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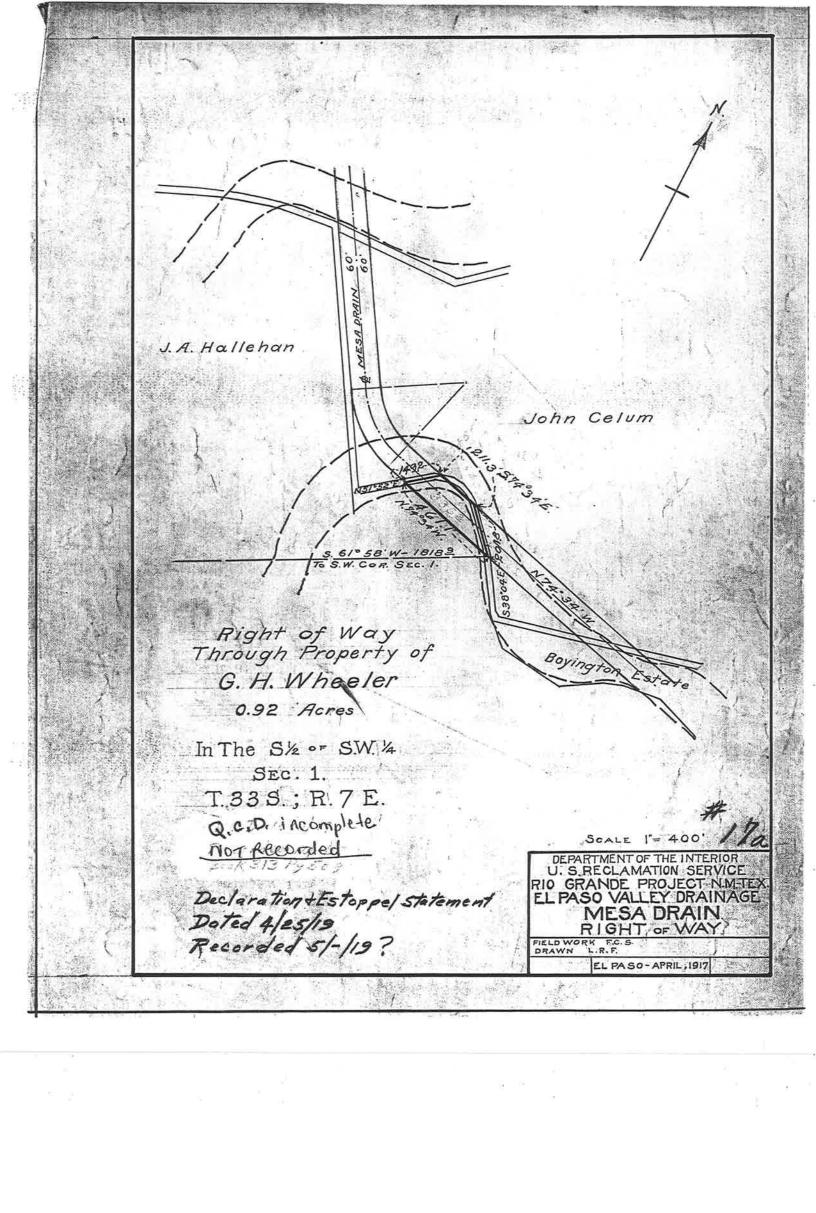
# THE STATE OF TEXAS, COUNTY OF EL PASO,

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known to me to	be the personwhose	namesubscribed	to the foregoing instrum	ent, and acknowledged to
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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 Secretary 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 encs.

Ottamor Hamele

## 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 eaxement, 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.

Enc. 15809

Morris Bien

Acting Director.

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

#### DECLARATION AND ESTOPPEL STATEMENT:

State of Texas, 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 (SW2) of section one (1) and the Northwest quarter (NW2) 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 fine-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 (332) 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 (77) 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 Bowing-ton 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:

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 A ug. 13, 1914 (38 Stat., 686) hereby declare and announce aformal 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 Bair. 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.

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.

