

Application # 000043

**Application Process Checklist**

<u>Completed</u>	<u>Date</u>
<input checked="" type="checkbox"/> Application and Processing Fees Received	<u>9/11/96</u>
<input type="checkbox"/> Engineering Review Complete	<u>NONE</u>
<input checked="" type="checkbox"/> Land Records Review Complete	<u>3/5/96 Rose Rodriguez</u>
<input checked="" type="checkbox"/> General Managers Directives Received	<u>✓</u>
<input checked="" type="checkbox"/> Preliminary Board Review Complete	<u><del>TABLED 5/15/96</del> 10/15/96</u>
<input type="checkbox"/> Preliminary Board Directives Received	<u>10/16/96</u>
<input checked="" type="checkbox"/> Survey Complete	<u>7-8-97</u>
<u>N/A</u> Appraisal Complete	<u>-</u>
<u>N/A</u> Public Notice Complete	<u>-</u>
<input type="checkbox"/> Contractual Agreement Complete	<u>-</u>
<input type="checkbox"/> Final Board Review Complete	<u>-</u>
<input type="checkbox"/> Final Board Directives Received	<u>-</u>
<input type="checkbox"/> All Right-to-Use Fees Received	<u>-</u>
<input type="checkbox"/> Project Start - Property Transaction Complete	<u>-</u>

SURVEY REPORT DUE 10/24/96

Application # 010043


## El Paso County Water Improvement District No. 1

294 Candelaria El Paso, Texas 79907-5599 (915) 859-4186 Fax (915) 858-4183

**Application for**  
**Purchase, Exchange, Easement, Lease, or other Right-to-Use District**  
**Real or Personal Property**  
**Subject to Law and to Approval by District Board of Directors**

Date: 9/1/96

1. Name of Applicant: Gilroy Foods, Inc.
2. Address and Phone Number: P.O. Box 1088, Gilroy, CA  
95021-1088
3. Type of Proposed Installation (Attach Construction Plans):
4. Construction Schedule: NONE
5. Description of each District Property Involved - A Survey Plat may be required and must be made under the Texas Coordinate System of 1983 as described in Subchapter C. of Chapter 21.041 of the Texas Natural Resource Code: Tract 4B, Block 2  
San Elizario Grant, Near Fabens, Texas
6. District Interest in Property (i.e., Fee Ownership or Easement):  
Fee Ownership
7. Interest or Right Sought by Applicant: Fee Ownership
8. Nature of Applicant (i.e., Political Subdivision, Municipality, Business Corp., Partnership, Individual, or otherwise): Corporation
9. Term Desired (i.e., Permanent or Length of Temporary Use):  
Permanent
10. Other Comments: To correct prior sale to Armando Guerrero made in error as a result of a survey error.

Signature of Applicant:   
Title: Vice President, Finance & Administration  
Date: September 1, 1996

SEE NOTICE ON REVERSE SIDE

**NOTICE: THE APPLICANT WILL BE REQUIRED TO REIMBURSE THE DISTRICT FOR ALL EXPENSES INCURRED BY THE DISTRICT IN CONNECTION WITH THIS APPLICATION, INCLUDING WITHOUT LIMITATION ANY LEGAL, APPRAISAL, PUBLICATION OF NOTICE, AND OTHER COSTS. A LAND SURVEY MAY BE REQUIRED WITH ALL COSTS BEING PAID BY THE APPLICANT. IF REQUIRED, THE SURVEY PLAT SHALL BE PREPARED IN CONFORMITY WITH THE TEXAS COORDINATE SYSTEM OF 1983. THE METES AND BOUNDS INFORMATION PROVIDED BY THE SURVEY WILL GIVE THE SQUARE FOOTAGE OF THE REQUESTED RIGHT-OF-USE TO ENABLE THE DISTRICT TO MAKE A DETERMINATION OF THE FAIR MARKET VALUE OF THE REQUESTED RIGHT-OF-USE. IN CASES WHERE THE APPLICANT IS SEEKING INTEREST BELOW THE GROUND SURFACE A PROFILE SURVEY WILL BE REQUIRED. SURVEY OF PUBLIC LAND SHALL PROVIDE INFORMATION AS DESCRIBED IN SUBCHAPTER B. OF CHAPTER 21.041 OF THE TEXAS NATURAL RESOURCE CODE. ALSO, APPLICANT MAY BE REQUIRED TO PAY FAIR MARKET VALUE OF THE INTEREST SOUGHT. IF THE INTEREST SOUGHT CROSSES PROPERTY IN WHICH THE DISTRICT HAS ONLY AN EASEMENT, THE APPLICANT WILL BE REQUIRED TO OBTAIN APPROPRIATE EASEMENTS OR OTHER INTERESTS FROM THE LAND OWNERS AND FURNISH THE DISTRICT WITH COPIES OF THE GRANTING DOCUMENT OBTAINED FROM THE LAND OWNERS. THE DISTRICT WILL NOT REPRESENT OR WARRANT THE EXTENT OR VALIDITY OF ANY INTEREST ACQUIRED BY THE APPLICANT FROM THE DISTRICT. NO INTERFERENCE WITH DISTRICT OPERATIONS OR MAINTENANCE OF ITS FACILITIES AND RIGHTS-OF-WAYS WILL BE ALLOWED. A NON-REFUNDABLE PROCESSING FEE OF \$500.00 FOR EACH DISTRICT PROPERTY INVOLVED IS REQUIRED WITH THIS APPLICATION. THIS FEE WILL BE APPLIED TO THE TOTAL BALANCE DETERMINED FOR THIS AGREEMENT.**

I hereby state that I (the undersigned) have read and fully understand the above notice and other contents of this application.

