

1988

# George G. Mahas v. Lavar Rindlesbacher : Amicus Brief

Utah Supreme Court

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Backman, Clark and Marsh; Gary A. Sargent; Attorney for Defendant/Appellant.

I. Gordon Huggins; Attorney for Plaintiffs/Respondents.

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IN THE SUPREME COURT

STATE OF UTAH

---

|                                |   |                           |
|--------------------------------|---|---------------------------|
| GEORGE G. MAHAS and LUCILLE H. | ) |                           |
| MAHAS,                         | ) |                           |
|                                | ) |                           |
| Plaintiffs/                    | ) |                           |
| Respondents,                   | ) |                           |
|                                | ) |                           |
| vs.                            | ) | BRIEF AMICUS CURIAE       |
|                                | ) |                           |
| LAVAR RINDLESBACHER,           | ) | Supreme Court No. 88-0350 |
|                                | ) |                           |
| Defendant/                     | ) | Category 14b              |
| Appellant.                     | ) |                           |

---

Appeal from the judgment of the Second Judicial  
District Court of Weber County, State of Utah, the Honorable  
David E. Roth, presiding.

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## TABLE OF CONTENTS

|                                                                                                                                                                          | <u>Page</u> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| SUMMARY OF ARGUMENT.....                                                                                                                                                 | 3           |
| ARGUMENT                                                                                                                                                                 |             |
| Point One.....                                                                                                                                                           | 3           |
| The trial court erred in finding that "the descriptions of the properties involved don't make sense if the Warren Canal is that canal referred to in most of the deeds." |             |
| Point Two.....                                                                                                                                                           | 12          |
| The trial court erred in finding "that a metes and bounds description off 400 feet leads to an absurd result."                                                           |             |
| Point Three.....                                                                                                                                                         | 13          |
| The trial court erred in finding that boundary determination by acreage totals is proper.                                                                                |             |
| CONCLUSION.....                                                                                                                                                          | 14          |
| ADDENDUM                                                                                                                                                                 |             |

## TABLE OF AUTHORITIES

### Cases

|                                                                                                                    |          |
|--------------------------------------------------------------------------------------------------------------------|----------|
| <u>Achter v. Maw</u> , 493 P.2d 989 (Utah, 1979).....                                                              | 7,8,13   |
| <u>Findlayson v. Denver and R.G.W.R. Company</u> , 172 P.2d 142 (Utah, 1946).....                                  | 7,8      |
| <u>Johnson Real Estate Co. v. Nielsen</u> , 353 P. 2d 918 (Utah, 1960).....                                        | 7,8      |
| <u>Park v. Wilkinson</u> , 60 P. 945, 946 (Utah, 1900).....                                                        | 7,8,11,1 |
| <u>Scott v. Hansen</u> , 422 P.2d 525 (Utah, 1966).....                                                            | 7,8      |
| <u>United States v. State Investment Company</u> , 285 Fed. 128, aff'd; 264 U.S. 206; 68 L.Ed. 639 (8th Cir.)..... | 12       |

IN THE UTAH SUPREME COURT

STATE OF UTAH

---

|                                |   |                           |
|--------------------------------|---|---------------------------|
| GEORGE G. MAHAS and LUCILLE H. | ) |                           |
| MAHAS,                         | ) |                           |
|                                | ) |                           |
| Plaintiff/                     | ) |                           |
| Respondent,                    | ) | BRIEF AMICUS CURIAE       |
|                                | ) |                           |
| vs.                            | ) | Supreme Court No. 88-0350 |
|                                | ) |                           |
| LAVAR RINDLESBACHER,           | ) | Category 14b              |
|                                | ) |                           |
| Defendant/                     | ) |                           |
| Appellant.                     | ) |                           |

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**SUMMARY OF THE ARGUMENT**

**Introductory Comments**

A motion was made by the Utah Council of Land Surveyors (hereinafter "UCLS") for permission to file an amicus curiae brief. Oral argument for permission to file an amicus curiae brief was heard April 3, 1989, after which this Court granted UCLS's motion, resulting in the filing of this brief.

UCLS contends that the trial court's findings and judgments were erroneous and resulted from a misapplication of the law pertaining to boundary determination.

**ARGUMENT**

**Point One**

THE TRIAL COURT ERRED IN FINDING THAT "THE DESCRIPTIONS OF THE PROPERTIES INVOLVED DON'T MAKE SENSE IF THE WARREN CANAL IS THAT CANAL REFERRED TO IN MOST OF THE DEEDS."

**A. Plaintiffs' chain of title conveys only that property north of the canal.**

A history of the conveyances of Plaintiffs' property is contained in the abstract of the property, which was entered as Exhibit 1 in the trial (see Addendum, Exhibit 1, hereinafter "Exhibit 1"). The abstract reveals certain important facts. Entry #3 of Exhibit 1, a deed dated 1884 from Richard Slater to Bluford Bybee, is a large piece of property which contains the properties of both parties in this lawsuit.

Entries #4 and #5 of Exhibit 1 are deeds from Bybee to the Pioneer Electric Power Company (hereinafter "PEPC") dated October 1895 and November 1895, which, when joined together, convey property four rods wide (66.00 feet) traversing the property that is now occupied by the canal commonly known as the Warren Canal.

Entries #6 and #11 of Exhibit 1 are deeds dated 1896 and 1901, which include notations that the conveyances are subject to PEPC's right-of-way (the right-of-way being four (4) rods in width).

Entry #12 of Exhibit 1 is a deed dated 1902, which is the first conveyance dividing the subject property, and it does so by dividing off the north part of the property (currently owned by Plaintiffs) as follows: "...being all that portion lying north of the canal of the following described property..." followed by a description of the entire piece of property which includes the properties of both parties herein. The property

description of Plaintiffs' predecessors stops at the canal (the south boundary of the property is the north line of the 66-foot wide parcel over which the canal flows).

Entries #12, #13, #18, #37, #46, #50, and #59 of Exhibit 1 are all deeds through 1957 that convey title or easements to the property "north of the canal" of the entire piece of property of both parties [emphasis added].

Therefore, regarding the Plaintiff's property, all of the deeds shown in the abstract (Exhibit 1) from 1902 through 1957 describe the entire piece of property (i.e., the combined properties now owned by both parties herein) and denote specifically that portion north of the canal. The only canal description in the abstract (Exhibit 1) and appearing in the chain of title of the property is the canal four rods wide discussed previously.

Plaintiffs trace their title from themselves to Joan Norman, formerly Joan Mahas, who obtained the property from Earn and Ella Fryer. The description by which the Fryers obtained their property is the same as has been discussed above; i.e., a tract of land which lies north of the canal. For some reason unknown and undocumented, the deed from Fryers to Jimmy and Joan Mahas (now known as Joan Norman) to Plaintiffs contained a different description than that by which Fryers obtained title from their predecessors (the Wheelers). (Compare Addendum, Exhibits 2, 3, 4 and 5.) This error has perpetuated to the current owners, who are the Plaintiffs herein.

Plaintiffs cannot own more property than would have been legally conveyed to them. As indicated, Plaintiffs' chain of title from 1902 through 1957 conveys only that land "north of the canal," after which an error in the legal description has contributed to the misperception that has resulted in Plaintiffs' claim to more property than is rightfully theirs.

Further, if Plaintiffs succeed in this matter, they will obtain land located on the south of the canal to which they have no legal access. Because they don't own the land the canal flows over (PEPC was deeded the canal property in 1895; see Exhibit 1, entries #4 and #5), there is no way for them to access the property south of the canal. The property is bordered on two sides by the canal and on the other two sides by private property, with no easement or right-of-way known to exist granting Plaintiffs access. It is illogical that the intent of the parties' predecessors was to convey such inaccessible property in such manner.

Defendant RINDLSEACHER obtained his property, which is the property south of the canal, in 1975. Defendant's deed includes a call "...12 chains more or less to a canal, then southeasterly along canal..." (see Addendum, Exhibit 6). It is unknown why the call to the monument, which in this case is a canal, differs from the distance call of 12 chains (792 feet), which terminates approximately 360 feet short of the canal. The trial court held that the boundary line between the parties is determined by courses and distance calls only (see Addendum,



Exhibit 7, Conclusion of Law No. 1). The court, in so stating, disregards well-established law pertaining to boundary determination. It is well settled that "in a conveyance by natural monuments, distances and quantity being the most uncertain, must yield to the former." Park v. Wilkinson, 60 P. 945, 946 (Utah, 1900). See also Findlayson v. Denver and R G. W. R. Company, 172 P.2d 142 (Utah, 1946); Johnson Real Estate Co. v. Nielsen, 353 P.2d 918 (Utah, 1960); Scott v. Hansen, 422 P.2d 525 (Utah, 1966); and Achter v. Maw, 493 P.2d 989 (Utah, 1979).

It is unknown why such a discrepancy exists in this case (i.e., the difference between monument call and distance call). It is certainly possible that the scrivener of the deed erred in the calculation of the distance call due to the use of erroneous measurement scales. For example, by using aerial photographs containing just such an erroneous measurement scale currently on file with the County Surveyor's Office, it is possible to arrive at a measurement consistent with the call of 12 chains. When the proper scale is utilized, the distance involved actually measures to the canal. This possibility is offered not as evidence, but solely to suggest there are possibilities which would explain the discrepancies.

After a review of the abstract of Plaintiffs' property, it is clear that Plaintiffs' only own the property on the north of the canal. Plaintiffs' chain of title simply doesn't contain any other property conveyances other than to that property north of the canal.

**B. The canal called for in the parties' deeds is the Warren Canal.**

UCLS contends that there is no evidence of any other canal than that canal referred to as the Warren Canal. A supposed second canal, which simply does not, nor ever has, existed, was apparently drawn onto the plat map maintained by the County Recorder's Office resulting from the Recorder's interpretation of the legal descriptions.

Even the trial court found that "there is no strong evidence in recent history that there is another canal in the area in existence, but there is some evidence of a possibility that at one time there was a canal in that area" (see Addendum, Exhibit 7, Finding of Fact No. 6). It is unclear what burden of proof the trial court utilized in finding that there was another canal in the area. Such standard of "some evidence of a possibility" is not an acceptable burden of proof utilized in any court case known [emphasis added].

