

780

ACOSTA, LEOPOLDO, et. ux., Filiberta R.

WARRANTY DEED (249) YSLA LATERAL

0023-0079-0004-00

RIO GRANDE

1918-1922

13-(4) Texas

780-

COMPARED

THE STATE OF TEXAS, }
 COUNTY OF EL PASO. }
 Notary Public in and for El Paso, County, Texas, on this day personally appeared
Leopoldo Acosta

known to me to be the person ~~to~~ whose name ~~is~~ subscribed to the foregoing instrument, and acknowledged to me that ~~he~~ executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 7th day of August A. D. 1918

Aug Am et 6/1/19

Geo W Headley
 Notary Public

THE STATE OF TEXAS, }
 COUNTY OF EL PASO. }
 BEFORE ME, Geo. W. Headley
 in and for El Paso, County, Texas, on this day personally appeared

wife of

known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same by me fully explained to her, she, the said _____, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office, this _____ day of _____ A. D. 191_____

THE STATE OF TEXAS, }
 COUNTY OF EL PASO. }
 I, W. D. Greet Clerk of the County Court
 of said County do hereby certify that the above instrument of writing, dated on the _____ day of _____, A. D. 1918 with its certificate of authentication, was filed for record in my office this 14th day of Aug, A. D. 1918, at 1:35 o'clock P.M. and duly recorded the 15 day of Aug, A. D. 1918 at 11 o'clock P.M. in the records of said County, in Volume 323 on page 430

Witness my hand and the seal of the County Court of said County, at office in El Paso, Texas, the day and year last above written.

W. D. Greet
 Clerk, County Court.
 By J. M. Chasland Deputy.

m

 TO
 United States
 of America

WARRANTY DEED

Single and Wife's Separate Acknowledgment

Filed for record Aug 15 1918
 at 1:35 o'clock P.M.

W. D. Greet
 Clerk, County Court, El Paso County, Tex.
 By Caranda Deputy.

U.S.R.
8/1/18 323/430

THE STATE OF TEXAS,
COUNTY OF EL PASO.

KNOW ALL MEN BY THESE PRESENTS:

That I, Leopoldo Acosta, a single man,

of the County of El Paso, State of Texas, in consideration of the sum of

Sixty and 0/100 (\$60.00)

DOLLARS,

to me in hand paid by The United States of America, pursuant to the act of Congress of June 17, 1902 (32 Stat. 388),

the receipt of which is hereby acknowledged

ha ve Granted, Sold and Conveyed, and by these presents do Grant, Sell and Convey unto the said The United States of America

~~of the Grantor~~

~~Grant~~

~~of~~

, all that certain

tract or parcel of land, lying in the County of El Paso and State of Texas and more particularly described as follows, to-wit: A tract of land in the southeast quarter of the northwest quarter and southwest quarter of northeast quarter of section six (6), township thirty-two (32) south, range seven (7) east, United States Reclamation Service survey, and being also in the Ysleta Grant, said tract of land being sixty (60) feet wide, lying thirty (30) feet on each side of a center line for Schedule 1 of the Ysleta lateral, Rio Grande project, said center line being described as follows: Beginning at a point on the property line between land of the Grantor herein and Mrs. M. E. Love, said property line having a bearing north 74°13' east and from which said property line having a bearing north 74°13' east and from which point the southeast corner of said section six (6) lies south three thousand five hundred fifty-nine and nine-tenths (3559.9) feet and east two thousand six hundred forty and five-tenths (2640.5) feet; thence south 33°14' east nine hundred sixty-three and one-tenth (963.1) feet to a point on the property line between land of the Grantor herein and of the Newman Investment Company and terminating with said last described property line, said property line having a bearing north 32°42' east and from which point the southeast corner of said section six (6) lies south two thousand seven hundred fifty-four and three-tenths (2754.3) feet and east two thousand one hundred twelve and seven-tenths (2112.7) feet; said tract of land containing one and thirty-three hundredths (1.33) acres, more or less;

TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in anywise belonging, unto the said

The United States of America and its

~~heirs and assigns forever;~~ and I do hereby bind myself, my heirs, executors and administrators, to Warrant and forever Defend, all and singular, the said premises unto the said

The United States of America and its

heirs and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

WITNESS my hand at El Paso, Texas this 7th day of

August A. D. 1918.

Witnesses at Request of Grantor

Leopoldo Acosta

QUIT-CLAIM DEED

SINGLE AND WIFE'S SEPARATE
ACKNOWLEDGMENTS

TO

Filed for record, this _____

day of _____ 191____, at _____

o'clock and _____ minutes _____ M.

Clerk.

Deputy.

By _____

Ellis—El Paso

THE STATE OF TEXAS, }
COUNTY OF EL PASO, }

Before me, F E Hunter a Notary Public

El Paso County, Texas, on this day personally appeared
Silverio Escontrias, who is

in and for

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 14th day of April, A. D. 1919

F E Hunter
Notary Public El Paso Co Texas

The State of Texas,
County of El Paso.

Before me, the undersigned authority, on this day personally appeared Bruna Pedilla, a feme sole, Sotera Carrera de Apodaca, a feme sole, Pedro Apodaca and Librada C. de Apodaca his wife, all known to me to be the persons whose names are subscribed to the foregoing instrument, and they severally acknowledged to me that they executed the same for the purposes and consideration therein expressed.

And the said Librada C. de Apodaca, wife of the said Pedro Apodaca, having been examined by me privily and apart from her said husband, and having said instrument fully explained to her by me, she, the said Librada C. de Apodaca, acknowledged such instrument to be her act and deed, and she declared that she had willingly signed the same for the purposes and consideration therein expressed and that she did not wish to retract it.

Given under my hand and notarial seal, this 15th day of April, 1919.

(Signed) E W Earl
Notary Public in and for El Paso
County, Texas.

(SEAL)

day of _____, A. D. 19____ with its certificate of authentication, was filed for record in my office this 1st day of Sept, A. D. 1919, at _____ o'clock _____ M. and duly recorded the _____ day of _____, A. D. 19____, at _____ o'clock _____ M. in the records of said County, in Volume _____ on Pages _____

Witness my hand and the seal of the County Court of said County, at office El Paso Texas, the day and year last above written.

By _____
Clerk County Court, El Paso County, Texas.
Deputy.

THE STATE OF TEXAS,
COUNTY OF EL PASO, }

Know all Men by these Presents:

THAT

we, Bruna Padilla, Sotera Carrera Apodaca, Librada de Apodaca,

Pedro Apodaca, and Silverio Escontrias, the said Bruna Padilla and Sotera

Carrera Apodaca being single women, of Texas,

of the County of El Paso, State of Texas, for and in consideration of the

sum of ----- One and no/100 (\$1.00) ----- DOLLARS,

us in hand paid by The United States of America, pursuant to the Act of

June 17, 1902 (32 Stat., 388) and acts amendatory thereof ~~and~~ supplemental

thereto,

of the County of -----, and -----, the receipt whereof is hereby

acknowledged, do by these presents Bargain, Sell, Release and Forever Quit-Claim unto the said ----- its successors or

The United States of America, its successors or

~~hereto~~ assigns all our right, title and interest in and unto that tract or parcel of land lying in the County

of El Paso State of Texas

described as follows, to-wit:

A tract of land in the southeast quarter of the northwest quarter and southwest quarter of northeast quarter of Section Six (6), Township thirty-two (32) South, Range Seven (7) East, United States Reclamation Service survey, and being also in the Ysleta Grant, said tract of land being sixty (60) feet wide, lying thirty (30) feet on each side of a center line for Schedule 1 of the Ysleta lateral, Rio Grande Project, said center line being described as follows: Beginning at a point on the property line between land of the Grantors herein and Mrs. M. E. Love, said property line having a bearing North 74°13' East and from which point the southeast corner of said Section 6 lies South three thousand five hundred fifty-nine and nine tenths (3559.9) feet and east two thousand six hundred forty and five tenths (2040.5) feet; thence south 33°14' East nine hundred sixty-three and one tenth (963.1) feet to a point on the property line between land of the Grantor herein and of the Hemmen Investment Company and terminating with said last described property line, said property line having a bearing North 32°42' East and from which point the southeast corner of said section 6 lies South two thousand seven hundred fifty-four and three tenths (2754.3) feet and east two thousand one hundred twelve and seven tenths (2112.7) feet; said tract of land containing one and thirty-three hundredths (1.33) acres, more or less; said land being included in a tract of land conveyed by Silverio Escontrias as independent executor of the Estate of Ponciana Armandariz, deceased, to Filiberto R. de Acosta by partition deed dated February 20, 1915, recorded in book 272, page 23, Deed Records of El Paso County, Texas.

TO HAVE AND TO HOLD all our right, title, interest, estate and claim 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 The United States of America, its successors or

~~hereto~~ assigns forever.

WITNESS our hand s this the 14th day of April, A. D. 1919

Bruna Padilla, her X mark.

Witnesses at Request of Grantor

Sotera Carrera Apodaca

Witnesses to Mark of Bruna Padilla: E. W. Earl

Librada de Apodaca

C. F. Harvey

Pedro Apodaca

Silverio Escontrias

Correct as to Engineering Data S. W. T.

THE STATE OF TEXAS, }
COUNTY OF EL PASO. } BEFORE ME, the undersigned authority,
Leopoldo and for El Paso, County, Texas, on this day personally appeared
Leopoldo Acosta

known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged
to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 25th day of June A. D. 1919

F. E. Medina
Notary Public El Paso Co Texas

THE STATE OF TEXAS, }
COUNTY OF EL PASO. } BEFORE ME, the undersigned authority

Ribertha R. Acosta in and for El Paso, County, Texas, on this day personally appeared
wife of Leopoldo Acosta

known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined
by me privily and apart from her husband, and having the same by me fully explained to her, she, the said
Ribertha R. Acosta acknowledged such instrument to be her act and deed,
and declared that she had willingly signed the same for the purposes and consideration therein expressed, and
that she did not wish to retract it.

Given under my hand and seal of office, this 25th day of June A. D. 1919

F. E. MEDINA
Notary Public El Paso Co Texas

THE STATE OF TEXAS, }
COUNTY OF EL PASO. } I, W. D. Speck, Clerk of the County Court

of said County do hereby certify that the above instrument of writing, dated on the 25th
day of June A. D. 1919 with its certificate of authentication, was filed for record in my
office this 29 day of June A. D. 1919, at 9:40 o'clock A.M. and duly recorded
the 2nd day of July A. D. 1919 at 9:08 o'clock A. M. in the records of
said County, in Volume 372 on pages 471

Witness my hand and the seal of the County Court of said County, at office in El Paso, Texas, the day
and year last above written.

