

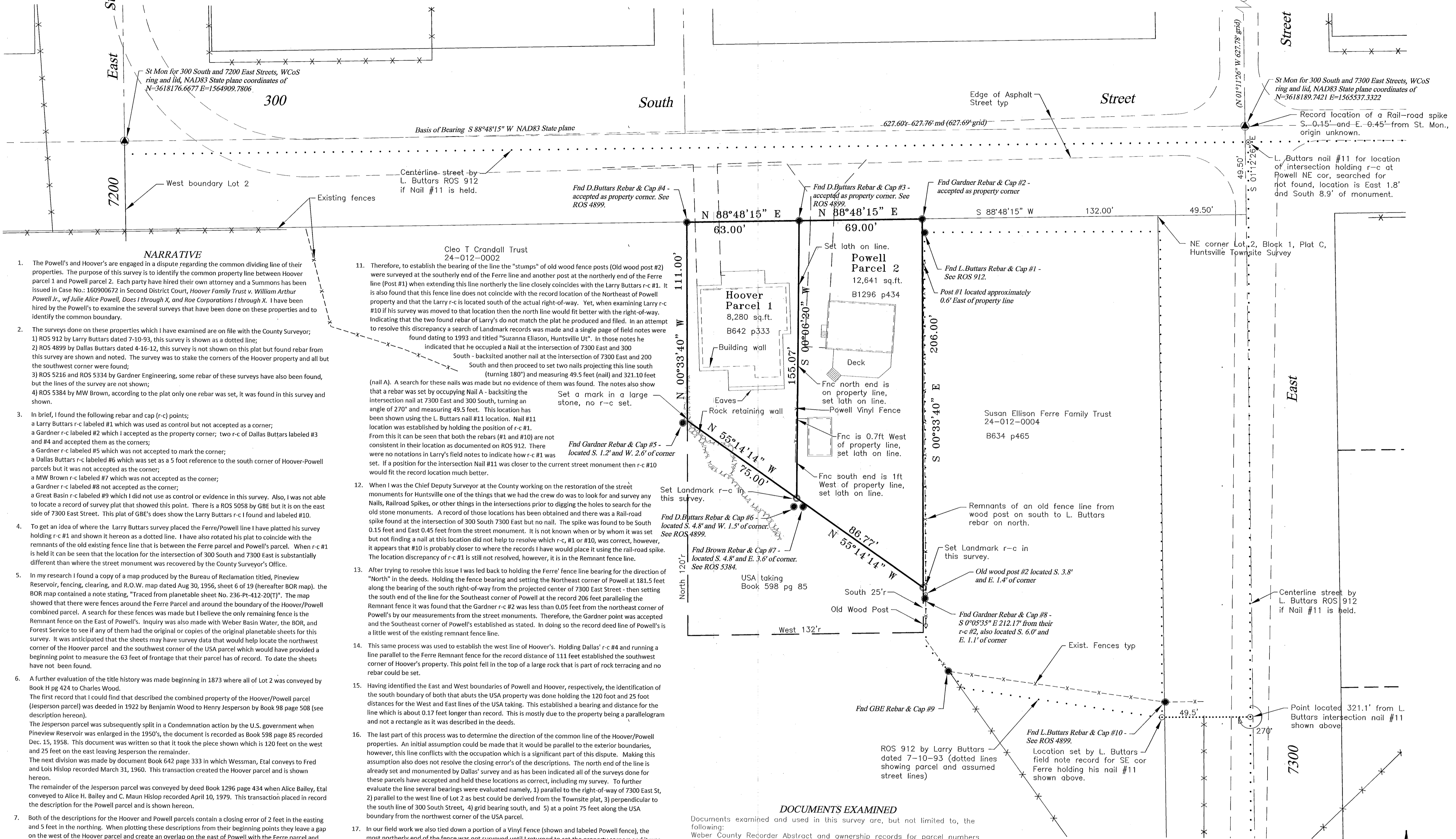
PART OF THE NW 1/4 OF SECTION 18, TOWNSHIP 6 NORTH, RANGE 2 EAST, SALT LAKE BASE & MERIDIAN
HUNTSVILLE TOWN, WEBER COUNTY, UTAH - Surveyed various times from: November 2016 to December 2017

