

HEELER, G. H. et. ux. Mrs. G. H.

QUITCLAIM DEED

MESA DRAIN

0023-0083-0044-00

Notice of Estoppel (Abandonment of Easement)  
Reconveys QCD back to Wheeler

Tract 10-10 (44)  
Sheet 17-(44) TEXAS

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

Know all Men by these Presents:

THAT G. H. Wheeler and Mrs. G. H. Wheeler, his wife,

of the County of El Paso, State of Texas for and in consideration of the sum of One and no/100(\$2.00) DOLLARS,

to them in hand paid by the United States of America, acting pursuant to the act of Congress of June 17, 1902(32 Stat., 389),

~~the receipt whereof is hereby~~ acknowledged, do by these presents Bargain, Sell, Release and Forever Quit-Claim unto the said United States of America, its successors

~~and assigns~~ all their right, title and interest in and unto that tract or parcel of land lying in the County of El Paso, and State of Texas, described as follows, to-wit:

A tract of land situated in the Southwest quarter(SW $\frac{1}{4}$ ) of Section one(1) and the Northwest quarter(NW $\frac{1}{4}$ ) of section twelve(12), Township thirty-three(33) South, Range seven(7) East of the U. S. Reclamation Service Survey, said tract being a portion of the El Paso Valley Mesa Drain right of way and is described as follows: Beginning at the Northwest corner of the tract herein described, thence along the West boundary line of property of grantor North 53° 34' East sixty-four and nine-tenths(64.9)feet thence South 22° 36' East five hundred ninety-eight and seven-tenths(598.7) feet; thence South 32° 33½' East one hundred seventy and seven-tenths(170.7) feet; thence South 42° 31' East four hundred thirty-seven and seven-tenths(437.5)feet; thence North 89° 37' West thirty-five and nine-tenths(35.9) feet along the property line between lands of grantor and C. E. Kellogg; thence along the property line between lands of grantor and Bowington and Wingo North 48° 47' West five hundred thirteen and one-tenth(513.1)feet; North 31° 01' West one hundred eighty-two(182)feet and North 14° 57' West four hundred seventy and six-tenths(470.6) feet to a point from which the Southwest corner of said section one(1) bears South 51° 58' West one thousand and one hundred ninety-one and two-tenths(1191.2)feet distant; thence containing on same property line North 46° 06' West forty-five(45)feet to the place of beginning and containing one and ninety-two one-hundredths(1.92) acres, more or less.

*Sealed*

TO HAVE AND TO HOLD all their 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 United States of America, its successors

~~and assigns~~ forever.

WITNESS their hands this the 11th day of October, A. D. 1917.

Witnesses at Request of Grantor

F. M. Hough,

F. C. Schafer, witness for Mrs.

G. H. Wheeler.

G. H. Wheeler

Mrs. G. H. Wheeler

*This deed was duly recorded.*

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.

Ellis--El Paso

THE STATE OF TEXAS, }  
COUNTY OF EL PASO,

Before me, in and for  
El Paso County, Texas, on this day personally appeared

known to me to be the person whose name 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 day of A. D. 19

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

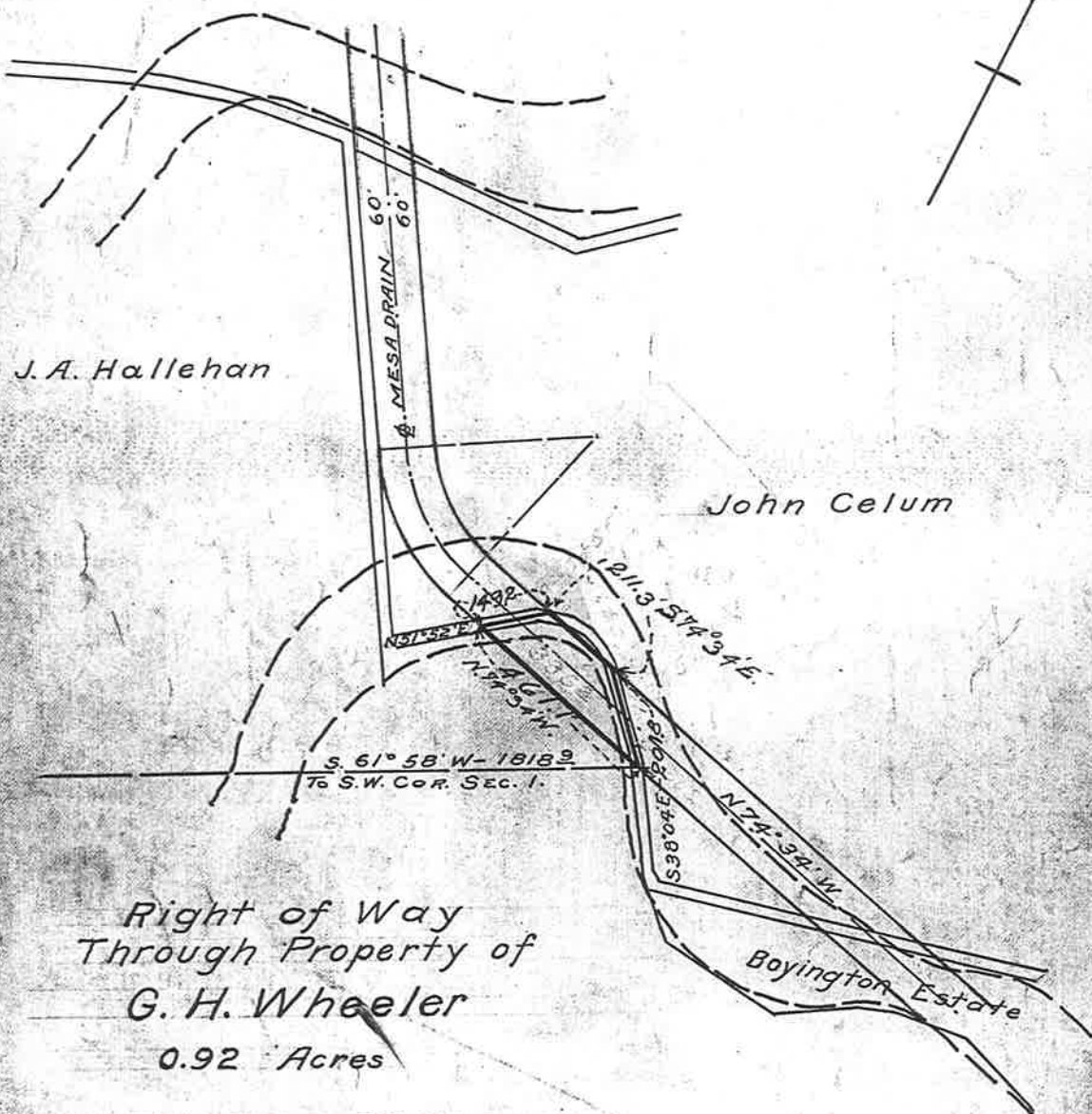
THE STATE OF TEXAS, }  
COUNTY OF EL PASO,

