

1990

Gordon Griffin and Red Dome Inc. v. Sandra Memmott, Ralph Memmott, Sue Bushnell, Sheree Bushnell, Jim Bushnell, Brett Sanders, Pam Sanders, and Craig Sanders : Brief of Appellee

Utah Court of Appeals

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900136-CA

IN THE UTAH COURT OF APPEALS

GORDON GRIFFIN and)	
RED DOME, INC.)	
Plaintiff/)	
Appellees)	
vs.)	
)	
SANDRA MEMMOTT, RALPH)	Case No. 900136-CA
MEMMOTT, SUE BUSHNELL)	Priority No. 16
SHEREE BUSHNELL, JIM)	
BUSHNELL, BRETT SANDERS)	
PAM SANDERS, and CRAIG)	
SANDERS,)	
Defendants/)	
Appellants)	

BRIEF OF APPELLEES

Appeal from Judgment and Order following a nonjury trial in the Fourth Judicial District Court in and for Millard County, State of Utah;

and
Appellee's Motion for Sanctions and Attorney's Fees

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Utah Court of Appeals

IN THE UTAH COURT OF APPEALS

GORDON GRIFFIN and	:	
RED DOME, INC.,	:	
	:	
Plaintiffs/Respondents,	:	
	:	
vs.	:	
	:	
SANDRA MEMMOTT, RALPH MEMMOTT,	:	Case No. 900136-CA
SUE BUSHNELL, SHEREE BUSHNELL,	:	Priority No. 16
JIM BUSHNELL, BRETT SANDERS,	:	
PAM SANDERS, and	:	
CRAIG SANDERS,	:	
	:	
Defendants/Appellants.	:	

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NATURE OF PROCEEDINGS

Memmotts' statement as to the Nature of the Proceedings is incorrect. This is an appeal from a Final Judgment and an Order of the Lower Court filed August 21, 1989 and filed August 24, 1989 respectively, following a bench trial. (See Memmotts' Notice of Appeal, Record page 1288). It is not an appeal from a Summary Judgment.

STATEMENT OF THE ISSUES

Griffin disagrees with Memmotts' Statement of Issues. The issue tried to the Lower Court was singular.

Whether or not documents filed by Red Dome with the Bureau of Land Management were sufficient and acceptable to that Agency; and whether the Court finds the documents acceptable to preserve Red Dome's rights against the Memmotts (See Record page 1254, Memorandum Decision).

DETERMINATIVE STATUTORY PROVISIONS

1. 43 USC §1744(b) (Appendix #1)
2. 43 CFR 3833.0-5(i) (March 1979 version) (Appendix #2)
3. Organic Act Directive No. 79-7, (Appendix #3)
Bureau of Land Management (Exhibit #27).
4. Organic Act Directive No. 80-5
Bureau of Land Management (Exhibit #27).
(Appendix #4)
5. Notice (Appendix #5) (Exhibit #29)

STATEMENT OF THE CASE

a. Nature of the Case

This is the third time over a period of several years that Red Dome and its predecessors in interest has had to protect its mining claims in the Lower Court from the claim jumping tactics of the Memmotts and their predecessors in interest. Both previous cases resulted in Judgments against the Memmotts, and in permanent injunctions being issued against them. (See Judgments in Case #4570 and #6656 attached in Appendix #6 and #7.) The last case, #6656, was appealed to the Supreme Court of Utah, which upheld the senior interest of Red Dome against the Memmotts, primarily on the principle of res judicata. (See Memmott v. Anderson, 642 P.2d 750.)

Red Dome has now again been forced into protecting its mining claims against the Memmotts in a long and protracted lawsuit, on yet another theory of claim jumping advocated by the Memmotts.

In spite of the previous injunctions, the Memmotts reassert their claim to the territory, claiming that Red Dome did not properly file documents with the Bureau of Land Management (BLM) in accordance with 43 USC §1744 of the Federal Land Policy and Management Act (FLPMA).

Red Dome maintains that said territory was never open to location by the Memmotts and title should have been quieted in Red Dome, and Memmotts' counterclaim dismissed. Red Dome has never agreed that, if found not in compliance with FLPMA, the Red Dome

claims would be open to location by the Memmotts or that Red Dome would have no "standing" to challenge Memmotts' ownership.

Red Dome maintains that irregardless of compliance or non-compliance with FLPMA, Memmotts were enjoined by previous injunctions from claiming any ownership interest in the territory embraced within the Red Dome claims. Red Dome further maintains that FLPMA has no application in a dispute between two rival claimants.

Red Dome maintains in the alternative that it has fully complied with all requirements of FLPMA during all material times and up to the present time, and that its compliance has been fully accepted by the BLM and therefore the territory was never open to a location by the Memmotts.

b. Course of Proceedings and Disposition

Red Dome concurs in Memmotts statment concerning Course of Proceedings and Disposition.

c. Relevant Facts

In addition to those facts set out by Memmotts, the following facts are relevant.

1. At the times the original locators filed their Notices of Location for the Red Dome mining claims, copies of the actual Notices offered for recording were not made or kept by the Millard County Recorder's Office, probably for the reason that copy machines were not available in the years in questions, i.e. 1935, 1936, 1938, 1939 and 1950. Instead the Notices of Location were transcribed through visual interpretation by a clerk via a

typewriter onto large sheets of paper later bound into volumes or books maintained by the Recorder's Office. Shortly after the transcriptions were made, the original Notices of Locations were returned to the person or persons offering them for recording. Thereafter the Recorder's Office maintained no possession of the original Notices of Location. (Deposition of Dexter L. Anderson, Record page 241.) It is assumed this procedure was followed, and the original Locators received back their original Notices of Location after they were recorded and transcribed onto the records of the Recorder's Office.

2. In 1974, Plaintiff/Appellees, Red Dome Inc. herein, acquired an ownership of the Red Dome mining claims from the successors in interest of the original locators. (Deposition of Dexter L. Anderson, Record page 241.)

3. But Red Dome never obtained possession of the original Notices of Location from any of its predecessors in interest and still does not have possession of them or any copy of them, assuming they have been lost or misplaced by previous owners. (Deposition of Dexter L. Anderson, Record page 241.)

4. After the Federal Land Policy and Management Act was passed in 1976 by the U. S. Congress, it became necessary for Red Dome to comply therewith to preserve its interest against the BLM.

5. Information disseminated by the BLM, the agency charged with enforcing the Act, required that unpatented mining claim owners file with the BLM copies of the original Notice of Location or face forfeiture by October 26, 1979; or, if the original Notice

of Location was not available, such owners were to file certain information with the BLM on or before the October 22, 1979 deadline. (See Notice, Exhibit #29, Appendix #5.) (See 43 CFR 3833.0-5, Appendix #2.) (See Organic Act Directive #'s 79-7 and 80-5, Exhibit #27, and Appendix #3 and #4.)

6. Since Red Dome did not have the original Notice of Location, nor copies thereof, and since copies were not available in the Millard County Recorder's Office, Red Dome proceeded to satisfy the requirement of the FLPMA by providing other suitable evidence to the BLM, pursuant to the notices and dissemination of the BLM.

7. On or about November 22, 1978, Red Dome filed documents with the BLM for each of the Red Dome claims which provided all the basic information requested by the BLM, as described by the BLM's notices (Exhibit 3). Memmotts refer to these documents as a "Synopsis" in their brief.

8. In response to Red Dome's filing of the "Synopsis", the BLM sent a Notice of Deficiency form seeking further information from Red Dome (Exhibit #4) dated January 16, 1979. BLM also assigned UMC numbers to the claims (Exhibit #8).

9. Red Dome responded with letters dated January 30, 1979, providing the requested information, and affirmatively inquired of the BLM if the information was sufficient to satisfy the deficiency (Exhibits 5 and 6).

10. On or about August 21, 1979, three months before the October 22, 1979 deadline, Red Dome filed copies of its proof of

annual labor for the year 1979 as also required by the FLPMA, and by cover letter affirmatively asked the BLM if Red Dome's previous filings and correspondence concerning the Red Dome claims complied with the requirements of FLPMA. This was done in plenty of time to remedy any shortcoming before the sudden death date of October 22, 1979 (Exhibit #9).

11. The BLM responded by sending an acknowledgement bearing the UMC numbers of the Red Dome claims, on August 30, 1979 (Exhibit #10).

12. Thereafter, and each year, Red Dome timely filed copies of its Proof of Labor documents with the BLM, for all the Red Dome claims. And each year, the BLM responded with receipts, UMC numbers, and returned copies bearing the BLM's stamps of approval and UMC numbers (Exhibit #11 through 22, and Exhibit #28).

13. The Memmotts filed Notice of Location for the Featherlite claims over the top of the Red Dome claims on December 12, 1983 (Exhibit #31).

14. By request dated July 20, 1984, Sandra Memmott attempted to get the BLM to declare the Red Dome claims null and void or that said claims had been abandoned by the reason of non-compliance with FLPMA (Exhibit #7).

15. The BLM responded by letter dated August 2, 1984 wherein the BLM acknowledged its official file on the Red Dome claims, recited the essential facts, noted the acceptance by the BLM of the filings, and flatly denied Sandra Memmott's request (Exhibit #7).

16. Memmotts filed Proof of Labor for the years 1983, 1986,

1987, and 1988 (Exhibit #32).

17. In 1955, Memmotts defended a lawsuit in Millard County District Court claiming ownership of the territory within the Red Dome claims (Morrison v. Memmott, Case #4570, Millard County (See Appendix #6)). The result of that case was the quieting of title in the Red Dome claims in Griffin's predecessors in interest and against Memmotts. This case also resulted in a permanent injunction against the Memmotts. The Judgment enjoined the Memmotts and their privies from asserting claims to, or in any manner interfering with the quiet possession of property now owned by Griffin and his predecessors in interest (See Appendix #6).

19. Memmotts then filed a second lawsuit (Case # 6656) against essentially the same parties herein, Red Dome, alleging ownership of a portion of the Red Dome territory based on a Boundary by Acquiescence theory. The Lower Court entered Judgment granting the Memmotts some of the Red Dome territory based on their acquiescence theory. That Judgment was appealed to the Supreme Court of Utah, Memmott v. Anderson, Supreme Court of Utah, (March 3, 1982) 17192, 17193, 642 P.2d 750. The Supreme Court of Utah reversed the Lower Court's Judgment, on the principal of res judicata, based on the injunction issued against Memmotts in Case #4570 (Exhibit #6).

Finally after remand to the Lower Court, the Lower Court in Case #6656 issued a further restraining order against the Memmotts interference with the Red Dome claims (Appendix #7).

20. For a factual relationship between the Memmotts as parties

in Cases #4560, 6656, and this case, 7975, please see Defendants Answers to Plaintiffs Second Interrogatories, Record Pg 512-521. Several of the parties are common between the cases.

During the depositions of Sandra Memmotts, Ralph Memmott, Sue Bushnell, Sheree Bushnell, Jim Bushnell, Brett Sanders, Pam Sanders, and Craig Sanders, several facts were exposed:

a. All parties except Ralph Memmott, stated that they knew nothing or very little about the Featherlite claims, but only that Sandra Memmott had asked to use their names on Notice of Location; that none had any knowledge of mineral discoveries on the claim, or assessment work; that to their knowledge Sandra had done it all.

b. Sandra Memmott testified during her deposition that she made the discoveries, did the assessment work, and performed all the paper work and labor of staking and locating the claims.

c. Sheree Bushnell and Brett Sanders both stated that they were 8 - 10 year old minors when the Featherlite claims were filed, and that "Aunt Sandra did it all".

21. Ralph Memmott is not a named claimant on the Notice of Locations filed for the Featherlite claims. But in yet another Millard County District Court Case, Memmott v. Anderson, Case #8158, Ralph Memmott has signed a Verified Complaint stating under oath that he is one of the claimants and is one of two owners of the Featherlite claims, the second being Sandra Memmott (Appendix #8).

SUMMARY OF ARGUMENTS

1. Memmotts are barred by the principle of res judicata from maintaining this action, or any other similar action as a result of the previous adverse rulings in Millard County Cases #4570 and #6656, and particularly because of the permanent injunctions issued against them in those cases.

2. The Federal Land Policy and Management Act of 1976 does not apply to this contest between two private rival claimants. Memmotts have no standing to assert the provision of that Act in the place and stead of the BLM against Griffin and the Red Dome claims; particularly where Memmotts take an opposite interpretation of the Act than does the BLM, and the BLM itself would be estopped from asserting the position taken by Memmotts.

3. Griffin and Red Dome have fully complied with the filing requirements of FLPMA during all material times herein and said filings have been and are acceptable to the BLM. Therefore, the Red Dome claims were not abandoned, forfeited, or open to location by the Memmotts in November of 1983. Memmotts have no claim or right in the territory embraced within the Red Dome claims based on their Featherlite mining claims.

4. The BLM properly accepted Red Dome filings pursuant to Section 1744 (b). Memmotts are estopped from asserting any claimed forfeiture based on a different interpretation. The IBLA did not reverse the Salt Lake office's finding that the filings had been "accepted" but only reversed the determination of the effect of the acceptance of the filings as between rival claimants. Neither the

Cleo May Fresh, nor the John J. Viktorcik cases decided by the IBLA have any application to this case between Griffin and Memmott.

Even if there were minor errors or omissions in the Synopsis filed by Griffin, pursuant to Section 1744 (c), they do not trigger a forfeiture.

