

180

MARTIN, ISABELLE

WARRANTY DEED

(150)

NEWTEXAS DRAIN NO. 6

0623-0064-0017-00

180

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

KNOW ALL MEN BY THESE PRESENTS:

That I, Isabelle Martin, a widow, of the City and County of San Francisco, State of California,

~~have hereby sold, conveyed and assigned to the United States of America~~, in consideration of the sum of
One Hundred Eight and 0/100 (\$108.00)

DOLLARS,

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

the receipt of which is hereby acknowledged

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

~~of the County of~~ ~~xxx~~ and ~~xxx~~, 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 approximately one and one-quarter miles southwest of the town of Canutillo, Texas, in the southwest quarter of section two (2), township twenty-eight (28) south, range three (3) east, United States Reclamation Service survey, being also in Tract No. 3 of El Canutillo survey No. 2, and bounded and described as follows: Beginning at the southwest corner, which is a point on the property line between the Grantor herein and W. H. Strahan Estate; running thence north 1°30' west one thousand five hundred sixty-seven and four-tenths (1,567.4) feet to the northwest corner, from which the southwest corner of section two (2), above mentioned, bears south twenty-nine (29) degrees 24 minutes west two thousand six hundred ninety-three and six-tenths (2,693.6) feet; thence east one hundred twenty (120) feet on the property line between the Grantor herein and E. E. Mylntyre; thence south 1°30' east one thousand five hundred sixty-seven and four-tenths (1,567.4) feet; thence west one hundred twenty (120) feet on the property line between the Grantor herein and the said W. H. Strahan Estate to the point of beginning; said tract of land containing four and thirty-two hundredths (4.32) acres, more or less; said 120-foot distances coinciding with the north and with the south boundary lines of Tract 3 of Survey 2 of said El Canutillo land and being a portion of the tract of land conveyed by W. Cooley, Trustee, to El Canutillo Townsite and Land Company by deed dated June 30, 1910, recorded in Book 159, page 536, Deed Records of El Paso County, Texas;

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

The United States of America and its

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

The United States of America and its

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

WITNESS my hand at San Francisco, Cal. this 22nd day of November A. D. 1910.

Witnesses at Request of Grantor

James A. Hall

ISABELLE MARTIN

THE STATE OF TEXAS,
Santa Cruz
COUNTY OF EL PASO

Public

BEFORE ME, James A. Hall, a Notary
Santa Cruz California
in and for El Paso, County, Texas, on this day personally appeared
Isabelle Martin (a widow)

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

Given under my hand and seal of office this 22nd day of November A. D. 1918

(SEAL)

James A. Hall

Notary Public in and for said County

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 instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

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

THE STATE OF TEXAS,
COUNTY OF EL PASO.

I, W. D. Greet, Clerk of the County Court

of said County do hereby certify that the above instrument of writing, dated on the 22 day of Nov, A. D. 1918 with its certificate of authentication, was filed for record in my office this 21 day of May A. D. 1919, at 8:40 o'clock A. M. and duly recorded the 27 day of May A. D. 1919 at 1:30 o'clock P. M. in the records of said County, in Volume 3044 on pages 326

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

W. D. Greet

Clerk, County Court.

By Clarence C. Rock, Deputy.

WARRANTY DEED

Single and Wife's Separate Acknowledgment

Filed for record 191

at o'clock M.

Clerk, County Court, El Paso County, Tex.

By Deputy.

Yakima, Wash., May 1, 1919

District Counsel, Edwin H. Peery,

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

Opinion on title to land situated in the El Canutillo Grant in El Paso County, Texas-New Mexico, to be purchased from Mrs. Isabelle Martin- Rio Grande Project, Texas-New Mexico.

1. I have examined your opinions of April 7 and 8, 1919, together with two abstracts and papers transmitted therewith relative to the title of Mrs. Isabelle Martin to a strip of land 120 feet wide extending North 1° 30' West, 1567.4 feet and situated in the Southwest Quarter (SW $\frac{1}{4}$) of Section 2, Township 28 South, Range 3 East, N.M.P. M., containing 4.32 acres. The land is also described as situated in Tract No. 3 of El Canutillo Survey No.2. This land the United States is proceeding to acquire from Mrs. Isabelle Martin, a widow, in pursuance of her agreement of August 19, 1918, to convey the same for a consideration of \$108.00.

2. The papers in this purchase were formerly submitted to me for opinion and were returned on December 31, 1918, for further proceedings since the abstract showed the condition of the title only from the date of sale of the El Canutillo Townsite & Land Company to the date when the abstract closed and did not disclose the manner in which said Company obtained title nor the manner in which the vendor obtained title from Frank Martin, the grantee of the Company.

3. The papers are now returned with your said opinions of April 7 and 8, 1919, and included with the papers is an abstract setting forth the title of the El Canutillo Townsite & Land Company. No showing is made, however, as to the manner in which the vendor Mrs. Isabelle Martin has obtained title to the premises from Frank Martin.

4. The land in question is a portion of what is termed the El Canutillo Grant situated about 15 miles North 25° West of El Paso, Texas. This grant originated in an Act of the Ayuntamiento of the State of Chihuahua of June 2, 1823, on the petition of Juan Ma. Ponce de Leon for himself and 29 other persons named in a list attached to his petition. By a resolution of said body a committee was appointed under whose direction a survey of the grant was made beginning at a center point near the easterly or northerly bank of the

Rio Bravo Del Norte or the Rio Grande and extending thence easterly and westerly 3750 varas for each direction fixing the easterly and westerly lines of the grant respectively. The northerly line of the grant was described as running with the foot hills and the southerly line with the river. It is noticed in this respect, however, that while the petitioners requested that the river be made the southerly boundary the Commission was of opinion that the southerly boundary should be measured for a distance of 3750 varas from the central point, the same as the east and west boundaries; owing, however, to the high water in the river at the time the west line was not measured.

5. These boundaries were located in the manner usual for setting off colony grants at the time; that is, by fixing a central point and measuring a given distance therefrom east, west, north and south for the location of the side lines which intersected said measurements at the termini at right angles.

6. The grant is shown as No.3 of the abstract, the heading of which bears date October 11, 1849. This, however, is the date of the certificate of the officer having custody of the record. The document abstracted, or copied, is the grant and shows the survey as stated, the placing of the petitioners in possession of the land, and confirmation by the Ayuntamiento of Chihuahua.

7. It does not appear that the land was ever partitioned among the grantees named in the petition for the original grant of June 6, 1823. It is probable that the land was sufficient for all and of comparatively small value and that each grantee or beneficiary settled upon and cultivated undefined portions of the grant as he desired, and perhaps a number of them never settled upon any particular tract or portion of the land at all.

8. The affidavit of Joseph Magoffin, acknowledged December 16, 1909 (Entry No.52 of the Abstract), sets forth in a succinct manner the later history of the grant. He states that when he returned to the locality in 1856, after an absence in Kentucky, he found his father, James Magoffin, in possession of certain lands covered by the Canutillo grant and cultivating the same through tenants. He states that his father's cultivation had existed some years prior to that date. James Magoffin does not appear to have had any title to the land cultivated but the affidavit states that he made an arrangement with the Mexican grantees by which his interest or claim, whatever it was, was respected and an agreement was

entered into by which said James Magoffin should secure a confirmation of the grant, in consideration of which he was to receive a portion, or one-third thereof, if successful.

9. James Magoffin secured the services of an attorney, Josiah F. Crosby, whom he admitted as a part owner of his share of the grant in consideration of Crosby's services in connection with the title.

10. This confirmation was secured through an Act of the Legislature of the State of Texas of February 1, 1858 (See No. 5 of the Abstract), relinquishing all the interest of the State to Jose Sanchez, Guadalupe Miranda and Romelo Barala for "1 league and 1/2 league called El Canutillo". This act apparently was based upon the petition of the said grantees, shown at Entry No. 4 of the abstract, in which they set forth their claim to the El Canutillo Grant of June 6, 1823, on their own behalf and as representatives of the other owners for whom they had been empowered to act.

11. The State grant required that the grantees should have a survey made of the premises and in pursuance of this survey, which was termed Survey No. 173, state patent issued under date of September 6, 1886, to the persons named in the act of confirmation. Anson Mills, the surveyor, was to receive 100 acres of the grant for his services which is the foundation of the title of the tract of that amount set apart to him by decree of partition which afterwards was rendered.

12. At Entry No. 12 of the Abstract is shown an instrument designated "Power of Attorney", dated December 30, 1865, from Juan Jose Sanchez, and others, to W. W. Mills and John S. Watts. This instrument is in Spanish and appears to be a certified copy of a grant from said Jose Sanchez and Romeli (Varela) Barala, acting for themselves and as attorneys in fact for the shareholders of the El Canutillo Grant and Guadalupe Miranda, to W. W. Mills and John S. Watts of a portion of the El Canutillo grant containing 1 1/2 leagues, but

"Excepting in this sale a third of said property which belongs to the attorney J. Crosby; also 100 acres which belongs to the surveyor Anson Mills, and also 3 shares of the 30 shares into which said property is divided, so that this sale consists of 27 equal shares after the deductions noted and which are excepted from this sale".

