

CONDENMATION CIVIL 88 RIVERSTIDE EXTENSION
Summers 111, et AL.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
WASHINGTON

OFFICE OF THE COMMISSIONER

D-16

JAN 26 1942			

JAN 23 1942

Mr. J. Edward Williams,
Acting Head, Lands Division,
Department of Justice,
Washington, D. C.

Dear Mr. Williams:

Reference is made to your letter of November 18, 1941, (JEW-CHS 33-45-336) enclosing certified copies of the verdict and judgment as to Parcel 2, Tracts 1 and 2, in the condemnation proceeding entitled, United States of America v. W. L. Summers, et al, in connection with the Rio Grande Project.

The verdict and judgment for Parcel 2, Tracts 1 and 2 of the above-entitled condemnation proceeding of \$335.75 is satisfactory to this Bureau.

Very truly yours,

John C. Page
Commissioner.

Copy to CE, Denver, Colo.
DC, Amarillo, Texas
Supt., El Paso, Texas



U. S. DEPARTMENT OF REVENUE
JUN 11 1942
OFFICE OF THE ATTORNEY GENERAL
WASHINGTON, D. C.

11-16
103965

PAID BY
G. F. ALLEN

MAY 30 1942

CHIEF DISBURSING OFFICER

C
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P
Y

April 22, 1942

File

DO # 2278772

Honorable Harold L. Ickes
Secretary of Interior
Washington, D. C.

My dear Mr. Secretary:

I have examined the certificates of title and transcript of record in the condemnation proceeding entitled United States of America v. W. L. Summers, et al., Civil No. 88 in the United States District Court for the Western District of Texas, pertaining to tract number 2 of the Riverside Canal-Rio Grande project.

The certificates of title were prepared by the Pioneer Abstract and Guarantee Title Company and are in satisfactory form.

I find that the condemnation proceeding has been regularly conducted and that a fee simple title is vested in the United States of America as stated in the opinion of this Department dated July 19, 1940, and that on November 1, 1941, the court entered judgment determining the just compensation for the land to be the sum of \$335.75. The sum of \$179.35 was deposited into the registry of the court as estimated compensation for the land at the time of the filing of the declaration of taking.

The sum of \$156.40 plus interest at the rate of 6% per annum from July 3, 1940, until paid, should be deposited into the registry of the court in satisfaction of the deficiency judgment. When a check for the deficiency is received the United States Attorney will be requested to take such action as is required by law.

Enclosed are the certificates of title and a certified copy of the deficiency judgment.

Respectfully,

(Sgd) FRANCIS BIDDLE

Attorney General

Copy to CE, Denver, Colo.
DC, Amarillo, Texas.
Supt., El Paso, Texas. ✓

11-16
U S DEPARTMENT OF RECLAMATION
MAY 18 1942
✓
M. J. [unclear]

General Accounting Office,
Claims Division,
Washington, D. C.

MAY 15 1942

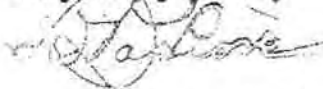
Gentlemen:

There is transmitted herewith for direct settlement claim in the amount of \$156.40 plus interest at six percent from July 3, 1940, in favor of the Clerk of the District Court of the United States for the Western District of Texas, for final judgment No. 83 in the case of the United States vs. W. L. Summers, et al., in connection with the taking of land and improvements for the Rio Grande Project.

The claim has received administrative examination, is approved, and I recommend that payment be made from the fund "1418070 - Reclamation Contributed Funds".

For the Commissioner

Very truly yours,



H. W. Bashore,
Assistant Commissioner.

Enclosure 641

CC - D.C., Amarillo, Texas.
Supt., El Paso, Texas. ✓

C O P Y

OFFICE OF THE ATTORNEY GENERAL
WASHINGTON, D. C.

June 10, 1942

11-1-42

U S BUREAU OF RECLAMATION	
EL PASO, TEXAS	
RECORDS	
JUN 18 1942	
CH. CLK.	
OF. ENG.	
HYDR.	

M. H. Bradley
File

Honorable Harold L. Ickes
Secretary of the Interior
Washington, D. C.

My dear Mr. Secretary:

I have examined the certificates of title and the transcript of record involving Tract No. 1 in the condemnation proceeding entitled United States of America v. W. L. Summers, et al., Civil No. 88, in the United States District Court for the Western District of Texas, pertaining to the Riverside Canal - Rio Grande Project.

The certificates of title were prepared by the Pioneer Abstract and Guarantee Title Company and are in satisfactory form.

In the final judgment entered November 7, 1941, the court awarded the amount of \$272.30 as just compensation for the above land. This amount was deposited into the registry of the court on July 3, 1940, at the time of the filing of the declaration of taking. The proceedings are regular, the judgment has been satisfied and a valid title to the land has heretofore vested in the United States of America as stated in the opinion of the Department dated July 19, 1940. Enclosed is a certified copy of the judgment covering Tract No. 1.

Also enclosed is a certificate of the clerk of court showing a deposit in the sum of \$174.19 into the registry of the court pursuant to a deficiency judgment covering Tract No. 2 entered on November 1, 1941 in the same case. Title to Tract No. 2 has heretofore vested in the United States of America as stated in the opinion of this Department dated April 22, 1942.

In addition, I am also enclosing the final certificate of title covering Tract No. 2 and a certified copy of the transcript of proceedings. With the payment of the deficiency covering Tract No. 2 and this notification of title as to Tract No. 1, no further action is necessary and accordingly, the Department is closing its file in the case.

Respectfully,

CC: G. E., Denver, Colo.
Supt., El Paso, Texas ✓
D. C., Amarillo, Texas

(Signed)

Francis Biddle
Attorney General.

UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION
738 Amarillo Building
Amarillo, Texas

U S BUREAU OF RECLAMATION	
EL PASO, TEXAS	
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January 9, 1942

From District Counsel
To Commissioner
Subject: Condemnation action entitled United States of America
v. W. L. Summers et al., Rio Grande Project.

1. Reference is made to your letter of January 5, 1942.

2. Please be referred to my letter dated December 5, 1941, directed to the Superintendent, El Paso, copy to you, subject, Land Acquisition-United States vs W. L. Summers, et al - Rio Grande project, wherein my views were expressed that unless peculiar circumstances existed of which I was not informed, we should accept the judgment of the court.

3. Our files contain no reply to the letter of December 5th, hence by copy hereof, the superintendent is requested to reply direct to you, giving his concurrence, or comments relative to my recommendation for acceptance of the judgment in the amount of \$335.75 for Tracts 1 and 2 of parcel 2 of the above entitled condemnation action.

- - -

Dupl.

Spencer L. Baird

CC: Superintendent, El Paso, Texas
Chief Engineer

H-1 A

LRF ht

El Paso, Texas

September 5, 1940

Mr. S. B. Johnson
Fabens, Texas

Dear Sir:

We received your letter of August 31 regarding the summons to appear along with other owners in the condemnation proceedings in connection with Tracts 128 and 129, San Elizario for irrigation canal and drain right of way.

We will have our Right of Way Agent call on you and discuss with you the matter referred to in your letter and relative to the proceedings.

Yours very truly,

L. R. Fiock
Superintendent

*note Vendor Lien
M. Escobedo
to
S. B. Johnson.
12/3/23*

*Further paid & satisfied according
to the Johnson. According to Asst. U.S. Atty.
in El Paso, Texas. See note in file
3/9/40*

COPY

DEPARTMENT OF JUSTICE
Washington, D. C.

Address reply to
"The Attorney General"
and refer to
Initials and number

October 8, 1940

JEW-JSD
33-45-336

Mr. John C. Page,
Commissioner, Bureau of Reclamation,
Department of the Interior,
Washington, D. C.

Dear Mr. Page:

Enclosed is a copy of the report of the commissioners dated October 2, 1940, in the condemnation proceeding entitled United States of America v. W. L. Summers, et al., No. 88 Civil, in the District Court of the United States for the Western District of Texas.

As the total amount of the awards is the sum of \$430.60, which is less than the total amount deposited for the land, a judgment will be entered confirming the awards unless the defendants appeal, or unless you promptly advise the Department of objections to the awards.

Respectfully,
For the Attorney General,

/s/ Norman M. Littell

NORMAN M. LITTELL,
Assistant Attorney General.

Oct 10'40 35034

G-1 b

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
WASHINGTON

OFFICE OF THE COMMISSIONER

OCT 12 1940

Mr. Norman H. Littell,
Assistant Attorney General,
Department of Justice,
Washington, D. C.

Dear Mr. Littell:

In the absence of Commissioner Page, I have received your letter of October 8 (JEW-JSD, 33-45-336) enclosing a copy of the report of the commissioners, dated October 2, 1940, in the condemnation proceeding entitled United States of America v. W. L. Summers, et al., No. 88 Civil, in the District Court of the United States for the Western District of Texas, all in connection with the Rio Grande Project.

This Bureau has no objection to the confirmation of the subject awards, which awards are shown in the total amount of \$430.60.

Very truly yours,

Herbert Baker

Acting Commissioner.

cc - C.E., Denver
Supt., El Paso ✓
D.C., El Paso
(with copy of Mr. Littell's letter to each)

G-1, 2

U S BUREAU OF RECLAMATION			
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DEPARTMENT OF JUSTICE

Washington, D. C.

