

AGREEMENT
OF
STIPULATION AND COMPROMISE
REGARDING UTAH LAKE BOUNDARY

This Agreement is entered into on the date of execution shown below between the STATE OF UTAH, by and through the Division of Forestry, Fire and State Lands, hereinafter the DIVISION, and F. ARNOLD HORTON, LOIS JEAN H. SHURTLEFF, AND JOANN H. WALKER, hereinafter the UPLAND LANDOWNERS.

RECITALS

1. The United States Supreme Court held on June 8, 1987 that the title to the bed of Utah Lake passed to the State of Utah under the equal footing doctrine upon admission of Utah to the United States on January 4, 1896.

2. The State of Utah's ownership and management of the bed of Utah Lake are subject to a duty to preserve and protect the public trust values reserved and established at common law and as established by Article XX of the Utah Constitution and the laws

3. The DIVISION is authorized by the provisions of Sections 65A-1-2 and 65A-10-1, Utah Code Annotated, as the state agency with management authority for the sovereign lands of the State of Utah. The DIVISION has been delegated responsibility to manage sovereign lands in the best interest of the State, and with authority to lease or sell sovereign lands but only in quantities and for the purposes as serve the public interest and do not interfere with the public trust of these lands.

4. The DIVISION is further authorized by the provisions of Section 65A-10-3, Utah Code Annotated, to enter into agreements with the owners of lands adjoining navigable lakes for the purpose of establishing the boundaries of the sovereign lands of the State, subject to the requirements for consultation and notice as required by that section.

5. The DIVISION'S statutory predecessor, the Division of State Lands and Forestry, obtained approval of the Board of State Lands and Forestry of the procedures for the resolution of disputes over the location of these boundaries as required by the forgoing statutes.

6. The DIVISION has given notice, as required by the forgoing statutes, to the affected state agencies and to any

person with an ownership interest in the lands affected by this Agreement establishing the boundary between the adjoining lands and the sovereign lands. The DIVISION has also consulted with the Attorney General's office concerning this Agreement.

7. The UPLAND LANDOWNERS acknowledge that the DIVISION claims ownership of the sovereign lands of Utah Lake which are those lands lying below the ordinary high watermark as of the date of statehood and owned by the State by virtue of its sovereignty. The DIVISION acknowledges that the UPLAND LANDOWNERS claim ownership of an interest in the lands adjacent and upward of said sovereign lands. The DIVISION'S claim of ownership includes lands lying below the surveyed meander line.

8. The unique historical and physical characteristics of Utah Lake and the lands near the boundary between the sovereign lands and the adjoining lands subject to this Agreement have limited the availability of evidence of any vegetative or erosion line which can now be clearly identified by either party in order to determine the ordinary high water mark for these lands at the date of statehood.

9. The DIVISION and the UPLAND LANDOWNERS acknowledge that the location of the ordinary high watermark as of the date of statehood is not now known to the DIVISION or to the UPLAND

LANDOWNERS and is not now capable of determination or survey by reference to a known monument.

10. The DIVISION and the UPLAND LANDOWNERS acknowledge that the location of the ordinary high watermark may be subject to determination by a proper adjudication of the relevant facts and issues. The parties to this Agreement disagree about the facts and issues relevant to such a determination.

11. The DIVISION and the UPLAND LANDOWNERS acknowledge that the location of the ordinary high watermark, as it may be located upon the lands which are subject to this Agreement, has not been adjudicated or otherwise determined by any judicial authority with jurisdiction to determine such matters.

