

480

PROVENCIO, ENCARNACION

WARRANTY DEED

(131) MESA DRAIN

0023-6074.0017-00

7-(17) TEXAS

THE STATE OF TEXAS,
COUNTY OF EL PASO.

KNOW ALL MEN BY THESE PRESENTS:

That I, **Encarnacion F. Provencio, a widow**

of the County of El Paso, State of Texas, in consideration of the sum of Two hundred and eighty-four and 20/100 (\$284.00) 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) and acts amendatory thereof or supplementary thereto

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, its successors or assigns**

of ~~the County of El Paso and State of Texas and more particularly described as~~ 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 situated approximately 3 miles Northwest of the town of Ysleta, El Paso County, Texas, in the SE 1/4 of Sec. 15, Township 31 South, Range 6 East U. S. Reclamation Service survey, being also**

in the Ysleta Grant and more particularly described as follows: Beginning at the most westerly corner of the tract of land herein described, which is a point on the southeasterly right of way line of a county road and from which point the Southwest corner of said Sec. 15 bears S. 48°29'33" W. 2,033.0 feet; thence along said southeasterly right of way line of county road North 57°09'30" E. 16.74 feet and N. 55°35'30" E. 125.33 feet to a point on a 312.26 feet radius curve, the tangent to the curve at said point bearing South 72°31'52" E. thence in a southeasterly direction and to the left along said curve a distance of 352.12 feet, measured on 100.0 foot chords; thence North 79°31'30" East 111.67 feet; to the property line between land of the Grantor herein and Mrs. M. G. Brazell, thence along said property line S. 3°04'30" W. 45.50 feet to Southwest corner of Mrs. M. G. Brazell; thence along south line of land of Mrs. M. G. Brazell, E. 76°42' E. 250.54 feet to a point which is the Northeast corner of land of the Grantor herein; the Southeast corner of Mrs. M. G. Brazell, the Southwest corner of C. Tallas and the Northwest corner of Felix S. Guediman; from which point the Southwest corner of said Sec. 15 bears S. 55°46'25" W. 2585.9 feet; thence S. 31°31'30" E. 104.67 feet along the property line between land of the Grantor herein and said Felix S. Guediman to a point on a 333.06 foot radius curve, the tangent of which at said point bears N. 86°41'36" W. thence, in a westerly direction and to the left along said curve a distance of 80.71 feet, measured on 100.0 foot chord lengths; thence S. 73°31'30" W. 309.5 feet; thence to the right along a curve with a radius of 432.26 feet, a distance of 277.98 feet measured on 100.0 foot chord lengths; thence N. 63°36'30" W. 21.26 feet to point of beginning; said tract of land containing one and forty-two hundredths (1.42) acre 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, its successors or assigns

~~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, its successors or assigns

~~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 21st day of

September, A.D. 1920

Witnesses at Request of Grantor

F G Candelaria

F Harvey

nt U. S. Doc. Rev. stamp

Encarnacion F Provencio

Her X Mark

THE STATE OF TEXAS

COUNTY OF EL PASO.

BEFORE ME,

Geo W Hoadley A Notary Public

in and for El Paso County, Texas, on this day
personally appeared **Encarnacion P. Provencio**

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 pur-
poses and consideration therein expressed.

Given under my hand and seal of office, this **21st** day of **September** A. D. 19 **20**

(SEAL)

my comm. exp

June 1, 1921

Geo. W. Hoadley
Notary Public, El Paso County, Texas.

THE STATE OF TEXAS.

COUNTY OF EL PASO.

Before me,

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 instru-
ment to be her act and deed, and declared that she had willingly signed the same for the purposes and consid-
eration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office, this _____ day of _____ A. D. 19 _____

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 **21st**
day of **Sept**, A. D. 19 **20** with its certificate of authentication, was filed for record in my
office this **8** day of **Oct**, A. D. 19 **20**, at **4:30** o'clock **P M**
and duly recorded the **12** day of **Oct**, A. D. 19 **20**, at **2:40** o'clock **P M**
in the records of said County, in Volume **345** on Pages **452**

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.

W D Greet

Clerk County Court, El Paso County, Texas.

By **L W Amador**, Deputy.