U. S. vs. Locke has no application to the facts of this case, where Locke dealt with a failure to timely file at all, and this case deals with the sufficiency and acceptability of documents filed by Griffin pursuant to FLPMA.

ARGUMENT I.

Memmotts are barred by the principles of res judicata from asserting any claim over territory embraced within the Red Dome mining claims.

The Memmotts and their predecessors in interest were restrained in Morrison v. Memmott, Millard County District Court Case #4560 "from trespassing upon, asserting claims to, or in any manner interfering with the quiet possession of property owned by the plaintiffs (the predecessors in interest of plaintiffs here)". (See Appendix #6.)

The Supreme Court of Utah in Memmott v. Anderson, 642 P.2d 750, held that the restraining order against the Memmotts in #4570 was res judicata against the Memmotts in Memmott v. Anderson and barred them from claiming any of the territory within the bounds of the Red Dome claims. In Memmott v. Anderson the Memmotts were

attempting to claim a new boundary line by acquiescence over that which existed at the time Case #4570 was decided. (The claim of acquiescence occurred after the Judgment.) But the Supreme Court rejected the contention and cited the restraining order as barring any claim by the Memmotts of any territory within the bounds of Red Dome, irregardless of whether the claimed acquiescence occurred after the Judgment in Case #4570.

Yet in this case now before this Court, the Memmotts are claiming all the territory within the bounds of the Red Dome claims by virtue of their new Featherlite mining claims filed by the Memmotts about one year after the Supreme Court's ruling of res judicata against them in Memmott v. Anderson. The Supreme Court's ruling in Memmott v. Anderson was dated March 3, 1982, and the Memmotts located their Featherlite claims during November, 1983. It is further pointed out that the Memmotts' attempt to justify their Featherlite locations on an alleged forfeiture by the owners of Red Dome, which would have occurred on or before October 22, 1979, if it occurred. That date of alleged forfeiture would then have occurred during the time Case #6656 (Memmott v. Anderson) was being litigated in the Millard County District Court. Had Memmotts thought the FLPMA October 22, 1979 cut off date gave them any rights, they should have amended their pleadings and joined their forfeiture claim in that case. On this basis, the Memmotts are also barred by the principles of res judicata from asserting any claim over territory within the bounds of Red Dome herein.

Case #6656 (Memmott v. Anderson) was remanded to the Millard

County District Court for further findings and judgment consistent with the Supreme Court's ruling. Further hearing was held before the Honorable J. Harlan Burns, and supplemental Findings of Facts and Conclusions of Law and final Judgment were filed in the case dated October 13, 1983. Said Findings and Judgment further established the boundary lines of the Red Dome claims consistent with the legal descriptions contained in Case #4570. The Findings and Judgment in Case #6656 further permanently enjoined the Memmotts from harassing, bothering or molesting the owners of Red Dome. The Memmotts were further permanently enjoined from moving or interfering with the boundary lines of the Red Dome claims.

Yet exactly one month and one day, following the filing of the Judgment in Case #6656, on November 14, 1983, the Memmotts purportedly went upon the Red Dome claims and staked out their Featherlite claims completely overlapping all the territory within the bounds of the Red Dome claims, in violation of the restraining order in Case #6656, as well as the Order in Case #4570.

Most of the parties in Case #6656 (plaintiffs therein) are the same as those named in this case (defendants herein), to wit: Ralph Memmott, Sandra Memmott, Sue (Memmott) Bushnell.

Particularly Sandra Memmott was a party in Case #6656, and is a party defendant in this case, who via her own deposition was the person who staked out the Featherlite claims, did all the alleged assessment work, and solicited the use of the names of her relatives as co-claimants. Ralph Memmott, though not a claimant named in the Notices of Location for the Featherlite claims, still

under oath in Millard County Case #8158 (Appendix #8) stated that he was both a claimant and an owner with Sandra Memmott of the Featherlite claims. The impact of the Verified Complaint in #8158 is that Sandra Memmott and Ralph Memmott are the sole and joint owners of the Featherlite claims in reality. It is pointed out that Sandra Memmott and Ralph Memmott filed their Verified Complaint in Case #8158 shortly after the Honorable Ray M. Harding, in this case #7975, had entered his September 30, 1987 partial Summary Judgment, which declared the Red Dome claims forfeited. It is obvious from reading the Verified Complaint in Case #8158 that the Memmotts, Ralph and Sandra, thought they had finally achieved their objective of jumping the Red Dome claims. They then let their true colors show, in revealing to the Court that Ralph Memmott and Sandra Memmott were the true movers, owners, and claimants behind the Featherlite effort.

If the Judgment in Case #4570, and accompanying permanent injunction, was res judicata as to the claims of the Memmotts in Case #6656, then certainly the combined Judgments and Injunctions in Cases #4570 and #6656 are res judicata against the claims of the Memmotts in this case now before the Court.

Such acts on the part of the Memmotts also amount to a knowing and intentional violation and contempt of the Millard County District Court's Order in both Case #4570 and #6656. Memmotts' counterclaim and appeal herein must be overruled and denied by this Court and the Lower Court's Judgment affirmed.

ARGUMENT II.

The purpose of the Federal Land Policy and Management Act of 1976 was to regulate the use and management of public lands, by providing the Department of the Interior and specifically the Bureau of Land Management with authority to deal with, control and manage public land as between the Government and its private citizens. Congress declared thirteen policies to be served by the Act in 43 USCS 1701. None state that it was a purpose or policy, to control or regulate rights between private claimants to public lands. One policy makes clear the non-application of the Act to this case. As declared in 43 USCS §1701 (a) (1), it is stated that:

"(a) The Congress declares that it is the policy of the United States that -

(1) the public lands be retained in Federal ownership"

The interest of the Government, as declared, as between its citizens and itself is to 'RETAIN' public lands. Thereafter the FLMPA sets forth policy via the remainder of FLPMA to that end. One set of provisions is 43 USCS §1744(a), (b) and (c), which provides for forfeiture of mining claims in the event certain filing requirements are not met.

In view of the purpose of the Act, why did the Congress enact the forfeiture provision? To retain public lands in government ownership -- not to provide a sword for one private claimant to use against another private claimant. Memmotts have no standing or right to claim a forfeiture of the Red Dome claims based on 43 USCS §1744(a) and (b), irregardless of whether forfeiture lies or not

under that provision.

The 43 USCS §1744(a) and (b) was enacted by Congress for the purpose of providing the BLM with current updated information concerning unpatented mining claims maintained by individuals on public lands. Prior to this enactment, Federal Government agencies had no direct means of knowing what claims were being located or maintained on Government lands. Notices of Location were required to be filed in local county offices only, and also Proof of Labor forms each year, but there were no filing requirements in Federal Government offices. Federal Government officials had to check and re-check local offices. In order to better manage the Federal lands, Congress passed §1744, solely for the purpose of keeping Federal Government agencies updated with current information. (See United States v. Locke 471 U.S. 84 and Organic Directive #79-7 and #80-5, Appendix #3 and #4.) The Act was intended for the benefit of the Government, and never was intended by Congress to provide a sword to be used by a private party claimant against another private party rival claimant, or for example this case, where junior claimant Memmott attempts to use FLPMA as a sword against Griffin.

Since Memmotts have no right or standing to claim a forfeiture under the provisions of 43 U.S.C. §1744, their appeal and counterclaim based thereon must be dismissed by this Court.

ARGUMENT III.

Griffin timely complied with the requirements of 43 USCS §1744(a) and (b) and its companion regulation, 43 CFR 3833.0-5 prior to October 27, 1979 and each year thereafter up to the present time. The BLM has accepted Griffin's filings pursuant to those requirements and no forfeiture of the Red Dome claims has resulted upon which Memmotts can rely.

After the October 21, 1976 Federal Land Policy and Management Act was passed by Congress, giving the BLM the responsibility to enforce the same, the BLM disseminated information designed to alert mining claimants of the new Federal filing requirements. Exhibit No. 29, Appendix #5, was such a Notice posted by the BLM in the Millard County Recorder's Office. It states

"NOTICE"

"UTAH MINTERS"

"If you located a mining claim after
October 21, 1976 on Public Lands, you
MUST file a copy of your Location
Certificate no later than 90 days after
the location of the claim in the
following office" (emphasis added)

"All mining claims located prior to
October 21, 1976 must be recorded as
described above before October 22, 1979"
(emphasis added)

"The following information must be
supplied if not on the certificate"

The plain meaning of the above Notice is that a copy of the miner's original Notice of Location or Location Certificate was required to be timely filed with the BLM, or suffer forfeiture. The Notice then suggested that if there is no copy available, or

if the certificate is lacking in information, certain informational detail must be supplied to the BLM office.

The BLM also promulgated regulations in response to the mandate imposed by Congress. The first regulation effective January 20, 1977, defined "official record of the notice or certificate of location means the official document of recordation and all accompanying maps, papers, or other documents filed for record with the recorder. . . . and any amendments thereof"

The plain meaning of this definition is that the miner was required to file a copy of his original document or Notice of Location or Location Certificate or any amending certificate with the BLM. The official document of recordation would mean the document the miner carried into the recorder's office for recording (probably in the hopes that from henceforth he would be wealthy).

What if he had recorded many years previous to October 21, 1976 or had purchased a mining claim and no longer had, or never received, the original instrument of recordation? This question is particularly serious to a miner who recorded prior to October 1976 and had no particular reason to know he was going to need his original Location Certificate at a later date, to comply with FLPMA.

The BLM obviously recognized the problem. Prior to the October 22, 1979 cut off date, it enacted a second regulation more plainly describing what needed to be recorded by a miner in such a circumstance.

This March 16, 1979 version of 43 CFR 3833.0-5(i) defines

"copy of the official record of the notice or certificate of location as

". . . . a legible reproduction or duplicate. . . . of the original instrument of recordation of an unpatented mining claim which was filed in the local jurisdiction where the claim or site is located OR OTHER EVIDENCE acceptable to the proper BLM office, of such instrument of recordation " (Emphasis added.)
(Appendix #2)

The BLM also issued Organic Act Directives #79-7 and #80-5 (see Exhibit #27, and Appendix #3 and #4), dated November 24, 1978 and October 31, 1979, respectively. (Note these directives were issued contemporaneously with the January 20, 1977 definition of "official record of the notice or certificate of location" found at 43 CFR 3833.0-5(i) and the March 1979 version quoted above.) Organic Directive No. 79-7 provided that

"There have already been instances where claimants have been unable to supply copies of location notices, or certificates of location"

"The purpose of Section 314 of FLPMA is to ensure that all mining claims are reflected in the land records. Where a search of the local records does not reveal the original filing, but does show that there is reason to believe that a recording may have been made, secondary evidence will be accepted"

The point is, Griffin did not have the original Notices of Location for the Red Dome claims, nor were copies available from the Recorder's Office, when he was required to file prior to October 22, 1979. But there was reason to believe there had been Notices of Location filed; i.e. by reason of the type of records kept by the Recorder's Office. Under the January version of 43 CFR 3833.0-5(1), Directive #79-7 and the March 16, 1979 version of 43

CFR 3833.0-5(i), Griffin was entitled to comply with FLPMA by filing "other evidence" acceptable to the Salt Lake City office of the BLM.

In order to comply with the October 22, 1979 cut off date, Griffin filed originally in November of 1978. He also affirmatively responded to the BLM's Notice of Deficiency dated January 16, 1979 (see Exhibits #4, 5, and 6). Griffin then double-checked his filing by affirmatively inquiring of the BLM in August of 1979, (see Exhibit #9 and Appendix #9). All of these steps were taken to be sure the BLM had accepted the filings. (Sorry, he forgot to check with the Memmotts.) But, even at the request of Sandra Memmott, the Salt Lake City office of BLM affirmatively stated that the Red Dome filings had been accepted (see Exhibit #7). All of the evidence before the Lower Court pointed to all required filings being made by Griffin to the BLM in complete satisfaction of the FLPMA requirements.

All the evidence before the Lower Court supported the proposition that the BLM accepted the Red Dome filings, and that the filings were in compliance with the requirements of FLPMA, and that no forfeiture of the claims occurred. Memmotts offered no evidence supporting the opposite contention, and failed to marshal all the evidence in support of the Lower Court's ruling in this case. Memmotts offer nothing in support of their appeal except more of the same old argument. This Court should not entertain such an appeal.

Hence, the Lower Court properly entered Judgment in favor of

Griffin on the issue presented, and against Memmotts. The Utah Court of Appeals should affirm the Lower Court's Judgment and reject this appeal by Memmotts, based on the same evidence.

ARGUMENT REBUTTALS VI.

A.

Memmotts argue that in spite of the evidence, the BLM was wrong in accepting the filings, that this Court should find the filings unacceptable under the provision of 43 USCS §1744(a) and (b), declare a forfeiture under the provision, and quiet title in the territory in Memmotts by virtue of their Featherlite claims.

Memmott argues that 43 USCS §1744 (a) and (b) required that Griffin furnish copies of Millard County Recorder's Office documents rather than the documents filed by Griffin and therefore the Red Dome claims should be forfeited. Their own argument throughout their brief centers around the premise that copies of the "original Location Notices", and only such copies must be filed to satisfy 43 USCS §1744 (a) and (b). Memmotts argue that Griffin could have made such copies from the recorder's office file and filed such copies. Since Griffin did not, Memmotts argue they own the territory in question. Apparently neither Memmotts nor their first or second Counsel seem to understand that the Millard County records they refer to as "copies of the Notices of Location" (see their Argument III) are not copies of the original Notices of Location filed for the Red Dome claims. Their arguments then that Griffin should have filed copies of those County Recorder records are totally misguided and should be ignored by the Court.