Signature of Applicant: X2 [Signature], Vice President, Finance & Administration  
Date: 7/1/96

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For Office Use Only

Application Date: \_\_\_\_\_  
Application #: \_\_\_\_\_  
Structure ID#: \_\_\_\_\_  
Installation Type ID#: \_\_\_\_\_



**GILROY FOODS**  
P.O. BOX 1088  
GILROY, CALIFORNIA 95020

THE CHASE MANHATTAN BANK, N.A.  
SYRACUSE, NEW YORK

CHECK NO **300821**

50-937  
213

\$500 dollars 00 cents \*\*\*\*\*

CHECK DATE	PAY THIS AMOUNT
09-06-96	*****500.00 **

PAY  
TO THE  
ORDER OF

EL PASO COUNTY WATER  
IMPROVEMENT DISTRICT #1  
.P.O. BOX 17489  
.EL PASO, TX  
.79917

*[Signature]*

⑈300821⑈ ⑆021309379⑆ 001⑈8⑈09817⑈

911219 EL PASO COUNTY WATER

DETACH VOUCHER BEFORE DEPOSITING

09-06-96

300821

INVOICE NUMBER	DATE	DESCRIPTION	NET
9496	90496	APPLICATION FEE	500.00
			500.00

PLEASE DETACH BEFORE DEPOSITING  
NO OTHER RECEIPT NECESSARY

WHEN DETACHED AND PAID THIS CHECK BECOMES A RECEIPT  
IN FULL PAYMENT OF THE ITEMIZED ACCOUNT.

GILROY FOODS

REDIFORM 816 carbonless

<b>RECEIPT</b>		Date <u>9-11</u> 19 <u>96</u>	No. <u>8824</u>
Received From <u>GILROY FOODS</u>			
Address <u>PO BOX 1088, GILROY, CA. 95021-1088</u>			
<u>FIVE HUNDRED AND 00/100</u>		Dollars \$ <u>500.00</u>	
For <u>APPLICATION PROCESSING FEE</u>			
ACCOUNT		HOW PAID	
AMT. OF ACCOUNT	<u>500.00</u>	CASH	
AMT. PAID	<u>500.00</u>	CHECK	<u>500.00</u>
BALANCE DUE	<u>0</u>	MONEY ORDER	
		By <u>[Signature]</u>	

Sent 9-11-96 *[Signature]*



EL PASO COUNTY WATER IMPROVEMENT DISTRICT No. 1  
294 CANDELARIA • EL PASO, TEXAS 79907-5599 • (915) 859-4186 • FAX (915) 858-4183

TAX OFFICE (915) 859-0819 • DISPATCHER (915) 859-9128

March 18, 1999

Mr. Armando Guerrero  
P.O. Box 38  
Fabens, Texas 79838

Dear Mr. Guerrero:

On Wednesday, March 10, 1999, at a regularly scheduled meeting of the Board of Directors for the El Paso County Water Improvement District No. 1, the Board discussed your application #000043 requesting an exchange of properties adjacent to the Mesa Drain, in Tract 4B, Block 2 of the San Elizario Grant. The property that you purchased from Gilroy Foods on March 29, 1996 included property owned by the District as right-of-way for the Mesa Drain. Since that time, the District has received a survey of the properties performed by Mr. Robert Pounds, Pounds Surveying, Inc.

In his "Report of Survey" dated July 3, 1997, Mr. Pounds makes the recommendation that the District exchange Quit Claim Deeds with you to clarify the titles to the properties for the benefit of the District and yourself. The Board of Directors agreed with Mr. Pounds' recommendation, however, the Board requested that the exchange be made using "Deeds Without Warranty" rather than Quit Claim Deeds.

The District is agreeable to the exchange of Deeds without Warranty, assuming that you would still like to pursue the completion of this process. The Board of Directors has recommended that you contact Mr. Kit Bramblett, Attorney at Law, to draw up the necessary deeds for the District and yourself. I have included two copies of the Report of Survey dated July 3, 1997, Property Descriptions for Parcels 1, 2, and 3, and the plat prepared by Mr. Pounds for your use and information.

Mr. Armando Guerrero

March 16, 1999

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Please provide the District with a copy of the invoice for the preparation of the "Deeds without Warranty," and we will pay 50% of the invoice amount.

If you have any questions regarding this matter, please contact Ginny Tattre or Peggy Madrid of my staff at (915) 859-4186. I look forward to working with you to complete this process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edd Fifer', with a long horizontal flourish extending to the left.

