

THIS AGREEMENT entered into this 2nd day of December, 1980, by and between Tyler B. Gaines, Trustee, hereinafter referred to as "owner", and the State of Nebraska, Department of Roads, hereinafter referred to as "State".

WITNESSETH:

WHEREAS, in 1966, the State constructed projects I-680-9(77) and F-112(16), for the purpose of constructing the Interstate highway and the present Military Avenue, and

WHEREAS, the owner desires to assist the State in the construction of said project signed and executed a Right of Entry, wherein the State could proceed with construction and negotiate the value of the property and damages, if any, at a later time, and,

WHEREAS, due to the nature and circumstances of the parties, and their attempts at working access out for the owner's tract, a delay in final negotiations has occurred until this time, and

WHEREAS, now the owner and the State are agreeable to the terms and conditions for the full and complete settlement of any claims of the owner against the State for the taking of property for the construction of the I-680 project and the F-112 project.

NOW THEREFORE, the parties agree as follows:

THE STATE AGREES:

1. That for the receipt of a warranty deed executed by the owner giving free and clear title to said property without any encumbrances, the State shall pay the sum of \$2,500 per acre for the 11.99 acres which are occupied by the State's highway right-of-way and construction on both the I-680-9(77) and F-112(16) projects. Such area and acreage is shown on the attached plat and marked Exhibit A and incorporated into this agreement by this reference.

2. That the State pay the sum of \$2,500 per acre for an additional 5.99 acres which lies to the west of the Interstate highway which was land severed by the original construction of the interstate highway. A warranty deed shall be given to the

State by the owner upon settlement and payment of said amount. The warranty deed shall give full and free title to said property without any encumbrances or liens against said title. A copy of the plat showing said 5.99 acres and a description are attached to this agreement and are marked Exhibit B-1 and B-2 respectively, and incorporated herein by this reference.

3. That the owner grants and conveys complete and total control of access to that property remaining owned by the owner, said control of access to prohibit any ingress and egress to the interstate highway or to Military Avenue except by way of a frontage road as agreed by the parties and described further in this agreement. The State shall pay to the owner the sum of \$1.00 for said control of access to the owner's property from tract 8 and tract 16, which are a part of both projects as described in this agreement. Said control of access is enumerated on said plat as attached hereto, marked Exhibit A, as referenced above.

4. That the State shall pay to the owner the sum of \$25.00 for all advertising control over and above the property as said advertising control is set forth under section 39-1320.03, et seq. R.R.S. 1943, and the regulations passed by the State in accordance with the advertising control laws.

5. That the State shall grant to the owner right of access across a frontage road to be constructed by the owner, said frontage road meeting all the requirements of proper construction as set forth by the State. The owner shall present to the State, prior to any construction or approval of any permit for construction, prepared plans for such frontage road, for its inspection and approval. Upon the approval of said plans, the State shall cause the control of access line to be moved to a new location between Military Avenue and the proposed frontage road. Said control of access line shall grant access to an existing driveway in which the frontage road shall be connected. A copy of the proposed frontage road and its area and approximate location and the proposed control of access line are submitted on Exhibit C attached hereto.

6. That the State will not be responsible for the construction costs, maintenance, clearing of snow, or removal of debris from said frontage road. The owner will not be allowed to park on the frontage road or utilize the frontage road in any manner except for travel. The frontage road, being constructed on State property, will always remain the property of the State, but shall be allowed to be occupied by said owner or any of the public as long as the area is not needed for State highway purposes.

7. Where such property is needed for widening for State highway purposes, said use for access or any purpose shall terminate upon a sixty day written notice by the State to the owner of such termination. Where such termination exists, the State and owner shall renegotiate access to owner's tract. Such renegotiation, however, shall not in any way delay or restrict any project pending by the State at that time since the property will immediately be in the possession of the State for such construction purposes.

THE OWNER AGREES:

1. To convey to the State by warranty deed the 11.99 acres of right-of-way now occupied by the State for right-of-way and highway purposes under project I-680-9(77) and F-112(16). Said warranty deed will convey marketable title to the State free of any encumbrances, liens, or other assessments. The owner agrees that the sum of \$2,500 per acres shall be received by the owner as full and complete satisfaction for the transfer of said 11.99 acres of right-of-way. Thus, the owner agrees to accept the total amount of \$29,975.00 as payment of the right-of-way of 11.99 acres and full compensation for any and all damages arising out of the taking of that right-of-way.

2. That the owner will convey to the State a warranty deed granting full marketable title to the State free of encumbrances for 5.99 acres which the State shall pay \$2,500 per acre to the owner. Said 5.99 acres lies immediately to the west of the interstate highway and is excess property which the owner had severed by the construction of the interstate highway.