In order to find that there was another canal in the area, the trial court had to rely on distance calls in the deed descriptions. In doing so, the court disregarded the superior call in the deeds to a monument (canal). See Park; Findlayson; Johnson; Scott; and Achter, supra. It is clear from a review of the record that there was no evidence presented, only mere speculation, that supports the claim that a second canal is, or was, located within the borders of the subject property. All evidence before the court was that there never has been a second

canal in the area. (Tr. 53, 54, 99) The only possible evidence to this second canal comes from a County Recorder's plat map (Addendum, Exhibit 9.) The reference on such map, as indicated above, was likely a creation of the County Recorder's Office.

It is logical to assume that if there were two canals in the area 300 to 400 feet apart, the deed scriveners would have been very careful to indicate which canal was being called.

Inasmuch as the deeds throughout the entire history of this property include calls to a canal without referring to more than one canal, it is clear that the canal referred to in the deeds is that canal now known as the Warren Canal, and that it is the only canal in the area and has been for at least 40 years. (TR. 99.)

The trial court erred in its application of law in stating that the Warren Canal is not the monument referred to in the conveyances of the parties' properties (Addendum, Exhibit 7, Conclusion of Law No. 2). However, the canal referred to as the Warren Canal is the only canal in the area and has been for nearly 100 years, certainly prior to the obtaining of these properties by the parties herein (Addendum, Exhibit 1, entries #4 and #5). The trial court correctly found that the Warren Canal has not moved significantly since 1908 (Addendum, Exhibit 7, Finding of Fact No. 5).

The description of the canal property does not appear on a county plat map, as the plats are created primarily for taxing purposes (PEPC was not a taxable entity). Though the

drawing doesn't appear on the county plat maps, the deeds are properly recorded and do appear in an abstract of the property (see Addendum, Exhibit 1, entries #4 and #5).

Due to the fact that the Warren Canal has been in the position it now occupies for approximately 100 years and, further, because the existence of a second canal is supported only by non-existent or, at best, speculative evidence, this court should overturn the trial court's Finding of Fact No. 6 and Conclusion of Law No. 2.

**C. If the erroneous distance call in Plaintiff's Deed is disregarded in favor of the call to the monument (canal), all properties close and harmonize.**

The trial court found that the descriptions of Plaintiffs' and Defendant's parcels don't make any sense if the Warren Canal is the canal that is referred to in most of the deeds (Addendum, Exhibit 7, Finding of Fact No. 4). It is believed that this finding is based on an improper interpretation of the words "southeasterly along the canal," which appear in both Plaintiffs' and Defendant's descriptions.

Referring to Addendum, Exhibit 8 (included in the Addendum for demonstrative purposes only), the Defendant's description begins at the southwest corner of the parcel (labeled POB 1). The first call is "N 27° E 12 chains, more or less, to a canal." As illustrated, the south boundary of the canal parcel is about 360 feet farther than the described 12 chains. The next call is "southeasterly along canal to a point N 15° E 10.18

chains from the county road." As illustrated, one could follow the canal to a point N 15° E 10.18 chains from the road. In so doing, one would be traveling in a generally southeasterly direction.

One of the witnesses, an abstractor, testified that in order to reach the point 10.18 chains from the road by following the Warren Canal, one must go southeasterly and then southwesterly. (Tr. 26.) This is technically correct. However, the overall direction is generally southeasterly. Furthermore this court ruled in Park v. Wilkinson, 60 P. 945 (Utah, 1900), that, "It is proper for a court to read into the deed sufficient language to close the description of natural monuments." In that case, the court, faced with a discrepancy in a deed which contained a distance call 66 feet short of a creek, added the words "more or less, to the center of Canyon Creek." The absence of the words "and thence southwesterly" from the deeds herein should be treated similarly.

The balance of the Defendant's description can be easily followed on the exhibit (compare Addendum, Exhibit 6 and Exhibit 8). Obviously, the description closes and makes perfect sense.

The Plaintiffs' description begins at the top of the exhibit at the point labeled "POB 2." The first call is "West 1.06 chains." The second call is "S 27° W to canal." The third call is "Southeasterly along said canal to a point N 15° E 10.18 chains from county road." Using the same argument stated above,

one can reach a point 10.18 chains from the road by traveling southeasterly along the canal. When Plaintiffs' description is followed on the exhibit, one can see that the Plaintiffs' property is somewhat similar to the shape of a pan with a thin panhandle extending to the south of the main part of the property. Though not a typical shape for a parcel of property, Plaintiffs' property also closes and makes perfect sense.

### **Point Two**

THE TRIAL COURT ERRED IN FINDING "THAT A METES AND BOUNDS DESCRIPTION OFF 400 FEET LEADS TO AN ABSURD RESULT."

It is well-settled that calls to monuments prevail over calls using courses and distances, regardless of the distance involved. United States v. State Investment Company, 285 Fed. 128, aff'd; 264 U.S. 206; 68 L.Ed. 539 (8th Cir.). This case dealt with a large parcel of property described as follows:

"On the north, the Ocate River; on the south to where the Sapeyo empties; on the east the Aguage de la Yegua; and on the west the Estillero."

The parcel was surveyed and monumented in 1861 and transferred from the United States to Jose Tapia, et al. in 1876. A plat of the survey was referred to in the patent. The court determined the property's boundary using the monuments over the bearings and distances on the plat, even though they differed by two- and one-third ( $2\frac{1}{3}$ ) miles on the north boundary and three- and one-half ( $3\frac{1}{2}$ ) miles on the south boundary.

The trial court held that utilizing a monument call which differs with a metes and bounds description by more than 50

feet leads to an absurd result (Addendum, Exhibit 7, Finding of Fact No. 7). The trial court incorrectly chose the distance call over the monument call. The trial court has assumed to create law, suggesting that a difference of 50 feet or less might allow the use of a call to a monument when at odds with one of courses and distances. However, where off by more than 50 feet, the distance call would prevail. Such is certainly not the law. As indicated in the State Investment Company case, supra, where the difference between the monument call and the call using bearings and distances was three and one-half (3-1/2) miles, such result was not absurd and, in fact, the court in that case held that the monument call controlled over the bearings and distances call. See also Achter v. Maw, supra, and Park v. Wilkinson, supra.]

### **Point Three**

THE TRIAL COURT ERRED IN FINDING THAT BOUNDARY DETERMINATION BY ACREAGE TOTALS IS PROPER.

The acreage owned by the Plaintiffs differs according to where the boundary line is determined to be.

Plaintiffs own approximately four and one half acres if the trial court's judgment is affirmed; or less than two acres if the judgment is reversed. The trial court held that such difference results in an absurdity and uses such "absurdity" to support the distance calls in the deeds over the monument calls to the canal (Addendum, Exhibit 7, Finding of Fact No. 9). In reviewing the record, however, there is no evidence other than a recorder's plat which indicates the amount of acreage owned by the Plaintiffs. (Addendum, Exhibit 9.)

The deed of neither party contains a statement of how much acreage is contained within the description. The deeds contain only a description of the boundary lines of the properties (Addendum, Exhibits 4 and 5). Plaintiffs cannot own more property than they were deeded. If Plaintiffs' boundary is properly charted (see Addendum, Exhibit 8), Plaintiffs only own less than two (2) acres.

Acreage in many cases is determined from a calculation of the legal/boundary description of the property. The acreage of property is often calculated by the County Recorder's Office for the benefit of the County Assessor's Office, which relies on such calculations for taxation purposes. In this case, the acreage calculation is based on an erroneous distance call in the deed and the assumption that "southeasterly," a call within the deed, is a straight line (which it is not). If it were, the description would likely contain a bearing call rather than the general direction "southeasterly." The deed scrivener likely used the call "southeasterly" to describe the curve of the canal. Therefore, the court's use of acreage as a means to aid in the determination of the properties' boundaries is misplaced.

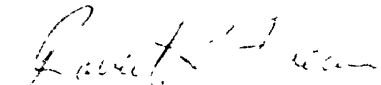
#### **CONCLUSION**

Based on a review of the record and of the applicable case law, there is overwhelming evidence that the trial court erred substantially in its Findings and Conclusions and Final Judgment. UCLS hereby requests the Utah Supreme Court to overturn the trial court's decision and make a determination that



the boundary between the parties in this case is the canal now known as the Warren Canal. In the alternative, UCLS requests that this matter be overturned and remanded for a new trial.

RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of May, 1989.



ROBERT L. FROERER  
Attorney for Utah Council  
of Land Surveyors

#### CERTIFICATE OF MAILING

I hereby certify that on the 18<sup>th</sup> day of May, 1989, I mailed, postage prepaid, four true and correct copies of the foregoing Brief Amicus Curiae to I. Gordon Huggins, Attorney for Plaintiffs/Respondents, at 1218 First Security Bank Building, Ogden, UT 84401; and two true and correct copies to BACKMAN, CLARK & MARSH, Gary A. Sargent, at 800 McIntyre Building, 68 S. Main, Salt Lake City, UT 84111, Attorneys for Defendant/Appellant.