DESCRIPTION OF RECORD

Book 98 pg 508: recorded Sept 22nd, 1922
 A part of Lot Two (2) IN Block One (1) Plat "C" Huntsville Survey. Situated in Section Eighteen (18) Township Six (6) North of Range Two (2) East of Salt Lake Meridian United States Survey. Beginning 8 rods from the North East corner of said Lot 2 and running thence West 8 rods; thence South 14 rods; thence East 8 rods; thence North 14 rods to the place of beginning.

Book 598 pg 86: recorded Dec 15, 1958
 Tract No. 138:
 A part of Lot Two (2), block One (1), Plat "C", of Huntsville Survey located in the Southwest Quarter of the Northwest Quarter (SW1/4NW) of Section Eighteen (18), Township Six (6) North, Range 2 (2) East, Salt Lake Base and Meridian, being more particularly described as follows:
 Beginning at a point on the West line of the defendants' property, also being a point One Hundred Eleven (111.0) feet South of the North line of said Lot 2, from which point the Northeast corner of said Lot 2 bears North 66°11' East Two Hundred Eighty-eight and Five-tenths (288.5) feet, and running thence South 54°15' East One Hundred Sixty-two and Six-tenths (162.6) feet to a point on the East line of the defendants' property; thence South Twenty-five (25.0) feet; thence West One Hundred Thirty-two (132.0) feet; thence North One Hundred Twenty (120.0) feet to the point of beginning, containing 0.2 of an acre, more or less.

Book 642 pg 333: recorded March 31, 1960
 A part of Lot 2, Block 1, Plat "C" Huntsville Survey: Beginning at a point 16 rods West of the Northeast corner of said Lot 2, running thence East 63 feet; thence South 160 feet, more or less; to the intersection of S. 54°15' E. thence West 75 feet to a point 111 feet South of beginning; thence North 111 feet to the place of beginning.



NARRATIVE

1. The Powell's and Hoover's are engaged in a dispute regarding the common dividing line of their properties. The purpose of this survey is to identify the common property line between Hoover parcel 1 and Powell parcel 2. Each party has hired their own attorney and a summons has been issued in Case No. 160900672 in Second District Court, Hoover Family Trust v. William Arthur Powell Jr., w/ Julie Alice Powell, Does I through X, and Roe Corporations I through X. I have been hired by the Powell's to examine the several surveys that have been done on these properties and to identify the common boundary.

2. The surveys done on these properties which I have examined are on file with the County Surveyor; 1) ROS 912 by Larry Butters dated 7-10-93, this survey is shown as a dotted line; 2) ROS 4899 by Dallas Butters dated 4-16-12, this survey is not shown on this plat but found rebar from this survey are shown and noted. The survey was to stake the corners of the Hoover property and all but the southwest corner were found; 3) ROS 5216 and ROS 5334 by Gardner Engineering, some rebar of these surveys have also been found, but the lines of the survey are not shown; 4) ROS 5384 by MW Brown, according to the plat only one rebar was set, it was found in this survey and shown.

3. In brief, I found the following rebar and cap (r-c) points; a Larry Butters r-c labeled #1 which was used as control but not accepted as a corner; a Gardner r-c labeled #2 which I accepted as the property corner; two r-c of Dallas Butters labeled #3 and #4 and accepted them as the corners; a Gardner r-c labeled #5 which was not accepted to mark the corner; a Dallas Butters r-c labeled #6 which was set as a 5 foot reference to the south corner of Hoover-Powell parcels but it was not accepted as the corner; a MW Brown r-c labeled #7 which was not accepted as the corner; a Gardner r-c labeled #8 not accepted as the corner; a Great Basin r-c labeled #9 which I did not use as control or evidence in this survey. Also, I was not able to locate a record of survey plat that showed this point. There is a ROS 5058 by GBE but it is on the east side of 7300 East Street. This plat of GBE's does show the Larry Butters r-c I found and labeled #10.