3. That a copy of the plat and description of the right-of-way sold to the State representing the 5.99 acres is marked Exhibit B-1 and B-2 and attached hereto.

4. That no ingress and egress shall be provided to the property of the owner from the interstate highway or to Military Avenue except by way of a frontage road as further described in this agreement. The sum of \$1.00 is hereby accepted as full and complete compensation for any and all control of access imposed by the State on this property.

5. The owner grants a permanent easement for control of advertising across the tract of the owner. This easement is with the understanding that the owner may advertise his own business on this tract as set forth by the laws of the State of Nebraska under section 39-1320.03 et seq. R.R.S. 1943, and in accordance with the Rules and Regulations of the State regarding advertising control. The owner accepts the sum of \$25.00 as full and complete payment for all advertising easements granted herein.

6. That a permit shall be issued to the owner by the State for the construction of a frontage road from the owner's property to an existing drive onto Military Avenue. Such frontage road shall be partially constructed on the right-of-way of the State and shall be used for the sole purposes of ingress and egress. The State shall cause the control of access line to be moved between the frontage road and Military Avenue permitting the access to any point of the frontage road from the owner's property. The owner shall prepare all plans and submit them to the State for the approval of the State. Such presentation of plans and approval is necessary prior to any permits being granted by the State for construction. Any construction by the owner shall be with the full approval of the State and in accordance with all proper specifications for construction of frontage roads and those which will also protect drainage as well as adjacent properties. No parking shall exist upon such frontage road or advertising and that all maintenance, construction, snow removal and care and upkeep of such frontage road shall be of the sole expense of the owner and that the State at no time shall place any money into the frontage road.

7. That if this property is ever needed for future State highway purposes, the owner shall relinquish any rights that it has in this property for ingress and egress with the understanding that future access to the owner's tract shall be negotiated by the State and the owner. Such negotiation, however, shall not hold up or delay any of the construction or right of entry by the State to reclaim the property where the property is needed for immediate highway construction.

THE PARTIES UNDERSTAND:

1. That with regard to the granting of the frontage road by the State, the owner has the option of attempting to secure access across property which is immediately adjacent to the present driveway exiting onto Military Avenue. Where such property is acquired for right-of-way purposes, the frontage road then would become unnecessary and any construction by the owner would be null and void and any movement of the control of access by the State between the frontage road and the highway would be null and void.

2. That where the frontage road and its access to the owner's tract is constructed or if other access is gained from the driveway to owner's property and owner places a street system through his tract, such street system shall be constructed at least to a minimum width of 60 feet. The owner understands that the State would prefer that the owner construct the frontage road no less than 80 feet, however, the minimum of 60 feet is acceptable. Any construction of interior roads shall be at the sole cost and paid for by the owner. The State at no time will be required to place any money into the construction of this interior road system on the owner's tract.

3. That the State, by this agreement, is bound to grant a permit for the construction of said frontage road only upon the proper presentation of plans and acceptance of those plans by the State. Until such plans are presented and accepted, no requirement of the State is made to allow such construction.

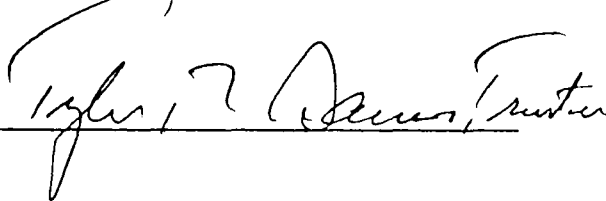
4. That the State, at any time, may notice the owner regarding the maintenance and up-keep of said road. Where such

maintenance becomes improper, and the owner has received notice, the State may, after due and sufficient notice of thirty days notice in writing of such deficiencies, cancel such right of use of frontage road and cause the same to be removed as an access. Where such failure to maintain takes place, and proper notice is given by the State, and weather conditions permit correction by the owner, the State shall have the right to cancel the owner's use of the property, remove it as an access point, without any damages or costs insuring to the State.

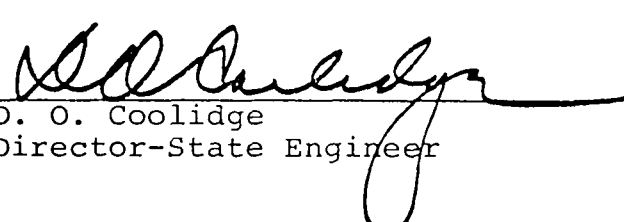
IN WITNESS WHEREOF the parties hereunto have set their hand this 11 day of November, 1980.

