

Territory of New Mexico,)
County of Dona Ana.) ss.

Before S.B.Newcomb, a Notary Public in and for the county of Dona Ana, Territory of New Mexico, on this 2nd day of June, A.D., 1891, personally came Albert J.Fountain, and having first been duly sworn according to law, to tell the truth, the whole truth and nothing but the truth concerning the matter set forth in his testimony following, did depose and say as follows:-

My name is Albert J.Fountain; my age is 53 years; I am an Atty. at Law, and Asst.United States Attorney for New Mexico.

I reside at Las Cruces, in Dona Ana County, New Mexico, and have resided in said county since 1874. From 1862 to 1874 I resided in El Paso County, Texas. I first went to El Paso Co., Texas in the Summer of 1862, and was then in the military service of the United States, serving in the First Regiment of Infantry of California Volunteers.

In the month of October, 1862 I was order^{ed} with my company to proceed to what was then known as "Ojo del Martin" or "Martin Spring", sometimes called "Pine Spring", in Guadalupe Pass, at the Southern point of the Guadalupe mountains in Texas. We were ordered to establish a depot at that point and scout from there in all directions. My command remained at Martin Spring during the months of October, November and December, 1862, and returned to El Paso January 1st, 1863. Our depot at Martins or Pine Spring was at the old abandoned station of the Overland Mail Company. We had attached to the command a company of Mexicans numbering about 25, acting as scouts and guides. They were under the immediate command of Capt. ^{G^r}egorio Garcia of San **C**lesario, Texas. Capt.Garcia and the guides claimed to be familiar with all of the country over which we afterwards scouted,

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and which I hereinafter describe.

During the three months my company was stationed at Pine Springs or Martins Spring at the Southern point of the Guadalupe mountains we made frequent scouts, guided by Captain Garcia and his company of scouts, and visited every known spring and watering place within the radius of 60 to 80 miles from our depot.

It was on one of these scouts that I first became acquainted with "San Martins Spring" in the Apache mountains.

Leaving Martins Spring, or Pine Spring, we marched in an Easterly direction about eight or 10 miles and came to a large spring called by the guides "Independence Spring."

From here we marched in a Southerly direction, I should judge about 40 or 45 miles, which brought us to a bold spring called by the guides "San Martins' Spring". This spring is at the Northern end of a range of mountains called by the guides "the Apache mountains". We remained at San Martin's Spring two days

It was part of my official duty to keep the itinerary of the scout, to plat the country over which we travelled, to describe the different springs, watering places and trails, the grass, water and wood, and, in fact, to note all of the information which would be of advantage to future expeditions.

Six or eight miles South of the San Martin's Spring is a peak, which I understood was called "Gomez Peak".

San Martin's Spring appeared to have been a camping place for soldiers and for indians. Our scouts appeared to be quite well acquainted with the locality and told us of fights between soldiers and indians which had taken place in that vicinity.

Leaving San Martin's Spring, which is at the Northern point of the range called the "Apache mountains", we marched in a Southerly direction to Fort Davis, now in Presidio County, Texas, which, as near as I can now remember, is about 40 miles South of San Martin's Spring. We returned to San Martin's Spring in

the Apache mountains, and leaving there my command marched, as near as I can now remember, 20 to 25 miles Northerly, which brought us to a place called by the scouts "The Salado" or "Saldito", or Salt Spring. This is on a creek or arroyo several miles from a range of mountains: I cannot now recall about how far, but my best recollection is that it is five or six miles.

Our men called this place "Cottonwood Spring" on account of there being a number of cottonwood trees scattered along the creek. From the "Saldito" we returned to "Independence Spring" which, as near as I can now remember, is about 25 miles from the "Saldito".

In the month of November, 1862, I made another scout from Pine Springs to San Martin's Springs in the Apache mountains, travelling over the same trail we had marched over on the former scout. From San Martin's Spring we marched to the Toyah creek; thence following the Toyah creek down to the Pecos river; thence up the Pecos river to Delaware creek, where it empties into the Pecos; thence up Delaware creek to the water holes near its head; thence to Independence Spring; thence to Pine Spring.

