

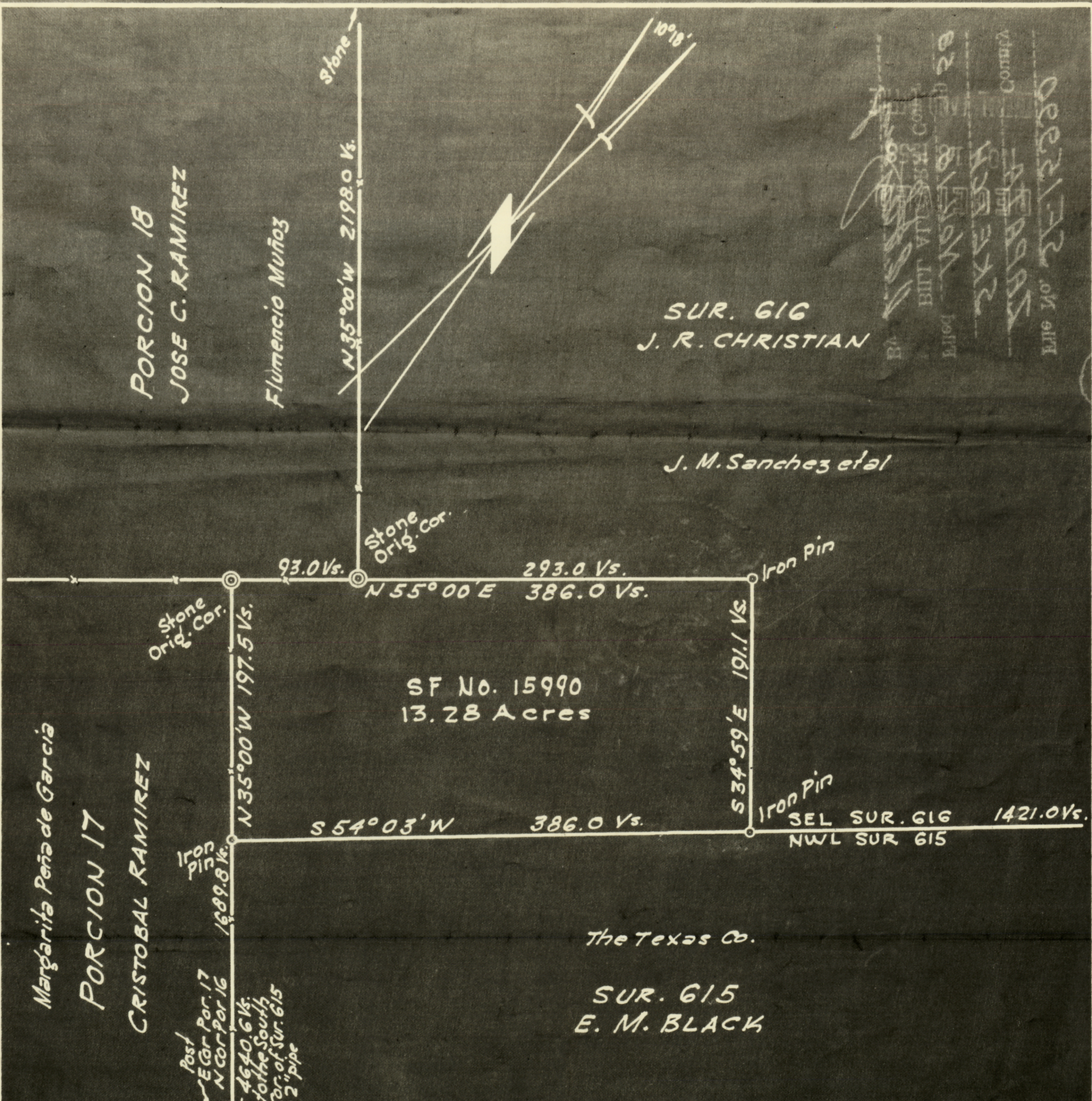
ZAPATA CO. RLD. SK. NO. 21
(IN FLAT FOLDER)

A. C. PELLEGRIN Jr. (Applicant)
S. F. 15990

Surveyed Nov. 5, 1958

By E. J. Foster (L.S.L.S.)

County 19589



B. J. ...
 BILL ...
 ...
 ...
 ...
 ...

SUR. 616
 J. R. CHRISTIAN

J. M. Sanchez et al

SF No. 15990
 13.28 Acres

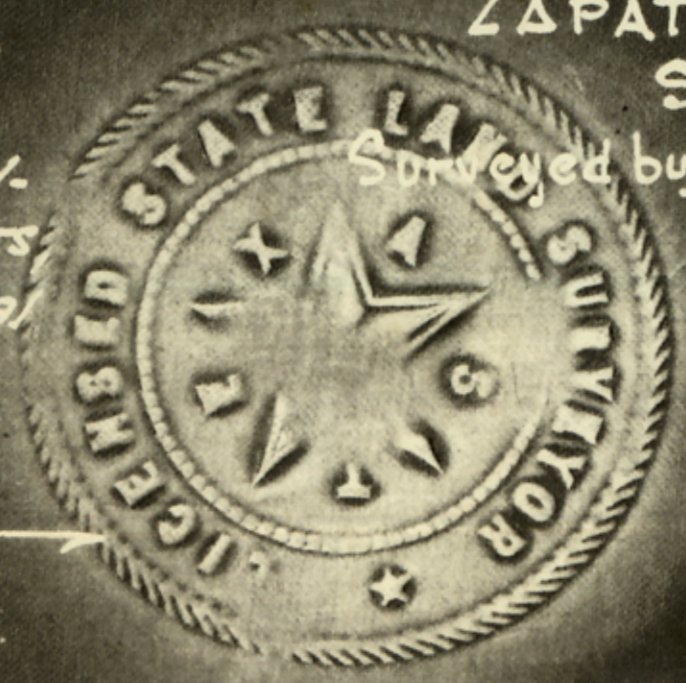
The Texas Co.

SUR. 615
 E. M. BLACK

STATE OF TEXAS
 COUNTY OF ZAPATA

I, E. J. Foster, Licensed State Land Surveyor, do hereby certify that the foregoing map is true and correct as surveyed by me on the ground according to law on Nov. 5 1958 and that the limits, corners and boundaries with the marks, natural and artificial are truly and correctly described just as I found them on the ground. Given under my hand and seal of office at Laredo, Texas, Nov. 14, 1958.

E. J. FOSTER, S.L.L.S.



ZAPATA COUNTY SKETCH
 S.F. NO. 15990

Surveyed by E. J. Foster, S.L.L.S. 11-5-58

Scale 1" = 100 Varas

PORCION 18
JOSE C. RAMIREZ

Fulgencio Muñoz

Stone
N 35° 00' W 2198.0 Vs.

SUR. 616
J. R. CHRISTIAN

FILE NO. 2-12-58
FILE NO. 2-12-58
FILE NO. 2-12-58
FILE NO. 2-12-58
FILE NO. 2-12-58
FILE NO. 2-12-58
FILE NO. 2-12-58
FILE NO. 2-12-58
FILE NO. 2-12-58
FILE NO. 2-12-58

J. M. Sanchez et al

Stone
Orig. cor.

93.0 Vs.
N 55° 00' E 386.0 Vs.
293.0 Vs.

Iron pin

Stone
Orig. Cor.

SF No. 15990
13.28 Acres

N 35° 00' W 197.5 Vs.

S 34° 59' E 191.1 Vs.

Margarita Peña de Garcia
PORCION 17

CRISTOBAL RAMIREZ

S 54° 03' W 386.0 Vs.

Iron pin

SEL SUR. 616 1421.0 Vs.
NWL SUR 615

Iron
pin

Post
EGR Por. 17
N Cor Por. 16
4640.6 Vs.
to the South
Cor. of Sur. 615
3/2" pipe

The Texas Co.

SUR. 615
E. M. BLACK

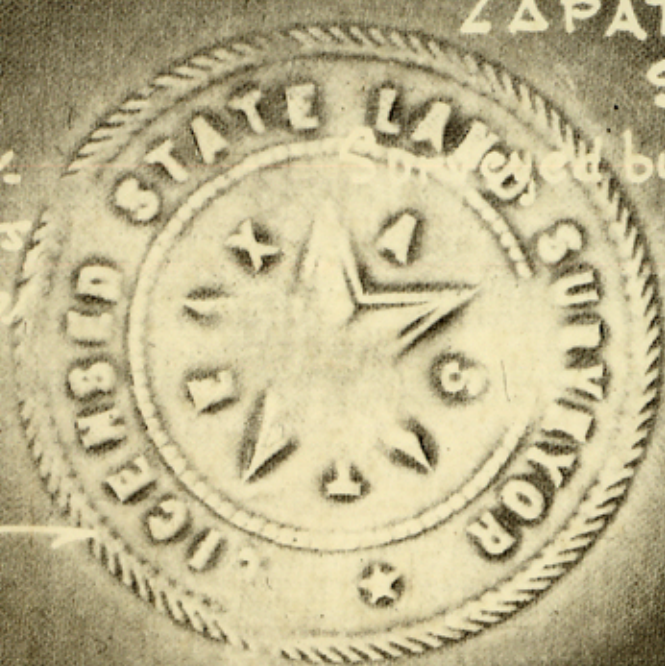
STATE OF TEXAS
COUNTY OF ZAPATA

I, E. J. Foster, Licensed State Land Surveyor, do hereby certify that the foregoing map is true and correct as surveyed by me on the ground according to law on Nov. 5 1958 and that the limits, corners and boundaries with the marks, natural and artificial are truly and correctly described just as I found them on the ground. Given under my hand and seal of office at Laredo, Texas, Nov. 14, 1958.

