obtain by such grant four and a half ^{or five} leagues more of land than the State intended to grant.

8.

Plaintiff represents that the town or Presidio of San Elizario is located near the centre of the four leagues of land which would be embraced within the boundaries of said grant, if such boundaries be established as claimed by plaintiff, being the upper part of the nine leagues, more or less, comprehended within the boundaries as claimed by defendants; that if the lower boundary of said grant be located as claimed by plaintiff, as aforesaid, there would be contained therein about four and one half leagues of land, and the balance being the land here claimed by plaintiff and described herein and in the original petition is in excess of the amount intended to be granted.

Plaintiff therefore prays that, if it should be determined that the point of junction of the Rio Viejo and the Rio Grande as called for in the field notes of said grant, be as claimed by defendants, the said grant be declared void as to the excess over four leagues, being all the land sued for herein and being also the lands described in the original petition; that the lower line of said grant be so adjusted in accordance with the equities of the case as to include within the boundaries so adjusted, four or four and one half leagues of land, being the land included in the grant, if the lower boundary thereof be established as claimed by plaintiff as herein set out, and that plaintiff have judgment for that portion of the land herein sued for lying outside of such boundaries, with rents and damages as herein aforesaid, and that if it be, in the judgment of the court, necessary, a surveyor be appointed by the court to run and mark the line as so adjusted.

And plaintiff represents further, in the event that the boundaries of said grant be determined as claimed by the defendants, that the grant is void for want of description of the land purported to be granted. That the Eastern ~~or~~ Northeastern line of the grant "running southeast along with said hills down the river Viejo to a point at which said Rio Viejo empties into the Rio Grande" at the southern extremity thereof, as claimed by the defendants, is 4200 varas from the Rio Grande and from the place claimed by the defendants to be "the point at which said Rio Viejo empties into the Rio Grande".

And plaintiff prays that the grant be declared to be void for this misdescription, or failure of lines to close, and that plaintiff have judgment for the land sued for, with rents and damages aforesaid, the State of Texas being willing notwithstanding said void grant that the defendants may hold the four leagues intended to be granted.

If, however, the court should determine that the lower point of junction of the Rio Viejo and the Rio Grande is the point called for and intended in the field notes of said grant, and that the grant is not void for the excess of land included within the boundaries thus determined as aforesaid, nor void on account of the failure of the lines of the grant to close as aforesaid, then plaintiff prays that the Northwestern line of said grant be so adjusted as to run directly on the east side or bank of the Rio Viejo to said point at which the Rio Viejo empties into the Rio Grande, and that plaintiff have judgment for all of the land herein sued for lying outside of the boundaries of said grant so adjusted, with rents and damages aforesaid; and that if the court deem it necessary a surveyor be appointed by the court to run out and mark the Northwestern boundary of said grant as so adjusted and determined.

Plaintiff represents further that defendants claim the Northwestern boundary of their land to be as follows:

Beginning at a stake in the sand hills set for the S. E. corner of the Socorro grant; thence along the crest of the hills bordering on the Rio Viejo S. 35° E. 15540 varas; thence S. 1° E. 1920 varas; thence S. 43° E. 14000 varas to a corner, from which point, for their lower line, they claim a line running S. 60° W 4200 varas, to a point claimed to be the junction of the Rio Viejo and the Rio Grande 1006 varas above the upper corner of survey number 44 in the name of Ralph Wright.

Plaintiff represents that that portion of the Northwestern line to the S. E. corner designated as S. 43° E 14000 varas is, as run and claimed by the defendants, a straight line and does not follow the hills called for in the original grant as the boundary thereof, but that the same diverges very largely eastward of the line

of said hills and there is included between said straight line 14000 varas long as claimed by defendants to be the Northeastern boundary of said land and the line of the hills, a large quantity of land belonging to this plaintiff and not properly included within the boundaries of said grant.

Plaintiff says further that even if she is mistaken in all of her other contentions with regard to said boundary that the said line called for as being 14000 varas long ^{should} only extend a distance of 9850 varas and that the lower line of the defendants' grant is a line S. 55°W 3500 varas from the point which would be the end of said 9850 vara line and beginning at the same point where said ¹⁴⁰⁰⁰ ~~15540~~ varas line begins, leaving a large quantity of land between the lower line of said San Elizario grant as thus delineated and the lower line thereof as claimed by the defendants. And plaintiff says that if it should be found that she is mistaken in all of her other contentions as herein before set out with regard to the true location of the Northeastern boundary and the lower boundary lines of said San Elizario grant, ^{and the point of junction of Rio Viejo into the Rio Grande} that the said Northeastern boundary should not extend beyond the line of the hills as called for in the field notes of the grant nor further southeast than 9850 varas as hereinbefore set out, and in such event plaintiff prays that the Northeastern boundary ^{and the lower boundary} of said San Elizario grant be fixed in this suit as follows, to-wit:

Beginning at the upper extremity of the aforesaid line of 14000 varas, and thence following the meanders of the hills for such distance as to make 9850 varas in a straight line, and from this point S. 55° W. 3500 varas to the river, and that plaintiff have judgment for all of the land herein sued for outside of the boundaries so established; and plaintiff prays that said boundary may be so established; that if the court should think it necessary and proper to fully and satisfactorily adjust the rights of the parties that a surveyor be appointed by the court to run out and mark the Northeastern and lower boundaries of said San Elizario grant.