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

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ASSUMED NOT RECORDED

Know all Men by these Presents:

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Gelum John J.A. Hallehan 546° 06'E 45.0 5 51 58 W Right of Way Through Property of G.H.Wheeler T 335, R7E, Right of Way Through Property of 1.92 Acs. Bowington & Wingo 3.20 Acres X 87. 27'N 212d 7 G.E. Kellogg N Scale 1".300' Department of theInterior U. S. Reclamation Service Rio Grande Project, N.M. - Texas ELPASO VALLEY DRAINAGE MESA DRAIN R of W Field Work El Paso Sept 1977

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the to be the personally appeared Trinidad V. Abogado, wife of Pedro Abogado, known in the to be the person whose name is subscribed to the foregoing instrument; and having the examined by me privilly and apart from her husband, and having the same fully explained her, she, the said Trinidad V. Abogado, acknowledged such instrument to be her act and in the same 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

otarial Seal)

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

And Recorded Oct. 20, 1917 at 8:15 A. M.) W. D. Greet, County Clerk.

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

8358

QUIT CLAIM DEED

OUNTY OF EL PASO. )

KNOW ALL HEM BY THESE PRESENTS: That G. H. Wheeler and Mrs. G. H. Wheeler, is wife, of the County of Ml Paso, State of Texas, for and in consideration of the sum one and no/100 (\$1.00) Dollars, to them in hand paid by the United States of America, thing pursuant to the act of Congress of June 17, 1902 (32 Stat., 388), the receipt where—is hereby acknowledged, do by these presents bargain, sell, release and forever quit aim unto the said United States of America, its successors and assigns all their right, the and interest in and unto that tract or parcel of land lying in the County of Ml 180, 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, ange seven (7) East of the U. S. Reclamation Service Survey, said tract being a portion the El Paso Valley Hesa Drain right of way and is described as follows: Beginning at Northwest corner of the tract herein described, thence along the West boundary line property of grantor North 53° 34' East sixty four and nine tenths (64.9) feet thence with 22° 36' East five hundred ninety eight and seven tenths (598.7) feet; thence South 30' 30' East four hundred seventy and seven tenths (170.7) feet; thence South 42° 31' The seven and Seven tenths (437.0) feet; thence North 89° 37' West with the 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° 47' West five hundred thirteen and one tenth (513.1) feet; North 51° Ol' 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 one hundred ninety one and two tenths (1191.2) feet distant; thence continuing on same property line North 46° C6' West forty five (45) feet to the place of beginning and containing one and ninety two one careful (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, privilege 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:- G. H. Wheeler,

F. M. Hough,

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

### CERTIFICATE

COUNTY OF EL PASO. ) Before me, Jessie E. M. Howe, the undersigned authority on this personally appeared F. M. Hough, known to me to be the person whose name is subscribed a witness to the foregoing instrument of writing, and after being duly sworn by he stand 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 requirement, subscribe the same, and that he had signed the same as a witness at the requirement.

Given under my hand and seal of office this 11th day of October.

(Notarial Seal)

My Comm. Exp. June 1, 1919.

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

Mrs. G. H. Wheeler.

#### CERTIFICATE

COUNTY OF EL PASO. ) Before me, S. Ruffner, Notary Public in and for El Paso Co.

El Paso, Texas, March 15, 1918.

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.

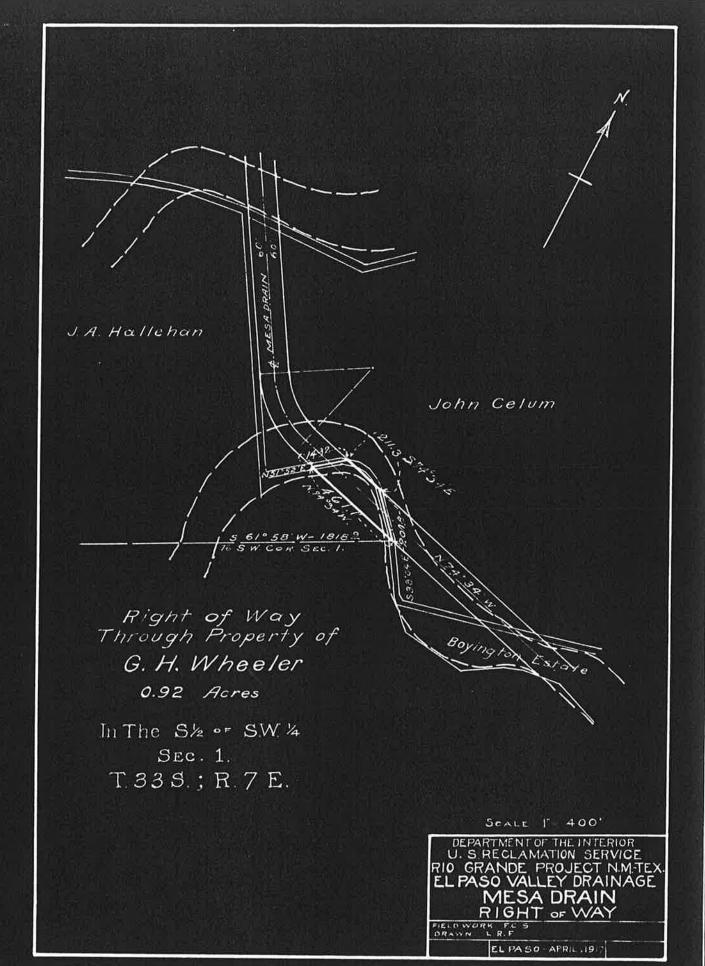
#### 1. Your letter March 5:

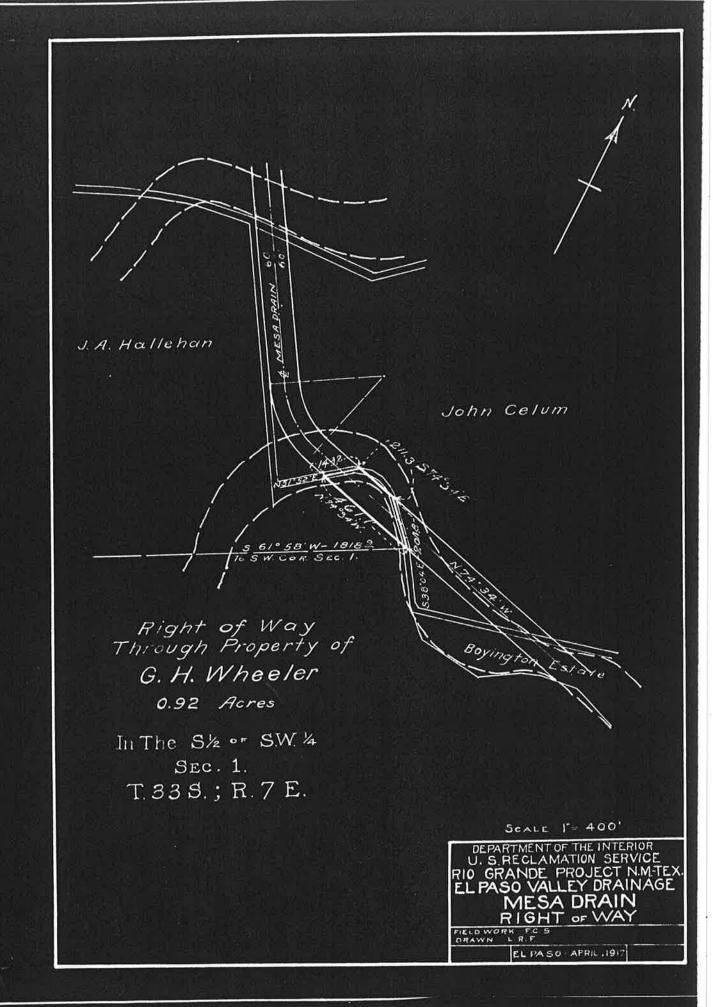
- 2. Agreeable to your suggestion I have drafted and herewith enclose, in duplicate, an instrument which has been entitled "Declaration and estoppel statement" along the lines which I understand you have in mind. I presume the authority for execution and filing of such a statement can more properly be 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.
- anch a statement why has he not authority to execute quit-claim deed, by which the came 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