TYLER B. GAINES, Trustee

STATE OF NEBRASKA
DEPARTMENT OF ROADS




Tyler B. Gaines, Trustee



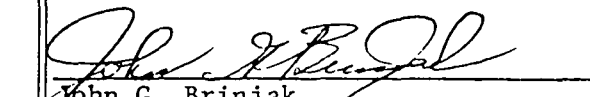
D. O. Coolidge
Director-State Engineer

Approved:

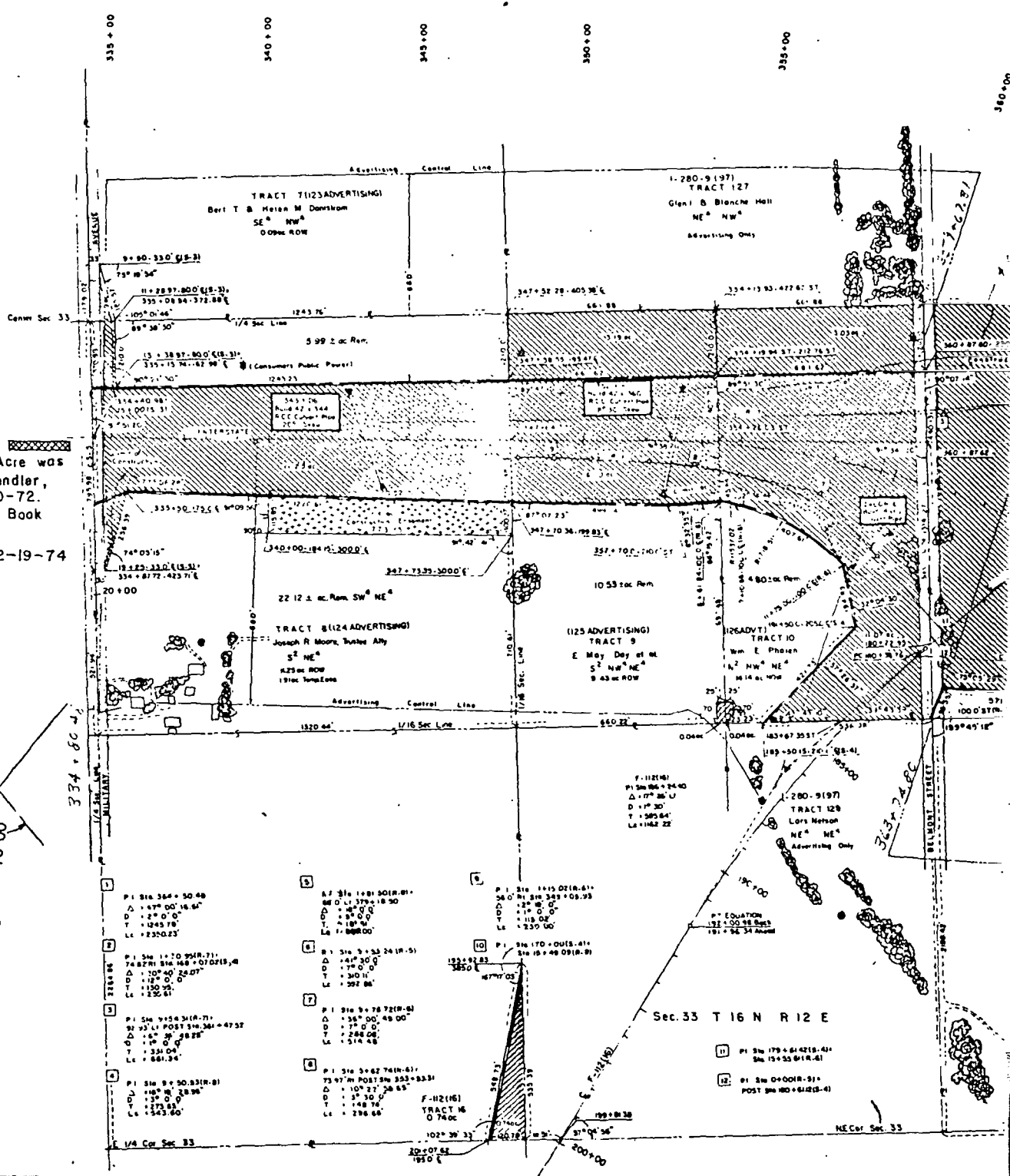


C. F. Nutter
Deputy State Engineer
Engineering Services

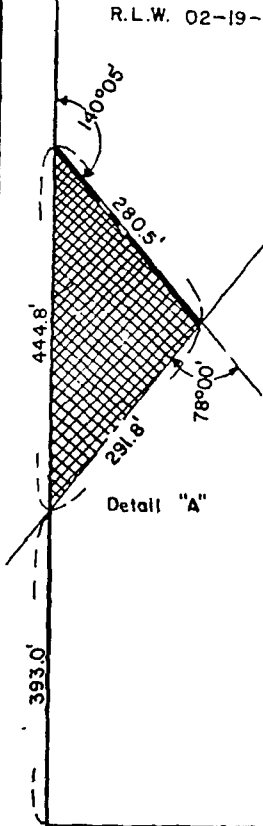
RECOMMENDED:



John G. Brinjak
Right of Way Manager



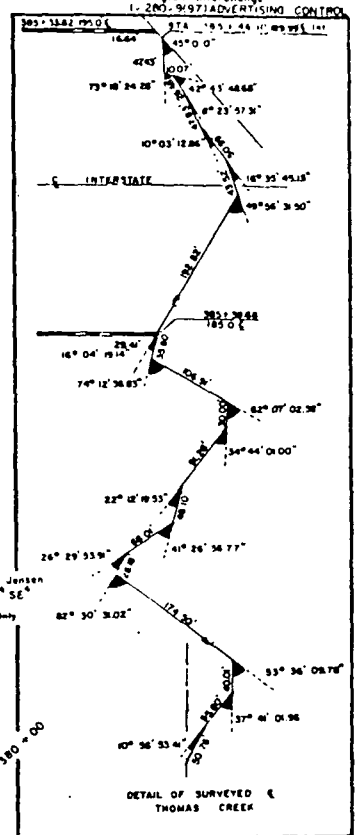
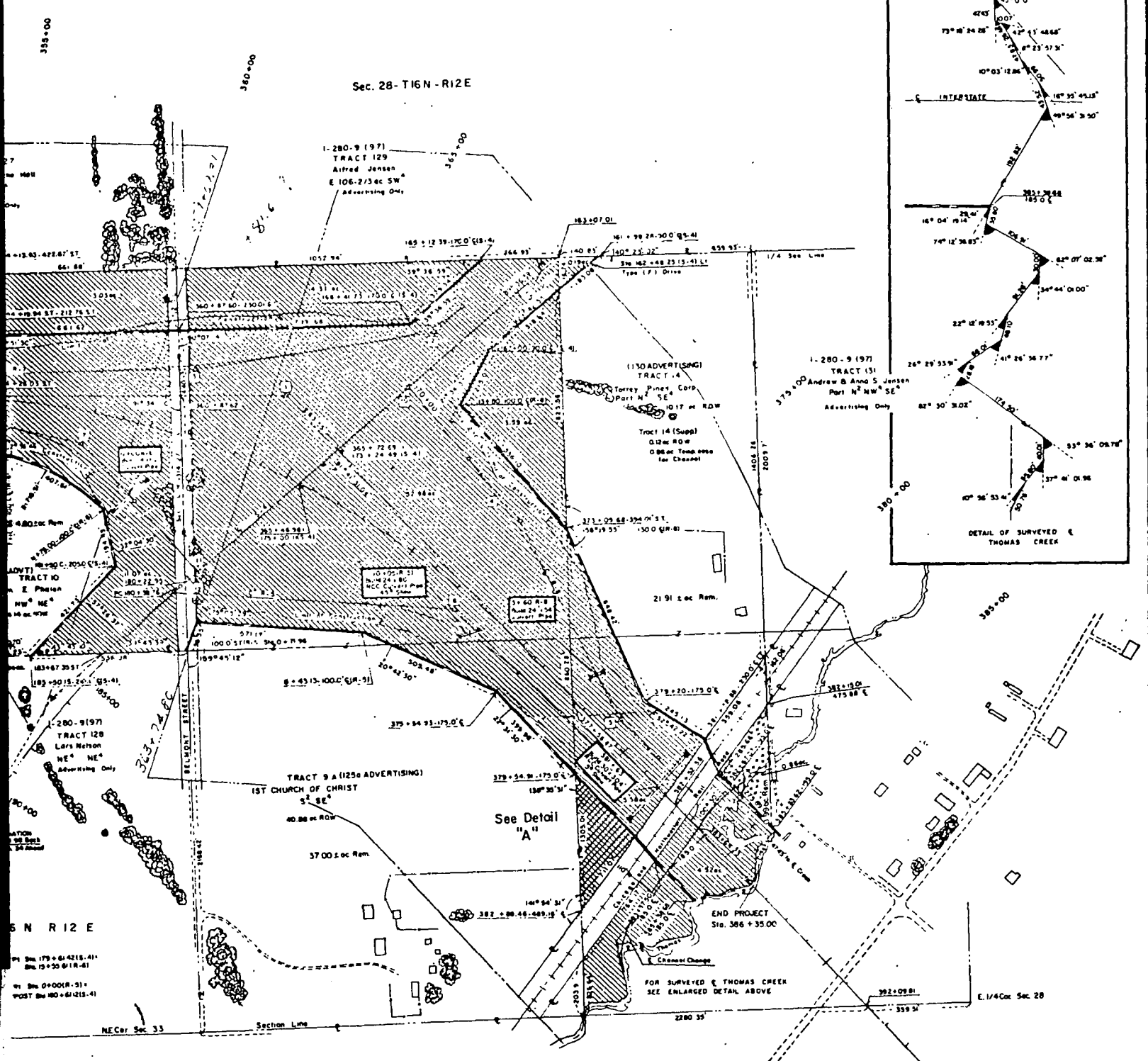
Land Shown Thus [hatched symbol]
 Containing 0.92 Acre was
 Sold to H. Lee Gendler,
 Trustee on 4-20-72.
 Recorded in Deed Book
 1455 Page 9.
 R.L.W. 02-19-74