  
Secretary

EXHIBIT  
1  
2-23-88

F. B. DEVOTO,  
ABSTRACTOR OF TITLE

25

TO ANY REAL ESTATE IN WEBER COUNTY, UTAH  
369 24TH ST., OGDEN CITY, UTAH

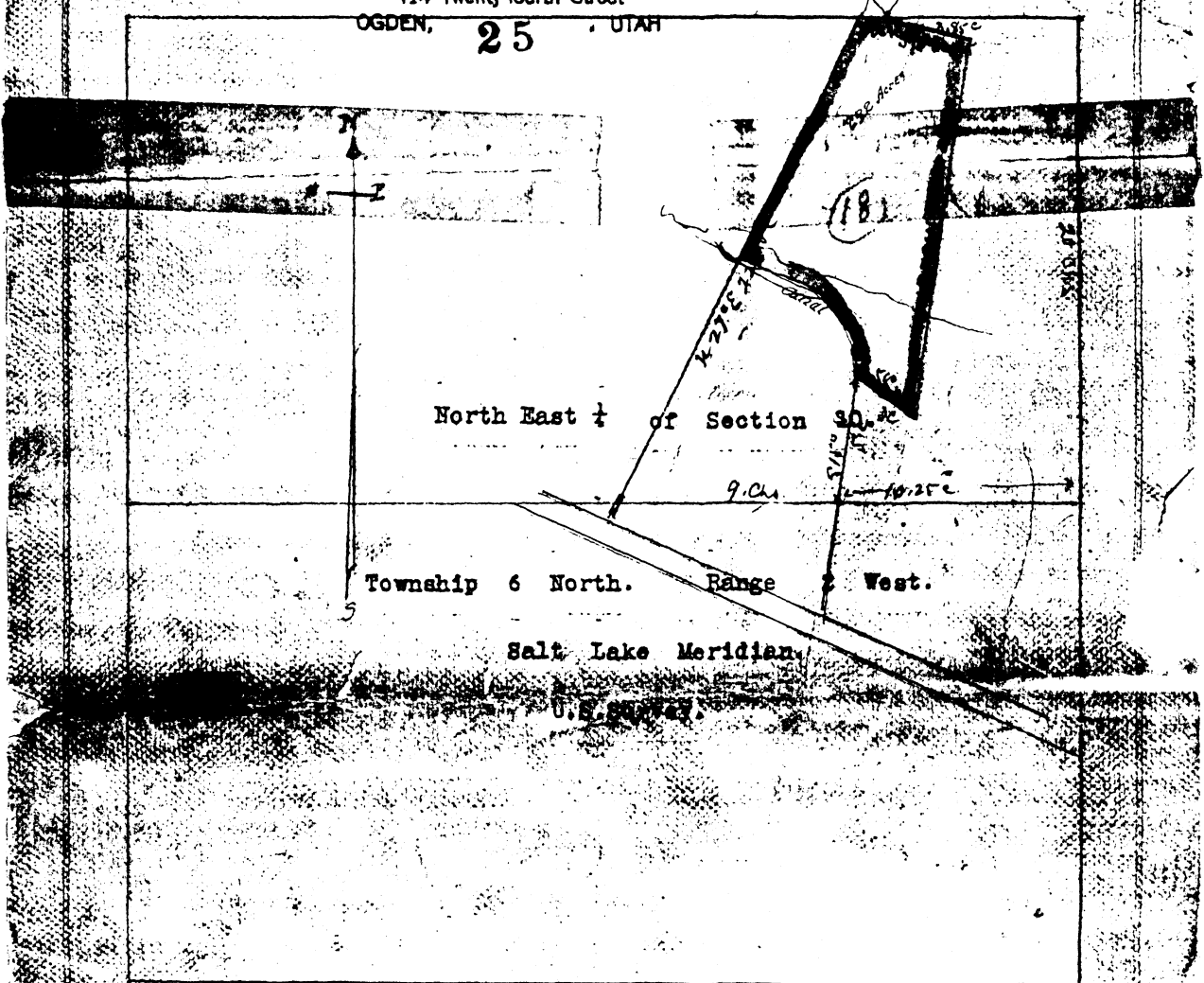
Abstract No. 1425.

Sheet No. 1.

ABSTRACT OF TITLE  
TO

A part of the North East Quarter (NE.  $\frac{1}{4}$ ) of Section Ten (10), Township Six (6) North, Range Two (2) West, Salt Lake Meridian, U.S. Survey;  
Being all that part of the following described tract of land, which lies North of the canal:-  
Beginning at a point 20 chains South and 10.25 chains West from the North East corner of the North East quarter of said Section 10, and running thence West 9 chains, thence N. 27° E. 22.45 chains, thence East 1.06 chains, thence S. 74° E. 3.85 chains, thence S. 7° 45' W. 15.84 chains, thence N. 58° W. 3 chains, thence S. 15° W. 5 chains to the place of beginning.  
Situate in the County of Weber and State of Utah.

THE HOME ABSTRACT COMPANY  
414 Twenty-fourth Street  
OGDEN, 25, UTAH



#2. UNITED STATES OF AMERICA,  
Grantor.  
TO  
RICHARD SLATER,  
Grantee.

PATENT.  
Homestead Certificate No.1178.  
Application #2468.  
Dated; Sept. 30,1882.  
Recorded; March 25,1893.  
Book "14",page 587.

Granta\_\_\_The North half of the North East  $\frac{1}{4}$  of Section 10, Township 6 North,  
Range 2 West, Salt Lake Meridian, in Utah Territory.  
Containing 80 acres\_\_\_\_\_

-----pursuant to the Act of Congress approved May 20,1862 "To secure Homesteads  
to Actual Settlers on the Public Domain" and the Acts supplemental thereto.

By the President\_\_\_\_\_Chester A.Arthur.  
By O.L.Judd,Asst. Secretary.

(General Land Office) S.W.Clark,Recorder of the General Land Office.  
( SEAL ) Recorded; Vol. 3, page 427.

#3. RICHARD SLATER,Sr.  
Grantor.  
TO  
BLUFORD BYBEE,  
Grantee.

WARRANTY DEED.  
Consideration\_\_\_\_\$20.00.  
Dated; Feb. 11,1884.  
Recorded; March 25,1893?  
Book "119", page 226.  
Signed; Richard Slater,Sr.  
Witness; J.W.Browning.

Conveys landa\_\_\_\_\_A part of the North East  $\frac{1}{4}$  of Section 10,Township 6 North  
Range 2 West,Salt Lake Meridian; Beginning at a point 20 chains South and  
10.25 chains West from the North East corner of said quarter section and  
running thence West 9 chains,thence N.27°E. 22.45 chains,thence East 1.06  
chains, thence S.74°E. 3.85 chains,thence S.7° 45'W. 15.84 chains,thence  
N.58° W. 3 chains, thence S.15° W. 5 chains to the place of beginning.  
Containing 15.82 acres.

-----with other landa\_\_\_\_\_

Situated in Weber County, Utah Territory.

Ack'd. Feb. 23,1884\_\_\_\_Richard Slater,Sr.\_\_\_\_before Henry E Steele, Notary  
Public, Weber County,Utah Territory\_\_\_\_with Notarial Seal.

#4. BLUFORD A.BYBEE,  
and wife  
MARGARET E.BYBEE,  
Grantors.  
TO  
THE PIONEER ELECTRIC POWER  
COMPANY,  
a corporation,  
Grantee.

WARRANTY DEED.  
Consideration\_\_\_\_\$30.00.  
Dated; Nov. 29,1895.  
Recorded; Dec. 31,1895.  
Book "26",page 175.  
Signed; Bluford A.Bybee.  
Margaret E.Bybee.  
Witness; A.B.Patton.

Convey lands in \_\_\_\_\_ Weber County,Utah\_\_\_\_\_

A strip of land 1 rod wide along the survey of said Company's Canal and on  
the West side thereof, Commencing at station 135 plus 90 of said survey and  
running thence in a Northerly direction to Station 146 plus 78.8 thence  
Northwesterly to station 149 plus 89, said land being in the NE. $\frac{1}{4}$  Sec. 10,  
Town. 6 N., R. 2 W.

Ack'd. Nov. 29,1895\_\_\_\_Bluford A.Bybee and Margaret E.Bybee,his wife\_\_\_\_\_

before, A.B.Patton, Notary Public, Weber County, Utah Territory\_\_\_\_with  
Notarial Seal. Commission expires Aug. 17,1896.

#5

BLUFORD A. BYBEE  
and wife  
MARGARET E. BYBEE,  
Grantors  
TO  
THE PIONEER ELECTRIC POWER  
COMPANY,  
a corporation,  
Grantee.

WARRANTY DEED.  
Consideration---\$75.00.  
Dated; Oct. 31, 1895.  
Recorded; Dec. 13, 1895.  
Book "26", page 175.  
Signed; Bluford A. Bybee.  
Margaret E. Bybee.  
Witness; A. B. Patton.

Convey lands in ---- Weber County, Utah Territory-----  
A strip of land 3 rods wide Commencing at Station 135 plus 90 of Company's  
survey at the North line of Plain City Road, running thence in a Northerly  
direction to Station 146 plus 78.8, thence Northwesterly to Station 149 plus  
89 at the West line of Grantor's land.  
And the said Grantors for a part of the consideration paid agrees to build  
and maintain a good substantial bridge across said canal within said grant  
of right of way, said land being in the NE.  $\frac{1}{4}$  Sec. 10, Town. 6 N., R. 2 W.

Ack'd. Oct. 31, 1895. --- Bluford A. Bybee and Margaret E. Bybee, his wife, ---  
before A. B. Patton, Notary Public, Weber County, Utah Territory. --- with Notarial  
Seal. Commission expires Aug. 17, 1896.

#6.

BLUFORD A. BYBEE,  
and wife  
MARGARET E. BYBEE,  
Grantors.  
TO  
STEVE ANGLO  
and  
JOSEPH FACINELLE,  
Grantees.

WARRANTY DEED.  
Consideration---\$2500.00.  
Dated; Feb. 6, 1896.  
Recorded; Feb. 7, 1896.  
Book "26", page 254.  
Signed; Bluford A. Bybee.  
Margaret E. Bybee.  
Witness; Jno. D. Murphy.

Convey lands in ----- Weber County, Utah-----  
A part of the South East  $\frac{1}{4}$  of Section 10, Township 6 North, Range 2 West,  
Salt Lake Meridian.  
Commencing at a point 1.28 chains North and 16.47 chains East of the S.W.  
corner of said quarter section, thence North 10.28 chains, thence East 4.73  
chains, thence North 5.04 chains, thence East 4.73 chains, thence South 15.32  
chains, thence West 9.46 chains to the place of beginning.

✓ Also the following described tract of said Section 10;--  
Beginning at a point 20 chains South and 10.25 chains West from the N.E.  
corner of the North East  $\frac{1}{4}$  of said Section 10, running thence West 9 chains  
thence N. 27° E. 22.45 chains, thence East 1.06 chains, thence S. 74° E. 3.85  
chains, thence S. 74° W. 15.84 chains, thence N. 58° W. 3 chains, thence S. 15° E.  
5 chains to the place of beginning.

