STATE OF COLORADO

Temp - DNR, DRMS <drms.temp@state.co.us>

File No. M-2017-049/Kimble Witness and Exhibit Lists

1 message

Amanda Bradley <aab@ablawcolorado.com> Mon, Apr 9, 2018 at 10:45 AM
To: "drms.temp@state.co.us" <drms.temp@state.co.us>
Cc: Cheri Kimble <g.kimble@pcisys.net>, Cindy Bolton <cab@ablawcolorado.com>, Carrie Bernstein <csb@ablawcolorado.com>

Per the March 19, 2018 *Order Regarding Deadlines for and Service of Motions, Witness and Exhibit Lists, and Exhibits*, please find attached the Witness and Exhibit Lists submitted on behalf of Cheryl L. Kimble in the referenced matter.

In addition, five copies of the attached will be provided for the Board at the Pre-Hearing Conference.

AMANDA A. BRADLEY
ALDERMANBERNSTEIN

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Kimble Witness and Exhibit Lists.pdf
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COLORADO MINED LAND RECLAMATION BOARD c/o Mr. Jeff Graves, Pre-Hearing Conference Officer 1313 Sherman Street, Room 215 Denver, CO 80203	
Applicant: TRANSIT MIX CONCRETE CO. **File No:** M2017049	
Attorneys for Objector Cheryl L. Kimble: Carrie S. Bernstein, Atty Reg. # 34966 Amanda A. Bradley, Atty Reg. # 29489 ALDERMAN BERNSTEIN LLC 101 University Boulevard, Suite 350 Denver, Colorado 80206 Telephone: 720-460-4200 Fax: 720-293-4712 E-mail: csb@ablawcolorado.com; aab@ablawcolorado.com	
WITNESS AND EXHIBIT LISTS	

Cheryl L. Kimble, by and through the undersigned counsel and pursuant to Rule 2.6 of the Colorado Mined Land Reclamation Board Mineral Rules and Regulations, submits the following Witness and Exhibit Lists in anticipation of the formal hearing scheduled to commence April 25, 2018, in this matter (the "Hearing"):

WITNESSES

The undersigned may call the following individuals as lay witnesses to testify at the Hearing:

1. Mr. Jerald Schnabel
   President, Transit Mix Concrete Co.
   444 East Costilla Street
   Colorado Springs, CO 80903

2. Mr. Andre LaRoche
   Permit Specialist, Transit Mix Concrete Co.
   444 East Costilla Street
   Colorado Springs, CO 80903

3. Paul Kos, P.E.
   Norwest Corporation
   950 South Cherry Street, Suite 800
   Denver, CO 80246

4. Nancy E. Reed, Ph.D.
   4848 Little Turkey Creek Road
   Colorado Springs, CO 80926

5. Ms. Cheryl L. Kimble
   683 Grey Eagle Cir. S.
   Colorado Springs, CO 80919

6. Mr. Harmut Wright
   Fire Chief, Southwestern Highway 115 Fire Protection District
   15580 Cala Rojo Dr.
   Colorado Springs, CO 80926

7. Any other party to this matter.

8. Any witness identified by any other party in this matter.

The undersigned counsel may call the following individuals to provide expert testimony at the Hearing:

1. Harmut Wright
   Fire Chief, Southwestern Highway 115 Fire Protection District
   15580 Cala Rojo Dr.
   Colorado Springs, CO 80926

2. Any other expert witness identified by any other party in this matter.

EXHIBITS

1. 1968 El Paso County District Court Decree (copy submitted herewith)

2. October 5, 2017, Permit Application Package, Volumes I-IV and exhibits

3. Objection letter submitted by Southwestern Highway 115 Fire Protection District on April 19, 2016 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1129088/Page1.aspx?searchid=f48d8620-8754-434b-ac02-1fbaab8d0dea)

4. Objection letter submitted by Southwestern Highway 115 Fire Protection District on December 21, 2017 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1231147/Electronic.aspx?searchid=ad7ebd99-4000-45bc-b443-bb1c33bf7ed7)

5. Objection letter submitted by Steve Mulliken on behalf of the Barbara Ingersoll Marital Trust established by Article 7 of Amended and Restated Trust Agreement of the Harold C. Ingersoll Revocable Trust dated August 11, 2008, on December 21, 2017 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1231134/Page1.aspx?searchid=ad7ebd99-4000-45bc-b443-bb1c33bf7ed7)

6. Objection letters submitted by Nancy Reed on December 9, 2017 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1228719/Electronic.aspx?searchid=1197332a-ada6-46e5-b769-18867428217f and http://drmsweblink.state.co.us/drmsweblink/0/doc/1228718/Electronic.aspx?searchid=1197332a-ada6-46e5-b769-18867428217f)

7. Objection letter submitted by the undersigned on behalf of Cheryl L. Kimble on April 18, 2016 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1128674/Page1.aspx?searchid=f48d8620-8754-434b-ac02-1fbaab8d0dea).