- 1 P: 316 364+50.48
 Δ = 17° 00' 16.64"
 D = 2° 0' 0"
 T = 1245.70
 L = 2350.63
- 2 P: 316 1+70 951R-71
 74.87R1 S16 148+070219.4
 Δ = 10° 40' 28.07"
 D = 1° 0' 0"
 T = 150.95
 L = 152.61
- 3 P: 316 1+70 951R-71
 74.87R1 S16 148+070219.4
 Δ = 10° 40' 28.07"
 D = 1° 0' 0"
 T = 150.95
 L = 152.61
- 4 P: 316 3+55 241R-51
 Δ = 4° 30' 0"
 D = 3° 0' 0"
 T = 340.11
 L = 392.86
- 5 P: 316 3+55 241R-51
 Δ = 4° 30' 0"
 D = 3° 0' 0"
 T = 340.11
 L = 392.86
- 6 P: 316 3+55 241R-51
 Δ = 4° 30' 0"
 D = 3° 0' 0"
 T = 340.11
 L = 392.86
- 7 P: 316 3+55 241R-51
 Δ = 4° 30' 0"
 D = 3° 0' 0"
 T = 340.11
 L = 392.86
- 8 P: 316 3+55 241R-51
 Δ = 4° 30' 0"
 D = 3° 0' 0"
 T = 340.11
 L = 392.86
- 9 P: 316 3+55 241R-51
 Δ = 4° 30' 0"
 D = 3° 0' 0"
 T = 340.11
 L = 392.86
- 10 P: 316 1+70 951R-71
 S16 148+070219.4
 Δ = 10° 40' 28.07"
 D = 1° 0' 0"
 T = 150.95
 L = 152.61
- 11 P: 316 179+61 421R-41
 S16 15+55 614R-41
- 12 P: 316 0+001R-91
 POST S16 180+61 421R-41

EXHIBIT A


Sec. 28- T16N- R12E



Sec. 27 T16N R12E

A tract of land located in the Southwest Quarter of the Northeast Quarter of Section 33, Township 16 North, Range 12 East of the sixth principal meridian, Douglas County, Nebraska, described as follows:

Referring to the Southwest corner of said Quarter Quarter Section; thence northerly a distance of 80.00 feet along the west line of said Quarter Quarter Section to the point of beginning; Thence northerly deflecting 000 degrees, 00 minutes a distance of 1243.76 feet along the west line of said Quarter Quarter Section to the Northwest corner of said Quarter Quarter Section; Thence easterly deflecting 089 degrees, 47 minutes right, a distance of 210.00 feet along the north line of said Quarter Quarter Section; Thence southerly deflecting 090 degrees, 13 minutes right, a distance of 1243.23 feet; Thence westerly deflecting 089 degrees, 39 minutes right, a distance of 210.01 feet to the point of beginning containing 5.99 acres, more or less.