I Clerk of the County  
Court of said County, do hereby certify that the above instrument of writing, dated on the  
day of A. D. 19 with its certificate of authentication, was filed for record in my  
office this day of A. D. 19, 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 313 on Pages 509

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.

Clerk County Court, El Paso County, Texas.

By Deputy.



J.A. Hallehan

John Celum

Right of Way  
Through Property of  
G. H. Wheeler  
0.92 Acres

In The S  $\frac{1}{2}$  of S.W.  $\frac{1}{4}$   
Sec. 1.

T. 33 S.; R. 7 E.

Q.C.D. incomplete

Not Recorded

24K513 14562

Declaration & Estoppel Statement  
Dated 4/25/19  
Recorded 5/-/19?

SCALE 1" = 400'

# 17a

DEPARTMENT OF THE INTERIOR U. S. RECLAMATION SERVICE RIO GRANDE PROJECT N.M.TEX. EL PASO VALLEY DRAINAGE MESA DRAIN RIGHT OF WAY	
FIELD WORK F.C.S. DRAWN L.R.F.	EL PASO - APRIL, 1917



CH

El Paso, Texas, May 6, 1919.

County Clerk for El Paso County,

El Paso, Texas.

Dear Sir:

Transmitted herewith for official record is  
estoppel agreement running from Assistant to Secre-  
tary of the Interior to G. H. Wheeler, dated April  
25, 1919.

Very truly yours,

P W DENT CRH

District Counsel.

incl.

DEPARTMENT OF THE INTERIOR  
UNITED STATES RECLAMATION SERVICE

WASHINGTON, D. C.

APR 28 1919

From Acting Chief Counsel

To District Counsel Dent, El Paso, Texas.

Subject: Declaration and estoppel statement regarding  
lands donated by G. H. Wheeler, Rio Grande project.

1. Find enclosed original declaration and estoppel statement above referred to, which was executed on April 25, 1919 by John W. Hallowell, Assistant to the Secretary.

Copy to Cof C

2 encls.

*Ottavio Hamel*

DEPARTMENT OF THE INTERIOR  
UNITED STATES RECLAMATION SERVICE  
WASHINGTON D.C .

Apr 22, 1919.

The Secretary

of the Interior.

Sir:

On October 11, 1917, G. H. Wheeler and wife donated to the United States under a quit-claim deed a certain right of way for the El Paso Valley Mesa Drain, Rio Grande project, New Mexico-Texas. On account of necessary changes made in the alignment of said drain the land so conveyed has not been used, and will not be necessary for the purpose stated. The conveyance so made, though absolute in form and terms, was designed to convey to the United States merely an easement in the land for the construction, operation and maintenance of the drain.

The grantee, G. H. Wheeler, now desires a reconveyance of this easement, which, under the circumstances, he is justly entitled to. It is thought that there might be some legal impediments which would prevent the Secretary from executing a quit-claim deed of this property of the United States without receiving any consideration therefor. It is believed, however, that there could be no objection to the execution of what might be called a declaration of abandonment of the easement, which declaration could be recorded in the county records, and would be acceptable to Mr. Wheeler.

There is enclosed draft of such declaration, and it is recommended that same be executed before a Notary Public and returned to the Reclamation Service for delivery to G.H.Wheeler.

Respectfully submitted,

Morris Bien

Acting Director.

Enc. 15809

Apr. 23 1919 Recommendation approved and declaration executed and returned to Reclamation Service. John W. Hallowell, Asst to the Sec.