WARRANTY DEED

Single and Wife's Separate Acknowledgment

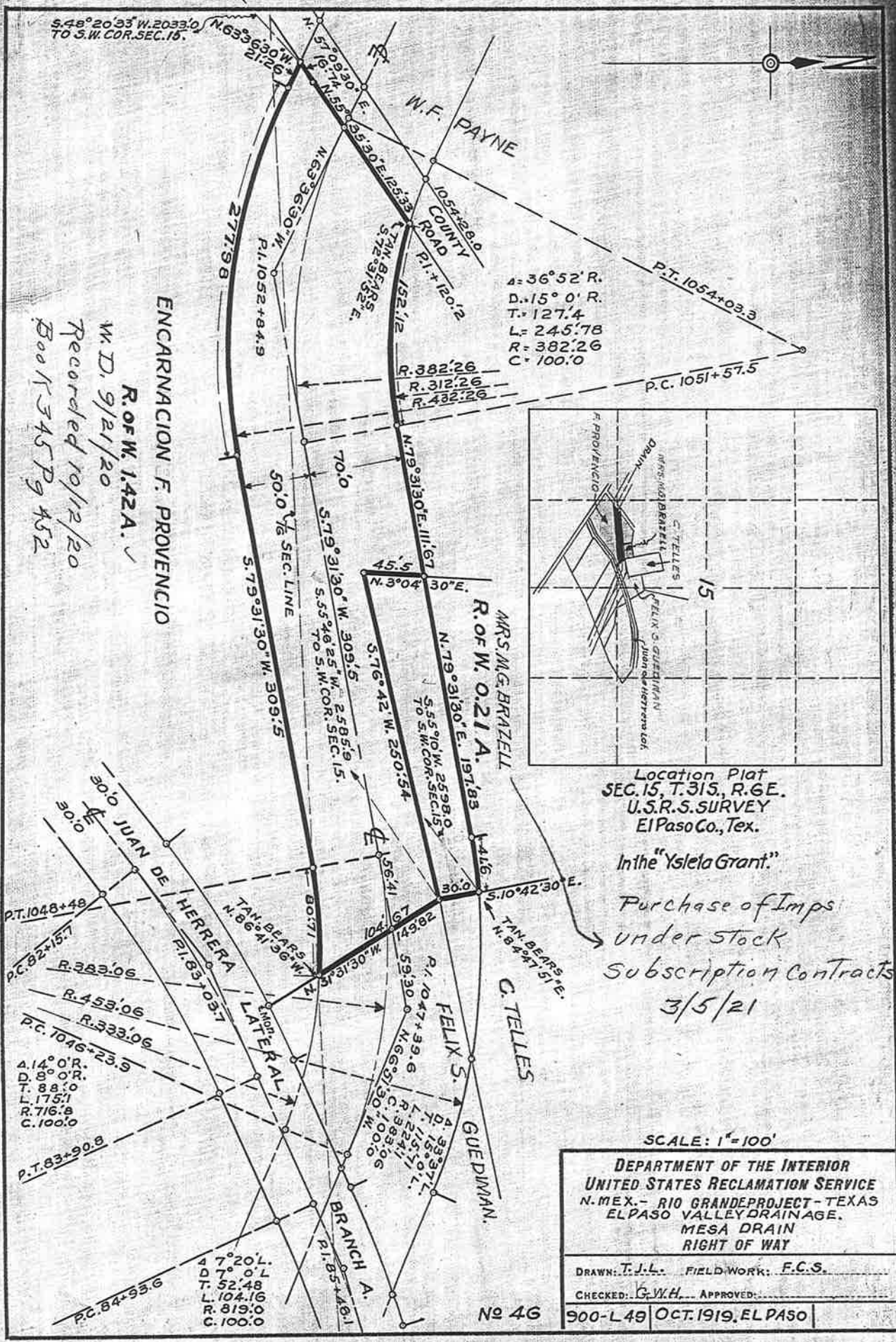
Filed for record _____ 19 _____

at _____ o'clock _____ M.

Clerk
County Court, El Paso County, Texas.

By _____ Deputy.

ELLIS BROS. PRINTING CO., EL PASO



El Paso, Texas, ~~September 21, 1920.~~

OCT 3 - 1920

County Clerk for El Paso County,

El Paso, Texas.

Dear Sir:

Transmitted herewith for official record is warranty deed dated September 21, 1920, running from Encarnacion F. Provencio to the United States.

Very truly yours,

P W DEET

District Counsel.

incl.

Memorandum to accompany title papers in land purchase under contract dated May 10, 1920, with Encarnacion F. Provencio (El Paso Valley mesa drain) - Rio Grande Project.

1. Reference is had to opinion by Acting Chief Counsel dated September 16, 1920, and the following relates to title taken by the vendor under the will of Francisco Provencio, her husband, as discussed in par. 6 of Acting Chief Counsel's opinion.

2. Where application is made for probate of a written will, citation shall be made to all parties interested in the estate, service of citation to be made by posting for at least ten days before the first day of the term of court. (Arts. 3256 and 3257 Tex.Civ.Stats.) The record shows that notice was issued by publication on April 16 and 23, 1920, in the "Labor Advocate," which is an El Paso newspaper. The service is therefore defective.

3. However, ^{upon} further investigation of the family history of Vendor and her deceased husband, ~~and~~ we learn that there were no children by their marriage; ~~and~~ that neither party has ever had any children by this or by any other marriage; and that Vendor was married to her husband, testator in the will above referred to, at the time he acquired the land a portion of which has been purchased by the United States, thus putting it into the status of community property. (Art. 4622.) An affidavit has been secured from Vendor reciting the above facts, which is corroborated by one Casimiro Serna. Both parties are, so far as I can learn, competent and credible with regard to these sworn statements. "Upon the dissolution of the marriage relation by death, all property belonging to the community estate of the husband and wife shall go to the survivor, if there be no child or children of the deceased or their descendants . . ." (Art. 2469.) In view of the above showing it appears that the Government Vendor takes title regardless of her husband's will and the proceedings thereunder, and I am of the opinion that the United States may accept title in its present condition and that the suggestions in Acting Chief Counsel's opinion above referred to have been met satisfactorily. The abstract brought down to date shows no entries adverse to the interests of the United States, the only new muniment being warranty deed running to the Government.

4. Tax statement at page 25 of the abstract of title shows, under date of July 2, 1920, all taxes on a 9- and 10-acre tract paid up to and including the year 1919. The 9-acre tract is the one the United States is interested in, and this was cut in two by the drain and rendered as a 7-acre and a 2-acre tract for the year 1920, and taxes on these tracts were paid for 1920 on December 18, 1920, as shown by notation over

signature and seal of tax collector on tax statement, ~~dated~~
as of date February 7, 1921.

5. With the above showing, the papers are passed for voucher and payment.

El Paso, Texas,
February 26, 1921.

P. V. DENT

District Counsel.

The inclosures accompanying this
land purchase are--

Warranty deed, with 1 copy and 2 blueprints.
Possessory certificate with 1 copy.
Affidavit dated August 10, 1920, with 1 copy.
Orig. agreement to sell.
" opinions D. C. Aug. 20, 1920, and Asst.
C.C. Sept. 16, 1920.
Ex. copy above memo.
Abstract title 19377.
Affidavit dated Feb. 24, 1921, with 1 copy.

The State of Texas, County of El Paso:

Before me, the undersigned authority, this day personally came and appeared Encarnacion F. Provencio, to me well known, and who, after being by me duly sworn, did depose and say:

That she is over twenty-one years of age; that her post-office address is Ysleta, Texas; that she is the same party who executed a warranty deed running to the United States, dated September 21, 1920, and recorded in Volume 345, page 452, of the deed records of El Paso County, Texas, conveying 1.42 acres of land therein more fully described; that she, affiant, is also the same party named as the devisee in a will of Francisco Provencio, she having been his wife at the time of his decease, said will being dated September 20, 1919, and recorded in Book 40, page 403, of the probate records of the said El Paso County; that neither she nor her said deceased husband have ever had any children by this marriage or by any other marriage; that the above described land was acquired November 4, 1904, by warranty deed running to the said Francisco Provencio, from Franz Mayor, et al., said deed being recorded in Book 74, page 106, of the deed records of the said El Paso County, and that at the date of the execution of this last mentioned deed she, affiant, was married to the said Francisco Provencio.

Witnesses: C. F. Harvey _____ Encarnacion F. Provencio Her X Mark.
M. E. Flournoy _____

Sworn to and subscribed before me, this 24th
day of February, A. D. 1921,

(SEAL)

F. G. Candelaria

My com. exp.

Notary Public. El Paso Co Texas.

June 13 1921-22

The State of Texas, County of El Paso:

Before me, the undersigned authority, this day personally appeared Casimiro Serna, to me well known, and who, after being by me duly sworn, did depose and say:

That he is over twenty-one years of age; that his post-

office address is Ysleta Texas; that he has for a long period of time, to wit, 15 years, been personally acquainted with Encarnacion F. Provencio, the above affiant, and has during all of said period of time resided in her neighborhood; and that he, affiant, has read the foregoing affidavit and knows of his own knowledge that the matters and things stated therein as to the family history of the said Encarnacion F. Provencio are true.

Casimiro Serna

Sworn to and subscribed before me, this 24th day of February, A. D. 1921.

(SEAL)

F G Candelaria

My com. exp.

Notary Public.

July June 1 1921.

El Paso Texas

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

Acting Chief Counsel

District Counsel, El Paso, Texas.