October 17, 1940

JEM-JSD
39-45-336

Mr. John C. Page,
Commissioner, Bureau of Reclamation,
Department of the Interior,
Washington, D. C.

Dear Mr. Page:

Enclosed, for your information and file, is a copy of the exceptions to the awards of the commissioners filed by defendants in the condemnation proceeding entitled United States of America v. W. L. Summers, et al., No. 88 Civil, in the District Court of the United States for the Western District of Texas.

Please note that the exceptions will be heard at the April, 1941 Term of court.

Respectfully,
For the Attorney General,

(Sgd) Norman M. Littell

Assistant Attorney General.

Encl. 177065

CC - C.E., Denver
Supt., El Paso ✓
D.C., El Paso

DCT 18'40 35638

COPY

7905 Lemon Circle,
La Mesa, Calif. October 26, 1940

U. S. Reclamation Service,
Legal Department,
El Paso, Texas.

Gentlemen:

In a letter under date of the 24th inst. Mr. William Flournoy, Attorney at Law, advises me that the Government has filed suit against Mr. W. Summers in connection with his ownership of Tract 3, Block 54, condemnation proceedings account re-arranging of ditches. That the undersigned is made a party to the suit on account of one half ownership in a 20-foot strip crossing the land.

Have received no notice from you in above matter and am writing this letter partly so that you may have my present address. As I understand it the re-arrangement of your ditches is to cross this right of way, not follow it, and that at the Fabens (not drainage ditch end)

If my understanding of the physical conditions is correct, or approximately so, the acreage involved must be very little and if it is possible for me to do so would be pleased to deed my one half interest direct to the Government without cost to you, provided there is no cost to me in making the transfer.

Sincerely yours,

(Sgd.) D. W. Cathcart

D. W. Cathcart

cc-W. Flournoy.

U S BUREAU OF RECLAMATION
EL PASO, TEXAS
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INDEX			

M. H. H. H.

210 United States Court House
El Paso, Texas

November 5, 1940

Mr. D. W. Cathcart,
7908 Lemon Circle,
La Mesa, California.

Dear Sir:

There has been received your letter of October 25, 1940, advising that you have been made a party to a suit brought by the United States against W. L. Summers, et al., (No. 88 Civil, in the District Court of the United States for the Western District of Texas) for the acquisition of certain land described in the condemnation proceedings for use in connection with the construction of irrigation works on the Rio Grande project.

In accordance with your suggestion that you would be willing to convey whatever interest you have in the 20-foot strip of land crossing the parcel of land being condemned, referred to as the Summers parcel, there is enclosed herewith a quitclaim deed in favor of the United States covering that parcel. If you will be kind enough, together with your wife, to execute the enclosed deed before a notary public and return the same in the enclosed envelope, which requires no postage, we can then present the same to the Court in connection with the condemnation proceedings and will later record the deed at the cost of the United States.

Your understanding, as stated in your letter, is correct that the strip of land being condemned crosses the 20-foot strip to which you refer at the Fabens or old river channel end of each 20-foot strip. There is enclosed a plat which will aid you in understanding the situation. There is also enclosed a carbon copy of the deed which may be retained by you in the event you see fit to execute the quitclaim in accordance with your suggestion.

Your cooperation in this matter is much appreciated.

Very truly yours,

Encls.

cc - Mr. Wm. Flournoy, Atty. at Law,
El Paso, Texas.
Mr. Neill Walsh, Asst. U.S. Attorney,
El Paso, Texas.
Supt., El Paso.

H.J.S. Devries,
District Counsel.

C O P Y

DEPARTMENT OF JUSTICE
Washington, D. C.

Address reply to
"The Attorney General"
and refer to
initials and number

November 18, 1941

JEW-CHS

33-45-336

BY MESSENGER

Honorable John C. Page
Commissioner, Bureau of Reclamation
Department of the Interior
Washington, D. C.

Dear Mr. Page:

Reference is made to the condemnation proceeding entitled United States of America v. W. L. Summers, et al., No. 88 Civil, in the United States District Court for the Western District of Texas, El Paso Division.

The Department has just received the enclosed certified copies of verdict and judgment fixing compensation as to Parcel 2, Tracts 1 and 2, in the above proceeding, at \$335.75. The jury found the reasonable market value of Tract 1 of said parcel, consisting of 3.91 acres, to be \$75.00 per acre, amounting to \$293.25. For Tract 2, consisting of 0.17 of an acre, the parties had stipulated that the award therefor should be on the basis of \$250.00 per acre, which amounted to \$42.50.

The amount of the judgment is \$156.40 more than was deposited in the court at the time the declaration of taking was filed and according to the provisions of said judgment, this deficiency draws interest at the rate of 6% per annum from July 3, 1940.

Please advise the Department whether said verdict and judgment are satisfactory to your Bureau.

Respectfully,
For the Attorney General

(Sgd) J. Edward Williams
J. EDWARD WILLIAMS,
Acting Head, Lands Division

Encl. No.
514195

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
WASHINGTON

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OFFICE OF THE COMMISSIONER

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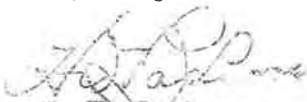
Mr. J. Edward Williams,
Acting Head, Lands Division,
Department of Justice,
Washington, D. C.

Dear Mr. Williams:

Reference is made to your letter of November 18, 1941 (JEB-CE-33-45-336) regarding the judgment in the condemnation action entitled United States of America v. W. L. Summers, et al. No. 88 Civil, in the United States District Court for the Western District of Texas, El Paso Division,

I am requesting the views of our District Council as to whether the judgment, which is \$156.40 in excess of the amount deposited in court as estimated compensation, is satisfactory. When his views are received, I will advise you whether the judgment is satisfactory to this Bureau.

Very truly yours,


H. W. Bashore,
Acting Commissioner.

cc-CE, Denver, Colo.

Supt. El Paso, Texas (copy of Mr. Williams' letter to each) ✓

DC, Amarillo, Texas.

Note: To D.C. Please advise this office whether the judgment fixing compensation for tracts 1 and 2 of parcel 2 at \$335.75 is satisfactory.

C O P Y

El Paso, Texas. March 21, 1940

Mr. W. L. Summers,
Fabens, Texas.

Dear Sir:

In connection with the extension of the Riverside Canal, it is desired, on behalf of the United States, to acquire a certain tract of land near Fabens, Texas to which we believe you claim title. A plat of the desired area is enclosed, the same described as a part of Tract No. 4B, Block 54, San Elizario Grant according to the El Paso County Plat Book.

You will note that the desired tract contains 7.57 acres, more or less, of which 2.27 acres lie within the bed of the Rio Grande and 1.00 acre has long been occupied as right of way for an existing irrigation lateral. Of the remaining 4.30 acres only 0.20 acres are carried as subject to assessment for water charges on the rolls of the El Paso County Water Improvement District No. 1, and 4.10 acres are classified on tax rolls as suspended-seept and subject to overflow.

The land required has been appraised at \$193.50 and a contract for the purchase of same is enclosed.

If this proposal is acceptable to you, please execute the enclosed contract and have same acknowledged before a Notary Public and return to this office.

Very truly yours,

L. R. Flock
Superintendent

Encl-
Land Purchase Contract

El Paso, Texas.
April 26, 1940

Rio Grande Project

MEMORANDUM to District Counsel

(Superintendent)

Subject - Acquisition of right of way for Riverside Canal Extension and appurtenant works by condemnation.

1. It has been found necessary to acquire the needed right of way for the above named feature by condemnation proceedings through the properties owned by J. M. Escajeda and W. L. Summers. These tracts were appraised which appraisal was approved under date of Feb. 26, 1940 by the Under Secretary of the Interior.
2. There have been deposited by the El Paso County Water Improvement District funds for the acquisition of lands and accomplishment of the construction of the works for which these lands are needed, available for expenditure by the United States pursuant to the act of March 4, 1921 (41 Stat. 1404; Sec. 395, Title 43, United States Code) adequate, in amount, in my opinion, for making the appropriate deposits of the estimated value of the lands to be taken by eminent domain and to pay such awards as may be made therefor in such proceedings.
3. The tract of land required and owned by and in possession of J. M. Escajeda is located in Tract 4, Block 45 of the official resurvey of the San Elizario Grant, El Paso County, Texas, consisting of 4.70 acres and appraised at \$278.30.
4. The tract of land required and owned by and in possession of W. L. Summers is located in Tract 4, Block 54 of the official resurvey of the San Elizario Grant, El Paso County, Texas. The area required from Mr. Summers has been revised from 7.57 acres to 4.08 acres which results in a decrease of the total value from \$193.50 to \$179.35 which was determined by using the appraised unit values to the revised areas.
5. The above amounts are considered to be a full value for the property and it is recommended that these amounts be deposited for that purpose. Funds for this purpose are deposited to the credit of the Bureau of Reclamation under No. 14X8070.010 Contributed Funds.
6. Attached herewith are land descriptions and prints, also copies of letters to property owners.

- - - -
L. R. Fick

In quadruplicate

the check to your department when issued so that the same may be forwarded to the United States Attorney for filing with the declaration of taking as required. The title of the appropriation under which the property is to be acquired and from which the award or judgment is to be paid is "1425070.010 Reclamation Contributed Funds, Rio Grande Project, F.Y. 1940."