13. Afterwards Joseph Magoffin and Josiah F. Crosby brought suit against William W. Mills, John S. Watts and others for the partition of the grant (Entry No.21). The decree bears date May 28, 1874 (Entry No.22). It approves the report of the Commissioners setting off by metes and bounds 100 acres to Anson Mills, 345 2/3 acres to Juan Jose Sanchez, 1728 1/3 acres to Joseph Magoffin and Josiah F. Crosby and the remainder of the tract to John S. Watts and W. W. Mills, located from north to south in the order mentioned.

14. The tract set aside to Joseph Magoffin and Josiah F. Crosby, containing 1728 1/3 acres was described as follows, (Entry No. 21, page 40):

"Begins at a stake on the east bank of the Rio Grande set for the southwest corner of that portion of the El Canutillo Tract allotted to Jose Sanchez by virtue of said decree; thence due east along the south line of said division made for Jose Sanchez 2830 varas to a stake and rock mound set in the east side of El Canutillo; thence due south along said east line 3037 varas to a stake or rock mound set for the southeast corner of this survey; thence due west 4500 varas to a stake on the bank of the river set for the southwest corner of this survey; thence up the river as follows: due north 175 varas to a stake; N.63° E. 700 varas to a stake; S.55° E.400 varas to a stake; N.20° E. 360 varas to a stake; N.4° W. 420 varas to a stake; N.20° W. 480 varas to a stake; N.80° E. 279 varas to a stake; S.70° E.560 varas to a stake; S.55° E. 650 varas to a stake; N.60° E. 50 varas to a stake; N.10° W. 620 varas to a stake; N. 25° _____ 775 varas to a stake; N. 20° W.500 varas to a stake;N.80° _____ 100 varas to a stake; N.45° E. 25 varas to the point of beginning".

15. On June 30, 1908, the successors in interest of Josiah F. Crosby and Joseph Magoffin conveyed to C. E. Kelly and others a tract of land stated to be a part of the land allotted to said Crosby and Magoffin. This tract was particularly described as follows (Entry No.54,page 95):

"Beginning at a stake on the east bank of the Rio Grande set for the southwest corner of said tract allotted to Jose Sanchez by virtue of said decree in the year 1874; thence south 80° W. 100 varas; thence S. 20° E. 500 varas; thence S. 25° E. 775 varas; thence S. 10° E. 620 varas; thence due S. 1218.3 varas to the south line of the land allotted in said decree to F. C. Crosby; thence E. 2340.1 varas with the south line of said land to the southeast corner of same; thence N. 3037 varas to the northeast corner of said land; thence W. 2830 varas to the place of beginning".

The tract contained 1325½ acres omitting the right of way of the A. T. & S. F. Ry. Company and 1344.8 acres including said right of way. The N.E. and S. lines of the tract are the same as corresponding lines of the tract of land allotted to Crosby and Magoffin by the decree of Court of September 9, 1874, but the west line varies somewhat and the acreage is less. This may have been due to the meander of the Rio Grande on the west line and the fact that the river may in the meantime have changed its course. However, the deed to C. E. Kelly and others conveyed only the land particularly described above.

16. Abstract No. 15716 begins July 20, 1910, date of the deed from the El Canutillo Townsite & Land Company to Frank Martin (Entry No. 3). This deed conveyed a tract of land in El Paso County, Texas, situated about 15 miles northwest of the city of El Paso and described as Tract No. 3 of El Canutillo Survey No. 2 and more particularly described as follows:

"Beginning at a stake set for the northeast corner of Tract No. 3 of ~~the~~ El Canutillo Survey No. 2; thence W. 847.65 varas to the northwest corner of this tract; thence S. 559.55 varas to the southwest corner of this tract; thence E. 847.65 varas to a stake set for the southeast corner of this tract; thence N. 559.55 varas to the place of beginning, containing 84 acres".

17. There is nothing in this description to show that the tract conveyed to Martin lies within the portion of the grant set aside to Joseph Magoffin and Josiah F. Crosby, or the tract conveyed to the El Canutillo Townsite & Land Company. The beginning point of the description should

be so identified as to show that the tract conveyed to Martin lies within the tract conveyed to the company. Presumably the El Canutillo Townsite & Land Company has surveyed the tract of land conveyed to it into separate parcels and that the tract conveyed to Frank Martin is one of the said tracts; if so, a plat of the survey made in such form as to accompany the abstract would be sufficient.

18. At Entry No. 35 is shown a suit in trespass to try title and for damages brought by Gregorio Herrerra, and others, against Josiah F. Crosby, Joseph Magoffin, and others. The petition was filed February 28, 1894, but the papers are not in the files so that the abstract can not set forth the basis of the claim. The suit was dismissed as to the plaintiffs for failure to prosecute but decree was rendered in favor of Josiah F. Crosby and Joseph Magoffin confirming their title to the land set apart to them by decree of September 9, 1874. A large number of plaintiffs appear in said suit many with surnames the same as those of petitioners in the original grant, and while the Court dismissed their petition for want of prosecution, I am of opinion that the decree in favor of Crosby and Martin was res judicata as against the plaintiffs named, thus further confirming their title.

19. Referring to the suit pending in the Supreme Court of the United States between the states of New Mexico and Texas relative to the boundary it is my opinion that as the state of Texas was exercising its jurisdiction and authority over the land in question at the time it relinquished the title to the grantees of the Mexican grant good title passed by such relinquishment from the state and that although the Supreme Court might decree a change in the boundary line so as to include the land embraced in the tract conveyed to the El Canutillo Townsite & Land Company within the state of New Mexico such decree would not affect the title granted by the state of Texas. Neither would such decree give any right to the state of New Mexico to collect taxes against such lands prior to such change in the boundary line.

20. On examination of Abstract No. 16273 I am of opinion that on June 30, 1910, date when the abstract closed, satisfactory title to the tract of land conveyed by W. Cooley, Trustee, to the El Canutillo Townsite & Land Company by deed of June 30, 1910, was vested in said company, subject to showing of payment of taxes, which showing should be made as to

each particular parcel of land which the United States seeks to acquire within the limits of said tract.

21. The title of Mrs. Isabelle Martin to the particular strip of land embraced in her agreement of sale is not further shown. Abstract No. 15716 relating to this particular tract begins July 20, 1910, date of deed from the El Canutillo Townsite & Land Company to Frank Martin. Abstract No. 16273 relating to the title of the El Canutillo Townsite & Land Company to the Crosby and Magoffin tract extends only to June 30, 1910, date of the deed from W. Cooley, Trustee, to said company. These abstracts should be joined so as to cover the period from June 30, 1910, to July 20, 1910, in order to embrace possible conveyances that might have been made between said dates.

22. Proceedings necessary to show transfer of title from Frank E. Martin to the vendor should be set forth by a suitable addition to the abstract. It is stated that Frank Martin has died and that vendor is his widow and sole heir. These facts if true may be shown by affidavits of at least two disinterested parties, if the same are not of record, and similar showing should be made that the estate is not indebted, all to your satisfaction. Of course, if probate proceedings have been instituted, the same should be abstracted in lieu of securing affidavits.

23. No deed accompanies the papers but when the same is drawn the tract described in the agreement should be tied to some point in the description of the tract conveyed to Frank Martin so that it will appear that it is a part of said tract. It should be shown also, as hereinbefore stated, that the tract conveyed to Frank Martin is a portion of the tract conveyed by W. Cooley, Trustee, to the El Canutillo Townsite & Land Company (Entry No. 62).

24. It should also be shown that the taxes on the strip of land to be conveyed have been paid.

25. I have gone into the consideration of this title at considerable length because of the statement in your opinion that other tracts situated within the limits of the land conveyed to the El Canutillo Townsite & Land Company may be purchased in the future, and this opinion may be taken as a basis for exhibiting the title to any such purchase up to the date of the vesting of the title in said company.

26. The papers transmitted with your opinions are herewith returned for completion of the title in the matter

of the purchase from Isabelle Martin, after which they may be resubmitted for final opinion.

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EDWIN H. RANNEY

Encs:

- 1- 2 Opinions of District Counsel,
- 2- Agreement of Sale,
- 3- 3 Blueprints,
- 4- Abstract No. 15716 of Pioneer Abstract & Guarantee Title Co.
- 5- " " 16273 " " " " " " " "

CC- Ch. Cl-Washington, D.C.

7

El Paso, Texas, April 7, 1919.

From: District Counsel.

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

Subject: Title to land to be purchased from Mrs. Isabelle Martin involved in title to El Canutillo Grant, and New Mexico-Texas boundary dispute-Rio Grande Project.

1. Reference is had to your opinion of December 31, 1918. In the last paragraph of this opinion you state that it will be necessary to show source of title in El Canutillo Land & Townsite Co., which title is founded upon the Canutillo Grant. Abstract showing foundation of title has been procured and the following opinion relates to the title in El Canutillo Land & Townsite Co. It is suggested that opinion upon the title in this company be made a separate matter, as other land purchases will probably have to be made from grantees of this company.

2. This title involves land which is subject to the outcome of the suit brought in the Supreme Court of the United States by the State of New Mexico against the State of Texas in regard to the boundary line between these States, and to which reference will be made later in this opinion.