If Memmotts are attempting to argue that 43 USCS §1744(a) and (b) require the filing of and only the filing of copies of the Millard County records irregardless of whether they themselves are in turn copies of the original Notices of Location, then they must fail

They are estopped from making such a claim. If the BLM itself now took such a position, it certainly would be estopped from making such a claim. The BLM's own regulations, directives and notices interpreted 1744(a) and (b) to require filing of copies of the original Notices of Location, and if they were not available, then other evidence would be acceptable. If the BLM should now attach Griffin's filings, claiming 1744(a) and (b) required strictly a filing of copies of the Millard County records, even though they themselves are not copies of the original Notices of Location, the BLM would be estopped from doing so on equitable principles. (See Jackson v. Robertson 763 F.2d 1176 and estoppel recognized in U.S. v. Locke.) Certainly the Memmotts have no standing to take a harsher stand than would the BLM, and therefore are also estopped from doing so.

Memmotts argue in their brief that irregardless of how the BLM regulations defined the language "official record of the Notices of Location", those definitions did not comport with the express statutory language of 43 U.S.C. §1744b, and the intent of Congress. What was the intent of Congress as to what it wanted filed?

A look at the legislative history behind 43 U.S.C. §1744(b) reveals an interesting fact. Members of Congress referred to the

filing of copies of the miner's Notice of Location, not a copy of the Recorder's Office records, when discussing the Act prior to its passage. (See House Report No. 94-1163, page 11, Section 207(b), which states:

"a copy of the location Notice of Mining Claims
filed in the appropriate office of record must also be
filed with the Bureau of Land Management....."
(Appendix #10)

Memmotts argument that 1744(b) strictly required the filing of only a copy of the Recorder's Office's records in this case, even though those records are not a copy of the original Notices of Locations for the Red Dome claims, is not supported by any reason or authority other than Memmotts unreasonable interpretations.

Memmotts argument is not consistent with either the legislative history of the Act, nor the BLM's definitions and regulations, and must be rejected by this Court on appeal, just as it was by the Lower Court.

B.

Memmotts apparently do not understand their own Petition for Reconsideration filed with the IBLA, nor the Board's Ruling. The IBLA did not vacate the Utah State Office's (BLM's) acceptance of the Red Dome Inc.'s filings. The IBLA only vacated the BLM's findings as to the effect of the acceptance on the contest between the Red Dome claims and the Featherlite claims. Indeed, that is all Memmotts ask for in their Petition for Reconsideration to the IBLA, and that is all they got. Memmott's original counsel,

Patrick Garver, was guilty of misrepresenting to the Lower Court his own Petition and the IBLA's decision on reconsideration.

The following are direct quotes from Mr. GARVER's own Petition for Reconsideration dated October 25th, 1985:

Page 1: "On August 21, 1984, the Utah State Office of the Bureau of Land Management (BLM) sent a decision to Sandra Memmott declaring that the Red Dome group of mining claims had been properly filed in compliance with Section 314 of the Federal Land Policy & Management Act..."

Page 2: "That decision had held the mining claim filings of Red Dome, Inc. 'in compliance' with Section 314....the Board's decision apparently is founded on a mistaken assumption concerning the record before it, i.e., the assumption that BLM did not 'determine the standing' of the subject claims."

Page 3: "however, because the BLM decision in fact addressed and adjudicated the sufficiency of the claimants' Section 314 ruling, the Board of Appeal must either address the merits of that decision or vacate it insofar as it purports to declare the filing sufficient." (Emphasis added.)

Page 7: At the conclusion "Appellant contends BLM was wrong. But, right or wrong, or appeal, the Board should either have set aside the decision insofar as it purports to declare the filings in compliance with Section 314, or addressed the merits of that determination."

Memmotts' Counsel, in his Petition for Reconsideration, never attacked the Utah State Office's statement that:

"This evidence (meaning the evidence submitted by the Red Dome owners prior to October 22, 1979) showing that a recording of the mining claims had been made was accepted and made a part of our records." (Emphasis added.)

Memmotts' Petition for Reconsideration to the IBLA only attached that portion of the BLM Decision which stated:

"The Red Dome & Red Dome Nos. 1-7 P[lacer] Claims are considered in compliance with Section 314 of the Federal Land Policy & Management Act."

The IBLA in its decision on reconsideration only agreed with Mr. GARVER's argument that the IBLA should not have allowed the Utah State Office to make a determination between rival claimants, or find the Red Dome claimants in compliance with Section 314 of FLPMA. The IBLA did not hold that the Utah State Office improperly accepted the filings.

Griffin's argument remains that the Utah State Office of the BLM, in fact accepted the Red Dome filings prior to October 22, 1979, as "other evidence" under the definition then existing, and that fact remains as a fact today. The effect of that acceptance on this contest between the Red Dome claims and the Featherlite claims, remained for the Lower Court to decide under the Decision of the IBLA.

C.

Memmotts refer to two IBLA decisions. Neither are applicable to this case because the Utah State Office did accept the Red Dome filings prior to October 22, 1979, contrary to what the respective BLM Office did in the cases cited by Memmotts. Those IBLA cases were also contest between the BLM and the private claimant, and not contest between two private claimants.

In Cleo May Fresh, IBLA 80-325, the Colorado State office, BLM, had returned various documents to Appellant and declared the claims abandoned. The IBLA affirmed that State BLM office's action. Just the opposite happened in this case. The Utah office of the BLM accepted the Red Dome filings.

The facts of the cases are also clearly distinguishable. In Cleo May, Appellants filed a Quitclaim Deed, a map, and an Affidavit of Labor. The Board in Cleo May pointed out that the information "in no manner refers to the location of the claim or the recording of that claim in the County Recorder's Office." In contrast, the Red Dome documents clearly gave all information, including legal description, book, page number, and office where the recording was made, owners of the claims, and all other pertinent data.

The Board in Cleo May also noted that the Appellants did have a copy of the Notice of Location, because they presented them to the Board in January, 1980. They merely failed to send them to the BLM. In contrast, the owners of the Red Dome claims did not and still do not have the original Notices of Location and could not have provided the BLM with copies, as was pointed out in the cover letter to the BLM when the "other evidence" was submitted by Griffin's Counsel (Exhibit #3).

Memmotts also cite John J. Viktorcik, IBLA 81-530, as authority, which again as no application to this case. In John J. Viktorcik, the Appellants were appealing from the decision of the California State Office rejecting recordation of certain mining claims. Again, Appellants had filed maps, Quitclaim Deeds, and Proofs of Labor, but "no copies of the original location notices."

In upholding the State Office's decision, the IBLA in Vikorcik quoted the regulation 43 CFR 3833.0-5(i) allowing "other evidence":

"The purpose of the recordation requirements of FLPMA is to give notice to BLM of the existence of the mining claims on Federal lands so that this information may be considered in the management of those lands. The date of location is important for establishing the date from which a claimant's rights to a particular claim arise...."

"The Quitclaim Deed submitted by Appellants do not constitute 'other evidence' of the Certificate of Location under the above regulation, as the deed in no way refers to the Location of the Claim or its recordation...." [The Board citing Cleo May Fresh, 50 IBLA 363 (1980).]

In contrast to the facts of the Vikorcik Decision, the owners of Red Dome did file all pertinent information, including description, book and page number of recordation, date and location, owners, etc.

It is again pointed out that in both Cleo May and Vikorcik, the contest was between the BLM and the delinquent claimant, not between two rival private claimants. So was U. S. v. Locke, a contest between the BLM and a delinquent claimant. Memmotts have not pointed to one authority that gives them standing to assert any private position based on the provision of FLPMA, 43 U.S.C. §1744. If the BLM would have seen fit to reject the filing by Griffin on or after November 1978, (the date Red Dome made its initial filings), and if any error claimed by the BLM had not been corrected, and had the BLM declared the Red Dome claims abandoned after October 22, 1979, then perhaps Memmotts could have taken advantage of the forfeiture. But since that did not occur, it is none of Memmotts business as to what documents have been filed by Red Dome in compliance with FLPMA.

D.

Memmotts argue at V in their brief that Section 1744(c) has no application, because the word "instrument" refers only to the instrument required to be filed by 1744(b) and that instrument can only be machine copies of the pages maintained by the Millard County Recorder's Office on the Red Dome claims. 43 U.S.C. Section 1744 (c) states that a defective instrument, timely file, is not deemed to be a failure to file (See Appendix #1). Memmotts argument fails if 1744(b) and the BLM regulations pursuant thereto allow "other evidence." Since it does allow "other evidence", then Section 1744(c) applies equally to the other evidence. If "other evidence", timely filed and acceptable to the BLM, is defective, "it shall not be considered a failure to file" (if it has minor errors, etc.) and it follows that no forfeiture shall lie against the filing claimant. Memmotts' attempts to point to alleged minor errors and omissions in the documents filed by Griffin, to support their argument of forfeiture. Even if there are errors and omissions, they are of no consequence in this case, pursuant to Section 1744(c).

E.

Memmotts rely exclusively on U.S. v. Locke, 471 U.S. 84, which is the leading case generally considering Section 1744. Memmotts' reliance is totally misplaced. The reason is well set out in the Honorable Ray M. Harding's ruling, dated May, 1989, Record Page 1256, as follows:

"There is no evidence before the Court that the B.L.M. was not satisfied with the sufficiency and

acceptability of documents as they were presented by the plaintiffs. The Court finds that the documents were also sufficient and acceptable to accomplish the purposes of the statute. For the above reasons, the Court finds that plaintiff's filings were acceptable to the B.L.M., and to this Court, and that the claims at all relevant times remained valid. The claims were therefore not subject to relocation by the defendants."

"Defendants claim that the holding in United States et al., v. Madison d. Locke, et al., 53 L.W. 4433 (1985), should be controlling in this case. There the United States Supreme Court held that the date for filing a notice of intention to hold a claim required strict compliance. The Court finds that Locke, is distinguishable because it is the sufficiency of the information filed which is at issue in the case at bar rather than the time it was filed. In Locke, the lawsuit was filed because the B.L.M. indicated that the filing was late and was not in compliance with the statute. The evidence presented to the Court indicates that where the B.L.M. is not satisfied with the sufficiency of documentation, the agency requests further information. Whether a party is in compliance is left to the discretion of the B.L.M. This is far different from non compliance with a strict time limit set by Congress as was the case in Locke. In the case at bar, there is no evidence that the B.L.M. did not consider plaintiffs to be in compliance with the statute. The Court is satisfied that the summary submitted by the plaintiffs to the B.L.M. satisfied the requirements of the statute, and that supplying an actual copy of the sheets on file in the recorders office was neither practical or necessary. The Court notes that in a strictly technical sense, the documents in the recorders office are not actual notices of claim. If defendant's argument was to be accepted, the only documents accepted by the B.L.M. would be the original notices which were returned to the claimants after copying into the county records."

CONCLUSION

Memmotts' appeal should be dismissed, with cost awarded to the Appellees.

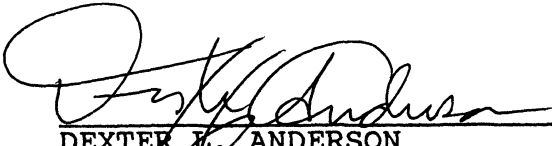
1. Memmotts are barred by the principle of res judicata from

maintaining this action, or any other similar action as a result of the previous adverse rulings in Millard County Cases #4570 and 6656, and particularly because of the permanent injunctions issued against them in those cases.

2. The Federal Land Policy and Management Act of 1976 does not apply to this contest between two private rival claimants. Memmotts have no standing to assert the provision of that Act in the place and stead of the BLM against Griffin and the Red Dome claims; particularly where Memmotts take an opposite interpretation of the Act than does the BLM, and the BLM itself would be estopped from asserting the position taken by Memmotts.

3. Griffin and Red Dome has fully complied with the filing requirements of FLPMA during all material times herein and said filings have been and are acceptable to the BLM. Therefore, the Red Dome claims were not abandoned, forfeited, or open to location by the Memmotts in November of 1983. Memmotts have no claim or right in the territory embraced within the Red Dome claims based on their Featherlite mining claims.

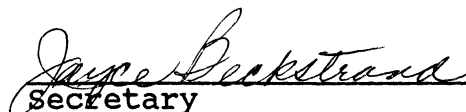
Respectfully submitted this 22 day of August,
1990.