Land acquisition. Opinion of title to 1.42 acres of land to be acquired from Encarnacion F. Provencio under contract dated May 10, 1920 - Rio Grande Project.

1. I have your opinion of August 1st, 1920, Abstract No. 19377 by the Pioneer Abstract and Guarantee Title Co., and related papers.

2. From the abstract (page 3) it appears that the title to this land is founded, as you suggest, upon the corporation deed from the town of Ysleta to Francisco Mayer dated September 5, 1868, which you identify as the land we now have under consideration. On November 4, 1904, Franz Mayer, described as a widower, Miguel Mayer and his wife, and Frank Meyer, 2nd., conveyed land the 9 acre tract of which you identify as containing land now under consideration and being approximately the land described in the deed from the town to Francisco Mayer. It appears that Francisco Provencio is now dead and the widow, Encarnacion Provencio, you point out states that this warranty deed of November 4, 1904, is the only instrument under which her husband claimed this land.

3. In paragraph 2 you state that Francisco Mayer died before the year 1904 and that "his heirs, without will or probate, conveyed to the husband of the Government vendor." Article 2462 of Vernon's Sayles' Texas Civil Statutes provides that where an intestate leaves a surviving spouse any estate of inheritance, real or personal or mixed, shall descend where there are children, to the children with one-third of the estate to the surviving spouse for life; so that if the affidavit of August 10, 1920, by Encarnacion F. Provencio is reliable there is no break in this title out of Francisco Mayer, since his wife is now dead; but the confusion regarding the description of the land is, of course, serious and unfortunate because it does not appear that the vendor's husband took possession of all of this land under a recorded instrument or any instrument at all. Again due to the fact that there is only a small area involved and that the amount is only \$284.00 and that the expense of condemnations probably out of proportion to the risk, we shall have to disregard the defect, upon the implied understanding that you have done all to remedy the evil that can be done within reason short of condemnation.

4. You point out that the quitclaim, as disclosed on page 6 of the abstract, relates to a tract of land which in no way conflicts with that now under consideration.

5. On page 7 is disclosed the will of Francisco Provencio dated September 20, 1919, which passes title, as we understand, to this and other lands to his widow, the Government vendor.

6. On pages 8, 9 and 10 are found abstracts of the administrative proceedings, etc. It appears that the will was admitted to probate but it does not affirmatively appear in the abstract that all possible parties were regularly made parties to and had the required notice of the probate proceedings. Your attention, therefore, is directed to this defect. You will satisfy yourself that there are no other possible parties who might have been entitled to have contested this will and who were not regularly summoned or otherwise properly notified of the proceedings. For instance, had the deceased left an infant child there would be opportunity after it comes of age, should it so desire, to charge that the will was made under undue influence or that the testator was at the time insane.

7. You point out that taxes up to and including 1919 are paid. Therefore, should the deed be executed and recorded before the 1920 taxes attach the question of taxes will not adversely affect the interests of the United States.

8. You point out that pages 14 to 20 inclusive, disclose transactions between the United States and the El Paso Valley Water Users' Association which are not adverse to the interests of the United States and will be disregarded.

9. Therefore when the requirements herein made have been met to your satisfaction the transaction may be closed in the usual way. The deed in the form proposed will be executed and recorded and the abstract continued to show the title up to the recordation. Thereupon should no other change in the title be disclosed, the purchase money may be paid by the disbursing officer who will file with his voucher the papers required by the Reclamation Manual.

Inclosures:

D.C.'s letter of Aug., 1920.

✓ Copy of this opinion.

Possessory's certificate.

Blue print.

Affidavit by contractor.

Abstract No. 19377.

(Note: The original agreement to sell not with the papers because in County Clerk's office for recordation).

CC - C.E., Denver, Colo.
P.M., El Paso, Texas.

El Paso, Texas, August 20, 1920

From District Counsel

To Chief Counsel, Washington, D. C.

Subject: Opinion on title to 1.42 acres of land to be acquired by the United States under agreement to sell dated May 10, 1920, with Encarnacion F. Provencio, (El Paso Valley Mesa Drain) - Rio Grande project.

1. This title is founded upon the corporation deed dated September 5, 1868, running from the Ysleta Town Grant to Francisco Mayer. Numerous titles originating with the Ysleta Town Grant have been examined in this office and it is not deemed necessary to go behind the deed running from the grant. Under date of November 4, 1904, Francisco Provencio acquired the land from grantors described as Franz Mayer, a widower, Miguel Mayer et ux. and Frank Meyer, 2nd. This warranty deed describes two tracts of land, the first of which, containing 9 acres, is the tract described in the Town of Ysleta deed, and is approximately the tract of which the Government right of way is a part.

2. The warranty deed running to Francisco Mayer evidently conveys the western part of the land described as Tract 1, in the deed running to Francisco Provencio. The Government vendor, Encarnacion F. Provencio, states that this deed to her husband Francisco Provencio, now deceased, constitutes the only conveyance under which she and her husband have held. It is very difficult, if not impossible, to reconcile the land descriptions involved in these deeds with each other, and to relate them in any definite manner to the right of way acquired by the Government. Also the chain of title is broken by reason of the fact that while Francisco Mayer obtained title to the land by the corporation deed, his heirs, without will or probate, conveyed to the husband of the Government vendor. In order to cure the defect caused by this break in the chain of title, and the confusion as to land descriptions, it has been found necessary to rely upon an affidavit made by the Government vendor and corroborated by a party who has for a long time resided in the vicinity of this land. This affidavit states that the grantors in the deed running to Francisco Provencio are the heirs of Francisco Mayer, and that the Government vendor has, with her husband who is now deceased, held possession of the land for a period

of fifteen years. The Texas statute with regard to a period of possession running upwards of ten years is very favorable to the party in possession, and this is a good case by reason of the fact that the Government vendor and her deceased husband took possession (of a part of the land at least) under a deed duly registered. This condition is similar to many others encountered in El Paso County, and the corroborated affidavit, together with the chain of title as it appears from the abstract, is satisfactory evidence of a present right to convey.

3. At page 7 of abstract appears a quitclaim deed running from Francisco Provencio to El Paso County, Texas. This deed conveys a tract of land for public road lying to the west of our right of way. The area of the road is stated to be 49 acres, but this is probably an error. At any rate, the established road does not encroach upon the land the Government is to acquire.

4. Pages 14 to 20 of the abstract relate to matters between the United States and the El Paso Valley Water Users' Association and to the regulations in regard to issuance of final water right certificates, none of which matters will prejudice title acquired for Reclamation Service canals. The quitclaim deed abstracted at pages 21 and 22 running from the El Paso County Commissioners to the United States was obtained to perfect titles where the deeds running from Mexican Grants to the original settlers were defective, lost, or never recorded. In the case of this title we do not have to rely upon this deed. The statement made at page 24 relates to a Spanish grant dated May 19, 1692, that has been filed by Elizabeth C. Hendrix. This matter is generally regarded by attorneys and real estate people as one that will never seriously affect the existing titles in this community which are long standing and founded upon other and better established grants.