Containing 15.82 acres, more or less.

Also the following described tract;  
Beginning at a point 20 chains South and 19.25 chains West from the North  
East corner of said quarter section, running thence N. 58  $\frac{1}{2}$ ° W. 0.62 chains  
thence N. 49  $\frac{1}{2}$ ° W. 3.50 chains, in the center of the Street, thence S. 22° 51' W.  
2.85 chains, thence East 4.27 chains to the place of beginning.

Containing 0.54 of an acre, more or less.

Subject to the Pioneer Electric Power Company's right of way through the  
last above described tracts, being 4 rods in width through same.  
----- with other lands -----

Ack'd. Feb. 6, 1896. --- Bluford A. Bybee and Margaret E. Bybee, --- before  
Jno. D. Murphy, Notary Public, Weber County, Utah. --- with Notarial Seal.  
Commission expires April 12, 1896.

#11. STEVE ANGELO,  
and wife  
LENA ANGELO,  
Grantors.  
TO  
CHARLES M. WEBB,  
and  
MARY T. WEBB,  
Grantees.

QUIT CLAIM DEED.  
Consideration--\$1.00.  
Dated; Nov. 6, 1901.  
Recorded; Nov. 9, 1901.  
Book "40", page 129.  
Signed; Steve Angelo.  
Lena Angelo.  
Witness; Frank Pfeiffer.  
Ray A. Mason.

-----  
Quit Claims lands in ---- Weber County, State of Utah-----  
Situate in Section 10, Township 6 North, Range 2 West, Salt Lake Meridian,  
U.S. survey. Beginning at a point 20 chains South and 10.25 chains West  
from the North East corner of the North East  $\frac{1}{4}$  of said Section 10, running  
thence West 9 chains, thence N. 27° E. 22.45 chains, thence East 1.06 chains,  
thence S. 74° E. 3.85 chains, thence S. 7.45° W. 15.84 chains, thence N 58° W.  
3 chains, thence S. 15° W. 5 chains to the place of beginning.  
Containing 15.83 acres, more or less.

-----with other lands-----  
Subject to the Pioneer Electric Power Company's right of way through said  
land, being 4 rods in width through same.

Ack'd. Nov. 6, 1901----- Steve Angelo and Lena Angelo, his wife,----- before  
Frank Pfeiffer, Notary Public, Uinta County, Wyoming----- with Notarial Seal.  
Commission expires March 11, 1903.

#12.

JOSEPH FACINELLI,  
and wife JOHANA,  
and  
CHARLES M. WEBB,  
and wife MARY T.,  
Grantors.  
TO  
NICOLAIO PERUCA,  
and  
NICOLAIO FAVERO,  
Grantees.

QUIT CLAIM DEED.  
Consideration--\$1.00.  
Dated; March 8, 1902.  
Recorded; March 8, 1902.  
Book "40", page 437.  
Signed; Joseph Facinelli.  
Johana Facinelli.  
Charles M. Webb.  
Mary T. Webb.  
Witness; D.W. Ellis.

-----  
quit Claim lands in ---- Weber County, State of Utah-----  
A part of the North East  $\frac{1}{4}$  of Section 10, Township 6 North, Range 2 West, X  
S.L. Meridian, U.S. Survey;  
Being all that portion lying North of the canal of the following described  
property.  
Beginning 20 chs. South and 9 chs. West of the North East corner, said  
quarter section, and running thence West 9 chs., thence N. 27° E. 22.45 chs.,  
thence East 1.06 chs., thence S. 74° E. 3.85 chs., thence S. 7° 45' W. 15.84  
chs., thence N. 58° W. 3 chs., thence S. 15° W. 5 chs., to beginning.

Ack'd. March 8, 1902----- Joseph Facinelli and wife Johana--- and Charles M.  
Webb and wife Mary T.,----- before, D.W. Ellis, County Recorder, Weber County,  
Utah,----- with County Recorder's Seal.

#13. NICOLOIO FAVERO,  
and wife  
ROSA FAVERO,  
Grantors.  
TO  
NICOLOIO PERUCA,  
Grantee.

WARRANTY DEED.  
Consideration-----\$914.00.  
Dated; Aug. 8, 1902.  
Recorded; Aug. 8, 1902.  
Book "42", page 160.  
Signed; Nicoloio Favero.  
Rosa Favero.

Witness; D.W.Ellis.

-----  
Conveys his undivided one half interest in and to the following described tract of land in Weber County, State of Utah--All that portion of land lying North of the Canal of the following described property;  
A part of the North East  $\frac{1}{4}$  of Section 10, Township 6 North, Range 2 West, S.L.Meridian, U.S. Survey;  
Beginning 20 chs. S. and 9 chains West of the North East corner of said quarter Section, thence West 9 chains, thence N.27°E. 22.45 chs., thence East 1.06 chs., thence S.74° E. 3.85 chs., thence S.7° 45'W. 15.84 chs., thence N.58° W. 3 chs., thence S.15° W. 5 chs., to beginning.  
-----with other lands-----

Ack'd. Aug. 8, 1902---Nicoloio Favero and Rosa Favero his wife---before D.W.Ellis, County Recorder, Weber County, Utah---with County Recorder's Seal.

#14. NICHOLIO PERUCA,  
and wife  
MARIE PERUCA,  
Mortgagors.  
TO  
NICHOLIO FAVERO,  
Mortgagee.

MORTGAGE  
Consideration---\$914.00.  
Dated; Aug. 8, 1902.  
Recorded; Aug. 8, 1902.  
Book "2E", page 505.  
Signed; Nicoloio Peruca.  
Maria Peruca.

Witness; D.W.Ellis.

-----  
Convey lands in----- Weber County, Utah-----  
All that portion of land situate and lying North of the Canal of the following described property;  
A part of the North East  $\frac{1}{4}$  of Section 10, Township 6 North, Range 2 West, Salt Lake Meridian, U.S. Survey; Beginning 20 chains South and 9 chains West of North East corner said quarter section, thence West 9 chs., thence N.27° E. 22.45 chains, thence East 1.06 chains, thence S.74° E. 3.85 chains, thence S.7° 45'W. 15.84 chains, thence N.58° W. 3 chains, thence S.15° W. 5 chains to the place of beginning.  
-----with other lands-----

To secure 1 note due in 3 years at 6 % per annum, payable annually.

Ack'd. Aug. 8, 1902---Nicholoio Peruca and wife Marie Peruca---before D.W. Ellis, County Recorder, Weber County, Utah---with County Recorder's Seal.

#15. NIK FAVERO,  
and  
ROSA FAVERO,  
Mortgagees.  
TO  
WHOM IT MAY CONCERN.

DISCHARGE OF MORTGAGE.  
Dated; Feb. 3, 1904.  
Recorded; Feb. 16, 1904.  
Book "H", page 449.  
Signed; Nik Favero.  
Rosa Favero.  
Witness; Matt Fassio.

-----  
Certify that a mortgage from Nicoloio Peruca and wife Marie, to Nicoloio Favero, dated Aug. 8, 1902 and recorded in Book "2E", page 505, has been fully satisfied by the payment of the debt secured thereby and is hereby cancelled and discharged.

Ack'd. Feb. 3, 1904---Nick Favero and Rosa Favero---before D.F.Schoch, Notary Public, Crawford County, Kansas-----with Notarial Seal. Commission expires Dec. 1, 1906.

#18. NICOLLOIS PERUCA,  
and wife  
MARY PERUCA,  
Grantors.  
TO  
MOSES MORRISON,  
Grantee.

WARRANTY DEED.  
Consideration---\$3000.00.  
Dated; May 19, 1910.  
Recorded; May 26, 1910.  
Book "63", page 171.  
Signed; Nicolois Peruca.  
Mary Peruca.  
Witness; W. R. Skeen.

-----  
Convey lands in Weber County,-----State of Utah-----

A part of the North East  $\frac{1}{4}$  of Section 10, Township 6 North, Range 2 West,  
Salt Lake Meridian, U.S. Survey;

Beginning at a point which is 20 chains North and 16.50 chains East and  
S.  $24^{\circ} 30' W.$  425.4 feet from the South West corner of said quarter section  
and running thence S.  $24^{\circ} 30' W.$  102.6 feet, thence S.  $37^{\circ} 45' W.$  462 feet to  
Mill Creek, thence along Mill creek Southwesterly and Easterly to a point  
586.7 feet East and 244.2 feet North of the South West corner of said  
quarter section, thence South 244.2 feet, thence East 1023 feet, thence  
N.  $14^{\circ} 45' E.$  784.8 feet, thence N.  $78^{\circ} 25' W.$  910.5 feet to the place of  
beginning.

Containing 21.37 acres.

Also; all that portion of land lying North of the canal of the following  
described property;

A part of the North East  $\frac{1}{4}$  of Section 10, Township 6 North, Range 2 West,  
Salt Lake Meridian, U.S. Survey;

beginning 20 chains South and 9 chains West of the North East corner of said  
quarter section, thence West 9 chains, thence N.  $27^{\circ} E.$  22.45 chains, thence  
East 1.08 chains, thence S.  $74^{\circ} E.$  3.85 chains, thence S.  $7^{\circ} 45' W.$  15.84 chains,  
thence N.  $58^{\circ} W.$  3 chains, thence S.  $15^{\circ} W.$  5 chains to the place of beginning.

Together with 11 shares of the capital stock of the North Slaterville Irriga-  
tion Company.

-----  
Ack'd. May 19, 1910. --- Nicolois Peruca and Mary Peruca his wife. --- before  
W. R. Skeen, Notary Public, Weber County, Utah. --- with Notarial Seal.  
Commission expires July 15, 1912.  
-----

~~John S.~~ Wheeler, surviving wife and widow of John Wheeler, deceased, Clarence A. Wheeler, son of said John Wheeler, deceased, and Josephine Wheeler, his wife, Ethel Wheeler Skeen, daughter of said John Wheeler, deceased, Rosella W. Baker, Daughter of said John Wheeler, deceased, and Victor J. Wheeler, Single, son of said John Wheeler, deceased, Grantors.

to

Russell C. Wheeler, son of said John Wheeler, deceased. Grantee.

