

HAYES, S. DESIRE, et. al., Helen Louise

RIGHT OF WAY

141
MONTOLA LATERAL "D"

0023-0066-0010-00

This Vendor GAVE US
RIGHT OF WAY IN FC ASD Co.
And Done over

per 9-25-84

55216

Blk 1652
Page 53UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
RIO GRANDE PROJECT, NEW MEXICO-TEXAS

CONTRACT AND GRANT OF RIGHT-OF-WAY EASEMENT

THIS CONTRACT, made this 1st day of February, 1962, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including particularly the Reclamation Project Act of 1939 (53 Stat. 1187), between THE UNITED STATES OF AMERICA, and its assigns, hereinafter styled the United States, represented by the officer executing this contract, and S. LESLIE HAYS and HELEN LOUISE HAYS, his wife, their heirs, successors, and assigns, hereinafter styled the Grantor.

WITNESSETH THAT:

2. For and in consideration of the sum of one dollar (\$1.00) receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to the United States, and its assigns, an exclusive right, privilege, and easement to construct, replace, operate and maintain ditches, canals, laterals, drains, aqueducts, water conduits, fences, bridges, roads, telephone and telegraph lines and any other structures or facilities the United States may deem necessary or desirable for the construction, operation, and maintenance of the Rio Grande Project, and the exclusive right, privilege, and easement to remove from or place on earth and rock, with the right of ingress and egress for the purpose of carrying out the easement granted, in and upon that certain tract or parcel of land situate, lying and being in Tract 12, Block 4, Upper Valley, El Paso County, State of Texas, survey of said land being approved by the Commissioners Court of the County of El Paso on December 12, 1932, and being more particularly described in Schedule A hereof.

3. Any portion of the above described tract of land not fenced by the United States may be used by the Grantor at his own risk, for any purpose which will not in the opinion of the Project Manager, Rio Grande Project, interfere with the easement herein granted to the United States, and in connection with any use by the Grantor, he agrees to hold the United States harmless from all liability for damage and claims therefor, arising directly or indirectly from such use, and will reimburse the United States for any damages resulting from its use thereof to structures of the United States located on said right-of-way. The Grantor does hereby agree and covenant that no portion of this easement will be occupied by farm water conveyance ditches or laterals that are constructed by the Grantor or his assigns.

4. This grant of easement is subject to existing rights or easements, if any, in the above described land for railroads, pipe lines, power line, telephone and telegraph lines, roads, highways, ditches or canals, and any existing reservation of mineral rights, and the following listed leases:

None

5. This grant of easement is also subject to the following described mortgages, deeds of trust, or other liens and encumbrances and no others:

Vendors Lien in the sum of \$33,605 in favor of George Q. Payne, et al, secured by Deed of Trust from S. Leslie Hays and Helen Louise Hays, his wife, to A. C. Gonzales, Jr., Trustee, dated January 25, 1957 filed for record February 12, 1957 in Book 643, Page 130 in the records of El Paso County, Texas

6. The Grantor does hereby covenant that at the delivery of this easement, he is lawfully seized, in his own right, of an absolute and indefeasible inheritance, in fee simple, of and in all and singular the tract of land covered by this easement, free and clear of encumbrances or liens except as listed herein, and will warrant and forever defend the same unto the United States against said Grantor, and all and every person or persons whomsoever lawfully claiming or to claim the same.

7. It is expressly stipulated that upon permanent abandonment of this easement, as evidenced by written notice to that effect from the Secretary of the Interior to the occupant, the right, privilege, and easement granted herein shall terminate and the interest of the United States hereunder shall revert to the Grantor.

8. The United States will abandon that portion of the existing Montoya Lateral "D" made unnecessary by the realignment upon completion of construction of the relocated Montoya Lateral "D" through the parcel of land shown on Drawing No. 23-503-6503 attached hereto and more particularly described in Schedule A hereof. The said abandonment shall not be effected until the United States has satisfied itself that the Grantor herein has a good and marketable title to the lands of the relocated right-of-way, free and clear of any liens or encumbrances, except those herein specifically mentioned. In the event said Grantor does not have a good and marketable title, or if liens or encumbrances other than those herein specifically waived by the United States by the provisions hereof, are found to exist, the United States may, at its option require the Grantor to furnish satisfactory title or may itself obtain the instruments necessary to provide same, and may recover the cost of obtaining the same from the Grantor.