Apr 24 19 95161

DECLARATION AND ESTOPPEL STATEMENT:

State of Texas,           0  
                              0           ss.  
County of El Paso,       0

KNOW ALL MEN BY THESE PRESENTS: That -

WHEREAS, pursuant to the act of Congress approved June 17, 1902 (32 Stat., 388) and acts amendatory thereof and supplementary thereto, there was on October 11, 1917, duly executed quit-claim deed from G. H. Wheeler and wife conveying to the United States of America, as right-of-way for the El Paso Valley Mesa drain, a feature of the Rio Grande project, New Mexico-Texas, the following described real estate, situate in the County of El Paso, and State of Texas, to-wit:

A tract of land in the Southwest quarter (SW $\frac{1}{4}$ ) of section one (1) and the Northwest quarter (NW $\frac{1}{4}$ ) of section twelve (12), Town ship thirty-three (33) South, Range seven (7) East, of the U.S. Reclamation Service survey, said tract being a portion of the El Paso Valley Mesa drain right-of-way, described as follows: Beginning at the Northwest corner of the tract herein described; thence along the West boundary line of property of grantor North fifty-three (53) deg. thirty-four (34) min. East sixty-four and nine-tenths (64.9) feet; thence south twenty-two (22) deg. thirty-six (36) min. East five hundred ninety-eight and seven-tenths (598.7) feet; thence South thirty-two (32) deg. thirty-three and one-half (33 $\frac{1}{2}$ ) min. East one hundred seventy and seven-tenths (170.7) feet; thence South forty-two (42) deg. thirty-one (31) min. East four hundred thirty-seven and seven-tenths (437.7) feet; thence North eighty-nine (89) deg. thirty-seven (37) min. West thirty-five and nine-tenths (35.9) feet along the property line between lands of grantor and C. E. Kellogg; thence along the property line between lands of grantor and Bowington and Wingo North forty-eight (48) deg. forty-seven (47) min. West five hundred thirteen and one-tenth (513.1) feet; thence north thirty-one (31) deg. one (1) min. West one hundred eighty-two (182) feet and north fourteen (14) deg. fifty-seven (57) min. West four hundred seventy and six-tenths (470.6) feet to a point from which the Southwest corner of said section



one (1) bears South fifty-one (51) deg. fifty-eight (58) min. West one thousand one hundred ninety-one and two-tenths (1191.2) feet distant; thence continuing on same property line North forty-six (46) deg. six (6) min. West forty-five (45) feet to the place of beginning and containing one and ninety-two one-hundredths (1.92) acres, more or less; and,

WHEREAS, on account of necessary changes made in the alignment of said drain, the land herein described has not been used and will not be necessary for the purpose stated; and,

WHEREAS said quit-claim deed of October 11, 1917, though absolute in form and terms, was designed to convey to the United States merely an easement in said land for the construction, operation and maintenance of said drain; and,

WHEREAS it is desired to relieve said land of the easement granted by the quit-claim deed aforesaid, and to clear the title of the said G.H. Wheeler and wife in and to the land described;

BE IT KNOWN by these presents, that I, John W. Hallowell... Assistant to the Secretary of the Interior, by virtue of authority contained in section 10 of the aforesaid act of June 17, 1902, and in section 15 of the Act of Congress approved August 13, 1914 (38 Stat., 686) hereby declare and announce a formal abandonment on behalf of the United States of America of the land hereinbefore described and of any and all right, title, interest claim or easement therein for the purpose stated, to the end that said land and all right, title, interest, claim or easement therein on the part of the United States shall revert to and revest in the said G.H. Wheeler and wife to the same extent as though said quit-

claim deed hereinbefore mentioned had not been executed.

WITNESS my hand in the City of Washington and District  
of Columbia, this 25th. day of April..... A. D. 1919.

John.W..Hallowell.....

Assistant to the Secretary of the Interior.

City of Washington, :  
: ss.  
District of Columbia,:

Before me, Franklin Barr..... Notary Public in  
the District of Columbia on this day personally appeared John..  
W..Hallowell.Assistant.to.the.Secy. known to me to be the  
person whose name is subscribed to the foregoing instrument,  
and acknowledged to me that he executed the same in his  
representative capacity as the said .Assistant.to.the.....  
Secretary.of.the.Interior. for and on behalf of the United  
States of America for the purpose and consideration therein  
expressed.

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

.Franklin.Barr.....

(Seal)

Notary Public.

DEPARTMENT OF THE INTERIOR  
UNITED STATES RECLAMATION SERVICE    March -5, 1918.  
WASHINGTON, D. C.

**From**        Chief Counsel,  
**To**            District Counsel P. W. Dent, El Paso, Texas.  
**Subject:** Reconveyance to grantors of land no longer required as right of way -  
                 Rio Grande project.

1. I refer to your letter of December 7, 1917 upon the above subject.

2. It appears that some of the lands donated to the United States for drainage rights of way on the Rio Grande project because of change in plans are no longer needed. Donation deeds have been placed of record and the question arises as to how these lands may be returned to the grantors, as in justice they should be.

3. Section 1 of the act of February 2, 1911 (36 Stat., 895) providing for the disposition of lands no longer needed by the Service is not at all applicable in this case, as they would, under that act, have to be appraised and sold to the highest bidder.