W. D. Speck
Clerk, County Court.
By Florence C. Ricks, Deputy.

TO

WARRANTY DEED

Single and Wife's Separate Acknowledgment

Filed for record 191

at o'clock M.

Clerk, County Court, El Paso, County, Tex.

By Deputy.

THE STATE OF TEXAS,
COUNTY OF EL PASO.

KNOW ALL MEN BY THESE PRESENTS:

That we, Leopoldo Acosta and Filiberta R. Acosta, Husband and wife,

of the County of El Paso, State of Texas, in consideration of the sum of Sixty and no/100 (\$60.00) DOLLARS,

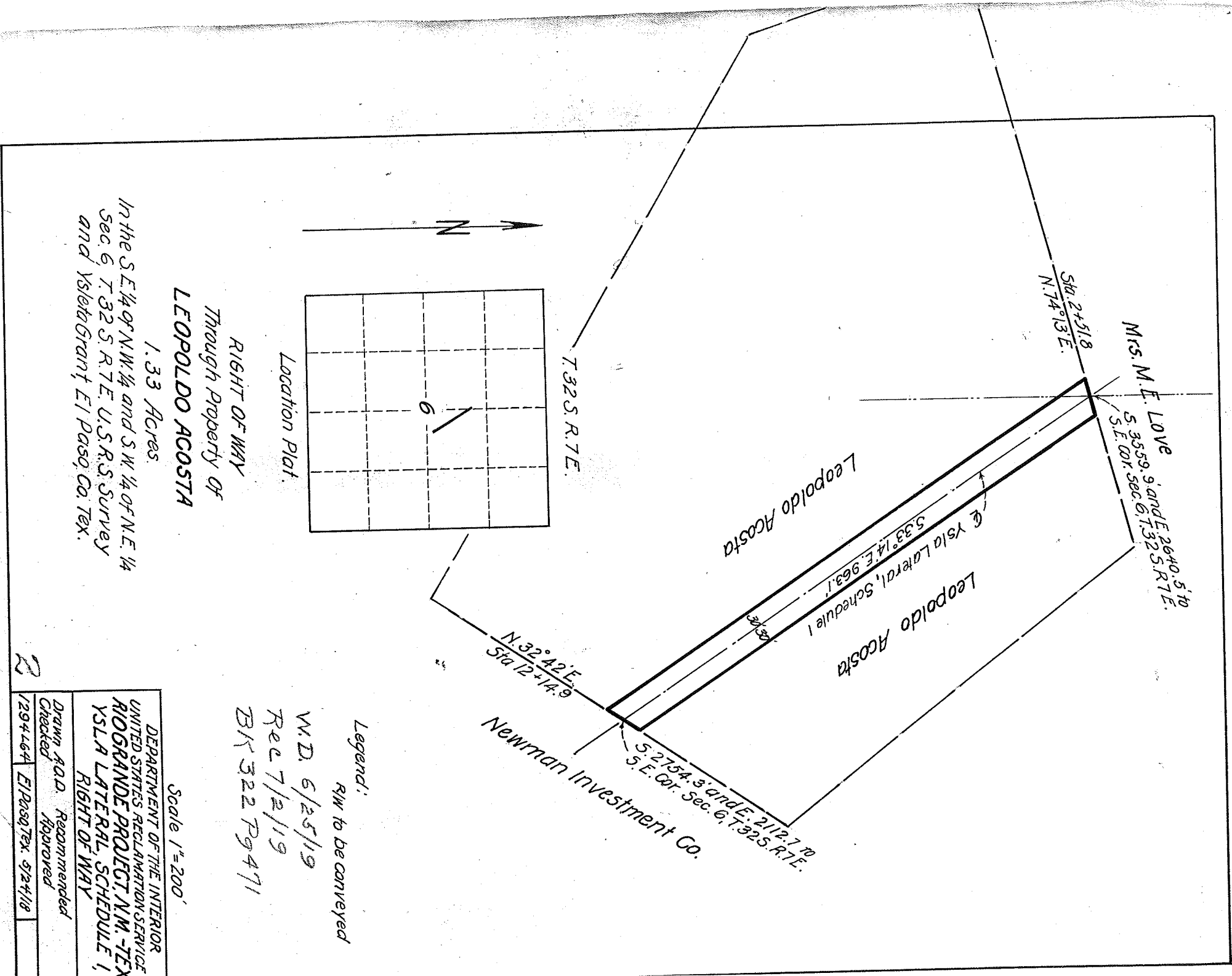
to us in hand paid by The United States of America, pursuant to the Act of June 17, 1902 (32 Stat., 388) and acts amendatory thereof and supplemental thereto the receipt of which is hereby acknowledged by us Granted, Sold and Conveyed, and by these presents do Grant, Sell and Convey into the said The United States of America

~~of the County of~~ El Paso and State of Texas and more particularly described as ~~tract or parcel of land, lying in the County of El Paso and State of Texas and more particularly described as follows: to-wit:~~ A tract of land in the southeast quarter of the northwest quarter and southwest quarter of northeast quarter of Section six (6), Township thirty-two (32) South, Range Seven (7) East, United States Reclamation Service Survey, and being also in the Yalata Grant, said tract of land being sixty (60) feet wide, lying thirty (30) feet on each side of a center line for Schedule 1 of the Yala lateral, Rio Grande Project, said center line being described as follows: Beginning at a point on the property line between land of the grantor herein and Mrs. M. E. Love, said property line having a bearing North 74.13° east and from which point the southeast corner of said section six (6) lies south three thousand five hundred fifty-nine and nine tenths (3559.9) feet and east two thousand six hundred forty and five tenths (2640.5) feet; thence south 33°14' East nine hundred sixty-three and one tenth (963.1) feet to a point on the property line between land of the grantor herein and of the Newman Investment Company and terminating with said last described property line, said property line having a bearing North 32°42' east and from which point the southeast corner of said section six (6) lies south two thousand seven hundred fifty-four and three tenths (2754.3) feet and east two thousand one hundred twelve and seven tenths (2112.7) feet; said tract of land containing one and thirty-three hundredths (1.33) acres, more or less; said land being included in a tract of land conveyed by Silverio Escontrias as independent executor of the estate of Ponciano Armerria, deceased, to Filiberta R. de Acosta by partition deed dated February 20, 1915, recorded in Book 272, Page 23, Deed Records of El Paso County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular, the rights and appurtenances thereto in anywise belonging, unto the said The United States of America, and its heirs and assigns forever; and we do hereby bind ourselves, our heirs, executors and administrators, to Warrant and forever Defend, all and singular, the said premises unto the said The United States of America, and its heirs and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

WITNESS our hands at El Paso this 25th day of June, A. D. 1919.
Witnesses at Request of Grantor

Leopoldo Acosta
Filiberta R. Acosta



DEPARTMENT OF THE INTERIOR
 UNITED STATES RECLAMATION SERVICE
RIOGRANDE PROJECT, N.M. - TEX
YSLA LATERAL, SCHEDULE 1,
RIGHT OF WAY

Drawing A.D.D. Recommended Checked Approved 1/29/46 E/Paso Tex. 5/24/18	2
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Denver, Colorado, January 15, 1919.

District Counsel Edwin H. Peery,

District Counsel P. W. Dent, El Paso, Texas.

Preliminary opinion on title to land to be purchased from Leopoldo Acosta for the Ysla Lateral - Rio Grande project, N.M.-Tex.

1. I have examined the opinion of Mr. O. W. Harvey of December 18, 1918, and the abstract and papers transmitted therewith relative to the title to a strip of land 60 feet wide extending South 33° 14' East 963.1 feet thru land claimed or owned by Leopoldo Acosta, a single man, which the United States is proceeding to acquire for the purposes of the Ysla lateral in accordance with his agreement of July 5, 1918, to convey the same to the United States for a consideration of \$60.

2. The land in question consisting of 1.33 acres is situated partly in the Ysleta Grant and partly in the Socorro Grant, El Paso County, Texas, and is also described as located in the SW¹/₄ NE¹/₄ and the SW¹/₄ NE¹/₄ of Section 6, Township 32 S., Range 7 East, U.S. Reclamation Service Survey. The North and South lines of the strip are terminated by property lines of the vendor extending North 74° 13' East and North 32° 42' East, respectively. Mr. Harvey sets forth an exhaustive statement of the history of the title but states no conclusion as to its status. It appears from the abstract that the vendor has by warranty deed conveyed the strip of land in question to the United States. This deed was placed of record according to the statement of Mr. Harvey in expectation that title guaranty could be secured, but which guaranty is now refused by the insurance company.

3. The title to this property is very much complicated and considerable remains to be done in order to place the title in satisfactory condition for acceptance, including the ascertainment of certain facts that are not shown upon the records abstracted.

4. The title seems to have originated in Pedro Lujan, for whom a survey was made in 1861 of a tract containing 67 acres, which survey included the land under abstract. No deed appears in the abstract by or on behalf of the grant of Socorro. An affidavit (entry No. 8) alleges that the county commissioners conveyed to one of the heirs of Pedro Lujan a tract of land described by metes and bounds lying along the line between the Ysleta and Socorro Grants which apparently covers the portion of the proposed purchase lying within the Ysleta Grant. This deed is stated to bear date October 14, 1907. This deed should be obtained if possible and placed of record and a deed obtained from the county commissioners on behalf of the Socorro Grant for the portion of the purchase lying within that Grant. If adverse possession for the statutory period can be shown, the general deed executed by the county commissioners to the United States conveying its interest in such grants may be relied upon. Said deed should be shown in the abstract when extended.

5. Pedro Lujan died and his heirs, including the one to whom the county commissioners granted the tract of land above mentioned lying in the Ysleta Grant, conveyed the property under abstract to one Juan Armendariz [entry No. 10]. This tract contained 26 acres off the North end of the Pedro Lujan survey except that it appears that said 26-acre tract included along its Northeastern side the old river bed, whereas the Lujan survey excluded the old river bed.

6. Juan Armendariz died leaving a will disposing of his property to Filiberta R. Armendariz, his widow, and to Ponciama Armendariz, a daughter by a former marriage. It appears that his first wife died before he acquired the property in question. The will is vague in its terms but that is unimportant as the executor under orders of the court conveyed the property to the devisees, who were the only heirs of the deceased.

7. The widow afterwards conveyed her interest to the daughter and remarried to Leopoldo Acosta, the Government vendor. It is supposed that she is now dead. The daughter, Ponciama Armendariz, died before her stepmother, leaving a will specifically disposing of certain real estate, not including that under abstract. There was no residuary clause in the will but the executor, Silverio Escobrias, was directed to sell all other property and to pay all debts and expenses from the proceeds with the provision:

"I leave it entirely to his
good judgment as to the time when
it shall be sold, the price at which
it may be sold and the terms of sale."