9. The Grantor agrees, at his own expense, to move onto the right of way of the realignment of the Montoya Lateral "D" the earth fill material necessary for the construction of the lateral and to remove the banks and fill the existing ditch.

10. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

THE UNITED STATES OF AMERICA

By

W. F. Resch
W. F. Resch; Project Manager
Rio Grande Project
Bureau of Reclamation

GRANTOR

By

S. Leslie Hays
S. Leslie Hays

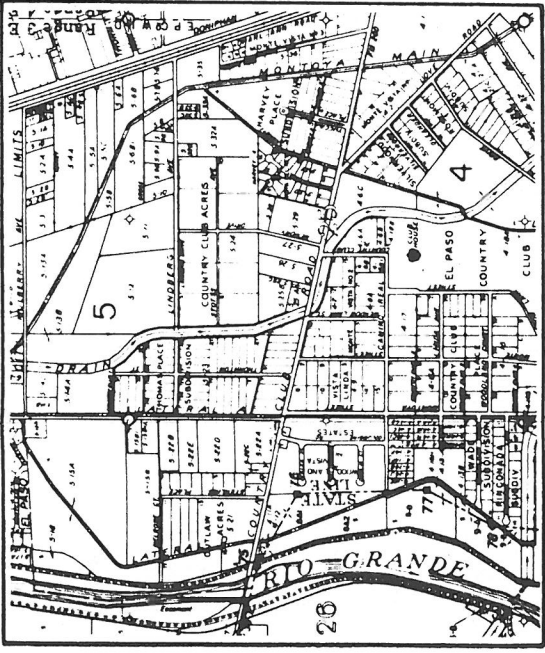
Helen Louise Hays
Helen Louise Hays

SCHEDULE A

A piece or parcel of land situate, lying and being in the County of El Paso, State of Texas, and being a part of Tract Number 12, Block Number 4, Upper Valley, of approved surveys of the said County of El Paso, and more particularly described by metes and bounds as follows, to wit:

BEGINNING at the most northwesterly corner of the parcel being herein described, a point on the southerly right of way line of Country Club Road, following said right of way line south seventy-seven degrees (77°) seventeen minutes ($17'$) east twenty-nine and six tenths (29.6) feet, thence south nineteen degrees (19°) thirty-nine minutes ($39'$) east one hundred six and nine tenths (106.9) feet to a point on the Texas-New Mexico Boundary Line, thence following said Boundary Line, north sixty-one degrees (61°) nine minutes ($09'$) west thirty-seven and seven tenths (37.7) feet, from which point Texas-New Mexico Boundary Monument #75 bears north sixty-one degrees (61°) nine minutes ($09'$) west one hundred fourteen and seven tenths (114.7) feet, said point being also on the easterly right of way line of the International Boundary and Water Commission's Canalized Rio Grande; thence following said right of way line north nineteen degrees (19°) thirty-nine minutes ($39'$) west ninety-four and five tenths (94.5) feet to the point of beginning, said parcel containing six hundredths (0.06) acre more or less, all as shown on copy of drawing numbered 23-503-6503 attached hereto and made a part hereof.

Correct as to Engineering data. *J.M.*



LOCATION MAP

SCALE OF FEET.
500 0 2000

TRACT 12, BLOCK 4, UPPER VALLEY
EL PASO COUNTY, TEXAS
SURVEY APPROVED BY COMMISSIONER'S
COURT DEC. 12, 1932.