4. I know of no provision of law under which the United States could reconvey these lands back to the grantors and thus properly clear their title. I think the best that can be done without legislation would be for the Secretary of the Interior to execute an estoppel statement showing that an easement in the lands in question was donated for a right of way which had been abandoned by the United States, which statement could be recorded. These deeds really convey mere easements, although the form of the transfer is in fee simple. As a matter of law, on abandonment of the right of way the

easement transferred by the deed reverts to the grantor.

5. You will please prepare form of such statement for use in the Bowington and similar cases and submit same to the Washington office.

*Wm. B. King*

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

NOT INDEXED  
ASSUMED NOT RECORDED  
Know all Men by these Presents:

THAT

of the County of El Paso, State of Texas for and in consideration of the sum of One and no/100(\$1.00) - - - - - DOLLARS,

to.....in hand paid by the United States of America, acting pursuant to the Act of Congress of June 17, 1902(32 Stat., 388) -

~~of the County of~~ and ~~of~~, the receipt whereof is hereby acknowledged, do by these presents Bargain, Sell, Release and Forever Quit-Claim unto the said United States of America, its successors

~~has~~ and assigns all right, title and interest in and unto that tract or parcel of land lying in the County of El Paso, and State of Texas, described as follows, to-wit:

A tract of land situated about one(1)mile Southeast of Clint, Texas, in the South half of the Southwest quarter(S $\frac{1}{2}$ SW $\frac{1}{4}$ ) of Section one (1), Township thirty-three(33)South, Range seven(7)East of the U. S. R. S. Survey, being more particularly described and bounded as follows: Beginning at the Southeast corner, a point in the center of the old road between property of Vendor and John Celum, from which point the Southwest corner of said Section one(1) bears South 61°58'West one thousand eight hundred eighteen and nine-tenths(1818.9)feet; running thence North 74°34' West four hundred sixty-one and one-tenth(461.1)feet; thence North 51°52' East along the center of the old road between property of Vendor and John Celum one hundred forty-nine and two-tenths(149.2)feet; thence South 74° 34'East two hundred eleven and three-tenths(211.3)feet; thence South 38° 04'East along the center of the old road between property of Vendor and John Celum two hundred one and eight-tenths(201.8)feet to the point of beginning, said tract containing ninety-two one-hundredths(.92) of an acre more or less.

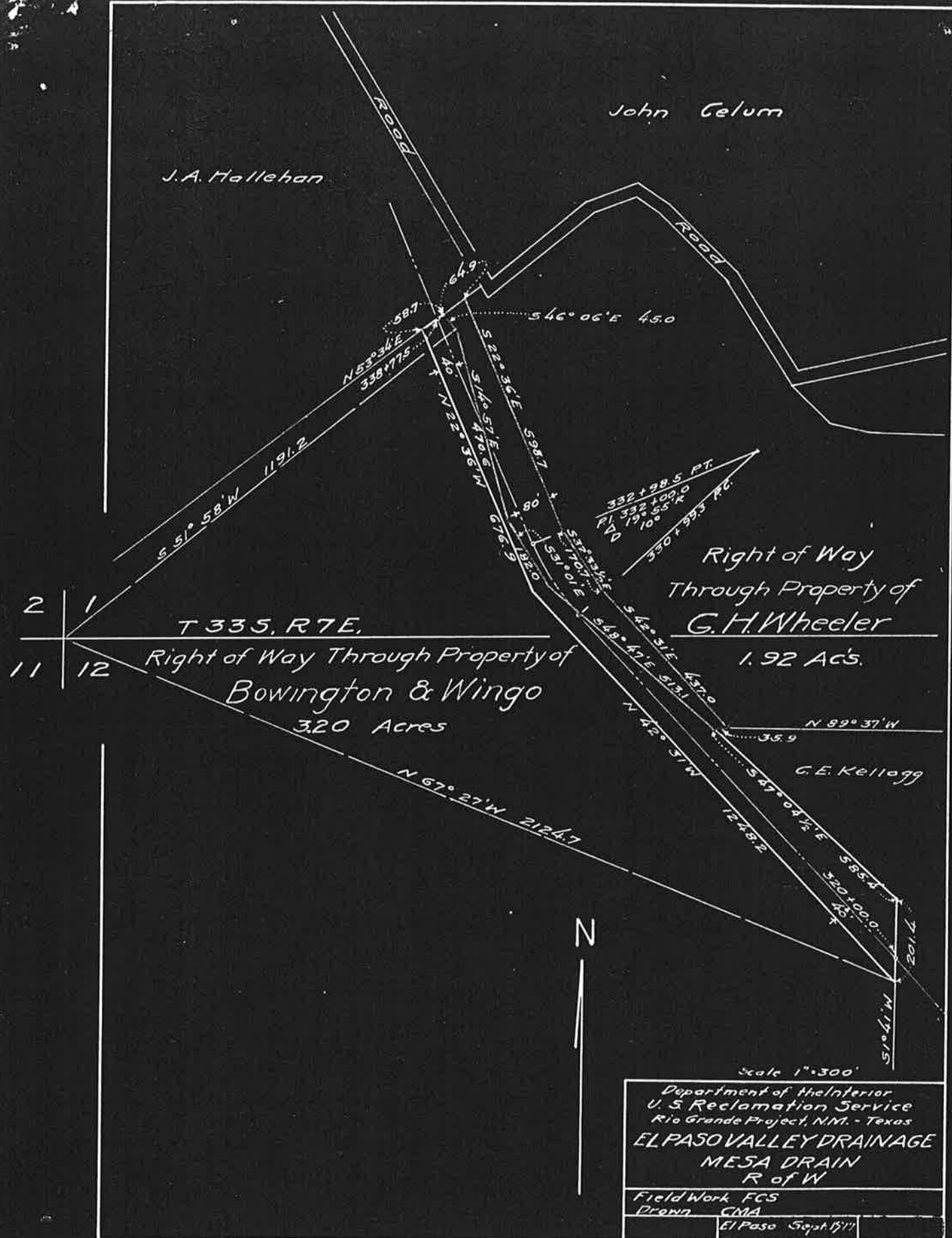
TO HAVE AND TO HOLD all right, title, interest, estate and claim in and to the said premises, together with all and singular, the rights, privileges and appurtenances to the same in any manner belonging, unto the said United States of America, its successors