Edd Fifer  
General Manager



September 4, 1996

Mr. Edd Fifer, General Manager  
El Paso Water Improvement District Number 1  
294 Candelaria  
El Paso, Texas 79907-5599

Dear Mr. Fifer:

Attached is a check for \$500 and an application to acquire the 3.08 acres which is (apparently) part of Tract 4B, Block 2 of the San Elizario Grant near Fabens, Texas. We understand there will also be an appraisal fee and a survey fee along with closing costs.

If it is permissible, I respectfully request the use of the surveyor who surveyed the property in question earlier this year. His name is Enrique Rey and I have approached him about waiving his fee since this whole transaction has become necessary because of a misidentification of the parcel in question. Likewise, if we are able to acquire the 3.08 acres, I hereby request the use of Sierra Title who handled the original acquisition by Gilroy Foods and the subsequent transfer to Armando Guerrero for which Title Insurance was purchased. They have committed to handle a new escrow for no fee. Please let me know if this is feasible as we are trying to minimize any additional cost arising from this process since we have already encountered expenses in acquiring and reselling Tract 4B.

It is also necessary to clarify one overriding question. If this property is appraised for more than the original purchase price and subsequent resale price (essentially the same amount) to Mr. Guerrero, are we committed by this application process to purchase the property?

**GILROY FOODS, INC.**

1350 Pacheco Pass Hwy • P.O. Box 1088 • Gilroy, CA 95021-1088  
(408) 847-1414 • Voice Mail (408) 847-1418

Page Two

Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L. Brinkman". The signature is fluid and cursive, with the first name "Stephen" and last name "Brinkman" clearly distinguishable.

Stephen L. Brinkman  
Vice President/Controller

cc: Armando Guerrero  
Rosie Rosales, Sierra Title Company, Inc.  
1891 N. Lee Trevino Drive  
El Paso, Texas 79936





EL PASO COUNTY WATER IMPROVEMENT DISTRICT No. 1

294 CANDELARIA • EL PASO, TEXAS 79907-5599 • (915) 859-4186 • FAX (915) 858-4183

TAX OFFICE (915) 859-0819 • DISPATCHER (915) 859-9128

August 16, 1996

Mr. Stephen L. Brinkman  
Vice President, Finance & Administration  
Gilroy Foods, Inc.  
P.O. Box 1088  
Gilroy, CA 95021-1088

Dear Mr. Brinkman:

On Wednesday, August 14, 1996, at a regularly scheduled meeting of the Board of Directors for the El Paso County Water Improvement District No. 1, the Board considered your request to purchase a portion of Tract 4B, Block 2, San Elizario Grant, in El Paso County, Texas. The Board of Directors will consider the application for the sale of any land in excess of the District's needs provided the following requirements are met:

1. The Board of Directors must determine that the property is in excess to the District's needs, and the property must be sold in accordance with the laws of the State of Texas and the Texas Water Code.
2. A survey of the property including a survey plat and field notes must be prepared in accordance with the District's criteria. The survey must include a proper beginning point that may be located with reference to the 1983 Texas Coordinate System. The survey must be obtained by the applicant and approved by the District.
3. An appraisal of the property must be made by an appraiser selected by the District.
4. The applicant must pay for all costs associated with the request, to include surveys, appraisal, application fee (\$500), and the purchase price as determined by the Board of Directors.

Mr. Stephen L. Brinkman

August 16, 1996

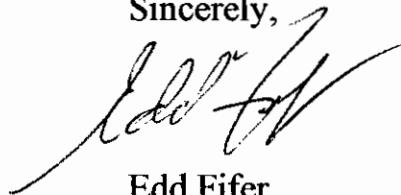
Page 2

5. Property that is determined to be in excess of the District's needs may be sold in accordance with all notice provisions required by the State of Texas and the Texas Water Code, and will be transferred to the applicant by process of a "Deed Without Warranty," and will be sold without title insurance.

As of this date, the District has revised the application for the purchase of District land. The enclosed application must be submitted and returned with the \$500 application process fee. Please forward this payment as soon as possible.

You may contact Mr. Edward Zey of the District's Engineering Department with any questions you have regarding the survey and appraisal needed for this property. He may be reached at (915) 859-4186.

Sincerely,

A handwritten signature in black ink, appearing to read "Edd Fifer", with a stylized flourish extending from the end.

Edd Fifer  
General Manager

cc: Edward Zey, Engineering

Edd Fifer  
General Manager  
El Paso Co. Water Improvement District No. 1  
294 Candelaria  
El Paso, Texas, 79907-5599

August 7, 1996

Dear Mr. Fifer:

On January 12, 1996 Gilroy Foods, Inc. purchased approximately 122 acres from Gardonjim Farms, Inc. Included in that parcel and documented by a survey, which was the basis for a title insurance policy, was 3.9594 acres designated as Tract 4B, Block 2 San Elizario Grant, El Paso County, Texas. Subsequent to our purchase we were approached by Armando Guerrero of Fabens, Texas who was interested in acquiring Tract 4B. While the tract was not for sale we reviewed the matter and after internal discussion we agreed to sell Tract 4B to Mr. Guerrero in consideration of his long relationship with our Fabens, Texas plant through S & S Welding and his excellent reputation with our plant personnel. We offered the property to Mr. Guerrero at essentially our per acre book basis for the entire 122 acre purchase. The sales transaction was completed 3/29/96 and a separate survey for Tract 4B showing 3.9594 acres was attached to the policy of title insurance.