DEXTER E. ANDERSON
Attorney for Plaintiffs and
Appellees

MAILING CERTIFICATE

I hereby certify that ^{four} ~~a~~ true and correct copy of APPELLEES' BRIEF in the above-entitled matter were mailed this 22 day of August, 1990, by United States Mail, postage prepaid to:

Harold A. Hintze, Esq. A-1499
OLSEN, HINTZE, NIELSON & HILL
3319 N. University Ave., Suite 200
Provo, Utah 84604


Secretary

DEXTER L. ANDERSON, #0084
 S. R. Box 52
 Fillmore, Utah 84631
 Telephone: (801) 743-6522
 Attorney for Plaintiffs/Respondents

IN THE UTAH COURT OF APPEALS

GORDON GRIFFIN and	:	MOTION FOR SANCTIONS AND
RED DOME, INC.,	:	ATTORNEYS FEES
	:	and
Plaintiffs/Respondents,	:	ORDER TO SHOW CAUSE
	:	
vs.	:	
	:	
SANDRA MEMMOTT, RALPH MEMMOTT,	:	Case No. 900136-CA
SUE BUSHNELL, SHEREE BUSHNELL,	:	Priority No. 16
JIM BUSHNELL, BRETT SANDERS,	:	
PAM SANDERS, and	:	
CRAIG SANDERS,	:	
	:	
Defendants/Appellants.	:	

COMES NOW the Plaintiffs and Appellees above, pursuant to Rule of Civil Procedure, Rule 11 and pursuant to Rule 33, Utah Rules of Appellate Procedure, and as a part of their brief therein, and moves the Court for an Order of damages, double cost, and other sanctions against the Defendants/Appellants and their present and past attorneys of records, to-wit:

1. Patric J. Garver (A1167)
 Hal J. Pos (A4500)
 Derek Longton
 of and for PARSONS, BEHLE AND LATIMER
2. Harold A. Hintze

This Motion is made for the reason

1. That the Complaint and protracted pleading motions, and

proceedings, were not grounded in fact and were not warranted by existing law;

2. That it was interposed for improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

This case was a direct violation of the Lower Court's restraining order in Case #4570 and #6656. It was also a violation of the Supreme Court of Utah's implied restraining order in Memcott v. Anderson, 642 P2d 750.

In addition, the parties in this case, Sandra Memcott and Ralph Memcott, who are the sole plaintiffs in Millard County District Court Case #8158, committed an act of perjury under oath in either their sworn depositions in this case or in their Verified Complaint filed in Case #8158. In their depositions, both swore that Ralph Memcott had no claim or interest in the Featherlite claims, but that the claimants and owners were those named in the Notices of Locations for the Featherlite claims; in the Verified Complaint, Case #8158, Sandra Memcott and Ralph Memcott both swore under oath that Sandra and Ralph Memcott were the sole owners and claimants of the Featherlite claims; the said parties then attempted to gain possession of the territory covered by the Red Dome claims by restraining order. Said act of the Memcotts was just a furtherance of their long standing scheme and plan to take over the Red Dome claim, first formulated by Ralph Memcott prior to the Complaint in Case #4570 which was filed in Millard County District Court on or about the year 1955.


Patrick J. Garver, Hal J. Pos, and Derek Langton, attorneys of and for Parsons, Behle and Latimer, with full knowledge of the depositions aforesaid, did assist, aid, and encourage the Memmotts to commit an act of perjury in furtherance of the scheme by the Memmotts, their clients, by preparing said perjury documents and representing the said clients in Court.

By reasonable inquiries, all of Memmotts' attorneys could have and should have recognized that the action they were pursuing was a direct violation of the District Court's and the Supreme Court's permanent injunction, and had no basis in law or facts.

Plaintiffs and Appellees damages consist of extensive attorneys fees, cost, and expenses incurred in defending said meritless actions in this case, #7975, through protracted procedural practice and trial in the Lower Court, and also in meeting this appeal, as well as responding to the perjured Complaint in Case #8158, and responding to the Memmotts' Petitions and petitions for reconsiderations before the IBLA in related matters, in a sum in excess of \$50,000.00.

WHEREFORE Plaintiffs and Appellees move the Court for an Order to Show Cause requiring the Defendants and Appellants, and their named past and present attorneys to appear before this Court and show cause why they should not jointly and severally pay Plaintiffs said damages, attorneys fees and double cost.

DATED this 22 day of August, 1990.

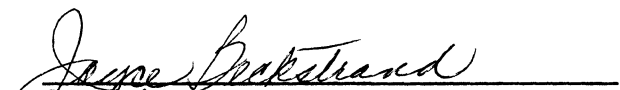

DEXTER L. ANDERSON
Attorney for Plaintiffs and
Appellees

MAILING CERTIFICATE

I hereby certify that a true and correct copy of MOTION FOR SANCTIONS AND ATTORNEYS FEES and ORDER TO SHOW CAUSE in the above-entitled matter were mailed this 22 day of August, 1990, by United States Mail, postage prepaid to:

Harold A. Hintze, Esq. A-1499
OLSEN, HINTZE, NIELSON & HILL
3319 N. University Ave., Suite 200
Provo, Utah 84604

Patrick J. Garver (A1167)
Hal J. Pos (A4500)
Derek Langton
PARSONS, BEHLE & LATIMER
185 So. State Street, #700
Salt Lake City, Utah 84111


Secretary

§ 1744. Recordation of mining claims

(a) **Filing requirements.** The owner of an unpatented lode or placer mining claim located prior to the date of this Act [enacted Oct. 21, 1976] shall, within the three-year period following the date of the approval of this Act [enacted Oct. 21, 1976] and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after the date of this Act shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, on a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701; 30 U.S.C. 28-1) [30 USCS § 28-1], relating thereto.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

(b) **Additional filing requirements.** The owner of an unpatented lode or placer mining claim or mill or tunnel site located prior to the date of approval of this Act [enacted Oct. 21, 1976] shall, within the three-year period following the date of approval of this Act [enacted Oct. 21, 1976], file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill or tunnel site located after the date of approval of this Act [enacted Oct. 21, 1976] shall, within ninety days after the date of location of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground.

(c) **Failure to file as constituting abandonment; defective or untimely filing.** The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an abandonment of the mining claim or mill or tunnel site by the owner; but it shall not be considered a failure to file if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill or tunnel site.

§ 3833.0-5 Definitions.

As used in this Subpart:

(a) "The Act" means the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579; 90 Stat. 2743).

(b) "Unpatented mining claim" means a lode mining claim or a placer mining claim located under the General Mining Law of 1872, as amended (30 U.S.C. 21-54), for which a patent under 30 U.S.C. 29 and 34 CFR Part 3860 has not been issued.

(c) "Mill site" means any land located under 30 U.S.C. 42.

(d) "Tunnel site" means a tunnel located pursuant to 30 U.S.C. 27.

(e) "Owner" means the person who is the holder of the right to sell or transfer all or any part of the unpatented mining claim, mill or tunnel site. The owner shall be identified in the instruments required by these regulations by a notation on those instruments.

(f) "Federal lands" means any lands or interest in lands owned by the United States, except lands within units of the National Park System, which are subject to location under the General Mining Law of 1872, supra, including, but not limited to, those lands within forest reservations in the National Forest System and wildlife refuges in the National Wildlife Refuge System.

(g) "Proper BLM office" means the Bureau of Land Management office listed in § 1821.2-1(d) of this title as having jurisdiction over the area in which the claims or sites are located.

(h) "Date of location" or "located" means the date determined by State law in the local jurisdiction in which the unpatented mining claim, mill or tunnel site is situated.

(i) "Copy of the official record of the notice of certificate of location" means a legible reproduction or duplicate, except microfilm, of the original instrument of recordation of an unpatented mining claim, mill or tunnel site which was or will be filed in the local jurisdiction where the claim or site is located or other evidence, acceptable to the proper BLM office, of such instrument of recordation. It also includes an exact reproduction, duplicate or other acceptable evidence, except microfilm, of an amended in-

strument which may change or alter the description of the claim or site.

[42 FR 5300, Jan. 27, 1977, as amended at 44 FR 9722, Feb. 14, 1979]

§ 3833.1 Recordation of mining claims.

3833.1-1 Manner of recordation—National Park System units established before September 28, 1976.

Any unpatented mining claim, mill site or tunnel site in any National Park System unit in existence on September 28, 1976, which was not recorded on or before September 28, 1977, in accordance with the Notice of October 20, 1976 [41 FR 46357] or 36 CFR 9.5 is, pursuant to section 8 of the Act of September 28, 1976 (16 U.S.C. 1907), conclusively presumed to be abandoned and shall be void.

[44 FR 20429, Apr. 5, 1979]

3833.1-2 Manner of recordation—Federal lands.

(a) The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands, excluding lands within units of the National Park System established before September 28, 1976, but including lands within a national monument administered by the United States and Fish and Wildlife Service or the United States Forest Service, shall file (file shall mean being received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law. If state law does not require the recordation of a notice or certificate of location containing the information in paragraph (c) of this section shall be filed. Where the claim so recorded lies within a unit of the National Park System, a copy of the documents filed shall be provided to the Superintendent of the appropriate unit by the Bureau of Land Management.

(b) The owner of an unpatented mining claim, mill site, or tunnel site located after October 21, 1976, on Federal land shall file (file shall mean being received and date stamped by

the proper BLM office), within 90 days after the date of location of that claim in the proper BLM office a copy of the official record of the notice or certificate of location of the claim or site filed under state law or, if the state law does not require the recordation of a notice or certificate of location of the claim or site, a certificate of location containing the information in paragraph (c) of this section. Where the claim so recorded lies within a unit of the National Park System, a copy of the documents filed shall be provided to the Superintendent of the appropriate unit by the Bureau of Land Management.

(c) The copy of the notice or certificates filed in accordance with paragraphs (a) and (b) of this section shall be supplemented by the following additional information unless it is included in the copy:

(1) The name or number of the claim or site, or both, if the claim or site has both;

(2) The name and current mailing address, if known, of the owner or owners of the claim or site;

(3) The type of claim or site;

(4) The date of location;

(5) For all claims or sites located on surveyed or unsurveyed lands, a description shall be furnished. This description shall recite, to the extent possible, the section(s), the approximate location of all or any part of the claim or site to within a 160 acre quadrant of the section (quarter section) or sections, if more than one is involved. In addition, there must be furnished the township, range, meridian and State obtained from an official survey plat or other U.S. Government map showing either the surveyed or projected U.S. Government grid, whichever is applicable;

(6) For all claims or sites located on surveyed or unsurveyed land, either a topographic map published by the U.S. Geological Survey on which there shall be depicted the location of the claim or site, or a narrative or sketch describing the claim or site with reference by appropriate tie to some topographic, hydrographic or man-made feature. Such map, narrative description or sketch shall set forth the boundaries and positions of the indi-

vidual claim or site with such accuracy as will permit the authorized officer of the agency administering the lands or the mineral interests in such lands to identify and locate the claim on the ground. More than one claim or site may be shown on a single map or described in a single narrative or sketch if they are located in the same general area, so long as the individual claims or sites are clearly identified; and

(7) In place of the requirements of paragraphs (c)(5) and (6) of this section, an approved mineral survey may be supplied.

(8) Nothing in the requirements for a map and description found in this section shall require the owner of a claim or site to employ a professional surveyor or engineer.

(d) Each claim or site filed shall be accompanied by a one time \$5 service fee which is not returnable. A notice or certificate of location shall not be accepted if it is not accompanied by the service fee and shall be returned to the owner.

[42 FR 5300, Jan. 27, 1977, as amended at 44 FR 9722, Feb. 14, 1979; 44 FR 20430, Apr. 5, 1979]

§ 3833.1-3 When recordation not required.

If the owner of an unpatented mining claim or mill site had on file in the proper BLM office on October 21, 1976, an application for a mineral patent which contains the documents and information required in § 3833.1-2 of this title, except if the application is for a patent for a placer claim which is located on surveyed lands and conforms to legal subdivisions, such applicant need not comply with the requirements of § 3833.1-2(c)(6) of this title, or if the owner of an unpatented mining claim or mill site located on or before October 21, 1976, files in the proper BLM office an application for a mineral patent, as described above, on or before October 22, 1979, the filing of the application shall be deemed full compliance with the recordation requirements of section 314(b) of the Act and the owner of that claim or site shall be exempt from the filing requirements of § 3833.1. For purposes of complying with the requirement of § 3833.2-1(a) of this title, upon notification to the claimant, the date of re-



IN REPLY REFER TO:

United States Department of the Interior

3833 (723)

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

Organic Act Directive No. 79-7

November 24, 1978

To: AFO's

From: Associate Director

Subject: Recordation Under Federal Land Policy and Management Act
Where Local Recordation Cannot be Established

There have already been instances where claimants, wishing to record their mining claims with BLM, have been unable to supply copies of location notices, or certificates of location, which they believe to have been recorded in the local recording office. Such cases normally involve claims dating back to the turn of the century or before.

The Bureau recognizes that over the years many documents may become lost or misplaced. A number of recording offices have been destroyed by fire. Other types of casualties are known to have occurred.

The purpose of section 314 of FLPMA is to ensure that all mining claims, mill sites, and tunnel sites are reflected in the land records. Where a search of the local (county or recording district) records, therefore, does not reveal the original filing, but does show that there is reason to believe that a recording may have been made, secondary evidence will be accepted. Evidence leading to a belief that a recording may have been made includes, but is not limited to, such things as a history of annual assessment work recordings, recorded grants to the present owner, or wills showing that the claim was inherited by the present owner or a predecessor in interest. The above items are described in 43 CFR 3862.1-4. In 43 CFR 3862.3-1 the means of establishing a right by occupancy is described. Where the above described documents cannot be produced, a right by occupancy will be accepted.

We expect that if this situation is to become acute, it will happen during the last two or three months before October 22, 1979. In each case, the material will be accepted, along with the filing fee, and date stamped. Subsequent review of the material will determine whether or not it is sufficient. Any case where a decision cannot be made as to its sufficiency will be referred to the Director (720) for a final decision.