And plaintiff prays for such other relief, legal and equitable as she may be entitled to in the premises, and for general relief.

J. C. Bell
Attorney General, and
J. S. Reese
Assistant Attorney General,
Attorneys for Plaintiff.

as called for in field notes

to the river

No. 16282

The State of Texas

Vs.

Michael Meehan et al

Plaintiff's Third Amended Ori-
ginal Petition.

This action is brought as well
to try title as for damages.

*Filed Jun 23^d 1902
Jas. Hart clerk*

STATE OF TEXAS.
ATTORNEY GENERAL'S OFFICE.

count 44462

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The State of Texas

No. 16,282.

vs

In District Court of Travis County,

Michael Meehan,

et al 53rd Judicial District.

Come now B. Madrid, Juan Balles, Ishmael Ochoa, Apolonio Chavez, Jesus Cobos, J.M.Talamantes, Jose A. Bernal, and R. A. Loomis and Carrie Loomis, his wife, and Laura Loomis, R.C.Loomis, A.M.Loomis, Jr., Ralph Loomis, Annie Webb, and Pansie Latta, (the heirs of A.M.Loomis, who has departed this life since this suit was commenced), and A. Krakauer, Juan Armandariz, Gasper Giron, Max Weber, Z.T.White, Millard Patterson, B. Liebman, W. J. Harris, H.G.Reese, W.F.Robinson, Refugio Alarcon, and Andreas Madrid, and answering together in the above styled cause, file this their first amended original answer, by leave of the court, in lieu of their original answers heretofore filed in this cause, and say that they are not guilty of the supposed wrongs and trespasses laid to their charge in the plaintiff's ~~second~~^{3rd} amended original petition, and they say that it is true, as alleged in the plaintiff's petition, that these defendants claim certain parts of the land described in the plaintiff's petition, and claim the same under and by virtue of that certain Act of the Legislature approved February 5th, 1853, the same being Chapter Six of the Special Laws of the Fourth Legislature of the State of Texas ~~and is~~ to be found on pages 8 and 9 of said special laws, being entitled "An Act for the relief of the Inhabitants of Presidio de San Elizario, in El Paso County".

And defendants say that the parcels of land which belong to them respectively and ^{which} are claimed by them respectively are shown on the map of what is known as "The San Elizario Grant" and ~~the map~~ of what is known as "The Island" which constitutes a part of said grant, said maps having been made ~~y~~ more than twenty years ago by A.Q.Wingo, and being the maps by which land in said San Elizario grant and on what is known as

"the island" (which constitutes a part of said grant) have ^{assessed for taxes and recognized and} been sold during the past twenty years, and they say that they have been, and their vendors and the grantors through whom they claim have been in the continuous, adverse and peaceable possession of said surveys owned by them, as aforesaid, for more than ^{forty} ~~thirty~~ years, using, occupying and enjoying the same and paying taxes upon the same to the State of Texas and the County of El Paso, Texas, and they say that they plead specially against the plaintiff and The University of Texas the statute of limitations of ten years, and plead that any claim which the plaintiff in this case might set up is stale and ^{and iniquitable} long since barred by lapse of time.

These defendants attach hereto a diagram showing substantially the outlines of the parcel of land or territory which was confirmed by the State of Texas to the inhabitants of San Elizario as comprising the land covered by the grant from the King of Spain in the year 1790 to said inhabitants. Said diagram is attached hereto and marked Exhibit "A".

And these defendants say that about the time said Act was passed by the Legislature confirming said grant from the King of Spain, and ^{was} passed for the relief of the inhabitants of San Elizario, a map was made by the authorities of the State ^{and by the County Surveyor of El Paso County} of Texas and was filed in the archives of the General Land Office of the State of Texas at Austin, Texas, and at the time said Act was passed the general outlines of said grant were well known and understood and ^{as shown by the survey and plan attached hereto} that the eastern, southern, western and northern boundaries of said grant have been recognized by the State of Texas and recognized by the surveyors of the State of Texas and by the officers of the State of Texas generally ever since the year 1853 as the true and correct boundaries of said grant, and that the boundaries of said grant, as now claimed by said inhabitants of San Elizario and by these defendants have been recognized and acquiesced in by the State of Texas and by her officers and duly constituted authorities

as the true and correct boundaries of said grant for more than forty-five years.

