0. PLACE, J.T. ET AL (099) 0023 - 0090 -0002--00
Quadalune (Canal)

PETITION)

V

DISTRICT COUNSEL.

Elifeaso, Thomas

(Letterhead of Department of State)

Washington, Mar. 8,

In reply refer to So. 711.1216E/9

My dear Mr. Secretary:

I have received your letter of March 1, 1924, in which you state that the development of the Rio Grande project by the Bureau of Reclamation of your Department has now reached the point where the Government of the United States must put into effect as to the Guadalupe Ditch the provisions of Article 4 of the treaty of May 21, 1906, between the United States and Mexico, and discontinue delivery of water through that ditch to lands in Mexico. You add that any water needed for the irrigation of lands in Mexico now supplied from the Guadalupe Ditch should be taken from the 60,000 acre-feet being delivered under the treaty in question at the headworks of the Acequia Madre, and you ask that the matter be brought to the attention of the Government of Mexico.

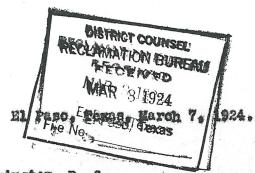
The Department has instructed the American Embassy at Mexico City to comply with your request.

I am, my doar Mr. Work,

Very truly yours,

Dewer.
PM., El Paso.
DC., El Paso.

Charles E. Hughes.



Project Manager,

The Commissioner, Washington, D. C.,

Freaty of 1906 and Guadalupe Ditch, Rio Grande Project.

- dated March lat from the Secretary of the Interior to the Secretary of State on the general subject of delivery of water to Mexico under the treaty of 1905, and particularly concerning the discontinuance of the delivery of water through the Guadalupe Ditch, which has its heading in the State of Texas, but which supplies water to certain lands in Mexico across the boundary between the two occurries. In reviewing the project office correspondence in this matter we find that under date of Movember S, 1925, the project manager addressed the Chief Engineer at Denver, and in paragraph S of that letter suggested that attention of the proper officials of the Republic of Mexico be called to the development of the Rio Grande Project and the necessity for compliance with the provisions of the treaty relative to the diversion of the waters of the Rio Grande between El Paso and Port Quitman.
- of the delivery of water in the Guadalupe Ditch existed other places where the river is the boundary line between the two countries, and that in addition to calling the attention of the Mexican authorities to the water situation at the Guadalupe Ditch, their attention should be called to other diversions now in existence between El Paso and Fort Quitman, particularly the lower portions of the El Paso Valley. During the past few years the project has with difficulty complied with contract obligations for the delivery of water to the land concrete in the United States. This difficulty was realized because in releasing from storage and making available in the Rio Grande sufficient water for the land comers of the United States under contract, Mexican land comers have through a number of diversions on the opposite side of the river obtained a water supply clearly and largely in excess of the treaty requirements. These treaty requirements are satisfied by the delivery of 60,000 acre feet of water in the Rio Grande at El Paso, and the investigations of this office have shown a number of canals (some recently constructed) which make it possible for the diversion of additional water than that contemplated.

Interior to the Secretary of State has already been drafted, most likely it would be well to await the reply of the Mexican government to the comminication. In case the State Department acts on the suggestion, it will be well to bear in mind in the consideration of future correspondence on the subject, the matter of additional diversions through other ditches than the Guadalupe Ditch specifically mentioned.

L M Lawbon

CO to Bureau of Reclamation, Denver, Colorado, and District Counsel. instance. The seal, control

MAR 1924924

File Mo. Tenass

The Konorable

The Secretary of State.