3. The first muniment of title is captioned as a "Grant", dated October 11, 1849, from State of Chihuahua (Mexico) to Juan Ma. Ponce de Leon et al. This muniment is in Spanish, and it is a petition by a large number of parties for a grant, the petitioners not including Jose Sanchez, Guadalupe Mirando and Romelo Barela, the three persons to whom, under date of February 1, 1858, a Texas legislative grant was made, and to whom a state patent was granted under date of September 6, 1886. (Pages 4, 14 and 19 of abstract). A petition to the State of Texas appears at page 12, and includes the same names as the Chihuahua petition. As to the possible rights of the petitioners in the Chihuahua "Grant", we believe these may be ignored for the reasons that no confirmation grant was ever made to them setting out any particular land that would conflict with the Canutillo Grant. The so-called Chihuahua Grant is made subsequent to July 4, 1848, the date of the Guadalupe Hidalgo Treaty, but it

appears that the Canutillo Grant lies just below or on the United States boundary as fixed by that treaty. However, the Gadsden Treaty, ratified June 30, 1854, brought the boundary line south of the Canutillo Grant. The Chihuahua petition is not recognized locally as founding any claims against the later particular patentees, and it is generally regarded as a matter of history rather than of legal value in the consideration of land titles. The grant and patent embodies the whole of the tract of land platted on the blueprint accompanying the abstract. There is some conflict as to the West boundary of this tract, but the Isabelle Martin land and probably all the other titles which will have to be examined will come well within the most easterly boundary.

4. The grantees made a power of attorney to Josiah F. Crosby dated - - - 1898 and Crosby, by the United States Marshall, made a deed to William W. Mills, this deed being founded upon a forfeiture of lands by reason of the owners being in armed rebellion against the United States, etc., which deed was vitiated by a decision of the United States Supreme Court confirming a decision of the Supreme Court of the Territory of New Mexico to the effect that the proceedings under the Act of Congress of March 3, 1864, were not within the jurisdiction of the District Court of the Territory of New Mexico (pages 20 - 22).

5. The three original grantees gave power of attorney to Wm. W. Mills and John S. Watts dated December 30, 1865. This power of attorney appears in the abstract in the Spanish language. It is not thought necessary to supply a translation, as the gist of this document is an agreement between Mills and Watts, which later ripened into the sale to these parties that is referred to in the affidavit by Joseph Magoffin at pages 89-90, and which laid the foundation for partition to them (pages 36-46). This affidavit is to the effect that while the grantees above named had legal title, James W. Magoffin had held possession of and cultivated the same land and that he would recognize the land running to said grantees if they would respect Magoffin's claim by reason of possession and cultivation. However, we do not find that any action was taken in the name of Mills and Watts directly in accordance with the explanation made in the affidavit. This affidavit states that W. W. Mills and John Watts had purchased the interest of the grantees, except the interest of Juan Jose Sanchez, who

is the same party as Jose Sanchez to whom the original deed was made. A deed of trust dated August 29, 1868, runs from James W. Magoffin to Joseph Magoffin, trustee for C. C. Richardson. No foundation of title is laid in James W. Magoffin up to the date of this deed. The partition decree which is abstracted at page 44, grants certain lands to Joseph Magoffin and J. F. Crosby in line with the explanation in the affidavit by Joseph Magoffin, above referred to, but this decree is dated May 28, 1874. On this account we run over the transactions as abstracted beginning with the above deed of trust and ending with a release dated May 16, 1891, running from Chas. C. Richardson to Joseph Magoffin, without further comment. James W. Magoffin made warranty deed to Joseph Magoffin September 1, 1868, which must have been subject to the security granted by the deed of trust for the benefit of Richardson. James W. Magoffin then died and his widow, Dolores B. Magoffin, granted to Joseph Magoffin and later made a deed of confirmation to Joseph Magoffin. Up to this point all title intended to be put in Joseph Magoffin was subject to the indebtedness due Chas. C. Richardson, as evidenced by the deed of trust. It seems that the notes evidencing this indebtedness were released and a mortgage, dated August 1, 1873, was given by Joseph Magoffin to Chas. C. Richardson, and under date of May 16, 1891, Richardson released the deed of trust and the mortgage.

6. The partition suit referred to in the Joseph Magoffin affidavit appears at pages 36-46. Part of the land granted to Josiah F. Crosby and Joseph Magoffin, the latter as the heir of James W. Magoffin, as shown upon the blueprint, is what is now known as El Canutillo Land & Townsite Co. tract. Watts and Mills took the large tract to the south and whatever interest they may have had by virtue of the power of attorney at page 23 is accounted for by the decree in the partition suit.

7. Octavia Magoffin, wife of Joseph Magoffin, died July 2, 1906, and devised to her husband whatever interest she had in the Crosby and Magoffin tract. J. F. Crosby died and devised to his wife, Josephine Crosby, his undivided one-half interest in El Canutillo tract and appointed her as independent executrix (pages 70-72).

8. Josephine Crosby, as independent executrix and sole devisee of Josiah F. Crosby, deceased, and Joseph Magoffin,

granted to C. E. Kelly et al. in warranty deed with vendor's lien reserved, dated June 30, 1908. The grant reads "the land hereby conveyed is a part of the land which by said decree in said cause was allotted to Joseph Magoffin and Josiah F. Crosby and is described as follows":etc. Then follows the description which corresponds with the land platted on blueprint as El Canutillo Land & Townsite Co. tract (page 95 of the abstract).

9. Joseph U. Sweeney, one of the grantees in the deed last described, transferred his interest to J. H. Pollard (page 107).

10. The grantees in the deed above described, substituting Pollard for Sweeney, granted to W. Cooley as trustee pending organization of themselves into the corporation of the El Canutillo Land & Townsite Co., Cooley then granting back to the corporation (pages 109-112).

11. The above is a general outline of the title and ignores matters pertaining to the estate of W. W. Mills and J. S. Watts, which involves the large tract of land to the south of the Crosby and Magoffin tract, and also ignores matters incidental to and concerning titles of Crosby and Magoffin, and beginning at page 47 these incidents of title will be briefly reviewed.

12. Pages 47-62 are in reference to suits and related matters, some of which were begun prior to the partition decree setting out the land to Crosby and Magoffin, but all of which, with one or two exceptions as later noted in this paragraph, relate to the interests of Mills and Watts. These matters being initiated prior to the partition, are properly abstracted, and will, of course be essential if further extension of the abstract becomes necessary in order to examine titles in this grant for land lying outside of the Crosby and Magoffin tract. At page 52 is a contract, the term of which has long since expired, between Joseph Magoffin and several parties for a two-year rental privilege. In a trespass to try title (page 60) both Crosby and Magoffin are named as defendants, but the suit was dismissed for want of prosecution.

13. Page 63 contains a list of judgment liens against J. F. Crosby, all of which are satisfied.

14. Page 64 recites a tax-sale deed which does not include the Crosby and Magoffin interest.

15. Page 65 is a trespass to try title and for damages, with Crosby and Magoffin as defendants; decree for defendants Crosby and Magoffin as to land set apart in partition of September 9, 1874 under decree of May 28, 1874, abstracted at page 44.

16. At page 67 a power of attorney is granted by Joseph Magoffin to James W. Magoffin. Page 68 Joseph Magoffin grants to El Paso Valley Water Users' Association in usual form to secure payment of Reclamation Service construction charges. On page 69 Joseph Magoffin enters into a stock-subscription with same Association. Page 70 contains probate proceedings in the estate of Octavia Magoffin, deceased, who was the wife of Joseph Magoffin.

17. Page 72, probate of will of J. F. Crosby appointing his wife, Josephine Crosby as independent executrix.

18. Page 73, power of attorney running from Josephine Crosby to R. H. Wood. Pages 74 and 75, Josephine Crosby, by R. H. Wood, her attorney, makes stock subscription and conveyance of trust to El Paso Valley Water Users' Association.

19. Pages 76 and 77 contain an abstract involving judgment of the San Antonio Brewing Association against J. W. and Joseph Magoffin. The suit was dismissed as to Joseph Magoffin.

20. Pages 78-82 recite deed of trust given by J. F. Crosby and wife to J. C. Lackland, trustee for State National Bank of El Paso, Texas, beneficiary. This is a deed of trust given to secure two notes which were given by way of satisfying an indebtedness arising out of a judgment. Release of this judgment and the deed of trust follows.

21. Pages 83 and 84 contain notations as to tax liens and releases thereof.

22. Pages 85-92 contain various affidavits as to the original grantees of the tract, settlement and possession by Magoffin and Crosby and partition of the land as heretofore referred to.

23. Pages 93 and 94 contain option contract by Wood, agent and attorney for Josephine Crosby, and by J. W. Magoffin,

agent and attorney for Joseph Magoffin, to J. A. Murdock. J. A. Murdock was one of the grantees in the sale abstracted at page 95, which put title in the several parties who formed the corporation of El Canutillo Land & Townsite Co., as previously referred to.

24. Pages 115-117 contain reference to the State boundary suit herein referred to at length.

25. Tax certificate has been omitted from the abstract of the whole grant, and taxes will be considered only in connection with various purchases as they arise.

26. After reviewing all the matters contained in the abstract, we find good title in El Canutillo Land & Townsite Company, subject to outcome of the Boundary Suit, as hereinafter discussed.