And these defendants say that the locations made by The University of Texas, referred to in the plaintiff's second amended original petition, were null and void when they were made, and that the University of Texas has no interest whatever in the lands claimed by these defendants, or in any part of what is known as "the ~~fakeout~~ San Elizario Grant", and that the State of Texas has no right whatever to maintain this suit on behalf of the University of Texas, and the University of Texas has no right to maintain the same on its own behalf, and they say that at the time The University of Texas attempted to locate upon the land now claimed by it in this suit, said land, as said University and the officers representing it well knew, was neither vacant nor unappropriated, but was in the actual possession of ~~the~~ citizens of the State of Texas *and had been surveyed for many years* occupying and claiming the same, and was fully appropriated, and was covered by a patent issued by The State of Texas in the year 1853, which said patent is No. 542, and which said patent was duly recorded in the office of the Clerk of the County Court of El Paso County, Texas, August 22d, 1887, in Book F, page 492 of the Records of Deeds of El Paso County, said patent having been issued to the inhabitants of San Elizario, under whom these defendants claim the several parcels of land which are claimed by them respectively, *and the*

Following is a general description of the land which was confirmed to the inhabitants of San Elizario by The State of Texas in the Act of the Legislature, already mentioned, and covered by the plat attached hereto: Commencing on the Rio Grande at a point where the established line of division between the towns of Socorro and San Elizario strike said river for a northern boundary; and running from said point on the Rio Grande, with the South line of the Socorro grant, North 73-1/2 E. 7740 varas to the hills; thence in a southeasterly direction with the hills 15,540 varas; thence South 1 E. with the hills 1920 varas; thence South 43 E. with the hills 14,000 varas; thence South 60 W. 4200 varas to the mouth of the Rio Viejo; thence up the Rio Grande, as said river existed in the years 1852 and 1853, with its meanderings, to the place of beginning.

Wherefore, ~~etc~~ these defendants pray for judgment establishing the boundaries of said grant as above set forth as against the plaintiff *Plaintiff*

Melvin Patterson

C. N. Buckler *Jr.*
Attorneys for defendants.

All of the other defendants who have been personally served in this cause adopt the foregoing pleading as their own
Melvin Patterson
C. N. Buckler
Jr.
Attys for all other defendants personally served

Exhibit "A"



Counter 74467

counter 44468

No 16282

In Dist. of Travis Co.
(53rd Dist)

State of Texas

vs
Nicholas Munkon
et al

1st Amended Orig.
Action of B.
Merchid et al

Filed Jan 14. 1902

Jas. O'Hart Clerk

State of Texas

Michael Tinkham & Co.

The deponent introduced in evidence a photographic copy of the map made by Jose Salazar Mexican Commissioner and W. H. Emory U. S. Commissioner (under the Treaty of Guadalupe Hidalgo) sheets Nos 28 and 29 showing the territory along the Rio Grande above and below the town of San Elizario - This photographic copy bears the signatures of the Commissioners mentioned, and has upon it the following endorsement -

"Boundary between the United States and Mexico, agreed upon by the Joint Commission under the Treaty of Guadalupe Hidalgo: Surveyed in 1852, under the direction of Brig. Major W. H. Emory, Corps of Topographical Engineers, Chief Astronomer and Surveyor, by Mr. M. von Kipfel, Asst. Surveyor."

The following sketch ~~shows~~
is a copy of said map shows
the portion of the map cov-
ering said territory and is
a copy of the portion of
the map introduced in
evidence - which by agreement
is held as evidence in
stead of the original photograph
is copy -

J. B. Reese
Assistant General
Mining Commission
City of Denver

The State of Texas |
County of El Paso. |

Before me, the undersigned authority, on this day personally appeared W.W.Follett who, after being by me duly sworn, states that he is the Consulting Engineer (Chief Engineer) of The American Boundary Commission, and that the attached tracing is a true and correct tracing from the photographic copy of the map made by W.H.Emory and Jose Salazar, Commissioners on the part of the United States and the Republic of Mexico respectively, to locate on the ground the Rio Grande as it existed in the year 1848, and he further states that said photographic copy of said map is now in his hands in the office of The American Boundary Commission at El Paso, Texas, and is the photographic copy of the map which has been used during the past six years by the United States commissioners and the Mexican commissioners in their work of defining the boundary between the United States and Mexico. Said tracing covers territory lying along the Rio Grande above and below what is now called "San Elizario, Texas".