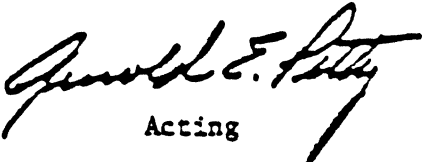
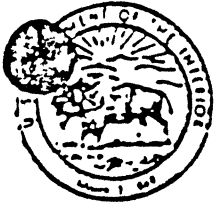

Acting

EXHIBIT "C"



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

LIB. (4)

IN REPLY REFER TO:
3833(520)

- D-100
- D-101
- D-600
- D-601
- D-510
- D-530
- D-540
- D-550
- D-400
- D-401
- D-402
- D-410
- D-420
- D-430
- D-440
- D-450
- D-460
- D-200
- D-201
- D-210
- D-220
- D-230
- D-240

October 31, 1979

• Organic Act Directive No. 80-5

To: All SD's, Director ESO, and DM-Fairbanks

From: Director

Subject: Fatal and Curable Defects of Mining Claim Filings under
FLPMA

Section 314 of FLPMA requires recordation of mining claims, mill sites and tunnel sites with the Bureau of Land Management (BLM). The purpose of the requirement is to give easily interpreted notice to the government and to the public concerning which lands have been appropriated for development of the certain mineral resources, and to eliminate abandoned claims. The objective of such recordation is (1) to add another dimension to the Bureau's inventory of lands and resources in order to be able to develop better, more usable plans, and (2) to inform the public as to which lands are currently under claim, thus assisting in preventing conflicts among lands and resource users. In order to give meaning to the statutory requirements, regulations were written listing specifics which would be required. It is neither the purpose nor the objective of the Act to control or restrict locations under the Mining Law. FLPMA requires, within defined time limits, the following documents be filed:

- Copy of location notice, including description of location of claimed lands on the ground.
- Copy of assessment affidavit or notice of intention to hold, including description sufficient to locate claimed lands on the ground. (Reference to the BLM serial number assigned to the location notice. will suffice as a description.)

In order to give meaning and utility to the required documents, particularly to location notices, the regulations require the following, if not shown on the submitted document:

1. Name or number of the claim.
2. Name and address of the owner(s).
3. Type of claim or site.
4. Date of location.
5. Approximate quarter section(s), section, township, range, meridian and State.
6. Outline of each claim on a USGS map or a sketch, or a narrative description referred to an appropriate tie.
7. In place of (5) and (6) an approved mineral survey.

In addition, the regulations require submission of a \$5 filing fee for each claim or site recorded.

In administering these regulations BLM will require, at a minimum, a timely filed location notice with filing fee, and a timely filed annual notice or affidavit. ~~In some cases, involving older claims, the location notice may not be available. In such instance, secondary evidence that the claim exists will be accepted. (See Organic Act Directive No. 79-7).~~ Failure to file this minimum documentation will be treated as a fatal defect. In such cases the submitted material will be rejected by an appealable decision after having made and retained copies for possible appeal purposes. In returning the material, the filer will be told that, if the lands are still open to location under the Mining Law, he may locate a new claim and file it within the 90 days provided by FLPMA. BLM will not represent that the lands are open to location, or that a location, if made, is necessarily good.

The seven listed items required under the regulations, but not under the statute, if not supplied, will be treated as curable defects. Failure to submit a filing fee or an insufficient fee, however, will not be curable under these procedures. The claimant will be issued a decision specifically listing the information required, and giving him at least 30 days in which to cure the defects. Upon reasonable showing an extension of time should be allowed. If the called for information is not submitted, the filing will be rejected by an appealable decision.

Filings which are received late will be returned with right of appeal, together with the filing fees, with an explanation that the BLM is without authority to accept filings after the period provided by law, and that such claims are, by law, null and void. The person submitting the late filings will be advised that, if the lands remain open to location under the Mining Law, he may locate a new claim and file it within the 90 days provided by FLPMA. Prior to returning the material submitted, copies will be made of pertinent material, including a showing of the date stamp, for possible appeal purposes.

Action on late and incomplete filings should be taken as soon as possible to permit persons involved to save their equities by locating new claims. Priority will be assigned to those cases.

A handwritten signature in black ink, appearing to read "James Davis", is located at the bottom right of the page.

NOTICE

UTAH MINERS

If you located a Mining Claim after October 21, 1976 on Public Lands, you **MUST** file a copy of your Location Certificate no later than 90 days after the Location of the claim in the following office:

US DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Room 1400
University Club Building
136 East South Temple
Salt Lake City, Utah 84111

ALL MINING CLAIMS LOCATED PRIOR TO OCTOBER 21, 1976 MUST BE RECORDED AS DESCRIBED ABOVE BEFORE OCTOBER 22, 1979 IF YOU DO NOT – YOUR CLAIM WILL BE VOID!

This requirement is in addition to the requirement that the Location Certificate must be filed with the County Clerk and Recorder.

THIS NOTICE APPLIES TO MILLSITES AND TUNNELSITES AS WELL AS LODE AND PLACER CLAIMS

THE FOLLOWING INFORMATION MUST BE SUPPLIED IF NOT ON THE CERTIFICATE

- Name or number of claim (both, if it has both).
- Date of location.
- Book and page in which recorded in the County.
- Type of claim or site (lode, placer, mill site, tunnel site).
- Name(s) and current address(es) of present owner(s).
- Township, Range, Section and Quarter Section in which claim is located.
- If the claim is located on unsurveyed lands, a narrative or sketch shall describe the claim with reference to a topographic, hydrographic, or a man-made feature
- A map showing the claim with a scale of not less than ¼ inch to the mile. Several claims may be on the same map, providing the identity of each is clearly shown.



This recording is required by the new Federal Land Policy and Management Act of 1976 (Public Law 94-579; 90 Statute 2743). (See Title 43 Code of Federal Regulations, Subpart 3833). Copy available at above address.

THIS APPLIES TO CLAIMS LOCATED WITHIN NATIONAL FORESTS AS WELL AS VACANT NATIONAL RESOURCE LANDS.

Be sure your claim is not on land withdrawn from mining.

~~IN THE FIFTH JUDICIAL DISTRICT COURT IN AND FOR~~

MILLARD COUNTY, STATE OF UTAH

RALPH W. MORRISON and
RICHARD W. MORRISON,

Plaintiffs,

VS.

DECREE
11 4 5 70

MERRILL G. MEMMOTT, MARIE
S. MEMMOTT, RALPH C. MEMMOTT,
and GRACE K. MEMMOTT,

Defendants.

WHEREAS, the parties plaintiff and the parties defendant have stipulated that judgement may be entered in favor of the Plaintiff and against the Defendant according to the terms of the stipulation and the said stipulation has been duly executed and filed herein, therefore, pursuant to the terms of the stipulation it is hereby:

ORDERED

1. That the Defendants, and each of them, their agents assigns and transferee's, and anyone acting for or on behalf of them are hereby restrained from trespassing upon, asserting claims to, or in any manner interfering with the quiet possession of property owned by the Plaintiffs known and described as RedDome, Red Dome #1, Red Dome #2, Red Dome #3, Red Dome #4, Red Dome #5, Red Dome #6, Red Dome #7, that all of this property is located in Millard

County, State of Utah and described as follows to-wit:

Placer Mining Claim known as Red Dome, described as follows: Commencing at a point approximately one-half mile Northeast of U.S. Geological Survey Bench Mark "Y" 1931 to Red Dome Placer Claim Stake No. 1; thence Southeasterly twenty chains to Red Dome Placer Claim stake No. 2; thence Northeasterly thirty chains to Red Dome Placer claim stake No. 3; thence Northwesterly twenty chains to Red Dome placer stake No. 4 thence Southwesterly thirty chains to point of beginning. The above-described claim is located in and is part of the South half of Section 23, and part of the North half of Section 26, in Township 21 South, Range 6 West, S. L. B. & M.

Placer Mining Claim known as Red Dome #1, situated in Millard County, State of Utah, described as follows:

Lot 1; and Beg. 10 chains West of the SE corner of the NE 1/4

running thence West 40 chains, thence North 20 chains, thence East 40 chains, thence South 20 chains to beginning, all in Sec. 26, Township 21 South Range 6 West, S. L. B. & M. containing 120 acres.

Placer Mining Claim known as Red Dome #2, situated in Millard County, State of Utah, described as follows:

The East one-fifth of Lot 1, containing 10.31 acres and all of Lot 2, containing 53.92 acres; all of Lot 3 containing 53.92 acres; all in Sec. 23, Twp. 21 South, Range 6 West, S. L. M. All of Lot 2, containing 40.62 acres in Sec. 26 Twp. 21 South, Range 6 West, S. L. M.

Placer Mining Claim known as Red Dome #3, situated in Millard County, State of Utah, described as follows:

The South three-fourths of the West four-fifths of Lot 1, containing 30.95 acres, in Sec. 23, Twp. 21 South, Range 6 West, S. L. B. & M. and all of Lot 3, containing 40.95 acres, and All of lot 4, containing 48.02 acres, in Sec. 26, Twp. 21 South, Range 6 West, S. L. B. & M.

Placer Mining Claim known as Red Dome #4, situated in Millard County, State of Utah, described as follows:

The North 1/4 of the West four-fifths of Lot 1, containing 10.30 acres and commencing at the NW corner of Lot 1, thence North 16 chains; thence East 18 chains; thence South 16 chains; thence West 18 chains, containing 28.8 acres, all in Sec. 23, Twp 21 South, Range 6 West, S. L. B. & M., containing a total of 39.1 acres.

Placer Mining Claim known as Red Dome #5, situated in Millard County, State of Utah, described as follows:

4.5 acres, being part of the NE 1/4 of the SE 1/4 of Sec. 27, and also part of the Lot 5, Sec. 26, Twp. 21 South, Range 6 West, S. L. B. & M., more particularly described as follows: Commencing 3 chains West of the East 1/4 corner of Sec 27., Twp 21 South, Range 6 West, and running thence South 5 chains; thence East 9 chains; thence North 5 chains; thence West 9 chains to the point of beginning.

Placer Mining Claim known as Red Dome #6, situated in Millard County, State of Utah, described as follows:

The NE 1/4 of the SW 1/4 of Sec. 23, Twp. 21 South, of Range 6 West, S. L. M.

Placer Mining Claim known as Red Dome #7, situated in Millard County, State of Utah, described as follows:

Lot 1, containing 46.83 acres; the North 3/4 of Lot 2, containing 35.14 acres; all situated in Section 27, Twp. 21 South, Range 6 West, S. L. B. & M.

A map prepared by Bush and Judgell Engineers and dated showing surveyed April 8th and 9th, 1955 is entered in these files for purpose of showing the location and boundaries of the claims described herein:

~~for the sum of \$300.00 for damages sustained by Plaintiff as a result of~~
trespass by the defendants upon the property of the Plaintiff's.

3. It is ORDERED, ADJUDGED and DECREED that Defendants and each of them have no right, title, interest, or claim in or to the property known as Red Dome, Red Dome #1, Red Dome #2, Red Dome #3, Red Dome #4, Red Dome #5, Red Dome #6, Red Dome #7 and as further described herein.

4. It is ordered that the Defendants execute Quit Claim Deeds to the Plaintiffs and to the parties represented by the Plaintiffs, quit-claiming, all the right title and interest to and in the property known and recorded as Red Dome, Red Dome #1, Red Dome #2, Red Dome #3, Red Dome #4, Red Dome #5, Red Dome #6, Red Dome #7.

Done in open court this 10 day of April, 1956.

Wm. P. Hoyt
DISTRICT JUDGE

A copy of the above and foregoing decree mailed to Orvil Isom,
Attorney at Law, Bank of Southern Utah Building, Cedar City, Utah
this 2nd day of April, 1956

David M. Fay

RECEIVED

tiffs were present before the Court and were represented by their Attorney, MILTON T. HARMON. The Defendants were present before the Court and were represented by their Attorney, DEXTER L. ANDERSON. The Court heard testimony from witnesses called by both parties, and received evidence offered by both parties, and having entered its Findings of Fact and Conclusions of Law herein, hereby makes the following Judgment:

IT IS HEREBY ADJUDGED AND DECREED as follows:

1) The boundary lines of Red Dome #5 and #7 are established on the ground consistent with the survey performed by JIM COX, Registered Land Surveyor, Sunrise Engineering, on October 5th and 6th, 1982.

2) All four corners of both Red Dome #5 and #7 are hereby marked and established by corner stakes set by Surveyor JIM COX, described as 1/2" steel rebar stakes, 2 ft. long, driven into the ground at each corner. Each corner stake is identified by an aluminum cap one inch in diameter attached to the top of the stake. The corner which each stake marks is stamped into the aluminum cap, along with the registered surveyor number of JIM COX, to-wit: 4493.

3) IT IS HEREBY ADJUDGED that the said stakes mark the corners and boundary lines of Red Dome #5 and #7.

4) In addition to corner markers, line stakes of 1/2" rebar were placed along the south line of Red Dome #7 by Sur-

veyor JIM COX. IT IS HEREBY ORDERED that said stakes mark the south boundary line of Red Dome #7.

5) The parties and each of them are hereby permanently enjoined from harassing, bothering, or molesting the other in any manner.

6) Each of the parties shall pay one-half of the cost of the survey [\$875.00 each] totalling \$1,750.00, to Surveyor JIM COX, within ten days following the hearing herein, to-wit: October 8th, 1982.

7) The Defendants EVAN B. ANDERSON, DEXTER L. ANDERSON, and FILLMORE PRODUCTS, INC., shall cause the corner markers of Red Dome #5 and #7 to be more permanently set in concrete. Said work shall be under the supervision and direction of Surveyor JIM COX, who shall see that the markers are permanently set in concrete in a proper manner and consistent with the said October 5th and 6th survey.

