

780 GISH, CEAS. L. AND EVERTS, J. W.

Purchase of Improvements
Consideration - Construction of necessary drain inlets
and irrigation structures

056
EAST DRAIN NO. 11

AUG 1914
Does not appear in any

780

evidence of
acquisition of this
land - Not noted
on maps or plat book

2/13/87
B

DEPARTMENT OF THE INTERIOR

2

3. This agreement shall become effective to bind the United States only upon its approval by the Comptroller or Director and Chief Engineer of the Reclamation Service, whose approval or disapproval will be signified within 12 months from the date hereof, and shall terminate by limitation at the expiration of 24 months from the date of said approval. *Provided*, That the time may be extended at the option of the United States for a period equal to any delay caused by perfecting title in the vendor.

4. No Member of or Delegate to Congress, or Resident Commissioner, after his election or appointment or either before or after he has qualified and during his continuance in office, and no officer, agent, or employee of the Government, shall be admitted to any share or part of this contract or agreement, or to any benefit to arise thereupon. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such incorporation or company, as provided in section 116 of the act of Congress approved March 4, 1909 (35 Stat. L., 1109).

5. The United States will build suitable inlet or inlets into the drainage canal to take care of surface drainage water and in addition will make such provisions as are necessary so that the present system of irrigation of the vendor can be continued.

IN WITNESS WHEREOF, the parties to this agreement have hereunto set their hands the day and year first above written.

Witnesses:

Eva M. Everts

C. L. Gish

Philamela B. Gish

of Virden, Ill.

J. W. Everts

Miriam B. Everts

Emma Vattille

of Virden, Ill

Vendor.

Vera De Witt

THE UNITED STATES OF AMERICA.

of El Paso, Texas

By W. A. Perkins

J. B. Hamilton

Acting Project Manager, U.S.R.S.

(Official title.)

of El Paso, Texas

Approved this _____ day of _____, 191

U. S. Reclamation Service.

DEPARTMENT OF THE INTERIOR

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J. W. Everts

Miriam B. Everts

Vendor.

Veranda Witt

of El Paso Texas

J. H. Hamman

of El Paso Texas

THE UNITED STATES OF AMERICA.

By W. A. Perkins

Acting Project Manager, U.S.R.S.

(Official title.)

Approved this _____ day of _____, 191

U. S. Reclamation Service.

Right of Way for Mesilla Valley East River Drain

A lot or parcel of land or real estate, situate, lying and being in the County of Dona Ana, State of New Mexico, to-wit:

A tract of land situated in the Southwest quarter of the Southwest quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section twenty-six (26), Township twenty-six (26) South, Range three (3) East, N.M.P.M., being a strip of land one hundred ten (110.0) feet in width and lying fifty-five (55.0) feet on each side of the center line of the Mesilla Valley East River Drain; said strip of land being more particularly described as follows: Beginning at the Southwest corner of the tract herein described, from which point the Southwest corner of said Section twenty-six (26) bears South 82° 28' West a distance of five hundred fifty-six and three-tenths (556.3) feet; running thence North 33° 10' West a distance of eight hundred forty-nine and five-tenths (849.5) feet; thence to the right on a curve of one thousand ten and four-tenths (1010.4) feet radius a distance of one hundred eight and two-tenths (108.2) feet, measured on 100 foot chords; thence North 0° 02' West along the boundary line between land of C. L. Gish and J. W. Everts and Frank Deal a distance of four hundred fifty-eight and four-tenths (458.4) feet; thence returning on a curve to the left of nine hundred and four-tenths (900.4) feet radius, the tangent to which at this point is the last described course, a distance of five hundred twenty and four-tenths (520.4) feet, measured on 100 foot chords; thence South 33° 10' East a distance of nine hundred twenty-one and three-tenths (921.3) feet; thence West on the center line of the road between land of C. L. Gish and J. W. Everts and C. E. Miller a distance of sixty-five and seven-tenths (65.7) feet to Station 162 plus 39 of the aforementioned center line of the Mesilla Valley East River Drain; thence on same course a distance of sixty-five and seven-tenths (65.7) feet to point of beginning, containing two and eighty-six hundredths (2.86) acres, more or less.

C. L. Gish

~~J. W. Everts~~

Philamela E. Gish ~~Miriam B. Everts~~ ~~Janet~~

~~W. A. Perkins~~
Acting Project Manager

STATE OF Illinois

COUNTY OF Macoupin

ss:

I, Herbert H. Cowen

, a Notary Public

in and for said county, in the State aforesaid, do hereby certify that C. L. Gish and his wife Philamela E. Gish, J. W. Everts and his wife, Miriam B. Everts,

who are personally known to me to be the persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered said instrument of writing as their free and voluntary act, for the uses and purposes therein set forth.