It is recommended that the United States Attorney for the Western District of Texas, El Paso Division, be authorized to file suit for the condemnation of the land described above and that the declaration of taking and check be forwarded to the United States Attorney by air mail. An informal copy of the declaration of taking is enclosed for your files.

Mr. H. J. S. Devries, District Counsel, Bureau of Reclamation, El Paso, Texas, will furnish all necessary information to the United States Attorney and such assistance as he may desire.

Sincerely yours,

Under Secretary.

cc - C.E., Denver
Supt., El Paso
D.C., El Paso

Suggested draft letter to the Attorney General as to proposed condemnation proceedings.

The Honorable

The Attorney General.

My dear Mr. Attorney General:

In connection with the construction of the Riverside Canal Extension and the River and Mesa Drain outlet channels, Rio Grande project, by the Bureau of Reclamation of the Department of the Interior under authority of existing legislation, I have determined that it is necessary, advantageous and in the interest of the United States to acquire by judicial proceedings fee simple title to two parcels of land situated in El Paso County, Texas. These lands are more particularly described in the declaration of taking which is enclosed. They are reported to be in possession of and under claim of ownership by J. M. Escajeda as to Parcel I and W. L. Summers as to Parcel II.

Every effort has been made to purchase this land in accordance with the approved appraised value, without avail, offers for the purchase of such land having been rejected. There is urgent need for the land by the United States and it is desired therefore that a condemnation suit be filed with the least practicable delay so that possession can be obtained under the Act of February 26, 1931 (46 Stat., 1421).

A voucher in favor of the Clerk of the District Court of the Western District of Texas, El Paso Division, in the amount of four hundred fifty-one and 65/100 dollars (\$451.65, which I estimate to be the value of the property to be condemned, is being submitted to the Chief Disbursing Officer of the Treasury Department, who will transmit

the appropriation from which awards or judgments in connection with the acquisition of these parcels of land will be paid is "14XBO70.010, Reclamation Contributed funds, Rio Grande Project, F.Y. 1940." This information it is understood, is desired by the Department of Justice in cases where the Attorney General is requested to institute condemnation proceedings.

6. Your attention is invited to the fact that the authority for, purposes of, and funds available for payment of awards, as set forth in the enclosed declaration of taking differ somewhat from those involved in such proceedings in the past several years in connection with the Rio Grande project which, for the most part, involved allotments of P.W.A., relief, or regularly appropriated funds. In the instant case there is involved only the authority of the Reclamation law and the Act of March 4, 1921 (41 Stat., 1404), as the funds here involved have been advanced by the El Paso County Water Improvement District.

R. J. S. Devries.

Encls.

cc - Chief Engineer
Superintendent, El Paso



210 United States Court House
El Paso, Texas

April 26, 1940

From: District Counsel
To: Commissioner.
Subject: Land acquisition - Proposed condemnation of lands for
Riverside Canal extension and Mesa and River Drain
outlet channels - Rio Grande project.

1. The Superintendent, by memorandum dated April 26, 1940, a copy of which is enclosed, has requested the acquisition for use in connection with the above named project features, of certain parcels of land in El Paso County, Texas, particularly described in the enclosed declaration of taking.

2. Since the pertinent land appraisal was approved it has been decided as to the W. L. Summers land that a somewhat smaller area of land than first in contemplation will be sufficient for the proposed work and the Superintendent has recommended that the estimated value be fixed as to this tract at \$179.35, arrived at by reducing the total consideration by the unit price per acre as used in the formulation of the approved appraisal times the number of acres by which the area originally appraised was reduced in the area now recommended for condemnation.

3. There is transmitted herewith in quintuplicate with appropriate plats attached, a proposed declaration of taking prepared for signature of the Under Secretary of the Interior covering these parcels of land. It is recommended that the declaration of taking be executed and that the Attorney General be requested to institute condemnation proceedings. For such possible use as you may find it desirable to make of the same there is also enclosed a suggested draft letter to the Attorney General.

4. Abstracts of title covering these parcels of land are not available but the Superintendent's memorandum reports that they are in the possession under claim of ownership of J. M. Escajeda as to Parcel I and W. L. Summers as to Parcel II.

5. The Superintendent has advised that the title of

That said lands are taken under the authority of the Constitution and Laws of the United States for the following purposes:

Regulation, control and use of the flow of the Rio Grande by means of an irrigation canal and drainage outlet channel and appurtenant works for the purpose of the reclamation, irrigation and drainage of arid lands within the Rio Grande Federal irrigation project constructed, operated and maintained by the United States under the said Reclamation Law.

That pursuant to the provisions of the said Act of March 4, 1921, funds have been deposited and covered into the Reclamation Fund and by said Act of March 4, 1921, appropriated for the purposes of the construction of said canal and drainage outlet channel and appurtenant works and such funds are available for just compensation for said lands so taken.

In witness whereof I have hereunto set my hand this 23rd day of MAY, A. D. 1940, in the City of Washington, District of Columbia.

W. W. Caudenhill

Acting Under Secretary of the
Interior of the United States
of America.

TRACT 2 - Beginning at a point on the westerly right of way line of the I-243 Lateral, which is the property of the United States, and from which point the most southerly corner of Tract six (6) Block fifty-four (54) of the said official resurvey of the San Elizario Grant bears North eighty-six degrees (86°) fifty-three minutes (53') forty seconds (40") West six hundred thirteen and five tenths (613.5) feet; thence along the westerly right of way line of said I-243 Lateral, South thirty-one degrees (31°) thirty-three minutes (33') East sixty-five and six tenths (65.6) feet, South twenty-eight degrees (28°) nineteen minutes (19') East three hundred ninety-six and seven tenths (396.7) feet, South twenty degrees (20°) fifty-four minutes (54') East eighty-two and eight tenths (82.8) feet, South three degrees (3°) thirty-six minutes (36') East eighty-seven and one tenth (87.1) feet and South eight degrees (8°) thirty-six minutes (36') West twenty-three and one tenth (23.1) feet to a point from which the most westerly corner of Tract four B (4B) Block fifty-four (54) of the said official resurvey of the San Elizario Grant bears South eighty degrees (80°) twenty-eight minutes (28') twenty seconds (20") West two thousand one hundred ninety-four and nine tenths (2194.9) feet; thence North fifteen degrees (15°) ten minutes (10') West two hundred thirteen and five tenths (213.5) feet; thence North twenty-seven degrees (27°) ten minutes (10') West four hundred thirty-four and one tenth (434.1) feet to the point of beginning. Said tract of land containing seventeen hundredths (0.17) of an acre, more or less. Shown as tract No. 2 on plat attached hereto and made a part hereof.

The sum estimated by me to be just compensation for said last above described two tracts of land constituting Parcel II, including all buildings, structures and improvements thereon, is one hundred seventy-nine and 35/100 dollars (\$179.35).

4-24-1940

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF TEXAS, EL PASO DIVISION

The United States of America,
Plaintiff,
vs.
J. M. Escajeda, et al.,
Defendants.

No. _____, Law.

DECLARATION OF TAKING

I, W. C. Maddenhall, Acting Under Secretary of the Interior of the United States, acting by virtue of the provisions of (a) the Act of Congress of June 17, 1902, 32 Stat., 388, and all acts amendatory thereof and supplementary thereto, commonly known as the Reclamation Law; (b) the Act of March 4, 1921, 41 Stat., 1404, and (c) the Act of February 26, 1931, 46 Stat., 1421, and all acts amendatory thereof and supplementary thereto, do hereby make and file this Declaration of Taking pursuant to the provisions of said Act of February 26, 1931, and declare that the lands described in the complaint filed in this cause and shown on the plan hereto annexed and made a part of this Declaration, are hereby taken for the use of the United States and under the authority of and for the purpose set forth in said Acts; that the estate in said lands hereby taken for the public use aforesaid is an estate in fee simple absolute; that the sum estimated by me to be just compensation for said lands, including all buildings, structures and improvements thereon, is four hundred fifty-one and 65/100 dollars (\$451.65), which said sum is hereby deposited into the registry of this Honorable Court to the use and for the benefit of the ones entitled thereto; that the following is a description of the lands to which fee simple absolute title is taken under this Declaration, with the estimated value of the same:

Mr. M.J.A. Devries, District Counsel, Bureau of Reclamation,
El Paso, Texas, will furnish all necessary information to the
United States Attorney and such assistance as he may desire.

Sincerely yours,

W. L. Underhill

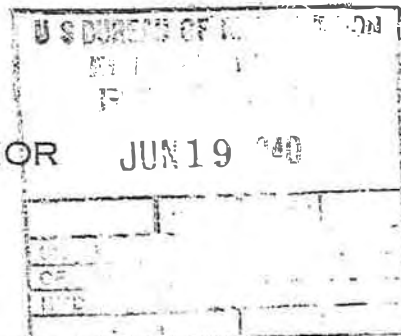
Acting Under Secretary.

Enclosure ~~MISSING~~

CC - CE Denver
Supt., El Paso ✓
DC El Paso

(with copy of enclosure to each)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
210 United States Court House
El Paso, Texas



June 18, 1940

Mr. Walter S. Hunnicutt,
Assistant United States Attorney,
U. S. Court House,
El Paso, Texas.