QUIT CLAIM DEED.  
Dated February 17th, 1934.  
Recorded April 3rd, 1934.  
Book 120 of Deeds, Page 48.  
Consideration \$1.00.

.....do hereby convey and quitclaim the following described real estate situate in Weber County, State of Utah: Also: A part of the North East Quarter (NE $\frac{1}{4}$ ) of Section Ten (10), Township Six (6) North, Range Two (2) West, Salt Lake Meridian, U. S. Survey; beginning at a point which is 20 chains North and 16.50 chains East and South 24 degrees 30' West 425.4 feet from the South West corner of said Quarter Section and running thence South 24 degrees 30' West 102.6 feet; thence South 37 degrees 45' West 462 feet to Mill Creek; thence along Mill Creek South-Westerly and Easterly to a point 586.7 feet East and 244.2 feet North of the South West corner of said Quarter Section; thence South 244.2 feet; thence East 1023 feet; thence North 14 degrees 45' East 784.8 feet; thence North 78 degrees 25' West 910.5 feet to place of beginning. Containing 21.37 acres.

SUBJECT, HOWEVER, to the rights granted to Ogden City, a municipal corporation, in that final Order of Condemnation dated June 18th, 1923, and recorded June 18th, 1923, in Book 100, at Page 188 of the records of the County Recorder of Weber County, State of Utah.

Also all that portion of land lying North of the canal of the following described property: A part of the North East Quarter (NE $\frac{1}{4}$ ) of Section Ten (10) Township Six (6) North, Range Two (2) West, Salt Lake Meridian, U. S. Survey: Beginning 20 chains South and 9 chains West of the North East corner of said Quarter Section; thence West 9 chains; thence North 27 degrees East 22.45 chains; thence East 1.06 chains; thence South 74 degrees East 3.85 chains; thence South 7 degrees 45' West 15.84 chains; thence North 58 degrees West 3 chains; thence South 15 degrees West 5 chains to the place of beginning. (and other land)

TOGETHER WITH all water or water rights thereunto belonging, or in any wise appertaining, including 11 shares of the capital stock of the North Slatterville Irrigation Company, the same being represented by Certificate Number 67.

TOGETHER WITH ALL APPURTENANCES thereunto belonging and together with 50 shares of the Capital Stock of the Warren Irrigation Company, and also seven (7) second feet of water out of First Salt Creek as expressed in "Certificate of Appropriation of Water, State of Utah, application #6376--Certificate #1413, Weber River Water Division," dated August 4th, 1913, Recorded November 13, 1925--in Book "A" of water records, Page 226, Weber County, Utah.



TOGETHER WITH any right, title and interest of said Grantors in Certificate #70 for one hundred (100) shares of the capital stock of the Plain City National Farm Loan Association.

THIS DEED IS INTENDED BY THE GRANTORS to convey to the Grantee all their right, title and interest in the above described property as the widow and heirs at law of said John Wheeler, deceased, authorizing the distribution of said property to the said Grantee herein.

(signed) Emma S. Wheeler,  
Clarence A. Wheeler,  
Josephine Wheeler,  
Ethel Wheeler Skeen,  
Rosella Wheeler Baker,  
Victor J. Wheeler.

Witness: Wade M. Johnson.

ACKNOWLEDGED: on the 17th day of February, 1934, Emma S. Wheeler, surviving wife and widow of John Wheeler, deceased, Clarence A. Wheeler, son of said John Wheeler, deceased, and Josephine Wheeler, his wife, Ethel Wheeler Skeen, daughter of said John Wheeler, deceased, Rosella W. Baker, daughter of said John Wheeler, deceased, and Victor J. Wheeler, Single, son of said John Wheeler, deceased, the signors of the above instrument, who duly acknowledged to me that they executed the same, before Wade M. Johnson, a Notary Public, residing at Ogden, County of Weber, State of Utah. (Notarial Seal) Commission expires January 6th, 1935.

Entry No. 38 IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT  
OF THE STATE OF UTAH, WITHIN AND FOR THE COUNTY OF  
WEBER.

In the Matter of the Estate  
of

PETITION FOR LETTERS OF ADMINISTRATION.  
Filed March 9th, 1932.  
File No. 5141.

John Wheeler, Deceased.

The petition of Emma S. Wheeler, of Weber County, State of Utah, respectfully shows: That John Wheeler died on or about the 1st day of January, 1932, in the County of Weber, State of Utah: That said decedent at the time of his death was a resident of the County of Weber, State of Utah: That said decedent left estate in the County of Weber, State of Utah, consisting of real and personal property: That the value, character and annual revenue of said property are as follows:

AN UNDIVIDED ONE-HALF INTEREST in approximately 2700 acres of land in Weber and Box Elder Counties, State of Utah, said land being largely grazing land situate in the Warren district, of the approximate value of \$7,000.00 and an annual rental of about \$500.00. That a majority portion of said land is mortgaged to the Federal Land Bank of Berkeley, California, together with

FIFTY (50) SHARES OF THE WATER RIGHT of the Warren Irrigation Company.

FIFTY (50) SHARES OF STOCK of the Plain City National Farm Loan Association of Plain City, being represented by Certificate Number 70 for one hundred shares, being held as security for said farm loan.

REAL ESTATE IN SLATERVILLE, WEBER COUNTY, UTAH, of the approximate value of Two Thousand Dollars, being about twenty-seven acres, together with

ELEVEN (11) SHARES OF WATER STOCK of the North Slaterville Irrigation Co., said property being mortgaged to the Ogden State Bank and said stock being mortgaged to the Ogden State Bank as security.

A ONE-HALF INTEREST IN SHEEP BUSINESS conducted by decedent in partnership with his son, Russell Wheeler, said sheep having heretofore been taken over by said Ogden State Bank under chattel mortgage and said partnership interest being nothing.

That the estate and interests herein and in respect to which letters of Administration are hereby applied for do not exceed the value of \$10,000.00

That the names, ages, relationship and residence of the next of kin of said decedent and whom your petitioner is advised and believes and therefore alleges to be the heirs at law of said decedent are as follows, to-wit;

Entry No. 45

John A. Malia, State Bank Commis-  
sioner of the State of Utah

To

Whom It May Concern

)  
) CERTIFICATE OF APPOINTMENT  
) Dated October 13th, 1932  
) Filed October 14th, 1932  
) File No. 12756 (Civil)  
)  
)  
)

-----  
I, John A. Malia, Bank Commissioner of the State of Utah, hereby certify that I have this day appointed T. E. Thomas, a duly qualified citizen of the State of Utah to act as Special Liquidating Agent in Charge of Ogden State Bank, at Ogden, Utah as provided for in Section 6 of Senate Bill #18, Session Laws of Utah, 1921.

(Signed) J. A. Malia, State Bank Commissioner  
(Banking Department State of Utah Seal)

I, John A. Malia, Bank Commissioner of the State of Utah, do hereby certify that the foregoing is a true and correct copy of Certificate of Appointment of T. E. Thomas, Special Liquidating Agent in Charge of Ogden State Bank at Ogden, Utah, on file in my office.

Dated at Salt Lake City, Utah, the 13th day of October, 1932.

(Signed) J. A. Malia, State Bank Commissioner.

Entry No. 46

Russel C. Wheeler and Maude  
E. Wheeler, his wife

To

Victor J. Wheeler and Mae Wheeler,  
his wife. The intention hereby being  
to convey an estate in entirety, so  
upon the death of either of the grantees  
herein, the entire estate shall vest in  
the survivor.

)  
)  
) WARRANTY DEED  
) Dated April 1st, 1935  
) Recorded April 1st, 1935  
) In Book 123 of Deeds, Page 590  
) Consideration \$1.00  
)  
)  
)

-----  
.....hereby convey and warrant....the following described tract of land in Weber County, State of Utah: A part of the Northeast quarter of Section 10, Township 6 North, Range 2 West, Salt Lake Meridian, U. S. Survey: Beginning at a point which is 20 chains North and 16.50 chains East and South 24° 30' West 425.4 feet from the Southwest corner of said quarter section and running thence South 24° 30' West 102.6 feet; thence South 37° 45' West 462 feet to Mill Creek; thence along Mill Creek Southwesterly and Easterly to a point 586.7 feet East and 244.2 feet North of the Southwest corner of said quarter section; thence South 244.2 feet; thence East 1023 feet; thence North 14° 45' East 784.8 feet; thence North 78° 25' West 910.5 feet to the place of beginning, containing 21.57 acres.

Also: All that portion of land lying North of the canal of the following described property; A part of the Northeast quarter of Section 10, Township 6 North, Range 2 West, Salt Lake Meridian, U. S. Survey: Beginning 20 chains South and 9 chains west of the Northeast corner of said quarter section; thence West 9 chains; thence North 27° East 22.45 chains; thence East 1.06 chains; thence South 74° East 3.85 chains; thence South 7° 45' West 15.84 chains; thence North 58° West 3 chains; thence South 15° West 5 chains to the place of beginning.

Together with all water or water rights thereunto belonging, or in anywise appertaining, including 11 shares of the capital stock of the North Slaterville Irrigation Company, the same being represented by Certificate #141.

(Signed) Russell C. Wheeler  
Maude E. Wheeler

Witness: Chas. Kingston

ACKNOWLEDGED: On the 1st day of April, 1935, Russel C. Wheeler and Maude E. Wheeler, his wife, before Chas. Kingston, a Notary Public, Residing at Ogden, Weber County, State of Utah. (Notarial Seal) Commission expires July 5, 1937.