On March 21, 1996 I sent the attached letter to Armando forwarding a form I received for a "Special Agricultural Valuation." In that letter I mentioned an acreage discrepancy between El Paso Central Appraisal and the survey and suggested that Armando contact Central Appraisal to let them know. Armando followed-up and Central Appraisal insisted their acreage figure was accurate. We contacted the title company (Sierra Title Company of El Paso) and they were concerned but explained that it was not uncommon for Central Appraisal to make mistakes.

On May 3, 1996 we recieved a letter from your agency claiming ownership of 3.08 acres of Tract 4B, Block 2 San Elizario Grant, County of El Paso. Since then we have made numerous phone calls stating our position which is that we would be very glad to purchase the property from the District and convey it to Mr. Guerrero at his original purchase price. We will cooperate in any way we can to accomplish this transfer as Mr. Guerrero really would like to purchase the property and felt that he had. Please let us know what we can do to make this happen.

Thank you for you condsideration.

Sincerely,



Stephen L. Brinkman  
Vice President, Finance and Administration

cc: Armando Guerrero  
Rosie Rosales, Sierra Title Company



Gilroy Foods, Inc.  
1350 Pacheco Pass Highway  
Gilroy, CA 95020  
408- 847- 1414



March 21, 1996

Mr. Armando Guerrero  
P.O. Box 38  
Fabens, TX 79838

Dear Armando:

Attached is a communication from El Paso Central Appraisal District reminding of the necessity to file for the Special Agricultural Valuation. You need to file this within 30 days of closing to maintain the favorable tax rate. By the way the acreage needs to be modified from .88 to 3.96 as surveyed so I suspect you need to contact Central Appraisal to let them know. We will be talking again from time to time, but I would like to take this opportunity to thank you for your cooperation during this process. I have enjoyed working with you.

Sincerely,

Stephen L. Brinkman  
Vice President, Finance & Administration

**Tract 4B, Block 2**  
**METES AND BOUNDS**

Description of Tract 4B, Block 2, San Elizario Grant, El Paso County, Texas, more particularly described by metes and bounds as follows; Commencing at an existing county monument located on State Highway 1, opposite Tract 11, Block 2, San Elizario Grant, El Paso County, Texas; Thence North 48 degrees 55 minutes 58 seconds East, a distance of 50.00' to a point that lies on the Northerly Right of Way line of said State Highway 1; Thence North 36 degrees 23 minutes West along said Northerly Right of Way line, a distance of 679.00' to a point;

Thence North 46 degrees 27 minutes East, along the Boundary line between Tracts 2 & 3, Block 2, San Elizario Grant, El Paso County, Texas, a distance of 46.70' to a point;

Thence North 02 degrees 35 minutes West, along the Boundary line between Tracts 2 & 3, Block 2, San Elizario Grant, El Paso County, Texas, a distance of 1,655.20' to a point;

Thence South 79 degrees 00 minutes East, along the Boundary line between Tracts 2 & 4A, Block 2, San Elizario Grant, El Paso County, Texas, a distance of 228.00' to a point;

Thence South 77 degrees 04 minutes East, along the Boundary line between Tracts 2 & 4A, Block 2, San Elizario Grant, El Paso County, Texas, a distance of 411.50' to a point;

Thence South 10 degrees 52 minutes East, a distance of 25.92' to a point;

Thence South 83 degrees 57 minutes 03 seconds East, a distance of 38.15' to a point that lies on the Southerly Right of Way line of the Porter-Rabb Rd., said point also being the POB of this description;

Thence North 66 degrees 12 minutes East along the Boundary line between the Porter-Rabb Rd. and Tract 4B, Block 2, San Elizario Grant, El Paso County, Texas, a distance of 191.70' to a point that lies on the Southerly Right of Way line of G.H. and S.A. Railway;

Thence South 29 degrees 19 minutes East along said Southerly Right of Way line, a distance of 1128.41' to a point;

Thence North 87 degrees 10 minutes West along the Boundary line between Tracts 4B & 2, Block 2, San Elizario Grant, El Paso County, Texas, a distance of 240.90' to a point;

Thence North 23 degrees 56 minutes West along the Boundary line between Tracts 4B & 2, Block 2, San Elizario Grant, El Paso County, Texas, a distance of 967.80' to a point;

Thence North 83 degrees 57 minutes 03 seconds West along the Boundary line between Tracts 4B & 2, Block 2, San Elizario Grant, El Paso County, Texas, a distance of 95.23' to the Point of Beginning of this description. Said Tract of Land contains 172,470.25 sq ft or 3.9594 acres of land more or less.