Land Shown Thus  Containing 0.92 Acre was Sold to H. Lee Gendler, Trustee on 4-20-72. Recorded in Deed Book 1455 Page 9. R.L.W. 02-19-74

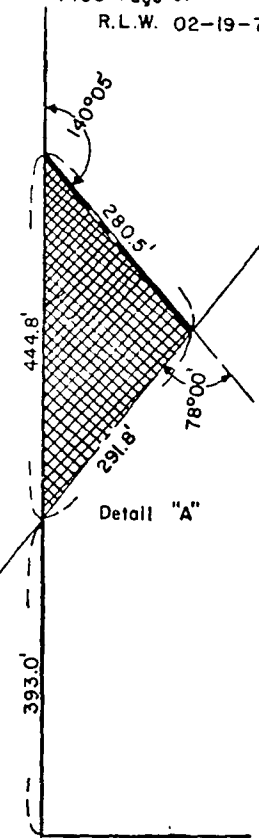
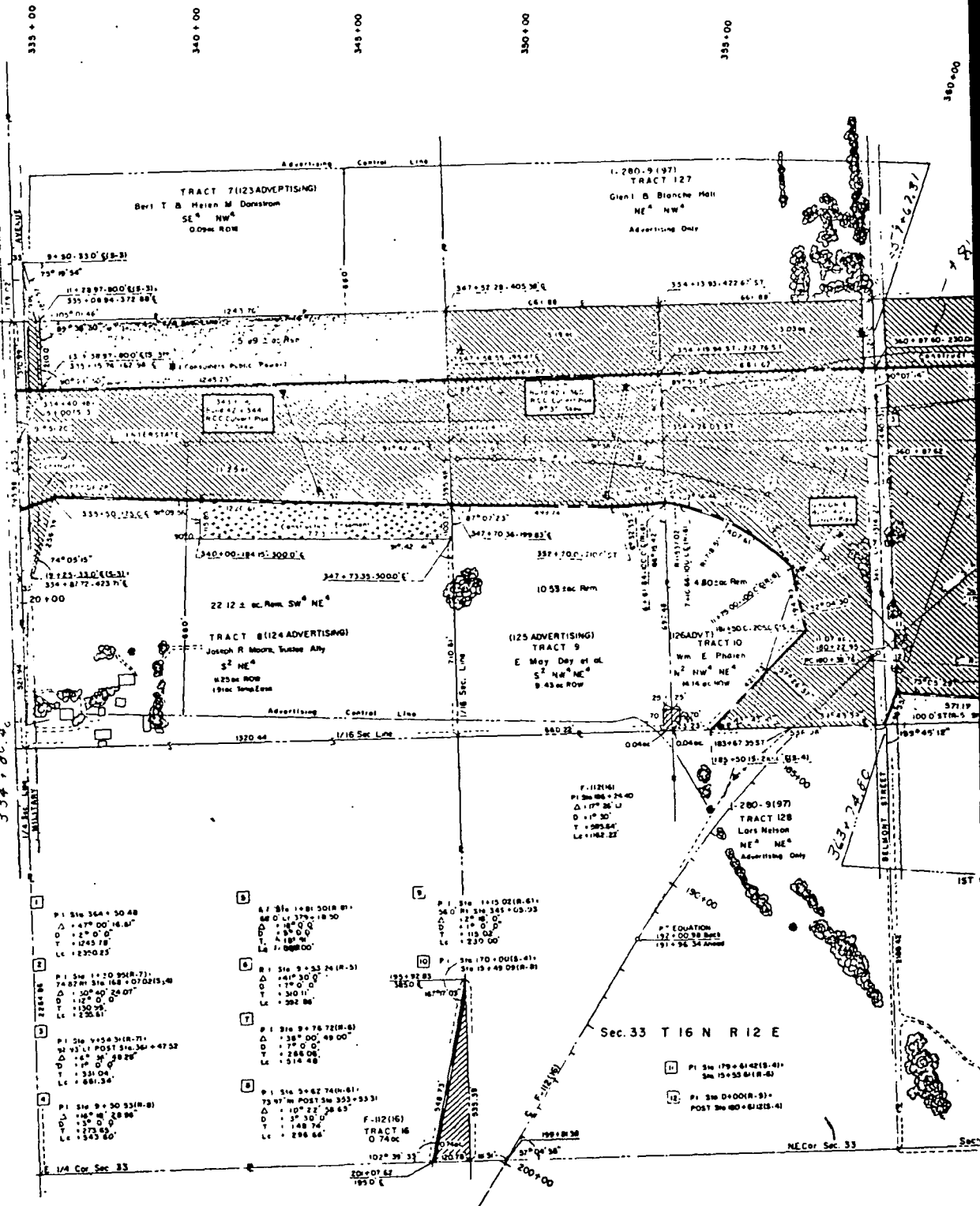
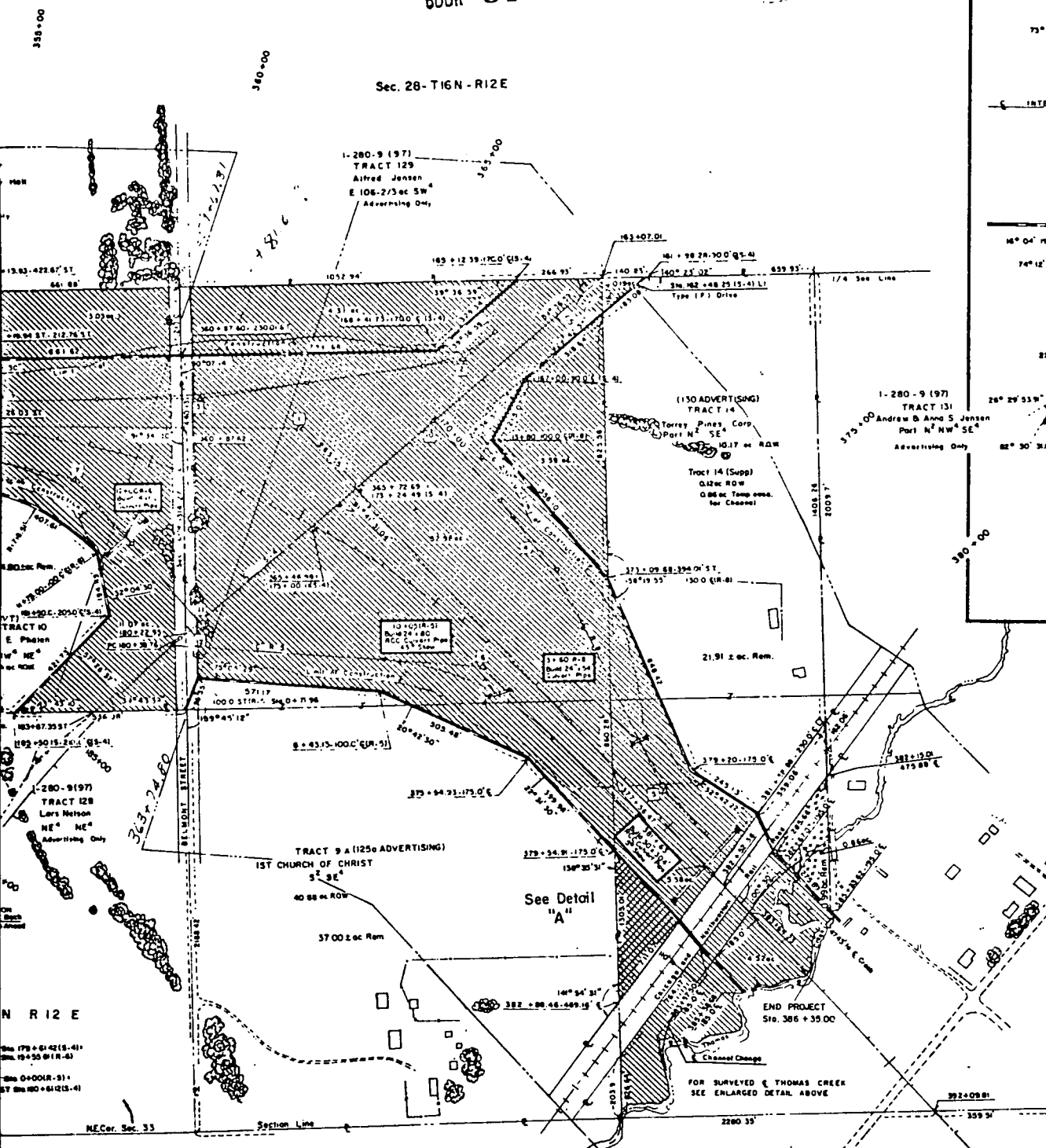
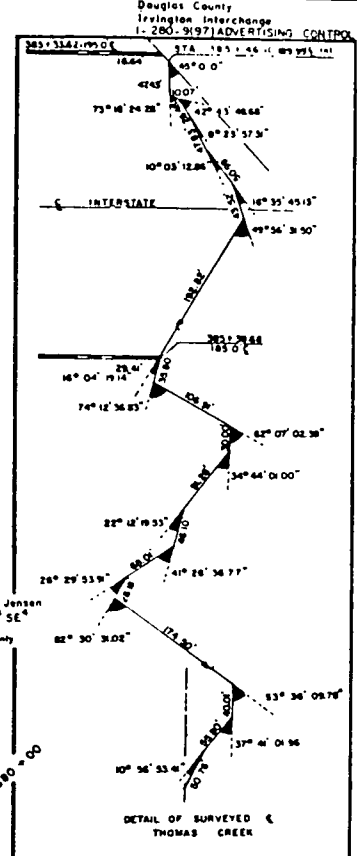