8. Objection letters submitted by Cheryl L. Kimble on April 18, 2016 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1128676/Page1.aspx?searchid=f48d8620-8754-434b-ac02-1fbaab8d0dea), and July 7, 2016 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1135631/Page1.aspx?searchid=5669bf29-f49b-454b-81c2-030aae95a1d1) .

9. Objection letters submitted by the undersigned on behalf of Cheryl L. Kimble on December 20, 2017 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1230813/Electronic.aspx?searchid=f108debb-19f0-46c0-bffa-dc04a1759d26)

10. Objection letter submitted by Cheryl L. Kimble on December 20, 2017 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1230796/Page1.aspx?searchid=f108debb-19f0-46c0-bffa-dc04a1759d26)

11. Division adequacy letters dated February 12, 2018 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1241924/Electronic.aspx?searchid=6e30c84e-0ba1-4d3d-968d-132cbdc9b82a); March 16, 2018 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1244619/Electronic.aspx?searchid=6e30c84e-0ba1-4d3d-968d-132cbdc9b82a); March 22, 2018 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1245125/Electronic.aspx?searchid=c716648b-b2a9-4f97-951d-8551dda5afe7); and March 23, 2018

(http://drmsweblink.state.co.us/drmsweblink/0/doc/1245209/Electronic.aspx?searchid=c716648b-b2a9-4f97-951d-8551dda5afe7)

12. Applicant's responses to Division adequacy letters dated March 9, 2018, and March 20, 2018, March 23, 2018, and March 26, 2018

13. Photographs of Little Turkey Creek Road (submitted herewith)

14. DRMS's Response to "DRMS Rule 2.6 Pre-Hearing Motion to Deny Application for Mining Permit" dated October 20, 2016 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1153961/Electronic.aspx?searchid=41e5cdff-f8a1-47d3-b411-f5c5188d5ed1)

15. Mined Land Reclamation Board Findings of Fact, Conclusions of Law and Order dated December 22, 2016 (http://drmsweblink.state.co.us/drmsweblink/0/doc/1171514/Page1.aspx?searchid=41e5cdff-f8a1-47d3-b411-f5c5188d5ed1)

16. Objection letters submitted by any other party

17. Any exhibit introduced by any other party

18. Any exhibit required for rebuttal purposes

DATED this 9th day of April, 2018.

Respectfully submitted,

ALDERMAN BERNSTEIN LLC

Amanda A. Bradley, Reg. No. 29489

...ed at 10 o'clock A.M., JUL 11 1968
...tion No. 607138 HARRIET BEALS

BOOK 2239 PAGE 420

IN THE DISTRICT COURT WITHIN AND FOR

THE COUNTY OF EL PASO AND STATE OF COLORADO

Civil Action No. 54701

MID-COLORADO INVESTMENT COMPANY, INC., a Colorado Corporation,

Plaintiff,

vs.

GEORGE HUTCHISON, FRED E. CORNELL, PATRICIA F. CORNELL, MARION F. SANDERS, BILLIE B. SANDERS, GUS L. SANTERRE, MARILYN J. SANTERRE, WENDELL C. SPEAR, VIDETTA D. SPEAR, FRANCES HEARD BILLUPS as Trustee, GEROLD W. WEAKLAND, VESTA L. WEAKLAND, LEONARD L. WILSON, EMILY MAY WILSON, MARVIN J. WALTER, MARGOT A. WALTER, VELMA J. BARNES, K. C. WOFFORD, as Trustee, DAVID H. BIGGS, DAISY J. BIGGS, K. C. WOFFORD, CLAUDE R. BLUE, JOHN C. OCKEN, FRED M. CASSIDY, WILLIAM D. BARNES, WILLIAM J. PAPE, BETTY D. PAPE, IRVIN W. SHERWOOD, BETTYE ANN SHERWOOD, RALPH KNIGHT and EDITH MAY KNIGHT,

Defendants.

DECREE

This claim came on regularly for trial before G RUSSELL MILLER one of the Judges of the above entitled Court, sitting without a jury. Haney, Howbert & Akers and Gibson, Gibson, Colu & Gerdes appeared as attorneys for Plaintiff. Defendant George Hutchison appeared by Murray, Baker & Wendelken, his attorneys. Defendants Fred E. Cornell, Patricia F. Cornell, Marion F. Sanders and Billie B. Sanders appeared by Karl R. Ross, their attorney. Defendants Gus L. Santerre, Marilyn J.