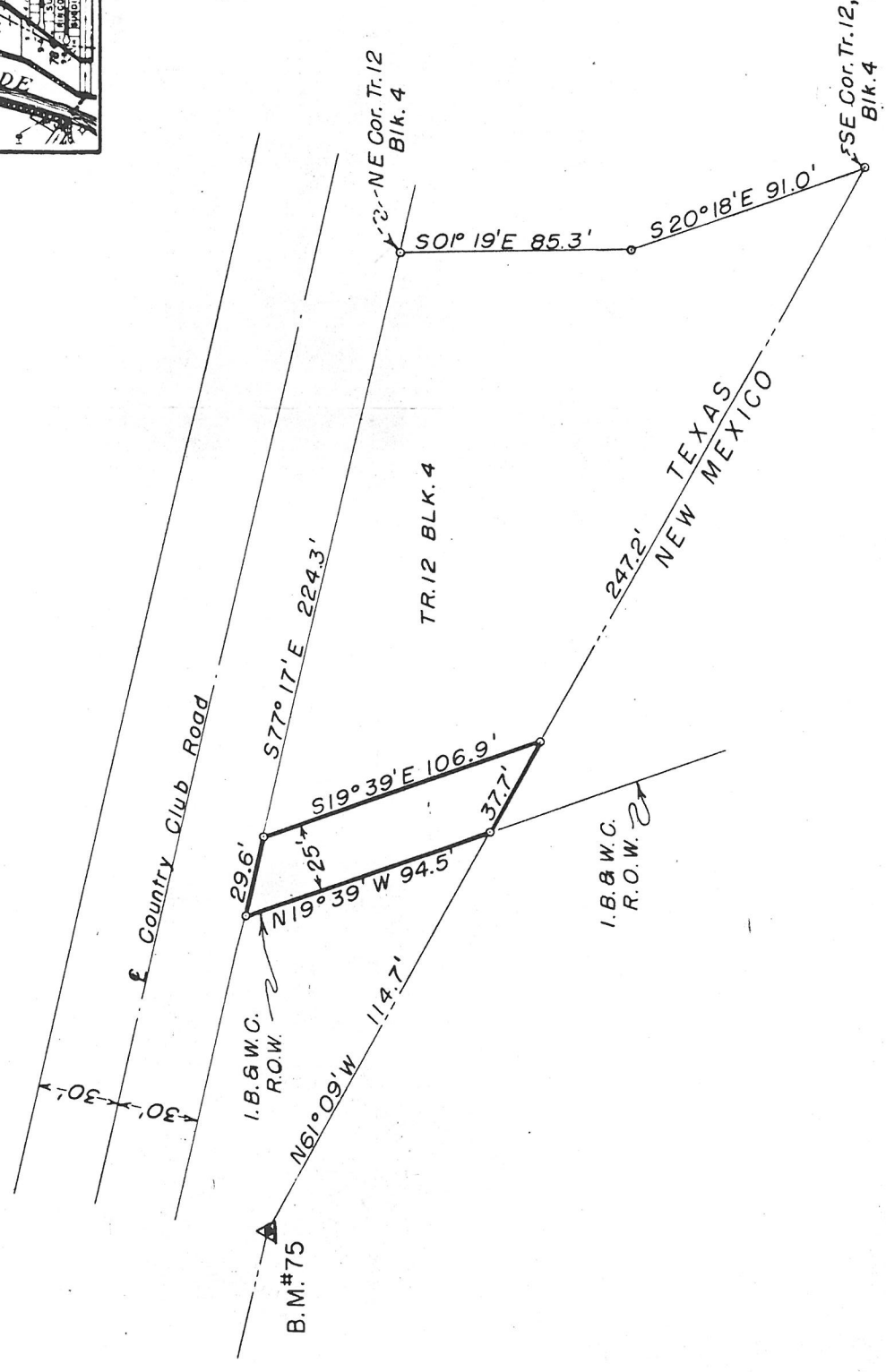
S. LESLIE HAYS
&
HELEN LOUISE HAYS
TO
THE UNITED STATES
OF
AMERICA
.06 Acre

SCALE OF FEET.
10 0 100

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
RIO GRANDE PROJECT-N.MEX.-TEX.
MONTOLA LATERAL "D"
RELOCATION

DRAWN BY E. R. J. - SUBMITTED *Jerry W. Nix*
TRACED *J. H. H.* RECOMMENDED *J. H. H.*
CHECKED *J. H. H.* APPROVED *J. H. H.*

EL PASO, TEX., 12-12-61. 23-503-6503



5-216

R/Way Easement

to

U. S. A

from

J. Leslie Hays
et ux Helen Louise

FILED FOR RECORD
IN MY OFFICE

1962 FEB 2 AM 10 06

RECORDED
INDEXED
COUNTY CLERK
EL PASO, TEXAS
W. J. [Signature]

2/1 1852/53 2/1

CERTIFICATE OF RECORD

The State of Texas, County of El Paso.