  
Enrique A. Rey

RPLS

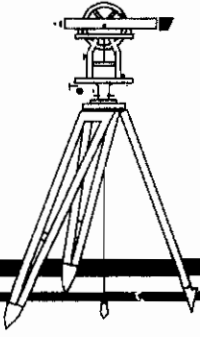
TX 3505

11348 Bob Mitchell Dr.

El Paso, Texas 79936

915-591-4925

January 4, 1996



# POUNDS SURVEYING INC

REGISTERED LAND SURVEYORS  
TEXAS \* NEW MEXICO \* ARIZONA

## REPORT OF SURVEY

July 3, 1997

Mr. Ed Fifer  
El Paso County Water Improvement District No. 1  
294 Candelaria  
El Paso, Texas 79907-5599

RE: SURVEY OF A PORTION OF TRACT 2 AND TRACT 4B, BLOCK 2,  
SAN ELIZARIO GRANT, EL PASO COUNTY, TEXAS,  
FOR GILROY FOODS, INC. AND ARMANDO GUERRERO

Dear Mr. Fifer:

In February of this year we performed a survey of Tract 4B and subsequently a portion of adjacent Tract 2 for Gilroy Foods, Inc. The need for this survey arose due to general confusion over the status of the Mesa Drain right-of-way in Tract 4B. After consultation with Mr. Mario Mendoza of your office and extensive research of the county deed records and tax maps, we have been able to ascertain the following facts:

1. The correct width of the right-of-way of the Mesa Drain through Tract 4B is only 100 feet, not 125 feet indicated on the current Central Appraisal District maps. To support this statement, I refer to the attached Warranty Deeds and the U.S.R.S. Right Of Way Map of the Mesa Drain, No. E900-L48, dated September, 1919. The warranty deed from I. G. Gaal to the U.S.A. dated March 5, 1919, and recorded in Book 331, Page 118, transferred title of a 7.49 acre parcel (Tract No. 2). The deed calls for this tract exactly matches those shown on the right-of-way map, but the area covered extends only to Mesa Drain centerline station 60+76, not the common boundary of Survey 121 with the H. D. Camp property to the South. Another warranty deed from I. G. Gaal to the U.S.A. dated October 9, 1919, and recorded in Book 334, Page 438, purports to transfer the same 3.43 acres (Tract No. 1 in first deed), and 5.10 acres of the 7.49 acres called for in Tract No. 2 of the first deed. This subsequent deed does not cover any portion of Survey 121. A third warranty deed from I. G. Gaal to the U.S.A. dated April 5, 1921, and recorded in Book 372, Page 371, again appears to transfer the same property described in the first two deeds but includes the additional signatures of Charles B. Gaal, Frank F. Gaal, Lillian M. Eden and George W. Gaal. While there may be some question of the need for three deeds on the same land, all of these deeds describe a right-of-way for the Mesa Drain that is only 100 feet in width.

2. Title to the portion of Survey 121 lying West of the railroad right-of-way and subsequently designated as part of Tract 4 of Block 2 by the County Surveyor in 1928, acting under authority of the Commissioner's Court, appears to have been vested in I. G. Gaal at the time the United States acquired the right-of-way for the Mesa Drain. It appears from the

deeds cited in paragraph 1 that the U.S.A. did not acquire title from him for that portion of the Mesa Drain from the South boundary of Survey 121 (now known as Tract 4B, Block 2) to centerline station 60+76. I believe this was an error caused by an oversight in the engineering department. They apparently assumed Station 60+76 was the South boundary of Survey 121. However, their own right-of-way map clearly indicates that boundary to lie considerably South of Station 60+76. Referring to the "Agreement to Convey" from H. D. Camp and Ida L. Camp to the U.S.A. dated May 31, 1916, and recorded in Book 289, Page 511, the described tract began at their Southeast property corner and extended beyond their property line North into Survey 121 to the Mesa Drain centerline station 60+76. As this was merely an "agreement to convey", the engineering department probably thought it was adequate and that any discrepancies would be corrected in the ensuing warranty deed. Apparently, such an instrument of conveyance was never executed. Several years later, when the land in Survey 121 was being acquired, they made sure that its calls fit the Camp description, but failed to notice that they did not fit the titled property line. The result of these transactions appear to leave a portion of the right-of-way of the Mesa Drain in Tract 4B without record color of title (about 0.28 acres), this is identified on my map as Parcel No. 3, an "UNTITLED PORTION OF MESA DRAIN".

3. On January 10, 1996, Gilroy Foods, Inc. acquired title to the land now known as Tracts 2, 3, 4B, 5 and 11, all in Block 2 of the San Elizario Grant (Deed reference: Vol. 3001, Pg. 0840, January 10, 1996). The description prepared by their surveyor, Enrique Rey, included all of the Mesa Drain right-of-way from the South right-of-way of Porter-Rabb Road to the South boundary of Tract 4B. He included this portion of the Drain right-of-way in their net acreage and they assumed they had clear title to 3.9594 acres of land. Gilroy Foods, Inc. in turn sold Tract 4B to Armando Guerrero (Deed reference: Vol. 3030, Pg. 1513, March 26, 1996) based upon a second survey by Enrique Rey that described 3.9594 acres of land including 2.5283 acres in the adjacent Mesa Drain right-of-way. Mr. Guerrero subsequently filed for a special agricultural exemption with the Central Appraisal District. He was then notified that he only had acquired a net acreage of 0.88 acres and the balance of his property belonged to the Water Improvement District. At this point both Mr. Guerrero and the District assumed that he was farming District property. Since no one knew the location of West right-of-way of the Mesa Drain on the ground and it was obvious that he was farming much more than 0.8 acre, it was erroneously surmised that he was farming several acres of drain right-of-way. When this was brought to the attention of Gilroy Foods, they made application to purchase part or all of the 3.08 acres of District right-of-way thought to farmed by Guerrero. I was then hired by Gilroy Foods to survey the District property they sought to acquire.