Dear Mr. Hunnicutt:

As I suggested in telephone conversation with your office a few days ago, I have not sooner replied to your letter of June 10, 1940, regarding the proposed condemnation suit against lands of Messrs. Escajeda and Summers as I have been awaiting receipt of a title certificate which the Pioneer Abstract & Guarantee Title Company advised would be forthcoming today, but which still has not been received.

It is necessary for me to be gone in connection with Reclamation projects in New Mexico and Oklahoma for a few days and I have asked Mr. Bain of this office to deliver to you the title certificate when it is received.

I expect to be back early next week and if the press of business in your office has been such that by that time it has been impossible for you to prepare the necessary petition, I shall then be glad to assist by preparing a draft of same for your consideration, assuming that the necessary information as to title has been by that time furnished by the title company.

Very truly yours, J

H. J. S. Devries,
District Counsel.
By J.A.B.

cc - Supt., El Paso ✓

as I return from Washington I shall be glad to render any assistance possible in the matter, although I expect to be there possibly for several weeks. In the meantime anything you can do toward accomplishing the early institution of the proceedings by filing of the petition and declaration of taking, together with the deposit of the estimated value and procurement of an order of possession, will be greatly appreciated.

Very truly yours,

H. J. S. Devries,
District Counsel.

Encls.

cc - Supt., El Paso

(2-1)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
210 United States Court House
El Paso, Texas

U S BUREAU OF RECLAMATION	
EL PASO, TEXAS	
JUN 28 1940	
RECEIVED	FILED
BY	DATE
HYDRO	

June 28, 1940

W. S. Hunnicutt, Esq.,
Assistant United States Attorney,
El Paso, Texas.

Dear Mr. Hunnicutt:

Further reference is made to my letter of June 18, 1940, with reference to the proposed condemnation suit for acquisition of lands from Messrs. Escajeda and Summers. There has now been received from the Pioneer Abstract & Guarantee Title Company certificates No. 14409-a and 14409-b covering the parcel of land set up in the declaration of taking which you already have, as the Escajeda tract, and No. 14410 covering the Summers tract.

I am also enclosing bills of the Pioneer Abstract & Guarantee Title Company for \$30.00 for each certificate. This is for the reason that payment for these certificates by the Bureau of Reclamation would be disallowed by the General Accounting Office since it has been held by the Comptroller General in 8 Comp. Gen. 309 that although the cost of abstracts procured in the course of purchasing land may be paid by the acquiring agency, abstracts procured after condemnation proceedings have been instituted may not be paid for by the acquiring agency but must be considered as expenses of condemnation proceedings and payable only from available appropriations of the Department of Justice. It would therefore be appreciated if you would give consideration to taking these bills up for payment to the Pioneer Abstract & Guarantee Title Company by your office. \$

I had hoped to be able to assist in the preparation of a draft of petition for initiation of the condemnation but unfortunately have been prevented from doing so in light of having been called to Washington on Government business, for which place I am about to leave.

Mr. L. R. Fiock, Superintendent of the Rio Grande project, in charge of the construction to be carried on upon the lands involved, has advised that the construction program will be seriously delayed unless it may be possible to obtain an early order of possession in the proposed condemnation suit. As soon

The possession of the above described property shall be delivered to the United States of America on or before Monday, the 6th day of July, A. D. 1942.

This cause is held open for such other and further orders, judgments and decrees as may be necessary in the premises.

Entered on this 3rd day of July, A. D. 1940.

Charles A. Boynton (Signed)
Judge Presiding.

Certified copy hereof filed in the office of the County Clerk of El Paso County, Texas, July 3, 1940, under instrument Number 12765.

by Congress as a prize to be paid therefor.

And the Court having fully considered said Condemnation Petition and Declaration of Taking, and the statutes in such cases made and provided, is of the opinion that the United States of America was and is entitled to take said property and have the title thereto vested in it, pursuant to the Act of Congress approved February 26, 1931.

It is therefore considered by the Court, and it is the order, judgment and decree of the Court, that the title to the following described lands in fee simple absolute was vested in the United States of America, upon the filing of said Declaration of Taking, and the deposit in the registry of this Court, as hereinabove recited, in the sum of four hundred fifty one and sixty five one hundredths (\$451.65) Dollars; and said lands are deemed to have been condemned and taken as of the date of said filing and deposit, and are condemned and taken for the use of the United States and the right to just compensation for the same thereby vested in the person entitled thereto, and the amount of said compensation shall be ascertained and awarded in this proceeding, and established by judgment herein, pursuant to law.

The lands are described as follows:

works for the purpose of the reclamation, irrigation and drainage of arid lands within the Rio Grande Federal Irrigation project constructed, operated and maintained by the United States under the Reclamation Law, pursuant to (a) the act of Congress of June 17, 1902, 32 Stat., 388, and all acts amendatory thereof and supplementary thereto, commonly known as the Reclamation Law; (b) the act of March 4, 1921, 41 Stat., 1404, and (c) the act of February 26, 1911, 36 Stat., 1421, and all acts amendatory thereof and supplementary thereto, and that the attorney General of the United States is the person authorized by law to direct the institution of such condemnation proceedings.

FOURTH: That a proper description of the lands sought to be taken, sufficient for the identification thereof, is set out in said Declaration of Taking;

FIFTH: That a statement of the estate and interest in said lands taken for said public use is set out therein.

SIXTH: A plan showing the lands taken is set out therein.

SEVENTH: A statement is contained therein of the sum of money estimated by said acquiring authority to be just compensation for the lands taken, as follows: For the lands described therein as Parcel 1, Two hundred seventy two and thirty one-hundredths (\$272.31) Dollars; for the lands described therein as Parcel 2, One hundred seventy-nine and thirty two one-hundredths (\$179.32) Dollars.

That the sum of Four hundred fifty-one and sixty five one-hundredths (\$451.65) Dollars, which is the amount estimated to be just compensation for said lands, was duly deposited in the registry of this Court to the use of the persons entitled thereto, upon and at the time of the filing of said Declaration of Taking.

EIGHTH: A statement is contained in said Declaration of Taking that the estimated amount of compensation for the taking of said property, in the opinion of the said W. G. Handshall, Acting Under Secretary of the Interior of the United States, probably will be within any limits prescribed

1-5-6

IN THE DISTRICT COURT OF THE UNITED STATES
IN AND FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA, {
Plaintiff, :
vs. : No. 95 Civil Action.
W. L. SWINNEY, ET AL, :
Defendants. }

JUDGMENT ON THE DECLARATION OF TAKING

This day came the Petitioner in the above entitled cause, the United States of America, by W. E. Smith, Jr., United States Attorney, and E. Nell Wicks, Assistant United States Attorney, and moved the Court to enter judgment vesting title in the United States of America in fee simple absolute in and to the property hereinafter described, and in the Declaration of Taking and in the Condemnation Petition described.

Thereupon the Court proceeded to pass upon said Motion, Petition and Declaration of Taking, and finds as follows:

FIRST: That each and all of the allegations in said petition and Declaration are true; and that the United States of America is entitled to acquire property by eminent domain for public purposes, as set out and prayed in said petition.

SECOND: That a Petition in Condemnation was filed at the request of the Acting Under Secretary of the Interior of the United States, the authority empowered by law to acquire the lands described in said petition, and also under the authority of the Attorney General of the United States.

THIRD: That in said Petition and Declaration of Taking a statement of the authority under which, and the public use for which said lands were taken was set out, and that the Honorable W. C. Hantenhall, Acting Under Secretary of the Interior of the United States, is the person duly authorized and empowered by law to acquire lands such as are described in the petition, for the purpose of regulation, control and use of the Flow of the Rio Grande by means of an irrigation canal and drainage outlet channel and appurtenant

OFFICE OF THE ATTORNEY GENERAL
WASHINGTON, D. C.

D-16

CEC-JSD

33-45-336



By Messenger

July 19, 1940

Honorable Harold L. Ickes,
Secretary of the Interior,
Washington, D. C.

My dear Mr. Secretary:

I have examined a certified copy of the petition, declaration of taking and judgment on the declaration of taking in the condemnation proceeding entitled United States of America v. 8.69 Acres of land in El Paso County, Texas, W. L. Summers, et al., No. 88 at Law, in the District Court of the United States for the Western District of Texas, pertaining to the acquisition of the above land designated as Parcels Nos. 1 and 2 for use within the Rio Grande Federal Irrigation project of the Bureau of Reclamation, described in the copy of the judgment on the declaration of taking enclosed.

The sum of \$451.45 was deposited into the registry of the court on July 3, 1940, upon the filing of the declaration of taking, as estimated just compensation for the land.

I find that the condemnation proceeding to the date of the judgment on the declaration of taking, July 3, 1940, is regular and that a valid title to the land is vested in the United States of America, pursuant to the provisions of an Act of Congress approved February 26, 1931 (46 Stat. 1421), with the right of possession on July 3, 1940.

Enclosed are the partial transcript of record, receipt of the Clerk of the Court, additional certified copies of the judgment on the declaration of taking and the petition.

Respectfully,

/s/ Robert H. Jackson

Attorney General.

Encl. 177299.

Jul 23 1940 29050

CC -
CE, Denver
DC, El Paso
Supt., El Paso

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
WASHINGTON

17-16

U.S. DEPARTMENT OF RECLAMATION			
AUG - 2 1940			
CH. ENG.	INSTR.	RECORDS	
CE. ENG.			
HYDRO.			