I further certify that I did examine the said Philamela E. Gish and Miriam B. Everts separate and apart from their husband, and explained to them the contents of the foregoing instrument, and upon that examination they declared that they did voluntarily sign, seal, and acknowledge the same without any coercion or compulsion, and does not wish to retract the same.

Given under my hand and official seal, this 15th day of August, 1916

(SEAL)

[SEAL.]

Herbert H. Cowen

Notary Public

My commission expires July 15, 1919

AFFIDAVIT OF DISINTERESTEDNESS.

(Sec. 3745, Rev. Stat.)

STATE OF _____

COUNTY OF _____

ss:

I do solemnly swear (or affirm) that the copy of contract hereunto annexed is an exact copy of a contract executed by me, personally, with _____ that I made the same fairly without any benefit or advantage to myself, or allowing any such benefit or advantage corruptly to the said _____ or to any other person or persons; and that the papers accompanying include all those relating to the said contract, as required by the statute in such case made and provided.

_____, Engineer, U. S. R. S.

Subscribed and sworn to before me at _____

[OFFICIAL SEAL.]

this _____ day of _____, A. D. 1916. My commission expires _____

NOTE.—It will be unnecessary to have this affidavit executed on more than one copy of the contract.

Albert Goodloe

N

Right of way through Property of
Frank Deal
4.27 Acres

PT 176+76.5
R=1010.2
Δ=33° 3'
D=6'
H=355.4
L=552.4
T=284.4

Right of way through Property of
C.L. Gish
and
J.W. Everts
2.86 Acres

27 26
34 35

T.26 S.
R.3 E.

C. E. Miller

Scale 1" = 400'

DEPARTMENT OF THE INTERIOR
U. S. RECLAMATION SERVICE
RIO GRANDE PROJECT N.M. TEX
MESILLA VALLEY DRAINAGE
EAST RIVER DRAIN
R.O.F.W.

FIELD WORK BY R.F.

DRAWN BY R.F.

EL PASO - JULY 1916

Sheet 11

JJB-D

October 2, 1916.

Acting Chief of Construction, Denver,

Director and Chief Engineer, Washington.

Contract of Aug. 15, 1916, with C. L. Gish et al. confirming to U. S. right of way reserved under act of August 30, 1890, for use in connection with drainage system, Rio Grande project.

1. The above described contract was approved by me as Acting Chief of Construction on September 29, 1916, and is transmitted herewith for acceptance and filing. This contract is similar to one of Sept. 9, 1916, with Duncan Campbell and wife, and another of Sept. 11, 1916, with Albert Goodlee and wife. In this connection please note letter of Sept. 30 transmitting the Goodlee contract, and letter dated October 2, which accompanies the Campbell contract.

R. F. Walter.

6 Enclosures:

- 1 original contract for Director; with orig. certificate by P. M. dated Sept. 13, 1916, orig. est. of cost dated Sept. 13, 1916, orig. report on land agr't and 1 print;
- 1 copy of contract for Returns Office,
- 3 copies of letter of transmittal.

Copy to P. M., El Paso, Texas,
D. C., " " "

CERTIFICATE

I hereby certify that the land described in attached agreement dated August 15, 1916, with C. L. Gish and J. W. Everts and Philamela E. Gish and Miriam B. Everts, their wives, is necessary for purposes authorized by the Reclamation Act, viz: for right of way for the Mesilla Valley East River Drain, Rio Grande Project, New Mexico-Texas. In my opinion the consideration agreed upon is reasonable and I recommend that the contract be approved.

J. A. Perkins
Acting Project Manager

El Paso, Texas, September 13, 1916.

El Paso, Texas, September 13, 1916.

The estimated cost of work covered by article 2 of attached contract with C. L. Gish and J. W. Everts and Philamela E. Gish and Miriam B. Everts, their wives, dated August 15, 1916, is \$150.00.

W. L. Perkins
Acting Project Manager

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

El Paso, Texas, September 13, 1916, 191

Chief of Construction
Project Manager to the Director (through ~~Supervising Engineer~~).

Subject: Forwarding contracts for approval.

The contract described below is forwarded herewith for approval:

Date August 15, 1916 Rio Grande project

Executed by W. A. Perkins, Acting Project Manager

With C. L. Gish and J. W. Everts, and Philamela E. Gish and
Miriam B. Everts, their wives,

Accompanied by bond and one copy. [Insert "Yes" or "No bond."] No bond

Purpose: Donation of right of way for Mesilla Valley East
River Drain

NOTE: No public notice issued for Rio Grande Project

Advise Project Manager at El Paso, Texas

with copy to Chief of Construction at Denver, Colorado

of the approval of the above, using extra copy or copies hereof.