EXHIBIT B1



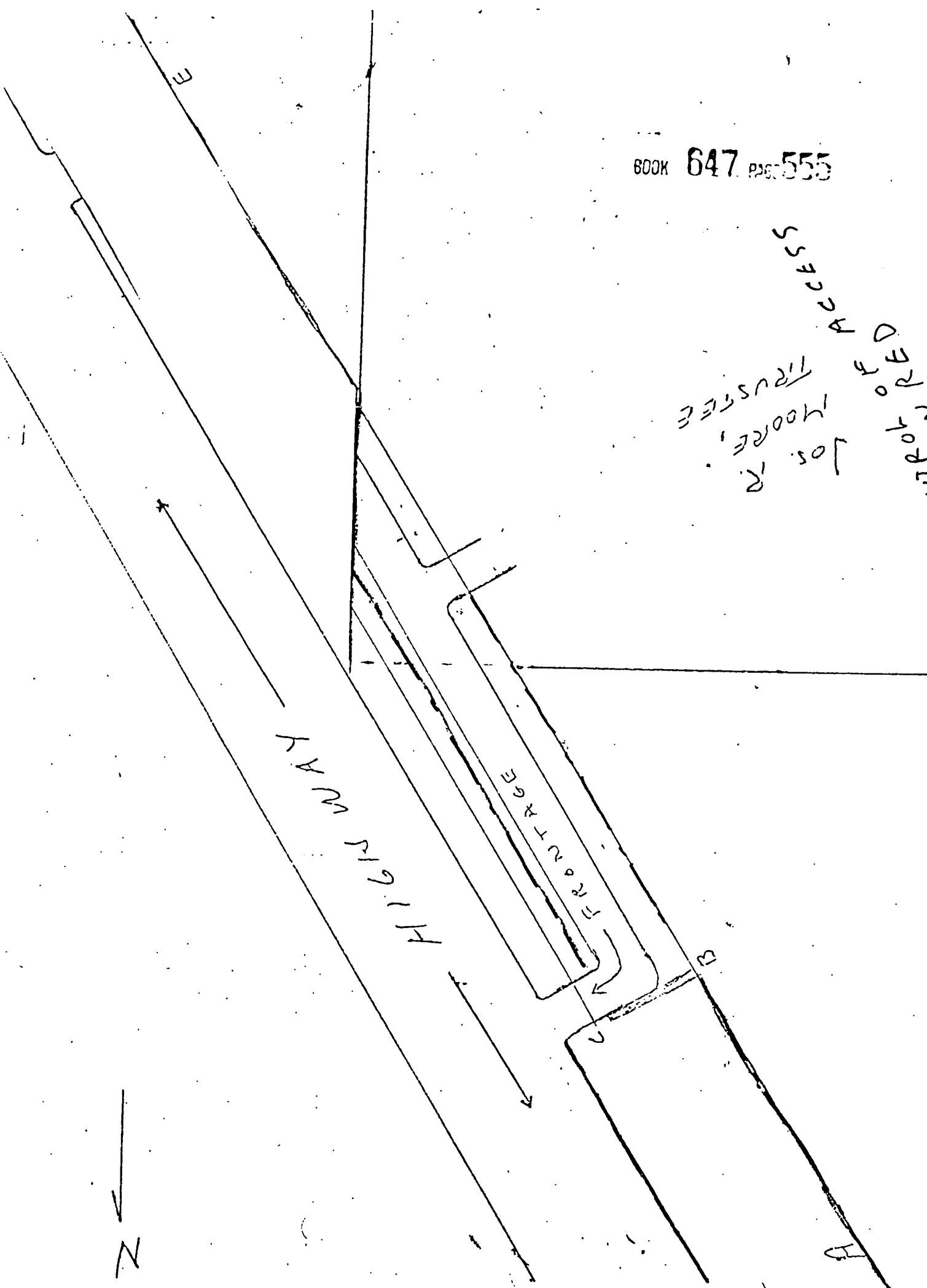
BOOK 647 PAGE 554

Sec. 28-T16N-R12E



Sec. 27 T16N R 12 E

Los R
Moore,
Trustee
ACCESS
CONTINUED



26

RECEIVED
1981 MAR -5 AM 10:30

C. MARK D. JONES
REGISTER OF DEEDS
DOUGLAS COUNTY, NEBR.

Book 647
Page 544
of Moore

Vol. 36.25
Index ✓
Comped ✓

33-66-62
33-66-12