4. To get an idea of where the Larry Butters survey placed the Ferre/Powell line I have plotted his survey holding r-c #1 and shown it hereon as a dotted line. I have also related his plat to coincide with the remnants of the old existing fence line that is between the Ferre parcel and Powell's parcel. When r-c #1 is held it can be seen that the location for the intersection of 300 South and 7300 East is substantially different than where the street monument was recovered by the County Surveyor's Office.

5. In my research I found a copy of a map produced by the Bureau of Reclamation titled, Pineview Reservoir, fencing, clearing, and R.O.W. map dated Aug 30, 1956, sheet # of 19 (hereafter BOR map), the BOR map contained a note stating, "Traced from plan table sheet No. 236 Pt-412-20(1)". The map showed that there were fences around the Ferre Parcel and around the boundary of the Hoover/Powell combined parcel. A search for these fences was made but I believe the only remaining fence is the Remnant fence on the East of Powell's. Inquiry was also made with Weber Basin Water, the BOR, and Forest Service to see if any of them had the original or copies of the original plan table sheets for this survey. It was anticipated that the sheets may have survey data that would help locate the northwest corner of the Hoover parcel and the southwest corner of the USA parcel which would have provided a beginning point to measure the 63 feet of frontage that their parcel has of record. To date the sheets have not been found.

6. A further evaluation of the title history was made beginning in 1873 where all of Lot 2 was conveyed by Book H pg 424 to Charles Wood. The first record that I could find that described the combined property of the Hoover/Powell parcel (Jesperson parcel) was deeded in 1922 by Benjamin Wood to Henry Jespersen by Book 98 page 508 (see description hereon). The Jespersen parcel was subsequently split in a Condemnation action by the U.S. government when Pineview Reservoir was enlarged in the 1950's, the document is recorded as Book 598 page 85 recorded Dec. 15, 1958. This document was written so that it took the piece shown which is 120 feet on the west and 25 feet on the east leaving Jespersen the remainder. The next division was made by document Book 642 page 333 in which Wessman, Etal conveyed to Fred and Lois Hislop recorded March 31, 1960. This transaction created the Hoover parcel and is shown hereon. The remainder of the Jespersen parcel was conveyed by deed Book 1296 page 434 when Alice Bailey, Etal conveyed to Alice H. Bailey and C. Maun Hislop recorded April 10, 1979. This transaction placed in record the description for the Powell parcel and is shown hereon.

7. Both of the descriptions for the Hoover and Powell parcels contain a closing error of 2 feet in the easting and 5 feet in the northing. When plotting these descriptions from their beginning points they leave a gap on the west of the Hoover parcel and create an overlap on the east of Powell with the Ferre parcel and on the south boundary both overlap the USA parcel. They do however describe a common line between them with no overlap or gap. It is clear, however, from the writing that the intent was to convey 63 feet of street frontage to the Hoover parcel and the remainder of 69 feet being left in the Powell parcel which established the Hoover parcel as the senior title.

8. The frontage distances on 300 South Street have been identified in the surveys of Gardner Engineering, Dallas Butters and Brown surveys, each having identified these points in the same location from the street monuments. The location of the corners on the south of the property have been identified in each survey in differing locations, thus the controversy. The Brown and Dallas surveys identified the same position for the southwest corner of Powell's/southeast corner of Hoover. The Gardner plats show that they did not set this common corner but identified a different location.