By doar Mr. Socretary:

The treaty of May 21, 1906 (34 State, 2953) between the United States of Mexico provides in Art. I for the delivery to Mexico of "a total of 50,000 sero-feet of water annually in the bed of the Rio Grande at the point where the head works of the Acequia Madro, known as the Did Mexican Canal, now exists above the city of Shares, Mexico, " and Art. 4 contains the following provision:

The delivery of mater as begoin provided is not to be construed as a recognition by the United States of any sixin on the part of Marico to the said unters; and it is agreed that in consideration of such delivery of mater Marios waives any and all claims to the maters of the Nie Grands for any purpose whatever between the head of the present Mariosa Canal and Fort Caltann, Tex-

In connection with the development of the Rio Srande Federal Irrigation project in New Mexico and Texas, the Squame of Speignation of this Department is planning to acquire a part of what is known as the Guadalupe Mitch, and will straighten and enlarge the same for project purposes. This ditch diverts water from the Rio Grande in Texas, between the head of the present Mexican cons. and fort

O SECRETARY FEB 2 9 1924

Palo TTPM doubload

ELD AND DE the turns the lower and of the ditch lies in the United States of Mexico, and, contrary to the quoted terms of the treaty, is used to a certain extent for the levigition of longs in Serios. The location of the project, and the location of this ditch, are shown on two maps transmitted herorith. Then the United States takes over the operation and mintensace of that portion of the Sundalupe Mitch lying in the State of Taxas, the water users under the project will object to continuing the supply of eater for that portion of the disch lying agrees the intermetional line, for the return that the project water appread the will have to pay the cost of operating end mintakning the disch, will have no meens of collecting an equitable part of that gost from the landomers in Berico. It is respectfully requested that you bring this matter to the attention of the proper officials of the United States of Merico, advicing them that the development of the Me troppe project has now reached a point shere

It is respectfully requested that you bring this mather to the attenlion of the proper officials of the United States of Mexico, advising them
that the development of the his Stands project has now reached a point where
this deveragent must put into effect, as to the deadshape Mich, the provision from Art. 4 of the treaty quoted above, that it will be mesessary for
the United States to discontinue delivery of water through said disch to
lands in Mexico, and that any safer meeted for the irrigation of lends in
Mexico now under the Guadalupe Disch, should be taken from the 50,000 agrefeet being delivered under the treaty at the headworks of the Adequic

tery bely goves

(Signed) HUBERTWORL

Copy (O) Denver, Plan El Paso. Dir. El Paso. OUNTY OF EL PASO)

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned owners of lands situated in the County of El Paso and State of Texas and within the boundaries of the El Paso County Water Improvement District No. 1, being desirous of securing the irrigation and reclamation of our lands in accordance with plans formulated and to be hereafter formulated by the United States of America under the provisions of the Act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto. pursuant to contract of December 29, 1917, between the Secretary of the Interior and the said El Paso County Water Improvement District No. 1, and for and in consideration of the benefits to be derived from the construction and operation of irrigation and other works upon or in the vicinity of our lands and for other valuable considerations, hereby agree to convey as the same is now located and staked out on the ground, as shown on the attached plat. Said right of way shall be conveyed to the United States by proper quit-claim deed or deeds, or other appropriate instrument in writing, at any time such conveyance may be demanded by the proper agents and representatives of the United States after the construction and operation of said canal shall have been definitely determined upon by the United States, or actually constructed and in operation.

this day of	reunto affixed our hands and seals A. D. 192
List Plans	
1 LILLY	
& gmeen	
AH marchenida	
T.W. Assil	
(1) P\$ 18-	
Fred Knollenberg Purva	199,
Dan Harans	
Luciono Lopes	
J. H. Elam	
Le Mean	

Guadalupe Ditch.

Old Ditc	h to be used.	Abandoned	New R/W	Owner.
Surveys	No. Feet. Acres.	Feet. Acres.	Feet. Acres.	
50 & 52	920.0	750,0 1.00	700.0 1.00	Miller
65		1500.0 2.10	1430.00 2.00	10
85 66 83 86 99	00 0 0 0 0	1840 2.50 53000 0.72 1500- 3.00 1770.00 2.50 2350.00 3.25	1538.00 1.00 00 00 1557.0 1.10 1561.0 1.10 1559.00 1.10	Ranich. Escajeda. Knoelenberg Escajeda
112 113 126 127 140	0 400,00 900,00 1550,00 1660,00	2200.00 3.10 1200.0 1.70 600.00 0.80)0	1559.0 1.10 1000.0 0.70 550.0 0.75)00	Lee Moor Sierra Elam
141 154 155	100.0 0 300.00	1450.00 2.00 1550.0 2.10 1250.00 1.70	1300.00 1.80 1550.0 2.10 400.0 0.50	Newman Marchmant
168 169 184 191	1600.00 1700.00 650.00 1000.0	0 0 0	0 0 0	? uttich
192	700.0	900.0 1.20 20,780 27.87	경기 그 이 교육하다는 것이 하는 경기를 받았다.	•
WingoRes	00 00 00	00 00 00	1278.00 0.88 I	scajeda opez ell
8 7			20 63 ma	tol now

November 5th.1923.