During the three months my command was stationed at San Martin's Spring at the Southern point of the Guadalupe mountains I visited every known spring or watering place within 80 miles of Pine Spring. I became very familiar with that section of country. In the year 1866 I was elected Surveyor of El Paso and Presidio District: I appointed my predecessor in office, Mr Jarvis Hubble, as my Deputy Surveyor. Mr Hubble was an old resident of El Paso County, had been Surveyor for many years, and was very familiar with all of the localities I have mentioned. Sometime (I believe in 1867) an application was made to me for a survey for the purpose of location a land certificate to include the Spring known as San Martin's Spring in the

Apache mountains. Accompanied by Mr Hubble and several Mexicans

I started to make this survey. Our party went to Fort Davis and from there North to San Martin's Spring. We reached San Martin's Spring late at night. The next morning we discovered signs of indians. There appeared to be quite a number recently in that vicinity. Our party became alarmed and we did not deem it prudent to remain and make the survey. Mr Hubble informed me that he was well acquainted with that locality; that he had been there frequently and he, as well as myself, recognized that place as San Martin's Spring. Mr Hubble told me why it was called "San Martin's Spring". I asked him how it was that there were two springs called "Martin's Spring", one at the Southern point of the Guadalupe mountains. He said that the spring at the Southern point of the Guadalupe mountains was properly called "Pine Spring", but that it had obtained its name of "Martin's Spring" from the fact of a man named Martin being there as a station keeper at the time that the place was occupied by the Overland Mail Co. as a stage station.

On returning to El Paso we travelled West across country to Eagle Spring, in the Eagle mountains, I should judge about 40 to 45 miles.

From my knowledge of the localities I should place San Martin's Spring in the Apache mountains, at say 40 to 45 miles (it may be further, but that is my present impression) South of Independence Spring, (which is about eight miles Easterly of Pine Springs) and about 40 miles North of Fort Davis, and from 40 to 45 miles East of Eagle Spring.

I do not pretend to accuracy in these figures, but believe them to be substantially correct.

Subsequent to this time Mr Hubble started from El Paso to make the survey to include San Martin's Spring, together with other surveys, but was killed enroute by indians at Bass's Canyon, near Eagle Springs. He had with him at the time the application for the survey, which I have mentioned.

In 1871 I was a member of the State Senate of Texas, representing the 30th Senatorial District, which included the counties of El Paso and Presidio. I drafted and introduced a bill establishing Pecos County and defining the boundaries of the counties of El Paso, Presidio and Pecos. I have no map before me to refer to, but I have a very distinct recollection of the boundaries of these counties, as defined by me in the bill.

In drafting the bill and in fixing these boundaries I relied entirely upon my own information respecting localities. I fixed the point of junction of the three counties--El Paso, Pecos and Presidio--at San Martin's Spring in the Apache mountains, that being the same spring which I have mentioned as having visited in 1862 and in 1867. It was at that time a well known place, so well known that I did not believe that there could be any controversy in the future as to what was meant by it. I used the words "San Martin's Spring in the Apache mountains", so as to obviate all danger of its being confounded with "Martin's Spring" at the Southern point of the Guadalupe mountains.

The Guadalupe mountain range breaks off from 12 to 15 miles South of the dividing line between Texas and New Mexico.

It comes down in a flat-iron shape to a sharp point, where there is a bold peak several thousand feet in height, known as "Guadalupe peak". Then there are plains and undulating ground to the South, broken in places with gorges for 15 to 20 miles.

Then comes another range of mountains, and South of this is the range known as "The Apache mountains". The Spring known as the "Saldito" is at this first range of mountains which I speak of, South of the Guadalupe and 20 to 25 miles North of the Apache range. After the passage of the Act of 1871 defining the boundary lines in El Paso, Pecos and Presidio counties I had an interview with Mr Keuchler, who was at that time the Commissioner of the General Land Office, respecting the mapping of the new county of Pecos. He showed me a map of El Paso

and Presidio counties. I found it to be very imperfect: I called his attention at that time to the fact that the only spring laid down on his map as "Martin's Spring" was at the place where the spring known and called "Independence Spring" is located.