5. Taxes are shown to be paid up to and including the year 1919. As to taxes for the year 1920, these have not yet been assessed, and warranty deed conveying title to the United States will probably be executed before assessment proceedings are completed. The Secretary of the Interior has held in decision dated April 25, 1910, (D-11479) that upon the acquisition of property by the United States pending the taxing proceedings, the taxing power of the State is arrested and the Government takes title free from incumbrance, for the reason that the tax liens to become effective against the United States which is a party exempt from taxation by State authority, must be perfected prior to the acquisition of title. This matter will receive further proper attention, with regard to date of passing of title and the then condi-

tion of tax assessment.

6. Francisco Provencio died on March 2, 1920, leaving all of his real estate to his widow, Encarnacion F. Provencio, the Government vender. The probate proceedings show that no claims were filed against the estate (pages 8 to 10 of abstract). It is my opinion that good title will vest in the United States upon the execution of warranty deed in proper form by Encarnacion F. Provencio, and copy of the proposed deed is transmitted herewith. If you concur in this opinion we shall be pleased to have deed executed, abstract brought down to date, and the purchase vouchered and paid.

- - - -

P. W. DUFFY

Encl.

Abstract of title No. 19377.

Copy of proposed warranty deed.

Possessory certificate.

Affidavit by Encarnacion F. Provencio.

1 Blueprint.

(Original agreement to sell not transmitted for reason that it has not been returned from County Clerk's office; reference being made to copy of agreement in Washington files.)

Extra copy of above opinion.

Copy to C.E.

El Paso, Texas, February 8, 1921.

Mrs. Encarnacion F. Provencio,
Care Frank G. Candelaria,
Ysleta, Texas.

Dear Madam:

In making examination of land title for right of way for the mesa drain, we find that you took this property under your husband's will. The will was probated, but the citation of parties in interest was made by publication in the Labor Advocate of April 16 and 23, 1920, whereas the law provides that where application for the probate of a written will is made and the will is filed with the clerk, or where application for letters of administration is filed, the clerk shall issue citation, and that such citation shall be served by posting for at least ten days, exclusive of the day of posting, before the first day of the term of the court to which such citation is returnable. (Arts. 3256, 3257.) Therefore, according to my understanding of the statutes, the probate proceedings are defective. This procedure should be cured by supplemental probate proceedings.

However, if you are the sole heir of your deceased husband, or if your children are all 21 years of age and are willing to join in a deed running to the United States, we can probably draw and have executed certain instruments which will render such supplemental probate proceedings unnecessary. Kindly advise us, therefore, of the names and ages of all of your children, and state if they live in this vicinity, or where they may be found.

If your children are minors it would be difficult for us to make settlement for the right of way unless the probate proceedings are corrected, as mentioned above. In this event the attorney who handled the will for you will probably be able to set the matter right with little trouble.

I regret that this matter has been delayed, but we have held it until time could be taken to go into all details thoroughly and with a view to passing the title without criticism if this could possibly be accomplished. The results are, however, as stated above. Kindly advise with regard to your family as soon as possible.

Very truly yours,

P. T. DENT

District Counsel.

El Paso, Texas, ~~September 21, 1920.~~

Pioneer Abstract and Guarantee Title Company,
El Paso, Texas.

Gentlemen:

Transmitted herewith, to be brought down to date, is
abstract No. 19377, relating to land owned by Encarnacion F.
Provencio. Deed running from this party to the United States,
dated September 21, 1920, has been filed for record.

Very truly yours,

P W DENT

District Counsel.

incl.

El Paso, Texas,
August 2, 1920.

Mrs. Encarnacion F. Provencio,
Ysleta, Texas,

Dear Madam:

Transmitted herewith to be subscribed and sworn to by yourself, is affidavit concerning your possession of the land which is to be conveyed to the United States for the Mesa Drain, and also concerning the family history of Francisco Mayar, the heirs of whom were your deceased husbands grantors. You will note that we have stated the period of possession as fifteen years, and not eighteen years, and this has been done for the reason that the possession is described as holding under the warranty deed running from Frans Mayar et al. which is dated November 4, 1904, and which would therefore make it impossible to state the time as eighteen years.

In returning this affidavit please remit 50¢ for the revenue stamp which must be affixed to the warranty deed that you have signed.

Very truly yours,

P W DENT

District Counsel.

Encl.

El Paso, Texas,
July 23, 1920.

Mrs. Encarnacion F. Provencio,
Ysleta, Texas.

Dear Madam:

Transmitted herewith to be executed and returned to my office, is warranty deed conveying to the United States the land necessary for Mesa Drain right of way. Please sign and return this deed at your early convenience. The instrument will have to be acknowledged before a notary public and if you can call at our office, the notary public here will be pleased to render his services without charge to you.

This deed will require ^athe United States Internal Revenue stamp for 50¢, which it is customary for the grantor to furnish and which please do not overlook.

In examining title to the land we note that the title is founded upon the corporation deed running from the town of Ysleta to Francisco Mayar, and that your husband, Francisco Provencio, acquired the land by a deed running from Franz Mayer, Miguel Mayer and his wife, and Frank Meyer 2nd; but that there is no intervening deed or other instrument showing how your husband's grantors acquired the title. We assume that Francisco Mayar died prior to the conveyance running to your husband and that your husband's grantors are the heirs of the said Francisco Mayar. There is also a hopeless confusion between the spelling of the names of these grantors, in the manner in which they have signed their names to the deed, and that in which they appear in the acknowledgments. Before we can go further in the examination of this title it will be necessary for you to furnish evidence in the form of an affidavit to the effect that your deceased husband's grantors are the heirs and all of the heirs of Francisco

Mayar, or, if this is not true, the real facts in the case, whatever they are, should be stated.

If you are in doubt as to how you should proceed in this matter, we suggest that you had better call upon an attorney or a notary public in Ysleta and secure his assistance, or else, if you can come up to El Paso, call at our office and we will be glad to go over the title with you and prepare the necessary papers.

If you execute the affidavit in Ysleta we would like to have it corroborated, the corroboration also to be in the form of an affidavit, by some person who is a stranger to the title but who has resided in your neighborhood for a long time and is personally familiar with the family history of the parties privy to the title.

We think that upon the execution of the warranty deed and satisfactory showing as to the conveyances above discussed, the title will be in proper condition for an opinion by this office which will receive approval by our department. This procedure is necessary before payment can be made to you, and hence you will find it to your interest not to delay action.

Very truly yours,

P W DENT

District Counsel.

Encl. -Warranty deed.

El Paso, Texas, June 29, 1920.