4. Upon accepting this assignment, I discovered that the right-of-way of the Mesa Drain through Tract 4B was only 100 feet in width and erroneously assumed that it was also only 100 feet wide through Tract 2 to the South. I was not really concerned about its location through Tract 2 since I was only hired to Survey Tract 4B. During the course of my survey we discovered that the land Mr. Guerrero and Gilroy Foods both thought was Tract 4B, was actually 4.335 acres of Tract 2 and only 1.412 acres of Tract 4B. The land he was farming was generally bounded on the West and South by a concrete irrigation ditch, on the North by Porter-Rabb Road and on the East by the Mesa Drain. We found a fence and a covered shed encroaching into the Drain right-of-way as shown on the accompanying map, otherwise nothing significant. Also, only a few feet of District right-of-way could be sold without interfering with its maintenance. This being the case, it was decided that we would make a survey of that portion of Tract 2, lying East of the concrete irrigation ditch and Gilroy Foods would deed it to Mr. Guerrero to make up the difference in the acreage he was short.

5. After completing the survey of the adjacent portion of Tract 2 and while reviewing the situation with Mr. Mario Mendoza of the District, it was discovered that we had inadvertently included small portions of District property in our survey. These two portions are identified as Parcels 1 and 2 on my plat of survey. These parcels were acquired by a warranty deed from Bud and Ethel Nelson to the U.S.A. dated July 14, 1932, and recorded in Book 561, Page 435. Tract No. 2 of this deed added a width of 25 feet to the Mesa Drain right-of-way, but only through the portion of Tract 2 lying South of Tract 4B. The portion of this additional right-of-way inadvertently included in our survey is represented on my map as Parcel No. 2. This parcel does not appear to be in use by the District nor essential to the operation or maintenance of the Mesa Drain. Tract No. 3 of this deed describes an area of 0.06 acres, shown on my map as Parcel No. 1. The reason for the original acquisition of this parcel is very confusing. By inspecting the right-of-way map from which this description was prepared (USRS Drawing No. 3511-L-48 dated 2-3-31), it is obvious that its intent was to fit an increased right-of-way width of 35 feet through Tract 4 (now Tract 4B). Apparently, there were plans to increase the capacity of the Mesa Drain but due to unknown circumstances, they were abandoned. We made a diligent search of both the District and County records and found no evidence that any additional right-of-way was ever acquired through Tract 4B. By the fact that the additional right-of-way through Tract 4B was never acquired, it leaves this parcel landlocked with no legal access. This being the case, I believe it is of little value to the District.

6. Based upon these findings, I have anticipated that both the District and Mr. Guerrero will find that it is in their best interests to resolve this matter by mutual exchange of Quit-Claim deeds. Mr. Guerrero will relinquish any claim he might have on Parcel No. 3 to the District and the District will relinquish their rights to Parcels 1 and 2 to Mr. Guerrero. This seems to be a fair and equitable solution, since I am sure both parties are innocent of creating this situation and have only acted in good faith.

I hope this report adequately explains the situation. In the event you require additional information or further explanation, I remain at your service.

A PLAT AND THREE DESCRIPTIONS OF SAME DATE ACCOMPANY THIS REPORT.

I hereby certify to El Paso County Water Improvement District No. 1 that this report and the accompanying descriptions and plat meet all of the current El Paso County Water Improvement District No. 1 "Survey Requirements" as stated in the current El Paso County Water Improvement District No. 1 "Engineering Department - Standard Operating Procedures".