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Santerre, Gerold W. Weakland, Vesta L. Weakland, Velma J. Barnes, K. C. Wofford, Claude R. Blue, K. C. Wofford as Trustee, John C. Ockon, Fred M. Cassidy, William D. Barnes, William J. Pape, Betty D. Pape, Irvin W. Sherwood, Bettye Ann Sherwood, Ralph Knight, Edith May Knight, Wendell D. Spear, Videtta G. Spear, Leonard L. Wilson and Emily May Wilson appeared by Tarter & Tarter, their attorneys. Defendants Frances Heard Billups, as trustee, ~~David H. Biggs, Daisy J. Biggs~~, Marvin J. Walter and Margot A. Walter appeared not. Plaintiff filed its affidavit that Defendants Frances Heard Billups as trustee, David H. Biggs, Daisy J. Biggs, Marvin J. Walter and Margot A. Walter were not in the military service of the United States of America as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended. The default of such Defendants Frances Heard Billups, as trustee, ~~David H. Biggs, Daisy J. Biggs~~, Marvin J. Walter and Margot A. Walter was entered. The Court, having jurisdiction of this claim and the parties hereto by reason of proper service of summons on Defendants, having heard the testimony, both oral and documentary, and having examined the proofs offered and being fully advised in the premises, and having filed its Findings of Fact and Conclusions of Law directing that a decree be entered in accordance therewith,

NOW, THEREFORE, doth Order, Adjudge and Decree:

1. Those portions of the roadway, described in the Complaint herein as the road up Little Turkey Creek,

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crossing the South half of the Southeast Quarter (S½ SE¼) of Section 15 and all of Section 16 in Township 16 South, Range 67 West of the 6th Principal Meridian in El Paso County, Colorado, is a private road appurtenant to the various tracts of real property, and each and every part thereof, without regard to any increase of burden on the servient estate hereafter by reason of the subdivision of any of said tracts belonging to the respective parties to this action, whose properties are herein described, for the use of said respective owners of such tracts of real property, their heirs and assigns, for the purposes of ingress and egress to and from said tracts of real property over and across said Section 16 and the said South half of the Southeast Quarter (S½SE¼) of Section 15 owned by Defendant Hutchison to a public road known as Colorado State Highway 115.

2. The description of said roadway is as follows:

Right of way for ingress and egress over and across Sections 15 and 16, Township 16 South, Range 67 West of the 6th Principal Meridian, El Paso County, Colorado. All bearings are based on range line between Ranges 67 and 68 being true North. Said right of way being 10 foot on either side of the following described center line: Beginning at a point on the Westerly right of way line of Colorado State Highway 115 from which the Southeast corner of said Section 15 bears South 13° 26' 23" East, 1164.75 feet:

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thence North 52° 13' 04" West, 117.17 feet; thence North 75° 49' 04" West, 495.40 feet; thence North 64° 38' 22" West, 253.40 feet; thence North 80° 32' 16" West, 495.16 feet to a point on the North line of the South half of the Southeast quarter of said Section 15, said point being 1,496.47 feet West of the East line of the Southeast quarter Section 15; thence continue North 80° 32' 16" West, 1,435.26 feet; thence North 73° 36' 46" West, 179.88 feet; thence North 75° 42' 28" West, 71.40 feet; thence North 38° 03' 28" West, 56.47 feet; thence North 26° 21' 16" West, 648.97 feet; thence North 33° 59' 04" West, 66.04 feet; thence North 51° 06' 58" West 60.83 feet; thence North 59° 15' 10" West, 83.35 feet; thence North 66° 41' 22" West 281.83 feet; thence North 52° 33' 58" West, 179.45 feet; thence North 54° 44' 40" West, 162.75 feet; thence North 83° 08' 28" West, 166.56 feet; thence North 62° 37' 10" West, 89.10 feet; thence South 76° 32' 38" West 104.90 feet; thence South 48° 02' 20" West, 72.32 feet; thence South 85° 45' 14" West 39.73 feet; thence North 61° 54' 46" West, 52.00 feet; thence North 80° 18' 46" West, 127.00 feet; thence North 66° 19' 04" West, 76.89 feet; thence North 53° 33' 16" West, 125.86 feet; thence North 05° 58' 28" West 158.80 feet; thence North 58° 37' 58" West 75.35 feet; thence South 88° 34' 20" West, 103.08 feet;