Pioneer Abstract and Guarantee Title Company,
El Paso, Texas.

Gentlemen:

Please furnish abstract for 1.42 acres of land held by Encarnacion F. Provencio in E $\frac{1}{2}$ of SW $\frac{1}{4}$ sec. 15, T. 31 S., R. 6 E., subject to agreement between this party and the United States, dated May 10, 1920, which is to-day being filed for record, and more particularly described on attached blueprint. This is a part of the land granted to Francisco Provencio by Franz Meyers, et al., by deed dated November 4, 1904 (Book 74, p. 106), and willed to the present holder by this grantee (Book 40, pp. 400 et seq. probate records).

This order is for abstract only, and not title certificate.

Very truly yours,

P. W. DENT

District Counsel.

incl.

El Paso, Texas, June 29, 1920.

County Clerk for El Paso County,

El Paso, Texas.

Dear Sir:

Transmitted herewith for official record is land contract dated May 10, 1920, between the United States and Encarnacion F. Provencio.

Very truly yours,

P W DENT

District Counsel.

incl.

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

Rio Grande Project El Paso, Texas, JUN 4- 1920
(Place) (Date)

Project Manager to Chief of Construction, thru District Counsel.

~~Execution~~
Subject: Forwarding for approval contract dated May 10, 1920.

With Encarnacion F. Provencio, a widow

Estimated amount involved, \$ 284.00

Authority No. 6-5
or Clearing Acct.

Accompanied by bond and 2 copies

(Insert "Yes" or "No" bond)

No bond

Purpose:

Purchase of 1.42 acres of land for Kean Drain.

Advise Project Manager at El Paso, Texas.

(Post office and State)

District Counsel at El Paso, Texas.

(Post office and State)

and Chief Engineer, Denver, Colorado.
execution

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. 16, Page 205, Vol. I of Manual.

L. H. LAMSON
(Signature)

Denver, Colo.

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

Denver, Colo. June 10, 1920.

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,
" 2 contract,
" certificate of necessity,
" report on land agreement,
1 Blueprint, 900-L49.

ORIGINAL CONTRACT TO BE
RETURNED TO PROJECT OFFICE
FOR RECONSTRUCTION AND FURTHER
PROPER ACTION.

(SEE OVER)

F. E. Weymouth.

(Signature)

~~Contract~~ Washington, D. C. JUN 12 1920
Contract approved and bond, if any, approved by

on JUN 17 1920

by letter
Original enclosed to ~~Project Manager~~
AND FURTHER APPROPRIATE ACTION

APPROVED BY
Assistant Director.

JUN 12 '20 12842

REPORT ON LAND AGREEMENT

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

INFORMATION relating to agreement made **the 10th day of May,** 19**20**, with
Encarnacion P. Provencio, a widow,
for the purchase of land required for **mesa drain (El Paso Valley)**
purposes, **Rio Grande** Project, **El Paso**
County, **Texas.**

1. State description and *approximate area* of land to be conveyed. **2.42 acres in E $\frac{1}{2}$ SW $\frac{1}{4}$
sec. 15, T. 31 S., R. 6 E., U.S.R.S. survey, El Paso, Texas.**

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

Land is in Ysleta (a Mexican) Grant; is not founded on a United States land patent; no United States public land in the State of Texas.

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

**Encarnacion P. Provencio, a widow, sole owner under her husband's will.
Address: Ysleta, Texas.**

4. State who is in possession of the premises to be conveyed, or of any part thereof, and if a tenant, give his name and post-office address. If the land is held under a lease, state the general terms of the lease, and the date when the tenant is to give up possession, or if some arrangement has been made with the tenant in case his interest in the land desired for acquisition will be affected.

The contractor as above named. No leases.

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

Land is subject to right of way under stock-subscription contract with water users' association (now District); right of way not being invoked.

6. State how much of the land is under cultivation, to what kinds of crops, with area of each crop cultivated, and how much is not cultivated, but is capable of being brought under cultivation, as well as the general character of such land; also the condition and kind of improvements, if any. Give a detailed estimate of the value of all important improvements of the land, such as buildings; *also the amounts and values of the several classes of land.*

All in alfalfa. 1.42 acres at \$200 per acre, \$284.00.

No buildings on the right of way taken.

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

All irrigable; all irrigated; water rights those usual in El Paso Valley under Rio Grande project.

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

\$200 to \$300 per acre.

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

Mesa drain, while right of way is somewhat of a damage to this particular land holding, will be of general benefit to the community.

Dated **El Paso, Texas, May 10, 1920.**

191

GEO W HOADLEY

(Signature)-----

Field Assistant.

(Title)-----

In Charge of Negotiations.

Approved:

L. H. LARSON

Project Manager.

6-4203

INSTRUCTIONS.

The proper procedure in making purchases of lands under the Reclamation Act in pursuance of the Act of June 17, 1902, is stated below, though, in some cases, deviations may be necessary in certain details. These instructions do not relate to withdrawn public lands to which there is a claim by reason of a settlement or entry made prior to withdrawal; in such cases the agreements for purchases of improvements should be entered into on Form 7-523. See Manual, 1917 edition, pages 260-263.

1. As soon as possible after it has been ascertained that the property will be required, the project manager should forward to the director, through the chief of construction, the following papers:

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

(b) Affidavit of disinterestedness.

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

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

(e) If the tract is described by metes and bounds, this report should be accompanied by a small sketch, with the boundary lines platted, showing all courses and distances and all references to public-land corners. (See Manual, Title, *Lands, Acquisition of*, pars. 15-16, pp. 354-355.)

2. When the agreement has been approved, the original will be returned to the project manager, who will immediately notify the vendor thereof and call upon him, if pursuant to said agreement, to furnish an abstract of title, which shall later be extended to include any instruments subsequently recorded in connection therewith, and also the record of the conveyance made in pursuance of said agreement; also to procure and have recorded, where proper for record, all assurances of title and affidavits which may be necessary and proper to show clear, unincumbered title in him. This will fix the date from which time may be counted in favor of the United States for extension of the option as provided in the agreement, in case it be found necessary to do so. If the abstract contains a large number of entries, it should be indexed, and if the title to a canal system is involved the abstract should be accompanied by maps showing said system and the lands affected thereby. The abstract, certificates, maps, contract, possessory certificate, and form of deed which it is proposed to execute, referred to in next paragraph, should be submitted to the local district counsel. For form of possessory certificate see also par. 25 of the Title, *Lands, Acquisition of*, in the Manual.

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

4. When forwarding the title papers to the local district counsel the project manager should request that, if apparently in satisfactory form and sufficient, they be forwarded to the district counsel in charge of titles, with his opinion thereon, otherwise that they be returned, pointing out the defects and indicating how they may be remedied.