E. J. Foster
E. J. FOSTER, S.L.L.S.

ZAPATA COUNTY SKETCH
S.F. No. 15990

by E. J. Foster, S.L.L.S. 11-5-58



Scale 1" = 100 Varas

Survey 1958

JL

Re-377

LAW OFFICES OF
MANN AND BYFIELD
LAREDO NATIONAL BANK BUILDING
LAREDO, TEXAS

G. C. MANN
G. D. BYFIELD

December 11, 1958

P. O. BOX 820
TELEPHONE RA 3-5581

8

Mr. Jack Giberson
Director, Legal Division
General Land Office
Austin 14, Texas

Dear Mr. Giberson:

Re: S.F. 15990, A. G. Pellegrin, Jr.
Zapata County, Texas.

Thanks for your letter of the 9th inst. in regard to the above matter.

Please prepare and forward to me as soon as possible the working sketch referred to in your letter charging the \$10.00 cost thereof to our Account No. 305.

Please write me what the balance in our account will be after deducting such \$10.00 and cost of the certified copy of the Foster field notes and report.

?

Thanking you for your cooperation, I am

Yours very truly,

G. C. Mann

G. C. Mann

GCM:crg

cc: Mr. J. M. Sanchez
Zapata, Texas

Mr. C. V. Howland, Jr.
Hamilton Hotel
Laredo, Texas

305
\$925 0.00

RECEIVED

DEC 13 1958

GENERAL LAND OFFICE

counter 49594

C. A. DOUGLAS
C. V. HOWLAND, JR.

Douglas & Howland
SURVEYING
HOTEL HAMILTON
LAREDO, TEXAS

DIAL OFF. 3-7421 - 226
RES. 2-1163 - 3-5483

November 30, 1958

8

D-336

RECEIVED

DEC 1 1958

GENERAL LAND OFFICE

Commissioner of the General Land Office
Austin, Texas

Re: S.F. No. 15990
A.G. Pellegrin, Applicant

Dear Sir:

Mr. J.M. Sanchez of Zapata, Texas, owner of J.M. Christian Survey 616, has requested us to survey Survey 616 and C.&M. Survey 190, Zapata County, and investigate above captioned vacancy application.

Mr. G.C. Mann of this city, attorney for Mr. J.M. Sanchez, tells us that he has written your office asking that a working sketch be prepared on the area surrounding S.F. 15990, including C.& M. Survey 190. It is our understanding that working sketches are usually prepared for an applicant prior to survey on the ground of an alleged vacant area, and if one was prepared for Mr. Pellegrin, we would appreciate your sending copy of same instead of preparing a new one. If Survey 188 and 190 are not shown on said working sketch, we would appreciate your sending photo copies of original and any corrected field notes on said Surveys. However, if no working sketch was prepared in connection with S.F. 15990, please prepare one according to Mr. Mann's request.

We would also appreciate your placing us on the list of parties to be notified as to the date of hearing of S.F. 15990.

Respectfully yours,

DOUGLAS & HOWLAND

C.A. Douglas
C.A. Douglas
Licensed State Land Surveyor

WORKING SKETCH
MAILED TO MR MANN

188-190 SHOWN
ON SKETCH

CAD:eh

counter 49595

JAN 5 1959

STATE OF TEXAS

COUNTY OF	}	No. <u>616</u>
		Grantee <u>J.R. Christian</u>
		Cert. <u>1124</u>

ZAPATA
CORRECTED

FIELD NOTES of a survey of 1081.66 acres of land made for J.M. Sanchez by virtue of his ownership. Said land is situated in Zapata County, about 17 miles S. 46° E. from NEW Zapata, the county seat,

and is described by metes and bounds as follows, to-wit:

BEGINNING at a 2" iron stake marked TT on the northeast line of Porcion 17, the patented northwest corner of E.M. Black Survey 615 and the south corner hereof;

THENCE N. 53° 31' E. along fence and northwest line of Survey 615, 1803.63 vs. to a 2" iron stake marked TT on the southwest line of C. & M. Survey 190, the north corner of Survey 615 and the east corner hereof;

THENCE N. 33° 19' 45" W. along southwest line of Survey 190, 1761.42 vs. to a large stone on the southeast line of C. & M. Survey 188, the northwest corner of Survey 190 and a corner hereof;

THENCE S. 56° 55' W. along southeast line of Survey 188, 200.0 vs. to a 2" iron pipe set for the south corner of Survey 188 and an interior corner hereof;

THENCE N. 33° 21' 25" W. along southwest line of Survey 188, 2139.21 vs. to a large stone, its west corner and an interior corner hereof;

THENCE N. 56° 45' 35" E. along northwest line of Survey 188, 121.0 vs. to a large stone in fence corner, the south corner of Survey 187 and a corner hereof;

THENCE N. 33° 15' W. along fence and southwest line of Survey 187, 300.74 vs. to a post in fence corner on the southeast line of Porcion 20, a corner of Survey 187 and the north corner hereof;

THENCE S. 54° 17' W. along southeast line of Porcion 20, 1245.0 vs. to a post in fence corner, the north corner of Porcion 19 and the northwest corner hereof;

THENCE S. 35° 29' E. along fence and northeast line of Porcion 19, 1842.0 vs. to a stone, its east corner and an interior corner hereof;

THENCE S. 54° 17' W. along fence and southeast line of Porcion 19, 551.3 vs. to a stone in fence corner, the north corner of Porcion 18 and a corner hereof;

THENCE S. 35° 45' E. along fence and northeast line of Porcion 18, 2192.2 vs. to a stone in fence corner, its east corner and an interior corner hereof;

THENCE S. 53° 06' W. along fence and southeast line of Porcion 18, 94.9 vs. to fence corner, the north corner of Porcion 17 and a corner hereof;

THENCE S. 35° 14' 30" E. along fence and northeast line of Porcion 17, 189.75 vs. - - - - -

- - - - - to the place of beginning.

Variation 9° 15' E.
Surveyed Completed December 31, 1958.

George Valadez
Librado Benavidez Chain Carriers

I, C.A. Douglas Licensed State Land Surveyor of Webb County, Texas, do hereby certify that the foregoing survey was made by me on the ground, according to law, on the date and with the Chain Carriers aforesaid, duly qualified, and that the Limits, Corners, and Boundaries with the Marks of the same, natural and artificial, are truly and correctly described and set forth in the foregoing Plat and Field Notes, just as I found them on the ground.

////////// C.A. Douglas
Licensed State Land Surveyor

15 x 2 119 20 atog 5

count 19596 C'

STATE OF TEXAS

D-446

COUNTY OF	}	No. <u>190</u>
		Grantee <u>C. & M. R.R. Co.</u>
		Cert. <u>72</u>

ZAPATA
CORRECTED

FIELD NOTES of a survey of 331.10 acres of land made for J.M. Sanchez by virtue of his ownership. Said land is situated in Zapata County, about 17 miles S. 46° E. from NEW Zapata, the county seat,

and is described by metes and bounds as follows, to-wit:

BEGINNING at a 2" iron stake marked TT on the northwest line of C. & M. Survey 189, a corner of E.M. Black Survey 615 and the south corner hereof;

THENCE N. 33°18'48" W. along fence and northeast line of Survey 615, 671.23 vs. to a 2" iron stake marked TT, the north corner of Survey 615 and the east corner of Survey 616;

THENCE N. 33°19'45" W. along northeast line of Survey 616, 1761.42 vs. to a large stone on the southeast line of C. & M. Survey 188, a corner of Survey 616 and the west corner hereof;

THENCE N. 56°55' E. along southeast line of Survey 188, 969.0 vs. to a 2" iron pipe under fence on the west line of Pedernal Grant, the east corner of Survey 188 and the north corner hereof;

THENCE S. 23°56' E. along fence and west line of Pedernal Grant, 2467.44 vs. to fence corner, the north corner of C. & M. Survey 189 and the east corner hereof;

THENCE S. 57°16'24" W. along fence and northwest line of Survey 189, 566.52 vs. -



Variation 9°15' E.
Surveyed Completed December 31, 1958.

----- to the place of beginning.
George Valadez
Librado Benavidez

I, C.A. Douglas Licensed State Land Surveyor of Webb County, Texas, do hereby certify that the foregoing survey was made by me on the ground, according to law, on the date and with the Chain Carriers aforesaid, duly qualified, and that the Limits, Corners, and Boundaries with the Marks of the same, natural and artificial, are truly and correctly described and set forth in the foregoing Flat and Field Notes, just as I found them on the ground.