I, J. W. Fields, County Clerk in

and for said County, do hereby certify that the foregoing instrument of writing with its certificate of authentication, was filed for record in my office, on the

2 day of Feb A. D. 1962 at 1006 O'clock P. M. and

duly recorded the 7 day of Feb A. D. 1962 at 10 O'clock

1 M. in the Deed. Records of said County, in volume 652

on page 53

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

(SEAL)

J. W. Fields, County Clerk

By *[Signature]* Deputy

380. —

OFFICIAL FILE COPY

Date	Surname	Code
3/27	<i>[Signature]</i>	
	<i>[Signature]</i>	
	<i>[Signature]</i>	

March 27, 1962

Mr. S. Leslie Hays
800 Azalea
El Paso, Texas

Dear Mr. Hays:

Enclosed for your files are the Duplicate Originals of two Contract and Grant of Right-of-Way Easements dated February 1, 1962 which have been executed on behalf of the United States and recorded.

Sincerely yours,

W. F. Resch
Project Manager

Enclosures

CERTIFICATE OF INSPECTION AND POSSESSION

I, Luther Mc Anulty, Chief,
Las Cruces Irrigation Field Branch, Rio Grande Project, Bureau
of Reclamation, Department of the Interior, hereby certify that
on the 16th day of Feb., 1962, I made a per-
sonal examination and inspection of that certain tract or parcel of
land situated in the County of El Paso, State of Texas
and particularly described in SCHEDULE A hereof
and containing 0.06 acres, more or less, proposed to be
acquired by the United States of America in connection with the
relocation of the Montoya Lateral "D", a facility of the
Rio Grande Project, from S. Leslie Hays and Helen Louise Hays, his wife.

1. That I am fully informed as to the boundaries,
lines and corners of said tract; that I found no evidence of any
work or labor having been performed or any materials having been
furnished in connection with the making of any repairs or improve-
ments on said land; and that I made a careful inquiry of the
above-named vendors, and of the occupants of said land, and ascer-
tained that nothing had been done on or about said premises within
the past 36 months that would entitle any person to a lien
upon said premises for work or labor performed or materials furnished.

2. That I also made inquiry of the above-named vendors,
and of all occupants of said land, as to their rights of possession
and the rights of possession of any person or persons known to them
and neither found any evidence nor obtained any information showing
or tending to show that any person had any rights of possession or
other interest in said premises adverse to the rights of the above-
named vendors or of the United States of America.

3. That I was informed by the above-named vendors, and
by all other occupants, that to the best of their knowledge and
belief there is no outstanding unrecorded deed, mortgage, lease,
contract, or other instrument adversely affecting the title to
said premises.

4. That to the best of my knowledge and belief after
actual and diligent inquiry and physical inspection of said
premises there is no evidence whatever of any vested or accrued
water rights for mining, agricultural, manufacturing or other

purposes, nor any ditches or canals constructed by or being used thereon under the authority of the United States, except the Montoya Lateral "D", an irrigation facility, owned, operated and maintained by the United States, nor any exploration or operations whatever for the development of coal, oil, gas, or other minerals on said lands; and that there are no possessory rights now in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.

5. That to the best of my knowledge and belief, based upon actual and diligent inquiry made, there is no outstanding right whatsoever in any person to the possession of said premises nor any outstanding right, title, interest, lien or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records.

6. That the premises are wholly unoccupied and vacant except for the occupancy of the United States of America.

Luther M. Cuscuty

Dated this 16th day
of Feb., 1962

SCHEDULE A

A piece or parcel of land situate, lying and being in the County of El Paso, State of Texas, and being a part of Tract Number 12, Block Number 4, Upper Valley, of approved surveys of the said County of El Paso, and more particularly described by metes and bounds as follows, to wit:

BEGINNING at the most northwesterly corner of the parcel being herein described, a point on the southerly right of way line of Country Club Road, following said right of way line south seventy-seven degrees (77°) seventeen minutes ($17'$) east twenty-nine and six tenths (29.6) feet, thence south nineteen degrees (19°) thirty-nine minutes ($39'$) east one hundred six and nine tenths (106.9) feet to a point on the Texas-New Mexico Boundary Line, thence following said Boundary Line, north sixty-one degrees (61°) nine minutes ($09'$) west thirty-seven and seven tenths (37.7) feet, from which point Texas-New Mexico Boundary Monument #75 bears north sixty-one degrees (61°) nine minutes ($09'$) west one hundred fourteen and seven tenths (114.7) feet, said point being also on the easterly right of way line of the International Boundary and Water Commission's Canalized Rio Grande; thence following said right of way line north nineteen degrees (19°) thirty-nine minutes ($39'$) west ninety-four and five tenths (94.5) feet to the point of beginning, said parcel containing six hundredths (0.06) acre more or less, all as shown on copy of drawing numbered 23-503-6503 attached hereto and made a part hereof.

ACKNOWLEDGMENT

STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, W. E. BUCHANAN, JR., a Notary Public, in and for El Paso County, State of Texas, on this day personally appeared S. LESLIE HAYS, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and as his free act and deed.

Given under my hand and seal of office this 1st day of February 1962.

W. E. Buchanan, Jr.

My commission expires JUNE 1, 1963

STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, W. E. BUCHANAN, JR., a Notary Public, in and for El Paso County, State of Texas, on this day personally appeared Helene Louise Hays, wife of S. LESLIE HAYS, 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 Helene Louise Hays, acknowledged such instrument to be her free 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 this 1st day of February, 1962.

W. E. Buchanan, Jr.

My commission expires JUNE 1, 1963



ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, Charles W. Hetrick, a Notary Public, in and for El Paso County, State of Texas, on this day personally appeared W. F. Resch, Project Manager, Rio Grande Project, Bureau of Reclamation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he executed same as the act of the United States of America for the purposes and consideration therein expressed.

Given under my hand and seal of office this
 1 day of February 1962.

Charles W. Hetrick
Charles W. Hetrick

My commission expires 6-1-63

SEAL

AMERICAN TELEPHONE AND TELEGRAPH COMPANY

LONG LINES DEPARTMENT

JAN 31 1962

EL PASO, TEXAS	
Route to:	Initials
Manager	<input checked="" type="checkbox"/>
Asst. Mgr.	<input checked="" type="checkbox"/>
Adm. Asst.	<input type="checkbox"/>
Power	<input type="checkbox"/>
Irrig.	<input type="checkbox"/>
Engr. Div.	<input checked="" type="checkbox"/>
Off. Engr.	<input checked="" type="checkbox"/>
Pers.	<input type="checkbox"/>
Finance	<input type="checkbox"/>
Supply	<input type="checkbox"/>
Secretary	<input type="checkbox"/>
File	<input type="checkbox"/>
Copy to:	Date
Elephant Butte	<input type="checkbox"/>
Las Cruces	<input type="checkbox"/>
Ysleta	<input type="checkbox"/>

El Paso, Texas
January 30, 1962

Mr. W. F. Resch, Project Manager
United States Department of the Interior
Bureau of Reclamation
Region 5, Rio Grande Project
211 U. S. Court House
El Paso, Texas

Dear Sir:

This is in reply to your letter of January 26, 1962 regarding proposed relocation of the Montoya "D" Lateral.

A recent field check of the Coaxial Cable indicates there is 4.0 ft. of cover from the present ground line to the cable and we have no objection to your proposed relocation provided the maximum cut for the new channel will not exceed the 1.1 Ft. as outlined in your Dwg. No. 23-503-6513.

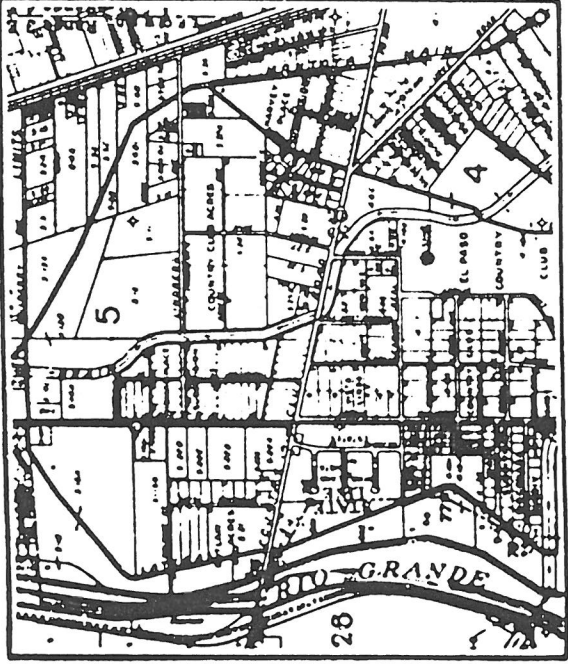
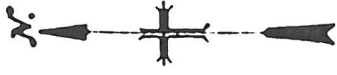
Due to the extreme importance of the services carried over this cable we would appreciate advance notice for start of construction so we can arrange to have a representative on the job for protection reasons while your construction forces are working near the coaxial cable.