5. The district counsel in charge of titles will render an opinion upon the title, and thereupon all the papers will be returned to the local district counsel for action in pursuance of the findings of the opinion. After the title has been found satisfactory, the deed should be executed and recorded and the abstract extended to cover record of same, and also to cover payment of taxes, etc., found to be liens against the estate. Payment may then be made to the grantor, provided no further defects are revealed by the extension of the abstract. The voucher covering payment should be accompanied by the contract, abstract of title, deed, and official copy of opinion. In case the title is found to be imperfect, the papers will be returned for the necessary corrections, and the abstract should then be brought up to date and again submitted through the local district counsel as above for reexamination.

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

7. In the case of land covered by a homestead or desert-land entry where an entire legal subdivision is involved a relinquishment to the United States is sufficient, and a certificate should be obtained from the register and receiver of the local land office showing that the entry was valid and subsisting at the time of the relinquishment, and that it had been relinquished and canceled on the records of the land office. This certificate should accompany the voucher in lieu of the deed or relinquishment, which will be retained in the local land office. Where less than a legal subdivision is to be acquired, which can not be described in the ordinary way (by quarters and halves), the method outlined under (b) and (c), par. 15, page 254, of the Manual should be followed.

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

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

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

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

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

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

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

15. Special conditions and limitations may be added, when necessary, to the printed forms of contracts in reference to possession of premises, growing of crops, etc., pending final conveyance, but these conditions should be avoided as far as possible, and the time limit of the contract should be fixed with reference to these matters. Ample time should be given in the contract for the preparation of an abstract of title and for consideration of the same by the district counsel in charge of titles and the officials at Washington, D. C. In this connection see also Manual, par. 14, page 254.

7-281

REPORT ON LAND AGREEMENT.

For purposes.

..... project.

Sec., T., R., M.

Belonging to

County of

State of

Submitted by

Date 191

51-2-12
51-2-51
6-013

Approved May 27, 1910, by the
Secretary of the Interior.DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICETHIS AGREEMENT, made this 10th day of Maynineteen hundred and twenty, between Encarnacion P. Provencio, a widow
and El PasoCounty, Texas, for her self, h. or heirs, legal represen-
tatives, and assigns, hereinafter styled the Vendor, and The United States of America and its assigns byL. M. Lawson, Project Manager of the United States Reclamation Service,
thereunto 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 dollar (\$1.00), 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

A tract of land situated approximately three (3) miles Northwest of the town of Ysleta, El Paso County, Texas, in the East half of the Southwest quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) of Section fifteen (15) Township thirty-one (31) South, Range Six (6) East United States Reclamation Service survey, being also in the Ysleta Grant and more particularly described as follows: Beginning at the most westerly corner of the tract of land herein described, which is a point on the southeasterly right of way line of a county road and from which point the Southwest corner of said Section fifteen (15) bears South 48°20'33" West two thousand thirty-three (2,033.0) feet; thence along said southeasterly right of way line of county road North 57°09'30" East sixteen and seventy-four (16.74) feet and North 55°35'30" East one hundred twenty-five and thirty-three (125.33) feet to a point on a three hundred twelve and twenty six hundredths (312.26) feet radius curve, the tangent to the curve at said point bearing South 72°31'52" East; thence, in a southeasterly direction and to the left along said curve a distance of one hundred fifty-two and twelve hundredths (152.12) feet, measured on one hundred (100.0) foot chords; thence North 79°31'30" East one hundred eleven and sixty-seven hundredths (111.67) feet; to the property line between land of the Vendor and Mrs. M. G. Brazell, thence along said property line South 3°04'30" West, forty-five and fifty hundredths (45.50) feet to Southwest corner of Mrs.

~~2. In consideration of the premises the vendor further agrees upon receipt of notice that this agreement has been approved on behalf 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 - - - - -

Two hundred eighty-four and 00/100 (\$284.00) - - - - -

- - - - - 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 May 10, 1920,

- - - - - notwithstanding earlier delivery of the deed as

herein provided, and may harvest and retain the crops thereon until May 10, 1920, 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 by the Comptroller or Director and Chief Engineer of the Reclamation

Service, and shall terminate by limitation at the expiration of twenty-four 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).

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10. The Vendor expressly warrants that she has employed no third person to solicit or obtain this contract in her behalf, or to cause or procure the same to be obtained upon compensation in any way contingent in whole or in part, upon such procurement; and that she has not paid, or promised or agreed to pay, to any third person, in consideration of such procurement, or in compensation for services in connection therewith, any brokerage, commission, or percentage upon the amount receivable by her hereunder; and that she has not, in estimating the contract price demanded by her, included any sum by reason of any such brokerage, commission, or percentage; and that all moneys payable to her hereunder are free from obligation to any other person for services rendered, or supposed to have been rendered, in the procurement of this contract. She further agrees that any breach of this warranty shall constitute adequate cause for the annulment of this contract by the United States, and that the United States may retain to its own use from any sums due or to become due thereunder an amount equal to any brokerage, commission or percentage so paid or agreed to be paid; Provided, however, it is understood that this covenant does not apply to the selling of goods through a bona fide commercial representative employed by the Vendor in the regular course of her business in dealing with customers other than the Government and whose compensation is paid, in whole or in part, by commissions on sales made, nor to the selling of goods through established commercial or selling agents or agencies regularly engaged in selling such goods.

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

Witnesses:

F. G. Candelaria

of Manuel Marrujo

Doroteo Olguin

Encarnacion F Provencio (her mark)
Vendor.

The United States of America,

By E. M. Dawson

Project Manager

U. S. R. S.

STATE OF Texas

COUNTY OF El Paso

ss:

I, F. G. Candelaria, a Notary Public

in and for said county, in the State aforesaid, do hereby certify that Encarnacion F. Provencio

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

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

~~I further certify that I did examine the said~~

~~separate and apart from husband, and explained to the contents of the foregoing instrument, and upon that examination declare that did~~

~~voluntarily sign, seal, and acknowledge the same without any coercion or compulsion, and do not wish to retract the same~~

Given under my hand and official seal, this 10th day of May, 1920

[SEAL.]

F. G. Candelaria

My commission expires June 1st, 1921.

Notary Public El Paso County Texas.

approved this day of, 191

Comptroller, U. S. R. S.

AGREEMENT TO SELL

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 357, Page No. 601

By _____

Fees, \$ _____

AFFIDAVIT OF DISINTERESTEDNESS

STATE OF _____

} ss:

COUNTY OF _____

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.

U. S. R. S.

Subscribed and sworn to before me at _____

[OFFICIAL SEAL.]

this _____ day of _____, A. D., 191 .

My commission expires _____

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

6-4798

CERTIFICATE.

I HEREBY CERTIFY That the land described in the agreement dated May 10, 1920, with Encarnacion P. Provencio, a widow, is required for purposes authorized by the Act of June 17, 1902 (32 Stat., 388), namely, as right of way for the Mesa Drain, a part of the Rio Grande project; that the consideration to be paid thereunder \$284.00, is reasonable and the lowest that could be obtained; and I recommend that the contract be approved.