12. The UPLAND LANDOWNERS claim ownership of the lands adjoining Utah Lake identified as follows:

<u>PARCEL</u>	<u>OWNERS</u>	<u>INTEREST</u>	<u>SOURCE/DATE</u>
TAX ID # 21:027:0008	F. ARNOLD HORTON, LOIS JEAN H. SHURTLEFF, AND JOANN H. WALKER	Fee Simple	Quit Claim Deed, Dated Sept. 14, 1993

13. The DIVISION claims an interest in the lands lying below the surveyed meander line.

14. The location of the surveyed meander line, elevations and other topographic information are shown on various Exhibits

to Record of Decision No. 045, attached hereto as Exhibit 2.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND RELEASES OF CLAIMS CONTAINED HEREIN, IT IS MUTUALLY AGREED AS FOLLOWS:

1. The DIVISION releases and quit claims to the UPLAND LANDOWNERS all of its title, ownership, claims, rights, chose in action, rights of way, easements, and all other rights appurtenant or separate to the real property located eastward and above the proposed boundary line, as described on the attached Exhibit 1 (Boundary Description) and as proposed in the attached Record of Decision No. 045 and accompanying exhibits (attached hereto as Exhibit 2), subject to the limitations and reservations as set forth in this Agreement.

2. The UPLAND LANDOWNERS release and quit claim to the DIVISION for and on behalf of the STATE OF UTAH all of their title, ownership, claims, rights, chose in action, rights of way, easements and all other rights appurtenant or separate to a parcel of land lying westward and below the proposed boundary line, and as shown on Exhibit 1 hereto (Boundary Description) and as described in the Record of Decision No. 045, attached hereto as Exhibit 2, subject to the limitations and reservations as set forth in this Agreement.

3. The lands released and compromised by the UPLAND LANDOWNERS to the DIVISION by the terms of this Agreement shall be sovereign lands subject to the rights of the public to access the lands and to use the lands in manners consistent with the public trust.

4. This Agreement is entered into in lieu of and under the threat of litigation to determine the location of the boundary between the sovereign lands and the adjoining lands. These parties reaffirm the facts as set forth in the recitals to this Agreement. It is understood that each party may claim boundaries that are different than the boundary line agreed to in this Agreement. This boundary is intended by the parties to reasonably approximate the boundary of the sovereign lands at the time of statehood based on the facts and arguments of the parties to this Agreement and based on the facts and arguments contained in the attached Record of Decision and accompanying Exhibits.

5. This Agreement is only intended to resolve the dispute between these parties with regard to the boundary between the properties. The statements or agreements herein are not intended to pertain to the location of the ordinary high water mark on other areas of Utah Lake or in other disputes. The State reserves the right to dispute the location of the ordinary high

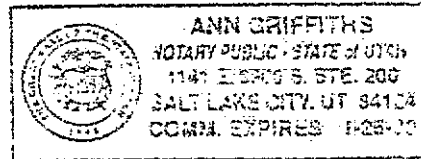
water mark at other locations in other litigation with these or
other parties. Any statements or agreements herein are for **ENT 86949 BK 4754 PG 667**
settlement purpose only and not admissible as statements of fact
or policy in any other litigation between the Division and upland
landowners pertaining to the boundary of Utah Lake or otherwise.

6. This Stipulation and Compromise Agreement shall be
binding upon the heirs and assigns of the parties to this
Agreement and shall be recorded at the office of the Utah County
Recorder.

Dated this 28 day of August 1998.

STATE OF UTAH DIVISION OF
FORESTRY, FIRE AND STATE LANDS

BY Arthur W. DuFault
ARTHUR W. DuFAULT, DIRECTOR



STATE OF UTAH)

SS.

COUNTY OF SALT LAKE)

On this 28 day of August, 1998, personally

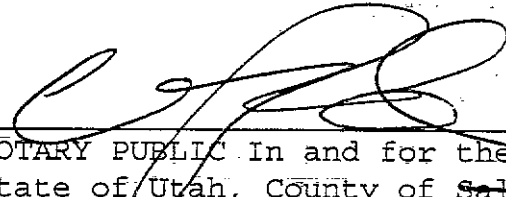
appeared before me ARTHUR W. DuFAULT, Director of the Division of
Forestry, Fire and State Lands, known to me to be the person

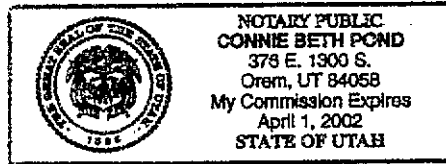
whose name is subscribed to the foregoing instrument and who has acknowledged to me that he executed the same on behalf of said Division.