May we express our thanks for bringing this to our attention.

Very truly yours,

W. W. Johnson
District Line Supervisor
510 Texas Street
El Paso, Texas

WAJ/mh
For Info: SLS



LOCATION MAP

500 0 5000
SCALE OF FEET.

TRACT 12, BLOCK 4, UPPER VALLEY
EL PASO COUNTY, TEXAS
SURVEY APPROVED BY COMMISSIONER'S
COURT DEC. 12, 1932.

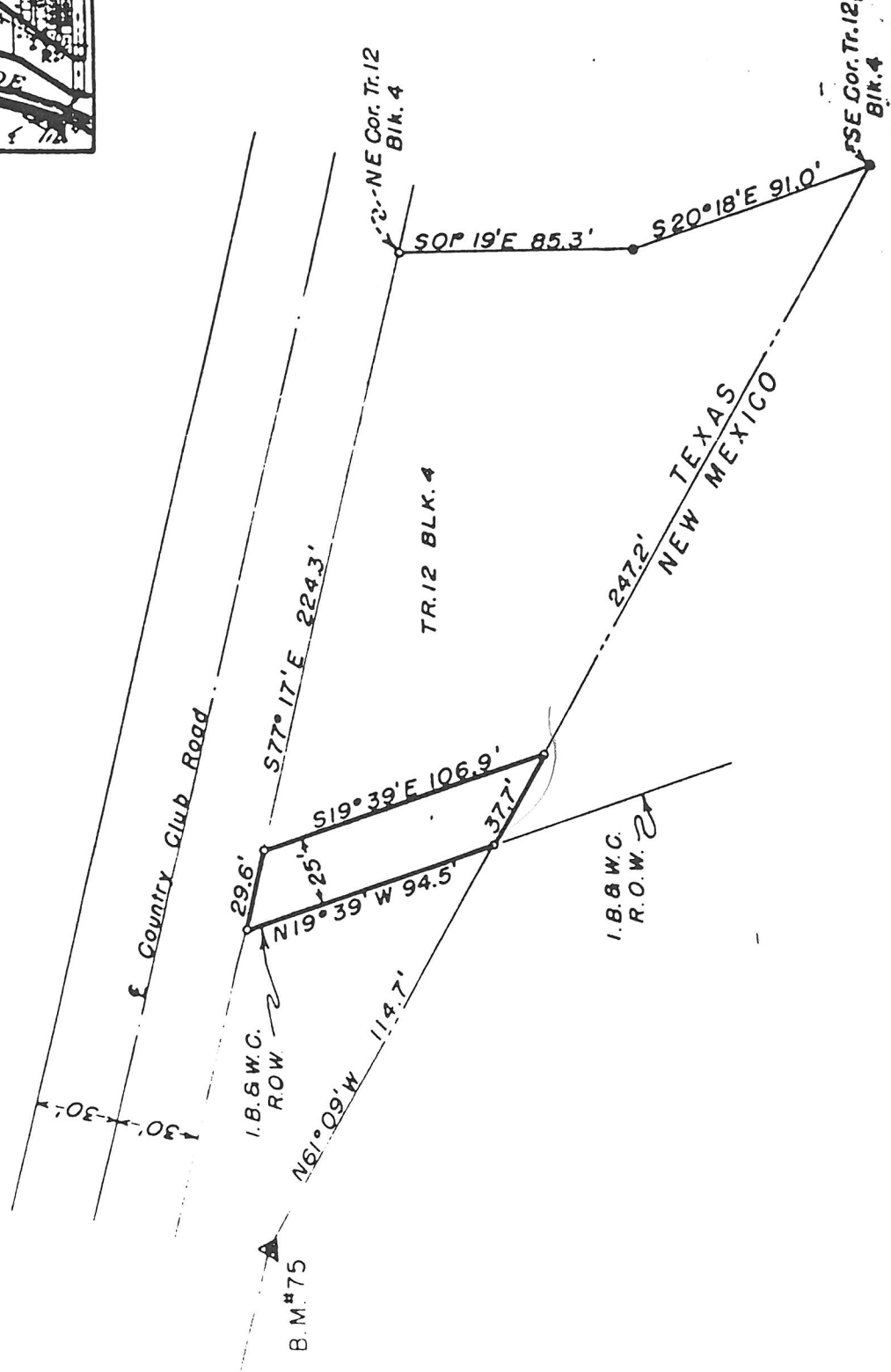
S. LESLIE HAYS
8
HELEN LOUISE HAYS
TO
THE UNITED STATES
OF
AMERICA
.06 ACRES

10 0 100
SCALE OF FEET.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
RIO GRANDE PROJECT-N.MEX.-TEX.
MONTROYA LATERAL "D"
RELOCATION

Drawn by: J. H. ... SUBMITTED: J. H. ...
Traced: ... REVISIONS: ...
Checked: H. B. ... APPROVED: ...

EL PASO, TEX. 12-12-61. 23-503-6503



S. L. Hays, et al

380-

THMcnr

OFFICIAL FILE COPY

Date	Surname	Code
	JHm	

Eng

January 26, 1962

American Telephone & Telegraph Company
510 Texas Avenue
El Paso, Texas

Attention: Mr. W. A. Johnson, District Line Supervisor

Gentlemen:

In the upper valley area of El Paso we are planning to relocate a portion of the Montoya "D" Lateral. It will be moved several hundred feet and be placed adjacent to the east levee of the Rio Grande. In so doing, the crossing of the El Paso-Tucson "A" cable will move from Tel. Co. Sta. 105 + 49.5 to Sta. 107 + 60±.

Attached is a sketch, Dwg. No. 23-503-6513, showing the construction section of the lateral with respect to the natural surface and the grade of the cable. At this location the grade of the ditch will be about 1.1 feet below natural surface, which will leave 3.9 feet of cover over the cable, provided it was set 5 feet below the surface.

In our opinion the 3.9 feet of cover is sufficient to insure that the cable will never be damaged; however, we would like the concurrence of the Telephone Company to the proposed construction.