////////// C.A. Douglas
Licensed State Land Surveyor

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JAN 5 1959

GENERAL LAND OFFICE

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STATE OF TEXAS

COUNTY OF	}	No. <u>188</u>
		Grantee <u>C. & M. R.R. Co.</u>
		Cert. <u>71</u>

ZAPATA

CORRECTED

FIELD NOTES of a survey of 510.76
 acres of land made for J.M. Sanchez
 by virtue of his ownership.
 Said land is situated in Zapata
 County, about 17 miles
S.46° E. from NEW Zapata
 the county seat.

and is described by metes and bounds as follows, to-wit:

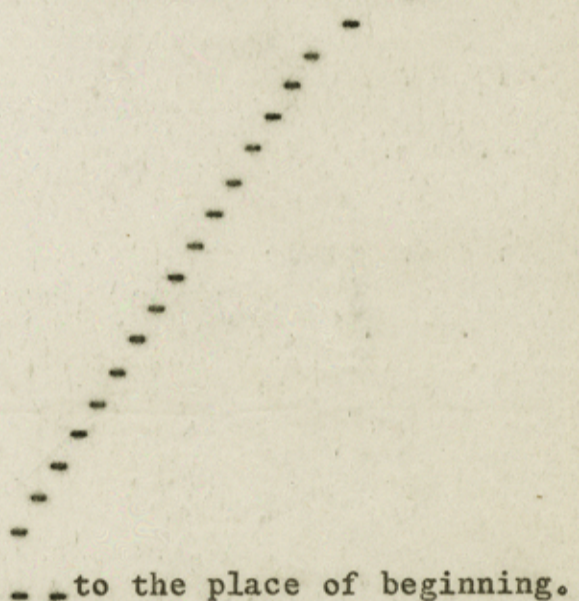
BEGINNING at a large stone, an interior corner of J.R. Christian Survey 616 and the west corner hereof;

THENCE N. 56°45'35"E. along a line of Survey 616 at 121.0 vs. pass a large stone in fence corner, a corner of Survey 616 and the south corner of C. & M. Survey 187, and continuing same course with fence and southeast line of Survey 187, 1524.57 vs. in all to a post in fence corner on the west line of Pedernal Grant, the southeast corner of Survey 187 and the north corner hereof;

THENCE S. 23°56' E. along fence and west line of Pedernal Grant, 2171.0 vs. to a 2" iron pipe under fence, the north corner of C. & M. Survey 190 and the east corner hereof;

THENCE S. 56°55' W. along northwest line of Survey 190, at 969.0 vs. pass a large stone, its west corner and a corner of J.R. Christian Survey 616, and continuing same course with boundary line of Survey 616, 1169.0 vs. in all to a 2" iron pipe, an interior corner of Survey 616 and the south corner hereof;

THENCE N. 33°21'25" W. along northeast line of Survey 616, 2139.21 vs. -



to the place of beginning.

Variation 9°15' E.
 Surveyed Completed December 31, 1958

George Valadez
 Librado Benavidez Chain Carriers

I, C.A. Douglas Licensed State Land Surveyor of Webb County, Texas, do hereby certify that the foregoing survey was made by me on the ground, according to law, on the date and with the Chain Carriers aforesaid, duly qualified, and that the Limits, Corners, and Boundaries with the Marks of the same, natural and artificial, are truly and correctly described and set forth in the foregoing Plat and Field Notes, just as I found them on the ground.

////////// C.A. Douglas
 Licensed State Land Surveyor

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JAN 5 1959

GENERAL LAND OFFICE

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0000 7.7.0

1542 619 2 Zapata

RECEIVED

JAN 5 1959

GENERAL LAND OFFICE

20-446

Hon. Bill Allcorn, Commissioner
General Land Office
Austin, Texas

Dear Sir:

The following is my report of a survey of J.R. Christian Survey 616, C. & M. Survey 188, C. & M. Survey 190 and an alleged vacancy SF15990, A. Pellegrin, Jr. Applicant; this area situated about 17 miles S.46°E. from New Zapata, the county seat of Zapata County.

Having examined a working sketch of the area, prepared by the General Land Office, dated December 22, 1958, I proceeded with a ground survey of Survey 616, Survey 188 and Survey 190. This ground survey is reflected on the attached plat and field notes which is made a part of this report. Also examined were field notes, plat, and report of a survey of the alleged vacancy SF15990, made by Mr. E.J. Foster, Licensed State Land Surveyor.

Survey 616 was surveyed on January 22, 1886, by Leonard Haynes, County Surveyor of Zapata County, and is junior to all adjoining surveys. Haynes called for posts at each corner and called for these posts to be corners of the respective senior adjoining surveys. He made no mention of the stones which have been identified by E.J. Foster as the original northwest corner of Survey 190, the original southwest corner of Survey 188, the original northwest corner of Survey 188, the original south corner of Survey 187, the original north corner of Porcion 17, and the original east corner of Porcion 18. In a corrected survey of Porcion 17 made by Haynes, after he had surveyed Survey 616, (dated June 15, 1886) he calls for a stone at the north corner of Porcion 17, and his distance for the northwest line of Porcion 17 is 43 varas excessive of Van Merrick's call for the same line. Porcion 17 is patented on Van Merrick's field notes.

Haynes' field notes of Survey 616 contain 14 calls and in only one instance will the call for course and distance agree with adjoinder call for senior surveys. That exception is the call from the northwest corner of Survey 190 to the southwest corner of Survey 188, a distance of 200 varas. In regard to the stone called

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Zapata Co. R19 SK 51

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JAN 5 1959

GENERAL LAND OFFICE

D-446

for at the south corner of Survey 188, I did not find this stone, but the old road that went by this corner has eroded into a ravine and evidently washed the stone away. It's position is confirmed by stones at the northwest corner of Survey 188 and northwest corner of Survey 190.

Based on the above, it is my conclusion that Haynes' field notes of Survey 616 was actually an office survey and was not made on the ground.

Haynes' beginning corner calls to be a post, the west corner of E.M. Black Survey 615, S.35° E. 208 varas from the north corner of Porcion 17. He did not call to begin at a point located course and distance from Porcion 18, even though the last two calls in his field notes would give a different relationship between Porcion 17 and Porcion 18 than exists on the ground. If the field notes of Survey 616 are applied in reverse, there are still differences in calls for course and distance from actual adjoiners in all but two calls.

I began my survey of Survey 616 at a 2" galvanized iron stake marked " TT ", said point being S. 35°14'30" E. 189.75 varas from a fence corner which is recognized as the north corner of Porcion 17. I did not find a stone at the north corner of Porcion 17, however, I was at this corner in 1930 and there was a stone there at that time. From the height of the fence posts above ground, it appears that there has been an accrual of sand around the corner and that the stone possibly is now buried. In regard to the fence on the northeast line of Porcion 17, I am satisfied that there is sufficient evidence to prove this as Van Merrick's (or Patent) line. The iron stake marked " TT " is the patented northwest corner of Survey 615 according to corrected field notes made by E.J. Foster on September 1-4, 1926. His tie call to the north corner of Porcion 17 was 191.0 varas, only 1.25 varas difference from my measurement. There is also an iron stake marked " TT " at fence corner at the north corner of Survey 615, called for in Foster's corrected survey in 1926 and the fence along the patented northwest line of Survey 615 is straight between these two monuments which is also the southeast line of Survey 616. I respected this patented line and disregarded Haynes' tie call of 208 varas S. 35° E. from the north corner of Porcion 17.

I found a $\frac{1}{2}$ " iron pin set under fence at a point 8.0 varas

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 JAN 5 1959
 GENERAL LAND OFFICE

20-446

S. 35° E. from the iron stake marked " TT " at northwest corner of Survey 615, said iron pin being 197.5 varas from the north corner of Porcion 17. Mr. Foster's recent field notes of SF15990 calls for an iron pin and stone at the south corner of SF15990 on east line of Porcion 17 and his distance for the southwest line of SF15990 is 197.5 varas. I found the iron pin but did not find a stone. I found the iron pin set by Mr. Foster for the east corner of SF15990 to also be 8.0 varas S. 35° E. of fence on the patented northwest line of Survey 615. I found an iron pin set by Mr. Foster for the north corner of SF15990 but failed to find the stone also called for in his field notes. I found a stone in fence corner at the east corner of Porcion 18.

Mr. Foster, in his 1926 survey of Survey 615, began at the south corner of Survey 615 on northeast line of Porcion 15 and followed adjoinder with senior Surveys 435-192-191-189-190. From the north corner of Survey 615, same being an east corner of Survey 616, he carried Survey 615 to adjoin Porcion 17 and disregarded the call for distance, which was the proper and legal procedure. He called for the northwest corner of Survey 615 to be the south corner of Survey 616.

Survey 616 was sold as containing 1280 acres, but actually contains only 1081.66 acres free of conflict with senior surveys.

In view of the fact that no original corners of Survey 616 can be found and that Survey 616 can be located only by adjoinder calls with senior surveys, I find no basis for the existence of SF15990 as it is within the boundaries of Survey 616 and Survey 615.

The nearest commercial oil production is the Sun Oil Company No. C-1, H.P. Guerra, in H.E. & W.T. Survey 301, Pedernal Field, Starr County. Based on its location according to drilling permit issued by the Railroad Commission, along with surveying that I have done in the past in that area and Mr. Foster's measurements for the northeast lines of Porcion 14-15-16-17, I have platted the position of this well and find that this well is approximately 22,800 feet or 4.32 miles S. 48° E. from the east corner of SF15990.