- - - # # # # # - - -

27. The following pertains to the suit between the States of New Mexico and Texas brought to settle the boundary dispute.

28. Mr. Harvey discussed this suit with Mr. Turney of El Paso, the attorney who handled the case for the State of Texas. The suit was brought by New Mexico and was heard in the Supreme Court of the United States, and is now being briefed for decree. Mr. Turney was unable to state more definitely when decree might be expected.

29. The suit is about the boundary line as established by the course of the Rio Grande at the time of the Guadalupe Hidalgo Treaty, which treaty annexed New Mexico to the Union and fixed the channel of the river as the international boundary, and which must of necessity fix the boundary between New Mexico and Texas, even though this portion of the river afterwards became no longer international. The general course of the river immediately north of El Paso is for some distance north and south, and the State of New Mexico has pleaded a river course which is very near to the foot hills, or the mesa, to the east of the river valley, while the State of Texas contends that the river has always been considerably to the west and, near the Canutillo grant, substantially where it is at present. The Canutillo grant, within which lies the Isabelle Martin tract and other tracts that will probably have to be purchased

for right of way, is near the point of a V which is formed by the two courses of the river as pleaded by the two States, the apex of the V being to the north at a point on the river over which there is no dispute. Thus there is no doubt that the Canutillo grant is a part of the land involved in this suit.

30. The evidence as to the boundary line as presented by the State of Texas is the Emory Survey, Emory being the person designated and authorized to make this survey under the Guadalupe Hidalgo Treaty. The maps but not the field notes of the survey were found by Mr. Turney in the State Department at Washington, and photographs of the maps were made and submitted as evidence by the State of Texas. While this survey was checked over in the field by reputable engineers employed by the State of Texas and found to be unusually accurate, it appears that the survey was never formally accepted by the State Department or other Departments that should accept. Also, the State of New Mexico could find no material flaw in the survey itself as put in evidence, and this survey checks with the Mexican survey made in conjunction therewith under the terms of the treaty. The field notes of the Mexican delegation had been found and the engineer checking the survey used these and, we believe, some of the Mexican maps, in connection with the Emory maps found on file in the State Department. Mr. Turney stated that against this evidence was the testimony of a number of Mexicans produced by the State of New Mexico, who swore as to the old location of the river channel from their personal recollection of their childhood days when they travelled with their parents up or down the river, which travelling it also appears was done mostly at night, because in those days it was very unsafe to undertake much travel during the daytime on account of hostile Indians. Mr. Turney is of the opinion, and it is also the prevailing opinion of other attorneys and representative people in this community, that the State of Texas will win the suit and that therefore the boundary line will never be moved. So far as could be learned from brief inquiries in the vicinity of Las Cruces, there does not seem to be much popular interest in the suit.

31. The Canutillo townsite title is founded upon grants running thru the State of Texas. If the State of New Mexico should get the decree, the Canutillo grant might possibly be recognized as an unconfirmed part of what is known as the Refugio grant lying to the north and west of the Canutillo grant and being in and founding title thru the State of New Mexico.

the original grant running also from Mexico. No attempt has been made to abstract a possible foundation of title for the Canutillo tract running thru the State of New Mexico, and the abstractors in that State assure us that it would be useless to try to do so. In examination of other titles in the Refugio grant, we have never found that that grant laid claim to El Canutillo lands. If the Canutillo title is not left as it is, the land may possibly be held to be United States public lands subject to entry, and the right of entry would probably be granted to the present holders.

32. The settlement of each of these grants as taken up or held under the confirmation surveys has never conflicted. If the river was the boundary of grants other than El Canutillo, it would appear that their claims founded upon the old location of the channel should have been prosecuted long ago and would now be held to have lapsed. It is further noted (p. 91 of the abstract of title) that the river was "further to the east than where it was running prior to the war", and that, if any, the Canutillo grant, and not some other one, must have suffered as to area by reason of the river meanders with reference to actual marking of the grant boundaries upon the ground. When a question arises as to what sovereign grant covers particular land there is, of course, always the possibility that original grantees can assert an adverse title. However, we are of the opinion that if the Canutillo grant should be declared to be a part of the State of New Mexico, that State would be put in the position of having to recognize a foreign land title. The general policy of the United States, as also evidenced by the treaties with Mexico, is very generous and kindly in recognizing and confirming the old land grants founded in the government of the latter nation, especially where settlers have lived upon the land in good faith, and it is not probable that titles of nearly seventy years' standing in the United States will be vitiated by any decree made to settle a controversy between States.

33. There still remains the question of taxes. The land holders in El Canutillo grant have been paying taxes to the State of Texas. It does not appear probable that the decision of the case would ignore the standing of the landowners with reference to taxes, but likely that any necessary tax adjustment, if such were sought, would be decreed to be between the States. This question was not touched upon particularly in the prayer for decree.

34. A map is attached showing area involved in the State boundary suit, the Refugio grant, the Canutillo grant, and other essential features.

Encs:
Abstract.
Map.

P. W. Dent
By C. F. Harvey

FLIGHT OF MAY 10, 1924

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FLIGHT OF MAY 10, 1924

FLIGHT OF MARTIN

FLIGHT OF MAY 10, 1924

F. E. MARTIN

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MAY 10 1924	
FBI - NEW YORK	

related to the said Isabelle Martin and has no interest financially or otherwise in the tract of land described.

C. Hughes Jordan

Sworn and subscribed to before me this 16th day
of April, A.D., 1919.

My commission expires:

May 2 15, 1921.

Madge Patton

Notary Public in and for
Los Angeles County,
California.

STATE OF CALIFORNIA :

STATE OF CALIFORNIA :
COUNTY OF LOS ANGELES: ss.

On this 10th day of May, in the year nineteen hundred and nineteen, A.D., before me, Madge Patton, a Notary Public in and for the said Los Angeles County, State of California, residing therein, duly commissioned and sworn, personally appeared C. Hughes Jordan, and Eugene D. Williams personally known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

MADGE PATTON
Notary Public in and for Los Angeles County,
State of California.

My commission expires
May 15, 1921.

May 15, 1921.

Notary public in and for
Los Angeles County,
California.

THIS AGREEMENT, made the 19th day of August,
nineteen hundred and eighteen, between Isabelle Martin, a widow,

~~xxx~~ California of the City and County of

San Francisco, California, for her self, her heirs, legal represen-
tatives, and assigns, hereinafter styled the vendor, and The United States of America and its assigns by

L. M. Lawson, Project Manager,

United States Reclamation Service,
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 (\$1.00) dollar, the receipt whereof is hereby acknowledged, does hereby agree, upon the terms and conditions hereinafter stipulated, to sell and by good and sufficient deed to convey to the United States of America the following-described real estate and property situated in

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

A tract of land approximately one and one-quarter miles south-
west of the town of Canutillo, Texas, in the southwest quarter of section
two(2), township twenty-eight(28) south, range three(3) east, United
States Reclamation Service survey, being in also Tract No. 3 of El
Canutillo Survey No. 2, and bounded and described as follows: Begin-
ning at the southwest corner, a point on the property line between
the Vendor herein and the W.H. Strahan Estate; running thence north
1°30' west one thousand five hundred sixty-seven and four-tenths
(1,567.4) feet to the northwest corner, from which the southwest corner
of said section two(2) bears south twenty-nine(29) degrees 24' west
two thousand six hundred ninety-three and six-tenths(2,693.6) feet; thence
east one hundred twenty(120) feet on the property line between the
Vendor herein and E.E. McIntyre; thence south 1°30' east one thousand
five hundred sixty-seven and four-tenths(1,567.4) feet; thence west
one hundred twenty(120) feet on the property line between the Vendor
herein and the said W.H. Strahan Estate to the point of beginning;
said tract of land containing four and thirty-two hundredths(4.32)
acres, more or less;

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.

414 P.O. Building, San Francisco, Calif.,
November 20, 1919,

From District Counsel Edwin H. Peery,

To District Counsel P.W. Dent, Toltec Building, El Paso, Tex.

Subject: Opinion on title to land purchased from
Mrs. Isabelle Martin, widow, in El Canutillo Grant,
Rio Grande Project, New Mexico.

1. I have your opinion of November 3, 1919, with accompanying papers, relative to the purchase from Mrs. Isabelle Martin, widow, of a strip of land 120 feet wide extending through Tract No. 3, Survey No. 2, of the El Canutillo Grant, containing 4.32 acres, in El Paso County, Tex. The purchase was made in pursuance of agreement dated August 19, 1918, and Mrs. Martin has by deed of November 22, 1918, recorded May 21, 1919, in book 304, page 326, conveyed the land to the United States.

2. In paragraphs Nos. 21, 22 and 23 of my opinion of May 1, 1919, certain matters were pointed out as proper to be attended to before completion of the sale. These seem to have been adjusted satisfactorily, except that mentioned in paragraph 21 relating to covering the gap between the two abstracts. The added certificate on page 22, abstract No. 15716 embraces only deeds and should be enlarged to cover all instruments and proceedings affecting the title between the two dates mentioned, - June 30 and July 20, 1910, inclusive.

3. The certificate to abstract No. 15716 should also be extended to cover the record of the deed to the United States and the affidavits of Mrs. Martin and others.