9. On the second Gardner record of survey it shows that they found their own r-c near the southwest corner of Hoover and set r-c's at the northeast and southeast corners of Powell's, these r-c's have been recovered and shown. On the Powell line they show a bearing and distance of 5°05'31" E 212.17 feet. There is no explanation on the plat as to why they exceeded the deed distance of 206 feet. It also appears that they held Dallas' reference rebar as the common Hoover/Powell corner and in doing so reported a bearing and distance of N 55°52'08" W 89.74 feet on the Powell south line. This exceeds the deeded distance of 87.6 feet.

10. In working to resolve the discrepancies and the closing errors of the deeds it became clear that identifying the bearing of the east line of Powell and west line of Hoover was going to be needed. It appears that both the Dallas and Brown surveys used bearings perpendicular to the right-of-way of 300 South Street which might be logical (having no other extrinsic or parole evidence) but the Townsite plat shows that the north-south and east-west streets are not at right angles to one another, indicating that a line perpendicular may not be what has been occupied nor intended. So a possible solution would be to use a bearing that paralleled 7300 East Street. Utilizing the street monuments may not provide and accurate direction of the property boundaries because, even though the street monuments are a replacement of the original townsite stone monuments, the original stones were lost to memory for many decades. It is likely that surveys of much of the private properties in the town, including those that are the subject of this survey, have occurred without the benefit of the town street monument stones. This leads me to believe that the only evidence of the bearing that would have been used for the east of Powell and west of Hoover is the Remnant fence of Ferre'. This fence would thus identify what was assumed to be "north" in the deeds.

11. Therefore, to establish the bearing of the line the "stumps" of old wood fence posts (Old wood post #2) were surveyed at the southerly end of the Ferre line and another post at the northerly end of the Ferre line (Post #1) when extending this line northerly the line closely coincides with the Larry Butters r-c #1. It is also found that this fence line does not coincide with the record location of the Northeast of Powell property and that the Larry r-c is located south of the actual right-of-way. Yet, when examining Larry r-c #10 if his survey was moved to that location then the north line would fit better with the right-of-way. Indicating that the two found rebar of Larry's do not match the plat he produced and filed. In an attempt to resolve this discrepancy a search of landmark records was made and a single page of field notes were found dating to 1993 and titled "Suzanna Eliason, Huntsville Ut.". In those notes he indicated that he occupied a Nail at the intersection of 7300 East and 300 South - back-sighted another nail at the intersection of 7300 East and 200 South and then proceed to set two nails projecting this line south (turning 180°) and measuring 49.5 feet (nail) and 321.10 feet (nail A). A search for these nails was made but no evidence of them was found. The notes also show that a rebar was set by occupying Nail A - backing the intersection nail at 7300 East and 300 South, turning an angle of 37° and measuring 49.5 feet. This location has been shown using the L. Butters nail #11 location. Nail #11 location was established by holding the position of r-c #1. From this it can be seen that both the rebar's (#1 and #10) are not consistent in their location as documented on ROS 912. There were no notations in Larry's field notes to indicate how r-c #1 was set. If a position for the intersection Nail #11 was closer to the current street monument then r-c #10 would fit the record location much better.

12. When I was the Chief Deputy Surveyor at the County working on the restoration of the street monuments for Huntsville one of the things that we had the crew do was to look for and survey any Nails, Railroad Spikes, or other things in the intersections prior to digging the holes to search for the old stone monuments. A record of those locations has been obtained and there was a Rail-road spike found at the intersection of 300 South 7300 East but no nail. The spike was found to be South 0.15 feet and East 0.45 feet from the street monument. It is not known when or by whom it was set but not finding a nail at this location did not help to resolve which r-c, #1 or #10, was correct, however, it appears that #10 is probably closer to where the records I have would place it using the rail-road spike. The location discrepancy of r-c #1 is still not resolved, however, it is in the Remnant fence line.