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 Foster's
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JAN 5 1959
GENERAL LAND OFFICE

D. 446

According to information received from the District 4 office of the Railroad Commission, the aforesaid well was completed on October 28, 1957 for 38.61 BPD and presently has an allowable of 13 BPD.

Respectfully submitted,

C.A. Douglas
C.A. Douglas
Licensed State Land Surveyor

Report completed January 2, 1959.



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12200

15 22 119 20 20905
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counter 49602

D. 4

LAW OFFICES OF
MANN AND BYFIELD
LAREDO NATIONAL BANK BUILDING
LAREDO, TEXAS

RECEIVED

JAN 5 1959

D-446

GENERAL LAND OFFICE
P. O. BOX 820
TELEPHONE RA 3-5581

G. C. MANN
G. D. BYFIELD

January 3, 1959

6

SF 15990

Hon. Bill Allcorn
Commissioner of the General Land Office
State of Texas
Austin, Texas

Dear Sir:

Please refer to my letter of October 3, 1958, advising you that J. M. Sanchez desired to patent C. & M. Survey 190, Certificate 72, J. R. Christian Survey 616, Certificate 1124 and C. & M. Survey 188, Certificate 71 in Zapata County, Texas; also to your reply thereto under date of October 20, 1958, advising that corrected field notes would be required for both Surveys 190 and 616. In view of this, Mr. Sanchez employed C. A. Douglas, Licensed State Land Surveyor to prepare such corrected field notes. In making the survey, Mr. Douglas considered ~~the~~ *it* advisable to also survey Survey 188. Mr. Douglas has prepared such corrected field notes and a plat and report in connection therewith, copies of each of which I am enclosing, not for approval at the present time but for your consideration in connection with pending application for alleged vacant land being S.F. 15990, A. G. Pellegrin, Jr., Zapata County, Texas.

J. M. Sanchez denies that there is any vacancy as reported by E. J. Foster and respectfully urges you to hold that such vacancy does not exist. It is because of this pending application that the corrected field notes have not been recorded in Zapata County and will not be until you have ruled on whether a vacancy exists. Mr. C. V. Howland, Jr. Registered Public Surveyor, who is a partner of C. A. Douglas, will be in Austin at the hearing as a representative of J. M. Sanchez.

Mr. Douglas found that the alleged vacancy as located on the ground includes an 8-vara strip along the north line of adjoining Survey 615 owned by The Texas Company.

Your particular attention is directed to the following:

1. That Survey 616 is a junior survey as the survey was located for the specific purpose of covering all land not included in any of the adjoining surveys and calls for a common line with each of such adjoining surveys. In view of this, we cannot see

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E'

JAN 5 1959

GENERAL LAND OFFICE

D-446

Hon. Bill Allcorn

-2-

January 3, 1959.

how there can be any possible basis for a vacancy within Survey 616.

2. That instead of Survey 616 containing the 1280 acres called for in the original field notes and the award, it (including that part of the alleged vacancy which Mr. Foster found to be in Survey 616) only contains 1081.66 acres or a shortage of 198.34 acres. If the vacancy is recognized this shortage will be increased by 12.73 acres to a total shortage of 211.07 acres.

3. That the alleged vacancy also includes .55 of an acre out of adjoining Survey 615 which has heretofore been patented on field notes prepared by E. J. Foster. You will notice from Mr. Douglas' field notes and report that the north corners of Survey 615 are monumented with iron stakes marked "TT" as called for in the patent to said Survey.

4. In the alternative your attention is further directed to the fact that Mr. Douglas found this land to be within five miles of a well producing oil in paying quantities. Hence, even if a vacancy existed, this land could not be sold by the State.

Please consider this letter and each of the enclosures as a formal protest by J. M. Sanchez to the granting of any vacancy and as an answer by him denying that any such vacancy exists.

Should you decide there is a vacancy please incorporate in your finding to that effect that J. M. Sanchez excepts thereto and gives notice of appeal.

In view of the shortness of time I will greatly appreciate your calling me collect at Randolph 35581 upon receipt of this letter and enclosures in order that I may be certain that same have been received by you prior to the hearing, and that same will be filed and considered by you at such hearing. Should I not be in the office at that time, please talk to Mr. Byfield.

Mr. J. M. Sanchez joins me in this letter.

Respectfully Submitted,

J. Mann
For Mann & Byfield
as Attorneys of J. M. Sanchez

J. M. Sanchez
J. M. Sanchez

GCM:arg

cc; Douglas & Howland
P. O. Box 97
Laredo, Texas

Legal Department
The Texas Company
Houston, Texas

Engineering Department
The Texas Company, 922 N. Carancahua, Corpus Christi, Texas

counter 99607

E2

2. F. 12200

15 312 218 28 51

RECEIVED

NOV 18 1958

Laredo, Texas
November 17th., 1958

In Re:- S.F. # 15990
Zapata County, Texas

Hon. Bill Allcorn, Commissioner,
General Land Office,
Austin, Texas.

Dear Sir:-

As per our agreement concerning the contract to make a survey of a small apparent vacancy in Zapata County, Texas, applied for by Mr. Alfredo Pellegrin, Jr., and for which I was awarded the bid for such work I wish to state:-

That on the morning of November 5th., 1958 on or before 10:00 A. M., I went on the ground and began said survey, from the designated point being the Northeast corner of Porcion No. 17 and surveyed around the area in question as per the enclosed field notes and plat.

There were none of the notified people on the ground, save and except my crew of six men and myself, and the applicant; however the fence rider for Mr. Lazaro Peña, who has the State Survey No. 615 leased met us along the line of Porcion No. 16, and he advised us that no one had come to the ranch house. his name is Rubilio Saldivar, who is living at the Pedernal Ranch some two or three miles east of this survey; he stayed and had lunch with us.

In March and July 1925, I made a complete survey and Partition of Porciones No's. 14, 15, 16, & 17, as per decree of Court, Cause No. 145, Zapata County District Court, which made the northeast lines of these Porciones a common straight line as they have been recognized and fenced since 1894 or earlier, and such partition was compelled to recognize this line as the eastern or northeastern line of said Porciones, which is the cause of this vacancy. The nearest oil well producing a shallow well is over six miles N.E. of this tract.

In June, 1920, I made a survey of the Pedernal Grant, and divided it among the claimants, as well as those surveys west of it and adjacent to it, some were patented and some not; and a few years later, in 1926, I made a survey of Section 615, with the Texas Co. surveyor, Mr. Robinson, who was present when we ran around it and established its corners, and which is a survey leased to Mr. Lazaro Pena, of the Pedernal Grant, who has fenced it off from the J. M. Sanchez lands on the north.

The old corners and lines are still standing as shown on my plat, and no one loses anything in this instance, but a small asset is made to the School Fund of some 13.24 acres of land, which have been used by others and would probably so continue to be used had it not been for the present applicant.

The survey of this tract was resumed on the 7th. of November, to check in the corners of the adjacent lands that we might be assured of no conflict, and trust that it may pass the land office requirements. The cost of this survey is less than we had anticipated it. It amounts to \$295.00, which I trust is acceptable to the Land Office.

Respectfully, submitted,

E. J. Foster

E. J. FOSTER,
State Licensed Land Surveyor,
and Surveyor of Webb Co., Texas

Enclosed- Report
Field Notes
check re: filing fee 25374

EJF/jl

counter 49605

TRANSCRIPT OF HEARING ON S.F.15990
Zapata County, A. G. Pellegrin, Jr.

Zapata Co. Rld. Sk. No. 21

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HEARING OF THE APPLICATION TO LEASE AN ALLEGED VACANT AREA
IN ZAPATA COUNTY, TEXAS, S. F. 15990, FILED BY A. G. PELLEGRIN,
JR., HELD BEFORE THE HON. BILL ALLCORN, COMMISSIONER OF THE
GENERAL LAND OFFICE, IN AUSTIN, TEXAS, JANUARY 7, 1959.

B E F O R E

HON. BILL ALLCORN, COMMISSIONER
OF THE GENERAL LAND OFFICE

A P P E A R A N C E S

Hon. E. J. Foster, Surveyor, Laredo, Texas

PROPOSERS:

Hon. A. G. Pellegrin, Jr., P. O. Box 153, Laredo, Texas, appearing in
behalf of himself, Applicant

OPPOSERS:

Hon. William S. Clarke, P. O. Box 2332, Houston 1, Texas, appearing in
behalf of The Texas Company

Hon. C. V. Howland, Jr. P. O. Box 97, Laredo, Texas, appearing in behalf
of J. M. Sanchez

Hon. R. E. Mills, P. O. Box 2332, Houston 1, Texas, appearing in behalf of
The Texas Company

OBSERVERS:

Hon. Milton Richardson, Attorney General's Office

TRANSCRIPT OF PROCEEDINGS

PREPARED BY THE GENERAL LAND OFFICE

FROM RECORDING OF HEARING

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MORNING SESSION

9:30 O'CLOCK A.M.

