

FILED

NO. _____

'85 APR 15 P2:51

Case No. 14315

YVONNE BERNARD
CLERK

BY Quicoda DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

LOIS B. BACKLUND and
JOHN P. DAVIS, JR.,

Plaintiffs,

vs.

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND JUDGMENT

R. W. ADAMS, and All Other
Persons Unknown Claiming Any
Right, Title, Estate, Lien, or
Interest in the Real Property
Described in the Complaint
Adverse to Plaintiff's Ownership
or Any Cloud Upon Plaintiff's
Title Thereto, including but
not limited to Unknown Heirs of
Any Party Defendants,

Defendants.

This matter came on for hearing before the under-
signed District Judge on March 7, 1985, Plaintiffs and Counter-
defendants, LOIS B. BACKLUND and JOHN P. DAVIS, JR. (herein-
after collectively referred to as "Plaintiffs"), being repre-
sented by WILLIAM J. CROWELL, JR., ESQ., and Defendants and
Counterclaimants, R. W. ADAMS, et al (hereinafter collectively
referred to as "Defendants"), being represented by ROSS E. de
LIPKAU, ESQ.

Upon hearing the testimony of the witnesses, the
evidence presented by both parties, the oral arguments of
counsel, together with the entire record on file herein, the
Court makes the following FINDINGS OF FACT:

1. That Plaintiffs are the owners of the real
property depicted on Exhibit "A" attached hereto. Defendants'

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ROSS E. de LIPKAU
P.O. Box 2790
Reno, NV 89505

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1 real property borders Plaintiffs' property to the west.

2 2. That across Plaintiffs' property exists an
3 earthen road which connects Foothill Road, aka Jacks Valley
4 Road, to Defendants' real property. The earthen road is
5 approximately seventy (70) feet in length, and is of single
6 vehicle width.

7 3. The earthen road has been in existence from
8 approximately 1852 to the present.

9 4. That Plaintiffs acquired their real property
10 depicted on Exhibit "A" in 1972; and that Defendants'
11 grandparents acquired their real property in 1852.

12 5. Plaintiffs' use of the earthen road is sporadic
13 and seasonal, depending upon the time of year, weather con-
14 ditions, and other agricultural factors. Defendants' use of
15 the earthen road has been limited to the occasional moving of
16 cattle, vehicular traffic for the purpose of fence repair and
17 inspection, transportation of heavy equipment, and vehicular
18 traffic for fire inspection, and wood gathering purposes.

19 6. Defendants' use of the earthen road was not
20 adverse until 1972. The adverse use continued to 1980, when
21 the parties mutually agreed to joint possession of a key to the
22 padlock on the newly installed gate, which gate is located on
23 the eastern end of the earthen road.

24 7. That the use of the earthen road by Defendants
25 during the period 1972-1980, inclusive, was continuous, actual,
26 and notorious, hostile to the estate of Plaintiffs, and was
27 held and utilized under a claim of right by Defendants.

28 CONCLUSIONS OF LAW

29 1. This Court has jurisdiction over the parties
30 hereto and over the real property depicted on Exhibit "A"
31 attached hereto.

32 2. That Defendants' use of the earthen road existed

1 for a period in excess of five years.

2 3. That Defendants' use of the earthen road was actual,
3 open, and notorious, hostile to the estate of Defendants, held
4 under a claim of right by Plaintiffs, and existed for more than
5 five consecutive years during the period 1972-1980, inclusive.

6 Based upon the foregoing Findings of Fact and Conclusions of
7 Law, this Court makes the following ORDER:

8 1. That Plaintiffs' Complaint for quiet title is hereby
9 DENIED.

10 2. That Defendants' Counterclaim seeking quiet title for
11 the prescriptive easement is hereby granted, subject to the
12 following terms:

13 (a) For occasional transportation of livestock.

14 (b) For vehicular travel for the purposes of fence re-
15 pair, cattle inspection, repair to water pipeline and
16 water boxes, together with occasional wood gathering.

17 (c) For movement of equipment necessary to repair
18 fences, water pipelines, water boxes, and roads necessary
19 to maintain the fences and water system.

20 3. That the prescriptive easement is approximately seventy
21 (70) feet in length, being a single lane earthen road. The pre-
22 scriptive easement is depicted on Exhibit "A" attached hereto and
23 made a part hereof.

24 4. Further, the Court requested that R. W. Adams maintain a
25 written log of the dates and purposes of his use of the subject
26 easement.

27 5. Each party shall bear its own costs and fees.

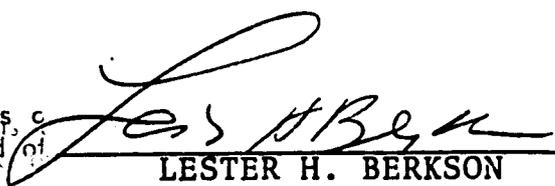
28 IT IS SO ORDERED.