This work is scheduled for construction in the very near future; in fact, it should be started just as soon as possible. All the work on the relocation must be completed prior to the beginning of the irrigation season.

We are obtaining an easement from the landowners, S. Leslie and Helen Louise Hays, for the right of way of the relocation. This easement is subject to existing easements over the same land.

Because of the urgency for performing this work, we request your review and approval as soon as possible. If you need any additional information, we will be glad to furnish it or to discuss the matter with you.

Sincerely yours,

W. P. Resch
Project Manager

Enclosure

CERTIFICATE OF TITLE

This is to certify that I, M. L. Smerke, Office Engineer, Rio Grande Project, Bureau of Reclamation, Department of the Interior, made a thorough search of the title to the property described in Schedule A hereof, beginning with the 1st day of January, 1950, and that title to said property was indefeasibly vested in fee simple of record in S. Leslie Hays and Helen Louise Hays, his wife, as of the 12th day of February, 1957, for Tract 12, Block 4, Upper Valley Surveys, free and clear of all encumbrances, defects, interests, and all other matters whatsoever, either of record or otherwise known to me, impairing or adversely affecting the title to said property except as follows:

Vendors Lien in the sum of \$33,605 in favor of George Q. Payne, et al, secured by Deed of Trust from S. Leslie Hays and Helen Louise Hays, his wife, to A. C. Gonzales, Jr., Trustee, dated January 25, 1957 and filed for record February 12, 1957 in Book 643 at Page 130 in the records of El Paso County, Texas.

Assessments by El Paso County Water Improvement District for 1959, 1960 and 1961 in the amount of \$19.32 not paid.

Taxes for 1961 not paid.

Dated this 15th day of January 1962.

M. L. Smerke