JANUARY 7, 1959

AUSTIN, TEXAS

MR. MULLINS: This is a hearing on the application of Mr. A. G. Pellegrin, Jr., of Laredo, Texas, to purchase an alleged vacant area in Zapata County. The application is number S. F. 15990 and covers an area in Zapata County, about 19 miles S 38° E from Zapata, the county seat, and is bounded as follows, to-wit:

- On the North by Survey No. 616, J. M. Sanchez, owner;
- On the East by Survey No. 615, The Texas Company, owner;
- On the South by said Survey 615; and
- On the West by Porciones Nos. 17 and part of 18, owned by Flumencio Munoz, (All residents of Zapata County, except The Texas Company of Houston, Texas

The purpose of this hearing is to afford the Applicant and all interested parties the opportunity to present evidence and arguments to support their contentions as to whether or not the vacancy exists as alleged, and to present information to the Commissioner which, when reviewed in connection with the information already filed in the Land Office, will provide a sufficient basis for him to determine the vacancy question.

Under the usual procedure, the Applicant and other proponents and opponents are all given the opportunity to make an opening statement. Then the surveyor appointed under the law by the Commissioner of the General Land Office will be sworn in and will give a narrative report of his findings. He will then be examined by the proponents and cross-examined by the opponents. Ordinary court rules of procedure are not imposed here, but we do ask that you keep the questions and discussion within the bounds of relevancy. Additional witnesses and evidence may be presented by both sides. All interested parties and the applicant are permitted to make a closing statement. Any matter that is of record in the Land Office may be incorporated in the record by reference. It will not be necessary that you introduce any record of the Land Office as an exhibit. I would like to add that when you are

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speaking to identify yourself, particularly the first time you speak, so the secretary will get your name and also because we are wired for sound here and for the purpose of our record, we have to know who is asking the questions and who is making the statement. I would also like to ask that if you do ask the surveyor any questions, you ask him without any distances and any courses, that you don't say from here to here and point to the map that you identify precisely what corners or lines you are talking about. I might also add, if you hear some thunderous noises occasionally, don't be alarmed because they are in the process of air conditioning this building and have started up here on the roof, tearing down this old chimney that is right in here so you will probably hear some pretty loud noises occasionally, so don't let it bother you.

Does anybody have any questions now before we begin? Does the Applicant, Mr. Pellegrin, desire to make any opening statement?

PELLEGRIN: No sir.

MULLINS: Do any of the opponents desire to make an opening statement?

All right then, Mr. E. J. Foster is the Surveyor appointed by the Commissioner to do the survey work in this area. Mr. Foster, if you will raise your right hand, please. Do you solemnly swear that the evidence you are about to present in this hearing is the truth, the whole truth and nothing but the truth, so help you God?

FOSTER: I do.

MULLINS: All right, sir. Mr. Foster, if you will, please use that pointer there and use your sketch and begin at the beginning and tell us just what you did in your survey work. Use your own words in describing and describe it any way you like, just so you tell us what you did in your work in this area.

FOSTER: Gentlemen, on November 5, I believe the date was, I was supposed to have met people at this corner

MULLINS: Which corner is that?

FOSTER: The East corner of Porcion 18. The people I was supposed to meet, I believe, were the land owners in the vicinity. That day we had a hideous rain in all that area. I had a jeep and it was stuck up to the hilt. We had to walk three miles to get to this place with mud up to our knees to be sure to be at that point. It rained all during the day, however, we did what we could, and two days later came back and

treated the survey as it should have been. But we had to have two tractors to get us out. It took two of them to get us out of that mud. In 1923 I was appointed by the Court, the District Court of Zapata County, to make a partition of Porcion 18, which I did. And this corner, which is a stone, the East corner of 18 is on the ground as well as its North corner. The fence, occupation fence, runs up and down here, owned by Flumencio Munoz. His heirs own it now. The next year I was appointed to partition Porcions 14, 15, 16 and 17 by the same Court, for the land owners down in here, which I did. This corner was there and this line was there

MULLINS: Which corner and which line ?

FOSTER: The North corner of Porcion 17, or the Northeast corner as it may be called, and the East corner of Porcion 14, which is the County Corner of Zapata and Starr County. South 45 East to the North corner Porcion 17. At my meeting with these gentlemen on November 5th was to be at the East corner of Porcion 18. From there I ran a line East 293 varas and set an iron pin for the North corner of this vacancy, 15990. I chained on West to the North corner of Porcion 17, that is South 55 West. There is a fence corner there and two stones were under the fence corner. I ran South 35 East 197.5 varas and set an iron pin. I crossed the fence 9 varas before I got to the 97 varas. Thence I ran North 54 East along North line of 615, 286 varas and set an iron pin for the Southeast corner of the alleged vacancy, 15990. I left that day. Two days later when we were able to get in there, we came back and checked up on these distances along the East line of Porcion 17 and 8 to 16 and 15 and North line of 615. Survey 615, I surveyed it in 1926 and it was patented from my field notes, I believe. Porcion 17, the patent called for it to stop right here where it is now. However, Mr. Haynes later extended this porcion to where this line is, the North line of, the North corner of, that supposed vacancy exists. And he ran his line on South and included a strip of land 368 varas beyond the East line of Porcion 17. However, this was already patented. Of course, he hadn't any legal right or authority to extend this Porcion. However, when he surveyed 615 or 616, he left that strip of Porcion 17 outside until I closed it in '26 when I surveyed 615 for The Texas Company when it was patented and took up all that strip of land that is supposed to be Porcion 17 according to Haynes.

GIBERSON: Pardon me just a second. Did you say that you found that vacancy in '26 when you did that survey work?

FOSTER: You mean . . . this wasn't a vacancy. It was supposed to be a part of Porcion 17.

- GIBERSON: But when you were surveying in 1926, did you.....
- FOSTER: I ran across it and took it in there. Because the land owners of Porcion 17 had the line of occupation right here, the fence line. They didn't cite it up there, so I thought there was something funny about it. I learned that Haynes had made this survey after the patent of 17 had been issued. "Way after that.
- MULLINS: All right sir. Go ahead, Mr. Foster.
- FOSTER: In the distance from the North corner of Porcion 17 to the Southeast of the East corner of Porcion 14, I found a shortage of 9 varas which is shown here where I overlap this for the Texas Company. I got some maps, 23 to 24 of that partition there if you would like to see them unless they won't be kept here for exhibits, or evidence. These partition maps were drawn by my father. I've had them for 35 years and I don't want to lose them.
- HOWLAND: You can supply copies of them, couldn't you?
- FOSTER: I guess I could.
- GIBERSON: I'd like to ask you a question, Mr. Foster. Did you find this stone, the Northeast corner of Porcion 17? You found that corner?
- FOSTER: There are two stones there. Now there is no stone on the surface.
- GIBERSON: But you found that stone?
- FOSTER: Buried, yes.
- GIBERSON: Then you found the Southwest corner of Survey 616, is that correct? Right there.
- FOSTER: That's what I call the East corner, the Southeast corner of Porcion 18. Yes sir.
- GIBERSON: Why did you stop over at the Northeast corner of the vacancy and place an iron pin there?
- FOSTER: Because Survey 616 runs Northeast from Southeast corner of Porcion 18, 293 varas. I didn't want to overlap on the.....
- GIBERSON: In other words, you went called distance on 616 there?
- FOSTER: That's right.

GIBERSON: And when you went South from that....

FOSTER: I went called distance there...I think they call 208 varas to go South 15....

GIBERSON: And when you got down to the Southeast corner of the alleged vacancy, did you find anything there?

FOSTER: Nothing.

GIBERSON: No markings there? /

FOSTER: No.

GIBERSON: Then why did you stop there?

FOSTER: Because that is supposed to be the North line of 615.

GIBERSON: Is that the line of occupation?

FOSTER: No. The line of occupation is 9 varas further North.

GIBERSON: I think that is all the questions I have right at the moment. Go ahead, Mr. Foster, if you have anything more .

FOSTER: That is all I have, gentlemen, except all the land East of that I partitioned and all the land West of that. That's about all I have to say unless you gentlemen want to see these maps, these partition maps here.

MULLINS: Just let us see them, Mr. Foster. Mr. Pellegrin, do you have any questions you want to ask Mr. Foster?

PELLEGRIN: No, I don't believe so.

MULLINS: Do any of the opponents wish to ask Mr. Foster any questions?

HOWLAND: Mr. Foster, you stated you surveyed the land to the East of Porcion 16 and there are corrected field notes, filed on Surveys 188 and 189, not 189 but 190 that you filed here in the Land Office and also you stated here that you surveyed Porcion 18 and Porcion 17, Survey 615. Now that just about goes around Survey 616 completely, doesn't it, with the exception of Porcion 19 and 20 on the North.

FOSTER: Yes sir.

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HOWLAND: Have you ever surveyed around 616 in its entirety?

FOSTER: I have, but I don't have any notes of it now. I recall I surveyed it though.

HOWLAND: I am sure you have examined the field notes of Survey 616 as filed by Leonard Haynes.

FOSTER: Yes sir. They came up and hit West of the, well, what he called the line of occupation, and they hit over here somewhere.

HOWLAND: What I am getting to is Mr. Douglas recently surveyed Survey 616 and he found that very few of the calls of Leonard Haynes will fit the patents or the original corners that you found on Surveys 188 and 190. There are errors in distance and conflicts of approximately 200 acres. Are you aware of that?