8. Silverio Escobrias was named as an independent executor and the probate court had no jurisdiction in the matter of said estate except to probate the will and require an inventory. These proceedings were had but the inventory failed to include the property under abstract; for what reason does not appear.

9. Acting in his capacity as independent executor of the estate of Ponciama Armendariz, deceased, Silverio Escobrias joined in a partition deed dated February 20, 1915 [entry No. 36] by which he conveyed to Filiberta R. de Acosta, wife of Leopoldo Acosta, a tract of land containing 17 acres, being a portion of the tract of 26 acres covered by the abstract. This tract so conveyed to Filiberta R. Acosta corresponds in general with the said 26-acre tract excepting that the

old river bed is excluded, which approximately accounts for the difference in area. It is recited in the deed that the estate of Ponciana Armendariz, deceased, and Filiberta R. Acosta are the owners each of an undivided interest in the property described and that it is mutually desired to partition the said property so that each will own an entire tract in severalty.

10. This tract is the one over which the purchase extends and Leopoldo Acosta, as a single man, has entered into a contract to convey said strip of land as stated above.

11. Mr. Harvey supposes that Filiberta R. Acosta, wife of the vendor, has died and that the vendor claims title to the property thru her.

12. It is my opinion that Silverio Escobar, executor of the estate of Ponciana Armendariz, deceased, had no authority to enter into a partition deed whereby he purported to exchange certain property or interest in real estate for other real estate. The power given in the will authorized him to sell the property belonging to the estate on such terms as he might deem proper, but this power gave him no authority to make an exchange. (See 51 Cyc, 1079, 111; *Chamblee v. Farbox*, 27 Tex. 139).

13. In order to complete the title from Pedro Lujan to the Government vendor, it will be necessary to obtain the interest of the estate of Ponciana Armendariz. As the property to be purchased was not disposed of by her will and has not been sold by the executor it has vested in her heirs under the Texas statutes. If the administration has not closed the executor might still make a deed to the premises; but as he has already assumed to convey it would not be advisable to accept the title without obtaining the interest of Filiberta R. Acosta or of her estate if she has died.

14. The fact that the partition deed recited that the parties held undivided interests in the realty in question leads to the supposition that there may have been dealings between Ponciana Armendariz and her step-mother, Filiberta R. de Acosta subsequent to the conveyance by the latter to the former of all her interest in the property obtained from her former husband, Juan Armendariz. It is prudent, therefore, to obtain the titles of both Ponciana Armendariz and her stepmother.

15. The blue print transmitted with the papers should show the outline of the tract claimed by the Government vendor or such reference to a corner of the tract as will enable an examiner of the title to reconstruct it. In cases of this kind it is better to refer specifically to the tract by the deed under which title is held. In this case the center line might properly have been described, if such is the fact, as commencing South

72° 13' West feet from the Northeast corner of that certain tract of land conveyed by Silverio Becourrias as independent executor of the estate of Ponciana Armanderiz, deceased, to Filiberto R. de Acosta by partition deed of February 20, 1915, recorded February 24, 1915, in Book 272, page 23, deed records of El Paso County, Texas.

16. The judgment noted at entry No. 9 bears date December 12, 1884. As the abstract discloses no further proceedings to enforce the lien the same has ceased to exist and may be disregarded.

17. At entry No. 28 is shown a conveyance in trust to the El Paso Valley Water Users Association with power to sell land to persons qualified to make application for water rights under the Reclamation Act. It has been heretofore determined that such conveyances do not embrace lands used by the Reclamation Service for reclamation purposes.

18. The certificate to abstract No. 7897 (entry No. 35) states that the examination or abstract runs from April 6, 1881, date of the Pedro Lujan survey. This survey appears to have been made in 1861 altho the year 1861 is inserted at one place in the abstract, probably by mistake. As Lujan died in 1874 it is evident that the survey was made prior to 1881. There is no reason, however, why the certificate should be limited in date. The abstract should contain all instruments affecting the title to the property, excepting from the certificate if it is desirable all laws and general instruments by which title became vested in the respective grantees. The certificate also excepts taxes in Water Improvement District No. 1, in which the land is situated. These taxes together with taxes shown at entries 32 and 40 should be paid if any remain unpaid before the consideration is finally paid to the vendor, or to those entitled thereto.

19. The above will indicate my opinion upon certain features of the title together, in a general way, with the steps necessary to complete title. After the above matters have been adjusted to your satisfaction the papers should be resubmitted together with your opinion.

CC-Chief Counsel, Wash. D. C.

Edwin H. Berry.

Encs:

1. Opinion of Mr. C. F. Harvey.
2. Agreement dated July 5, 1918.
3. Blue print.
4. Abstract No. 7897 extended by No. 15723 to Dec. 5, 1918, by the Pioneer Abstract Co.

Yakima, Wash., June 17, 1919

District Counsel, Edwin H. Peery

District Counsel, P. W. Dent, El Paso, Texas,

Opinion on title to land to be purchased from Leopoldo Acosta for the Rio Grande, New Mexico-Texas Project.

1. I have your opinion of May 29, 1919, transmitting abstract, deed of Bruna Padilla, et al, and affidavit relating to the purchase of a strip of land 60 feet wide extending South 35 degrees 12 Minutes East 963.1 feet thru a tract of land claimed by vendor situated in the Ysleta and Socorro Grants, El Paso County, Texas, which the United States is proceeding to acquire in pursuance of an agreement with Leopoldo Acosta, described as a single man, dated July 5, 1918, to convey to the United States for a consideration of \$60.00 (Abstract No. 37).

2. On January 15, 1919, I submitted to you a preliminary opinion in respect to said title based upon an examination of the abstract which at that date extended to December 5, 1918; the abstract has since been continued to May 22, 1919, but contains nothing additional except a deed from the Board of Commissioners of El Paso County, Texas, to the United States conveying upon certain conditions lands occupied by the United States for canal and other purposes for the Reclamation Service, upon condition of the purchase of the rights of occupants who should have held possession adversely for the statutory period of limitations. The papers were returned for completion of the title.

3. In addition to the showing made by the extended abstract there is enclosed an affidavit by Leopoldo Acosta and Filiberta R. Acosta, his wife, it now appearing that contrary to the recital in the agreement of sale that Leopoldo Acosta is married and his wife who owned an interest in the premises in her own right is now living and can join in a deed to the United States. The affidavit gives the names of four persons, possible heirs to the estate of Ponciano Armandariz, deceased, who it is supposed at the time of her death ~~had~~ owned an interest in the premises.

4. In your opinion title will vest in the United States on getting a deed from the heirs of Ponciano Armandariz and from the vendor and his wife, Filiberta R.

Armenदारिज, and payment of taxes shown by the abstract to be due.

5. The strip of land which the United States is seeking to acquire is alleged to be a part of a tract containing 26 acres belonging to Juan Armenदारिज, now deceased, which tract is a portion of a ~~larger~~ larger tract termed the Pedro Nujan tract. This tract lies partly in the Socorro Grant and partly in the Ysleta Town Grant in El Paso County, Texas. No deed is shown from either Grant excepting one for land in the Ysleta Grant which is not sufficiently definite to indicate whether or not it is a portion of the Armenदारिज tract (Abstract No.8). A failure to show all deeds from the Socorro and Ysleta Grants will be cured from the deed from the Board of Commissioners of El Paso County, Texas, to the United States upon obtaining a proper affidavit executed by two persons having no interest in the premises showing possession of the vendors and their predecessors adversely to all claimants for the statutory period of limitations. The statement as to possession in the affidavit transmitted with the papers is not sufficient to describe an adverse possession besides being executed by the parties in interest.

6. Attention was called in my previous opinion to the period covered by the abstract and it was indicated that the abstract should not be limited as to time but might exclude the matters relating to the title of the two different grants. The certificates have not been amended in accordance with this suggestion. Attention is further called to the discrepancy of dates shown in the caption of the abstract and the certificate at Entry No.35. The date given in the certificate, April 6, 1881, as the date of the Nujan survey is evidently erroneous as said Nujan died in 1864. Please have the abstractor correct this defect so that there may be a complete showing of title. Evidently he has included everything relating to the title excepting those matters relating to the title of the grants.

7. In transmitting the voucher reference may be made to an opinion passing the title of the Ysleta Grant and also of the Socorro Grant, if there is such an opinion. I have, however, no recollection of examining the title of the Socorro Grant. If there has been no purchase within the limits of this Grant where an opinion has been given it will be necessary to submit the title to this Grant for examination.

8. No blueprints nor possessory certificate accompanies the papers. These should be supplied when voucher is sent forward. The blueprint should show the relation of the canal strip to the tract claimed by the vendors from which the tract of land to be purchased is taken.

9. The title to the land abstracted became vested in Filiberta R. de Armendariz, widow, and Ponciama Armendariz, a daughter by former marriage of Juan Armendariz, deceased. It appears that the widow, Filiberta R. De Armendariz, afterwards married the vendor. The daughter, Ponciama, died without making a will that disposed of the real estate in question. Her supposed heirs are named in the affidavit of Leopoldo Acosta and wife transmitted with the papers. In view of the fact that the amount involved in this purchase, is very small - \$60.00 - we may accept the statement of the heirs in the affidavit as sufficient and obtaining a deed from them and from the vendor, joined by his wife, good title will vest in the United States, subject, of course, to showing of the title to the Socorro Grant and adverse possession by the vendors for the statutory period of limitations.

10. The taxes noted in entry No. 40 and taxes for Improvement District No. 1, if any, Entry No. 41, as well as taxes for the year 1918, which do not appear to have been ascertained, should be paid before closing the transaction.

11. Upon examination of the abstract and papers submitted I find that on May 22, 1919, date when the abstract closed, title to the premises proposed to be conveyed was vested in the heirs of Ponciama Armendariz, deceased, and Filiberta R. de Acosta, unencumbered save and except as follows:

(a) Showing of title of the Socorro Grant if not covered by a previous opinion.

(b) Showing of adverse possession in the vendors for the statutory period of limitations.

(c) Taxes as shown at Entry No. 40, including taxes of 1918, and District Improvement taxes, as indicated at Entry No. 41.

12. After the above objections and liens have been removed to your satisfaction the agreement of sale may

be carried into effect by accepting a deed from vendor and wife in form of the deed by the heirs of Ponciano Armendariz, deceased, transmitted with the papers, and by accepting the latter deed and placing both deeds of record, after which the abstract should be extended to include such record, provided no changes have occurred in the conditions of the title adversely affecting the interests of the vendors, or other encumbrances incurred which have not been removed subsequent to the date when the abstract closed.