4. After the matters mentioned in the last two paragraphs have been satisfactorily adjusted, the agreement of sale may be carried out by paying the purchase price, if no adverse interests or liens should then appear. Otherwise than as above noted, the title appears to have vested in the United States free of incumbrances.

Edwin H. Peery.

Encls:

1. Two opins. of Dist. Couns.
2. Two opins. of Dist. Couns. Titles,
3. Deed to U.S.A.; 4. Four blue prints,
5. Possessory Certf. 6. Affidavits;
7. Agreement of sale, 10. Voucher,
11. Abstract No. 15716, of Pioneer Abstr. Co.
12. " No. 16273, of Pioneer Ab. & G.T. Co.
Pioneer

c oche.

El Paso, Tex.
Nov. 3, 1919.

From District Counsel, P. W. Dent,
To Edwin H. Feery, District Counsel, Denver, Colo.
Subject: Opinion on title concerning land to be purchased
from Isabelle Martin - Rio Grande Project.

1. Reference is had to your opinion of May 1, 1919, particularly the matters set forth at page 7 thereof.

2. An additional abstract (No. 15716) has been obtained and shows at page 3 the conveyance running from Canutillo Townsite and Land Company to Frank E. Martin. On pages 23 and 25 appear warranty deed running from Isabelle Martin to the Government and an affidavit by the grantor and corroborated by two disinterested parties as to the relationship Mrs. Martin bears to this estate and to the effect that she is the sole party in interest.

3. With reference to paragraph 23 of your opinion we have in the warranty deed running to the United States followed out your suggestion.

4. With reference to your paragraph 24 you will note by the tax certificate at page 26 of abstract No. 15716 that the taxes are paid up to the date of the warranty deed running to the United States.

5. After examining the history of this title up to date as shown by the additional abstract we find that good title now vests in the United States and it is our opinion that payment may now be made to Mrs. Martin.

6. In accordance with paragraph 26 of your opinion, all papers are submitted herewith in order that you may pass finally upon this title. The papers transmitted herewith include the voucher which has been signed by Mrs. Martin and we are handling the matter in this manner in order that if you have no further suggestions to offer the voucher and necessary related papers may be turned over to Mr. Heddon, the Denver fiscal agent, for payment.

Encls: 2 Abstracts
Orig. & copy Warranty Deed
4 Blueprints. Affidavit as to Possession (Isabelle Martin)
4 Opinions. Orig. 2 copies of Voucher
Possessory Cert. *Agreement to Sell*

P. W. Dent

El Paso, Tex.
Nov. 3, 1919.

CPH:MSF

Mr. C. Hughes Jordan,
Attorney at Law,
717 Investment Building,
Los Angeles, Cal.

Dear Sir:

Receipt is acknowledged of your letter of Oct. 20th inclosing voucher which has been signed by Mrs. Martin.

The papers in this case are today being forwarded to our Denver office for final approval as to title and in order that if thus approved, the Denver Fiscal Agent may draw a check and send it care of yourself, direct to Los Angeles.

We trust there will be no further objection to this title upon the part of our Department but if there should be, rest assured that we will follow the matter up as expeditiously as possible.

Very truly yours,

C. F. Harvey

Asst. District Counsel.

LAW OFFICES OF
C. HUGHES JORDAN
SUITE 717 INVESTMENT BUILDING
LOS ANGELES, CAL.

October 20, 1919.

Mr. P. W. Dent,
U. S. District Counsel,
U. S. Reclamation Service,
El Paso, Texas.

Dear Sir:

I am enclosing herewith voucher of Isabelle Martin, covering the sale of 4.32 acres of land belonging to her to the United States Government, in connection with the Nemexas Drain.

Please have the check made payable to her order and sent to me at your convenience, and oblige,

Yours truly,

C. Hughes Jordan

Encl.
CHJ/MP

LAW OFFICES OF
C. HUGHES JORDAN
SUITE 717 INVESTMENT BUILDING
LOS ANGELES, CAL.

August 29, 1919.

Mr. C. F. Harvey,
Assistant U. S.
District Counsel,
U. S. Reclamation Service,
El Paso, Texas.

My dear Mr. Harvey:

I have your communication of the 25th instant enclosing carbon copy of letter addressed by you to the Pioneer Abstract and Guarantee Title Company of your city urging that the Martin and El Canutillo abstracts be finished as soon as possible.

I have forwarded the communication to Mrs. Martin and feel sure that she will be glad to know that the matter is not dead.

Thanking you, I remain,

Very truly yours,



CHJ/MP

El Paso, Texas, August 25, 1919.

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

Gentlemen:

Reference is had to our letter of May 20, stating that we had left the Martin and El Canutillo abstracts with you to be connected and brought up to date. We are at a loss to understand the long delay in returning these abstracts, and respectfully ask that you finish them as soon as possible.

Very truly yours,

C F HARVEY

Asst. District Counsel.

Copy to C. Hughes Jordan,
Los Angeles.

CFH:T

El Paso, Texas,
May 20, 1919.

The Pioneer Abstract & Title Co.,
First National Bank Bldg.,
El Paso, Texas.

Gentlemen:

Reference is had to the Isabelle Martin and El Canutillo abstracts which were left at your office about a week ago to be connected with each other.

We are today sending an affidavit for record, which affidavit has been signed by Mrs. Isabelle Martin in regard to her being the sole heir to this property, and also a warranty deed running from Mrs. Martin to the Government, which two instruments please include in the abstract and otherwise bring it up to date. We understand Mrs. Martin has paid her 1918 taxes, which fact can be brought out by tax certificate.

Yours very truly,

PWDent by CFH
District Counsel.

*Follow-up
4/28-19 see Jones in
file - lost per. [Signature]*

El Paso, Texas.
May 20, 1919.

County Clerk,

El Paso, Texas.

Dear Sir:

Transmitted herewith for official record is
warranty deed dated November 22, 1918, running from Mrs.
Isabelle Martin to the United States of America.

Yours very truly,

PWDent by CPH

District Counsel.

Enc 1.

El Paso, Texas,

May 20, 1919.

County Clerk,

El Paso, Texas.

Dear Sir:

Transmitted herewith for official record is an affidavit dated April 15, 1919, by Isabelle Martin to the effect that she is the sole heir of Frank E. Martin, deceased.

Yours very truly,

PWDent by CPH

District Counsel.

Enc 1.

\$ 100

POSSESSORY CERTIFICATE

Rio Grande Project,
El Paso, Texas, May 20, 1919.

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 Isabelle Martin in SW $\frac{1}{4}$ Sec. 2, Township 28 South, Range 3 East, and in Tract No. 3 of El Canutillo Survey No. 2, County of El Paso, State of 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.

LAW OFFICES OF
C. HUGHES JORDAN
SUITE 717 INVESTMENT BUILDING
LOS ANGELES, CAL.

May 16, 1919.

Mr. P. W. Dent,
District Counsel
U. S. Reclamation Service,
El Paso, Texas.

My dear Mr. Dent:

I have your favor of the 7th instant in regard to the lands of Mrs. Isabelle Martin in the Nemexas project, and note that you desire an additional supporting affidavit of another disinterested party, and also a California statutory acknowledgment of the signature of Mrs. Martin and the signatures of the parties making the supporting affidavits.

In compliance with your request I have had the additional supporting affidavit made by Mr. Eugene D. Williams, a reputable attorney of this city, who has been connected with my office for several years past and is familiar with the facts in connection with Mrs. Martin's matters.

You will also find attached to the affidavits the acknowledgments of the three parties making the affidavits. I assume that this is what you desire by asking for the "California statutory acknowledgment."

I trust that this will close the matter, but if there is anything further required, kindly let me know.

Very truly yours,



Encl.
CHJ/MP

El Paso, Texas,
May 7, 1919.

Mr. C. Hughes Jordan, Attorney,
717 Investment Building,
Los Angeles, California.

Dear Sir:

We have received opinion on the Isabelle Martin land title from our examiner in Denver, and he finds that good title vests in Mrs. Martin, subject to the following:

Taxes for 1918 must be paid. You state these taxes have been paid by Mrs. Martin and we will rely upon the abstract brought up to date to show this fact.

The examiner wishes the affidavit as to Mrs. Martin being the sole heir of Frank E. Martin to be supported by two disinterested persons. The affidavit is herewith returned for this purpose and you will find that we have added the necessary additional supporting affidavit, which we have no doubt that you will be able to get another disinterested party to execute.

In connection with opinion of our examiner, we have added to the land description in the deed already executed by Mrs. Martin, the following, which is necessary to connect our canal right of way with the Martin tract and to connect the Martin tract with the conveyance originally running to the El Canutillo Townsite and Land Company, which was the company that subdivided the large tract of land of which the Martin ranch is a part:

"Said 120-foot distances coinciding with the north and with the south boundary lines of Tract 3 of Survey 2 of said El Canutillo land and being a portion of the tract of land conveyed by W. Cooley, Trustee, to El Canutillo Townsite and Land Company by deed dated June 30, 1910, recorded in book 159, page 536, Deed Records of El Paso County, Texas".

We have taken the liberty of making this addition over Mrs. Martin's signature as it in no wise alters the land description or her obligations in the matter.