W.W.Follett

Subscribed and sworn to before me, this the 20th day of June, A.D.1902

Willard Patterson
Notary Public, El Paso County,
Texas.



6

EL PASO CO. RLD. SK. No. 44

0 1 2 3 4
MILES

Handwritten notes:
The Rio Viejo is a
tributary of the Rio Grande
and is a very important
source of water for
the irrigation of the
valley.

county 19972

LISTING OF CERTAIN PAPERS AND DOCUMENTS IN THE
GENERAL LAND OFFICE HAVING A BEARING ON THE TITLE
TO THE UNIVERSITY LANDS IN EL PASO, COUNTY, FOR
RESEARCH PURPOSES.

1. Bexar 1st Class, File 1007 - Inhabitants of Presidio de San Elizario.
2. Bexar 1st Class, File 1447, Inhabitants of the Town of Socorro.
3. Files 1608, 1609, 1610, and 1611, University land, El Paso County, Texas.
4. Scrap File 12703, Survey 427, M. R. Hemley, El Paso, County, Texas.
5. Scrap File 11764, Survey 405, H. D. Camp, El Paso, County, Texas.
6. Scrap File 11784, Survey 405-A, H.D.Camp, El Paso, County, Texas.
7. Copies of Pleading and Judgment* from the District Court (53) of Travis County, Texas, in the case of State of Texas vs Michael Mechan et al. - (See Roll Sketch Files, El Paso County, Texas, in The General Land Office.)
8. Two ozalid maps:
 - a. Map showing bluff lines and river channel and locations of the towns of Islata, Socorro, Elceario and Guadalupe* - not dated.
 - b. Map prepared by A. H. Parker, County Surveyor of El Paso, County, Texas, September 9, 1898, allegedly following the calls of the patent issued by the State of Texas on March 8, 1853, to the Inhabitants of the Presidio de Elizario.* This appears to be only the surveyor's mapped interpretation of the land granted by the Legislature of the State of Texas, February 5, 1853.
 (See Rolled Sketches in General Land Office)
9. Topographic Quadrangle Sheets from Miller Blue Print Company of contour maps:
 - a. Tornillo quadrangle.*
 - b. Clint quadrangle.*
 El Paso County, Texas
10. Map of El Paso County* compiled in 1921 and in use in General Land Office on January 12, 1951, when this list was prepared.
11. Plain copy without field notes of a map of the University Lands in El Paso County, Texas, prepared by Jess Conklin, Special Surveyor for the University.** Placed in map case with Books of ~~Field~~ Field Notes of University lands prepared by F. F. Friend, under the Act of 1929.
12. Letter from J. T. Hill* to the Land Commissioner dated November 8, 1950, and the answer thereto by the Chief Clerk of the General Land Office, Dennis Wallace, dated January 10, 1951.
13. Townsite map of Fabens, Texas - See El Paso County, Sketch Files.

14. Two Sketches -

- a. Showing the San Elizario Grant and the University lands, as represented on the map of El Paso County of date 1888. See Map of El Paso County, 1888, in Map Cases.
- b. Showing the San Elizario Grant and the University lands as represented on the official map of El Paso County of date, January, 1902, now in map cases in The General Land Office.

* - Copies of items so starred are being sent with this list to Judge Gaines, Legal Division of The University of Texas, for filing.

** - In a discussion relating the the University lands in El Paso, County, between Judge Gaines and Mrs. Harwood, employed by The University, and Messrs. Wallace, Chief Clerk, Morriss and Wisdom of the General Land Office, Judge Gaines explained that the map, prepared by Mr. Conklin in cooperation with Mr. Creath, Mr. Walker and Judge Gaines, was not prepared for the purpose of attempting to mark the location of the boundaries of the University lands on the ground and should not be interpreted as affecting in any way the legal rights of the University with respect to the true location of the boundary between the land owned by the State for the benefit of The University and the San Elizario Grant. He stated that they, as University officials, were not authorized nor concerned at that time with making any binding decision or agreement on the question of the true location of the boundaries of the University lands. Their purpose, at that time, was to ascertain what appeared to be the line of demarcation between the University lands which were undisputed and those involved in dispute. In other words, it may be said that Mr. Conklin's map and work was an attempt by him, as the University surveyor, to locate on the ground for the benefit of the University a line, about and beyond which, at the time of investigation in 1945, there could not be any dispute as to the University's ownership, and to so mark this line to preclude any extension of the dispute beyond such line at some future time.

This map prepared by Mr. Conklin as a Special Surveyor for the University has never been officially adopted or considered by the General Land Office as being the boundary between the University lands and the San Elizario Grant. See Mr. Wallace's letter of January 10, 1951, to Mr. John T. Hill.

Prepared by Louise C. Harwood
January 15, 1951.