Estimated amount involved, \$ Nominal Authority No. ---

Encls.

W. A. Perkins

Acting Project Manager

3 copies for Washington

1 copy " Denver

Report on Land Agreement

Certificate

Estimate of cost

Washington, D. C. 191

Approved by

Date of approval

Bond, if any (see above), approved by same officer on same date.

INSTRUCTIONS

1. This form is devised to render unnecessary the writing in the Washington office and in the field of various routine letters in reference to contracts.
2. The project or other office where the contract originates will transmit to the Director, through the office of the Supervising Engineer, one copy of this form in excess of the number of offices which are to be advised of approval. For example, in the usual case where the Project Manager and Supervising Engineer are to be advised of approval three copies should be sent to the Director's office.
3. The Supervising Engineer will make proper notation on his copy of the contract, showing the date when the contract is forwarded by him to the Director.
4. Any special matter or information relative to the contract too long to write on the form should be set out in a statement or certificate accompanying the other papers.
5. The Supervising Engineer may, if he desires, indicate that the contract meets with his approval by placing his initials above "'Supervising Engineer'", near the top of the form.

CERTIFICATE

I hereby certify that the land described in attached agreement dated August 15, 1916, with C. L. Gish and J. W. Everts and Philamela E. Gish and Miriam B. Everts, their wives, is necessary for purposes authorized by the Reclamation Act, viz: for right of way for the Mesilla Valley East River Drain, Rio Grande Project, New Mexico-Texas. In my opinion the consideration agreed upon is reasonable and I recommend that the contract be approved.

T. A. Perkins
Acting Project Manager

El Paso, Texas, September 13, 1916.

El Paso, Texas, September 13, 1916.

The estimated cost of work covered by article 2 of attached contract with C. L. Gish and J. B. Everts and Lilarsela E. Gish and Miriam B. Everts, their wives, dated August 15, 1916, is \$150.00.

W. B. Perkins
Acting Project Manager

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

15
El Paso, Texas, September 25, 1916

Project Manager to the Director (through ~~Supervising Engineer~~ Chief of Construction)

Subject: Forwarding contracts for approval.

The contract described below is forwarded herewith for approval:

Date August 16, 1916 Rio Grande project

Executed by W. A. Perkins, Acting Project Manager

With C. L. Gish and J. W. Everts, and Philamela E. Gish and Miriam B. Everts, their wives,

Accompanied by bond and one copy. [Insert "Yes" or "No bond."] No bond

Purpose: Donation of right of way for Mesilla Valley East River Drain

NOTE: No public notice issued for Rio Grande Project

Advise ☒ Project Manager at El Paso, Texas
with copy to Chief of Construction at Denver, Colorado

of the approval of the above, using extra copy or copies hereof.

Estimated amount involved, \$ Nominal Authority No. ---

Encls.

8 copies for Washington
1 copy " Denver
Report on Land Agreement
Certificate
Estimate of cost

W. A. Perkins
Acting Project Manager

Washington, D. C. OCT 12 1916 191

Approved by

Date of approval

Bond, if any (see above), approved by same officer on same date.

Accepted & filed

Acting Director

Approved Sept. 29, 1916, Chief of Construction.
by R. H. Walter, Acting

REPORT ON LAND AGREEMENT

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

INFORMATION relating to agreement made..... **August 15**, 191**6**, with
C. L. Gish and J. W. Everts and Philanola E. Gish and Miriam E. Everts,
their wives,
for the purchase of land required for... **Mezilla Valley East River Drain**
purposes, **Rio Grande** Project, **Dona Ana**
County, **New Mexico**

1. State description and approximate area of land to be conveyed:.... **2.96 acres.** ... **Per**
description, see agreement to convey

2. State nature, number, and date of entry by which it was acquired under public-land laws, also date of
final certificate and patent if such have been issued:

..... **Homestead Entry No. 2193, dated October 5, 1892, Patented**
..... **August 3, 1899, covers the SW-1/4 Sec. 26, T. 26 S., R. 3 E.,**
..... **N.M.P.M.**

3. State names of the owners, giving names in full, post office addresses, and county and State of residence.
Give names of wives and husbands; if unmarried, widow, or widower, so state.