OFFICE OF THE COMMISSIONER

JUL 30 1940

From Acting Commissioner
To District Counsel, El Paso, Texas.
Subject: Land purchase contract form - Provision for
condemnation - Rio Grande Project.

1. Reference is made to your letter of May 10 on the above subject. Your letter referred to our letter of December 28, 1938, in which we set forth a form of a clause for inclusion in land purchase contracts reading as follows:

"It is understood and agreed that if the Secretary of the Interior determines that the title should be acquired by the United States by judicial procedure, either to procure a safe title or to obtain title more quickly or for any other reason, then the compensation to be claimed by the Vendor and the award to be made for said lands in said proceedings shall be upon the basis of the purchase price herein provided."

2. We concur in your recommendation that the above-quoted clause be authorized for general use in connection with land acquisitions for any project in your district.

CC - CE Denver
Supt., El Paso, Texas. ✓

Herbert Hoover

El Paso, Texas. March 21, 1940.

Mr. J. M. Escajeda,
Fabens, Texas.

Dear Sir:

In connection with the extension of the Riverside Canal, it is desired, on behalf of the United States, to acquire a certain tract of land near Fabens, Texas to which we believe you claim title. A plat of the desired area is enclosed, the same described as a part of Tract 4, Block 45, according to the El Paso County Plat Book.

You will note that the desired tract contains 4.70 acres, more or less, of which 0.16 acres lie within the bed of the Rio Grande. The remaining 4.54 acres are classified on tax rolls as suspended-seeped and subject to overflow.

The land required has been appraised at \$272.30 and a contract for the purchase of same is enclosed.

If this proposal is acceptable to you, please execute the enclosed contract and have same acknowledged before a Notary Public and return to this office.

Very truly yours,

L. R. Flock
Superintendent

Encl-
Land Purchase Contract

4/25/40

Memo for Mr Bainbridge:

Subject: Condemnations of lands. Rf Proj

1. The report as basis for condemnation should include a statement substantially as follows:

" There have been deposited by the El Paso County Water Improvement District funds for the acquisition of lands and accomplishment of the construction of the works for which these lands are needed, available for expenditure by the United States pursuant to the Act of March 4, 1921 (41 Stat. 1404; Sec. 395, ~~title~~ title 43, United States Code) a sum ^{adequately in amount,} in my opinion, for making the appropriate deposits of the estimated value of the lands to be taken ~~by such~~ by eminent domain and to pay such ^{expenses} as may be made therefor in

Two tracts of land lying and situate in El Paso County, Texas and in the South half ($S\frac{1}{2}$) of Section four (4) Township thirty-four (34) South, Range eight (8) East, Bureau of Reclamation Survey; being also within surveys eighty (80) and ninety-one (91) of the Island, San Elizario Grant and Tract four B (4B), Block fifty-four (54) of the official resurvey of the San Elizario Grant as accepted by the Commissioners' Court of El Paso County, Texas, on the 13th day of January 1930 and of record in the office of the county clerk of said county and state; more particularly described as follows:

TRACT 1 - Beginning at the point of intersection of the dividing line between tracts four B (4B) and six (6), Block fifty-four (54) of the said official resurvey of the San Elizario Grant and the easterly right of way line of the I-243 Lateral, which is the property of the United States, and from which point the most southerly corner of said tract six (6) bears South fifty-two degrees (52°) forty-two minutes ($42'$) west five hundred thirty-six (536) feet; thence along the dividing line between said tracts four B (4B) and six (6) North fifty-two degrees (52°) forty-two minutes ($42'$) East ninety-nine and nine tenths (99.9) feet to the Northeast corner of said tract four B (4B); thence along the easterly line of said tract four B (4B), South thirty-nine degrees (39°) forty minutes ($40'$) East eighty-six (86) feet, South thirty-four degrees (34°) twelve minutes ($12'$) East three hundred eight and three tenths (308.3) feet, South twenty-three degrees (23°) twenty-six minutes ($26'$) East six hundred forty-eight (648) feet, South seventeen degrees (17°) twenty-three minutes ($23'$) East four hundred fifty-two and five tenths (452.5) feet and South twenty-nine degrees (29°) thirty-one minutes ($31'$) West one hundred sixty-eight and nine tenths (168.9) feet to a point on a curve of six hundred sixteen and one tenth (616.1) feet radius and the tangent to the curve at said point having a bearing North thirty-seven degrees (37°) three minutes ($03'$) fifty-eight seconds ($58''$) west and from which point the most westerly corner of tract four B (4B), Block fifty-four (54) of the said official resurvey of the San Elizario Grant bears North eighty seven degrees (87°) three minutes ($03'$) twenty seconds ($20''$) west two thousand three hundred forty-four and eight tenths (2344.8) feet; thence northerly and to the right along said curve a distance in the arc of two hundred thirty-five and five tenths (235.5) feet; thence North fifteen degrees (15°) ten minutes ($10'$) West one hundred eighty-four and one tenth (184.1) feet to the easterly right of way line of the I-243 Lateral; thence along the easterly right of way line of said I-243 Lateral, North eight degrees (8°) thirty-six minutes ($36'$) East one hundred eighteen and two tenths (118.2) feet, North three degrees (3°) thirty-six minutes ($36'$) West ninety-seven and five tenths (97.5) feet, North twenty degrees (20°) fifty-four minutes ($54'$) West ninety-one and five tenths (91.5) feet North twenty-eight degrees (28°) nineteen minutes ($19'$) West four hundred and one tenth (400.1) feet, North thirty degrees (30°) thirty-six minutes ($36'$) west sixty-six and three tenths (66.3) feet, North thirty-two degrees (32°) thirty-five minutes ($35'$) west one hundred thirty-two and eight tenths (132.8) feet and North thirty-three degrees (33°) thirty-nine minutes ($39'$) west two hundred seventy and seven tenths (270.7) feet to the point of beginning. Said tract of land containing three and ninety-one hundredths (3.91) acres, more or less. Shown as tract No. 1 on plat attached hereto and made a part hereof.

Correct as to Engineering Data 2.0.0.

Parcel 1. 1. 1. 1.

Riverside Canal Extension
Plat No. 32

A tract of land lying and situate in El Paso County, Texas and in the Southeast quarter (SE $\frac{1}{4}$) of Section four (4) Township thirty-four (34) South, Range eight (8) East Bureau of Reclamation Survey; being also within survey 129, Mainland San Elizario Grant and Tract four (4) Block forty-five (45) of the official resurvey of the San Elizario Grant as accepted by the Commissioners' Court of El Paso County, Texas the 13th day of January 1930 and of record in the office of the County Clerk of said County and State, more particularly described as follows:

Beginning at a point which is the most easterly corner of tract four (4) Block forty-five (45) of said official resurvey of the San Elizario Grant; thence along the southeasterly line of said Tract four (4) South forty-three degrees (43°) sixteen minutes (16') West fifty-six and three tenths (56.3) feet; thence North fifty-one degrees (51°) nineteen minutes (19') West three hundred thirty-eight and three tenths (338.3) feet; thence North eighty-one degrees (81°) two minutes (02') West three hundred eleven and six tenths (311.6) feet; thence North fifty-one degrees (51°) two minutes (02') West six hundred forty-seven and six tenths (647.6) feet; thence to the right along a curve of six hundred sixteen and one tenth (616.1) feet radius a distance on the arc of one hundred fifty and two tenths (150.2) feet to a point on the westerly line of Tract four (4) Block forty-five (45) of said official resurvey of the San Elizario Grant and at which point the tangent to the curve has a bearing South thirty-seven degrees (37°) three minutes (03') fifty-eight seconds (58") East; thence along the westerly line of said Tract four (4) North twenty-nine degrees (29°) thirty-one minutes (31') East one hundred sixty-nine (169) feet to the most northerly corner of said Tract four (4); thence along the dividing line between Tracts three (3) and four (4) Block forty-five (45) of the said official resurvey of the San Elizario Grant, South fifty-one degrees (51°) thirty-five minutes (35') East nine hundred thirty-two and four tenths (932.4) feet and South fifty-three degrees (53°) seventeen minutes (17') East five hundred four and five tenths (504.5) feet to the point of beginning. Said tract of land containing four and sixty-one hundredths (4.61) acres, more or less. All as shown on plat attached hereto and made a part hereof.

Correct as to Engineering Data A. O. D.