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thence North 78° 36' 28 " West, 148.40 feet; thence South 81° 12' 38" West, 55.00 feet; thence South 47° 24' 38" West, 71.35 feet; thence South 28° 28' 08" West 126.50 feet; thence South 50° 26' 44" West, 74.38 feet to a point on the line between Sections 15 and 16, said point being 341.15 feet South of the West quarter corner of Section 15; thence continue South 50° 26' 44" West, 159.25 feet; thence South 11° 07' 44" West, 137.14 feet; thence South 50° 27' 32" West, 196.20 feet; thence South 59° 43' 38" West 63.56 feet; thence South 72° 12' 50" West, 147.48 feet; thence South 63° 34' 26" West, 100.58 feet; thence South 77° 29' 26" West, 153.20 feet; thence North 81° 14' 04" West 45.09 feet; thence North 38° 43' 22" West, 33.95 feet; thence North 0° 41' 22" West, 73.95 feet; thence North 11° 06' 22" West, 93.95 feet; thence North 06° 31' 38" East, 102.20 feet; thence North 0° 25' 38" East, 53.47 feet; thence North 26° 54' 52" West, 45.66 feet; thence North 60° 24' 46" West, 81.62 feet; thence North 88° 45' 58" West, 179.78 feet; thence North 81° 57' 46" West, 198.90 feet; thence North 84° 46' 34" West, 380.60 feet; thence South 85° 34' 08" West, 91.65 feet; thence North 61° 08' 52" West, 48.35 feet; thence North 18° 14' 28" West, 131.17 feet; thence North 19° 47' 26" East, 152.63 feet; thence North 06° 54' 32" East 90.99 feet; thence North 01° 11' 10" West, 93.23 feet; thence North

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15° 20' 10" West, 99.07 feet; thence North 39° 12' 10" West, 68.12 feet; thence North 62° 57' 10" West 65.72 feet; thence North 89° 26' 58" West, 209.75 feet; thence North 80° 58' 40" West 53.85 feet; thence North 57° 06' 28" West 47.03 feet; thence North 39° 15' 58" West, 84.96 feet; thence North 26° 57' 40" West, 145.00 feet; thence North 45° 53' 40" West, 58.95 feet; thence North 76° 17' 28" West 77.75 feet; thence North 63° 11' 40" West 66.58 feet; thence North 45° 51' 10" West, 158.88 feet; thence North 59° 20' 10" West, 365.68 feet; thence North 81° 53' 22" West, 204.13 feet; thence North 60° 44' 22" West, 66.61 feet; thence North 38° 57' 22" West 81.07 feet; thence North 55° 58' 22" West 65.55 feet; thence North 82° 27' 04" West 186.59 feet; thence North 68° 38' 52" West, 344.13 feet; thence North 79° 23' 52" West 86.57 feet; thence South 86° 13' 20" West, 204.28 feet; thence North 89° 35' 58" West 179.69 feet; thence North 80° 25' 46" West, 280.85 feet; thence South 85° 18' 44" West 52.60 feet; thence South 57° 34' 26" West 53.15 feet; thence South 37° 19' 26" West 117.58 feet; thence South 46° 02' 14" West 59.18 feet; thence South 80° 25' 38" West 59.00 feet; thence North 63° 14' 34" West 105.70 feet; thence North 55° 07' 34" West 168.48 feet; thence North 60° 36' 04" West 151.38 feet; thence North 68° 50' 04" West, 139.72 feet;

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thence North 48° 29' 52" West 100.85 feet; thence North 71° 18' 46" West, 79.11 feet; thence North 61° 02' 04" West, 64.42 feet; thence South 89° 58' 44" West 90.47 feet; thence North 30° 48' 22" West 78.25 feet; thence North 55° 55' 22" West, 60.78 feet; thence South 51° 49" 38" West 59.03 feet to a point on the West line of Section 16, said point being 519.60 feet South of the Northwest corner of said Section 16. Portion in Section 16 contains 3.44 Acres.

3. The descriptions of the various dominant estates in Sections 7, 17 and 8 in Township 16 South, Range 67 West of the 6th Principal Meridian, El Paso County, Colorado, to which said private road is appurtenant and the names of the owners thereof are as follows, namely:

In said Section 7:

Defendants Wendell C. Spear and Videtta G. Spear own

The South half of the Southwest quarter of the Southeast Quarter (S½ SW¼ SE¼),

The North half of the Southeast Quarter of the Northeast Quarter (N½ SE¼ NE¼),

The South half of the Northeast quarter of the Northeast quarter (S½ NE¼ NE¼), and

The North half of the Northeast quarter of the Northeast quarter (N½ NE¼ NE¼).