November 10, 1923.

2000

Commissioner

Chief Engineer, Denver, Cole.

Acquisition Gundalupe Ditch- Rie Grande project.

the above subject, has been received. Arvavements may be sade for taking over the Guadalune Ditch in Toxas. In the same memor as above community disches have been acquired. It is advisable for the present to continue the furnishing of water to the portion of the fitch in hexage. Anthority is also given to seem petition from the property emers and trained to the property desired and training the questing reconstruction of the community ditch.

Copies to Neik S. Thompson, Etterney. El Paio, Tex. P.H., El Paso, Tex. El Paso, Texas, May 21, 1920

COMPIDENTIAL

Mr. Roland Harwell, Manager, El Paso County Water Improvement District No. 1, El Paso, Texas.

Dear Mr. Harwell, -

The Guadalupe Community Ditch has its intake in the Rio Grande near the head of the San Elisario Island. Resides furnishing a supply of water for lands on the American side of the Island the ditch is extended for quite a mileage in Mexican territory and quite an acreage in Mexico receives its irrigation supply from this source.

Under the tweaty with Mexico concerning the delivery of water from the Elephant Butte Dam to Mexico, provision is made for the delivery of this supply in the river at the International Dam. The treaty specifies a certain emount which must be made available each menth. Actually there has been made available for Mexican lands, and utilized by the owners of such, an amount of water in excess of the treaty requirement. Water for irrigation, then, diverted below this point and used for Mexican lands, is clearly in addition to the treaty requirements, and there appears to be no reason why the American owners should alone bear the annual cost of storage, and not the owners of Mexican lands.

It would appear reasonable to expect the swars of these lands to pay the storage rate of \$1.25 per acre, and the collection of this amount from the several thousand acres in Mexico dependent upon the Guadalupe canal for marvice would assist in reducing the charge to the water mears on the American side, who are now paying the entire speration and maintenance cost without assistance from these lands, the owners of which may be prevailed upon to pay their pro rate. The Reclamation Service as such cannot take action in this matter and push the collection of this storage charge. The attention of the district, however, is directed to it in order that it may, if it believes desirable, take action in an endeavor to collect from Mexican land owners on this ditch the same charge which is paid by the American land owners. It is believed that it can be handled through the Guadalupe Community themselves, since this community operates this community

ditch, and not the Reclamation Service. Our own interest in the matter is to see that no injustice operates against the American land owners, and also that the entire project interests be recognized regardless of boundary lines.

Yours very truly,

L M LAWSON Project Manager

CC to P. W. Dent

Chief of Construction,

Project Manager, El Pago, Toras.

Acquisition of Guadalupe Community Ditch - Rio Grande Project.

- 1. Receipt is hereby acknowledged of your letter of February 12, in reply to office letter of February 4 on this subject.
- Prom the further information furnished by your letter it is understood that this ditch will eventually be straightened and reconstructed as part of the lateral system of the San Elizario Island and, further, that on account of the fact that the Mexican Government has been short of funds the main canal for supplying lands now irrigated by this ditch from the Juares Canal has not been completed, this ditch will probably have to be operated for the lands in Mexico.
- S. You do not make any direct recommendation as to the adquisition of the ditch or whether another location could be secured for this lateral that would be as good and not much more expensive than that occupied by the Guadalupe ditable
- 4. It occurs to this office that if the United accepts title to this ditch or that part of the same logated within the United States, it would have to assume the responsibility for the delivery of water to the lands in Mexico, proclaimed land of the fact that the treaty with Mexico, proclaimed sanuary 16, 1907 (54 State, 1955), provides for the conscilination of all ditches in that galley and, further, that the Mexican water users would probably expect better corvice if the United States were operating and maintaining the sitch than they have been able to secure themselves, regardless of the fact that we probably would not be able to collect anything from them or force payment for delivery of water. In other words, the United States would become the joint owners of an international ditch, the very fact of which would require certain obligations without the possibility of equal benefits, if any benefits at all can be derived from acquiring said ditch before the same can be abandoned.