I informed him that that was not the spring known as "San Martin's Spring" in the Apache mountains. Mr Keuchler promised to have the matter looked into and that other mistakes which I pointed out to him on his map would be rectified.

I have seen a map known as "Proessler's Map": it has been many years, however, since I saw it, but I know that the same error that I called Mr Keuchler's attention to in the map shown to me by him was carried into Proessler's map. I have said that I did not seek any information at the Land Office to guide me in drafting the bill defining the boundary lines of El Paso and Pecos and Presidio counties. This was because my own personal knowledge respecting these localities was superior to that of any person in the Land Office. The maps used at the Land Office had been compiled from very imperfect information and were not reliable.

In drafting the bill it was my intention to have the South-eastern boundary line of El Paso County as nearly straight as practicable, running from a point on the South bank of Delaware creek where it empties into the Pecos river, to a point where the 105th Parallel of Longitude West from Greenwich, crossed the Rio Grande. It became necessary, however, to have some well-known point to define the boundary line between Pecos and Presidio counties, as well as to fix the point of junction between the three counties. Now, the only generally known, well established point on that line with which I was acquainted anywhere near the point which I desired to fix as a boundary line between Pecos and Presidio counties was "San Martin's Spring" in the Apache mountains. That is the reason why the line was not run directly from Delaware creek to the Rio Grande, but made a

slight divergence.

I had another object in view. The only settlements between the County Seat of Presidio County (Fort Davis) and the County Seat of El Paso County (San ~~El~~^Cysario) were Fort Quitman, on the Rio Grande about 65 miles Southeast of San ~~El~~^Cysario; Eagle Spring in the Eagle mountains, Van Horn's Well, and the "Muerto" or "Dead Man's Well". There was a Justice of the Peace at Fort Quitman, Texas, in El Paso County and a Justice of the Peace at Fort Davis, in Presidio County. It was my intention to have the line run between the "Muerto" and Van Horn's Well, so that parties at Muerto could transact their business in Presidio County at Fort Davis, and parties at Van Horn's Well, could transact their business at Fort Quitman. That is to say; such matters as would properly come before a Justice of the Peace.