FOSTER: Very well aware of that.

HOWLAND: Well, the question I would like to ask is, in your opinion, although I am not asking you to make a legal presumption here, but in your opinion, would you say Leonard Haynes actually surveyed Survey 616 on the ground?

FOSTER: I doubt it.

HOWLAND: In regard to the North corner and East corner of Porcion North corner of 17 and East corner of Porcion 18, do you consider those actually original corners, or do you consider them corners of long occupation and recognized legal corners?

FOSTER: Those corners have been recognized for over 50 years that I know of. The one that showed them to me was Monroe when he used to be Surveyor of Staff County in 1904, or 1905, and at that time they were the only corners we knew of.

HOWLAND: Yes sir. We are not disputing the corners legally but the field notes of Porcion 18 as appear in the records of the General Land Office call for witness trees at the East corner of Porcion 18 and you did not find the witness trees?

FOSTER: No sir.

HOWLAND: The only reason I asked those questions is as far as actually following the footsteps of Leonard Haynes, you couldn't say definitely where Haynes was at any time.....

FOSTER: Nobody could say where he was.

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HOWLAND: In regard to Survey 615, you apparently considered it proper to honor the adjoinder calls where the patented line of Porcion 17 and for that reason, you extended over called distance.... in other words, you started Survey 615 down at the South there were senior surveys down there and on the line of Porcion....

FOSTER: At the Southeast corner of Porcion 18, just like I stated and then I went North 55 East....

HOWLAND: I'm talking about though when you surveyed Survey 615 in 1926.

FOSTER: I started at the monument down at the Southeast corner of Porcion 14 which is the corner of Zapata. That is the corner we started to partition and the division of Pedernales grant when that case was decided. Right at that point.

HOWLAND: And you also, in coming around, you went counter-clockwise and followed adjoinders with 189 and that other survey and when you got the Northeast corner of Survey 615, you had to go over called distance in order to honor the adjoinder with the Northeast line of Porcion 17. Is that correct?

FOSTER: We extended 200 some-odd varas to reach the present occupation line of Porcion 17.

HOWLAND: And you considered that the proper thing to do?

FOSTER: Yes sir.

HOWLAND: The adjoinder takes preference over a mere call for distance. That's all I have.

MULLINS: Mr. Clark?

HOWLAND: Excuse me just a minute. In case I don't get another chance I want to make sure that the letter from Mr. G. C. Mann is read into the record and the enclosures that he sent be made of record also.

CLARKE: Mr. Foster, I believe you said you surveyed the East line of Porcion 17, 16 and 14 back about the year 1917?

FOSTER: No, I think it was '24. '23 or '24--I have the date here...

CLARKE: I just want the general idea. When you surveyed that, did you locate the East line of 17, 16, 15 and 14 in one straight

line clear down to that Zapata County corner?

- FOSTER: I did.
- CLARKE: Well, in your opinion, that is the original location of that line, of the East lines of those Porcions as they were originally placed....
- FOSTER: That was the line that was shown to me by the land owners. They are all dead now. All the men that owned that land there had been holders since 1877--whenever it was they had that donation of those four Porcions. These heirs still live on the ground, but the ones that showed me that.....
- CLARKE: Well at any rate, that is what you took to be the original East line of those surveys?
- FOSTER: Yes sir.
- CLARKE: I think you made the remark and I want it to be sure and be understood, about Haynes that he had extended the line of Porcion 17 further East. Is that correct?
- FOSTER: Haynes made corrected field notes of Porcion 17 and he went farther East some 300 varas as shown by that --386 varas to where the present East line is now.
- CLARKE: But actually it had been patented prior to that time.
- FOSTER: To this present line. Yes sir.'
- CLARKE: And this present line over here, the present recognized line which you have always taken and which the other people have always taken to be the original position of the East line.
- FOSTER: Yes sir.
- CLARKE: Now, when did Mr. Haynes first survey 615 and 616? Do you recall about when.....
- FOSTER: Well, I have the dates in the notebook, but I don't have them with me. No sir.
- CLARKE: Well, I just.....
- FOSTER: January.....

- HOWLAND: January of 1886, I believe, is what the working sketch gives. January 22.
- CLARKE: He was surveying after, as a junior surveyor to the man that surveyed Porcions 18, 17, 16, 15 and 14.
- FOSTER: Yes sir.
- CLARKE: And I believe you said a little while before that you didn't believe, or that you seriously doubted that he actually went on the ground. Lets put it this way. Did he call for any objects around there other than for adjoinders with senior lines and posts? Did he call for any witness trees?
- FOSTER: I don't recall, Mr. Clarke.
- CLARKE: Now let me ask you -- I'm reading now from the certified copy of the original field notes of Survey 616. He says "Beginning at a post at the West corner of Survey 615"-- where would that be located on your plat up there, Mr. Foster? The West corner of 615?
- FOSTER: This would be the West corner of 615. (points to plat)
- CLARKE: Now that is what you are designating is the upper left hand corner of Survey 615 as you have indicated on your plat?
- FOSTER: Yes sir.
- CLARKE: Actually, that corner, in 1926, you located that corner 8 varas North of where were pointing on this particular plat?
- FOSTER: Yes sir.
- CLARKE: In 1926 you set at that corner the post marked "TT"
- FOSTER: Yes sir.
- CLARKE: Then you said at this point that you have pointed to here as the North, as the upper left corner of Survey 615, you have indicated is actually 8 varas South of that corner post that you set there in 1926?
- FOSTER: Yes sir.
- CLARKE: Anyhow, this beginning call of the, of 615 is to begin at the West corner of 615. Now as you have indicated 616 up there..
- FOSTER: That is the beginning call of what?

CLARKE: Of 616.

FOSTER: I think you said 615.

CLARKE: I'm sorry, sir. 616 calls to begin at the West corner of 615.

FOSTER: Yes sir.

CLARKE: Now, as you have indicated it there, does Survey 616 at any point there touch or have a common corner with Survey 615?

FOSTER: It did in the original field notes of whoever made them--Haynes and the corner used to be here. If you read the rest of the field notes, you would find it out.

CLARKE: Now in the field notes of 615, doesn't it call for the West corner of 615 to be in the East or Northeast line of....

FOSTER: That's where they had this Porcion over here.

CLARKE: So the field notes of 615 locate the West corner of 615 and the East line of Porcion 17?

FOSTER: Yes sir.

CLARKE: Now as you have pictured this on your plat, this survey 616 had a common corner with the West corner of 615 or does it have a corner in the East line of Sur. 17 as called for by the field notes.

FOSTER: The field notes call for it to run Northeast from the East corner of Porcion 18 that distance.

CLARKE: Just a minute, Mr. Foster. I believe when he was running that he was coming the other way around, wasn't he?

FOSTER: North 55 East from the East corner of Porcion 18. Then he comes South 35 East ... (changed record)

CLARKE: Mr. Foster, just to be sure, you say that as you have pictured it up here, the 616 does not have a common corner with the West corner of Survey 615 and it does not have a corner in the East line of Porcion 17? Not since the new patent of 615 was issued. It called to be in the East line of Porcion 17, didn't it?

FOSTER: Yes sir.

CLARKE: And you say that that is, and you took it to be and all those people since 1797 or whenever it was, they all recognized that to be the original West line?

FOSTER: Yes sir.

CLARKE: So that is the line that is called for. When you call for the West line you call for....

FOSTER: I called for 615 and that is the line that Porcion 17 is.

CLARKE: You brought 615 over to that line....

FOSTER: I brought it over....

CLARKE: To cross the corner on the East line.

FOSTER: Yes sir.

CLARKE: Now let's take the field notes of 616 and we got down here a little bit and I am going to leave out a lot of the calls on the sides that are not shown there. It comes down and says South 55 West 315 varas to a post. That's the North corner of Porcion 18, I guess it is the next one. Thence 35 East 2120 varas to a post, the East corner of Porcion 18.

FOSTER: Yes sir.

CLARKE: All right. Now that's the point there that you have indicated as the Southeast, or lower right hand corner of Porcion 18.

FOSTER: Yes sir.

CLARKE: Now from there it says, Thence South 55 East 293 varas to a post, North corner of Porcion 17.

FOSTER: North 55 East.

CLARKE: Thence North 55 East 293 varas to a post, the North corner of Porcion 17.

FOSTER: That's this point here that they claim is 17.

CLARKE: Yes sir, but that is not the Northcorner of Porcion 17. Is it?

FOSTER: That's what the field notes say of 1886.

CLARKE: Well, no sir. I'm talking about what does it call for? If you follow course and distance from that corner, you do go out there. But he calls go to the North corner of Porcion 17.

FOSTER: He doesn't call for anything.