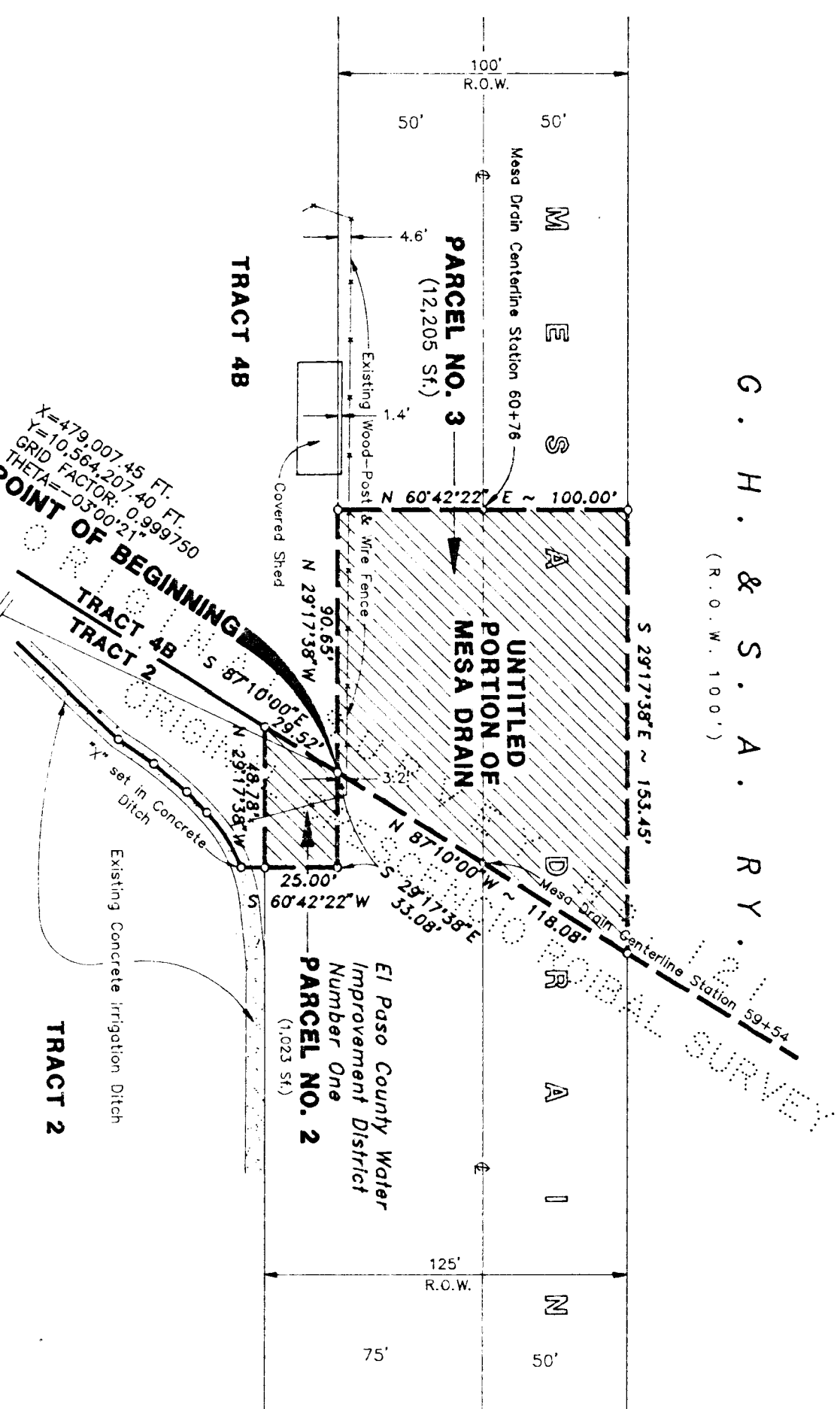


Robert L. Pounds, RPLS  
Texas No. 1976  
Pounds Surveying Inc.  
240-B Thunderbird Drive  
El Paso, Texas 79912  
(915) 584-9455