Entry No. 50

STATE OF UTAH                    )  
                                  : 35.  
County of Weber                 )  
-----

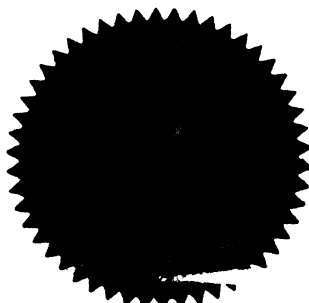
C E R T I F I C A T E :

The HOME ABSTRACT COMPANY, Licensed and Bonded Abstracters of Titles, in and for the County of Weber, State of Utah, does hereby certify that it has examined the records in the office of the County Recorder in and for the County of Weber, State of Utah, for all instruments of record or on file in the said office affecting the title to the land described as follows:

A part of the North East quarter of Section 10, Township 6 North, Range 2 West, Salt Lake Meridian, U. S. Survey: Being all that part of the following described tract of land which lies North of the canal: Beginning at a point 20 chains South and 10.25 chains West from the Northeast corner of the Northeast quarter of said Section 10, running thence West 9 chains; thence North 27° East 22.45 chains; thence East 1.06 chains; thence South 74° East 3.85 chains; thence South 7° 45' West 15.84 chains; thence North 58° West 3 chains; thence South 15° West 5 chains to the place of beginning.

from April 7th, 1934 at 9:00 o'clock A. M., up to this 12th day of May, 1942 at 10:30 o'clock A. M., and there are none, excepting as herein shown.

IN WITNESS WHEREOF: Said Company has caused this certificate to be signed by its Manager and its Seal to be hereunto affixed this 12th day of May, 1942.



25

THE HOME ABSTRACT COMPANY

BY [Signature] Manager

WARRANTY DEED . . . No. 50

VICTOR J. WHEELER and MAE WHEELER,  
husband and wife,

Dated May 19th, 1942.

Recorded May 20, 1942.

--TO--

Book 150 Deeds page 126.

DANN P. FURER and ELLA B. FURER, husband  
and wife, as joint tenants and not as  
tenants in common, with full right of  
survivorship.

Amount \$115.00  
\$3.50 I. P. Stamp.

Whereby conveys and warrants land in Weber County, State of Utah.

A part of the northeast quarter of Section 10, Township 6 North, Range 2 East,  
Salt Lake Meridian, U. S. Survey: being all that part of the following described  
tract of land which lies North of the canal; Beginning at a point 20 chains  
south and 10.25 chains west from the northeast corner of the northeast quarter of  
said section 10, running thence west 9 chains; thence north 27° east 22.45 chains;  
thence east 1.06 chains; thence south 74° east 3.85 chains; thence south 7° 45'  
west 15.81 chains; thence north 58° west 3 chains; thence south 15° west 5 chains  
to the place of beginning.

Subject to the general taxes for the year 1942 and thereafter.

(Signed) Victor J. Wheeler  
Mae Wheeler

Witness: C. V. Zinn

ACKNC LEDGED in Weber County, Utah on May 19, 1942, by Victor J. Wheeler and Mae  
Wheeler, husband and wife. . . before C. V. Zinn, Notary Public, residing at Ogden,  
Utah. (SEAL) Comm. exp. May 10, 1945.

---

CONVEYANCING

NOTARY PUBLIC

**CROCKETT ABSTRACT CO.**

VERNON W. CROCKETT, Mgr.

OGDEN, UTAH

CENTRAL WEBER SEWER IMPROVEMENT DISTRICT,  
a Municipal corporation

-to-

EARN P. FRYER AND ELLA B. FRYER,  
husband and wife, as joint tenants  
and not as tenants in common, with  
full rights of survivorship

DEED OF EASEMENT

Dated January 21, 1957  
Ack'd January 22, 1957  
Before Glenn W. Adams, Notary Public  
Ogden, Utah (Notarial Seal)  
Com. Expires Jan. 25, 1957  
By Doren Boyce, Chairman of the  
CENTRAL WEBER SEWER IMPROVEMENT DIST.  
Recorded January 31, 1957  
In Book 537 Page 495 of Records  
Consideration \$10.00 and other valuable  
consideration

DOES HEREBY TRANSFER AND CONVEY an easement for the travel of farm animals and farm  
machinery over the hereinafter described real property situated in Weber County, Utah.

Beginning at the Northeast corner of the Northeast Quarter of Section 10, Township  
6 North, Range 2 West, Salt Lake Base and Meridian; thence West 332 feet; thence  
South 15° West 581 feet to the point of beginning of subject access r.o.w.; thence  
South 15° West 1116.9 feet; thence South 77° 30' East 15 feet; thence North 15° East  
1116.9 feet; thence North 77° 30' West 15 feet to end of r.o.w.

The above and foregoing right of way shall be appurtenant to the hereinafter described  
property and owned by the Grantees situated in Weber County, Utah.

All that portion of land lying North of the canal of the following described property:  
A part of the Northeast quarter Section 10, Township 6 North, Range 2 West, Salt Lake  
Meridian, U.S. Survey: Beginning 20 chains South and 9 chains West of the Northeast  
corner of said Quarter Section; thence West 9 chains; thence North 27° East 22.45  
chains; thence East 1.06 chains; thence South 74° East 3.85 chains; thence South 7°  
45' West 15.84 chains; thence North 58° West 3 chains; thence South 15° West 5 chains  
to the place of beginning.

The Easement hereinabove granted is not an exclusive easement, and the Grantors  
reserves the right in themselves to the use of said right of way area not inconsistent  
with the use of the Grantees, and reserve the right to create and grant other ease-  
ments for other purposes in favor of other persons over the same right of way area.

(Signed in behalf of said district by authority of a resolution of its Board of  
Trustees)

Signed: CENTRAL WEBER SEWER IMPROVEMENT DISTRICT  
By Doren Boyce, Chairman  
(Seal affixed)

PAGE No 9





BOOK 100 PAGE 120

# WARRANTY DEED

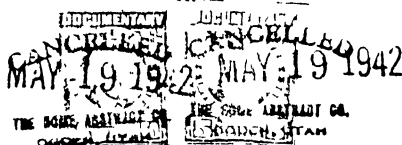
-----Victor J. Wheeler and Mae Wheeler, husband and wife-----

Grantor..s..., of ..Ogden City...-County of ..Weber...-State of Utah,  
hereby convey.....and warrant.....to.....Earn P. Fryer and Ella B. Fryer, husband and  
wife, as joint tenants and not as tenants in common, with full right of  
...survivorship.....

Grantee..s..of ..Ogden City...-County of ..Weber...-State of Utah,  
for the sum of.....Four Hundred and Forty-five and 00/100 (\$445.00).....-DOLLARS,  
the following described tract of land in.....Weber.....County, State of Utah,

A part of the Northeast quarter of Section  
10, Township 6 North, Range 2 West, Salt Lake  
Meridian, U. S. Survey: Being all that part of  
the following described tract of land which lies  
North of the canal: Beginning at a point 20 chains  
South and 10.25 chains West from the Northeast  
corner of the Northeast quarter of said Section  
10, running thence West 9 chains; thence North 27°  
East 22.45 chains; thence East 1.06 chains; thence  
South 74° East 3.85 chains; thence South 7° 45' West  
15.84 chains; thence North 58° West 3 chains; thence  
South 15° West 5 chains to the place of beginning.

Subject to the general taxes for the year 1942 and  
thereafter.



WITNESS the hand..s...of the Grantor..s...this ..19th  
day of ..May....., 19 42..

Signed in the presence of

*[Signature]*

*Victor J. Wheeler*  
*Mae Wheeler*

Security Title 60

1970 APR 7 AM 11 46

6  
2-23-88

15-007-0007

15-029-0002

Platted ☒ Indexed ☐  
 Recorded ☒ Abstracted ☐  
 Compared ☒ Paged ☐  
 Microfilmed ☒

RUTH EAMES OLSEN  
 WEBER COUNTY RECORDER  
 DEPUTY *[Signature]*

(DO NOT WRITE ABOVE THIS LINE)

## WARRANTY DEED

EARN P. FRYER and ELLA B. FRYER, husband and wife

of Slaterville County of Weber

GRANTOR(S)  
State of Utah

hereby CONVEYS and WARRANTS TO JIMMY G. MAHAS AND JOAN MAHAS, his wife, as joint tenants with full rights of survivorship,

of Ogden County of Weber

GRANTEE(S)  
State of Utah,for the sum of One Hundred and no/100-----Dollars (\$100.00 )  
the following described tract(s) of land in Weber County, State of Utah:

A part of the Northeast quarter of Section 10, Township 6 North, Range 2 West, Salt Lake Meridian, U.S. Survey, Beginning at a point 8 chains West of the Northeast Corner of said Section 10; thence West 1.06 chains thence South 27° West to Warren Canal; thence Southeasterly along said canal to a point North 15° East 10.18 chains from county road; thence North 15° East 975 feet; thence North 74° West 198 feet to point of beginning. and

Quarter

A Part of the South one-half of the Southeast 1/4 of Section 3, Township 6 North, Range 2 West, Salt Lake Meridian, U.S. Survey, Beginning at a point on the South line of said quarter section 1507 feet East of the Southwest section corner and running thence East along the South line of said Southeast one-half section 540 feet; thence North 4° 53' East 970 feet more or less to the center of 4-Mile Creek; thence Westerly along creek to a point North 4° 53' East of beginning; thence South 4° West 940 feet to point of beginning containing 11.85 acres together with and subject to existing Right of Way. and conveying right of way for ingress and egress over the following described property. Beginning at the Northeast Corner of the Northeast Quarter of Section 10, Township 6 North, Range 2 West, Salt Lake Base and Meridian; thence West 332 Feet; Thence South 15° West 581 feet to the point of beginning of subject access r.o.w.; thence South 15° West 1116.9 feet; thence South 77°30' East 15 feet; thence North 15° East 1116.9 feet; thence North 77°30' West 15 feet to end of r.o.w.

WITNESS the hands of said Grantors this

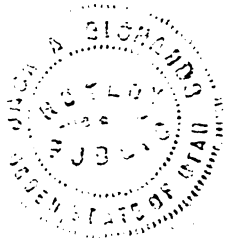
19<sup>th</sup> day of March - A. D. 1970

Signed in the presence of:

*[Signature]*

*[Signature]*  
*[Signature]*

(NOTARY SEAL)

State of Utah }  
County of Weber }ss. On the 19<sup>th</sup> day of March A. D. 1970

personally appeared before me EARN P. FRYER and ELLA B. FRYER

the signer(s) of the within instrument, who duly acknowledged to me that they executed the same.

