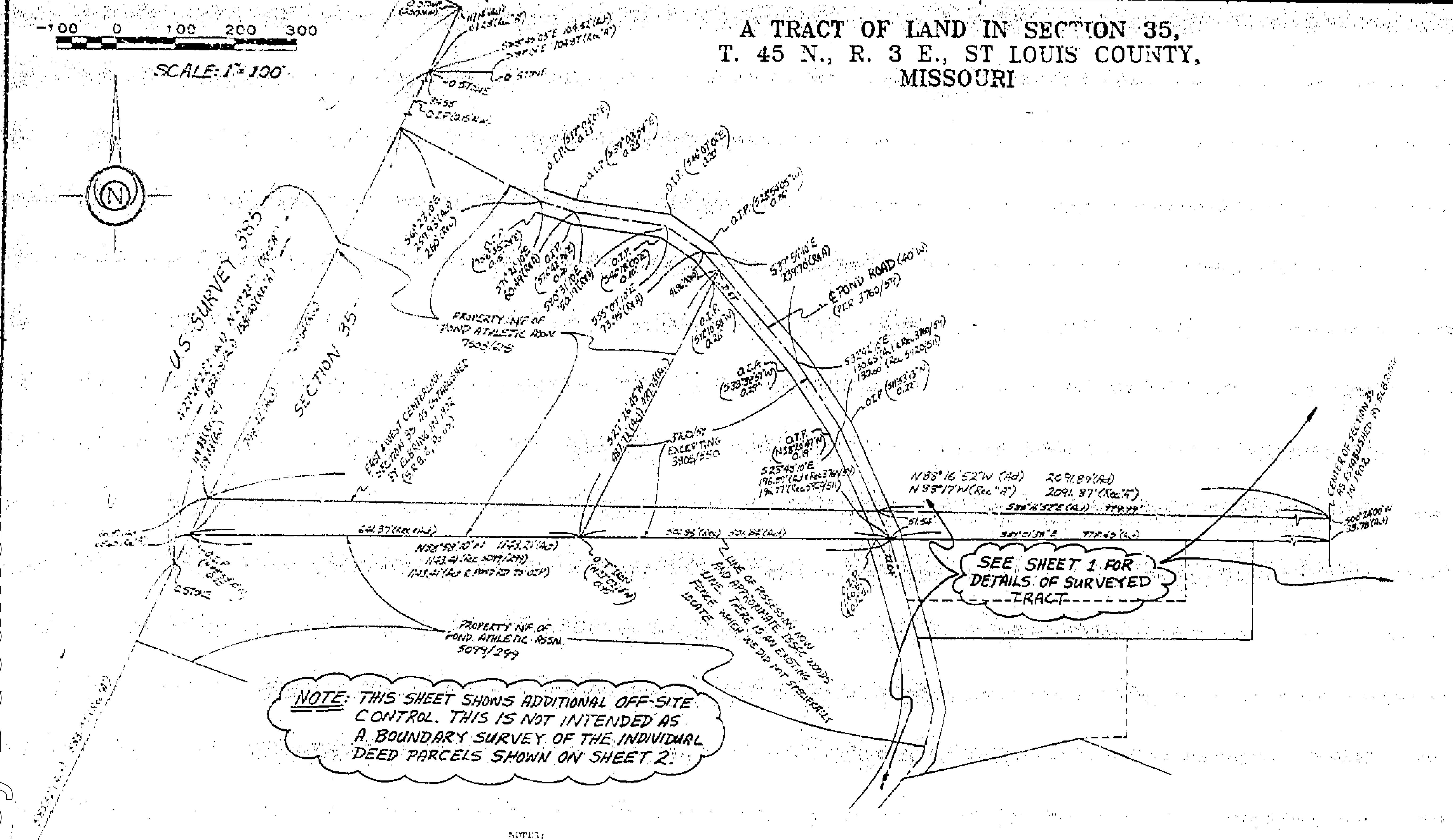
A TRACT OF LAND IN SECTION 35, T. 45 N., R. 3 E., ST LOUIS COUNTY, MISSOURI



PRINT SPEED
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RECORD SOURCE LEGEND