15. After title has vested in the United States free of encumbrances the consideration may be paid in due form, the Fiscal Agent transmitting with his voucher the papers prescribed by the Reclamation Manual in the case of land purchases including blue print and possession certificate. Affidavit showing adverse possession should be acknowledged and recorded and transmitted with the papers and certificate should be obtained from the heirs of Ponciano Armendariz stating in effect that they claim no interest in the purchase price but execute deed for the purpose of perfecting the title.

- - -

EDWIN H. PERRY

Encs:

- 1- Opinion of District Counsel
- 2- Deed of Bruna Padilla, et al, to the U.S.
- 3- Affidavit
- 4- Abstract of title by the Pioneer Abstract Co. to May 22, 1919.

CC- Ch. Cl-Washington

CERTIFICATE.

I HEREBY CERTIFY that the land described in the agreement dated July 5, 1918, with Leopoldo Acosta is required for purposes authorized by the Act of June 17, 1902 (32 Stat., 388), namely, as right of way for the Yala Lateral, Schedule 1, a part of the Rio Grande project; that the consideration to be paid thereunder, \$50.00, is reasonable and the lowest that could be obtained; and I recommend that the contract be approved.

I. M. LAWSON

Project Manager.

El Paso, Texas,
July 5, 1918.

2. In consideration of the premises the vendor further agrees upon receipt of notice that this agreement has been approved by the Comptroller or Director of the Reclamation Service to furnish promptly, at his own expense, an abstract of title which shall later be extended to include any instruments subsequently recorded in connection herewith and also the record of the conveyance made pursuant to this agreement: *Provided*, That if the vendor fails or refuses to furnish proper abstract of title within sixty days after notice that this agreement has been approved, or if within such period written request be made by the vendor, such abstract may be procured by the United States at the expense of the vendor and the cost thereof deducted from the purchase price.

3. The vendor further agrees to procure and have recorded at his own cost all assurances of title and affidavits which he may be advised by the proper Government officials are necessary and proper to show complete title in fee simple unincumbered, and the time spent in procuring, recording and transmitting the same to the officer acting on behalf of the United States (and in furnishing or securing abstract of title) shall be added to the time limit of this agreement.

4. And for the same consideration the vendor agrees to execute and deliver, upon demand of the proper officer of the United States at any time within the continuance of this agreement, a good and sufficient deed of warranty conveying to the United States good title to said premises free of lien or incumbrance.

5. In consideration whereof, the United States agrees that it will purchase said property on the terms herein expressed, and upon execution and delivery of such deed and the signing of the usual Government vouchers therefor, and their further approval by the proper Government officials, it will cause to be paid to the vendor as full purchase price and full payment for all damages for entry upon the above-described land and the construction, operation and maintenance of reclamation works under said act, the sum of Twenty 00/100 (\$20.00)

dollars, by U. S. Treasury warrant or disbursing officer's check.

6. Liens or incumbrances existing against said premises may, at the option of the United States, be removed at the time of conveyance by reserving the amount necessary from the purchase price and discharging the same with the money so reserved, but this provision shall not be construed to authorize the incurrence of any lien or incumbrance as against this agreement, nor as an assumption of the same by the United States.

7. It is agreed that the vendor may retain possession of said premises until July 5, 1918 notwithstanding earlier delivery of the deed as

herein provided, and may harvest and retain the crops thereon until July 5, 1918; except that the proper officers and agents of the United States may at all times have unrestricted access to survey for and construct reclamation works, telephone and electrical transmission lines, and other structures and appliances incident to said reclamation works, pursuant to said act of Congress, free of any claim for damage or compensation on the part of the vendor.

8. This agreement shall become effective to bind the United States to purchase said premises immediately upon its approval as above specified, and shall terminate by limitation at the expiration of 24 months from its date, unless extended as above provided, and shall inure to the benefit of and be binding upon the heirs and assigns of the vendor, and also the assigns of the United States.

9. 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., 1109).

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

Witnesses :

LEOPOLDO ACOSTA

of.....

Vendor.

of.....

I. M. LAWSON

For and on behalf of the United States.

of.....

of.....

STATE OF Texas
COUNTY OF El Paso } ss:

I, Geo W Hoadley, a Notary Public

in and for said county, in the State aforesaid, do hereby certify that Leopoldo Acosta who is personally known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he

signed, sealed, and delivered said instrument of writing as his free and voluntary act, for the uses and purposes therein set forth.

I ~~certify that I have examined the contents of the~~ separate and apart from..... husband....., and explained to..... the contents of the foregoing instrument, and upon that examination..... declared that..... did voluntarily sign, seal, and acknowledge ~~the same~~ without any coercion or compulsion, and do..... ~~not retract the same.~~

Given under my hand and official seal, this 5th day of July, 1918

[SEAL.] Geo W Hoadley

My commission expires June 1st 1919 Notary Public in & for El Paso Co Tex

Approved....., 191.....

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

El Paso, Texas, July 16, 1918, 19

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

Subject: Forwarding contract for approval.

The contract described below is forwarded herewith.

Agreement dated July 5 1918 Rio Grande Project.

Executed by L M Hanson Project Manager

With Leopoldo Acosta

Estimated amount involved, \$ 60.00 (See Reverse, Par. 3.)

Purpose of agreement: 5-0-5

Purchase of right of way for Yola Interol, Schedule 1.

Inclusures listed on reverse. (See Par. 5.)

Advise Chief of Construction, Denver, Colo., and Project Manager

at El Paso, Texas, and District Counsel

at El Paso, Texas, of the approval of the above.

at Anola, Oris. & 3 copies contract,
Dept. on land agreement,
Certificate of recommendation,
2 blueprints.

L M HANSON
(Signature.)

Denver, Colo., July 25, 19 18.

It is recommended that the above-described contract be approved.

F. E. Weymouth.

Inclusures: ~~None~~ Chief of Construction.

Oris. & 3 copies of contract.
2 copies of form letters of transmittal.
2 copies of report on land agreement.
1 blue print.

Washington, D. C., JUL 31 1918

Contract (and bond, if any), was approved by Morris Bien, Acting Director

Original enclosed for record and further appropriate action JUL 31 1918 JUL 29 18 84846

Morris Bien, Acting Director

AGREEMENT TO SELL

7-276

TO
UNITED STATES.

COUNTY OF _____
} ss :

I hereby certify that this instrument was filed

for record at my office at _____ o'clock _____ M.,

_____ 191____, and is duly

recorded in Book _____ Page No. _____

By _____

Fees, \$ _____

AFFIDAVIT OF DISINTERESTEDNESS.

STATE OF _____
COUNTY OF _____ } ss :

I do solemnly swear (or affirm) that the copy of contract hereto 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 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., 191____ My com-

mission expires _____

NOTE.—Execute this affidavit only on the copy for the Returns Office, not on original.

THIS AGREEMENT, made the 5th day of July,

nineteen hundred and eighteen, between Leopoldo Acosta
a single man

~~XXXX~~ XXXXXXXX of El Paso

County, TEXAS, for him self, his heirs, legal represen-
tatives, and assigns, hereinafter styled the vendor, and The United States of America and its assigns by

L. M. Lawson, Project Manager, United States Reclamation Service,
therunto duly authorized by the Secretary of the Interior, pursuant to the act of June 17, 1902
(32 Stat., 388),

WITNESSETH:

1. The vendor in consideration of the benefits to be hereafter derived from the construction of
irrigation works through, upon, or in the vicinity of the lands hereinafter described, of the promises
and covenants of the United States herein contained, and of the payment to the vendor by the United
States of the sum of one (\$1.00) dollar, the receipt whereof is hereby acknowledged, does hereby
agree, upon the terms and conditions hereinafter stipulated, to sell and by good and sufficient deed to
convey to the United States of America the following-described real estate and property situated in

the county of El Paso State of Texas, to wit:

W.L.
A tract of land in the SW 1/4 of NW 1/4 and SW 1/4 of NE 1/4 Sec 6 T
32 S R 7 E, U.S.N.S. Survey, being also in the Ysleta Grant; said
tract of land being sixty feet wide, lying thirty feet on each side
of a center line for Schedule 1, of the Ysleta lateral, Rio Grande Pro-
ject, said center line being described as follows:
Beginning at a point on the property line between land of the
Vendor and Mrs. M.W. Love, said property line having a bearing N 74° 13'
E and from which point the SE corner of said Sec 6 lies South 3559.9
feet and E 2640.5 feet. ; Thence S 33° 14' E 955.1 feet to a point on
the property line between land of the Vendor and of the Newman Invest-
ment Company, and terminating with said property line, said property
line having a bearing N 32° 42' W and from which point the SE corner
of said Sec 6 lies S 2754.3 feet and E 2112.7 feet; said tract of land
containing 1.33 acres, more or less;

Correct as to Engineering Data

El Paso, Texas, January 19, 1922.

From District Counsel

To Chief Counsel, Washington.

Subject: Copy of deed for the Washington office files in
land purchase from Leopoldo Acosta and wife - Rio
Grande project.

1. Receipt is acknowledged of your letter of the 6th instant.
2. Copy of the above described deed is transmitted herewith for Washington office files. Extra copy of this deed accompanied the papers as they left my office when passed finally for payment, and same was probably inadvertently retained in other files somewhere along the line before reaching proper destination.

Incl.

P. W. Dent

Copy to O. E. Denver.

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

WASHINGTON, D. C.

January -6, 1922.

From Chief Counsel
To District Counsel, El Paso, Tex.

Subject: Copy of deed for the Washington office files in land purchase from Leopolo Acosta and wife - Rio Grande project.

1. In going over vouchers, we find deed dated June 25, 1919 from Leopolo Acosta and wife to the United States conveying a tract of land in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 6, T. 32 S., R. 7 E. There is no copy of this deed for the files of this office as required by Sec. 15(c), page 256 of the Manual. Please supply the omission.

Attorney General

El Paso, Texas, November 16, 1921.

Mr. E. W. Earl, Atty. at Law,
546 First National Bank Building,
El Paso, Texas.

Dear Sir:

I am to-day turning over papers concerning Leopoldo Acosta Land purchase for vouchering and payment, with notation that voucher and check are to be sent care of you. If you will have Mrs. Acosta sign voucher, check will be drawn without delay thereafter.

Inclosed is tax receipt which I will ask you to kindly deliver to this landowner.

Thanking you for your courtesies in this connection,
I am,

Very truly yours,

C P HARVEY

Asst. District Counsel.

Incls. tax receipt.

MEMORANDUM TO ACCOUNTANT LAND PURCHASE UNDER
CONTRACT WITH LEOPOLDO ACOSTA DATED JULY
5th, 1919, AND AMENDED BY CONTRACT WITH
THE SALES PARTY DATED AUGUST 1, 1919 -
Rio Grande Project

1. This land purchase has been the subject of a number of opinions on title, the last of which was rendered by District Counsel Peery under date of June 17, 1919. The long delay in closing this purchase has been caused partially by failure of the land owner to pay taxes and partially by reason of the fact that time was spent in preliminary negotiations looking toward securing of a title guarantee, which was not, however, issued. This also accounts for the irregular condition of the latter part of the abstract which was brought down to date a number of times, the first extension being to include a warranty deed running from Leopoldo Acosta to the United States dated August 7, 1919. This party at that time asserted that he was the sole owner and that his title was perfect. Later it was found that the property vested in his wife as her separate estate.