Defendants Leonard L. Wilson and Emily May Wilson own

The North half of the Northeast quarter of the Southeast quarter (N½ NE¼ SE¼); and

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The South half of the Southeast quarter of the Northeast Quarter (S½ SE¼ NE¼).

Defendants Marvin J. Walter and Margot A. Walter own

The South half of the Northeast Quarter of the Southeast quarter (S½ NE¼ SE¼).

In said Section 8:

Defendants Wendell C. Spear and Videtta G. Spear own

A portion of the Northwest quarter, more particularly described as follows: Commencing at the Southwest corner of the Northwest quarter of said Section 8; thence North 6° 25' 01" East on the West line of said Section 8; 662.83 feet to the point of beginning of the tract to be described herein; thence continue North 6° 25' 01" East on said West line of Section 8, 662.83 feet to the North line of the Southwest quarter of the Northwest quarter of said Section 8; thence South 86° 15' 06" East on said North line of the South half of the Northwest quarter of said Section 8, 818.40 feet; thence South 24° 26' 16" West 56.54 feet; thence South 67° 59' 14" West 39.16 feet; thence North 58° 10' 34" West 133.69 feet; thence North 77° 20' 18" West 102.55 feet; thence South 55° 39' 02" West 34.69 feet; thence South 0° 09' 26" East 383.87 feet to the South line of the North half of the Southwest quarter of the Northwest quarter of said Section 8; thence North 85° 31' 43" West on said South line of the North half of the Southwest quarter of the Northwest quarter 428.37 feet to the point of beginning, and including the South 100 feet of the Southwest quarter of the Northwest quarter of the Northwest quarter;

A portion of the Northwest quarter of the Northwest quarter of the Northwest quarter of Section 8, more particularly described as follows: Beginning at the Northwest corner of said Section 8; thence South 87° 42' 06" East on the north line of said Section 8; 343.99 feet; thence South 24° 39' 22" West 110.63 feet; thence South 33° 20' 12" West 82.89 feet; thence South 2° 22' 18" West 52.52 feet; thence South 35° 11' 09" West, 87.09 feet; thence South 1° 27' 17" East 91.17 feet; thence South 38° 46' 17" East, 63.32 feet; thence South 45° 02' 23" East 53.15 feet; thence South 12° 51' 01" East 38.20 feet; thence South 20° 39' 23" East 169.28 feet;

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thence North 86°56'33" West, 422.10 feet to the West line of said Section 8; thence North 6°25'01" East on said West line of Section 8, 662.83 feet to the point of beginning;

A portion of the Southwest quarter of the Northwest quarter of Section 8 more particularly described as follows: Commencing at the Southwest corner of the Northwest quarter of said Section 8; thence South 84°48'28" East on the South line of said Southwest quarter of the Northwest quarter 386.79 feet to the point of beginning; thence North 27°10'54" West 89.09 feet; thence North 3°35'14" West, 103.99 feet; thence North 28°17'38" East, 140.06 feet; thence North 19°19'30" East 76.80 feet; thence North 11°20'10" East 121.42 feet; thence North 26°03'22" East 108.71 feet; thence North 0°09'26" West 65.02 feet to the South line of the North half of the Southwest quarter of the Northwest quarter of said Section 8; thence continue North 0°09'26" West 383.87 feet; thence North 55°39'02" East 34.69 feet; thence South 77°20'18" East 102.55 feet; thence South 58°10'34" East 133.69 feet; thence North 67°59'14" East 39.16 feet; thence North 34°29'20" East 166.02 feet; thence North 28°47'16" East 142.76 feet; thence North 24°26'16" East 56.54 feet to the North line of the Southwest quarter of the Northwest quarter of said Section 8; thence South 86°15'06" East on said North line 505.71 feet to the East line of the Southwest quarter of the Northwest quarter; thence South 6°13'49" West on said East line 1350.95 feet to said South line of the Southwest quarter of the Northwest quarter; thence North 84°48'28" West on said South line 940.64 feet;

The Southwest quarter of the Northwest Quarter of the Northwest Quarter (SW¼ NW¼ NW¼);

The North half of the Southeast Quarter of the Northwest Quarter (N½ SE¼ NW¼);

The South half of the Southeast Quarter of the Northwest Quarter (S½SE¼NW¼);

The North half of the Northeast quarter of the Southwest Quarter (N½ NE¼ SW¼).