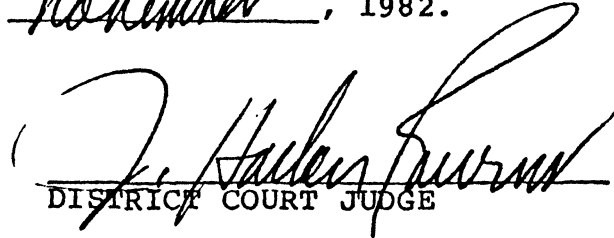
Both parties and each of them and their predecessors in interest are hereby permanently enjoined from moving or interfering with the said corner markers or line markers established by Surveyor JIM COX, except as may be ordered by this Court.

8) THE SOUTH ROAD IS HEREBY ADJUDGED to have a width of 22 ft. travel surface along the entire course, on both segments of the road.

9) Millard County shall cause the said road to be wi-

dened to 22 ft. in travel surface width, and shall henceforth maintain the said road at such width and heretofore ordered length along with other county roads in the area, when they are graded and maintained.

DATED this 15 day of November, 1982.


DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

I certify that I mailed a true and correct copy of the foregoing JUDGMENT to the following persons, postage prepaid, this _____ day of _____, 1982:

MILTON T. HARMON
Attorney for Plaintiffs
36 South Main
Nephi, UT 84648

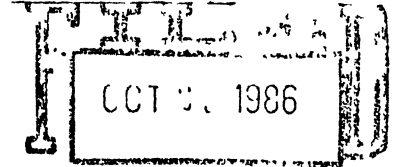
THOMAS A. DUFFIN
Attorney at Law
311 South State, 3rd Flr.
Salt Lake City, UT 84111

THORPE WADDINGHAM
Attorney at Law
Delta, UT 84624

ELDON ELIASON
Millard County Attorney
Delta, UT 84624

DEXTER L. ANDERSON

PATRICK J. GARVER (A1167)
 HAL J. POS (A4500)
 of and for
 PARSONS, BEHLE & LATIMER
 Attorneys for Plaintiffs
 185 South State Street, Suite 700
 P.O. Box 11898
 Salt Lake City, Utah 84147-0898
 Telephone: (801) 532-1234


 OCT 2, 1986
 MILLARD COUNTY
 Clerk
Thomas Ballin Deputy

IN THE FOURTH JUDICIAL DISTRICT COURT OF MILLARD COUNTY

STATE OF UTAH

* * * * *

SANDRA MEMMOTT and RALPH)	
MEMMOTT, individuals,)	
)	
Plaintiff,)	
)	
vs.)	
)	
LAURA LEE ANDERSON, EVAN B.)	
ANDERSON, MERRILY M. ANDERSON,)	
STEVEN L. SORENSON, PATRICIA K.)	
SORENSON, ANTHONY AGUIAR, SHARY)	
D. AGUIAR and CINDY SMITH,)	
individuals,)	
)	
Defendants.)	

VERIFIED COMPLAINT

Civil No. 8158

Judge Ballif

* * * * *

Plaintiffs, by and through their counsel, Parsons, Behle & Latimer, allege causes of action against defendants as follows:

JURISDICTION AND VENUE

1. Plaintiffs invoke the jurisdiction of this Court pursuant to Utah Code Ann. § 78-3-4.

2. Venue is proper in this Court pursuant to Utah Code Ann. § 78-13-1 and § 78-13-7.

PARTIES

3. Plaintiffs, Sandra Memmott and Ralph Memmott are individuals and residents of Millard County, Utah, and own an undivided interest in certain mining claims located in Millard County, Utah.

4. Defendants are individuals, and with the exception of Cindy Smith, are believed to be residents of Millard County, Utah.

5. Based upon information and belief, defendant, Cindy Smith, is an individual residing in Utah County, Utah. Ms. Smith, together with the other defendants, are purported locators of certain mining claims located in Millard County, Utah

FIRST CAUSE OF ACTION

(Quiet Title)

6. Plaintiffs are the original locators of the following unpatented mining claims (hereinafter referred to as the "Feather Lite Claims") located on or about November 14, 1983, fully or in part of Township 21 South, Range 6 West, Salt Lake Meridian, Section 22, 23, 26 and 27:

Feather Lite No. 1	Book 177, Page 828
Feather Lite No. 2	Book 177, Page 829
Feather Lite No. 3	Book 177, Page 830
Feather Lite No. 4	Book 177, Page 831
Feather Lite No. 5	Book 177, Page 832

7. The Feather Lite Claims were initially recorded in the Millard County Recorder's Office on November 14, 1983, at the book and page numbers referenced above.

8. Copies of the official Millard County record of the Notices of Location for the Feather Lite Claims are attached hereto as Exhibits "A" through "E".

9. The Feather Lite Claims are valid mining claims, in good standing under the laws of the State of Utah and the United States of America. The Feather Lite Claims have been maintained by plaintiffs as required by State and Federal Law. The plaintiffs are entitled to exclusive possession and control of the area encompassed by the Feather Lite Claims, subject only to the paramount interests of the United States of America.

10. Defendants assert an interest in the following mining claims (hereinafter referred to as the "Moon-Lite Claims") in Millard County, Utah:

Moon-Lite No. 1	Book 202, Page 747
Moon-Lite No. 2	Book 202, Page 748
Moon-Lite No. 3	Book 202, Page 749
Moon-Lite No. 4	Book 202, Page 750
Moon-Lite No. 5	Book 202, Page 751
Moon-Lite No. 6	Book 202, Page 752
Moon-Lite No. 7	Book 202, Page 753
Moon-Lite No. 8	Book 202, Page 754

11. The Moon-Lite Claims were initially located or relocated on or about October 2, 1986, and "Notices of

Relocation" were recorded in the Millard County Recorder's Office at the book and page numbers referenced above.

12. Copies of the official Millard County record of the Notices of Relocation for the Moon-Lite Claims are attached hereto as Exhibits "F" through "M."

13. According to these Notices of Relocation, the Moon-Lite Claims encompass certain land formerly located as part of the following mining claims (hereinafter after referred to as the "Red Dome Claims") in Millard County, Utah:

Red Dome Placer	Book 9, Page 384
Red Dome No. 1	Book 11, Page 449
Red Dome No. 2	Book 9, Page 543, amended at 580
Red Dome No. 3	Book 9, Page 544, amended at 580
Red Dome No. 4	Book 9, Page 560
Red Dome No. 5	Book 9, Page 560
Red Dome No. 6	Book 10, Page 265, amended at 318
Red Dome No. 7	Book 10, Page 265
Red Dome New Discovery	Book 12, Page 339

14. The Red Dome Claims were initially recorded in the Millard County Recorder's Office at the book and page numbers referenced above.

15. In Gordon Griffin, et al. v. Sandra Memmott, et al., Civil No. 7975, (Fourth District Court of Millard County, State of Utah), this Court held that the Red Dome Claims were abandoned pursuant to 43 U.S.C. Section 1744(c) on the grounds that plaintiffs in that action failed to file the required

instruments with the Bureau of Land Management pursuant to Section 314 of the Federal Land Policy and Management Act. Ruling, dated September 30, 1986, at 5.

16. In that matter, this Court ruled that plaintiffs Gordon Griffin and Red Dome, Inc., had no right or interest in the area embraced by the Feather Lite Claims based upon their Red Dome Claims. Ruling at 5.

17. Immediately after receiving or becoming aware of the Court's Ruling, defendants attempted to locate or relocate the Moon-Lite Claims. Such relocation was merely a ruse or artifice to continue to utilize the subject land which they have no lawful interest in.

18. Several of the defendants herein, and in particular, Evan B. Anderson, Stephen L. Sorenson, and Anthony Aguiar, are or were agents or employees of Gordon Griffin and Red Dome, Inc., who engaged in the mining, extraction and selling of certain ores and materials embraced by the Feather Lite Claims. On information and belief, the remaining defendants are relatives of such agents or employees of Gordon Griffin or Red Dome, Inc.

19. The defendants' interest in the Moon-Lite Claims, if any, is equally adverse and hostile to plaintiffs' Feather Lite Claims and conflict therewith.

20. To the extent that Moon-Lite Claims conflict with the Feather Lite Claims, the latter are superior and paramount to the Moon-Lite Claims.

21. The plaintiffs are entitled to judgment quieting title in and to the Feather Lite Claims in favor of the plaintiffs, and furthermore to judgment declaring as void and groundless any adverse claims of the defendants in or to the land or minerals embraced therein.

WHEREFORE, plaintiffs pray for judgment against defendants as hereinafter set forth.

SECOND CAUSE OF ACTION

(Conversion)

22. Paragraphs 1 through 21 above are realleged and incorporated herein by reference.

23. Plaintiffs are the owners of ores and materials embraced by the Feather Lite Claims. As owners of said mining claims, plaintiffs are entitled to immediate and exclusive possession of the same.

24. Defendants have appropriated plaintiffs' ores and materials, removed then from the land embraced by the Feather Lite Claims and have converted the same to their own use.

25. On numerous occasions, plaintiffs or their representatives have informed defendants or their representatives that the ores and materials belong to plaintiffs, and demanded

that defendants refrain from or cease their unlawful conversion of the same.

26. By written notice dated October 15, 1986, plaintiffs, by and through their counsel, have made demands on defendants to immediately vacate the land embraced by the Feather Lite Claims. A copy of the demand letters are attached hereto as Exhibits "N" through "Q".

27. Despite these requests, defendants have continued and are continuing to appropriate plaintiffs' property.

28. Defendants' conversion is willful and malicious and is conducted in bad faith, thereby entitling plaintiffs to punitive damages.

WHEREFORE, plaintiffs pray for judgment against the defendants as hereinafter set forth.

THIRD CAUSE OF ACTION

(Trespass)

29. Paragraph 1 through 28 are hereby realleged and incorporated herein by reference.

30. On numerous occasions, plaintiffs or their representatives have informed the defendants that any entry on the subject property for any mining purpose was unlawful and requested that defendants cease and desist the same.

31. Despite these requests, defendants or their agents have continued and are continuing to trespass on plaintiffs' property.

32. Defendants' trespass is willful and malicious and is done in bad faith, thereby entitling plaintiffs to punitive damages.

WHEREFORE, plaintiffs pray for judgment against defendants as hereinafter set forth.

FOURTH CAUSE OF ACTION

(Statutory Trespass)

33. Paragraphs 1 through 32 are hereby realleged and incorporated herein by reference.

34. Defendants have wrongfully entered on the land embraced by the Feather Lite Claims, and have wrongfully extracted, removed, and on information and belief, sold plaintiffs' ores and materials located on the subject land.

35. This entry and extraction was performed by the defendants having full knowledge of plaintiffs' adverse claims and without notice to plaintiffs.

36. Defendants' trespass and extraction and/or sale of plaintiffs' ores and materials entitle plaintiffs to damages in the amount of three times the value of the ores and materials removed, without any deductions of the expenses incurred by defendants, pursuant to Utah Code Ann. § 40-1-12.

WHEREFORE, plaintiffs pray for judgment against the defendants as hereinafter set forth.

FIFTH CAUSE OF ACTION

(Injunctive Relief)

37. Paragraphs 1 through 36 above are hereby realleged and incorporated herein by reference.

38. The defendants' unlawful trespass on plaintiffs' property and conversion of plaintiffs' ores and materials embraced by the Feather Lite Claims thereon has and continues to irreparably harm plaintiffs, to an extent that cannot reasonably be estimated in damages, and for which plaintiffs have no adequate remedy at law.

WHEREFORE, plaintiffs pray for judgment against the defendants as hereinafter set forth.

PRAYER FOR RELIEF

Plaintiffs pray for judgment as follows:

1. On plaintiffs' First Cause of Action against the defendants jointly and severally:

(a) An order requiring the defendants to set forth the nature of their claims adverse to plaintiffs Feather Lite Claims;

(b) An order declaring that defendants have no rights or interests in the area encompassed by the Feather Lite Claims, and that the rights and interests of the plaintiffs in

the area of interest encompassed by the Feather Lite Claims be established as superior and paramount to that of the defendants; and

(c) Defendants be permanently enjoined from asserting any claim based upon the Moon-Lite Claims in or to the area or interest encompassed by the Feather Lite Claims, or to any part thereof.

2. On plaintiffs' Second Cause of Action against the defendants jointly and severally:

(a) An order enjoining defendants from converting plaintiffs' ores and materials embraced by the Feather Lite Claims;

(b) Compensatory damages in an amount equal to the gross value of the ores and materials wrongfully converted; and

c) Punitive damages in the amount of \$500,000.

3. On plaintiffs' Third Cause of Action against the defendants jointly and severally:

(a) An order enjoining defendants' unlawful trespass on plaintiffs' property;

(b) Compensatory damages in an amount to be determined by the Court; and

(c) Punitive damages in the amount of \$1 million.

4. On plaintiffs' Fourth Cause of Action against the defendants jointly and severally, damages in the amount of three times the gross value of the ores and materials wrongfully extracted by the defendants.

5. On plaintiffs' Fifth Cause of Action against the defendants jointly and severally:


(a) That the Court issue a temporary restraining order enjoining each and every defendant, their officers, agents, servants, employees, attorneys and all others in active concert or participation with them from further mining, extraction or selling the ores or materials located on or mined from the lands embraced by the Feather Lite Claims;

(b) That the Court issue a preliminary injunction enjoining each and every defendant, their officers, agents, servants, employees, attorneys and all others in active concert or participation with them from further mining, extraction or selling the ores or materials located or mined from the land embraced by the Feather Lite Claims;

(c) That the Court issue a permanent injunction enjoining each and every defendant, their officers, agents, servants, employees, attorneys and all others in active concert or participation with them from further mining, extraction or selling the ores or materials located or mined from the land embraced by the Feather Lite Claims.