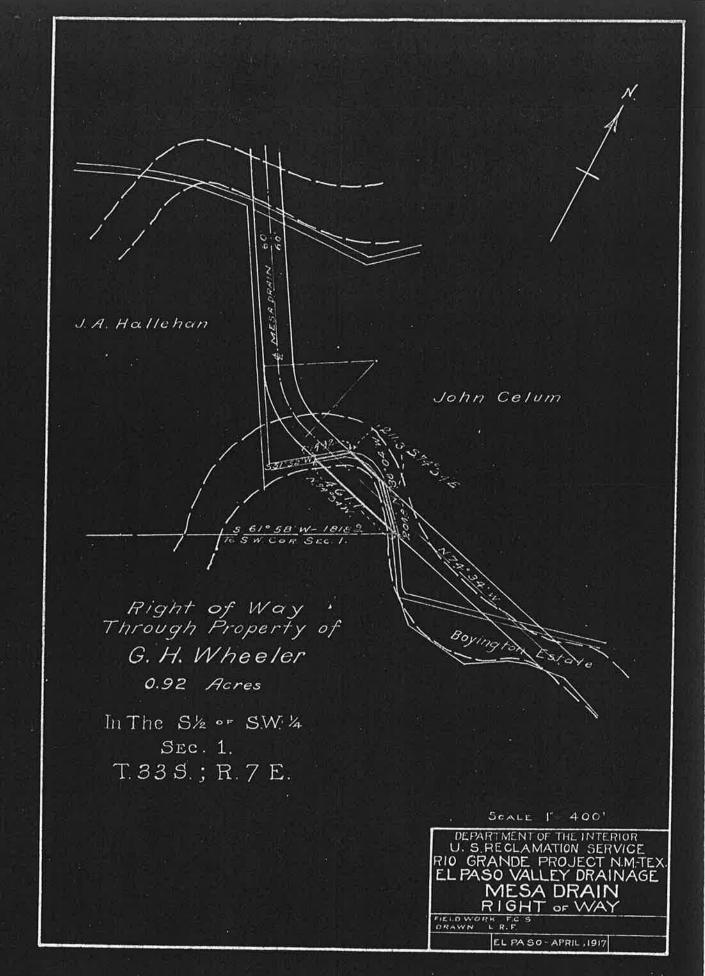
the sections of the reclamation law mentioned. With this in mind I have drawn and likewise herewith enclose, in duplicate, quit-claim deed reconveying to grantors in that form. Should it be said that the Secretary has no authority to execute such a deed, it would in any event constitute a color of title, 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 Vernons Sayles' Tex. Civ. Stat., 1:14)

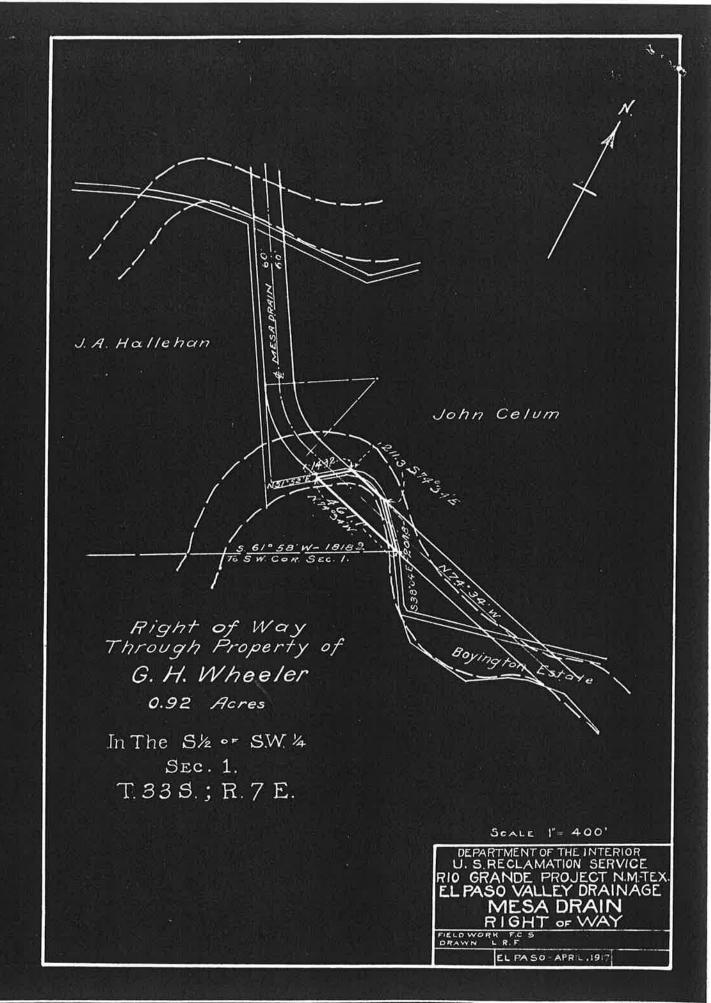
4. When decision is definitely reached as to handling these matters, papers in the other cases will be prepared. I evoid submitting each case to the Department could not the Secretary delegate to the Director or Project Manager authority to execute deeds of this character?

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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 conveyed to the United States by G. H. Wheeler and wife, El Paso Valley Mesa Drain.

Very truly yours,

"set. District Counsel.