13. After trying to resolve this issue I was led back to holding the Ferre' fence line bearing for the direction of "North" in the deeds. Holding the fence bearing and setting the Northeast corner of Powell at 181.5 feet along the bearing of the south right-of-way from the projected corner of 7300 East Street - then setting the south end of the line for the Southeast corner of Powell at the record 206 feet paralleling the Remnant fence it was found that the Gardner r-c #2 was less than 0.05 feet from the northeast corner of Powell's by our measurements from the street monuments. Therefore, the Gardner point was accepted and the Southeast corner of Powell's established as stated. In doing so the record deed line of Powell's is a little west of the existing remnant fence line.

14. This same process was used to establish the west line of Hoover's. Holding Dallas' r-c #4 and running a line parallel to the Ferre Remnant fence for the record distance of 111 feet established the southwest corner of Hoover's property. This point fell in the top of a large rock that is part of rock retaining and no rebar could be set.

15. Having identified the East and West boundaries of Powell and Hoover, respectively, the identification of the south boundary of both that abuts the USA property was done holding the 120 foot and 25 foot distances for the West and East lines of the USA taking. This established a bearing and distance for the line which is about 0.17 feet longer than record. This is mostly due to the property being a parallelogram and not a rectangle as it was described in the deeds.

16. The last part of this process was to determine the direction of the common line of the Hoover/Powell properties. An initial assumption could be made that it would be parallel to the exterior boundaries, however, this line conflicts with the occupation which is a significant part of this dispute. Making this assumption also does not resolve the closing errors. The north end of the line is already set and monumented by Dallas' survey and as has been indicated all of the surveys done for these parcels have accepted and held these locations as correct, including my survey. To further evaluate the line several bearings were evaluated namely, 1) parallel to the right-of-way of 7300 East St, 2) parallel to the west line of Lot 2 as best could be derived from the Townsite plat, 3) perpendicular to the south line of 300 South Street, 4) grid bearing south, and 5) at a point 75 feet along the USA boundary from the northwest corner of the USA parcel.

17. In our field work we also tied down a portion of a Vinyl Fence (shown and labeled Powell fence), the most northerly end of the fence was not surveyed until I returned to set the property corners and it was found to be on the property line as established by this survey. The south end of the fence is slightly to the west of the line. This fence was built by the Powell's several years ago, less than 20 as I understand.

18. Since legal action is already in process on this property I contacted the Powell's attorney at the time, Robert Froerer, to see if they had any other information from prior owners that may help to shed light on the subject. They have taken several witness declarations from individuals but two, in particular, provided insight to the occupation. They are from Michael Hislop and Marvel Hislop. They both discuss the use of the property and how some of the occupation came about. In Michael's declaration he states, "I was present when the vinyl fence was being installed by the Powells, and agreed with the Powells on its placement as the proper dividing line between our properties."

19. There is also an elevation difference between the two properties with the Hoover parcel being lower than the Powell property. Marvel gave details on how the "slope" that runs down the property line came to be. She states that it was Jack Hislop that built the slope by pushing dirt from the northerly end of the lot to the southwest side to raise the elevation of the property and then he build the rock retaining to hold it in place. She further indicated that the bottom of the slope is what Jack always considered to be his property line. The vinyl fence is built near the bottom of this slope.

20. With this additional information and no affidavits or declarations that counter these statements, it is my opinion that the location of the line is intended to be 75 feet distant from the southwest corner of the Hoover parcel along the USA boundary. This location more closely coincides with the occupation than any other possible solution that I have considered. Once this point was established a line was set in a straight line to Dallas' r-c #3. The bearing and distance of this line are shown on the plat. This does three things, 1) it holds the record distance of 75 feet to be correct and along the USA property line, 2) it holds the 63 foot distance on the frontage as correct along the right-of-way, and 3) it adjusts the closing error of the property to be along the common Hoover/Powell boundary.

21. It is my professional opinion that the course within the description that caused the closing error has been properly identified, that the error is placed in the correct location (that being the common dividing line of the parcels), and that the current and prior land owners use of the land supports this boundary line as the intent of the original conveyance.