- CLARKE: Sir?
- FOSTER: Did he have to call for anything?
- CLARKE: I don't know if he had to, but he did.
- FOSTER: (Inaudible)
- CLARKE: He called for the North corner of 17.
- FOSTER: He didn't have to call for anything though.
- CLARKE: Well, I know but he did. He told you where he wanted to go. He told you he wanted to go to the North corner of Porcion 17. Now it is pretty obvious that he made a mistake there as to what direction to go to get to that corner. In other words....
- FOSTER: You've already had it outlined before.
- CLARKE: Okay, but if you ignore -- he was out there and he called for a corner.
- FOSTER: It is outlined just like we've got it there.
- CLARKE: I don't know about that. I've seen his outline of it but I am calling for his field notes.
- FOSTER: Go ahead and read them.
- CLARKE: Okay, that's what I am saying. He called to go to the North corner of Porcion 17. Now the only object he calls for, other than for course and distance, is the corner of Porcion 17. From there, he calls to go Thence South 35 degrees East 208 varas to the place of beginning.
- FOSTER: Yes.
- CLARKE: All right, sir, his place of beginning, he has called there to be at the North corner of Porcion 17. His place of beginning was the corner of 615 in the East line of Porcion 17. So putting those two calls together, his last call is to go Southward with the line of 17. Now where you put that corresponding line over there, it doesn't go Southward with the line of 17, does it?
- FOSTER: How does he begin his field notes of 616?
- CLARKE: He says begin at a post the West corner of 615 made by....

- FOSTER: Where does it run to? What direction?
- CLARKE: It runs from there to the East, I guess.
- FOSTER: What distance?
- MULLINS: Mr. Foster, just a minute. If you will, Mr. Clarke is asking the questions.
- FOSTER: I'm trying to get him to guide me to help me out on this.
- ALLCORN: In order that we can get a record here of your questions, testimony, etc., let's please go in such a manner that the lady here can get this down.
- CLARKE: Mr. Foster and I have done this on the same side and opposed to each other on several occasions before.
- FOSTER: Run North 55 East along the North line of 615, how many varas? No, that's 616.
- CLARKE: That is 1421 varas.....
- FOSTER: 1421 varas to the West line of a certain tract up there.
- CLARKE: 190, isn't it?
- FOSTER: May I ask a question now? Mr. Howland, you just finished surveying 616 down there. What distance did you get from here?
- MULLINS: Just a minute. Before we get into that, let's try and keep this in order here. Let's proceed, Mr. Clarke and Mr. Foster, if you will, answer his questions.
- CLARKE: As I recall, he asked you the question if you didn't find the call along the North line of 615 to be excessive by several hundred varas. And I believe you said that you did find that.
- FOSTER: It was excessive to the amount of 386 varas, more or less.
- CLARKE: But as a matter of fact, by your construction here, you, starting from the Southeast corner of Porcion 18, you have honored the call for course.....
- FOSTER: Course and distance.
- CLARKE: All right, course and distance. To go eastward from that corner but you have ignored the call for the East corner of Survey 17. Or the Northeast corner of Porcion 17. You do not get a corner of 616 over there at the Northeast corner of Porcion 17.

FOSTER: 17?

CLARKE: And you did not have a line of 616, which goes from southward from the Northeast corner of 17 to where you indicate the Northwest corner of 615 is. So you have ignored the call for 615 to have a common corner--I mean 616 to have a common corner with survey 615. And you have ignored the call for it to have a line on the east line of Porcion 17 from the Northwest corner of 615 up to the Northeast corner of Porcion 17.

FOSTER: Mr. Clarke.....

CLARKE: You just don't have them there, do you?

FOSTER: I don't ignore anything.

CLARKE: You have honored your course and distance calls to go eastward. You cannot honor both of them. You have to ignore one or the other. You can't go to the corner of 17 and still honor your course and distance calls. You had to honor one or the other.

FOSTER: Naturally.

CLARKE: Okay. You honored one but you ignored one. All right. Now you also, by your construction there, you had to put your lower Southwest corner of 615 some place. It's called, according to your construction, it is called to be out here 386 varas in an easterly direction from the Northwest corner of 615.

FOSTER: Yes sir.

CLARKE: That also calls for it to be at the corner of 615. So you had to ignore one and give credit to another one. So you gave credit to your course and distance call and ignored the calls for adjointer.

FOSTER: In one instance, 615 and 616 corners at the Southeast and Northeast corner and they meet here again. However, 616 went around this area and left that area vacant.

CLARKE: Now, Mr. Foster, that 616 and 615, they are put in there, all the surveys surrounding those two surveys are superior to them, aren't they?

FOSTER: They should be, yes sir.

- CLARKE: And in each place where, in each of those surveys, the entire outside line except possibly the common line between 615 and 616, every one of them calls for an adjoinder with a senior survey, doesn't it?
- FOSTER: Yes sir.
- CLARKE: Indicating to you, as a surveyor, his intention to take up every bit of the land that lay between the true lines of those senior surveys.
- FOSTER: That was his idea.
- CLARKE: There is just one other thing. You did say that you actually located and saw out there on the ground the markers at the point where you settled in 1926 for the Northwest and the Northwest corner of 615 and what would be the Northeast corner on your plat.
- FOSTER: No, they weren't the same markers. They were at the same place. When (inaudible) and I were out there, he used to be the man that worked for the Texas Company, when we were out there we had mesquite stakes with "TT" marked on them. These have been replaced with 2 inch pipe now. The 2 inch pipe is at exactly the same place.
- CLARKE: Now just for the record, I'd like to, Mr. Mills, he said had been replaced by these pipes, I'd like Mr. Mills to indicate the approximate date and the replacement of what is there. This is just for record so we will have the markers in the record. They are there at this time.
- MILLS: I don't have the exact date. It has been several years back.
- CLARKE: But they were actually set to replace those.....
- MILLS: They did replace the old mesquite stakes marked "TT".
- CLARKE: What is the character of those markers that are there now?
- MILLS: They are 2 inch galvanized iron pipes set in concrete with a brass plate set in top. The numbers are penciled in the brass plate.
- CLARKE: And does that brass plate indicate in any way that it is a marker of the Texas Company?
- MILLS: Well, it doesn't have The Texas Company written on it but it is right by the fence corner and the fence has been maintained on the North and West lines and all the lines of Survey 615 since 1926.

- CLARKE: But it has markers on it that indicates the, from which a reference to material in your office.....
- MILLS: That's right.
- CLARKE: Those are actually at the place that you set your stakes?
- FOSTER: Yes they are. They are there. We saw them.
- CLARKE: I believe that's all I have right now.
- MULLINS: Do you have any questions, Mr. Pellegrin?
- PELLEGRIN: No sir.
- HOWLAND: Mr. Foster, in your report to the Commissioner with regard to the proximity of oil production, you stated that this tract was over 6 miles from nearest oil production to the Northeast of it. Did you investigate the proximity of production to the Southeast or to the Southwest? Any other direction?
- FOSTER: Well, the Southwest is a drilling well up on Porcion 17, near the river. That is over 5 miles. To the Southeast is 3 or 4 dry holes within 2 1/2 miles of it. To the Northeast there are 2 dry holes within a mile and a half or two.
- MULLINS: Will you repeat that statement now so we can get it in the record.
- FOSTER: The only production that I know of in Zapata field near this location is Charco Redondo oil field. It is Northeast of this location.
- HOWLAND: You didn't investigate the proximity of production in what is known as the Sun Company Pedernal field in Starr County?
- FOSTER: No sir. I was there at the Southeast corner of the Pedernal grant where they had 4 or 5 dry holes. Are those the ones you are talking about?
- HOWLAND: No sir. I am referring to a field that was opened up last year. I'm not sure how many wells they have but there is an oil field designated in that area and wells are certainly producing now. You didn't investigate that?
- FOSTER: No.
- HOWLAND: No further questions.

MULLINS: Are you familiar with the location of that Sun Company field that Mr. Howland just referred to?

FOSTER: I located some on the Southwest but they were quite a ways from there.

MULLINS: Are they more than five miles from this area?

FOSTER: Not in this instance. Let him tell you. I don't know about these wells he is talking about.

HOWLAND: I had reference to an oil field that was discovered in Oct. 28, 1957. That would be comparatively recent.

FOSTER: Where is that well?

HOWLAND: It is in Survey 301. That is according to the records of the Railroad Commission.

FOSTER: Starr County?

HOWLAND: Yes sir. They call it the Pedernale Field.

FOSTER: How far is that from this?

HOWLAND: According to the platted distance, it is within five miles. We don't have a true surveyed distance on it.

CLARKE: Mr. Mullins, I think probably for your information, he is referring to a well that is referred to in the report of C. A. Douglas, Licensed State Land Surveyor, report completed January 2, 1959, which Mr. Howland just introduced into the record as an attachment, I believe, to this letter from Mr. Mann to Honorable Bill Allcorn, dated January 3, 1959.

MULLINS: We have that.

CLARKE: Yes, you have that. But that is what I believe he is referring to, the well which is referred to at the bottom of page 3 and at the top of page 4 of that report, by Mr. Douglas.

HOWLAND: What I wanted to bring out is that he is not in a position to dispute....

FOSTER: No, I didn't see any location over there.

MULLINS: Do you have any further questions, Mr. Howland?

HOWLAND: No sir.

MULLINS: Mr. Clarke, do you have any further questions?