Defendants William J. Pape and Betty D. Pape own

A portion of the Northwest quarter of Section 8, more particularly described as follows: Commencing

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at the Northwest corner of said Section 8; thence South 87°42'06" East on the North line of said Section 8, 343.9 feet to the point of beginning of the tract to be described herein; thence continue South 87°42'06" East on said North line 2299.39 feet to the Northeast corner of the Northwest quarter of said Section 8; thence South 6°03'10" West on the East line of said Northwest quarter, 696.12 feet to the Southeast corner of the North half of the North half of the Northwest quarter; thence North 86°58'33" West on the South line of said North half of the North half of the Northwest quarter 2223.51 feet; thence North 20°39'23" West, 169.28 feet; thence North 12°51'01" West 38.10 feet; thence North 46°02'23" West 53.15 feet; thence North 38°46'17" West 65.22 feet; thence North 1°27'17" West 91.17 feet; thence North 35°11'09" East 87.09 feet; thence North 2°22'18" East 52.52 feet; thence North 33°20'12" East 82.89 feet; thence North 24°39'22" East 110.63 feet to the point of beginning;

Defendants Ralph Knight and Edith May Knight own

The North half of the Northwest quarter of the Southwest quarter (N½ NW¼ SW¼).

Defendants Marion F. Sanders and Billie B. Sanders own

The South half of the Northwest quarter of the Southwest quarter (S½ NW¼ SW¼).

Defendant Frances Heard Billup, as Trustee, owns

The South half of the Northeast quarter of the Southwest quarter (S½ NE¼ SW¼);

The Southeast quarter of the Southwest quarter (SE¼ SW¼); and

The Southwest quarter of the Southeast quarter (SW¼ SE¼), and that property described in deed recorded in Book 2193 at Page 434 in the office of the Clerk and Recorder of El Paso County, Colorado.

Defendants Gerold W. Weakland and Vivian L. Weakland own

The East half of the Southwest quarter of the Southwest quarter (E½ SW¼ SW¼).

Defendants Fred E. Cornell and Patricia F. Cornell own

The Southeast quarter of the Northwest quarter of the Southeast quarter (SE¼ NW¼ SE¼), the Northeast

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quarter of the northwest quarter of the Southeast quarter (NE¼ NW¼ SE¼) and the North half of the Northeast quarter of the Southeast quarter (N½ NW¼ SE¼);

The South half of the Northeast quarter of the Southeast quarter (SE¼ NE¼ SE¼).

Defendant Velma J. Barnes owns

The West half of the Southeast quarter of the Southeast quarter (W½ SE¼ SE¼), except that part thereof described in deed recorded in Book 2193 at Page 434 in the office of the Clerk and Recorder of El Paso County, Colorado.

Defendants Gus L. Santorro and Marilyn J. Santerre own

The West half of the Northwest quarter of the Southeast quarter (W½ NW¼ SE¼).

Defendants K. C. Wofford and Claude R. Blue own

The East half of the Southeast quarter of the Southeast quarter (E½ SE¼ SE¼).

Defendants David H. Biggs and Daisy J. Biggs own

The West half of the Southwest quarter of the Southwest quarter (W½ SW¼ SW¼).

Defendants Leonard L. Wilson and Emily May Wilson own

A portion of the Northwest quarter of Section 8, more particularly described as follows: Beginning at the Southwest corner of the Northwest quarter of said Section 8; thence North 0°25'01" East on the West line of said Section 8, 682.63 feet to the North line of the South half of the Southwest quarter of the Northwest quarter of said Section 8; thence South 89°31'43" East on said North line 428.37 feet; thence South 0°09'26" East 65.02 feet; thence South 26°03'22" West 108.71 feet; thence South 11°20'16" West 121.42 feet; thence South 19°19'30" West 76.50 feet; thence South 28°17'38" West 140.06 feet; thence South 0°35'14" East 102.99 feet; thence South 27°10'54" East 89.09 feet to the South line of the Northwest quarter of said Section 8; thence North 89°42'28" West on said South line of the Northwest quarter 386.79 feet to the point of beginning.

And Defendants Irvin W. Sherwood and Bettye Ann Sherwood own

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The South half of the Northeast quarter of the Northwest quarter and the Southeast quarter of the Northwest quarter of the Northwest quarter.

In said Section 17:

Defendant Fred M. Cassidy owns

The West half of the Southwest quarter of the Northeast quarter (W½ SW¼ NE¼).

Defendant William D. Barnes owns

The East half of the Southwest Quarter of the Northeast quarter (E½ SW¼ NE¼).