DOCUMENTS EXAMINED

Documents examined and used in this survey are, but not limited to, the following:
 Weber County Recorder Abstract and ownership records for parcel numbers 24-012-0002, 24-012-0003, 24-012-0004, 24-012-0005, and 24-012-0006. Deed records, Entry #: 2698692, 2675980, 2545322, 1610480, Book-page; 1296-434, 634-485, 642-333, 634-485, 598-85, 98-508, 47-61, and numerous other documents in the Northwest quarter of Section 18, T 6 N, R 2 E, from 1873 to 1978.
 Ownership plats book-page; 24-12
 Aerial photo's acquired from the USFS APFO office in Salt Lake City dated, 1966, 1970, and 1994. Aerial photo dated 1946 obtained from the State office of the AGRC.
 Records of Survey numbers; 912, 4899, 5216, 5334, 5384, and an as yet un-filed survey of Great Basin Engineering.
 Subdivision plats book-page; 5-77, 5-77.5,
 Other misc. survey records; Larry Butters field notes records from 1993; BOR sheet 6 of 19, Weber Basin Project - Utah, Pineview Reservoir, fencing, clearing and r.c.w. map 526-412-4152;
 Numerous emails and other documents produced as part of a formal request by Hoover's attorney for Discovery Request, containing in particular two Declarations 1) Declaration of Michael Hislop, and 2) Declaration of Marvel Hislop.

SURVEYORS NOTE: 04-13-2018

This note was not part of the original plat that was recorded as an exhibit to the boundary line agreements between Powells and Hoovers. All other information on this plat is unaltered from that exhibit. This note is being added to identify that after this plat was produced and recorded it was electronically signed by me, Ernest D. Rowley, P.L.S., C.F.S., provided to the attorney's representing the Powells and Hoovers, that two documents have been recorded in connection with this survey project. Entry numbers 2908630, signed and recorded by Powells on March 8, 2018 and 2912767, signed on March 15, 2018 and recorded on March 30, 2018. These two Boundary Line Agreements were executed and recorded to settle the dispute regarding their common boundary and this plat was attached as an exhibit to those agreements. This plat is a result of the survey which began in November of 2016 in connection with the dispute. Now that the dispute has been settled this project is final and the plat is being filed in accordance with UCA 17-23-17.

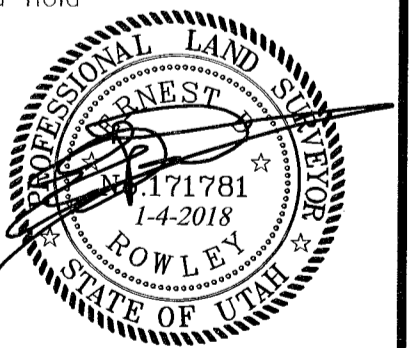
AS SURVEYED DESCRIPTION

Parcel 1:
 A tract of land being part of Lot 2, Block 1, Plat C, Huntsville Townsite Survey, Weber County, Utah, located in the Northwest Quarter of Section 18, Township 6 North, Range 2 East, Salt Lake Base and Meridian, having a basis of bearing of South 88°48'15" West between the monumented location of the intersection of 300 South and 7300 East Streets (Second Street and E Street as dedicated on Official Map of Huntsville Townsite dated October 24th, 1910 in Plat book 5 page 77 - 77 1/2), said monument having NAD83 State Plane Coordinates of N=3618189.7421 E=1565537.3322 and the intersection of 300 South and 7200 East Streets (Second Street and F Street as dedicated on said Townsite plat, said monument having NAD83 State Plane Coordinates of N=3618176.6677 E=1564909.7806), said tract being the same as deeded in document recorded Book 642 page 333 on March 31, 1960, described by survey as follows: BEGINNING at a point on the south right of way line of said 300 South Street which point is located 201.00 feet South 88°48'15" West FROM the Northeast corner of said Lot 2, (said Northeast corner of Lot 2 is located 49.50 feet South 01°12'26" East and 49.50 feet South 88°48'15" West from said monument at the intersection of 300 South and 7300 East Streets); RUNNING thence South 00°06'20" West 155.07 feet to the north boundary of Pineview Reservoir recorded in document Book 598 page 85 recorded Dec. 15, 1958; Thence North 55°14'14" West (North 54°15' West by deed recorded as Book 642 page 333) 75.00 feet along said Pineview Reservoir boundary; Thence North 00°33'40" West (North by said deed) 111.00 feet to the south right of way of said 300 South Street; Thence North 88°48'15" East (East by said deed) 63.00 feet to the point of beginning. Containing 8,280 square feet, more or less, (approximately 0.1901 acre).