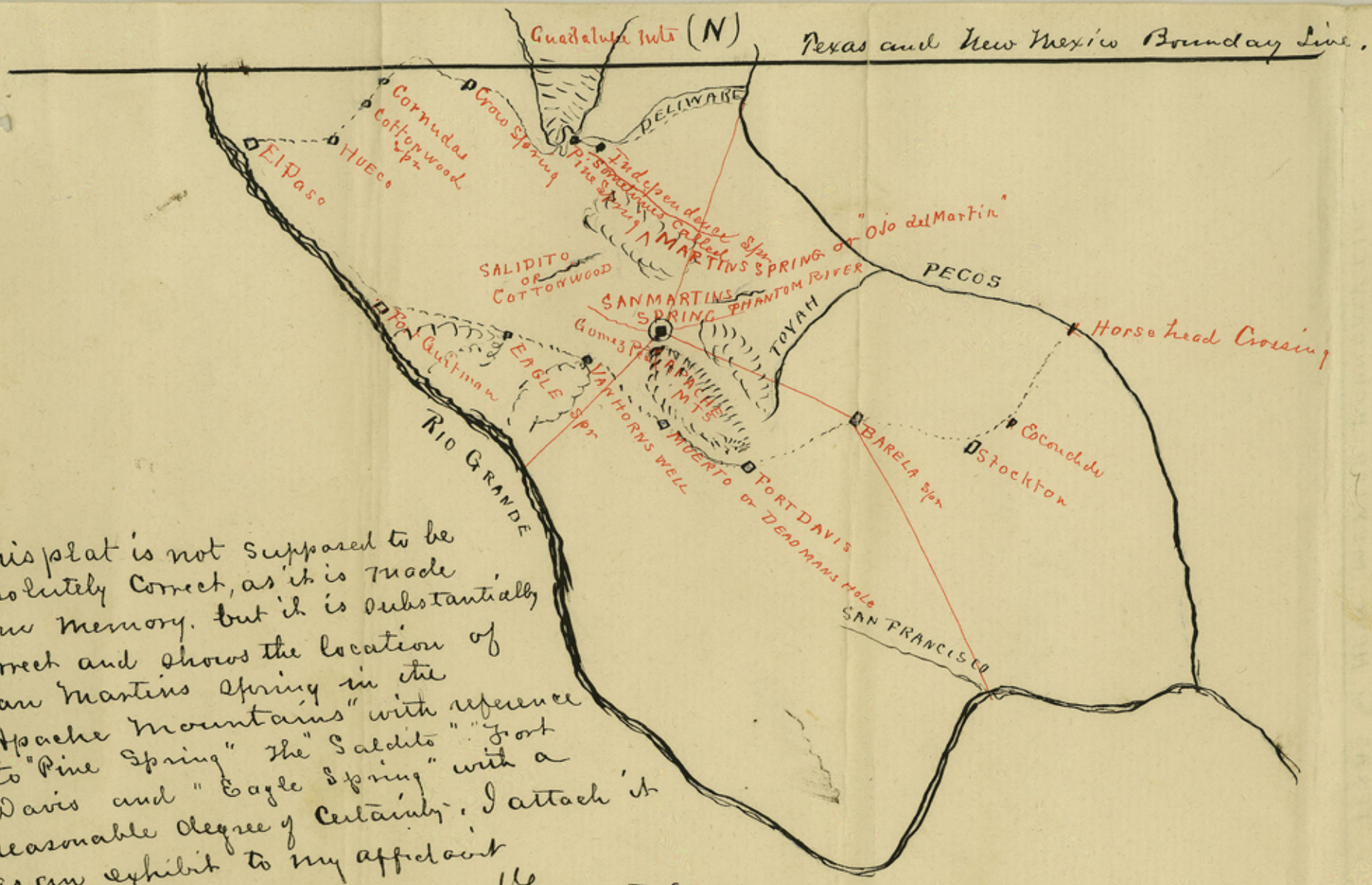
All these matters were discussed by me with my constituents residing at the different points mentioned, and the line was established at the point where I fixed it in the bill, as a matter of general convenience.

All of the citizens ^{then} living in those portions of the mountains mentioned ~~are~~^{were} familiar with the location of "San Martin's Spring" in the Apache mountains, at the point where I have located it.

As stated, I have no map before me, but I draft from memory a plat showing substantially the location of the several points I have mentioned, and make it a part of this affidavit.

I have no interest in this matter; am not of counsel in the case, but have made this affidavit at the request of the Commissioners' Court of El Paso County, Texas, they having called upon me as a former representative of the County in the State Senate to explain my meaning and intention in the use of the language in the Act of 1871 defining boundary lines between El Paso, Presidio and Pecos counties.

Alberly Fountain



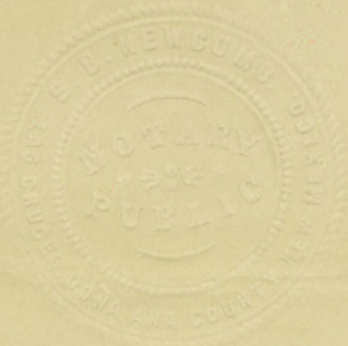
This plat is not supposed to be absolutely correct, as it is made from memory. but it is substantially correct and shows the location of "San Martins Spring" in the Apache mountains" with reference to "Pine Spring" the "Salidito" "Fort Davis and "Eagle Spring" with a reasonable degree of certainty. I attach it as an exhibit to my affidavit

Albert G. Mountain

(S)

Subscribed and sworn to before me this 2nd day of June,
A.D., 1891.

S. B. Newcomb
Notary Public



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Affidavit

of

A. J. Fountain

Filed June 10th 1891.

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