Two tracts of land lying and situate in El Paso County, Texas and in the South half ($S\frac{1}{2}$) of Section four (4) Township thirty-four (34) South, Range eight (8) East, Bureau of Reclamation Survey; being also within surveys eighty (80) and ninety-one (91) of the Island, San Elizario Grant and Tract four B (4B), Block fifty-four (54) of the official resurvey of the San Elizario Grant as accepted by the Commissioners' Court of El Paso County, Texas, on the 13th day of January 1930 and of record in the office of the county clerk of said county and state; more particularly described as follows:

TRACT 1 - Beginning at the point of intersection of the dividing line between tracts four B (4B) and six (6), Block fifty-four (54) of the said official resurvey of the San Elizario Grant and the easterly right of way line of the I-243 Lateral, which is the property of the United States, and from which point the most southerly corner of said tract six (6) bears South fifty-two degrees (52°) forty-two minutes ($42'$) West five hundred thirty-six (536) feet; thence along the dividing line between said tracts four B (4B) and six (6) North fifty-two degrees (52°) forty-two minutes ($42'$) East ninety-nine and nine tenths (99.9) feet to the Northeast corner of said tract four B (4B); thence along the easterly line of said tract four B (4B), South thirty-nine degrees (39°) forty minutes ($40'$) East eighty-six (86) feet, South thirty-four degrees (34°) twelve minutes ($12'$) East three hundred eight and three tenths (308.3) feet, South twenty-three degrees (23°) twenty-six minutes ($26'$) East six hundred forty-eight (648) feet, South seventeen degrees (17°) twenty-three minutes ($23'$) East four hundred fifty-two and five tenths (452.5) feet and South twenty-nine degrees (29°) thirty-one minutes ($31'$) West one hundred sixty-eight and nine tenths (168.9) feet to a point on a curve of six hundred sixteen and one tenth (616.1) feet radius and the tangent to the curve at said point having a bearing North thirty-seven degrees (37°) three minutes ($03'$) fifty-eight seconds ($58''$) west and from which point the most westerly corner of tract four B (4B), Block fifty-four (54) of the said official resurvey of the San Elizario Grant bears North eighty seven degrees (87°) three minutes ($03'$) twenty seconds ($20''$) west two thousand three hundred forty-four and eight tenths (2344.8) feet; thence northerly and to the right along said curve a distance of the arc of two hundred thirty-five and five tenths (235.5) feet; thence North fifteen degrees (15°) ten minutes ($10'$) West one hundred eighty-four and one tenth (184.1) feet to the easterly right of way line of the I-243 Lateral; thence along the easterly right of way line of said I-243 Lateral, North eight degrees (8°) thirty-six minutes ($36'$) East one hundred eighteen and two tenths (118.2) feet, North three degrees (3°) thirty-six minutes ($36'$) West ninety-seven and five tenths (97.5) feet, North twenty degrees (20°) fifty-four minutes ($54'$) West ninety-one and five tenths (91.5) feet North twenty-eight degrees (28°) nineteen minutes ($19'$) West four hundred and one tenth (400.1) feet, North thirty degrees (30°) thirty-six minutes ($36'$) West sixty-six and three tenths (66.3) feet, North thirty-two degrees (32°) thirty-five minutes ($35'$) West one hundred thirty-two and eight tenths (132.8) feet and North thirty-three degrees (33°) thirty-nine minutes ($39'$) West two hundred seventy and seven tenths (270.7) feet to the point of beginning. Said tract of land containing three and ninety-one hundredths (3.91) acres, more or less. Shown as tract No. 1 on plat attached hereto and made a part hereof.

Correct as to Engineering Data A.D.D.

Riverside Canal Extension #31
Page No. 2

TRACT 2 - Beginning at a point on the westerly right of way line of the I-243 Lateral, which is the property of the United States, and from which point the most southerly corner of Tract six (6) Block fifty-four (54) of the said official resurvey of the San Elizario Grant bears North eighty-six degrees (86°) fifty-three minutes (53') forty seconds (40") West six hundred thirteen and five tenths (613.5) feet; thence along the westerly right of way line of said I-243 Lateral, South thirty-one degrees (31°) thirty-three minutes (33') East sixty-five and six tenths (65.6) feet, South twenty-eight degrees (28°) nineteen minutes (19') East three hundred ninety-six and seven tenths (396.7) feet, South twenty degrees (20°) fifty-four minutes (54') East eighty-two and eight tenths (82.8) feet, South three degrees (3°) thirty-six minutes (36') East eighty-seven and one tenth (87.1) feet and South eight degrees (8°) thirty-six minutes (36') West twenty-three and one tenth (23.1) feet to a point from which the most westerly corner of Tract four B (4B) Block fifty-four (54) of the said official resurvey of the San Elizario Grant bears South eighty degrees (80°) twenty-eight minutes (28') twenty seconds (20") West two thousand one hundred ninety-four and nine tenths (2194.9) feet; thence North fifteen degrees (15°) ten minutes (10') West two hundred thirteen and five tenths (213.5) feet; thence North twenty-seven degrees (27°) ten minutes (10') West four hundred thirty-four and one tenth (434.1) feet to the point of beginning. Said tract of land containing seventeen hundredths (0.17) of an acre, more or less. Shown as tract No. 2 on plat attached hereto and made a part hereof.

Correct as to Engineering Data A. O. D.

4-24-1940

U S BUREAU OF RECLAMATION
EL PASO, TEXAS
RECEIVED
SEP - 4 1940

F. A. Jones
CH. CLK. OF ENG. [initials]
HYDRO. [initials]
Aug 31 1940

To U.S. Reclamation R.R. Benson
El Paso 74

Dear Sir

I am summoned Aug 10 to appear
with J.M. Coajada & others as to R.R.

In Tract 129, San Elizario Grant

I am more interested in Tract 1218 San Elizario
Grant involving tract in front of the
Johnson addition to B. Beck also the
Doster Tract 4 in same location

as river had cut & changed 3 times here
at this point taking more or less ground
at the intake I lost a 20 H.P. Gas Engine
also pumping plant and a pipe line under main
connecting on tract No 90.

I was in town when draglines commenced
to make canals through old bed they would
find something I notified workmen on
draglines they might look on to southern
they could not pull out.

But they had not go deep enough.
as river at that time was 14 ft deep
from banks of river.

I am nearly blind and cannot see

also crippled that I cannot
 get around much
 Most people are dead now that
 know any thing about and
 I am 71 year old I am liable
 to go any time - If my limbs
 could be straight at one time
 I am willing to give & take what
 is right. as I am a American
 of old stock.

I would wish to have it all
 straight on said date Oct 2nd.
 I live in a little Store Building
 just 2^{1/2} block away from River.

any one knows where I live in
 Fawns except Allen Mexicans etc

Yours Truly
 A.B. Johnson

I have attorney Chas Jorris to it
 he too not know a thing about this
 Johnson.

Address A.B. Johnson

Box 214

Fawns, Det.

U S BUREAU OF RECLAMATION
EL PASO, TEXAS
RECEIVED
AUG 29 1940

El Paso, Texas, August 29, 1940

M. J. Hendley

MEMORANDUM for Superintendent, El Paso, Texas.

(District Counsel)

Subject: Witnesses - Land acquisition - United States v. W. L. Summers, et al. - Rio Grande project.

1. There is attached a copy of letter dated August 28, 1940, from Mr. R. Neill Walshe, Assistant United States Attorney, advising that a hearing will be held in the above named case in the Grand Jury Room in this building at 11:00 a.m. October 2, 1940.

2. It will be appreciated if you will make the necessary arrangements to have at hand at that time the appraisers who appraised the property involved in this suit in case they are needed on the question of values.

J. J. Dennis

In duplicate.

Encl.

DEPARTMENT OF JUSTICE
UNITED STATES ATTORNEY
WESTERN DISTRICT OF TEXAS

El Paso,
August 28, 1940

Bureau of Reclamation,
U. S. Courthouse,
El Paso, Texas.

Attention: Mr. H. J. Devries,
District Counsel.

Dear Sir:

The commissioners' hearing in the case of United States vs. W. L. Summers, et al, No. 88 Civil, pending in this court on behalf of the Bureau of Reclamation, has been set for October 2, 1940, at 11 o'clock a. m. in the Grand Jury Room of the United States Courthouse at El Paso.

Will you please make arrangements to have present your representative and witnesses in case any question as to value should arise.

Very truly yours,

(Sgd.) R. Neill Walshe,

R. Neill Walshe,
Assistant U. S. Attorney.

RNW:eg

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

738 Amarillo Building,
Amarillo, Texas.

RECEIVED
DEC - 6 1941

December 5, 1941.

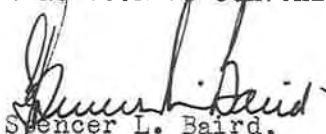
From District Counsel, Amarillo, Texas.
To Superintendent, El Paso, Texas.
Subject: Land acquisition - United States vs W. L. Summers, et al -
Rio Grande Project.

1. I am in receipt of a copy of the Acting Commissioner's letter of November 22nd, to Mr. J. Edward Williams, Acting Head, Lands Division, Department of Justice, in which it is stated that he is requesting the views of this office as to whether the judgment in excess of the amount deposited in court, as estimated compensation is satisfactory. On my copy of this letter there is a note requesting that we advise the Commissioner in the premises.

2. As a basis for my reply will you please let me have the benefit of your views upon the question?

3. As a practical matter an appeal would probably cost the Government in excess of \$156.40, and unless there are some peculiar circumstances of which I am not informed, which would bear upon the question to the contrary, it would be my view that we should accept the judgment of the court.

4. Please let me have your comment as soon as convenient.

- - -

Spencer L. Baird,
District Counsel.

CC - Commissioner
Chief Engineer

El Paso, Texas

January 14, 1942

From Superintendent

To The Commissioner, Washington, D. C.

Subject: Condemnation action entitled United States of America v. W. L. Summers, et al. - Rio Grande Project.

1. Reference is made to the District Counsel's letter of January 9 on the above subject. Apparently the distribution of copies of the District Counsel's letter of December 5 was not made as intended in the District Counsel's office, as all copies were attached to the original received in this office. There are forwarded herewith, however, to the respective offices copies as indicated for distribution.