We are obliged to record the affidavit as to Mrs. Martin being the sole heir, etc., and on this account will have to ask that you secure California statutory acknowledgment of her signature, your signature, and the signature of the other party who you get on the second supporting affidavit.

After the above is accomplished, we will have the abstract brought up to date to include affidavit and warranty deed running from Mrs. Martin to the Government and then re-submit all papers to Denver for final opinion. After this opinion is received, if favorable, we will be able to mail a check in payment of the purchase price.

Yours very truly,

EMDent by CPH

Enc

District Counsel.

CH

El Paso, Texas, April 18, 1919.

Mr. C. Hughes Jordan, Attorney at Law,
717 Investment Building,
Los Angeles, Cal.

Dear Sir:

Receipt is acknowledged of your letter of the 16th, inclosing the affidavit by Mrs. Martin.

We are still awaiting final opinion by the examiner in Denver and trust this will be at hand in a few days.

In reference to your request for the first part of the Martin opinion on title, we would have no objection whatever to sending this to you, but do not think that it is really worth while, and the discussion would be of little value without the abstract. No especially interesting questions arise and all of the opinion is largely a mere review in the rather formal manner required by the Department. The fact is, this office did not make a single corrective suggestion in regard to the foundation of the title, except as to the affidavit which you have just returned. If necessity develops further action in the matter of title, rest assured that we will put you in possession of all essential facts.

We also note what you say about the taxes.

Thanking you for your interest in this matter.

Very truly yours,

P W DENT CFH
District Counsel.

LAW OFFICES OF
C. HUGHES JORDAN
SUITE 717 INVESTMENT BUILDING
LOS ANGELES, CAL.

April 16, 1919.

Mr. P. W. Dent,
U. S. District Counsel,
El Paso, Texas.

My dear Mr. Dent:

In compliance with the request contained in your favor of the 7th instant, with reference to the affidavit to be executed by Mrs. Isabelle Martin in connection with the conveyance by her to the United States of a parcel of her lands in the Nemexas drain project, I am enclosing herewith the affidavit of Mrs. Martin together with my affidavit.

I note the statement in your letter that you have been instructed by Mrs. Martin to deduct taxes due upon this land for the year 1918 amounting to \$63.84. Mrs. Martin advises me that she has paid these taxes already. Probably your abstract of title was brought down before she had made this payment.

I appreciate your sending me a carbon copy of your discussion of the New Mexico-Texas boundary dispute. I note that the report is not complete as it contains only pages 6 to 9 inclusive. You probably felt that this covered the portion of the dispute in which I would probably be interested. I may state that while I am only indirectly concerned in the matter, your treatment of the same was very interesting and I feel that I could read the entire report with much interest if you could see your way clear to sending it to me.

Very truly yours,



Encls.
CHJ/MP

CH

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

OFFICE OF
DISTRICT COUNSEL

El Paso, Texas, April 8, 1919.

From District Counsel

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

Subject: Title to land to be purchased from Mrs. Isabelle Martin - Rio Grande project.

1. Reference is had to your letter of December 31, 1918, and our opinion of April 7, 1919, on the Canutillo tract, which is supplemented by discussion of the outcome of the New Mexico-Texas boundary suit and which is transmitted herewith, in accordance with the concluding paragraphs of your opinion above referred to.

2. Upon further examination of the Isabelle Martin land and upon communicating with her attorney, we learn that she is the widow and sole heir of Frank E. Martin, the grantee in conveyance running from El Canutillo Town Site & Land Company abstracted at page 3 (Abstract No. 15716). Affidavits to this effect have been transmitted to Mrs. Martin's attorney, which affidavits, with corroboration, include statement as to the Frank E. Martin estate being clear of any debts which could affect the land abstracted.

3. Subject to proper showing as to heirship in Mrs. Martin, and to payment of taxes and penalties up to date, which matter will have due attention, and founded upon our opinion of April 7, 1919, on the Canutillo grant and boundary suit between the above named States, we find title vests in Mrs. Isabelle Martin in fee, free from liens, charges, and incumbrances appearing of record.

R. W. Dent
By C. T. Harvey

incls:
Abstract of title.
Contract to sell.
Blueprint.

El Paso, Texas, April 7, 1919.

From: District Counsel.

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

Subject: Title to land to be purchased from Mrs. Isabelle Martin involved in title to El Canutillo Grant, and New Mexico-Texas boundary dispute-Rio Grande Project.

1. Reference is had to your opinion of December 31, 1918. In the last paragraph of this opinion you state that it will be necessary to show source of title in El Canutillo Land & Townsite Co., which title is founded upon the Canutillo Grant. Abstract showing foundation of title has been procured and the following opinion relates to the title in El Canutillo Land & Townsite Co. It is suggested that opinion upon the title in this company be made a separate matter, as other land purchases will probably have to be made from grantees of this company.

2. This title involves land which is subject to the outcome of the suit brought in the Supreme Court of the United States by the State of New Mexico against the State of Texas in regard to the boundary line between these States, and to which reference will be made later in this opinion.

3. The first muniment of title is captioned as a "Grant", dated October 11, 1849, from State of Chihuahua (Mexico) to Juan Ma. Ponce de Leon et al. This muniment is in Spanish, and it is a petition by a large number of parties for a grant, the petitioners not including Jose Sanchez, Guadalupe Miranda and Romeo Barera, the three persons to whom, under date of February 1, 1855, a Texas legislative grant was made, and to whom a state patent was granted under date of September 6, 1886. (Pages 4, 14 and 19 of abstract). A petition to the State of Texas appears at page 12, and includes the same names as the Chihuahua petition. As to the possible rights of the petitioners in the Chihuahua "Grant", we believe these may be ignored for the reasons that no confirmation grant was ever made to them setting out any particular land that would conflict with the Canutillo Grant. The so-called Chihuahua Grant is made subsequent to July 4, 1848, the date of the Guadalupe Hidalgo Treaty, but it

appears that the Canutillo Grant lies just below or on the United States boundary as fixed by that treaty. However, the Gadsden Treaty, ratified June 30, 1854, brought the boundary line south of the Canutillo Grant. The Chihuahua petition is not recognized locally as founding any claims against the later particular patentees, and it is generally regarded as a matter of history rather than of legal value in the consideration of land titles. The grant and patent embodies the whole of the tract of land platted on the blueprint accompanying the abstract. There is some conflict as to the West boundary of this tract, but the Isabelle Martin land and probably all the other titles which will have to be examined will come well within the most easterly boundary.

4. The grantees made a power of attorney to Josiah F. Crosby dated - - - 1898 and Crosby, by the United States Marshall, made a deed to William W. Mills, this deed being founded upon a forfeiture of lands by reason of the owners being in armed rebellion against the United States, etc., which deed was vitiated by a decision of the United States Supreme Court confirming a decision of the Supreme Court of the Territory of New Mexico to the effect that the proceedings under the Act of Congress of March 3, 1864, were not within the jurisdiction of the District Court of the Territory of New Mexico (pages 20 - 22).

5. The three original grantees gave power of attorney to W. W. Mills and John B. Watts dated December 30, 1865. This power of attorney appears in the abstract in the Spanish language. It is not thought necessary to supply a translation, as the gist of this document is an agreement between Mills and Watts, which later ripened into the sale to these parties that is referred to in the affidavit by Joseph Magoffin at pages 89-90, and which laid the foundation for partition to them (pages 36-46). This affidavit is to the effect that while the grantees above named had legal title, James W. Magoffin had held possession of and cultivated the same land and that he would recognize the land running to said grantees if they would respect Magoffin's claim by reason of possession and cultivation. However, we do not find that any action was taken in the name of Mills and Watts directly in accordance with the explanation made in the affidavit. This affidavit states that W. W. Mills and John Watts had purchased the interest of the grantees, except the interest of Juan Jose Sanchez, who

is the same party as Jose Sanchez to whom the original deed was made. A deed of trust dated August 29, 1868, runs from James W. Magoffin to Joseph Magoffin, trustee for C. C. Richardson. No foundation of title is laid in James W. Magoffin up to the date of this deed. The partition decree which is abstracted at page 44, grants certain lands to Joseph Magoffin and J. F. Crosby in line with the explanation in the affidavit by Joseph Magoffin, above referred to, but this decree is dated May 28, 1874. On this account we run over the transactions as abstracted beginning with the above deed of trust and ending with a release dated May 16, 1891, running from Chas. C. Richardson to Joseph Magoffin, without further comment. James W. Magoffin made warranty deed to Joseph Magoffin September 1, 1868, which must have been subject to the security granted by the deed of trust for the benefit of Richardson. James W. Magoffin then died and his widow, Dolores B. Magoffin, granted to Joseph Magoffin and later made a deed of confirmation to Joseph Magoffin. Up to this point all title intended to be put in Joseph Magoffin was subject to the indebtedness due Chas. C. Richardson, as evidenced by the deed of trust. It seems that the notes evidencing this indebtedness were released and a mortgage, dated August 1, 1873, was given by Joseph Magoffin to Chas. C. Richardson, and under date of May 16, 1891, Richardson released the deed of trust and the mortgage.