Defendant K. C. Wofford, as Trustee, owns

Part of the West half (W½) of the East half (E½) of the Northeast quarter (NE¼) of Section 17, Township 16S Range 67 West of the 6th P.M.; Commencing at the Northeast corner of said Section 17; thence North 81°50'42" West along the North line of said Section 17, 668.28 feet; thence South 0°27'35" East on the East line of said West half of the East half of the said Northeast quarter 507.05 feet to the point of beginning. Thence continue on last course, 443.67 feet; thence North 82°19'43" West 667.87 feet to the West line of said West half of the East half of the Northeast quarter; thence North 0°26'06" West along said West line 446.30 feet; thence South 82°06'11" East, 668.06 feet to the point of beginning.

Defendant John C. Ocken owns

Part of the West half of the East half of the East half of the Northeast quarter of Section 17, Township 16, Range 67 West of the 6th P.M.; Commencing at the Northeast corner of said Section 17, thence South 0°29'04" East 2520.21 feet to the Southeast corner of said Northeast quarter; thence North 83°07'25" West 333.69 feet to the point of beginning; thence continue on last course 333.65 feet to the West line of said West half of the East half of the East half; thence North 0°27'35" West along said West line 1058.68 feet; thence South 88°42'42" East 192.89 feet; thence North 50°33'47" East, 177.09 feet; thence South 0°28'20" East 2006.74 feet to the point of beginning.

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Plaintiff owns

In Section 7, Township 16 South, Range 67 West of the 6th Principal Meridian in El Paso County, Colorado:

North half of Southwest quarter of the Southeast quarter (N½ SW¼ SE¼)

South half of the Southeast quarter of the Southeast quarter (S½ SE¼ SE¼)

North half of the Southeast quarter of the Southeast Quarter (N½ SE¼ SE¼)

In Section 17, Township 16 South, Range 67 West of the 6th Principal Meridian in El Paso County, Colorado:

West half of the Northwest quarter of the Northeast quarter (W½ NW¼ NE¼)

The Southeast quarter of the Northwest quarter of the Northeast quarter (SE¼ NW¼ NE¼)

The Northeast quarter of the Northwest quarter of the Northeast quarter (NE¼ NW¼ NE¼)

All of the East half of the Northeast quarter of said Section 17, except:

(1) Beginning at the Southwest corner of said East half, run thence North 0°28'06" West on the West line of said East half of said Northeast quarter 1593.63 feet to the point of beginning of the tract to be hereby described; thence continuing on same course 446.3 feet; thence North 82°06' 11" West 668.06 feet; thence South 0°27'35" East 443.67 feet; thence North 82°19'43" West 667.87 feet to the point of beginning;

and

(2) Beginning at a point 333.65 feet West on the South line of the Northeast quarter of said Section from the Southeast corner thereof; thence continuing North 89°07'25" West on said South line 233.65 feet to the West line of the West half of the East half of the East half of said Section 17; thence North 0°27'35" West along said West line 1858.68 feet; thence South 89° 42'42" East 192.89 feet; thence North 50°33' 47" East 177.09 feet; thence South 0°28'20" East 2006.74 feet to the point of beginning;

and

(3) That tract in said Section 17 described in deed recorded in Book 2193 at Page 434 in said office, owned by Defendant Velma J. Barnes.

NOTE: All ownerships of property in this decree related as of October 13, 1967, the date this claim was commenced.

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4. The owners of said Section 16 and the South half of the Southwest quarter of Section 15 may, at their discretion, erect and maintain three gates, one at or near the point where said road intersects the East line of said Section 16, one at or near the point where the road intersects the West line of said Section 16 and one where the road terminates at the right of way line of State Highway 115 with the duty on the users of the road to close the gates after use. The owners and their heirs and assigns of the servient estate may use the aforesaid road and may erect thereon such cattle guards as they may need; provided, however, the construction of the cattle guards shall be accomplished in a manner so as not to obstruct passage or travel on the road. A lock on one or more gates may be maintained if an agreement among the owners of the dominant and servient estates of the road is entered into so providing.

5. Any landowner over whose property the said private road is located may post a sign, not obstructing travel thereon, notifying the general public to the effect that the road is a private road and that any person using the road and not having the right to use the road would be considered a trespasser.

6. The road constructed upstream and along Little Turkey Creek and one of its tributaries, which is now graded and running through Sections 17 and 8 to the

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to the lands to the West thereof now owned by R. C. Davis, is declared to be a private road for the use and benefit of the now owners of said lands and any lessee thereof and such others as now have the right to use the same. The owners of the servient estate may erect gates thereon and may by agreement lock one or more of them and may erect thereon signs in the same manner as provided in paragraph 4 hereof.

7. The easement herein established does not authorize any user thereof to deviate or depart from the right of way thereof onto the adjoining real property.