2. Title comes thru the Juan Armandaris estate, Juan Armandaris having died intestate, the probate proceedings showing that the persons entitled to his land, including the tract to be acquired by the United States, are his sole surviving heirs, Filiberto R. de Acosta, his wife, and Rosalva R. Acosta, a daughter. (See paragraph 6 of Mr. Peery's opinion above referred to, and p. 22 of abstract.) The Court directed that each take an undivided half interest. The widow afterwards married Leopoldo Acosta, the party agreeing to sell, and both parties have joined a warranty deed under date of June 25, 1919 running to the United States. No partition of the estate of the two heirs of Juan Armandaris, above described, appears to have been made, and the said Rosalva R. Armandaris died November 20, 1911, and left a will, which does not, however, dispose of the land in which the United States is interested. The right of way property does not appear in the inventory of her estate, although she attempts to dispose of a "half interest in the house where we have been living". This, as near as can be ascertained, is not the property covered by the right of way (Abstract, pages 42-43). These matters have led to an investigation as to who are the heirs of the said Rosalva R. Armandaris and the securing of an affidavit by the Government Vendor under date of April 9, 1919, naming certain parties as such heirs, who have joined in a quitclaim deed running to the United States dated April 14, 1919. (p. 82 of Abstract, paragraph 9 of Peery's opinion.) Pedro Apodaca appears as a grantor in this deed although he is not named as an heir, and this is for the reason that he is the husband of Librada Apodaca. In view of the fact that these parties have quitclaimed direct to the United States I do not think it is necessary to secure any waiver

from them to the purchase money to be paid to Mrs. Acosta. I am of the opinion that all outstanding interests as shown by the record have been acquired.

5. The right of way lies across the line between the Becerra and Yajeta Grants, but as underlying titles in both of these Grants have heretofore been examined the abstractor was instructed to omit these General matters, which is our usual custom. In addition a quitclaim deed, (p. 76) running from the County Commissioners to the United States, has been secured which provides title sufficient for acquisition of land for canal purposes, and in connection with this quitclaim deed an affidavit as to possession by Salvador H. Estrada and Pedro Morales has been executed, showing that Gilberta Acosta, together with her husband, has been in actual, continuous possession of the land for at least ten years. This affidavit has not been recorded as this is not our usual practice, although paragraph 13 of Mr. Feary's opinion suggests recordation.

4. Taxes: The tax statement at page 91 of the abstract shows that taxes have been paid down to October 11, 1921, and the land referred to in this tax certificate is that in which the Government is interested, although the designation of this land in the certificate is not as conclusive on this subject as might be desired. However, it is a fair sample of what we have to deal with in El Paso County, and an exhaustive investigation is not warranted under the circumstances. Taxes for a current year in Texas are payable October 1st, and the tax certificate is rendered under date of October 11, 1921, showing that taxes for this year have been paid.

6. I am of the opinion that good title unencumbered now vests in the United States and payment should be made to Gilberta H. Acosta as this is her separate property, it having been acquired by inheritance.

6. The cost of abstracting in connection with this purchase has not been deducted from the amount to be paid for the reason that the amending contract dated August 1, 1919, is to the effect that the United States will pay for the abstracting. The same applies to redordation of quitclaim deed running from the heirs of Don Juan Armendaris. This amending contract became necessary when it developed that title guarantees could not be secured, as the amount under the original contract is relatively small and did not contemplate burdening the land owner for the expense of the abstract.

P W DENN

District Counsel.

El Paso, Texas, November 15, 1921

(2.)

The enclosures to accompany this purchase are as follows:

Abstract of title No. 7897, with extensions bound therewith.
Original Agreement to Sell dated July 15, 1918. (Original of
supplementary agreement dated August 1, 1919, was not
returned to the El Paso office)
Original Opinions on title dated December 18, 1918, January 5, 1919,
May 29, 1919, and June 17, 1919.
Original and one copy of the Salvador H. Estrada Affidavit.
Original and one copy of Possessory Certificate.
Original and one copy of Warranty Deed with two blue prints.
Extra copy of above memorandum

El Paso, Texas, August 30, 1921.

Pioneer Abstract and Guarantee Title Company,

El Paso, Texas.

Gentlemen:

In regard to abstract of title relating to the Filiberta R. Acosta land, which abstract was delivered to you a few days ago, you are advised that it is desired to get a duplicate of this abstract. Kindly preserve the paging of same as it now appears. Bring the abstract down to date, including a quitclaim deed running from Bruna Paddilla et al. to the United States, dated April 14, 1919, which we are today sending for official record.

It is also desired to secure a tax statement down to date, and, as the canal right of way crosses the larger tract, containing 26 acres, more or less, of which the 17.2-acre tract acquired by Mrs. Acosta is a part, please have the tax statement relate to the larger tract, and not merely the 17.2 acres.

I understand that an attorney has this morning obtained the abstract for temporary use in examining title, but that same will be returned to you without delay.

Very truly yours,

P W DEMP

District Counsel.

El Paso, Texas, August 30, 1921.

County Clerk for El Paso County,

El Paso, Texas.

Dear Sir:

Transmitted herewith for official record is quit-
claim deed dated April 14, 1919, running from Bruna Padilla
et al. to the United States.

Very truly yours,

Incl.

P W DINE

District Counsel.

Form 7-5231
Revised June, 1919
DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

El Paso, Texas, October 10, 1919.
Rio Grande Project

Project Manager to Chief of Construction, thru District Counsel.
Subject: Forwarding for approval contract dated AUG 1 - 1919

With Leopoldo Acosta
Estimated amount involved, \$ of contract. Authority No.
Accompanied by bond and 2 copies or Clearing Acct.

Purpose: amending original contract with same party dated July 5, 1918.
Amending original contract with same party dated July 5, 1918.

Advise Project Manager at El Paso, Texas.
District Counsel at El Paso, Texas.

and Chief of Construction, Denver, Colorado.
of the approval of the above, using extra copy hereof.
Inclosures listed on the reverse

NOTE: Before submitting contract see that the instructions on reverse hereof have been FULLY complied with. See also par. 48, Page 205, Vol. I of Manual.

The above described contract and bond, if any, approved
by Chief of Construction.

Acting Chief of Construction to Director:
It is recommended that the above described contract be executed approved and bond if any approved.
Inclosures:
Orig. & 3 copies of form letter,
" letter dated Nov. 10, 1919 from P.M. to C. of C.,
Copy of " " 6, " " A.O. of C. to P.M.,
Orig. & 2 copies of contract,
" certificate of delay.

executed
approved and bond, if any, approved by
on November 14, 1919.

Washington, D. C. NOV 21 1919
Contract approved and bond, if any, approved by

CHAS. P. WILLIAMS,
Acting District Counsel

on NOV 21 1919
Ottomar Hamels
NOV 18 '19 4652

Certificate as to delay in forwarding.

THIS IS TO CERTIFY that the contract with Leopoldo Acosta dated August 1, 1919, could not be forwarded sooner as the contractor did not sign and return it until October 9, 1919, although repeatedly urged to do so by letter, telephone, and through a third person representing the contractor.

L. M. LAWSON

Project Manager.

El Paso, Texas;
October 9, 1919.

El Paso, Texas, October 9, 1919.

Pioneer Abstract and Guarantees Title Company,

El Paso, Texas.

Gentlemen:

Abstract of title No. 7897 is returned for change in tax certificate. The owners of this land insist that the taxes shown to be due in the certificate relate to the Ponclana Armendariz estate and not to the Acosta land. They have secured a tax statement, inclosed herewith, evidencing this matter, and we desire to have the certificate in the abstract amended accordingly if you find the facts as stated.

Thanking you for this and other favors,

Very truly yours,

C F HALVEY

Asst. District Counsel.

Incls.

El Paso, Texas,
August 11, 1919.

Mr. Leopoldo Acosta,
3900 Alameda Ave.,
El Paso, Texas.

Dear Sir:--

The gentleman, who has accompanied you to our office upon a number of occasions in regard to settlement for right of way taken for Ysla Lateral, was in our office a few days ago and, at that time, we advised him that we would so amend your contract that we would be able to pay for all expense in connection with bringing the abstract of title up to date. In pursuance of this, we have prepared an amendatory contract which you must sign and the abstract of title should, of course, be delivered to the Abstract Company in order that it may be certified up to date.

After the last time your friend was in our office we supposed that we had made it clear to him that the above steps must be taken. Since then we have heard nothing from either of you, and we are writing this letter in order to make the matter perfectly plain.

Very truly yours,

C. M. Harvey,

Asst. District Counsel.

El Paso, Texas,
July 28, 1919.

Pioneer Abstract Co.,
First National Bank Bldg.,
City.

Gentlemen:-

With reference had to our letter of June 26th in regard to work which we wished done upon the Leopold Acosta abstracts, these abstracts have been turned over to Acosta and he was to bring them to your office. He has not done this as yet and so far we have failed to impress upon him the necessities of the case. Therefore, we ask that whenever this abstract does show up in your office that you merely bring it up to date showing, among other recent matters, warranty deed dated June 25, 1919, running from Leopold Acosta and wife to the United States.

As to the matter of showing ~~us~~ title in the Socorro grant, we are sending herewith abstract No. 15999 relating to land owned by Jose Maria Provencio, this land being in the Socorro grant and in connection with this abstract, we ask that title in Socorro grant be shown. The purchase covered by the Provencio abstract has been held up, as it was our intention to put the matters pertaining to the grant in the Acosta abstract and Mr. Provencio has become very impatient about getting his money. On this account we ask that you use your utmost endeavors to complete this Provencio abstract, and we would deem it a great favor if you could put us in receipt of it by the end of this week.

When may we expect the Isabel Martin and El Canutillo abstracts which were sent you with our letter of May 21st to be connected and brought down to date?

Very truly yours,

C. F. Harvey.

Asst. District Counsel.

El Paso, Texas,
July 28, 1919.

Mr. Leopold Acosta,
3900 Alameda Ave.,
City.

Dear Sir:-

With reference to our letters of July 11th and 23rd, you are again advised that we are awaiting your attention to the matter of delivering the abstract to the Pioneer Abstract Co. or to this office. We trust that you appreciate that you are holding up the matter of payment to yourself for the amount due you for the canal right of way, and we urge that you bring in the abstract at once.