6. For plaintiffs' costs incurred herein, including reasonable attorneys' fees, and for such other relief as this Court deems just and proper.

DATED this 28th day of October, 1986.



PATRICK J. GARVER
HAL J. POS
of and for
PARSONS, BEHLE & LATIMER
Attorneys for Plaintiffs
185 South State Street, Suite 700
P. O. Box 11898
Salt Lake City, Utah 84147-0898
Telephone: (801) 532-1234

Plaintiffs' Address:

Box 603
Fillmore, Utah 84631

STATE OF ^{Arizona} ~~TEXAS~~)
COUNTY OF Maricopa) : ss

Sandra Memmott, being first duly sworn, deposes and states that she is the plaintiff in the above-entitled action; that she has read the above Complaint, and that the allegations therein are true of her knowledge, except those allegations which are based upon information and belief, in which case she believes them to be true.

DATED this 24 day of October, 1986.



SANDRA MEMMOTT

SUBSCRIBED AND SWORN to before me this 24th day of October, 1986.

Marjorie Ann Millsaps
NOTARY PUBLIC

My Commission Expires:

Residing at: Phoenix, Arizona

January 29, 1987

STATE OF ^{Arizona} ~~TEXAS~~)
COUNTY OF Maricopa) : SS

Ralph Memmott, being first duly sworn, deposes and states that he is the plaintiff in the above-entitled action; that he has read the above Complaint, and that the allegations therein are true of his knowledge, except those allegations which are based upon information and belief, in which case he believes them to be true.

DATED this 24 day of October, 1986.

Ralph Memmott
RALPH MEMMOTT

SUBSCRIBED AND SWORN to before me this 24th day of October, 1986.

Marjorie Ann Millsaps
NOTARY PUBLIC

My Commission Expires:

Residing at: Phoenix, Arizona

January 29, 1987

CERTIFIED COPY

IN THE FOURTH JUDICIAL DISTRICT COURT FOR MILLARD COUNTY

STATE OF UTAH

* * *

GORDON GRIFFIN and RED DOME, :
INC., :

Plaintiffs, :

vs. :

Civil No. 7975

SANDRA MEMMOTT, RALPH MEMMOTT, :
SUE BUSHNELL, SHEREE BUSHNELL, :
JIM BUSHNELL, BRETT SANDERS, :
PAM SANDERS and CRAIG SANDERS, :

Deposition of:

RALPH MEMMOTT

Defendants. :

* * *

Deposition of RALPH MEMMOTT, taken at the instance and request of Plaintiffs, at the offices of Parsons, Behle & Latimer, 185 South State Street, Suite 700, Salt Lake City, Utah, on the 2nd day of October 1987, at the hour of 2:55 p.m., before SUSETTE M. SNIDER, a Certified Shorthand Reporter, Utah License No. 196, and Notary Public in and for the State of Utah.

* * *



1 territory that's covered by what we've been talking about
2 here today as being the Red Dome Mining claims?

3 A Yes, I've known the territory of the Red Dome
4 Mining Claims.

5 Q And you've been aware of that territory for many
6 years, haven't you?

7 A That's true.

8 Q Do you have any interest in any of the territory
9 covered by the Feather Lite Claims?

10 A No, I don't.

11 Q Do you have any expectancy, income or
12 interest-wise in the future to any of the Feather Lite
13 Claims?

14 A No, I don't.

15 Q At one time I read a Complaint that was filed on
16 your behalf against individuals who claimed Moonlight Mining
17 Claims, and you claimed to be an owner of the Feather Lite
18 Claims.

19 MR. LANGTON: Wait.

20 Is there a question?

21 MR. ANDERSON: Yes.

22 MR. LANGTON: What's the question?

23 Q (By Mr. Anderson) My question is are you aware
24 of that Complaint?

25 A No, I'm not.

1 Q You're not aware of that Complaint?

2 A No.

3 Q You're not aware it was filed on your behalf?

4 A No, I don't.

5 (Whereupon, a discussion was held off the record.)

6 Q (By Mr. Anderson) Are you aware that Mr. Pat
7 Garver filed a lawsuit in Millard County wherein the
8 Complaint and lawsuit claimed that you're an owner of the
9 Feather Lite Claims?

10 A Not to my knowledge, he didn't.

11 Q You did not authorize anybody to file that
12 Complaint, then?

13 A No, I did not.

14 Q And at this point, then, you're telling me that
15 you have no interest or no expectancy in the Feather Lite
16 Claims?

17 A That's true.

18 Q Now, Mr. Memmott, are you familiar basically with
19 I guess what I call the events or occurrences or court
20 orders that have been entered in this case, the case right
21 now that we're taking these depositions in?

22 A Now, which case are you talking about?

23 Q This case that we're taking these depositions in
24 today.

25 MR. LANGTON: Civil No. 7975.

REPORTER'S CERTIFICATE

STATE OF UTAH)
) ss.
 COUNTY OF SALT LAKE)

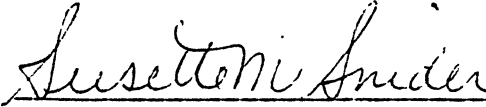
THIS IS TO CERTIFY that the deposition of RALPH MEMMOTT, the witness in the foregoing deposition named, was taken before me, Susette M. Snider, a Certified Shorthand Reporter and Notary Public in and for the State of Utah, residing in Salt Lake City, Utah.

That the said witness was by me, before examination, duly sworn to testify the truth, the whole truth and nothing but the truth in said cause.

That the testimony of said witness was reported by me in Stenotype, and thereafter caused by me to be transcribed into typewriting, and that a full, true and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages numbered from 3 to 41, inclusive, and said witness deposed and said as in the foregoing annexed deposition.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 8th day of November 1987.



 Susette M. Snider, C.S.R.
 Utah License No. 195

My Commission Expires:

6-17-88

743-5367

Dexter L. Anderson

Attorney at Law
P. O. Box 253
Fillmore, Utah 84631

20 South Main

Exhibit B

August 21, 1979



Office of Public Affairs
Bureau of Land Management
Department of the Interior
University Building
136 East South Temple
Salt Lake City, UT 84111

RE: Red Dome Mining Claims &
Red Dome New Discovery Claim
Millard County, UT

Dear Sirs:

Please find enclosed copies of Proof of Annual Labor filed in Millard County Recorder's office for the year ending September 1, 1979. Copies are mailed to you pursuant to the Federal Land Policy Act.

I do not have information which assigns a specific serial number to each claim, and request that you furnish that information to me.

I would also request that you affirmatively advise me whether or not my previous filings and correspondence concerning the above claims complies with the Federal Land Policy Act.

Sincerely yours,

Dexter L. Anderson
Attorney at Law

DLA/vj

Enclosures

LEGISLATIVE HISTORY

P.L. 94-577

[page 14]

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 7, 1976.

Hon. PETER W. RODINO, JR.,
Chairman, Judiciary Committee, U.S. House of Representatives, Suite
2137, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1283, a bill which defines the jurisdiction of United States magistrates.

Based on this review, it appears that no additional costs to the government would be incurred as a result of enactment of this bill.

Sincerely,

Alice M. Rivlin,
Director.

INFLATIONARY IMPACT STATEMENT

The legislation will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

COMMITTEE VOTE

S. 1283 was ordered to be reported favorably with amendments by voice vote of the Committee on the Judiciary on September 15, 1975. Twenty-seven members were present.

SECTIONAL ANALYSIS

The legislation has two sections, both of which are explained under the purpose and statement portions of this report.

* * * * *

POLICY AND MANAGEMENT ACT
P.L. 94-579

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

P.L. 94-579, see page 90 Stat. 2743

Senate Report (Interior and Insular Affairs Committee) No. 94-583,
Dec. 18, 1976 [To accompany S. 507]

House Report (Interior and Insular Affairs Committee) No. 94-1163,
May 15, 1976 [To accompany H.R. 13777]

House Conference Report No. 94-1724, Sept. 29, 1976
[To accompany S. 507]

Cong. Record Vol. 122 (1976)

DATES OF CONSIDERATION AND PASSAGE

Senate February 25, October 1, 1976

House July 22, September 30, 1976

The Senate bill was passed in lieu of the House bill after amending its language to contain much of the text of the House bill. The House Report and the House Conference Report are set out.

HOUSE REPORT NO. 94-1163

[page 1]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 13777) to establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

From the beginnings of the Republic, the public lands have played a key role in the development of the economy and institutions of the United States. In directing the role that the public lands have played, the Congress has enacted thousands of public land laws. More than 3,000 remain on the books today. These laws represented and effectuated Congressional policies needed when they were passed. Many of them are still viable and applicable today under present conditions. However, in many instances they are obsolete and, in total, do not add up to a coherent expression of Congressional policies adequate for today's national goals.

The Executive Branch of the Government has tended to fill in missing gaps in the law, not always in a manner consistent with a system balanced in the best interests of all the people. A major weakness which has arisen under these circumstances is instability of national policies.

(10)

LEGISLATIVE HISTORY

P L 94-579

[page 10]

cept with respect to emergency withdrawals, it also requires the concurrence of heads of departments and independent agencies when lands under their jurisdiction would be affected.

The bill specifically grants the Secretary the authority, by regulation, to provide procedures (segregation of the lands) for protection of values in lands from nonconforming uses and for other purposes while he is considering their possible withdrawal. It allows the Secretary a period of one year to process proposals under such regulations. If he fails to take definitive action by that time, the protective provisions provided by the regulations would terminate. A period of a year is ample time for the Secretary to determine the course of action which will be in the public interest.

The bill would limit the authority of the Secretary to delegate his withdrawal authority to subordinates. Since withdrawals go to the heart of basic Federal land policies, he will be able to delegate action only to policy officers in the Office of the Secretary appointed by the President with the advice and consent of the Senate. Bureau Chiefs will not be permitted to exercise withdrawal authority. The Secretary of the Interior is directed to process all withdrawal applications pending as of the date of the Act within ten years of that date.

Section 205—Acquisition of Land

(a) The Secretary of the Interior and the Secretary of Agriculture, as to Federal lands administered by them, are authorized to acquire lands by purchase, exchange or donation. Power of eminent domain may be used by the Secretary of the Interior only in connection with the acquisition of access. Existing eminent domain authority of the Forest Service is not modified.

(b) Acquisition must be consistent with the mission of the agency.

(c) and (d) Lands acquired by the Secretary of the Interior under this Act shall be considered as public lands, with lands acquired within a grazing district becoming part of the district. Lands acquired by the Secretary of Agriculture shall become national forest lands.

(e) The Secretary of the Interior is permitted to use the Land and Water Conservation Fund for purchase of lands primarily of value for recreation. The Secretary of Agriculture has similar authority.

Section 206—Exchanges

(a) Exchanges of public lands by the Secretary of the Interior and national forest lands by the Secretary of Agriculture are authorized when they determine exchanges to be in the public interest. "Public interest" is defined in its broad sense to include the satisfaction of State and local needs as well as national needs.

(b) Exchanges may be for lands or for interests therein or both. This authority will include transactions where transfer of less than full fee in the land is all that is needed to accomplish the objectives involved. An example of such transactions is exchange of easements to facilitate construction of a road system. This provision will also permit the solution of long-standing mineral development problems resulting from reservation of minerals to the United States when lands have been disposed of under the public land laws. The authority will permit exchanges of mineral interests so that mineral rights can be re-united with the rest of the fee estate, facilitating development of the minerals where development has been hampered because

POLICY AND MANAGEMENT ACT

P L 94-579

[page 11]

of separation of minerals from the surface estate. Values may be equalized by cash payments up to 20%. The Committee expects the Secretaries to make every reasonable effort to keep cash equalization payments as small as possible.

(c) Lands acquired by the Secretary of the Interior within National Forest boundaries may be transferred by him to the Secretary of Agriculture for management as part of the National Forest System. Lands within a National Park, Wildlife Refuge, Wild and Scenic River, trails or other systems may be transferred for administration as part of that system. Lands acquired by the Secretary of Agriculture become National Forest System lands.

Section 207—Recordation of Mining Claims and Abandonment

(a) Within three years and each year thereafter, the owner of an unpatented mining claim located prior to this Act must file in the appropriate office of record (County Recorders Office) and with the Bureau of Land Management, an affidavit of assessment work. For claims located after this Act, similar material must be filed annually.

(b) A copy of the location notice of mining claims and mill sites filed in the appropriate office of record must also be filed with the Bureau of Land Management. The bill emphasizes current requirements of law to the effect that recorded documents must contain a description of the mining claim or mill site sufficient to permit its identification on the ground.

(c) Failure to comply with (a) and (b) above constitutes abandonment of the claim.

Section 208—Recordable Disclaimers of Interest in Land

The Secretary of the Interior is given authority to issue disclaimers of interest in land in three specified instances where he finds no Federal interest and where there is a cloud on the title to the land. Under existing law, the Secretary of the Interior has no authority to issue any kind of document showing that the United States has no interest in lands.

The disclaimer would have the same legal effect as a quitclaim deed from the United States. It would eliminate the necessity for court action or private relief legislation in those cases where the United States asserts no ownership or interest.