"A" = 1902 Elbring Survey (S.R.B. 6, PG. 65)
"B" = 1869 Pitzman Survey (Case 12440, Room 3, 1869 Court Term)
"C" = 1939 Kropp & Steele Survey
"D" = Original Government Land Office Notes and Plats

[illegible] NUMBER 92-06-850

THE STERLING ENGINEERING AND SURVEYING COMPANY, INC.
3460 HOLLENBERG DRIVE, BRIDGETON, MISSOURI 63044

This is to certify that we have at various times between June 21, 1991 and November 10, 1992, by order of Land Title Insurance Company, made a boundary survey of the Thompson tract per Deed Book 8439 Page 374 in the Southwest Fractional Quarter of Section 35, Township 45 North, Range 3 East, St. Louis County, Missouri, and that the results of said survey are shown hereon. Due to significant historical conflicts rooted in the chain of title and various conflicting surveys (see the notes on Sheet 2 of 2), the location of the Thompson tract on the ground has been subject to significant dispute. This survey has been made in what we believe to be a prudent and competent manner based on what we believe to be the best evidence available to us. We do not, and can not, warranty the actual correctness of this survey. This survey has been made in accordance with the Missouri Minimum Standards for Property Boundary Surveys (10 CSR 30-2.010, effective June 25, 1987).

Sterling R. Kennedy - President
MO. Reg. L.S. - 194

NOTES:

1. The Thompson tract as shown surveyed hereon contains 2.061 Acres more or less to the centerline of Pond Road, or 1.984 Acres more or less excluding Pond Road.
2. Bearing reference for this survey has been adopted along the North and South centerline of Section 35 to be N 00°24'00" E per S.R.B. 6 Pg. 65.
3. The ultimate source of record title for the Thompson tract is a deed to Jill M. Duever (now Thompson) per 8439/374. The actual location on the ground of the record description contained in said deed has been subject to dispute due to various causes rooted in the history of the area and specifically in the chain of title and in various conflicting surveys. This survey has been made in what we believe to be a prudent and competent manner based on what we believe to be the best evidence available to us. We do not, and can not, guaranty the actual correctness of this survey. The several notes which follow may serve to clarify the evidence, and the principals which we employed in retracing this boundary.
4. According to the original Government Land Office plats and notes, the U.S. Government surveys of U.S. Survey 385 and Section 35 were completed by 1818. In a regular section, the four corners and also the four quarter corners would have been set. In this case however, the West quarter corner of Section 35 does not exist because the East end of U.S. Survey 385 projects into Section 35. The North and South centerline of Section 35 is properly a straight line connecting the North and South quarter corners of Section 35. The East and West centerline is less clear due to the absence of a West quarter corner. This appears to have resulted in early confusion as to the location of the center of Section 35. At some point, a man named Isaac Woods surveyed the East and West centerline of Section 35. We have not been able to obtain a copy, nor determine the date of the Isaac Woods survey, but the Isaac Woods line is shown on a 1902 survey of the East and West centerline made by Elbring and recorded at S.R.B. 6, Pg. 65. That 1902 Elbring survey identifies several monuments attributed to Isaac Woods and states that the Isaac Woods line was the line of possession in 1902. One stone credited to Wool' by Elbring is also shown on an 1869 survey by Pitzman which accompanies Case 12440, Room 3 of the 1869 court term. It is thus probable that Isaac Woods had established his line prior to 1869. The 1869 Pitzman survey however places the same note on the Woods stone as the later 1902 Elbring survey, thus suggesting that the Woods line had been disputed in 1869. Both Pitzman in 1869 and Elbring in 1902 signed their surveys as County Surveyor. We believe therefore that the Elbring line is probably the most defensible as representing the officially accepted location of the East and West centerline of Section 35. By 1902, the Elbring line appears to have been accepted in the East half of Section 35, although traces of the old possession line as run by Woods do exist. In the West half of Section 35, possession remains along or in the vicinity of the old Isaac Woods line. Thus, there appears to be a significant difference between the probable location of written title lines and historical possession everywhere in the West half of Section 35.
5. We obtained significant assistance in retracing the chain of title from Land Title Company. Based on information which they provided to us, this appears to be the sequence in which title has been transferred. In January 1834, James Dozier obtained a U.S. patent to the Southwest Fractional Quarter of Section 35. In June 1851 he deeded the Southwest Quarter to Thomas Biddle by deed book N page 226 of the St. Louis City (formerly county) Records. In 1834 James Dozier obtained U.S. patents to the Southwest and Southeast Quarters of the Northwest Quarter of Section 35. It does not appear that the Southwest and Northwest Quarters of Section 35 have ever been in common and simultaneous ownership at any time since issuance of the original U.S. patents. Thus, the actual East and West centerline of Section 35 appears to be the limit of written title. In 1874, John Kessels acquired the Southwest Quarter of Section 35 from the heirs of Biddle by deed book 488 page 454 and deed book 488 page 344 of the St. Louis City (formerly county) Records. In 1890 Herman Kessels acquired that part of the Southwest Quarter of Section 35 which is East of Pond Road by deed book 45 page 471 of the St. Louis County Records. On December 6, 1928, Roy and Margie Kessels acquired 13 Acres exactly by deed book 976 page 199. On December 3, 1935 Roy and Margie Kessels sold a portion of their 13 Acres back to Herman and Minie Kessels by deed book 1072 page 95. The next two conveyances by Margie Kessels were to Donald and June Kessels by deed book 4812 page 42 on May 29, 1962 and deed book 7683 page 1369 on October 29, 1984. Subsequently Margie Kessels has deeded various parcels to Klenke by deed book 8020 page 540 on November 24, 1986; by deed book 8207 page 1276 on September 3, 1987; by deed book 8572 page 2032 on July 27, 1989; by deed book 8754 page 2190 on April 13, 1990; and by deed book 8857 page 447 on October 1, 1990. On January 4, 1989 Donald and June Kessels sold their property to Jill Duever (now Thompson) by the aforesaid deed book 8439 page 374.
6. The portion of the Northwest Quarter of Section 35 which adjoins the East and West centerline of Section 35 is shown as owned by Alphons Von Gruben on the aforesaid 1902 Elbring survey recorded in S.R.B. 6 page 65. That 1902 survey shows two areas for the Alphons Von Gruben parcel. One area to the presumed actual center section line, and a second area to the line of possession on the South which is also identified as the Woods line. The possession and Isaac Woods line is shown dashed by Elbring. On February 13, 1966 Richard and Betty Jo Jackman received a deed to part of the Northwest Fractional Quarter of Section 35 by deed book 5920 page 511. That deed is based on a 1960 survey by Clayton Surveying and calls for an old iron axle at the Southeast corner of the tract. The axle exists and is actually in the vicinity of the line of possession and Isaac Woods line, being 13.78 feet generally South of the center section as established by Elbring in 1902. Deed book 5920 page 511 thus has the appearance of written title extending approximately to the Isaac Woods line; but, in our opinion can not grant valid written title beyond the Elbring 1902 line which is most probably the actual centerline of section. The Jackmans inherit written title based on the 1834 U.S. patent to the Southeast Quarter of the Northwest Quarter of Section 35.