~~Receives~~ and assigns forever.

WITNESS.....band..... this the ..... day of....., A. D. 191 .....

Witnesses at Request of Grantor





... was personally appeared Trinidad V. Abogado, wife of Pedro Abogado, 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 fully explained to her, she, the said Trinidad V. Abogado, 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, at El Paso, Texas, this 19th day of October, A. D. 1917.

(Notarial Seal)

Manuel E. Flores,  
Notary Public in and  
For El Paso County, Texas.

Filed For Record Oct. 20, 1917 at 8:15 A. M.) W. D. Greet, County Clerk.

And Recorded Oct. 22, 1917 at 3:07 P. M.) By *[Signature]* Deputy.

98358

QUIT CLAIM DEED

THE STATE OF TEXAS,  
COUNTY OF EL PASO. )

KNOW ALL MEN BY THESE PRESENTS: That G. H. Wheeler and Mrs. G. E. Wheeler, his wife, of the County of El Paso, State of Texas, for and in consideration of the sum of One and no/100 (\$1.00) Dollars, to them in hand paid by the United States of America, acting pursuant to the act of Congress of June 17, 1902 (32 Stat., 388), the receipt whereof is hereby acknowledged, do by these presents bargain, sell, release and forever quit claim unto the said United States of America, its successors and assigns all their right, title and interest in and unto that tract or parcel of land lying in the County of El Paso, and State of Texas, described as follows, to wit:

A tract of land situated in the Southwest quarter (SW $\frac{1}{4}$ ) of Section one (1) and the Northwest quarter (NW $\frac{1}{4}$ ) of Section twelve (12), Township thirty three (33) South, Range seven (7) East of the U. S. Reclamation Service Survey, said tract being a portion of the El Paso Valley Mesa Drain right of way and is described as follows: Beginning at the Northwest corner of the tract herein described, thence along the West boundary line of property of grantor North 53° 34' East sixty four and nine tenths (64.9) feet thence South 22° 36' East five hundred ninety eight and seven tenths (598.7) feet; thence South 29° 33' East one hundred seventy and seven tenths (170.7) feet; thence South 42° 31' East four hundred thirty seven and seven tenths (437.0) feet; thence North 89° 37' West thirty five and nine tenths (35.9) feet along the property line between lands of grantor

and C. E. Kellog; thence along the property line between lands of grantor and Bowington and Wingo North  $48^{\circ} 47'$  West five hundred thirteen and one tenth (513.1) feet; North  $31^{\circ} 01'$  West one hundred eighty two (182) feet and North  $14^{\circ} 57'$  West four hundred seventy and six tenths (470.6) feet to a point from which the Southwest corner of said section one (1) bears South  $51^{\circ} 58'$  West one thousand one hundred ninety one and two tenths (1191.2) feet distant; thence continuing on same property line North  $46^{\circ} 06'$  West forty five (45) feet to the place of beginning and containing one and ninety two one hundredths (1.92) acres, more or less.

To have and to hold all their 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 United States of America, its successors and assigns forever.

Witness their hands this the 11th day of October, A. D. 1917.

Witnesses at Request of Grantor:-

F. M. Hough,

G. H. Wheeler,

Mrs. G. H. Wheeler.

F. C. Schafer, witness for Mrs. G. H. Wheeler.

#### CERTIFICATE

THE STATE OF TEXAS, )  
(  
COUNTY OF EL PASO. ) Before me, Jessie E. M. Howe, the undersigned authority on this day personally appeared F. M. Hough, known to me to be the person whose name is subscribed as a witness to the foregoing instrument of writing, and after being duly sworn by me stated on oath that he saw G. H. Wheeler the grantor or person who executed the foregoing instrument, subscribe the same, and that he had signed the same as a witness at the request of the person who executed the same.

Given under my hand and seal of office this 11th day of October, A. D. 1917.

(Notarial Seal)

My Comm. Exp. June 1, 1919.

Jessie E. M. Howe,  
Notary Public in &  
for El Paso Co., Texas.

#### CERTIFICATE

THE STATE OF TEXAS, )  
(  
COUNTY OF EL PASO. ) Before me, S. Ruffner, Notary Public in and for El Paso Co., Texas,



El Paso, Texas, March 15, 1918.