Very truly yours,

C. F. Harvey,

Asst. District Counsel.

CH

El Paso, Texas, July 23, 1919.

Mr. Leopoldo Agosta,
3900 Alameda Avenue,
El Paso, Texas.

Dear Sir:

We are to-day advised by the Pioneer Abstract people that you have not yet delivered to them the abstract of title referred to in our letter to you of the 11th instant, which was to be brought up to date by the abstracting company in connection with your land purchase.

As stated in our letter of the 11th, we are at a loss to understand your delay and non-compliance with our understanding had at the time you were last in our office.

We trust you will attend to this matter at once, and not make it necessary for this office to resort to more positive measures to secure your action.

Very truly yours,

C F HARVEY

Assistant District Counsel.

CPH:F

El Paso, Texas, July 11, 1919.

Mr. Leopoldo Acosta,
3900 Alameda Avenue,
El Paso, Texas.

Dear Sir:

When you were in our office on June 26th last the abstract of title relating to the land purchase for the Ysleta lateral was turned over to you and you stated that you were then going to take the abstract directly to the Pioneer Abstract Company in the First National Bank Bldg. in order that they might complete the abstract and make a correction therein in accordance with our desires, and it was also the understanding that we would inform the abstract company by letter exactly what we wished done to the abstract. This letter was written on the same date, but we are today informed by the abstract company that they have seen nothing of you in their office, and that you have not turned the abstract over to them.

Kindly put either the abstract company or this office in possession of the abstract of title without delay. We are entirely at a loss to understand your action in this matter and wish to assure you that until we receive the abstract in the condition as requested from the Pioneer Company we can do absolutely nothing further toward making payment to you of the amount due.

Yours very truly,

CHarvey

Asst. District Counsel.

El Paso, Texas, June 26, 1919.

County Clerk for El Paso County,

El Paso, Texas.

Dear Sir:

Transmitted herewith for official record is warranty deed dated June 25, 1919, running from Leopoldo Acosta and wife to the United States.

Very truly yours,

C F HARVEY

Assistant District Counsel.

Incl.

El Paso, Texas, June 26, 1919.

Pioneer Abstract and Guarantee Title Company,

El Paso, Texas.

Gentlemen:

Mr. Leopoldo Acosta will deliver to you abstracts Nos. 7897, 15725, and 16416. Kindly include in these abstracts the showing of title in the Socorro grant. This will apply to the eastern portion of the land abstracted

We are to-day sending for record warranty deed dated June 25, 1919, running from Leopoldo Acosta and wife to the United States, which also include in the abstract.

Also, attention is called to the certificate under entry No. 33, which states that the abstract "Beginning Apl. 6, 1881," etc. We believe this date should be 1816. Kindly correct.

Very truly yours,

O P HARVEY

Assistant District Counsel.

CH

El Paso, Texas, June 24, 1919.

Mr. Leopoldo Acosta,
3900 Alameda Avenue,
El Paso, Texas.

Dear Sir:

Inclosed is an affidavit as to possession of the land now held by yourself and your wife, upon which the Reclamation Service is attempting to secure a right of way for the Ysla lateral. This affidavit is to be brought to this office as soon as you have two persons swear to it who are not interested at all in the title; that is, two parties who do not claim any rights in this particular piece of land.

A warranty deed is also inclosed which is to be executed by yourself and your wife, and returned to our office.

Upon recording of this deed and including same in the abstract of title, we believe the papers will be in such shape that final settlement may be made with you.

Regretting that we have put you to so much trouble in this matter,

Very truly yours, *

C F HARVEY

Assistant District Counsel.

2 Incls.

CFH:P

El Paso, Texas,
May 19, 1919.

The Pioneer Abstract Co.,
First Natl. Bank Bldg.,
El Paso, Texas.

Gentlemen:

On April 22nd we sent abstract of Leopoldo Acosta property to be brought up to date. Will you kindly hasten the work on this abstract as we are desirous of settling the transaction with Acosta as soon as possible.

Yours very truly,

PMDent by CFH
District Counsel.

CH

El Paso, Texas, April 22, 1919.

Pioneer Abstract Company,
First National Bank Building,
El Paso, Texas.

Gentlemen:

Inclosed herewith is abstract of title No. 7897,
which please bring up to date, including the quitclaim
deed executed by the County Commissioners, dated Novem-
ber 16, 1918, and recorded in Book 327, page 376. Also,
please add to the abstract all instruments affecting title
prior to the Pedro Lujan survey, excepting laws and general
instruments affecting title in the original grants.

Very truly yours,

P W DEWITT CPH

District Counsel.

Incl.

CPH: P

El Paso, Texas.
April 9, 1919.

Mr. Leopoldo Acosta,
3900 Alameda Avenue,
El Paso, Texas.

Dear Sir:

You will note from former correspondence that the quitclaim deed which we have prepared is not to be executed by yourself and your wife but by certain relatives of Ponciana Armendariz who are named in the affidavit you executed and who are as follows:

Silverio Escontrias, a first cousin.
Lubrada Cadena Apodaca, a first cousin.
Abruna Padilla, an aunt.
Sotera Carrera Apodaca, a first cousin.

The quitclaim deed which you have signed is worthless and it has been destroyed. We have prepared another deed and are forwarding it herewith understanding that you know where the four parties above named live and that you can, without a great amount of trouble, have them sign and acknowledge this quitclaim deed. They must all sign the same deed.

Later when title is approved by our Chief Examiner after considering this quitclaim and the affidavit in regard to the parties who sign, we will call upon you and your wife for a warranty deed.

In the meantime, however, we ask that you hasten execution of the quitclaim deed by the four parties above named.

Yours very truly,

F W Dent

By CPH

District Counsel.

Enc 1.

CPH:T

El Paso, Texas,
March 28, 1919.

Mr. Leopoldo Acosta,
3900 Alameda Avenue,
El Paso, Texas.

Dear Sir:

We are as yet without an answer to our letter of February 17th. We trust that you received this letter and will not over-look any of the matters mentioned therein which you are to accomplish in order that we may perfect your title and make final settlement of this matter.

If you are in doubt as to how to proceed, kindly call at our office and we will endeavor to help you further.

Yours very truly,

P. W. DENT

District Counsel.

CPH: P

El Paso, Texas,
February 17, 1919.

Mr. Leopoldo Acosta,
3900 Alameda Avenue,
El Paso, Texas.

Dear Sir:

In accordance with our conversation had with you recently, we have prepared an affidavit which is to be sworn to by yourself and a confirmation of the same at the end, which will be sworn to by Mrs. Acosta, and which you will kindly return to this office at an early date.

A quitclaim deed has also been prepared running from the heirs of Ponciano Armendariz, deceased, named in the affidavit, to the United States, and in accordance with our conversation you will please have these parties execute this quitclaim deed and return it to this office without delay. You will note that the deed described only the particular canal right of way containing 1.33 acres, which is to be granted to the United States.

When the affidavit and the deed are returned to this office we will have to again submit the matter to the Denver office of the Reclamation Service for further opinion and approval. When the title is approved we will draw warranty deed and have yourself and wife execute it and we will then be able to pay you the amount due you.

In the meantime we ask that you attend to the payment of all taxes due the County of El Paso and also the Water Improvement District, which latter taxes or assessments may be settled in the office of the Water Users' Association adjoining our office in the Mills Building. Please do not overlook the matter of these taxes because if you do not pay them it will be the means of holding up payment to you by the United States of the amount due you for the land.

Enc 2.

Yours very truly,
P. W. DENT
By C. F. HARVEY
District Counsel.

CFH:J

El Paso, Texas,
February 4, 1919.

Mr. Leopoldo Acosta,
3900 Alameda Avenue,
El Paso, Texas.

Dear Sir:

At your convenience we ask that you call at this office, as we desire to discuss several matters with you regarding title to the land through which we are securing right of way for the Ysle lateral. These matters can be discussed to better advantage in person than by correspondence.

We trust you will give this matter your early attention.

Yours very truly,

P. W. DENN
By C. F. HARVEY
District Counsel.

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

WASHINGTON, D. C.

DEC - 7 1918

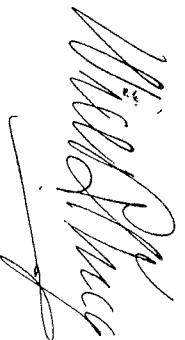
From Chief Counsel

To District Counsel Dent, El Paso, Texas.

Subject: Contract of July 5, 1918, with Leopoldo Acosta,
Rio Grande Project - New Mexico-Texas.

1. I have read Mr. Harvey's letter upon the above subject, dated November 27, 1918, and am glad to note that apparently the abstract will be furnished without a possible supplementary agreement.

2. Of course the United States cannot always consider the question of economy in acquiring title to land as you of course quite well understand, and as Mr. Harvey will undoubtedly appreciate as his experience in this work grows. However, of course, economy must always be considered along with safety and proper procedure.



El Paso, Texas,
Nov. 27, 1918.

From: Assistant District Counsel.
To: Chief Counsel, Washington, D.C.
Subject: Contract dated July 5, 1918, with Leopoldo Acosta,
Rio Grande Project-New Mexico-Texas.

1. Receipt is acknowledged of your letter of November 22nd (?).
2. Mr. Acosta has brought in an abstract of title, which we have ordered brought up to date by the abstracting company. As to the party who is to pay for the abstract, we intend for the present to stand upon our rights under the original agreement and feel that we can satisfy the Contractor that his title, when we have finished perfecting it, will be in so much better condition than it is present, that it will be well worth while the cost of the abstract. Should the Contractor interpose too strong objections, it may prove necessary to adopt the course of modifying his contract by a supplemental agreement.

3. In letter of even date to the Director and Chief Engineer, in regard to Jose Maria Provincio agreement, I have made reference to the letter which you are now reading, in regard to informal examination of title without an abstract with a view to the possibility of having to condemn the land or bring other action to quiet title. From an economical view point, it will hardly appear proper to go into court with a title involving a purchase amounting to \$60.00, or a purchase amounting to \$72.60, which are the amounts named in the Acosta and Provincio contracts, unless we had exhausted every other possible means of perfecting their titles. No exhaust these other means it would hardly be possible to avoid the proper routine of referring the titles to the District Counsel in charge of titles. In order to refer the matters to the District Counsel in charge of titles, we believe that no showing short of a complete abstract of title, however large or small, would satisfy Mr. Peery.


Absence of Mr. Dent

Copy to E. O. C.,

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

WASHINGTON, D. C.

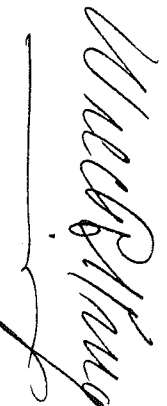
From Chief Counsel

NOV 29 1918

To District Counsel, El Paso, Texas.