Section 209—Conveyance of Reserved Mineral Interests

The Secretary is authorized to convey reserved Federal mineral interests to the owner of the surface estate for fair market value in either of two situations: where there are no known minerals or the reservation interferes with a more valuable surface development. The authority covers situations presently existing, or which may arise hereafter.

Section 210—Grazing Fees

Since enactment of the Taylor Grazing Act of 1934, the question of equitable fees for grazing privileges has been a protracted controversy. The controversy has interfered with administration of the Act and the management of the public lands and has discouraged adequate funding of grazing management and improvement programs.

Existing law calls for "reasonable fees". In the 1960's the Secretaries of Agriculture and of the Interior cooperated in a research

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IN THE FOURTH JUDICIAL DISTRICT COURT FOR MILLARD COUNTY

STATE OF UTAH

* * * * *

GORDON GRIFFIN and RED
DOME, INC.,

Plaintiffs,

vs.

SANDRA MEMMOTT, RALPH
MEMMOTT, SUE BUSHNELL,
SHEREE BUSHNELL, JIM
BUSHNELL, BRETT SANDERSE,
PAM SANDERS, and CRAIG
SANDERS,

Defendants.

DUPLICATE

CIVIL NO. 7975

DEPOSITION OF
DEXTER L. ANDERSON

COPY

TAKEN: FEBRUARY 12, 1986

REPORTED BY:
JOSEPH M. LIDDELL, CSR, RPR

* * * * *

Deposition of DEXTER L. ANDERSON, taken at the instance and request of the Defendants, at the Justice of the Peace Courtroom, Millard County Public Safety Building, 750 South, Highway 99, Fillmore, Utah, on the 12th day of February, 1986, commencing at 12:15 p.m., before JOSEPH M. LIDDELL, Registered Professional Reporter, Certified Shorthand Reporter, Utah License No. 219-1801-1, and Notary Public in and for the State of Utah.

---ooOoo---

Morrison

1 Inc., and Fillmore Products, Inc. Am I correct in assuming,
2 based on your testimony now, that at the time that that
3 document was prepared the owners were actually the Morrison
4 Family Interest, the Sparks Family Trust, Lavon Morrison,
5 and the Beaner Block Company rather than Red Dome, Inc.,
6 or Fillmore Products, Inc.?

7 A Well you asked me who the record title owners
8 were and at that time, '78 - '79, whatever years you men-
9 tioned, if you went up and looked at the record at Millard
10 County, you would find those people that I named as the
11 record title owners as I interpreted what that means. The
12 contract of sale between those record title owners, the
13 Morrison Family--I'm talking about the Morrison Family
14 Interest and Red Dome, Inc.--was recorded as I remember
15 correctly.

16 Q The Red Dome, Inc., was a contract purchaser;
17 is that right?

18 A Yes. They were a contract purchaser. They
19 were entitled to possession of it under the contract and
20 were still making payments to the Morrison Family Interest
21 at that time.

22 Q But I am correct in saying, am I not, that at
23 that time that this document entitled Red Dome Placer Mining Claim
24 was prepared, the subject to the contract to purchase, the
25 owners were the Morrison Family Interest, Sparks Family

1 Trust, Lavon Morrison, and the Beaner Block Company?

2 A Yes, as I understand the question.

3 Q Do the Morrison Family Interest or any of those
4 other parties that we have named still retain any interest
5 under that contract, or otherwise, in the Red Dome claims?

6 A At the present time, none. They don't have
7 any interest whatsoever.

8 Q Did you prepare the exhibits attached to the
9 cover letter on DEPOSITION EXHIBIT A?

10 A Yes.

11 Q At the time that you prepared those exhibits
12 were you acting on behalf of the owners or on behalf of
13 the contract purchasers, Red Dome, Inc., or Fillmore
14 Products, Inc.?

15 A Well, I was acting on behalf of both Red Dome,
16 Inc., and Fillmore Products, Inc.

17 Q And you were acting as their Attorney?

18 A Yes.

19 Q And that was the only relationship that you
20 had.

21 A Well, I had a stock ownership interest in
22 Fillmore Products, Inc., at that time. I was also an
23 officer of Fillmore Products.

24 Q Are you still an officer of Fillmore Products,
25 Inc.?

1 least four, maybe as high as--I don't know--maybe as high
2 as 6 or 8, maybe 10.

3 Q When you say depending on the season, what is
4 the season for the material that's taken out there, if
5 you'll explain that to me?

6 A The mine is operated on the year-around basis
7 on a daily year-around business. During the summer there's
8 more demand for the products. During the early spring
9 and summer time, and early fall, there's a bigger demand
10 for the material, so it just takes more people to supply
11 the demand.

12 Q Who is responsible for day-to-day management
13 at the property of any mining operations that occur there?

14 A I'd tell you it would be Stephen Sorenson.

15 Q I'd like to go back to DEPOSITION EXHIBIT A,
16 if we can, Mr. Anderson. As I noted before, attached to
17 DEPOSITION EXHIBIT A are 9 pages; on each page there is
18 the title of a mining claim and then at least 4 and sometimes
19 5 categories, typically starting with "Notice of Location"
20 and ending with "Owners." I think you've testified that
21 you prepared these documents. Can you tell me how and
22 when they came to be filed with the BLM?

23 A Well, they were prepared with the specific pur-
24 pose of complying with the Federal Land Use Policy Act,
25 their requirement that mining claims had to be filed or

1 noticed with the Bureau of Land Management. I don't remem-
2 ber what year that was--1978 or '79. And like I say, they
3 were prepared with the purpose of complying with the Federal
4 Land Use Policy Act.

5 Q And does this DEPOSITION EXHIBIT A reflect all
6 of the documents that you filed on November 22nd, 1978,
7 with the Bureau of Land Management?

8 A Those were all the documents I filed on that
9 day. Yes.

10 Q Prior to October 22nd, 1979, did you file any
11 additional documents with the Utah State Office of the
12 Bureau of Land Management with respect to the Red Dome
13 mining claims?

14 A They'd sent me a request after I made the
15 initial filing and it's EXHIBIT A, dated November 1978.
16 They made a request for some additional information and
17 I provided that for them.

18 MR. GARVER: Off record.

19 [Off-record consultation with DEPOSITION EXHIBITS
20 B, C, and D marked]

21 MR. GARVER: Q Mr. Anderson, I'd like to direct
22 your attention to DEPOSITION EXHIBIT B. Is this the cor-
23 respondence with BLM that you described where they asked
24 you for some additional information?

25 A Yes.

1 16 inches, something of that nature. They would roll these
2 big sheets of paper in the typewriter and then somebody
3 would sit down and type out verbatim what the Notice of
4 Location said. These big sheets of paper then would become
5 permanent records in the Millard County Recorder's Office,
6 but they are not copies of the original Notice of Location.

7 Q But DEPOSITION EXHIBIT D does represent reduced
8 photo copies of the records that were, what I think you
9 have characterized were the official records that were main-
10 tained by the Millard County Recorder.

11 A That's right.

12 Q Were any of the copies of the documents that
13 you have described as the records maintained by the Millard
14 County Recorder and which consisted of DEPOSITION EXHIBIT
15 D, filed with the Utah State Office of the Bureau of Land
16 Management prior to October 22nd, 1979?

17 A No, not by me. No.

18 Q Have they ever been filed by you with the BLM?

19 A No.

20 Q At the time that you sent the letter to the
21 BLM in 1978, specifically on November 22nd, 1978, did you
22 have copies of the documents that make up DEPOSITION EXHIBIT
23 D in your possession?

24 A No. I didn't even know it was possible to make
25 them, to tell you the truth. You are talking about books

1 that weigh maybe 25 or 30 pounds a piece in the Recorder's
2 Office that to me have always appeared to be permanently
3 bound together, and the sheets are like I say, at least
4 12 inches by 16 inches in size, much larger than a regular
5 piece of paper, much larger than the old legal sized paper
6 which is 8½ by 13 or 14 inches or whatever they are, and
7 I didn't have copies of them. I knew where the books were
8 and I'd go up to get the books out and probably had just
9 about the book and page number memorized. And I'd go up
10 and open the books out and read them, but I didn't have
11 copies of them.

12 Q What did you use for the basis for preparing
13 the legal description that is reflected for each of the
14 claims on your filing of November 22nd, 1978, which is
15 DEPOSITION EXHIBIT A?

16 A Well, I remember doing that. I went up and
17 sat in the vault in the Recorder's Office for probably a
18 big full day, copying them out in longhand on a piece of
19 yellow pad. What I was doing was looking for the informa-
20 tion that I put on the certificates or put on the document.
21 I prepared for EXHIBIT A.

22 Q At the time that you--strike that. Have yo
23 ever seen the original Notices of Location or amended Notic
24 of Location for the Red Dome claims?

25 A No. As far as I know they're not in existence.

1 I've asked some of the Morrison family members over in
2 Delta if they knew where they were and they always told
3 me no, they didn't know where they were.

4 Q Did you make these inquiries prior to sending
5 this letter of November 22nd, 1978?

6 A I don't really remember.

7 Q Who specifically did you talk to, with the
8 Morrison family?

9 A Well, we really only had one contact. His name
10 is Willis Morrison, in Delta, and his father's name is--
11 I believe his father's name is Ralph Morrison. I don't
12 know whether he's still alive or not.

13 Q Do you recall when you spoke with Willis
14 Morrison concerning the originals of the Notices of Loca-
15 tion or amended Notices of Location for the Red Dome claims?

16 A The only time that I specifically remember was
17 probably two or three months ago when I was trying to
18 respond to some interrogatories that you had filed. I
19 know that we dealt with Willis Morrison since I've known
20 him, since 1969, and I'd seen some of his files in the
21 past that he's had. And we've talked about the original
22 Notices of Location, but he just never had ~~them~~. I mean
23 you're talking about his grandfather is the one that filed
24 them and the records were kind of passed down to his father
25 and then down to him.

1 Q Okay. But is it fair to say that prior to pre-
2 paring the documents that you filed on November 22nd, 1978,
3 you did not make any inquiry in an effort to locate the
4 original Notices of Location or original amended Notices
5 of Location for the Red Dome claims?

6 A Well, my answer to that is I don't remember
7 specifically asking and looking again for the Notices of
8 Location for purposes of filing them with the BLM. I just
9 know at the time that I knew they didn't exist because
10 we'd been working with Morrisons since '69.

11 Q I thought your testimony was that you had never
12 had occasion to ask him, prior to two or three months ago,
13 about the original Notices of Location. How would you
14 have known for a fact that they didn't exist?

15 A Well I said that I couldn't remember specifically
16 asking for them any of the dates, except that I have known
17 since, in the early 70's that they didn't exist.

18 Q What was the basis for that knowledge?

19 A Just working with Willis Morrison.

20 Q Do you have any knowledge that Willis Morrison
21 ever had the originals of the Notices of Location?

22 A My most recent recollection is a conversation
23 I had with him about two or three months ago when I asked
24 him if he had them. He advised me that he really didn't
25 know what I was talking about. I had to explain to him

1 what I was talking about; he said no, he'd never seen them.

2 Q Other than Willis Morrison, you didn't make
3 any contacts with any of the original locaters of the claims
4 or their descendants or any of the other previous owners
5 or lessees of the claims as to the whereabouts of the
6 original Notices?

7 A As far as I know, everyone else was deceased.
8 I know that Lavon Morrison died maybe two years ago.
9 Richard Morrison, her husband, has been dead ever since
10 we have been involved in it. I don't know whether Willis
11 Morrison's dad is alive now or not. I suspect that he's
12 dead, too. I didn't know anybody else. I didn't know
13 the whereabouts of anybody else, other than Willis Morrison
14 and I know that he is the one that kind of was the spokes-
15 man for the family, took care of the business, kept all
16 of the old records and files that there were available.

17 Q I'd like to direct your attention, again, to
18 DEPOSITION EXHIBITS A and D, specifically with respect
19 to the Red Dome claim No. 2. I'd like you to look at the
20 attachment to DEPOSITION EXHIBIT A that relates to what
21 you've characterized there as the Red Dome No. 2 Placer
22 Mining Claim. And then look at DEPOSITION EXHIBIT D with
23 respect to the Notice of Location of Placer Claim or the
24 Red Dome Placer Mining Claim No. 2, Placer Mining Claim,
25 and the amended Notice of Location of Placer Claim with

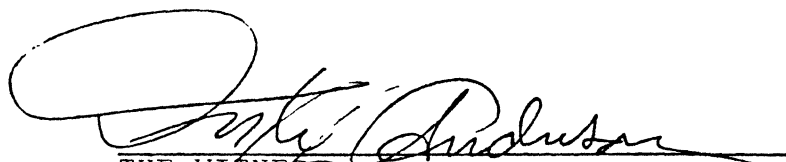
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WITNESS' CORRECTION SHEET

TO THE WITNESS:

Please do not write in the deposition transcript. While reading the transcript, make all corrections or changes on this sheet, comments where necessary, and when completed be sure to sign both this WITNESS CORRECTION SHEET and the CERTIFICATE OF READING AND SIGNING, which is at the end of the deposition transcript. This CERTIFICATE OF READING AND SIGNING must be signed before a Notary Public.

Page	Line	Correction	or	Comment/Explanation
12	25	Sawed		
13	2	"		
8	10	Buehner		
13	13	Buehner		
11	1	Buehner		
18	21	1933		There is no Exhibit
19	21	1933		Includes in Deposition
32	24	I've		


 THE WITNESS