*See letter  
May 9-18  
from Chief  
Counsel  
"Legal Counsel"*

From: District Counsel P. W. Dent,

To : Chief Counsel, Washington.

Subject: Reconveyance to grantors of land no longer required  
as right-of-way - Rio Grande project.

1. Your letter March 5:

2. Agreeable to your suggestion I have drafted and herewith enclose, in duplicate, an instrument which has been entitled "Declaration and estoppel statement" along the lines which I understand you have in mind. I presume the authority for execution and filing of such a statement can more properly be said to be contained in sec. 10 of the Reclamation Act, and in sec. 15 of the Extension Act than elsewhere, and I have inserted reference accordingly. I do not know that this adds strength and it may be considered advisable to omit.

3. If the Secretary possesses authority to execute such a statement why has he not authority to execute quit-claim deed, by which the same object could be accomplished and in a better way perhaps - at least it would more nearly satisfy the grantors and the laws governing conveyancing and recordation of instruments. My view is that perhaps the Secretary may be said to have authority to reconvey property for which no compensation has been paid and under the conditions prevailing here, under the general authorization contained in



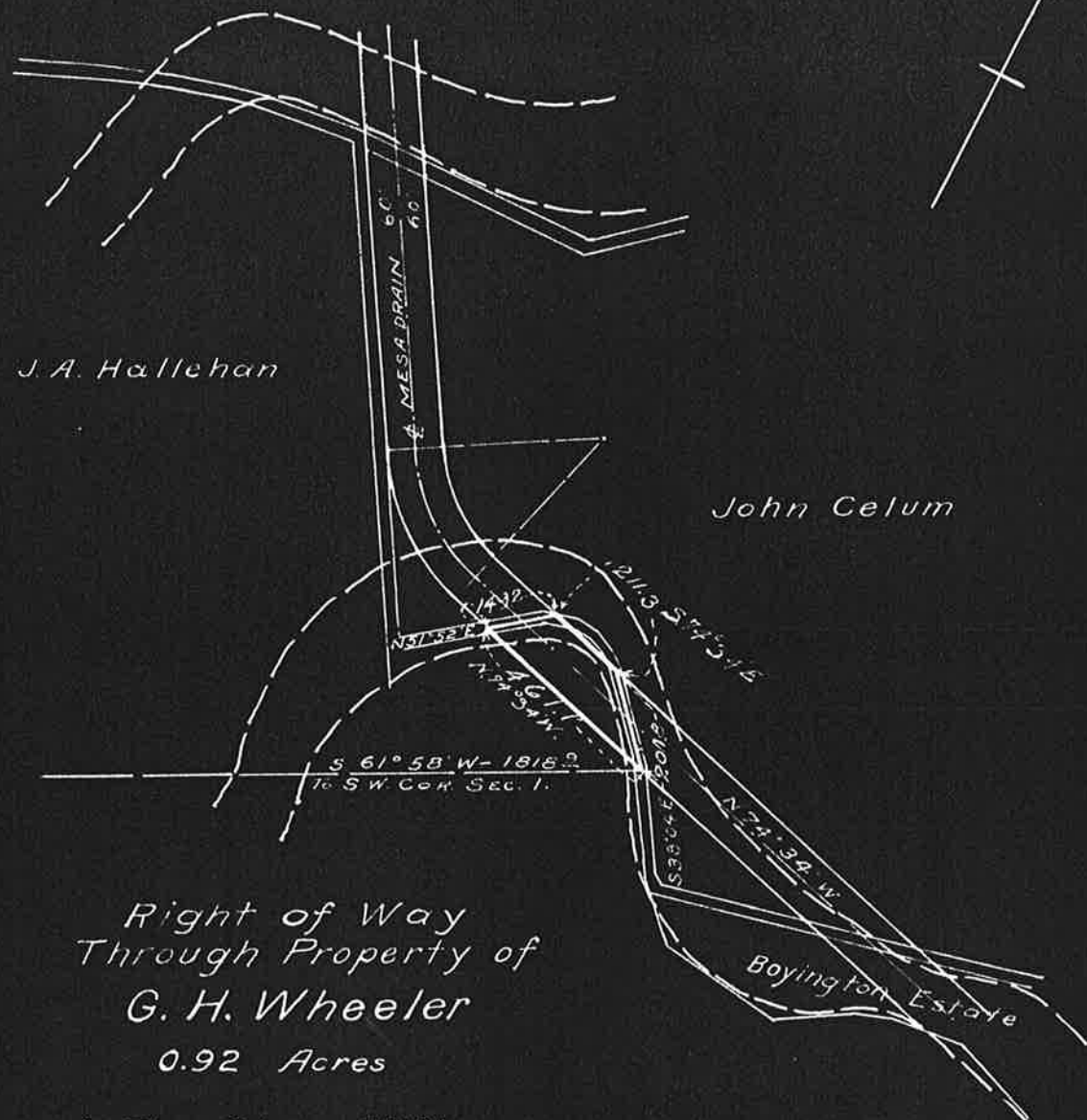
the sections of the reclamation law mentioned. With this in mind I have drawn and likewise herewith enclose, in duplicate, quit-claim deed reconveying to grantors in that form. Should it be said that the Secretary has no authority to execute such a deed, it would in any event constitute a color of title, which would ripen into perfect title under the statute of limitations, which in Texas is short - three, five and ten years. (Arts. 5672, 5673, 5674 and 5675 Vernon's Sayles' Tex. Civ. Stat., 1914)

4. When decision is definitely reached as to handling these matters, papers in the other cases will be prepared. To avoid submitting each case to the Department could not the Secretary delegate to the Director or Project Manager authority to execute deeds of this character?