29 DATED this 14 day of April, 1985.

30
31 **SEAL**

CERTIFIED COPY

32 The document to which this certificate is attached is a
full, true and correct copy of the original on file and of
record in my office.


LESTER H. BERKSON
District Judge

WITNESSE: April 19, 1985
J. Bernard Clerk of the 9th Judicial District Court
of the State of Ill., in and for the County of Douglas.

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By D. Kucade Deputy

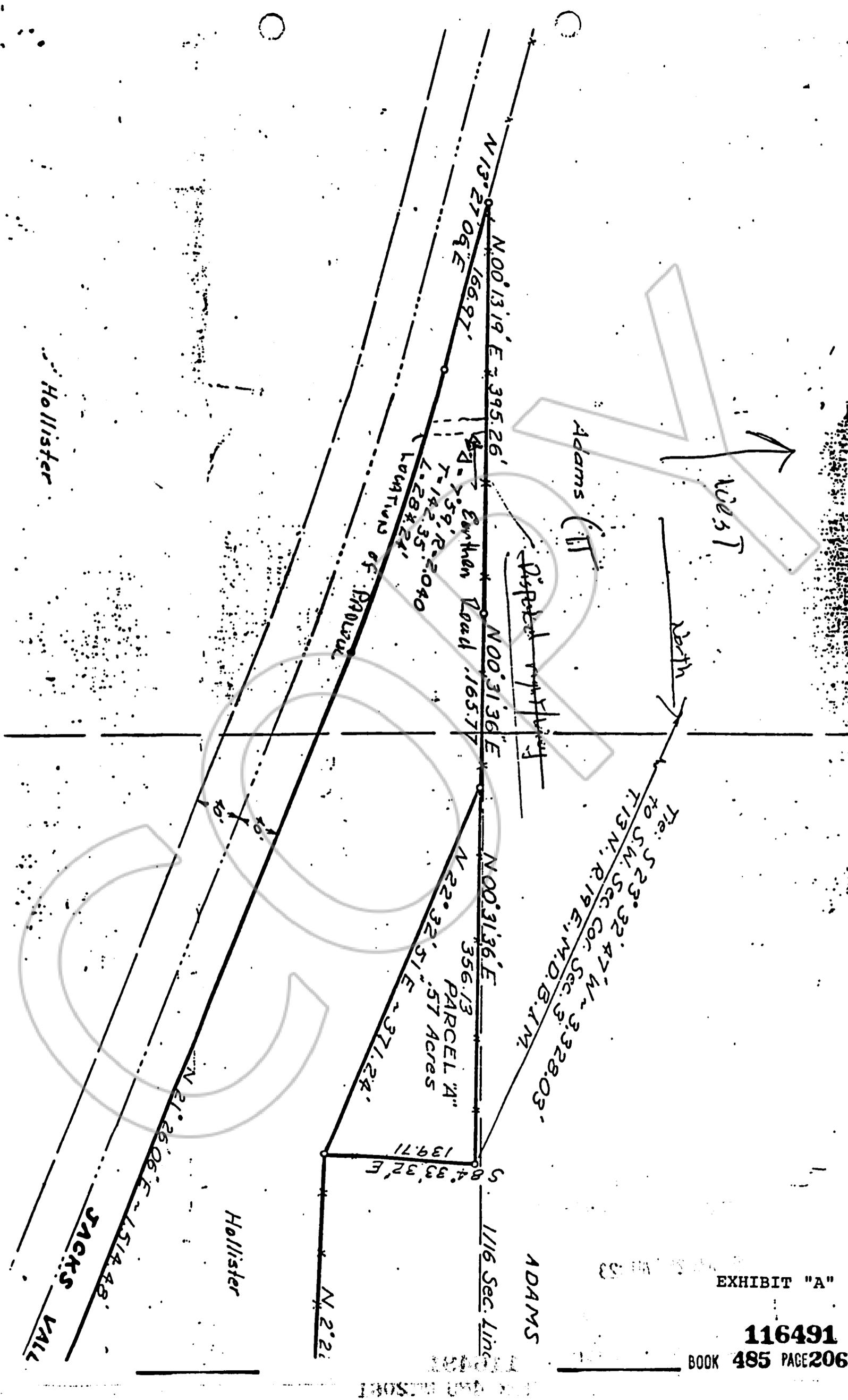


EXHIBIT "A"

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COPY

REQUESTED BY
Ross E. de Liptau
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

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SUZANNE BEAUDREAU
RECORDER

\$ 9.00 PAID me DEPUTY

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