6. The partition suit referred to in the Joseph Magoffin affidavit appears at pages 36-46. Part of the land granted to Josiah F. Crosby and Joseph Magoffin, the latter as the heir of James W. Magoffin, as shown upon the blueprint, is what is now known as El Canutillo Land & Townsite Co. tract. Watts and Mills took the large tract to the south and whatever interest they may have had by virtue of the power of attorney at page 23 is accounted for by the decree in the partition suit.

7. Octavia Magoffin, wife of Joseph Magoffin, died July 2, 1906, and devised to her husband whatever interest she had in the Crosby and Magoffin tract. J. F. Crosby died and devised to his wife, Josephine Crosby, his undivided one-half interest in El Canutillo tract and appointed her as independent executrix (pages 70-72).

8. Josephine Crosby, as independent executrix and sole devisee of Josiah F. Crosby, deceased, and Joseph Magoffin,

granted to C. S. Kelly et al. in warranty deed with vendor's lien reserved, dated June 30, 1908. The grant reads "the land hereby conveyed is a part of the land which by said decree in said cause was allotted to Joseph Magoffin and Josiah P. Crosby and is described as follows":etc. Then follows the description which corresponds with the land platted on blue-print as El Canutillo Land & Townsite Co. tract (page 95 of the abstract).

9. Joseph U. Sweeney, one of the grantees in the deed last described, transferred his interest to J. H. Pollard (page 107).

10. The grantees in the deed above described, substituting Pollard for Sweeney, granted to W. Cooley as trustee pending organization of themselves into the corporation of ~~the~~ El Canutillo Land & Townsite Co., Cooley then granting back to the corporation (pages 109-112).

11. The above is a general outline of the title and ignores matters pertaining to the estate of S. W. Mills and J. S. Watts, which involves the large tract of land to the south of the Crosby and Magoffin tract, and also ignores matters incidental to and concerning titles of Crosby and Magoffin, and beginning at page 47 these incidents of title will be briefly reviewed.

12. Pages 47-62 are in reference to suits and related matters, some of which were begun prior to the partition decree setting out the land to Crosby and Magoffin, but all of which, with one or two exceptions as later noted in this paragraph, relate to the interests of Mills and Watts. These matters being initiated prior to the partition, are properly abstracted, and will, of course be essential if further extension of the abstract becomes necessary in order to examine titles in this grant for land lying outside of the Crosby and Magoffin tract. At page 52 is a contract, the term of which has long since expired, between Joseph Magoffin and several parties for a two-year rental privilege. In a trespass to try title (page 60) both Crosby and Magoffin are named as defendants, but the suit was dismissed for want of prosecution.

13. Page 63 contains a list of judgment liens against J. P. Crosby, all of which are satisfied.

14. Page 64 recites a tax-sale deed which does not include the Crosby and Magoffin interest.

15. Page 65 is a trespass to try title and for damages, with Crosby and Magoffin as defendants; decree for defendants Crosby and Magoffin as to land set apart in partition of September 9, 1874 under decree of May 28, 1874, abstracted at page 44.

16. At page 67 a power of attorney is granted by Joseph Magoffin to James W. Magoffin. Page 68 Joseph Magoffin grants to El Paso Valley Water Users' Association in usual form to secure payment of Reclamation Service construction charges. On page 69 Joseph Magoffin enters into a stock-subscription with same Association. Page 70 contains probate proceedings in the estate of Octavia Magoffin, deceased, who was the wife of Joseph Magoffin.

17. Page 72, probate of will of J. F. Crosby appointing his wife, Josephine Crosby as independent executrix.

18. Page 73, power of attorney running from Josephine Crosby to R. H. Wood. Pages 74 and 75, Josephine Crosby, by R. H. Wood, her attorney, makes stock subscription and conveyance of trust to El Paso Valley Water Users' Association.

19. Pages 76 and 77 contain an abstract involving judgment of the San Antonio Brewing Association against J. F. and Joseph Magoffin. The suit was dismissed as to Joseph Magoffin.

20. Pages 78-82 recite deed of trust given by J. F. Crosby and wife to J. C. Lackland, trustee for State National Bank of El Paso, Texas, beneficiary. This is a deed of trust given to secure two notes which were given by way of satisfying an indebtedness arising out of a judgment. Release of this judgment and the deed of trust follows.

21. Pages 83 and 84 contain notations as to tax liens and releases thereof.

22. Pages 85-92 contain various affidavits as to the original grantees of the tract, settlement and possession by Magoffin and Crosby and partition of the land as heretofore referred to.

23. Pages 93 and 94 contain option contract by Wood, agent and attorney for Josephine Crosby, and by J. W. Magoffin.

agent and attorney for Joseph Magoffin, to J. A. Murdock. J. A. Murdock was one of the grantees in the sale abstracted at page 95, which put title in the several parties who formed the corporation of El Canutillo Land & Townsite Co., as previously referred to.

24. Pages 115-117 contain reference to the State boundary suit herein referred to at length.

25. Tax certificate has been omitted from the abstract of the whole grant, and taxes will be considered only in connection with various purchases as they arise.

26. After reviewing all the matters contained in the abstract, we find good title in El Canutillo Land & Townsite Company, subject to outcome of the Boundary Suit, as hereinafter discussed.

- - - # # # # # - - -

27. The following pertains to the suit between the States of New Mexico and Texas brought to settle the boundary dispute.

28. Mr. Harvey discussed this suit with Mr. Turney of El Paso, the attorney who handled the case for the State of Texas. The suit was brought by New Mexico and was heard in the Supreme Court of the United States, and is now being briefed for decree. Mr. Turney was unable to state more definitely when decree might be expected.

29. The suit is about the boundary line as established by the course of the Rio Grande at the time of the Guadalupe Hidalgo Treaty, which treaty annexed New Mexico to the Union and fixed the channel of the river as the international boundary, and which must of necessity fix the boundary between New Mexico and Texas, even though this portion of the river afterwards became no longer international. The general course of the river immediately north of El Paso is for some distance north and south, and the State of New Mexico has pleaded a river course which is very near to the foot hills, or the mesa, to the east of the river valley, while the State of Texas contends that the river has always been considerably to the west and, near the Canutillo grant, substantially where it is at present. The Canutillo grant, within which lies the Isabelle Martin tract and other tracts that will probably have to be purchased

STATE AND COUNTY TAX NOTICE

Your taxes for the year 1918 on property rendered by you and described below, amounts to \$63.84. This does not include any property you may own which you did not render. Taxes are due Oct. 1st and become delinquent Feb. 1st, when 10% penalty, 6% interest per annum and \$2.25 costs is added.

LOTS	BLK.	ADD.	ABS.	SUR.	ACRES	VALUE
<i>S.M. and B.</i>			<i>2439</i>	<i>173</i>	<i>84</i>	<i>3360</i>

Out of town personal checks not accepted.
To avoid delay, return this card with your remittance.
R. D. RICHEY,
 Tax Collector of El Paso County, Texas.

Book 3 Page 43 Line 15

APPLETON
HOTEL
WATSONVILLE
CAL.

11/22-18

Mr L. J. Harvey
El Paso

Dear Sir:-

Kindly deduct
\$63.84 from the ~~\$~~108.00

Thanking you in advance

yours truly
Isabelle Marten

Permanent address
1440 Sacramento St
San Francisco
Apt 8.

El Paso, Texas,
Nov. 18, 1918.

From: Assistant District Counsel.
To: Edwin Peery, District Counsel, Denver, Colo.
Subject: Opinion on Title of Land Involved in Purchase from
Isabelle Martin.

1. Submitted herewith are abstract of title, copy of agreement to sell and blue print showing the land under consideration. Your opinion is requested upon the condition of this title.

2. The abstract begins after assuming title is in El Canutillo Townsite & Land Company.

3. The land is located in that territory subject to the boundary dispute between the States of New Mexico and Texas.

4. The title vests in Frank E. Martin by conveyance dated July 20, 1910, running from El Canutillo Townsite & Land Co. to him (page 3 abstract). A later release of vendor's lien between same parties follows (page 5 abstract). Isabelle Martin, who we understand is the widow of Frank E. Martin, agrees to convoy to the United States, but there is no showing that her present title may not be encumbered with other interests, such as other heirs or creditors of Frank E. Martin. It will be necessary, therefore, to have the estate probated or to secure proper affidavit showing that Mrs. Martin is the sole heir to the property.

5. Other muniments in the abstract relate to certain agreements concerning the Reclamation Service and the Water Users' Association, any rights arising therefrom being of a nature which is not questioned in conveyances running to the Reclamation Service.

6. The writer understands that you are of the opinion that good title vests in the lands held and conveyed by El Canutillo Townsite & Land Co., also that with regard to the situation between the States as to the boundary line, you were inclined to regard this as not so seriously affecting the United States as might be the case with private owners. The writer has endeavored to locate another land purchase involved in both the State boundary conflict and El Canutillo

#2.

Townsite & Land Co. as grantor, but cannot at the present writing turn up anything in the files to this point.

9. Therefore, the papers herewith are submitted without further comment and replying upon your personal memorandums gathered from previous opinions.

10. The Official Service plat, showing the Martin holdings, gives the East and West boundaries of this holding as being slightly within the quarter section East and West boundaries and running practically parallel therewith. The drainage canal right-of-way cuts this holding through the middle and at right angles with the boundaries of the holding and I think there is no question about reconciling the Service description with the original holding.