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ends.





*Right of Way  
Through Property of  
G. H. Wheeler  
0.92 Acres*

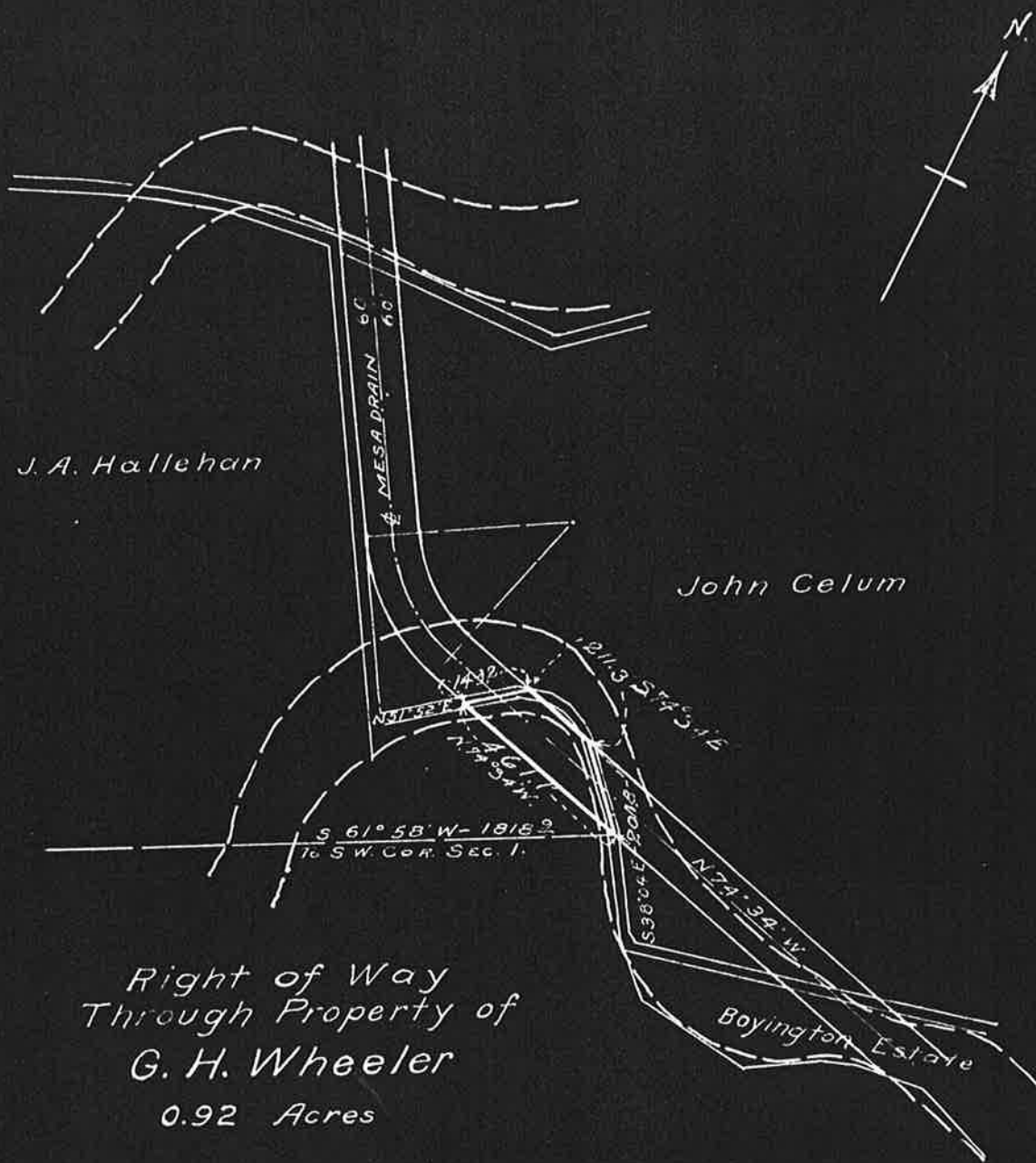
*In The S½ of S.W. ¼  
Sec. 1.  
T.33 S.; R. 7 E.*

SCALE 1" = 400'

DEPARTMENT OF THE INTERIOR  
U. S. RECLAMATION SERVICE  
RIO GRANDE PROJECT N.M. TEX.  
EL PASO VALLEY DRAINAGE  
**MESA DRAIN  
RIGHT OF WAY**

FIELD WORK F.C.S.  
DRAWN L.R.F.

EL PASO - APRIL, 1917



Right of Way  
Through Property of  
G. H. Wheeler  
0.92 Acres

In The S  $\frac{1}{2}$  or S.W.  $\frac{1}{4}$   
Sec. 1.  
T.33 S.; R. 7 E.