- CLARKE: Just one more. Mr. Foster, I believe in each instance here you followed in establishing and putting your markers of your alleged vacant area down, you started at the Southeast corner of Porcion 18. And you followed course and distance from there all the way around.
- FOSTER: I did, sir.
- CLARKE: And those courses and distances that were taken from the field notes of 616 after they reached Southeast corner of Survey 18 and it is, your vacant area, is the result of taking course and distance from those field notes alone?
- FOSTER: It is.
- CLARKE: And in honoring course and distance, you necessarily had to abandon or pull away from the calls for adjointer.
- FOSTER: Yes sir.
- CLARKE: All right, sir. I believe that is all.
- MULLINS: Mr. Richardson, do you have any questions?
- RICHARDSON: No sir.
- MULLINS: I might tell you that Mr. Richardson is from the Attorney General's Office. He is Assistant Attorney General. Jack, do you have any questions?
- GIBERSON: I don't believe so.
- MULLINS: Mr. Pellegrin, do you have any questions you'd like to ask Mr. Foster?
- PELLEGRIN: No sir.
- MULLINS: Mr. Clarke, do you or Mr. Howland either one want to make a closing statement?
- CLARKE: No sir, I don't.
- HOWLAND: I don't want to make anything that is not included in Mr. Mann's letter.
- MULLINS: Yes, I am going to read that. Well, if that concludes it, let me.....
- CLARKE: Just a minute. Just to make our position clear here, since this alleged vacant area does include a portion of The Texas Company's tract, as you recall there, we necessarily are

opposed to the entire vacancy, the granting of the entire vacancy there and in the alternative, we are certainly opposed to the granting of any alleged vacancy insofar as it goes South of that established North line of Survey 615, as marked by Mr. Foster there in 26 and perpetuated corner by the marker placed there several years ago.

MULLINS: Mr. Mann has requested that this report of Mr. Douglas be read into the record. Have all of you seen this report?

FOSTER: I haven't. I'm not a lawyer though, so it doesn't make any difference about me anyway.

MULLINS: Well, this is a report of a surveyor and since you have not seen it, I will go through and read it. It is addressed to the Honorable Bill Allcorn, Commissioner, General Land Office, Austin, Texas and says:

"Dear Sir:

The following is my report of a survey of J. R. Christian Survey 616, C. & M. Survey 188, C. & M. Survey 190 and an alleged vacancy S. F. 15990, A. Pellegrin, Jr., Applicant; this area situated about 17 miles S. 46° E. from New Zapata, the county seat of Zapata County.

Having examined a working sketch of the area, prepared by the General Land Office, dated December 22, 1958, I proceeded with a ground survey of Survey 616, Survey 188 and Survey 190. This ground survey is reflected on the attached plat and field notes which is made a part of this report. Also examined were field notes, plat, and report of a survey of the alleged vacancy S. F. 15990, made by Mr. E. J. Foster, Licensed State Land Surveyor.

Survey 616 was surveyed on January 22, 1886, by Leonard Haynes, County Surveyor of Zapata County, and is junior to all adjoining surveys. Haynes called for posts at each corner and called for these posts to be corners of the respective senior adjoining surveys. Haynes called for posts at each corner and called for these posts to be corners of the respective senior adjoining surveys. He made no mention of the stones which have been identified by E. J. Foster as the original northwest corner of Survey 190, the original southwest corner of Survey 188, the original northwest corner of Survey 188, the original south corner of Survey 187, the original north corner of Porcion 17, and the original east corner of Porcion 18. In a corrected survey of Porcion 17 made by Haynes, after he had surveyed Survey 616, (dated June 15, 1886) he calls for a stone at the north corner of Porcion 17, and his distance for the northwest

line of Porcion 17 is 43 varas excessive of Van Merrick's call for the same line. Porcion 17 is patented on Van Merrick's field notes.

Haynes' field notes of Survey 616 contain 14 calls and in only one instance will the call for course and distance agree with adjoinder call for senior surveys. That exception is the call from the northwest corner of Survey 190 to the southwest corner of Survey 188, a distance of 200 varas. In regard to the stone called for at the south corner of Survey 188, I did not find this stone, but the old road that went by this corner has eroded into a ravine and evidently washed the stone away. It's position is confirmed by stones at the northwest corner of Survey 188 and northwest corner of Survey 190.

Based on the above, it is my conclusion that Haynes' field notes of Survey 616 was actually an office survey and was not made on the ground.

Haynes' beginning corner calls to be a post, the west corner of E. M. Black Survey 615, S. 35° E. 208 varas from the north corner of Porcion 17. He did not call to begin at a point located course and distance from Porcion 18, even though the last two calls in his field notes would give a different relationship between Porcion 17 and Porcion 18 than exists on the ground. If the field notes of Survey 616 are applied in reverse, there are still differences in calls for course and distance from actual adjoiners in all but two calls.

I began my survey of Survey 616 at a 2" galvanized iron stake marked "TT", said point being S. 35° 14' 30" E. 189.75 varas from a fence corner which is recognized as the north corner of Porcion 17. I did not find a stone at the north corner of Porcion 17, however, I was at this corner in 1930 and there was a stone there at that time. From the height of the fence posts above ground, it appears that there has been an accrual of sand around the corner and that the stone possibly is now buried. In regard to the fence on the northeast line of Porcion 17, I am satisfied that there is sufficient evidence to prove this as Van Merrick's (or patent) line. The iron stake marked "TT" is the patented northwest corner of Survey 615 according to corrected field notes made by E. J. Foster on September 1-4, 1926. His tie call to the north corner of Porcion 17 was 191.0 varas, only 1.25 varas difference from my measurement. There is also an iron stake marked "TT" at fence corner at the north corner of Survey 615, called for in Foster's corrected survey in 1926 and the fence along the patented northwest line of Survey 615 is straight between these two monuments which is also the southeast line of Survey 616. I respected this patented line and disregarded Haynes' tie call of 208 varas S. 35° E. from the north corner of Porcion 17. *counter 79627*

I found a 1/2" iron pin set under fence at a point 8.0 varas S. 35° E. from the iron stake marked "TT" at northwest corner of Survey 615, said iron pin being 197.5 varas from north corner of Porcion 17. Mr. Foster's recent field notes of S. F. 15990 calls for an iron pin and stone at the south corner of S. F. 15990 on east line of Porcion 17 and his distance for the southwest line of S. F. 15990 is 197.5 varas. I found the iron pin but did not find a stone. I found the iron pin set by Mr. Foster for the east corner of S. F. 15990 to also be 8.0 varas S. 35° E. of fence on the patented northwest line of Survey 615. I found an iron pin set by Mr. Foster for the north corner of S. F. 15990 but failed to find the stone also called for in his field notes. I found a stone in fence corner at the east corner of Porcion 18.

Mr. Foster, in his 1926 survey of Survey 615, began at the south corner of Survey 615 on northeast line of Porcion 15 and followed adjoinder with senior Surveys 435-192-191-189-190. From the north corner of Survey 615, same being an east corner of Survey 616, he carried Survey 615 to adjoin Porcion 17 and disregarded the call for distance, which was the proper and legal procedure. He called for the northwest corner of Survey 615 to be the south corner of Survey 616.

Survey 616 was sold as containing 1280 acres, but actually contains only 1081.66 acres free of conflict with senior surveys.

In view of the fact that no original corners of Survey 616 can be found and that Survey 616 can be located only by adjoinder calls with senior surveys, I find no basis for the existence of S. F. 15990 as it is within the boundaries of Survey 616 and Survey 615.

The nearest commercial oil production is the Sun Oil Company No. C-1, H. P. Guerra, in H. E. & W. T. Survey 301, Pedernal Field, Starr County. Based on its location according to drilling permit issued by the Railroad Commission, along with surveying that I have done in the past in that area and Mr. Foster's measurements for the northeast lines of Porcion 14-15-16-17, I have platted the position of this well and find that this well is approximately 22,800 feet or 4.32 miles S. 48° E. from the east corner of S. F. 15990.

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According to information received from the District 4 office of the Railroad Commission, the aforesaid well was completed on October 28, 1957 for 38.61 BPD and presently has an allowable of 13 BPD.

Respectfully submitted, C. A. Douglas, Licensed State Land Surveyor.

Report completed January 2, 1959."

Gentlemen, if that is all we have.....

CLARKE: Mr. Mullins, just a minute. There is one other thing I would like to call your attention to. The corrected field notes of survey 615 show that it contains only 1112 acres, more or less, as compared to its allotted, or what it was supposed to contain, 1280.

FOSTER: You are lucky.

MULLINS: Before we conclude, let me say two things here. First we will take this matter under consideration. The Commissioner, of course, is required by law to find one way or the other, and I would like to say to all of you that if you disagree with the Commissioner's decision, we are not thin skinned and if you want to haul us to the Court House, certainly, that is your right and privilege under the law. You won't hurt our feelings by doing so. Secondly, if the Commissioner should decide that there is a vacancy, I think the location of this production is certainly of importance. We may have to have some further information on that. Of course, if it is within five miles of production, it cannot be sold to the Applicant. It can be sold to the Good Faith Claimant. He can only lease it. So it might become important to that extent. However, we will not ask for further information on it at this time.

HOWLAND: One question I would like to ask. If that becomes pertinent, who bears the expense of

MULLINS: Let's don't cross that bridge before we come to it. It might be necessary to send our own surveyor down there to find out what the proximity of production is. Thank you very much. That does conclude this hearing.

WHEREUPON IT BEING 10:45 A.M., THE HEARING WAS CLOSED.

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