Parcel 2:
 A tract of land being part of Lot 2, Block 1, Plat C, Huntsville Townsite Survey, Weber County, Utah, located in the Northwest Quarter of Section 18, Township 6 North, Range 2 East, Salt Lake Base and Meridian, having a basis of bearing of South 88°48'15" West between the monumented location of the intersection of 300 South and 7300 East Streets (Second Street and E Street as dedicated on Official Map of Huntsville Townsite dated October 24th, 1910 in Plat book 5 page 77 - 77 1/2), said monument having NAD83 State Plane Coordinates of N=3618189.7421 E=1565537.3322 and the intersection of 300 South and 7200 East Streets (Second Street and F Street as dedicated on said Townsite plat, said monument having NAD83 State Plane Coordinates of N=3618176.6677 E=1564909.7806), said tract being the same as deeded in document recorded Book 1296 page 434 on April 10, 1979, described by survey as follows: BEGINNING at a point on the south right of way line of said 300 South Street which point is located 132.00 feet South 88°48'15" West FROM the Northeast corner of said Lot 2, (said Northeast corner of Lot 2 is located 49.50 feet South 01°12'26" East and 49.50 feet South 88°48'15" West from said monument at the intersection of 300 South and 7300 East Streets); RUNNING thence South 00°33'40" East (South by deed recorded book 1296 page 434) 206.00 feet, parallel to the remnants of an existing fence line to the north boundary of Pineview Reservoir recorded in document Book 598 page 85 recorded Dec. 15, 1958; Thence North 55°14'14" West 86.77 feet (S 54°15' E 87.6 feet by said deed), along said Pineview Reservoir boundary; Thence North 00°06'20" East 155.07 feet to the south right of way of said 300 South Street; Thence North 88°48'15" East (East by said deed) 69.00 feet to the point of beginning. Containing 12,641 square feet, more or less, (approximately 0.2902 acre).

SURVEYOR'S CERTIFICATE

I, Ernest D. Rowley, do hereby certify that I am a professional land surveyor in the State of Utah and hold certificate no. 171781-2201 as prescribed by the laws of this State. That I have made a survey of the property(s) shown hereon in accordance with UCA 17-23-17. That this plat was prepared from the field notes of this survey and from documents and records as noted hereon.



Upper Valley Coordinate system is NAD1983 U.S.ft expanded to ground use based on the published values of the Weber County Surveyor's Office. A benchmark, TBR 53-30" was used as the base location for this GPS survey, having Weber County Surveyor Latitude 41°15'38.46508"N and Longitude 111°46'37.25364"W of record.

Landmark Surveying, Inc. A Complete Land Surveying Service www.LandmarkSurveyingUtah.com 4646 South 3500 West - RA-3 West Haven, UT 84401 801-731-4075	
CLIENT: W. Arthur & Julie Powell Address: 7267 East 300 South, Huntsville, Utah 84317	
Pt of Lot 2, Block 1, Plat C, Huntsville Townsite Survey in the NW 1/4 of Section 18, Township 6 North, Range 2 East, Salt Lake Base and Meridian.	Record of Survey 1 of 1
Revisions: Surveyors Note, 04-13-2018	DRAWN BY: EDR CHECKED BY: ... RECORD DATA MEASURED DATA DATE: FILE: 3585