Residing at: *[Signature]*

My Commission expires: 3/5/75

DOU 1775  
WEBER DEED  
DEPUTY *Bennett Cross*

JAN 21 1 11 PM '87

996527

#1730

DEPUTY

JUL 8 3 00 PM '85

FILED

941574

FILED AND INDEXED FOR

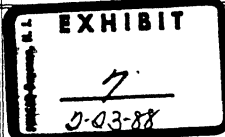
Platted

Verified

Entered

Microfilmed

(DO NOT WRITE ABOVE THIS LINE)



## WARRANTY DEED

JOAN NORMAN formerly known as JOAN MAHAS  
of Ogden County of Weber  
hereby CONVEYS and WARRANTS TO

GRANTOR(S)  
State of Utah

GEORGE G. MAHAS and LUCILLE H. MAHAS, husband and wife as joint tenants  
with full rights of survivorship.

of Ogden County of Weber  
for the sum of Ten and other good and valuable cons.  
the following described tract(s) of land in Weber

GRANTEE(S)  
State of Utah,  
Dollars (\$ 10.00 )  
County, State of Utah:

## LEGAL DESCRIPTION

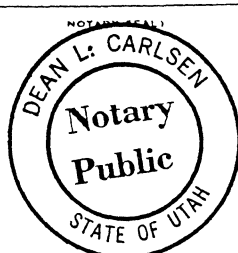
A part of the Northeast Quarter of Section 10, Township 6 North, Range 2 West, Salt Lake Meridian, U.S. Survey: Beginning at a point 8 chains West of the Northeast corner of said Section 10; running thence West 1.06 chains; thence South 27° West to Canal; thence Southeasterly along said canal to a point North 15° East 10.18 chains from County Road; thence North 15° East 975 feet; thence North 74° West 198 feet to the point of beginning.

ALSO: A part of the South one-half of the Southeast Quarter of Section 3, Township 6 North, Range 2 West, Salt Lake Meridian, U.S. Survey: Beginning at a point on the South line of said Quarter Section 1507 feet East of the Southwest Section corner, and running thence East along the South line of said Southeast Quarter Section 540 feet; thence North 4°53' East 970 feet, more or less to the center of 4 Mile Creek; thence Westerly along Creek to a point North 4°53' East of beginning; thence South 4°53' West 940 feet to point of beginning.

SUBJECT TO and together with existing right-of-way, and conveying right-of-way for ingress and egress over the following described property: Beginning at the Northeast corner of the Northeast Quarter of Section 10, Township 6 North, Range 2 West, Salt Lake Base and Meridian; thence West 332 feet; thence South 15° West 581 feet to the point of beginning of subject access right-of-way; thence South 15° West 1116.9 feet; thence South 77°30' East 15 feet; thence North 15° East 1116.9 feet; thence North 77°30' West 15 feet to end of right-of-way.

BOOK 1507 PAGE 2758

BOOK 14707



State of Utah } ss  
County of Weber }

On the 8th day of July

A. D. 19 85

personally appeared before me JOAN NORMAN formerly known as  
JOAN MAHAS

the signer(s) of the within instrument, who duly acknowledged to me that she  
executed the same

Residing at

Liberty, Utah

My Commission expires

JANUARY 24, 1988

MAIL DEED TO

MAIL TAX NOTICE TO

*60 East*  
2754 N. 450 E.  
North Ogden, UT



Recorded  
Compared  
Microfilm

Abstract  
Paged

10101  
700

EXHIBIT 5

DEPU' *Ellen B. Fryer*  
MAY 7 3 48 PM '87



QUIT CLAIM DEED

FILED AND RECORDED FOR  
*John Huggins*

EARN P. FRYER and ELLA B. FRYER, husband and wife GRANTORS of Slaterville, County of Weber, State of Utah, hereby **QUIT CLAIM** to GEORGE G. MAHAS and LUCILLE H. MAHAS, husband and wife, as joint tenants, not as tenants in common with full rights of survivorship, GRANTEES of Ogden, County of Weber State of Utah, for the sum of Ten and other good and valuable consideration DOLLARS (\$10.00), the following described tract of land in Weber County, State of Utah:

A part of the Northeast quarter of Section 10 Township 6 North, Range 2 West, Salt Lake Meridian, U. S. Survey, Beginning at a point 8 chains West of the Northeast corner of said Section 10; thence West 1.06 chains; thence South 27° West to an old canal line; thence Southeasterly along said canal to a point North 15° East 10.18 chains from county road; thence North 15° East 975 feet; thence North 74° West 198 feet to point of beginning.

This deed is given to correct a deed heretofore given by us dated the 19th day of March, 1970 and recorded April 7, 1970 in the Office of the Weber County Recorder No. 533600, which said Deed mistakenly referred to the "Warren Canal" as one of the boundaries.

WITNESS the hand of said Grantor this 7<sup>th</sup> day of May, 1987.

*Earn P. Fryer*  
EARN P. FRYER

*Ellen B. Fryer*  
ELLA B. FRYER

STATE OF UTAH )  
COUNTY OF WEBER )

On the 7<sup>th</sup> day of May, 1987, personally appeared before me EARN P. FRYER and ELLA B. FRYER, the signers of the within instrument, who duly acknowledged to me that they executed the same.

*Notary Public*  
NOTARY PUBLIC residing  
Ogden, Weber County, Utah

My Commission Expires: 4/12/90

9001516 PAGE 1121

PRUDENTIAL FEDERAL SAVINGS  
& LOAN ASSOCIATION

BOOK 1092 PAGE 255

P. O. BOX 11249

SALT LAKE CITY, UTAH

Recorded at Request of

641926

4 23

Plotted ☒ Indexed ☒ Paid ☒Photocopied ☐ Card File ☐Microfilm ☐ Abstracted ☐

Dep. Book

Page

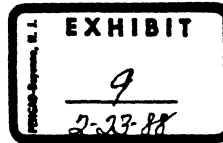
Ref.: *Genotough*

Mail tax notice to

Address

## WARRANTY DEED

PRISCILLA M. OWENS, aka PRICILLA M. OWENS, A Woman grantors  
 of Ogden, County of Weber, State of Utah, hereby  
 CONVEY and WARRANT to LAVAR RINDLISBACHER AND ELAINE RINDLISBACHER, his wife



of Ogden, Utah

TEN AND NO/100

granteeS  
 for the sum of  
 DOLLARS,

the following described tract of land in  
 State of Utah:

Weber

County,

A Part of the Northeast Quarter of Section 10, Township 6  
 North, Range 2 West, Salt Lake Meridian, U. S. Survey:  
 Beginning 9.06 chains West and South 27° West 22.43 chains  
 from the Northeast corner of Section 10 (at a point in the  
 Northerly line of the County Road) thence North 27° East  
 12.00 chains, more or less, to a canal; thence Southeasterly  
 along canal to a point North 15° East 10.18 chains from the  
 County Road; thence South 15° West 10.18 chains to the County  
 Road; thence Northwesterly along the County Road, 600 feet, more  
 or less, to the place of beginning. Excepting therefrom that  
 portion Deeded to Marvin L. Barney & wife Edith E. Barney  
 in Book 1037, Page 2 and Book 1022, Pare 70 of Records.

WITNESS, the hand of said grantor, this 10th day of  
 July, A. D. 19 75

Signed in the Presence of

X *Priscilla M Owens*

PRICILLA M. OWENS aka

PRISCILLA M. OWENS

STATE OF UTAH,

County of Salt Lake

ss.

On the 10th day of July  
 personally appeared before me Pricilla M. Owens

the signer of the within instrument, who duly acknowledged to me that she executed the  
 same.

*George M. Rogers*

I. GORDON HUGGINS,1569  
Attorney at Law  
1218 First Security Bank Bldg.  
Ogden, Utah, 84401  
Telephone: 392-7587

IN THE DISTRICT COURT OF WEBER COUNTY, STATE OF UTAH

-----  
GEORGE G. MAHAS AND ) AMENDED  
LUCILLE H. MAHAS )  
  
Plaintiff ) FINDINGS OF FACT AND  
CONCLUSIONS OF LAW  
  
vs )  
  
LAVAR RINDLISBACHER ) Civil No.98505  
  
Defendant )  
-----

The above entitled matter having come on regularly for hearing on the 23rd day of February, 1988, and plaintiff appearing and being represented by their attorney, I. GORDON HUGGINS, and the defendant appearing and represented by his counsel, MARTIN V. GRAVIS. Plaintiff and his witnesses having been duly sworn and testifying and the defendant having called his witness who testified and based upon the testimony and exhibits submitted by the parties, Now therefore, the Court hereby makes its:

FINDINGS OF FACT

1. That the plaintiff is the owner of certain real property located in Slaterville, Weber County, Utah and more particularly described as follows, to wit:

A part of the Northeast Quarter of Section 10 T6N, R2W, SLM, U.S. Survey: Beginning at a point 8 chains West of the Northeast corner of said Section 10; running thence West 1.06 chains; thence South 27° West to Canal; thence Southeasterly along said

canal to a point North 15° East 10.18 chains from County Road; thence North 15° East 975 feet; thence North 74° West 198 feet to the point of beginning.

2. That the defendant is the owner of certain real property adjacent to Plaintiff's property, more particularly described as follows, to wit:

A Part of the Northeast Quarter of Section 10, T6N, R2W, SLM. U.S. Survey: Beginning 9.06 chains West and South 27° West 22.43 chains from the Northeast corner of Section 10 (at a point in the Northerly line of the County road); thence North 27° East 12.00 chains, more or less, to a canal; Thence Southeasterly along canal to a point North 15° East 10.18 chains from the County road; thence South 15° West 10.18 chains to the County Road; Thence Northwesterly along the County Road, 600 feet, more or less, to the place of beginning.

Excepting therefrom that portion deeded to Marvin L. Barney and Wife, Edith E. Barney in Book 1037, page 2 and Book 1022 page 70 of Records

3. That conveyances from Plaintiff's and Defendant's predecessors in title describe said properties by courses and distances which, when surveyed and platted, close and harmonize.