Subject: Contract dated July 5, 1918, with Leopoldo Acosta -
Rio Grande project, New Mexico.

1. I am in receipt of Mr. Harvey's letter upon the above subject dated November 10, 1918. Mr. Harvey states that the title is in very poor condition and that the guaranty company will not issue a certificate covering it. He says that an abstract will be required and that it will cost "greatly in excess of \$10."
2. Mr. Harvey's information is altogether too indefinite to enable this office to determine whether or not an abstract should be authorized. Surely he can determine at least within the neighborhood of the price that the company will want for the abstract. Upon receipt of this information it will be determined what will be done. However, if an abstract must be paid for by the United States, it will be necessary to have a supplemental contract to that effect, and such a contract should be submitted with your recommendation in connection with more specific information.
3. Isn't it possible for you to also give us some idea regarding the most important defects in this title? It is barely possible that the United States will be unwilling to accept any deed from the present claimant, and if so condemnation will be our only remedy. If the land is to be condemned, then an abstract of title will be paid for by the Department of Justice. Therefore, you should make careful inquiry along these lines and base your recommendation upon the most definite obtainable information.



Copy to C of C

CH

El Paso, Texas, November 10, 1918.

Pioneer Abstract Company,

El Paso, Texas.

Gentlemen:

Inclosed is abstract No. 7897 relating to the Juan Armendariz estate, together with a print which shows the canal right of way taken by the Reclamation Service. Please bring the abstract up to date. With your own plats, we believe you will have no trouble in locating the right of way with reference to this land.

Very truly yours,

C F HARVEY

Assistant District Counsel.

2 incs.

CH

El Paso, Texas, November 10, 1918.

From Assistant District Counsel
To Chief Counsel, Washington.

Subject: Contract dated July 5, 1918, with Leopoldo
Acosta - Rio Grande project.

1. This contract, which carries a consideration of \$60, was made with the expectation that a title guaranty would be furnished which would cost the contractor only \$10. However, the title is in very poor condition and the guaranty company cannot guarantee it. Thus it has become necessary to call upon the contractor for an abstract of title, which will cost greatly in excess of \$10. If it had been assumed in the first place that an abstract of title were to be furnished, the second article of the contract would have been stricken out, thus putting the expense of the abstract of title upon the United States. It is still desired to relieve the contractor of the cost of an abstract (although he will be called upon to settle personally with the abstracting company to the extent of \$10), and it is desired to know whether the United States may waive its right under Article 2 of the contract and simply order an abstract of title and pay for it, or whether the contract will have to be modified in order to do this. Your attention is called to the fact that the contract has been recorded.

C F HARVEY

(In absence of Mr. Dent.)

CH

El Paso, Texas, November 8, 1918.

Mr. Leopoldo Acosta,
3900 Alameda Avenue,
El Paso, Texas.

Dear Sir:

Referring to our letter to you of September 12,
we have received no answer.

We are now in receipt of information from the Stewart
Title Guaranty Company to the effect that they will be
compelled to discontinue issuing title guarantees for
some time on account of Mr. Quaid's, the attorney, ab-
sence on war duty.

In view of the above it will be necessary for this
office to examine your title by means of an abstract.
Please advise if you wish to furnish this abstract or
have the Reclamation Service order it for you, making
deduction for the cost of same from amount paid you
in final settlement.

Very truly yours,

C P HARVEY

Assistant District Counsel.

CH

El Paso, Texas, September 12, 1918.

Mr. Leopoldo Acosta,
3900 Alameda Avenue,
El Paso, Texas.

Dear Sir:

Referring to the warranty deed which you recently signed conveying certain land to the United States for Ysla lateral right of way, we have to advise that difficulty is encountered in connecting up your record title to this land.

This office understands that the tract granted to the United States is part of the Injan survey in the Ysleta Grant, and is one of a number of tracts granted to Armendariz. Further, that you were the husband of Mrs. Armendariz, you having married her after the decease of Mr. Armendariz, and that Mrs. Armendariz has since died and that you are now single. Thus it appears that you acquired whatever title you have to the land in question through this marriage, the official county records not, however, showing that title to this particular tract of land was ever conveyed to you or otherwise vested in you. It is upon this point that we make inquiry, for if you cannot refer us to adequate conveyance it will, of course, not be possible to make payment under the contract to sell until we can secure and have recorded a proper instrument putting title in you.

Kindly call at this office at your early convenience, in order that we may advise with you further. We have no doubt that you can clear this matter up to our entire satisfaction.

Very truly yours,

G F HARVEY

Assistant District Counsel.

CH

El Paso, Texas, August 7, 1918.

County Clerk for El Paso County,

El Paso, Texas.

Dear Sir:

Transmitted herewith is warrant deed dated August 7, 1918, running from Leopoldo Acosta, which please place on record.

Very truly yours,

O F HARVEY

Assistant District Counsel.

Incl.

CH

El Paso, Texas, August 5, 1918.

County Clerk for El Paso County,

El Paso, Texas.

Dear Sir:

Transmitted herewith for official record are the following contracts.

Contract dated July 15, 1918, between J. C. Critchett and the United States. El Paso Valley mesa drain.
Contract dated July 15, 1918, between J. B. Akers and Hope Akers and the United States. Salinera 1 canal.
Contract dated July 5, 1918, between Leopoldo Acosta and the United States. Yala Jeteral, Schembie I.
Contract between Andreas Martinez and the United States, dated July 17, 1918. San Elizario waterway.

Very truly yours,

J N DEWY CHH.

District Counsel.

4 Incils.

OH

El Paso, Texas, August 5, 1918.

Mr. Leopoldo Acosta,

El Paso, Texas.

3900 Chavola Ave

Dear Sir:

Transmitted herewith for your execution and prompt return to this office is warranty deed running from yourself to the United States. This conveys right of way for the Ysle laterai, which is the subject of the contract recently entered into with you. The consideration named in this deed is \$60. After deducting the cost of a title guaranty, which will be \$10, you will note that the net amount due you will be \$50.

Please do not fail to return the deed executed at the earliest possible moment.

Very truly yours,

P W DEWY OWH

District Counsel.

Incl.

CH

El Paso, Texas, August 5, 1918.

Stewart Title Guaranty Company,

El Paso, Texas.

Gentlemen:

Inclosed herewith are blueprints showing right of way over lands belonging to Leopoldo Acosta and Andreas Martinez, together with adjoining owners, which right of way is to be conveyed to the United States by warranty deeds which we are to-day forwarding to these owners for execution. The Acosta land is in the Ysleta Grant and the Martinez land is in the San Elizario Grant. You are requested to furnish title guarantees for each of these conveyances.

Very truly yours,

P W DENY CPH

District Counsel.

2 incils.

Note in reference to including foundation of title in Socorro Grant in this abstract.

Mr. Peery states, in his opinion of January 15, 1919:

"No deed appears in the abstract by or on behalf of the Grant of Socorro. . . . This deed should be obtained if possible If adverse possession for the statutory period can be shown, the general deed executed by the board of county commissioners to the United States conveying its interest in such Grants may be relied upon. Said deed should be shown in the abstract when extended."

Nothing further appears in the opinion of January 15 in reference to the Socorro Grant title.

This Grant has not, evidently, been examined previously, although the Jose Maria Provencio title, now pending, lies in the Socorro Grant.

About one-third of the purchase lies in the Socorro Grant. The total purchase amounts to \$60, and thus we are paying about \$20 for the Socorro portion.

POSSESSORY CERTIFICATE

Rio Grande Project,
El Paso, Texas, July 5, 1918.

I, Geo. W. Hoadley, Field Assistant, United States Reclamation Service, certify that I have personally examined the land sought to be acquired by the United States from Leopoldo Acosta in SE $\frac{1}{4}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 6, T 32 S, R 7 E, United States Reclamation Service Survey, El Paso County, Texas, for the Rio Grande Project, and that the said proposed Vendor was in actual, sole, and exclusive possession of the land, claiming to be the owner thereof, and no person claiming a right in such land adverse to the Vendor is in possession of any part of it.

GEO. W. HOADLEY

Field Assistant

CFR:7

El Paso, Texas, May 29, 1919.

From: District Counsel, P. W. Dent,
District Counsel, Edwin H. Peery, Denver, Colo.
Subject: Opinion on title to land to be purchased from
Leopoldo Acosta-Rio Grande Project.

1. Reference is had to your opinion of January 15, 1919. Upon further investigation of the parties to this transfer we learn that contrary to the report from the field Leopoldo Acosta is not a single man, but is married, his wife being Filiberta R. Acosta who was formerly Filiberta R. Armendariz widow of Juan Armendariz to whom, and his daughter by a former marriage, Ponelana Armendariz, he willed the land, and that said Filiberta R. Acosta is still living and may be joined in the deed which will grant title to the United States. This will dispose of the interest of Filiberta R. Armendariz, which you find necessary in paragraph 13 of your opinion.

2. Also with reference to paragraph 13 of your opinion, we have learned who are the heirs of Ponelana Armendariz and have secured an affidavit by Leopoldo Acosta and his wife to the effect that four certain persons named therein are all of the relatives of Ponelana Armendariz and these four parties together with Pedro Apodaca, the husband of Ibrada de Apodaca, have been joined in a quitclaim deed running to the Government dated April 14, 1919.

3. The abstract of title has been brought down to date and this according to the certificate at entry No. 45 includes all instruments of record excepting general matters relating to the grant and in accordance with your request in paragraph 18. We do not, however, find any more instruments abstract which affect the foundation of the title, so the abstract was at first apparently as complete a showing in this regard as the abstract company could make. The abstract now does, however, include the quitclaim deed dated November 16, 1918, running from County Commissioners to the United States. Abstract is enclosed herewith.

4. The papers are returned herewith for your further opinion in accordance with paragraph 19. We find

that with the above matters accomplished and upon payment of all taxes due up to date, and execution of the warranty deed running from Leopoldo Acosta and wife to the United States, and with no matters of record adverse to the United States not at present abstracted, good title will vest in the United States.

Present by CHH

Incls:
Abstract of title,
Quitclaim deed,
Affidavit.

CPH: P

El Paso, Texas,
Dec. 18, 1918.

From: Assistant District Counsel.

To: Edwin H. Peery, District Counsel, Denver, Colo.

Subject: Opinion on Title to 26 acres of land held by Leopold Acoosta, a single man, lying in the Ysleta and Socorro Grants and subject to agreement to sell made with the United States and dated July 5, 1918 - Rio Grande Project.

1. The Ysleta Canal right of way containing 1.53 acres, which the United States is to acquire, extends from the north-west to the southeast across the northerly part of the Pedro Injan tract, this northerly part consisting of some 26 acres lying in both the Ysleta and Socorro Grants and being now known as the Juan Armendariz tract, and in the abstract first described in a warranty deed dated September 9, 1899, running from Severiano Duran et al. to Juan Armendariz. (See plat at p. 3 of abstract and monument p. 10).