..... **C. L. Gish and Philanola E. Gish, his wife, Virden, County**
..... **of Macoupin, Illinois**
..... **J. W. Everts and Miriam E. Everts, his wife, Virden, County**
..... **of Macoupin, Illinois**

4. State who is in possession of the premises to be conveyed, or of any part thereof, and if a tenant, give
his name and post office address. If the land is held under a lease, state the general terms of the lease, and
the date when the tenant is to give up possession.

..... **Owners are in possession. No lease.**

5. Also state whether land is subject to right of way by virtue of contract with water users association or
other agreement.

..... **Subject to right of way pursuant to Act of August 30, 1890**
..... **(Stat. L., 391)**

6. State how much of the land is under cultivation, and how much is not cultivated but is capable of being brought under cultivation, as well as the general character of such land and the character of crops produced upon the cultivated portion; also the condition and kind of improvements, if any.

.....None of the land is being cultivated this year, but all is.....
capable of cultivation.....

7. If any portion of the land is irrigated, state what water rights go with the land and how much of the cultivated and how much of the uncultivated land is capable of irrigation.

.....None of the land is being irrigated this year, but all is.....
capable of irrigation.....

8. State the selling price of similar land in the vicinity.

.....\$100.00 to \$125.00 per acre.....

9. State fully any other matters relative to the land or to the purchase that may be of interest to the Government, especially concerning possible injury or benefit to other portions of this tract.

.....The construction of the Mesilla Valley East River Drain will.....
be a benefit to the land.....

The above is a correct statement of the information procured.

Dated.....September 12,....., 191..6

Approved:

.....A. Perkins.....
Acting Project Manager ~~Engineer~~

.....J. C. Hatch.....
~~Engineer in Charge~~
Supt. of Construction

INSTRUCTIONS.

The proper method of procedure in making purchases of lands under the Reclamation Act, in pursuance of the various rulings made by the Department of the Interior and the Department of Justice, is substantially as stated below, though, in some cases, deviations may be necessary in certain details. These instructions do not relate to lands withdrawn under the provisions of paragraph 2 of office circular No. 127, of October 28, 1905, where public lands are appropriated for irrigation purposes; in such cases the agreements for purchases of improvements may be entered into on Form 7-523.

1. As soon as possible after it has been ascertained that the property will be required, the engineer in charge should forward to the Director of the Reclamation Service the following papers:

(a) Form 7-276 or 7-277, contract of sale, or memorandum of terms of proposed purchase, together with two copies of the same, one for the Returns Office and the other for the Director. When the land is donated, use Form 7-277.

(b) Affidavit of disinterestedness.

(c) This form (7-281), report on land agreement.

(d) Certificate that the land is necessary for the purposes authorized by the Reclamation Act and that the consideration agreed upon is reasonable, together with his recommendation that the agreement be approved. This certificate should also contain other valuable information relative to the transaction not given in Form 7-281.

(e) If the tract is described by metes and bounds, this report should be accompanied by a small sketch, with the boundary lines platted, showing all courses and distances and all references to public-land corners. (See Service Order No. 65).

2. When the agreement has been approved, the original will be returned to the engineer, who will immediately notify the vendor thereof and call upon him, pursuant to said agreement, to furnish an abstract of title, which shall later be extended to include any instruments subsequently recorded in connection therewith and also the record of the conveyance made in pursuance of said agreement, also to procure and have recorded, where proper for record, all assurances of title and affidavits which may be necessary and proper to show clear, unincumbered title in him. This will fix the date from which time may be counted in favor of the United States for extension of the option as provided in the agreement, in case it be found necessary to do so. If the abstract contains a large number of entries it should be indexed, and if the title to a canal system is involved the abstract should be accompanied by maps showing said system and the lands affected thereby. The abstract, certificates, maps, option, and form of deed which it is proposed to execute, referred to in next paragraph, should be submitted to the United States attorney for the district, after the engineer has received notice that instructions have been issued to the former by the Attorney General to examine and report on the subject of titles. These instructions will be requested by this office after the receipt of information from the engineer that the purchase of lands has become necessary.

3. The ordinary form of warranty deed, or its equivalent, in general use will be acceptable to the Department, only one material change being required, viz, the insertion of the italicized words in the clause to the following effect usually found in such deeds: "For and in consideration of . . . dollars to him in hand paid in pursuance of the provisions of the act of June 17, 1902 (32 Stat., 388), by the said party of the second part," etc. The grantee or second party must be the United States, and the words "heirs, executors, administrators, successors," etc., when referring to the second party, should be stricken out, and the sentence should read "the party of the second part and its assigns." One copy of the proposed form of deed should be retained by the engineer, to be executed by the vendor after the title has been found acceptable. A quit-claim deed will be acceptable in case title in fee is not vested in the vendor.