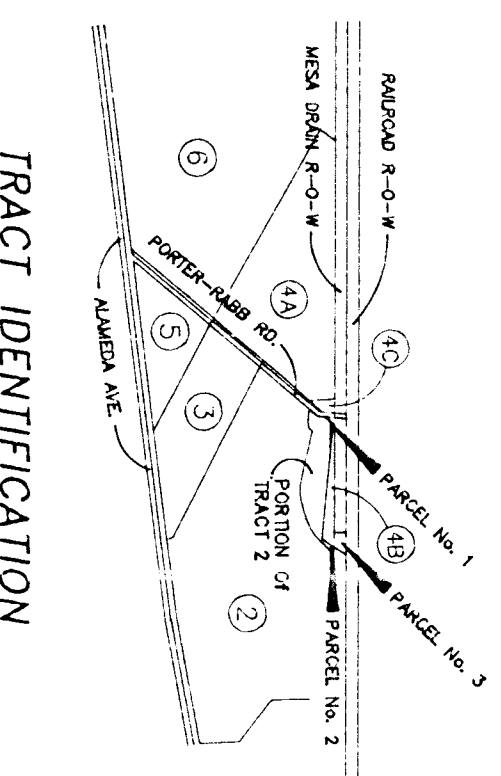
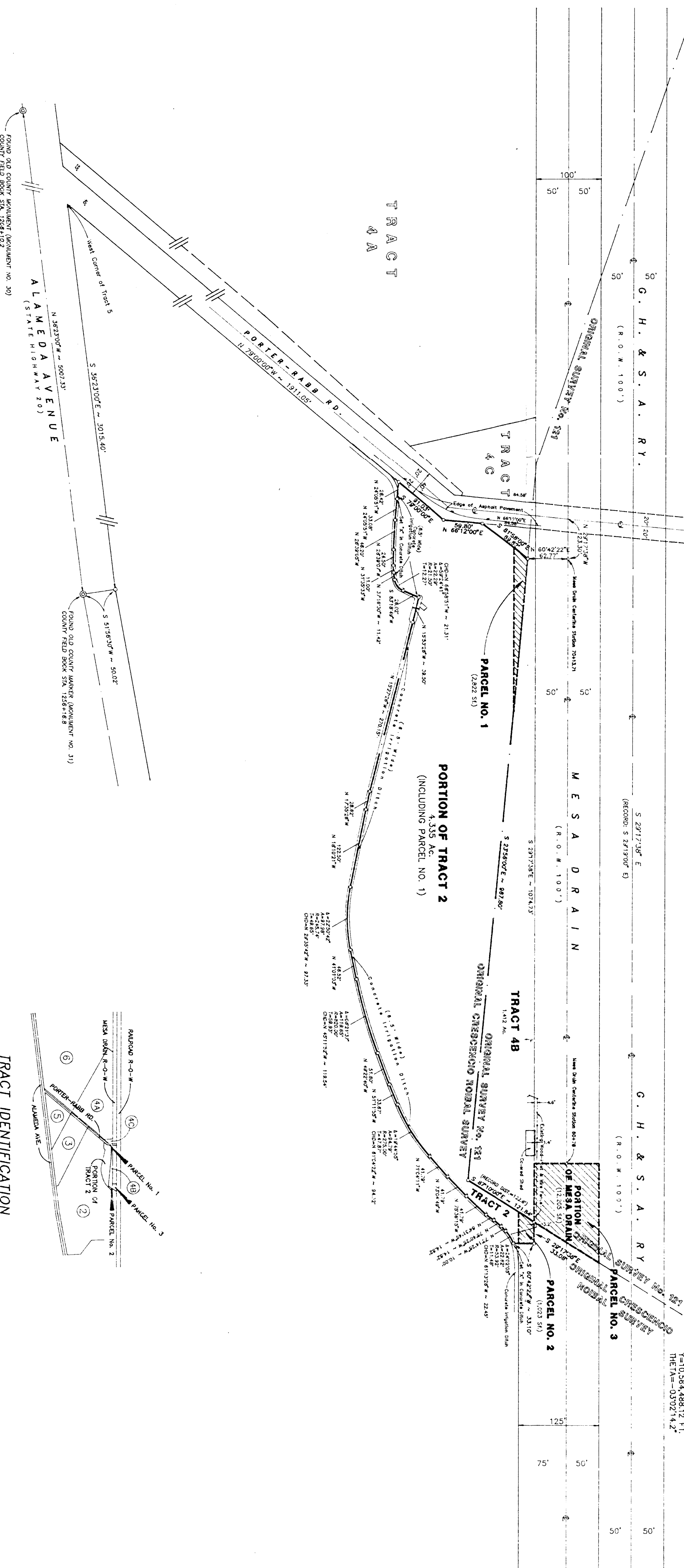


G. H. & S. A. RY.  
(R.O.W. 100')



**DETAIL**  
(SCALE: 1"=50')

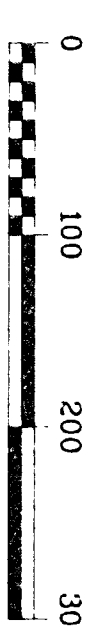
TO SAN ELIZARIO AZ. MARK 2 (1980)  
X=459,939.43 FT.



# PLAT OF SURVEY

A PORTION OF TRACT 2  
BLOCK 2, SAN ELIZARIO GRANT  
showing  
PORTIONS OF E.P.C.W.I.D. NO. 1 PROPERTY  
AND UNTILLED PORTION OF MESA DRAIN  
EL PASO COUNTY, TEXAS

- [illegible]



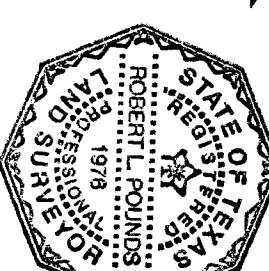
SCALE: 1"=100'  
FEBRUARY 12, 1997  
(Revised: JULY 3, 1997)


I hereby certify to El Paso County Master Improvement District No. 1 that this plat complies with its accompanying descriptions and report meet all of the current El Paso water improvement District No. 1 Survey Requirements. The plat is approved for recording.

*Engelbert C. Ruppel*  
Engelbert C. Ruppel  
Standard Operating Procedures

Robert L. Ruppel, RLS  
Texas No. 1976  
Surveying  
2204 N. Third Avenue  
El Paso, Texas 79912  
(915) 584-3455

STATE OF TEXAS  
COUNTY OF EL PASO  
I, ROBERT L. RUPPEL, County Clerk, do hereby certify that the foregoing is a true and correct copy of the plat as the same appears of record in my office.  
ROBERT L. RUPPEL  
COUNTY CLERK  
JAN 19 1978



  
*Pounds Surveying, Inc.*  
Licensed State Land Surveyor  
Registered Professional Land Surveyor  
2140 THUNDERBOLT DR. SUITE B  
DALLAS, TEXAS 75012  
PHONE (915) 984-9455  
FAX (915) 984-9457

FILE NO. P-2756A