8. All counts of the Amended Complaint and of the Supplemental Complaint, other than Counts Six and Seven, are hereby dismissed. All parties shall bear their own costs.

Done in open Court this 11th day of June, 1968, at Colorado Springs, El Paso County, Colorado.

BY THE COURT:

G. Russell Miller
JUDGE

APPROVED:

HANEY, HOWBERT & AKERS

By _____

GIBSON, GIBSON, COLE & GERDES

By _____
Attorneys for Plaintiff

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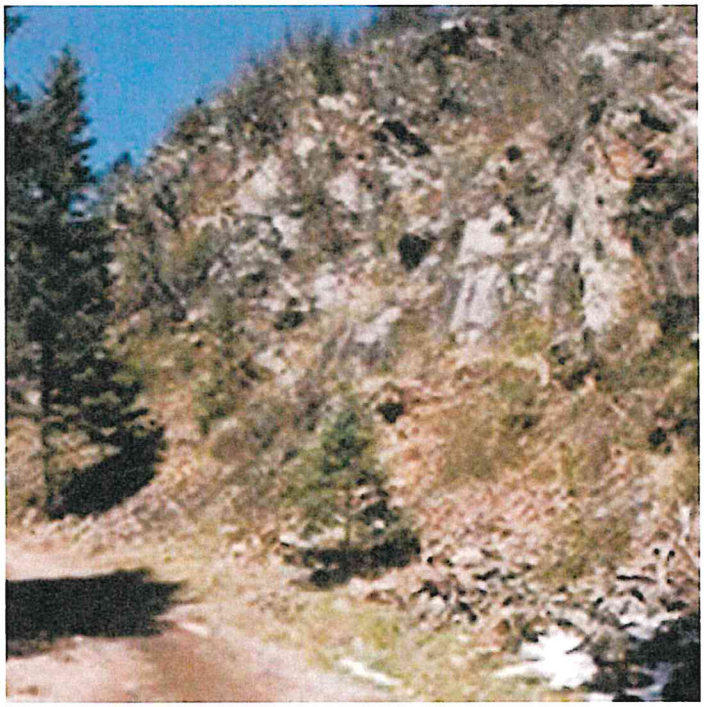
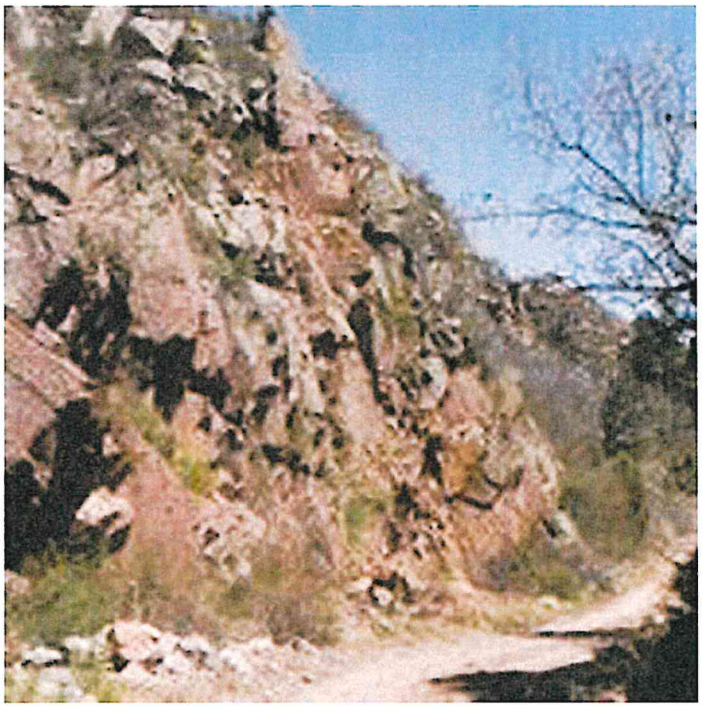
MURRAY, BAKER & WENDELKEN

By _____
Attorneys for Defendant Hutchison

KARL R. ROSS
Attorney for Defendants Fred E. Cornell, Patricia F. Cornell, Marion P. Sanders and Billie B. Sanders

TARTER AND TARTER

By _____
Attorneys for Defendants Gus L. Santerre, Marilyn J. Santerre, Velma J. Barnes, K. C. Wofford, Claude R. Blue, John C. Ocken, Fred M. Cassidy, William D. Barnes, William J. Pape, Betty D. Pape, Irvin W. Sherwood, Bettye Ann Sherwood, Ralph Knight, Edith May Knight, Wendell C. Spear, Videtta G. Spear, Leonard L. Wilson and Emily May Wilson

TOTAL P.16

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