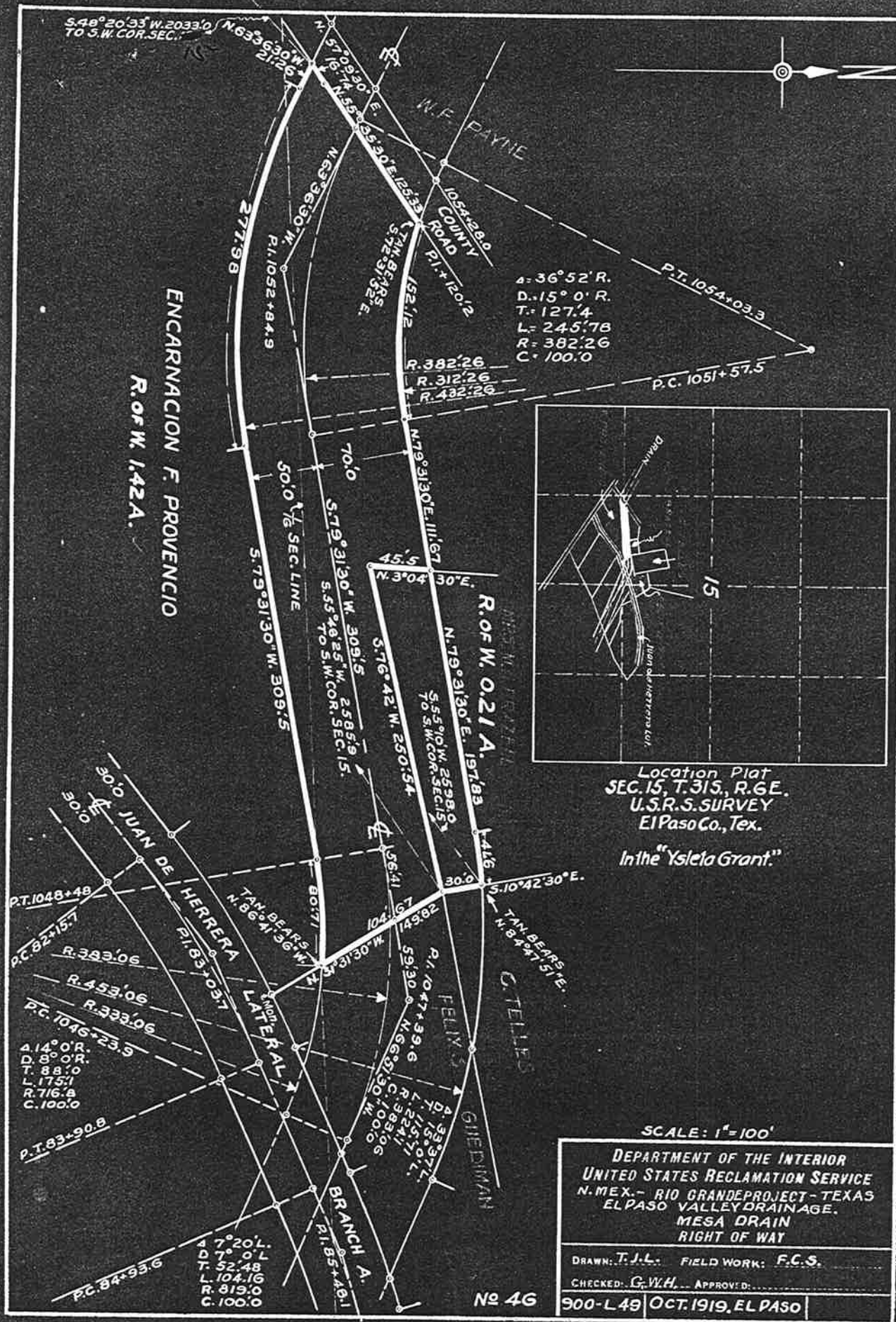
L M LAWSON

Project Manager.

El Paso, Texas.

May 10, 1920.

55 M. G. Brazell; thence along south line of land of said Mrs. M. G. Brazell, North $76^{\circ}42'$ East two hundred fifty and fifty-four hundredths (250.54) feet to a point which is the Northeast corner of land of Vendor; the Southeast corner of Mrs. M. G. Brazell, the Southwest corner of C. Felles and the Northwest corner of Felix S. Guediman; from which point the Southwest corner of said Section fifteen (15) bears South $58^{\circ}46'25''$ West two thousand five hundred eighty-five and nine tenths (2585.9) feet; thence South $31^{\circ}31'30''$ East one hundred four and sixty-seven hundredths (104.67) feet along the property line between land of Vendor and said Felix S. Guediman to a point on a three hundred thirty-three and six hundredths (333.06) foot radius curve, the tangent of which at said point bears North $86^{\circ}41'36''$ West; thence, in a westerly direction and to the left along said curve a distance of eighty and seventy-one hundredths (80.71) feet, measured on one hundred (100.0) foot chord lengths; thence South $79^{\circ}31'30''$ West three hundred nine and five tenths (309.5) feet; thence to the right along a curve with a radius of four hundred thirty-two and twenty-six hundredths (432.26) feet a distance of two hundred seventy-seven and ninety-eight hundredths (277.98) measured on one hundred (100.0) foot chord lengths; thence North $63^{\circ}36'30''$ West twenty-one and twenty-six hundredths (21.26) feet to point of beginning; said tract of land containing one and forty-two hundredths (1.42) acre more or less.



NAME Mesa Vieja COUNTY El Paso

1. Mailing address of each party Encarnacion F Provenza
Cyleta, Texas U. S. 10-20
2. Personal status of each party (married, single, widow or widower): Widow
3. List of improvements (state, as by itemized bill, how total consideration was fixed):
1.42 A @ 200 - = 284.00/100
4. Interest held by each party joined in contract, other than owner or wife of owner, as "Joint ownership", "lessee", or "lienor", and if lienor, state such facts as may be gathered from owner as to date, amount and quality of encumbrance:
No liens
5. State whether or not land is homestead property: Homestead
6. Survey number of tract (if not embodied in land description):
Part # 46. If no survey number is available state item in tax records: Item (under whose name assessed and line number in assessment book):
Acreage _____: assessed at _____.
other available information _____.
7. Grantor will order title guaranty.
Grantor agrees that Service may order title guaranty and make deduction therefor.
Grantor will order abstract of title.
Grantor agrees that Service may order abstract of title and make deduction therefor.
☒ Grantor states that taxes are paid to date.
Grantor will pay taxes now unpaid.
Grantor wishes Service to pay taxes and make deduction therefor, and will furnish this office with bill of unpaid taxes.
Grantor states that land is now encumbered (as per item 3) and wishes Service to pay off encumbrance and make deduction therefor. (In case this is to be done, grantor will have to consult personally with the lienor).
Grantor states that land is encumbered (as per item 3) and will at once take steps to remove same.
8. Cost of structures to be built by Service. None

From Book 40, pp. 400 et seq. Probate Court Records.