4. That if the Warren Canal is the Canal that is referred to in most of the Deeds, then the descriptions of Plaintiff's and Defendant's parcels doesn't make any sense.

5. From the evidence admitted, it appears that the Warren Canal has not moved significantly since 1908.

6. That there is no strong evidence, in recent history, that there is another canal in the area in existence, but there is, in fact, a reference to a canal that is described in the metes and bounds description in

that location, some evidence of a possibility that at one time there was a canal in that area.

7. That if this was the case where the canal was some 50 feet or less off the metes and bounds description, it would be assumed that that the canal was the boundary. But, where it is some 400 feet off, to find that the Warren Canal is the boundary would lead us to an absurd result.

8. That there are clear descriptions of all parcels in that area where Plaintiff's and defendant's properties are located and they all seem to suggest that the natural boundary is where Plaintiff is arguing it is. It is so found that that is the boundary.

9. That if the metes and bounds description of Plaintiff's property is charted with the acreage computed therefrom, the acreage is approximately 4 1/2 acres. If the Warren Canal were the boundary, with the acreage computed, there would be less than 2 acres. This would result in an absurdity. Therefore, Plaintiff prevails on his claim as to where the boundary is.

10. That there is insufficient evidence to determine damages claimed by plaintiff for defendant's use of the property or otherwise.

From the foregoing Findings of Fact, the Court enters its:

#### CONCLUSIONS OF LAW

1. Plaintiff is entitled to a Judgment against defendant determining that the true property line between

the properties of the parties be located by the Courses and distances calls only of their respective conveyances.

2. That the Warren Canal is not the monument referred to in the conveyances of Plaintiff and Defendant,

3. That defendant is entitled to an Order dismissing Plaintiff's Complaint against defendant for damages to plaintiff's property.

4. That Plaintiff is entitled to his costs of Court.

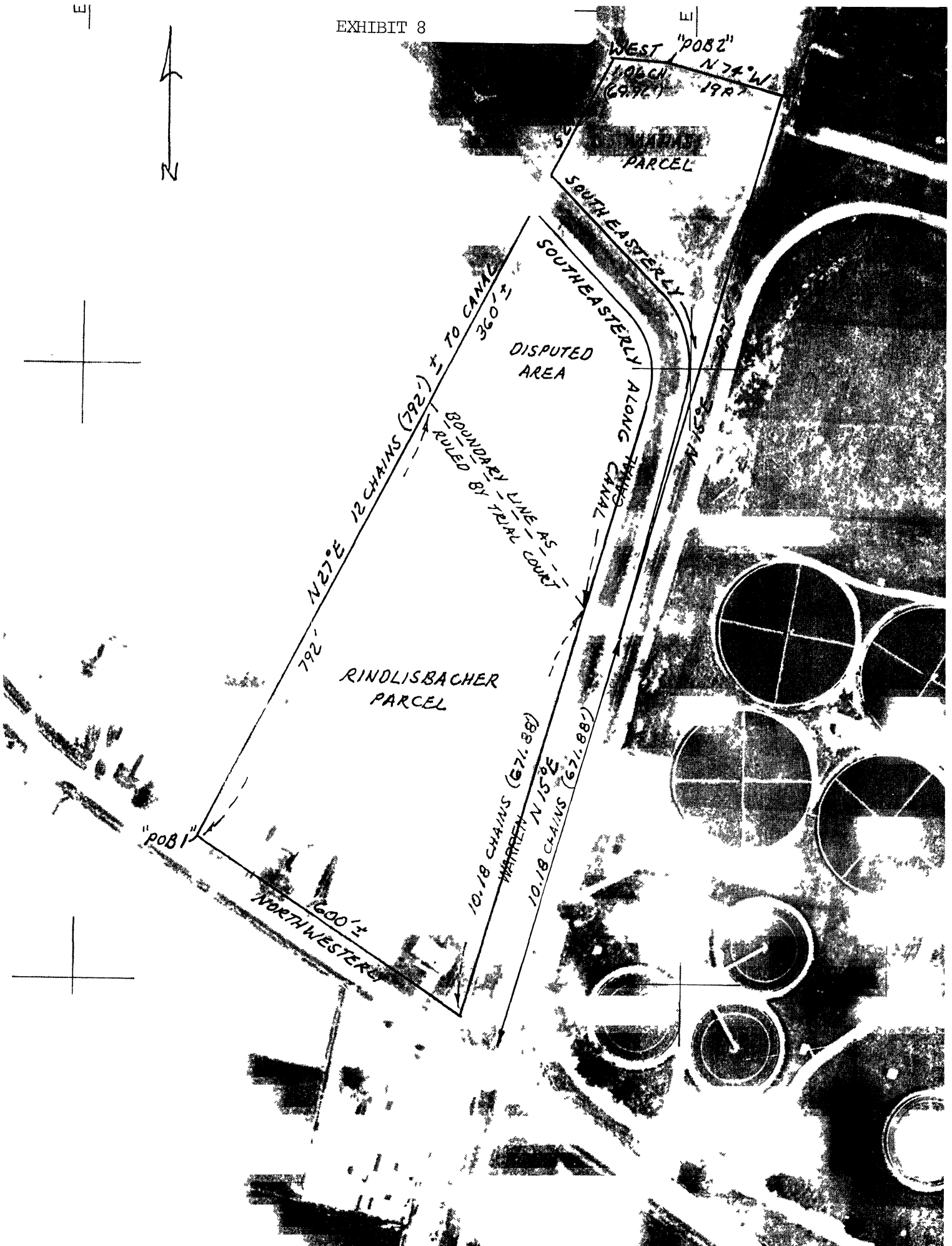
DATED This 18 day of May, 1988.

151 DAVID E. ROTH  
DAVID E. ROTH  
DISTRICT COURT JUDGE

APPROVED AS TO FORM

\_\_\_\_\_  
MARTIN V. GRAVIS  
Attorney for Defendant

EXHIBIT 8



SCALE 1" = 200'

PREFIX: 15-029  
ALSO SEE P. 29-2 TO 4

PARCEL Nos.  
0001 to 0007  
0009 to 0017  
0020  
0054

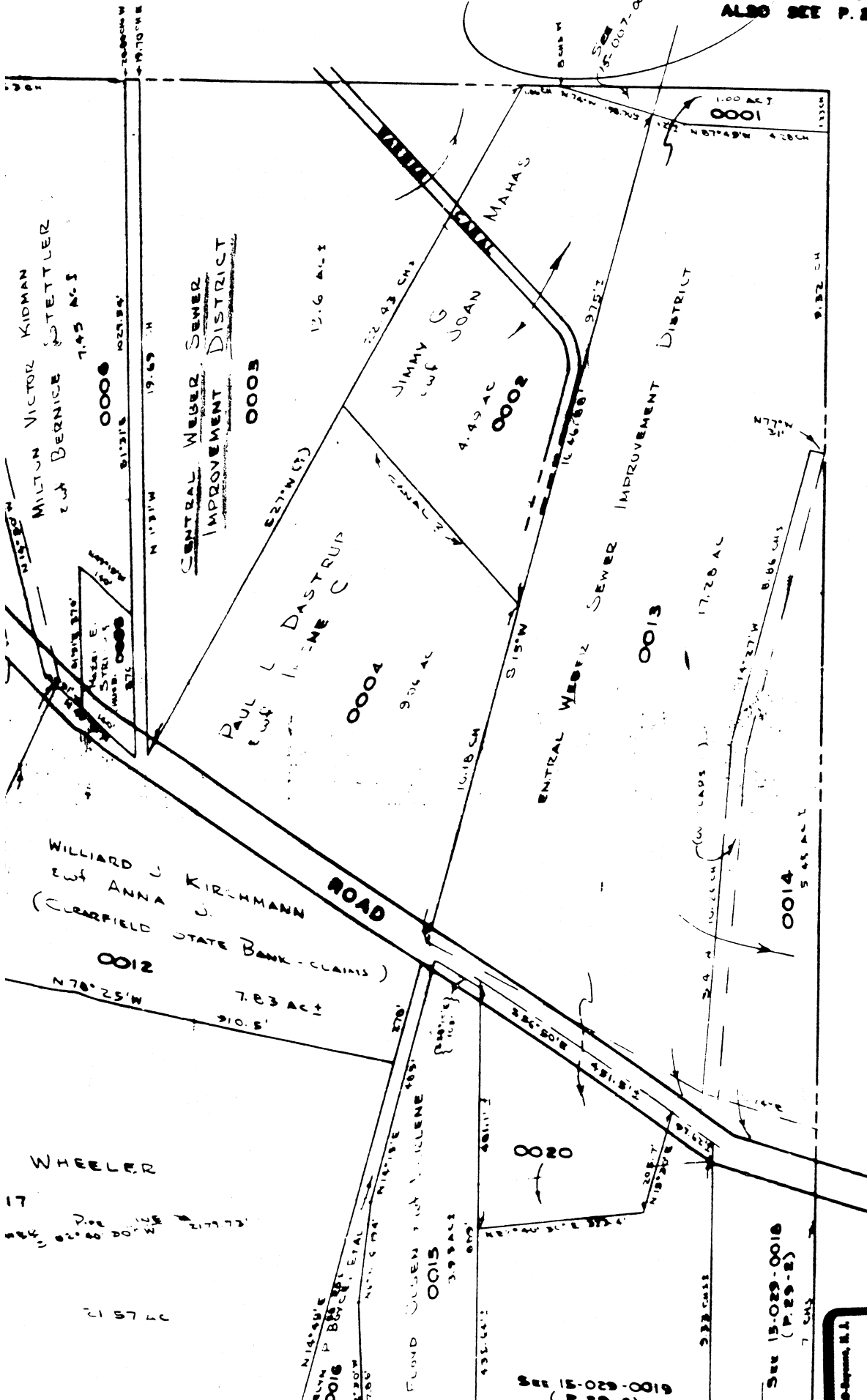


EXHIBIT  
Declarations  
20