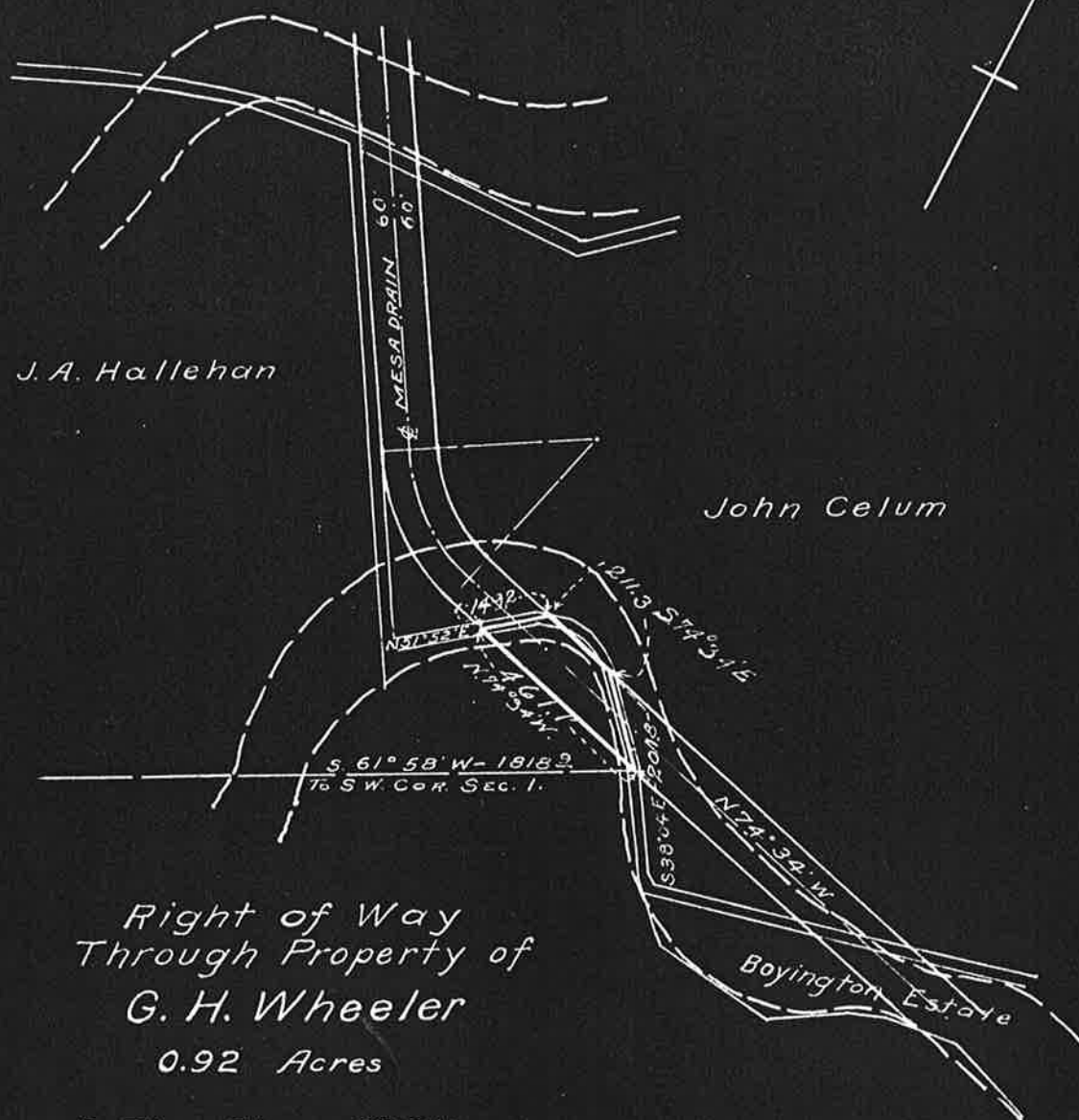
SCALE 1" = 400'

DEPARTMENT OF THE INTERIOR  
U. S. RECLAMATION SERVICE  
RIO GRANDE PROJECT N.M.-TEX.  
EL PASO VALLEY DRAINAGE  
**MESA DRAIN**  
**RIGHT OF WAY**

FIELD WORK F.C.S.  
DRAWN L.R.F.

EL PASO - APRIL, 1917





Right of Way  
Through Property of  
G. H. Wheeler  
0.92 Acres

In The S  $\frac{1}{2}$  of S.W.  $\frac{1}{4}$   
Sec. 1.  
T. 33 S.; R. 7 E.

SCALE 1" = 400'

DEPARTMENT OF THE INTERIOR  
U. S. RECLAMATION SERVICE  
RIO GRANDE PROJECT N.M. TEX.  
EL PASO VALLEY DRAINAGE  
MESA DRAIN  
RIGHT OF WAY

FIELD WORK F.C.S.  
DRAWN L.R.F.

EL PASO - APRIL, 1917



El Paso, Texas, Oct. 19 1917.

The County Clerk,  
El Paso, Texas.

Dear Sir:

Herewith is inclosed for recordation quit  
claim deed dated October 11, 1917, covering land con-  
veyed to the United States by G. H. Wheeler and wife,  
El Paso Valley Mesa Drain.

Very truly yours,

Asst. District Counsel.