- 5. The possibility of trouble over this matter in which the State Department might become involved is so great that this office hesitates to approve the recommendation for acquiring the same unless other reasons than are now apparent can be given by your office as to the necessity therefor.
- prograstination of the Mexicans in general, and it is not at all unlikely that it may be many years before the connection with the Juares Ganal is completed, especially if they can secure good service which they will demand if the United States owns the ditch, and, assuming good service is given, this may belay the completion of the canal for the demandifiated mater supply. I wish you would further consider this matter in the light of the above statements and, after consulting with the District Counsel, give any further reasons which you may have as to the necessary to reconstruct the same for a lateral system when this work is to be undertaken, and whether you have funds available to carry the same on at this time; also, whether you would undertake to reconstruct the canal during the pariod you were required to operate and maintain the same for Review you would undertake to reconstruct this canal during the pariod you were required to operate and maintain the same for Review lands. Also consider whether it would not be advisable to keep our lateral system out of this ditch and if it would be much more expensive to construct a parallel lateral for this purpose leaving the abandomment of the ditch to be accomplished after the Mexicans have completed their would supply from the Juares Ganals.
- T wish you would make definite recommendations and seques runder organism from the District Counsel in Consection with this proposed transactions

CO-D.C., El Page, Temps

F. E. Weymouth.

El Paso, Texas, February 12, 1920

Project Manager

Chief of Construction? Denver, Colorado

Transfer of Guadalupe Community Ditch to the United States - Rio Grande Project.

1. Receipt is acknowledged of your letter of February 4th on the above subject, which invites attention to letter from the District Counsel to the Chief Counsel dated Fanuary 15th, and letter from the Assistant to the Director to your office dated January 28th.

2. In the opinion of this office the Guadalupe Community Ditch in the United States will be a part of the final lateral system of the Ean Eligaric Island. The general statement of description of this canal in paragraph 2 of your letter is correct. It occupies such a location in this district that with some straightening and reconstruction it will satisfy the demand for better irrigation facilities. It can be stated that the acquisition of this ditch is essential to the development of the lateral system on the Island.

J. The treaty between the United States and Mexico makes provision for the delivery of all water for the irrigation of Mexican lands located between El Paso and Fort Quitman at a point in the Rio Grands just above El Paso. The acquisition of the Guadalupe Community Ditch from the imerican property owners involved need not necessarily interfere with the continuance, at least temporarily, of the delivery of waste water from this ditch to the Mexican lands. The appropriations now being made by the Mexican Government to consolidate ditch headings and obtain the entire supply for the Juares Valley lands from the point designated by treaty, shows indications that Mexican Government does not intend to demand other ditch headings or points of water supply. The consolidation of the Mexican ditches is not yet entirely accomplished and is being held up, this officer understands, from lack of funds.

4. In the event that there would be protest from the Mexican landowners if water service is not continued through the Guadalupe Ditah, pending final construction of the Mexican main canal, there seems to be no objection to continue, temporarily at least, the delivery of water through the Guadalupe Canal in the same manner by Service operations as by private. In other words, that portion of the canal in the United States, since it is to be a part of the lateral system of the San Elizario Island, may be

acquired and the present arrangement of water delivery continued until the Mexican Government complies with the treaty requirements.

L. M. Lawson

CC to District Counsel

Chief of Construction,

Project Hanager, Bl. Page, Toxan-

Proposed transfer of Sundalupe Community bitch to United States - Rie Grande projects

1. Your attention is invited to:

Letter Cross District Command Dest to Chicar Command Associated 25, 2021, Letter Cross Association to the Director to this occurs, annually 28, 1969.

and you are requested to mainty to this extine report with

Community mitch is shown in miles in length bending in the United States approximately a miles in length bending in the United States and process and the states of which in the United States and the States in Julian in June 10, including the United States and the States in Julian in June 10, in the United States of and an include the States in Julian in the United States in Julian in

OC-D.C. El Paso Director, Washington F. E. Weymouth.