Estate of Francisco Provencio, deceased. 3234.

In the County Court of El Paso County, Texas.

Will admitted to probate and duly proved.

"It is therefore the order, judgment, and decree of the Court that said will be, and the same is hereby, admitted to probate and record as the last will and testament of Francisco Provencio, deceased, and that Encarnacion F. de Provencio be, and she is hereby, appointed independent executrix of the said will and estate, without bond.

(Quoted from the Will:) "Know all men, that I, Francisco Provencio, being free of spirit and free of will, I am making this my last will. To my wife, Encarnacion F. de Provencio, after she shall pay all my honest debts, if there is any, I give all my real estate, and personal property, consisting of my house and ranch of 19 acres, situated in San Jose, and one house and $\frac{3}{4}$ of an acre in Ysleta, wagon, horse, implements, furniture, and all money that I may have at my death in the bank and at home. I also name my wife as executrix of this, my last will, without bond." Made and subscribed before a notary public this 20th day of September, 1919.

The inventory describes 19 acres of land situated in San Jose, Ysleta Grant, El Paso County, Texas, more particularly described in Deed Record Book 74, page 106, valued at \$4,750.

Also $\frac{3}{4}$ of an acre, with the house situated thereon, in the Town of Ysleta, El Paso County, Texas, appraised at \$500.

The grant in Book 74, p. 106, is for two tracts of land containing 9 and 4 acres, respectively, running from Franz Meyers, Miguel Meyers and his wife Elena, and Frank Meyers 2nd, to Francisco Provencio; dated November 4, 1904.

Art. 5699. Any person interested in any will which shall have been probated under the laws of this State may institute suit in the proper court to contest the validity thereof within four years after such will shall have been admitted to probate, and not afterward.

Art. 5700. Any heir at law of the testator, or any other person interested in his estate, may institute suit in the proper court to cancel a will for forgery or other fraud within four years after the discovery of such forgery or fraud, and not afterward.

Art. 5704. In case of the death of any person against whom there may be a cause of action, the law of limitation shall cease to run against such cause of action until twelve months after such death, unless an administrator or executor shall have sooner qualified according to law upon such deceased person's estate; then and in that case the said law of limitation shall cease to run until such qualification.

Art. 5708. If the person entitled to bring any action . . . shall be at the time the cause of action accrues, either--

- (1) Under the age of twenty-one years;
- (2) A married woman;
- (3) Of unsound mind; or
- (4) A person imprisoned;

the time of such disability shall not be deemed a portion of the time limited for the commencement of the action; and such person shall have the same time after the removal of said disability that is allowed to others by the provisions of this title.

There are also ~~the usual~~ statutes with regard to suspension of the limitation period during ^{certain} military service.

POSSESSORY CERTIFICATE.

Rio Grande Project,
El Paso, Texas, May 10, 1920.

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 Encarnacion F. Provencio, in the east half of the southwest quarter of section 15, township 31 south, range 6 east, U. S. Reclamation Service survey and in the Ysleta Grant, in 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.

AFFIDAVIT.

STATE OF TEXAS,)
)
COUNTY OF EL PASO.)

Before me, the undersigned authority, this day personally came and appeared Encarnacion F. Provencio, to me well known, and who, after being by me duly sworn, did depose and say:

That she is over twenty-one years of age; that her postoffice address is Yaleta, Texas; that she is the same party who executed a contract with the United States dated May 10, 1920, agreeing to convey to the United States a certain right of way containing 1.42 acres, more or less, in the E $\frac{1}{2}$ SW $\frac{1}{4}$ Section 15, Township 31 South, Range 6 East, U. S. Reclamation Service survey, El Paso County, Texas, in said contract more fully described. That prior to and including the date of said contract, for a period of fifteen years, she, affiant, held actual, peaceable, adverse, continuous, exclusive and hostile possession of the tract of land of which the said described right of way agreed to be conveyed to the United States, is a part, except that for said period of time such possession was held jointly with her husband, Francisco Provencio, now deceased, up to the time of his decease, which was on or about March 2, 1920, claiming undeed deed duly

registered, running to her said husband, cultivating, using, and enjoying the said entire tract, and paying all taxes thereon, each and every year during said period of possession, and having the said entire tract of land, during all of said period of time, under fence and thereby segregated from all adjoining lands.

The affiant further says; with reference to a warranty deed dated November 4, 1904, running from Franz Mayar et al. to the said Francisco Provencio, her deceased husband, recorded in Book 74, page 106 of the official records of El Paso County, Texas; that she was at the time of the execution of the said warranty deed and for a long time prior thereto, personally familiar with the family history of Francisco Mayar, who is the ancestor of the grantors in the said described warranty deed, and who is the grantee in a certain deed running from the Town of Ysleta to him, dated September 5, 1868, and filed in Book F, page 57, of the official records of El Paso County, Texas, and conveying approximately the West half of the land conveyed to Francisco Provencio by the said deed dated November 4, 1904; that the wife of the said Francisco Mayar, Mrs. Guadalupe Mayar, died intestate on or about the year 1901; that the children and all of the children of the said Francisco Mayar are: Frank Mayer, who is the same party that signed the said deed dated November

4, 1904, as Franz Meires and acknowledged said deed as
Frantz Meyer; Miguel Mayer who acknowledged the said deed as
Miguel Meyers; and Frank Meyer 2nd, who signed the said deed
as Frank Mayer, Jr. and acknowledged as Frank Meyers Jr.

Witness:

Encarnacion F. Provencio Her X Mark.

Manuel Marrujo.

St. Loney

Sworn and subscribed to before me this 10th

day of August A. D. 1920.

F. G. Candelaria

Notary Public. in and for
El Paso County, Texas.

My commission expires

July 2, 1921.

STATE OF TEXAS, }

COUNTY OF EL PASO. }

Before me the undersigned authority this day per-
sonally came and appeared C. O. Serna to me well
known and who after being by me duly sworn did depose and say:

That he is over twenty-one years of age; that his
postoffice address is Ysleta, Texas, and that he has for a
period of 31 years, resided in the vicinity
of Ysleta, and has during all of said period of time been

familiar with the land held by Encarnacion F. Provencio, the foregoing affiant, taken by the United States for drainage right of way ~~and~~, and also has been personally acquainted with the members and familiar with the family history of Francisco Nayar, and that he has read the foregoing affidavit and that the matters and things stated therein are true to his personal knowledge.

C. O. SERNA

Sworn to and subscribed before me this 10th day
of August 1920.

F. G. Candelaria

Notary Public in and for
El Paso County, Texas.

My commission expires:

July 2, 1921.