7. In 1960, Clayton Surveying may have assumed that the axle marked the actual center of Section 35. If they also had the East Quarter corner of Section 35, then they logically would have projected the assumed East and West centerline of Section 35 on a line from the East Quarter corner of Section 35 through the axle. We have not seen the 1960 Clayton survey, but we have found the possession and the existing survey monuments do fall in the vicinity of a line projected from the East Quarter corner of Section 35 through the old axle. This line also approximates the old Isaac Woods line in that area.
8. In 1939, Kropp and Steele surveyed the South line of the parcel then owned by Roy and Margie Kessels by 976/199 excepting therefrom 1072/95. That Kropp and Steele survey set the iron pipe marking the South Quarter corner of Section 35 and the concrete monument now in the vicinity of the Southeast corner of the Klenke tract. That 1939 Kropp and Steele survey surveyed the South line of the tract per 976/199 so as to contain 13 Acres exactly per deed to the Elbring 1902 line. The 1939 survey shows both the Elbring line and the line of possession and Isaac Woods line, but set no monuments on either line. It is our opinion that this 1939 Kropp and Steele survey properly showed the Northern limit of valid written title based on 976/199 to be the 1902 Elbring line.
9. In September 1990, the Klenke property was surveyed by South County Surveying, Inc. That 1990 survey varies substantially from our survey as to the locations of certain title lines, but concurs with respect to considering the Elbring 1902 line to be more correct than the Woods line for the centerline of Section 35. The South County 1990 survey shows an old iron pipe in the Woods line. That pipe is now gone, but we believe it to have been the pipe which was called for as a common corner in deeds 7683/1369, 8020/540, and 8207/1276.
10. The deeds to Donald and June Kessels per 4812/42 and 7683/1369 are senior in title to any of the Klenke deeds. The old iron pipe shown on South County's 1990 survey as well as the old axle in the vicinity of Klenke's Northeast corner and the old concrete monument near Klenke's Southeast corner are called for in the various deeds to Donald and June Kessels and to the Klenkes. Furthermore, in deeds 8572/2032 and 8754/2190 from Margie Kessels to the Klenkes, the old axle is specifically described as the center of Section 35. In view of the historical basis of confusion regarding the true East and West centerline of Section 35; and in view of the fact that Clayton appears to have surveyed the centerline of Section 35 based on the old axle in 1960; and in view of the specific written statements in the deeds granted by Margie Kessels that the old axle was the center of Section 35; we would conclude that where any of the deeds from Margie Kessels make reference to a point in the East and West centerline of Section 35 that point was intended to be a point on the old Isaac Woods and possession line. This is supported by the specifically called for monuments and is supported in a general sense by the existing possession. Our opinion is that Margie Kessels held valid written title up to the Elbring 1902 line, but actually sold to Donald and June Kessels a tract per 4812/42 and 7683/1369 which is bounded by the North by a line generally in the vicinity of the old Isaac Woods and possession line. This conclusion is further supported by the existence of various found but not called for survey monuments which are generally conformable to a location of the record title based on our conclusions.
11. The strip of land between the Elbring 1902 and Isaac Woods lines is subject to significant dispute as to who may be able to exercise title rights. We believe that Margie Kessels obtained written title by 976/199. The deeds to Klenke are not clear in this regard, but under certain interpretations may have conveyed written title from Margie Kessels to Klenke. As previously discussed in note 6, the Jackmans have the appearance of written title per 5920/511. The Jackmans probably do not have a valid chain of title supporting their written title to the disputed strip. The Jackmans do however appear to be in possession of the strip based on the existing fences, and may benefit from a trail of historical evidence supporting a long-term line of possession in the vicinity of the Isaac Woods line. We are not inclined to reach any conclusion as to who holds title to that strip.
12. We obtained significant title research assistance from Land Title Company, but were not provided with a title binder. We have not examined, nor have we shown any easements of record.
13. There are existing improvements on the Thompson and Klenke tracts which we have not located or shown hereon. Nevertheless, except as shown hereon, there are no substantial permanent improvements crossing the lines of the Thompson tract as shown surveyed hereon.
14. This is a boundary survey of the Thompson tract. This is not intended as a survey of any other specific parcels except to the extent that they adjoin the Thompson tract. We have not fully examined, nor measured the locations of any possession which may exist along other lines. Where we have noted the general location of possession as being along one line rather than another, this is based on general observation during the course of our survey; rather than on specific detailed measurements.

1/7/93

NO.	ISSUE	SHEET
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PROJECT: A TRACT OF LAND IN SECTION 35, T.45N. R.3E. ST. LOUIS COUNTY, MISSOURI (THOMPSON TRACT PER 8439/374)

SHEET TITLE: BOUNDARY SURVEY

DRAWN: DRC
DESIGNED:
CHECKED: DRC

PREPARED BY: the STERLING CO. ENGINEERS, SURVEYORS AND PLANNERS
3460 HOLLENBERG DRIVE, BRIDGETON, MISSOURI 63044
(314)-739-0440

M.S.D. P-

PREPARED FOR: LAND TITLE INSURANCE CO. 1699 S. HANLEY, SUITE 201 BRENTWOOD, MO 63144 (314) 645-2500

SIGNED
STERLING R. KENNEDY E-943 LS-94

ISSUE	REMARKS/DATE	ISSUE	REMARKS/DATE

Clay County, Missouri Land Survey Document
http://www.ClayCoGov.com