4. When forwarding the title papers to the United States attorney the engineer should request that, if apparently in satisfactory form and sufficient, they be forwarded to the Assistant Attorney General for the Interior Department, with his opinion thereon, otherwise that they be returned, pointing out the defects and indicating how they may be remedied.

5. The engineer in charge will notify the Director as soon as the abstract and form of deed have been forwarded to the Assistant Attorney General.

6. The Assistant Attorney General will render an opinion upon the title, and upon the approval thereof by the Secretary of the Interior, all the papers will be returned to the engineer for action in pursuance of the findings of the opinion. After the title has been found satisfactory, the deed should be executed and recorded and the abstract extended to cover record of same, and also to cover payment of taxes, etc., pronounced by the Assistant Attorney General to be liens against the estate. Payment may then be made to the grantor by the local fiscal agent, provided no further defects are revealed by the extension of the abstract, or the papers may be forwarded to the Director for payment by Treasury warrant. In the former case the voucher covering payment should be accompanied by the option, abstract of title, deed, and copy of opinion. In case the title is found to be imperfect, the papers will be returned for the necessary corrections, and the abstract should then be brought up to date and again submitted through the United States attorney for re-examination.

7. In the case of a desert-land entry, when the approval has been given of the purchase of the possessory rights of an entryman, the certificate of the recorder of land titles in the county where the land is situated should be obtained, showing that he has searched the records of his office, and stating whether any instrument of conveyance, assignment or mortgage of the right obtained by the entry referred to there appears.

8. In the case of land covered by a homestead or desert-land entry where an entire legal subdivision is involved a relinquishment to the United States is sufficient, and a certificate should be obtained from the register and receiver of the local land office showing that the entry was valid and subsisting at the time of the relinquishment, and that it has been relinquished and cancelled on the records of the land office. This certificate should accompany the voucher of the special fiscal agent in lieu of the deed or relinquishment, which will be retained in the local land office. Where less than a legal subdivision is to be acquired, which cannot be described in the ordinary way (by quarters and halves), subdivisional surveys should be made and the land lotted (Service Order 84 and Circular August 9, 1909). Relinquishment should then be secured of the lot needed as above.

9. In the public-land States improvements by entrymen are generally regarded as personal property, subject to taxation, and before paying for land to be acquired by relinquishment the certificate of the officer having charge of the tax records in the county should be obtained showing the condition of the property in respect to levy and payment of taxes for the years since the entry.

10. This Form (7-281) may be used as far as it is applicable in making a report of negotiations not concluded, all necessary additional information being given under heading No. 9, when for any reason it is advisable that the matter be further considered by the engineer in charge before final agreement. In this case it should be noted conspicuously on the first page and in the brief on back that it is a report of pending negotiations.

11. The person engaged in right of way negotiations or in negotiations for the purchase of lands will make monthly reports to the engineer in charge of the particular project, to be forwarded to the chief engineer at Washington, D. C.

12. An agreement of sale may be made with any person owning the land in his own right, or with a trustee under a power in a deed, or with a person holding a power of attorney from the owner authorizing him to do so, or with an executor under power in a will. A certified copy of the evidence of authority must accompany the papers.

13. The husband and wife must join in the agreement except where the local land laws or the conditions under which the property is held do not require it. It is better, however, to obtain in every case the signatures of both husband and wife. The agreement must state whether the vendor is married or single, a widow or widower.

14. An administrator or an executor without a power to sell in the will has no authority to make a contract for the sale or conveyance of land or of a right of way thereon. In case of the death of the owner without a will, the real estate descends to the heirs; if he dies leaving a will, the real estate goes to the devisees, subject in both cases to the payment of debts of the decedent. The heirs or devisees must all join in the agreement.

15. Neither the guardian of a minor nor the guardian of an insane person has a right to contract to sell or convey the real estate of his ward without special authority from the proper court.

16. Before negotiations for the purchase of any tract are begun, it is important to learn whether the land has been offered for sale, and at what time and price; also what price the present owner paid for the land.

17. Special conditions and limitations may be added, when necessary, to the printed forms of contract in reference to possession of premises, growing of crops, etc., pending final conveyance, but these conditions should be avoided as far as possible, and the time limit of the contract should be fixed with reference to these matters. Ample time should be given in the contract for the preparation of an abstract of title and for consideration of the same by the officials at Washington, D. C.

18. For a general discussion of this subject see pages 96 to 100 of Water-Supply Paper No. 93.

7-281.

REPORT ON LAND AGREEMENT.

For purposes,

..... project.

Sec., T., R., M.

Belonging to

County of

State of

Submitted by

Date,, 191..