2. This office concurs fully with the views of the District Counsel, that is, that the judgment of the court be accepted. An appeal would probably cost the government in excess of the \$156.40 excess of the award over the amount deposited. Furthermore, it is doubtful if a lesser award can be obtained by a jury trial.

- - - -

In duplicate.

L. H. Flock

Enc. Copy of District Counsel's letter of 12-5-41.

- cc-Chief Engineer
- Chief Counsel, Washington, D. C.
- District Counsel
- (With copy of encl. to each)

Dist Court of the U.S. in
and for the Western District
of Texas, El Paso Division

U.S. vs. W.L. Summers et al

Declaration of Taking Filed July 3, 1940 (Instrument No 12765) office of
County Clerk.

Deposited
272.30

Parcel 1 4.61 Acres U.M. Escajedo Block 45 Tract 4 San Elizario Grant

Parcel 2 3.91 Acres W.L. Summers (a) Block 54 Tracts 4B San Elizario Grant } 179.32⁵?

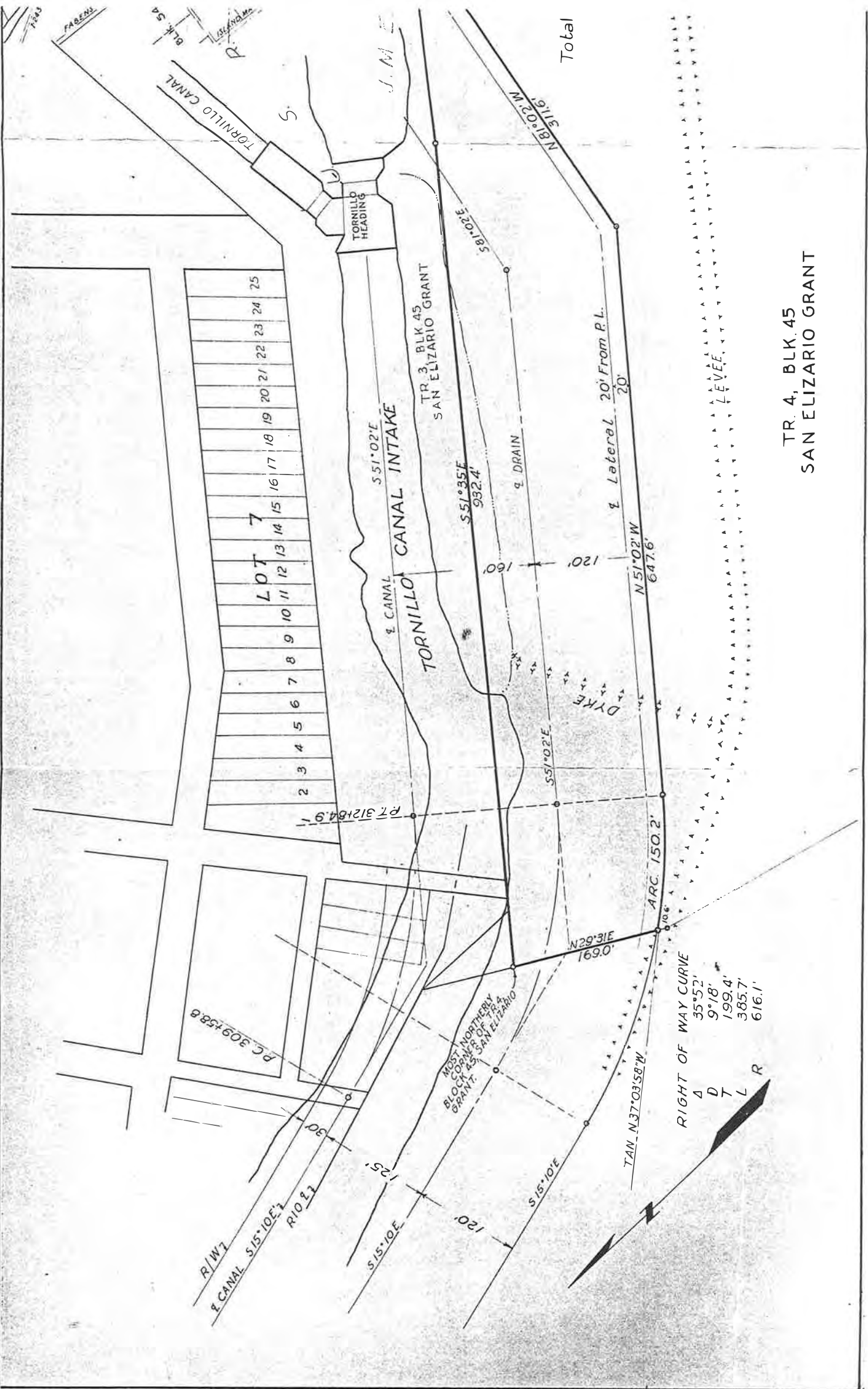
0.17 Acres " (b) Block 54 Tract 6 San Elizario Grant
(G.C.D. from cathcart for

Valid Title with right of possession July 8, 1940 See Attn. Gen's. letter to Sec of Interior
dated July 19, 1940

Judgement

Tract 1 § 272.30 See letter from Attn. Gen. to Sec. of Interior dated 6-10-42

Tract 2 § 335.75 See letter from Attn. Gen. to Sec. of Interior dated 4-22-42



TR. 4, BLK. 45
SAN ELIZARIO GRANT

The State of Texas }
County of El Paso }

I, P. D. Lowry, County Clerk in and for said
County, do hereby certify that the foregoing instrument of writing with
its certificate of authentication, was filed for record in my Office,
this 18 day of June A.D. 1940, at 4:50 P.M. in El Paso
County, Texas, at 4:50 P.M. of clock
A.M. in the year 1940.

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

P. D. LOWRY
County Clerk

Bernie Brady
Deputy

157261



Location Plat
 Section 4, T.34S-R8E U.S.R.S.
 Tract 4B, Block 54
 Resurvey, San Elizario Grant
 El Paso Co., Texas

AREA OF R.O.F.W.

Tract No. 1	3.91 Ac.
" 2	.17 "
Total	4.08 "

W. L. SUMMERS

SCALE 1" = 200'

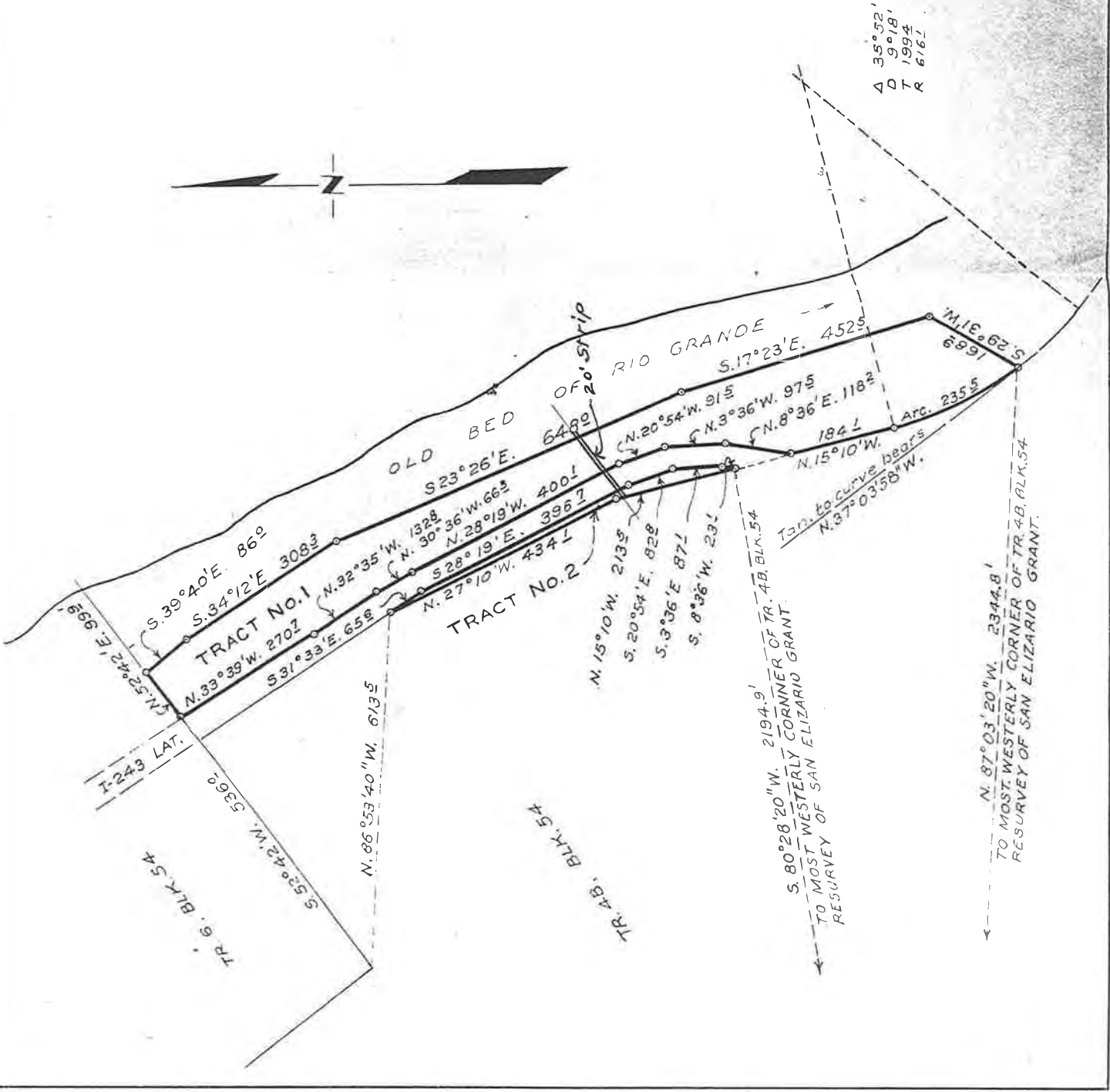
31

DEPARTMENT OF THE INTERIOR
 BUREAU OF RECLAMATION
 RIO GRANDE PROJECT-NEW MEXICO-TEXAS
RIVERSIDE CANAL EXTENSION

FIELD WORK: C. P. CHECKED
 DRAWN: A. O. D. G. A. APPROVED

RIGHT OF WAY

4080-L-13 | EL PASO, TEX. APR. 17, 1940



15266

THE STATE OF TEXAS, }
COUNTY OF EL PASO.