2. No deed runs from the Corporation of Socorro to that part of the property lying within the Socorro Grant and no deeds from the Ysleta Grant, (except as to 13 acres to Lazara Injan - p. 8), or the County Commissioners Court, are abstracted. Thus, as to the foundation of the title running from the Grants with the abstract in its present condition, we shall have to rely upon the general matters of record relating to these Grants, or the Reclamation Service, which for rights of way acquired by the Reclamation Service, which was executed by the Commissioners Court under date of November 16, 1918, (book 327, p. 376) but not abstracted. It will probably be necessary to have the abstract perfected as to the old Corporation Grants, but we are now considering the title as at present evidenced, the abstract at hand being one which has been held for sometime by the property owners and which we have had extended up to date in its original form.

3. By affidavit (p. 8) it appears that Pedro Injan died in or about the year 1864 (his wife, Catarina, died in or about the year 1884), leaving as his only heirs, Encarnacion Injan, Juana Duran and Lazara Aveita; and that the County Commissioners Court conveyed, under date of October 14, 1907, what appears to be that portion of the Juan Armendariz tract, lying in the Ysleta Grant and containing some 13 acres, to Lazara Aveita, using the name Lazara Injan in this conveyance.

4. Certain old judgments appear near the beginning of the abstract, all of which have been released, except

the one for \$140.00 at p. 9, and as to this latter, dated December 10, 1884, no execution or further action appears of record and it may, under the law and the premises, be disregarded.

5. The heirs of Pedro Injan named in the affidavit of p. 8, together with their husbands, joined, under date of September 9, 1899, in a warranty deed running to Juan Armendariz, which conveyed the 26 acres of land which constituted the tract, title to which is here considered (p.10).

6. Juan Armendariz died on August 24, 1904 (see second paragraph affidavit p. 26) and Cecelio Cadena was appointed administrator of this estate. At this time it was made to appear that said Juan Armendariz had left no will and that his sole surviving heirs were Filiberta R. de Armendariz, his widow, and Ponciano Armendariz, a daughter. The Court found that these were the only two parties entitled to the property and ordered that it be conveyed to them, each to take a half interest (p.p. 21 and 22). Administrator carried out this Court order by deed dated September 28, 1906 (p. 23), and the widow, Filiberta R. conveyed all her interest to the lands in El Paso County belonging to the estate to her daughter Ponciano, under date of November 19, 1910 (p. 25).

7. From the marriage license, dated December 31, 1910 (abstract at p. 28) it appears that the widow of Juan Armendariz was married to Leopoldo Acosta, the party who is now under contract to convey to the United States.

8. Under date of February 16, 1910, Cecelio Cadena filed application in the El Paso County Probate Court to probate a will of Juan Armendariz wherein, besides his wife and daughter hereinbefore mentioned, two nephews, Cecelio Cadena and Silverio Escontrias, were devised equal shares in his property. The history of the litigation on this probate is as follows: The will was contested by the widow and daughter by Demurrer to the application; probate; court ordered that the demurrer was well taken and that it be sustained, denying the probate of the will, and ordering that the cloud on the property by reason of the alleged will be removed; appeal was taken to the 34th District Court of El Paso and this court ordered that the will be admitted to probate; Court of Civil Appeals reversed this proceeding and motion for re-hearing was over-ruled; writ of error applied for to the Supreme Court, which was refused. (p.p. 29 to 40).

9. Ponciano Armendariz, the daughter of Juan Armendariz, to whom his wife had on November 10, 1910 deeded her interests, died on November 20, 1911. Her will, dated September 30, 1911, was filed, making certain disposition of real and personal property, the property abstracted not, however, being included in the inventory of her estate, but

certain dispositions being made as to sale of property and distribution of funds to be derived therefrom, which will be discussed later in this opinion (p. 41 to 43), and naming Silverio Escobrias as independent executor. *See notes at end.*

10. Certain other instruments affecting the operations of the Reclamation Service, are abstracted, all of which are of a nature which you generally disregard in considering titles.

11. The extension of the abstract (p. 60) shows that Silverio Escobrias, independent executor of the estate of Ponciano Armendariz, in consideration of certain partition deeds, but for no actual money consideration, under date of February 20, 1915, quitclaimed to Filiberta R. de Acosta and her heirs and assigns, as her separate estate, the Pedro Injan tract.

12. As above noted the agreement to sell to the United States is executed by Leopoldo Acosta, he executing this instrument as a single man, indicating that his wife, Filiberta R., to whom on February 20, 1915, had been deeded as her separate estate, the Pedro Injan tract, must have died, thus leaving this separate interest now in her estate to be conveyed to the United States in order to perfect title, in addition to the warranty deed dated August 7, 1918, running from Leopoldo Acosta to the United States; which warranty deed was filed for record without examination of abstract as the expectation was that title guaranty could be secured, but which title guaranty is now refused by the issuing company.

13. Two considerations arise:

1. As to the disposition of the separate property granted to Filiberta R. de Acosta, now evidently deceased, by the partition deed abstracted at page 59, in order to vest good title in the United States.

2. Whether such partition deed was authorized at all under the terms of the Will of Ponciano Armendariz (p. 27).

The first consideration may be disposed of by ascertaining the names of all the persons who are heirs or otherwise may claim under the estate of Filiberta R. de Acosta, including her husband, Leopoldo Acosta, for the additional reason that he now is in actual possession of the land, and securing their releases to the right of way to be acquired by the United States.

The second applies largely to the consideration of the terms of the Will of Ponciana Armendariz and the authority of an independent executor under the prevailing Texas law. As to the authority of the independent executor shown considered under the Texas law, such executor may convey without order of the court and the terms of the Will (par. 9, p. 43) are clear as to the appointment of an independent executor, except, of course, that the Will itself does not direct a partition of the property (see Art. 3374, Sales' Texas Civ. Stat.) The Will, after directing the disposition of certain properties other than the land involved, the title herein being examined, states,

"It is my desire, and I so direct that all other property in which I have any interest be sold by me executor and all debts and expenses paid from the proceeds, but I leave it entirely to his good judgment as to the time when it shall be sold, the price at which it may be sold and the terms of sale".

and that the funds derived therefrom be distributed in four equal parts to Silverio Escobertas, a cousin, to Lebrada O. Apodaca, a cousin, to the priest of Socorro, and a fourth part to be equally divided between Bruna Padilla, an Aunt, and Soterio Garrera, a cousin. However, Art. 3374 of Texas Stat., "simply relieves the executor of the necessity of applying to the court for leave to sell and applies only to sales where the power to sell is given by a Will. It does not confer a power to sell". (Stevenson vs. Roberts 25 C.A., 577, 64 S.W. 234). In other words, the general rules as to construction of Wills so as to carry out the intent of the testator when there is a clear expression of the intent is in no wise altered by the Texas rule as to independent executors. Art. 3368 of Texas Stat. relating to partition of estates would seem to strengthen this argument. In fact, the position is so logical that it seems scarcely necessary to refer to the law.

14. It is my opinion that the beneficiaries named in the Will of Ponciana Armendariz should, with the executor thereof, release to the United States and also, as the title is now clouded by the partition deed running to Filiberto R. de Acosta, now deceased, that all persons claiming under her separate estate should release their interest to the United States, as well as Leopoldo Acosta, now in possession of the land and a necessary party to be joined in a conveyance of the wife's separate property, very likely claiming as an heir of his deceased wife, and holding whatever funds are derived from her separate estate in trust for her heirs. (See Art. 4621 Texas Stat. 1st Par. 14 and par. 42 thereunder).

In this connection I am unable to understand why the Juan Armendariz tract was not listed with the other property in the inventory and appraisalment of the Ponciauna Armendariz estate, but whether or not this particular land was ever considered in this probate matter, I do not find anything in the abstract releasing her interest in this land after the conveyance of it to her by her stepmother in the warranty deed abstracted at p. 25, nor in any place any showing as to why the independent executor should not sell the property and make the exact disposition of the funds derived therefrom that was directed in the Will. It may be that as a plain business consideration the executor was warranted in partitioning the land as he did and that he still holds the property granted to the Ponciauna Armendariz estate for further disposal under the terms of the Will.

15. If you consider that the partition deed running to Filiberta R. de Acosta is valid, my suggestion would be to join all parties claiming under her estate in a warranty deed running to the United States and drawing a check payable to the several interests which are made to appear. It may be that you would consider it well to wait for probate proceedings, if such are contemplated by the parties in interest in the near future. However, my idea in the matter is to close it up at once, if this can possibly be done.

If you do not consider that the partition deed is valid, I suggest that we secure releases from any parties claiming under the Filiberta R. de Acosta estate, if we can get such parties to execute releases, but that the instrument of transfer containing warranty ~~running~~ from the executor and beneficiaries named in the Ponciauna Armendariz Will and that the money payment by the United States be so arranged that this shall go to the beneficiaries under this Will. It is possible that an investigation to determine all parties in interest will simplify the matter of payment.

Encs-
Abstract of title,
Blueprint & copy of
Agreement to Sell.

Note: The 75 acre parcel of land described in the Ponciauna Armendariz Will "2nd" paragraph, p. 42 of abstract, is a different tract from the land title to which is being considered.

State of Texas, :
County of El Paso, :

Before me, the undersigned authority, on this day

personally came and appeared Salvador H Estrada
and Pedro Morales, both to me well known,
and who, after both being by me duly sworn, did depose and
say, each for himself and not for the other:

That he is over 21 years of age; that he is personally acquainted with Leopoldo Acosta and Filiberta R. Acosta, and with their holding of certain land containing some 26 acres in the Ysleta and Socorro Grants, claimed by the heirs of Juan Armendariz, deceased, which is a part of a 67-acre tract formerly belonging to Pedro Lujan, and across which the United States Reclamation Service has constructed the Ysleta lateral of the Rio Grande project; and that to his personal knowledge said Filiberta R. Acosta has, for ten years or longer, been in open, notorious, exclusive continuous, hostile, actual, and adverse of possession of said land, and that since his marriage to said Filiberta R. Acosta in December, 1910, said Leopoldo Acosta has been living with his wife upon this land part of the time; and that no other person has been in possession of the land during this period and asserting under such possession any rights adverse to said Filiberta R. Acosta or said Leopoldo Acosta.

Salvador H Estrada

Address: 4228 Madera St El Paso Texas

Pedro Morales

Address: 5915 Pera St El Paso Tex

Subscribed and sworn to before me this 25th day
of June, A. D. 1919.

F E MEDINA

My com. exp. May 31 1921. Notary Public In and For El Paso County, Texas.