GAN-ML

Assistant to the Director

JAN 28 1920

Chief of Construction

Proposed transfer of Guadelupe Community Ditch to United States. Rio Grande project.

1. Your attention is invited to letter of District Counsel Dent dated Jan. 15, 1920, subject as above and you are requested to make early report thereon with such recommendations as you deem appropriate.

Morris Bien

Oopy to P. Me. El Paso.

El Paso, Texas, January 15, 1920.

From District Counsel P. W. Dent

To Chief Counsel, Washington.

Subject: Proposed transfer of Guadalupe Community Ditch to United States, Rio Grande projects

It is desired to take over and merge with the Rio Grande project what is known as the Guadalupe Community Ditch system, a considerable portion of which is situate in Mexico, as shown on map herewith. It is proposed to take over and use only that portion of the system located in El Pase County, that portion of the system located in El Pase County, cration and advance authority for this transfer be obtained.

is to be made without monetary considerations. Heretofore in the transfer of similar community ditches it has been the practice to secure from the commissioners a quit-claim deed and the system, and in whom title to the physical property is of which this is an example. This is the way in which some taken over heretofore. Personal releases are obtained from all individual water-right owners, if possible, but in any case fer (according to the procedure heretofore approved), and such of way, not exceeding the amount to be stated in the releases, of course the commissioners can transfer only the easement which additional right-of system, enlarging and otherwise improving the system. The ditch enjoys and could not convey, or agree to convey, the additional right-of-way desired from the abutting owners. Hence what more complex, since we propose to split up the system at International boundary line and take over only the portion opposition might merit consideration in some circumstances but no opposition in the instant case is anticipated from the peo-

3. It is necessary to consider the relation of the landowners in Mexico whose lands have been heretofore irrigated from this system, which has been in existence for some 25 years or more, with extension from time to time. It is

proposed that upon the transfer of this system to the United States water service for the irrigation of lands in Mexico will be discontinued and water for such lands will thereafter be taken through the Acequia Madre de Juarez, which has its intake at the International dam in El Paso, or through extensions of this ditch which are now under way, budtwhich I am informed are 90% complete, by the Mexican authorities. Under the provisions of the treaty with Mexico proclaimed Jany. 16, 1907 (34 Stat., 2953) all water for the irrigation of Mexican lands between the intake of the International dam and Fort Quitman, Texas (within which territory the Guadalupe system and the lands irrigated in Mexico are situate) is to be taken at the International dam. It appears, therefore, that it is not only lawful to discontinue water service for Mexican lands through the Guadalupe system, but that the delivery of water in this manner is in violation of the treaty mentioned, or, at least not in strict accord therewith and the Mexicans therefore are not in a position to insist upon its continuance. The practice of delivering water in this manner had its inception prior to the treaty and has been continued for the reason that hitherto there has been no other way in which the lands in Mexico could be watered.

- I should be glad to be advised what action, if any, it is considered necessary or desirable to take to evidence acquiescense of the Mexican authorities or people, or both, in the transfer of this system and the discontinuance of water service for Mexican lands through it. We propose to secure deed from the commissioners of the ditch, who are Americans and whose lands are in Texas and personal releases from 30% or more of the landowners in Texas. Water service will not be discontinued suddenly without notice to the Mexican authorities and the people affected or until they have been afforded all reasonable time and opportunity to connect up with the other canals on the Mexican side of the boundary, which is now being done. All of this, of course can be worked out in an informal way. If anything further is considered necessary or advisable instructions are requested.
- Ject of community ditches, it is not possible to obtain perfect title to these systems, either in New Mexico or Texas, but the method adopted appears to be the only feasible one. The deed executed by the commissioners probably is not legally binding (inTexas), or least there is considerable doubt of its validity, since Title 60, Chapter 1, Sayles Texas

Civil State was repealed by Chapter 171. Lows of 1913. The law first mentioned provided for the election or appointment of commissioners to handle the affairs of the community nothing substituted. Therefore there is no express statutory authority for the election or other designation of commissioners, or for otherwise regulating the affairs of such companies or associations, except that provided by Chapter 171. Laws of 1913. the provisions of which did not adequately associations have continued the custom formerly authorized by statute, no doubt for lack of some other manner in which to conduct their affairs and relying upon usage and custom.