KNOW ALL MEN BY THESE PRESENTS: THAT

David W. Cathcart and Florence Y. Cathcart, husband and wife,

of the County of _____, and State of California, for and in consideration of the sum of _____

One and no/100 (\$1.00) - - - - - DOLLARS,

to them in hand paid by THE UNITED STATES OF AMERICA, in pursuance of the provisions of the act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplemental thereto,

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

THE UNITED STATES OF AMERICA, its successors

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

Riverside Canal Extension #31

Two tracts of land lying and situate in El Paso County, Texas and in the South half (S $\frac{1}{2}$) of Section four (4) Township thirty-four (34) South, Range eight (8) East, Bureau of Reclamation Survey; being also within surveys eighty (80) and ninety-one (91) of the Island, San Elizario Grant and Tract four B (4B), Block fifty-four (54) of the official resurvey of the San Elizario Grant as accepted by the Commissioners' Court of El Paso County, Texas, on the 13th day of January 1930 and of record in the office of the county clerk of said county and state; more particularly described as follows:

Correct as to Engineering Data E. D. A.

TRACT 1 - Beginning at the point of intersection of the dividing line between tracts four B (4B) and six (6), Block fifty-four (54) of the said official resurvey of the San Elizario Grant and the easterly right of way line of the I-243 Lateral, which is the property of the United States, and from which point the most southerly corner of said tract six (6) bears South fifty-two degrees (52°) forty-two minutes (42') west five hundred thirty-six (536) feet; thence along the dividing line between said tracts four B (4B) and six (6) North fifty-two degrees (52°) forty-two minutes (42') East ninety-nine and nine tenths (99.9) feet to the Northeast corner of said tract four B (4B); thence along the easterly line of said tract four B (4B), South thirty-nine degrees (39°) forty minutes (40') East eighty-six (86) feet, South thirty-four degrees (34°) twelve minutes (12') East three hundred eight and three tenths (308.3) feet, South twenty-three degrees (23°) twenty-six minutes (26') East six hundred forty-eight (648) feet, South seventeen degrees (17°) twenty-three minutes (23') East four hundred fifty-two and five tenths (452.5) feet and South twenty-nine degrees (29°) thirty-one minutes (31') West one hundred sixty-eight and nine tenths (168.9) feet to a point on a curve of six hundred sixteen and one tenth (616.1) feet radius and the tangent to the curve at said point having a bearing North thirty-seven degrees (37°) three minutes (03') fifty-eight seconds (58") west and from which point the most westerly corner of tract four B (4B), Block fifty-four (54) of the said official resurvey of the San Elizario Grant bears North eighty seven degrees (87°) three minutes (03') twenty seconds (20") west two thousand three hundred forty-four and eight tenths (2344.8) feet; thence northerly and to the right along said curve a distance on the arc of two hundred thirty-five and five tenths (235.5) feet; thence North fifteen degrees (15°) ten minutes (10') West one hundred eighty-four and one tenth (184.1) feet to the easterly right of way line of the I-243 Lateral; thence along the easterly right of way line of said I-243 Lateral, North eight degrees (8°) thirty-six minutes (36') East one hundred eighteen and two tenths (118.2) feet, North three degrees (3°) thirty-six minutes (36') west ninety-seven and five tenths (97.5) feet, North twenty degrees (20°) fifty-four minutes (54') West ninety-one and five tenths (91.5) feet North twenty-eight degrees (28°) nineteen minutes (19') west four hundred and one tenth (400.1) feet, North thirty degrees (30°) thirty-six minutes (36') west sixty-six and three tenths (66.3) feet, North thirty-two degrees (32°) thirty-five minutes (35') west one hundred thirty-two and eight tenths (132.8) feet and North thirty-three degrees (33°) thirty-nine minutes (39') west two hundred seventy and seven tenths (270.7) feet to the point of beginning. Said tract of land containing three and ninety-one hundredths (3.91) acres, more or less. Shown as tract No. 1 on plat attached hereto and made a part hereof.

of
SH

Riverside Canal Extension
Page No. 2

TRACT 2 - Beginning at a point on the westerly right of way line of the I-243 Lateral, which is the property of the United States, and from which point the most southerly corner of Tract six (6) Block fifty-four (54) of the said official resurvey of the San Elizario Grant bears North eighty-six degrees (86°) fifty-three minutes (53') forty seconds (40") West six hundred thirteen and five tenths (613.5) feet; thence along the westerly right of way line of said I-243 Lateral, South thirty-one degrees (31°) thirty-three minutes (33') East sixty-five and six tenths (65.6) feet, South twenty-eight degrees (28°) nineteen minutes (19') East three hundred ninety-six and seven tenths (396.7) feet, South twenty degrees (20°) fifty-four minutes (54') East eighty-two and eight tenths (82.8) feet, South three degrees (3°) thirty-six minutes (36') East eighty-seven and one tenth (87.1) feet and South eight degrees (8°) thirty-six minutes (36') West twenty-three and one tenth (23.1) feet to a point from which the most westerly corner of Tract four B (4B) Block fifty-four (54) of the said official resurvey of the San Elizario Grant bears South eighty degrees (80°) twenty-eight minutes (28') twenty seconds (20") West two thousand one hundred ninety-four and nine tenths (2194.9) feet; thence North fifteen degrees (15°) ten minutes (10') West two hundred thirteen and five tenths (213.5) feet; thence North twenty-seven degrees (27°) ten minutes (10') West four hundred thirty-four and one tenth (434.1) feet to the point of beginning. Said tract of land containing seventeen hundredths (0.17) of an acre, more or less. Shown as tract No. 2 on plat attached hereto and made a part hereof.

Correct as to Engineering Data A. O. D.

THE STATE OF ~~TEXAS~~ ^{California}
COUNTY OF ~~EL PASO~~ ^{San Diego} } BEFORE ME, E. C. Upp, a notary
public in and for Said County, on this day
personally appeared David W. Cathcart

known to me to be the person whose name is
subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the pur-
poses and consideration therein expressed.

Given under my hand and seal of office, this 8th day of November, D. 1940.

E. C. Upp
Notary Public within and for
County, California. NOTARY PUBLIC
in and for the County of San Diego, State of Calif.
My Commission Expires March 13, 1943

THE STATE OF ~~TEXAS~~ ^{California}
COUNTY OF ~~EL PASO~~ ^{San Diego} } BEFORE ME, E. C. Upp, a notary
public in and for
Said County, on this day personally appeared Florence Y. Cathcart wife of
David W. Cathcart

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 Florence Y. Cathcart acknowledged such instru-
ment to be her act and deed, and declared that she had willingly signed the same for the purposes and consider-
ation therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office, this 8th day of November, D. 1940.

E. C. Upp
Notary Public within and for NOTARY PUBLIC
in and for the County of San Diego, State of Calif.
My Commission Expires March 13, 1943

157266 INDEXED

OUT-CLAIM DEED -
SINGLE AND WIFE'S SEPARATE
ACKNOWLEDGMENTS

David W. Cathcart
Florence Y. Cathcart
TO
W.S. of a. X

Filed for Record the
FILED FOR RECORD
day of NOV 14 1940
AT 11:45 O'CLOCK P.
AND RECORDED M.
Nov 14, 1940

AT 9 O'CLOCK A.
CLERK OF COUNTY COURT, EL PASO COUNTY, TEXAS
P. D. LOWRY, County Clerk
DEPUTY
Nov 9/40
Deputy

677128

THE STATE OF TEXAS, }
COUNTY OF EL PASO. } I, P. D. Lowry Clerk of the
County Court of said County, do hereby certify that the above instrument of writing, dated on the 8
day of Nov, A. D., 1940, with its certificate of authentication, was filed for record in my
office this 14 day of Nov, A. D., 1940, at 1:45 o'clock P.M.
and duly recorded the 10 day of Nov, A. D., 1940, at 9 o'clock A.M.
in the 679 records of said County, in Volume 28 on Pages 28
Witness my hand and the seal of the County Court of said County at office in El Paso, Tex.
the day and year last above written.

P. D. Lowry
Clerk County Court, El Paso County,
By Marie Grady, Deputy