Enc 3.

C. J. Harvey

El Paso, Texas, November 8, 1918.

Mrs. Isabelle Martin,
1440 Sacramento Street,
San Francisco, Cal.

Dear Madam:

With reference to our letter of October 17, you are advised that the Stewart Title Guaranty Company cannot guaranty your land title for right of way for the Nemexas drain. We are therefore ordering an abstract of title and will make examination of it when it is received, and endeavor to close this transaction as soon as possible.

The matter of possessory certificate and taxes, as mentioned in our former letter should receive attention, as these matters will have to be attended to whether the title is examined by abstract or by the title guaranty people. You may also execute and return the deed, but acceptance of same will of course have to await perfection of the title.

Regretting that we are not able to secure the title guaranty, and thus close the matter at once,

Very truly yours

C F HARVEY

Assistant District Counsel.

El Paso, Texas, November 8, 1918.

Pioneer Abstract Company,

El Paso, Texas.

Gentlemen:

Please supply abstract of title for land in the Canutillo Tract, Survey 3, now claimed by Isabelle Martin, as shown on attached blueprint. This is land probably involved in the boundary dispute between the State of Texas and State of New Mexico. It also appears that title passed to F. E. Martin, with no record conveyance from him.

Very truly yours,

C F HARVEY

Assistant District Counsel.

incl.



TITLE GUARANTY

COMPANY

Offices

OF TEXAS

Houston - Dallas - Galveston - San Antonio - El Paso

El Paso, Texas,

November 4th. 1918.

P. W. Dent, District Counsel,
12th Floor Mills Building,
El Paso, T e x a s.

In re-Martin Tract.

Dear Sir:-

This land, claimed by Isabelle Martin, lying in Tract 3 of the Canutillo Survey Numbers, appears to be in the boundary dispute between the State of Texas and New Mexico. We also find that the title passes to F. E. Martin and no conveyance out of him.

On account of the absence of Mr. Quaid, we return the papers in this matter to you.

We remain,

Yours truly,

A handwritten signature in cursive script, appearing to read "J. E. Quaid". The signature is written in dark ink and is positioned to the right of the typed name.

JEQ/1.

El Paso, Texas, October 17, 1918.

Mrs. Isabelle Martin,
1440 Sacramento Street,
San Francisco, Cal.

Dear Madam:

You are advised that approval has been received of your contract dated August 19, 1918, whereby you agree to convey to the United States certain right of way for the Nemexas drain, a part of the Rio Grande project.

Inclosed is warranty deed, which please execute and return. It is necessary to call upon you for the execution of this deed in advance of payment, for the reason that we are ordering title guaranty for this property, and the title guaranty cannot issue before we record the conveyance.

We are also calling upon you for a possessory certificate upon the attached form. The place wherein is stated the number of years for which you have been in possession of this land is left blank, but we wish you would, if possible, make this ten years, or at least five, in accordance with your knowledge of the facts. If you are in doubt about the effect of this certificate, kindly consult your attorney, who, we have no doubt, will be able to clear up any matter in this connection that you do not understand. We are asking for this possessory certificate for the reason that the title guaranty does not cover adverse possession.

The matter of taxes will also receive attention, as we cannot accept deed unless the taxes are fully paid up to date. If your taxes are not paid, kindly advise, in order that further action may be taken looking to this end.

The deed must have a 50-cent internal revenue stamp, which it is customary for the grantor to supply.

Your early attention to all of the above will greatly facilitate final settlement.

Very respectfully yours,

C F HARVEY

Assistant District Counsel.

Incls.

CH

El Paso, Texas, October 17, 1918.

Stewart Title Guaranty Company,

El Paso, Texas.

Gentlemen:

Inclosed is blueprint showing land owned by Isabelle Martin, lying in Tract No. 3 of El Canutillo Survey No. 2, El Paso County, which we are calling upon this party to convey by warranty deed to the United States. The consideration will be \$108, and we desire title guaranty. Kindly advise if you wish further land description, and we will endeavor to supply same.

Very truly yours,

C F HARVEY

Assistant District Counsel.

incl.

CH

El Paso, Texas, October 17, 1918.

County Clerk for El Paso County,

El Paso, Texas.

Dear Sir:

Transmitted herewith for official record is contract dated August 19, 1918, between Isabelle Martin and the United States of America.

Very truly yours,

C F HARVEY

Assistant District Counsel.

incl.

DEPARTMENT OF THE INTERIOR
UNITED STATES RECLAMATION SERVICE

El Paso, Texas, September 10, 19 18

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

Subject: Forwarding contract for approval.

The contract described below is forwarded herewith.

Agreement dated August 19, 1918 Bio Grande Project.

Executed by L. E. Lawson, Project Manager,

With Isabelle Martin.

Estimated amount involved, \$ 108.00 (See Reverse, Par. 3.)
Authority No. 6-2

Purpose of agreement:

Purchase of right of way for Resacas drain.

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

Advise Chief of Construction, Denver, Colo., and Project Manager
at El Paso, Texas and District Counsel

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

incls.: Orig. & 3 copies contract.
Certificate of recommendation.
Rept. on land agreement.
2 blueprints.

L. E. LAWSON

(Signature.)

Denver, Colo., Sept. 17, 1918

It is recommended that the above-described contract be approved

F. WALTER

Inclosures:

- Orig & 2 copies of contract.
- " & 3 copies of form letters of transmittal.
- " Cert of necessity
- " Report on land agreement
- 1 Blue print

Acting Chief of Construction.

Washington, D. C., SEP 20 1918

Contract (and bond, if any), was approved by A. F. [unclear]
Director and Chief Engineer.

Original enclosed for record and return to P.M. on SEP 20 1918

[Signature] SEP 20 '18 86880 (Over.)
Director and Chief Engineer.

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

Witnesses:

.....
of.....
.....
of.....
.....
of.....
.....
of.....

Isabelle Martin

Vendor.

L M Lawson

For and on behalf of the United States.

STATE OF **California**
City and **San Francisco**
COUNTY OF **San Francisco** } ss:

I, **Perry E Towne**, a **Notary Public**

in and for said county, in the State aforesaid, do hereby certify that **Isabelle Martin (widow)** 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 **she**

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

~~XXXXXX~~
separate and apart from..... husband....., and explained to..... the contents of the foregoing instrument, and ~~XXXXXX~~ that examination..... declared that..... did voluntarily ~~XXXXXX~~ and acknowledge the same without any coercion or compulsion, and do.....

Given under my hand and official seal, this **19th** day of **August**, 191**8**

[SEAL.]

My commission expires **Jan 11, 1920**

PERRY E TOWNE

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

Notary Public.

CERTIFICATE.

I HEREBY CERTIFY That the land described in the agreement dated August 19, 1918, with Isabelle Martin, is required for purposes authorized by the Act of June 17, 1902 (32 Stat. 388), namely, as right of way for the Nemexas drain, a part of the Rio Grande project; that the consideration to be paid thereunder, \$108.00, 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,
September 10, 1918.

REPORT ON LAND AGREEMENT

DEPARTMENT OF THE INTERIOR UNITED STATES RECLAMATION SERVICE

INFORMATION relating to agreement made

August 19

1918, with

Isabelle Martin

for the purchase of land required for **right of way for Nemexas drain**

purposes, **Rio Grande** Project, **El Paso County,**
County, **Texas.**

1. State description and approximate area of land to be conveyed. **SW $\frac{1}{2}$ sec. 2, T. 28 S., R. 3 E., U.S.R.S. survey, containing some 4.32 acres.**

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.

Texas land - no United States public lands in this State.

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.

Isabelle Martin, a widow, #1440 Sacramento St., San Francisco, Cal.

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.

2 Owner.

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

Land is not specially subject to right of way.

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.

Uncultivated

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 capable of irrigation

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

75- to 125⁰⁰

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.

benefits only

The above is a correct statement of the information procured.

Dated

191

(Signature)

Geo W. Hoadley

(Title)

In Charge of Negotiations.

Approved:

Project Manager.

INSTRUCTIONS.

The proper procedure in making purchases of lands under the Reclamation Act, in pursuance of the various rulings made by the Department of the Interior and the Department of Justice, is substantially as 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, 1913 edition, pages 233-237.

1. As soon as possible after it has been ascertained that the property will be required, the Project Manager should forward to the Director of the Reclamation Service 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. 11 and 23, pp. 227 and 231.)

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. 20, 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)*, 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 engineer 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

REPORT ON LAND AGREEMENT.

For purposes of project.

Sec. T, R, M.

Belonging to

County of

State of

Submitted by

Date 191

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), paragraph 38, page 236 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 officials at Washington, D. C. In this connection, see also Manual, par. 12, page 227.

16. For a general discussion of this subject see pages 96 to 100 of Water-Supply Paper No. 93.

REPORT ON LAND AGREEMENT.

For purposes.

..... project.

Sec., T, R, M.

Belonging to

County of

State of

Submitted by

Date 191

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 (e), paragraph 38, page 236 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 officials at Washington, D. C. In this connection, see also Manual, par. 12, page 227.

16. For a general discussion of this subject see pages 96 to 100 of Water-Supply Paper No. 93.

T E X A S .