- the deed from the commissioners the individual releases have been secured, designed to ratify the conveyance made by the ment to convey additional right-of-way if required. This found adequate to meet the situation.
- Ject Manager, who will supplement it, through the proper channels, with anything additional from the engineering standpoint or as a matter of policy which he may consider desirable.
- taken from the ditch (bybthe commissioners assuming to act and who have acted for the ditch in all matters) and form of personal release such as used heretofore with slight garding the method of transfer will be awaited.

CC - C. of C. E. E.

S. FOR

T

P. W. Dent

NOT JUDGES ASSUMED NOT RECORPED

State of Texas. County of El Paso.

Community Ditch, a voluntary association of landowners, of the County of El Paso, State of Texas, for and in consideration of the sum of One Dollar (\$1.00) to it in hand paid by the United States of America, acting pursuant to the Act of Congress of June 17, 1902 (32 Stat. 388), and other good and valuable considerations, the receipt whereof is hereby acknowledged, does by these presents bargain, sell, release, and forever quitclaim unto the said United States of America and its assigns, all the right, title and interest of the said Guadalupe Community Ditch in andumnes that portion only of the ditch or canal system known as the Guadalupe Canal, lying in the County of El Paso, State of Texas, more particularly described on blueprint hereto attached and made a part hereof.

and claim of the said Guadalupe Community Ditch in and to the said premises, together with all and singular the rights, privileges, and appurtenances to the same in any manner belonging, unto the said United States of America and its assigns forever: Provided, That nothing herein contained shall be construed as a conveyance, interference with, or in any wise affecting the vested right of any holder of rights in the said Guadalupe Community Ditch in and to the use of water from the Rio Grande.

This deed shall become effective to transfer the above described property and rights upon the approval of the Secretary of the Interior or the Director of the United States Reclamation Service.

State of Texas. County of Bl Paso.

eners of water rights in the Gasdalupe Community Ditch, for and in consideration of the benefits to accrue to us, respectively, by reason of the reconstruction, enlargement, and improvement of the said system to be hereafter perfermed by the United States of America, hereby disclaim and release all our right, title, and interest in and to the said ditch system as the same is now constructed and in existence, within the limits of El Pase County, Texas, as shown by the blueprint herete attached and made a part hereof, and agree that the United States, pursuant to the Act of Congress approved June 17, 1902 (32 Stat., 368), and acts amendatory thereof and supplementary thereto, may take charge of, operate, maintain, and control and hold title to said ditch system and all appurtermances thereof, and shall have the right to reconstruct, enlarge, and otherwise improve the same in any manner deemed necessary by the proper officers of the United States in order that there may be afforded better facilities for the irrigation of the lands tributary thereto, and may take and use any additional abutting land belonging to the signers hereof, not exceeding feet in width from the toe of the outside bank of said canal or any lateral thereof, as the same are now constructed, which may be necessary for the proper enlargement and improvement of said canal; the undersigned hereby ratifying and confirming in all things the act of the commissioners in executing and delivering deed of

A. D. 1920.	

VITHESS its hend this	a theaay of	
. D. 1920.	THE THE PROPERTY SERVER SERVER SERVER	
	GUADALUPE COMMUNITY DITCH	
itnesses at request f grantor:		
	Commissioners	
pproved:		
State of Texas.		
County of El Paso.	A WY - A SE ALL SERVICES WITH THE SERVICES	
Before me,	A Notary Public	
In and for El Paso County appeared	y, Texas, on this day personally	1 (m) 10
The second secon		
	dalupe Community Ditch, and asknowled strument was signed by them on behalf ity in them duly vested, and the said	
to the state of th	dalupe Community Ditch, acknowledged to free act and deed of the said Ditch and seal of office, this	l.
day of		
(SEAD)	Notary Public In and For County of Al Paso, Texas.	-
My com. exp.		