ENT 86949 BK 4754 PG 668

IN WITNESS WHEREOF, I have hereunto set my official signature and affixed my notarial seal this 26th day of August, 1998.

My Commission Expires: April 1, 2002


NOTARY PUBLIC In and for the State of Utah, County of Salt Lake Utah



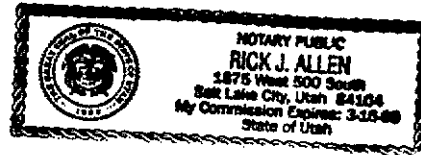
UPLAND LANDOWNERS:

F. Arnold Horton
F. ARNOLD HORTON

Lois Jean Shurtleff
LOIS JEAN H. SHURTLEFF

Joann H. Walker
JOANN H. WALKER

8/25/98 Date
[Signature] Notary



STATE OF UTAH)

ENT 86949 BK 4754 PG 669

COUNTY OF Salt Lake)

SS.

On this 22 day of August, 1998, personally
 appeared before me, F. ARNOLD HORTON, ~~LOIS JEAN H. SHURTLEFF AND~~
~~JOANN H. WALKER~~, known to me to be the persons ^{ONLY R} whose names ^{R is R} are
 subscribed to the foregoing instrument and who ^{has R} have acknowledged
 to me that ^{no R} they executed the same.

IN WITNESS WHEREOF, I have hereunto set my official
 signature and affixed my notarial seal this 22 day of
August, 1998.

My Commission Expires:
September 9, 1998

Patty Anderson
 NOTARY PUBLIC in and for
 the State of Utah, County
 of Salt Lake

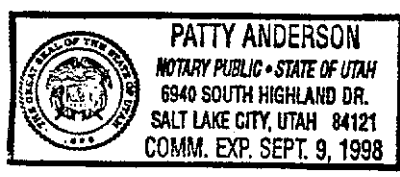


EXHIBIT 1

AGREED BOUNDARY

SHURTLEFF, WALKER, HORTON

Commencing at the intersection of an existing fence located along the easterly side of a dike with the southerly boundary of the subject parcel, said subject parcel being described under document #66161-93 as recorded in the Utah County Recorder's Office, said point being located South, 2062.50 feet and West, 395.83 feet from the Northeast Corner of Section 5, Township 7 South, Range 2 East, SLB&M, said point also having Utah State Plane Coordinates of X = 1934892.99 feet and Y = 694631.12 feet based on the Lambert Conformal Projection, (NAD '27) Utah Central Zone, thence the following along said fence: N 15°34'45" E, 113.52 feet; thence N 18°47'22" E, 48.57 feet; thence N 26°26'07" E, 156.09 feet; thence N 20°22'12" E, 94.14 feet; thence N 19°46'49" E, 107.39 feet; thence N 17°36'50" E, 28.03 feet; thence N 07°56'41" E, 44.15 feet; thence N 01°12'18" E, 266.86 feet; thence N 03°15'07" E, 100.86 feet to the intersection with a fence line near the northerly deeded boundary of the subject parcel.

RECORD OF DECISION

RECORD NUMBER: 98-0305.045

DATE OF EXECUTION: May 18, 1998

**UTAH LAKE BOUNDARY
AGREEMENT NO: 045**

PRIMARY LAND OWNERS:

CERTIFIED MAIL NO: Z 155 781 516

K. Dale & Sonja Despain
1185 East 2080 North
Provo, Utah 84604-2147

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Arnold F. Horton, et al
c/o Dell B. Walker
227 East 1864 South
Orem, Utah 84058-7838

M. Moreno & La Vinia Robins
3373 North 175 East
Provo, Utah 84604-4506

AFFECTED LANDOWNERS:

Verna Burke
4965 South Redwood Road
Taylorsville, Utah 84123-4227

Gertrude C. Gale
817 East 750 South
Springville, Utah 84663

John A. Riding
1237 North 1200 West
Mapleton, Utah 84664-3328

Herbert C. Madsen
659 North 500 East
Centerville, Utah 84014-1963



Fisher Lake Farm, L.P.
620 East Center Street
Lindon, Utah 84042-2127

Paul M. White
5066 West 11200 North
Highland, Utah 84003-8825

Dean & Blanche Taylor
839 North Geneva Road
Provo, Utah 84601-1277

Utah County
51 South University Avenue
Provo, Utah 84601

ADJACENT LANDOWNERS:

Moroni Frenzel
4090 West Center Street
Provo, Utah 84601-8235

Harold E. Swensen
52 South 3110 West
Provo, Utah 84601

Eva A. Halladay
3420 West Center Street
Provo, Utah 84601-8234

Benjamin A. & Melanie H. Allen
3600 West Center Street
Provo, Utah 84601-8234

K.B.O. Limited
1484 North 650 West
Orem, Utah 84057-2535

L. G. & L.G. Sparks
174 West 4750 North
Provo, Utah 84604

Keith & Verlene Johnson
4000 West Center Street
Provo, Utah 84601-8235

Donna I. Knudsen
3218 West Center Street
Provo, Utah 84601-3615

Utah Lake State Park
Division of Parks And Recreation
4400 West Center Street
Provo, Utah 84601

Phil & Nellie B. Edwards
159 South 3100 West
Provo, Utah 84601-3648

United States of America
c/o Glen Carpenter, District Manager
Bureau of Land Management
Salt Lake District Office
2370 South 2300 West
Salt Lake City, Utah 84119

DESCRIPTION OF LANDS DIRECTLY AFFECTED:

This Record of Decision affects the sovereign land immediately adjacent to the upland property owned by the parties listed above under "PRIMARY LAND OWNERS", and as shown on the attached map (Exhibit A1) and identified by the following parcel designation:

Utah County Tax ID Number:

21:030:0001, 21:028:0005, 21:028:0015, 21:028:0011, 21:027:0004,
21:028:0016, 21:028:0012, 21:028:0010, 21:028:0009, 21:028:0002,
21:029:0004, 21:027:0006, 21:026:0013, 21:027:0003, 21:027:0005,
21:026:0014, 21:026:0016, 21:026:0012, 21:026:0015, 21:029:0001,
21:029:0003, 21:028:0014, 21:028:0013, 21:028:0008, 21:028:0007,
21:028:0001, 21:028:0003, 21:028:0006, 21:028:0018, 21:029:0028,
21:029:0032

REQUESTED/PROPOSED ACTION

Approval of an agreement to determine the boundary between the sovereign lands of the State of Utah around Utah Lake and the PRIMARY LANDOWNERS listed above. The general location of the agreement is the east central shore of Utah Lake, north of the Provo River and adjacent to Utah Lake State Park (see "Subject" arrow on Exhibit A1).

I. RELEVANT FACTUAL BACKGROUND**A. Description of the Adjoining Land**

The property owned by the PRIMARY LANDOWNERS (landowners) is located adjacent to Utah Lake and north of the Provo River (see Exhibit A2). A dike has been constructed near the shore of the lake which extends northward from the vicinity of Utah Lake State Park. The property is within an area which is rich in wetlands and recreation values along the lake shore outside of the dike. The shoreline outside of the dike (lakeward) is heavily vegetated with wetland species including tamarisk, canary reedgrass, cattail and bulrush with scattered narrowleaf cottonwood and scattered Russian olive trees along the entire length of the dike. Adjacent upland properties have traditionally been used for agriculture with some higher land being converted to residential use. The presence of the dike and Utah Lake State Park have an impact upon the area, its uses and the influence of the lake. The photographs included in Exhibit D characterize the existing shoreline of the area.

B. Description of the Land and Current Uses

The landowners' property is primarily used for agriculture. The existence of the dike plays a major role in reducing the impact of the lake on upland property. Additionally, Utah County has constructed a trail upon the dike which connects with the Provo River trail system. The trail is open for public use and is a major public benefit to the citizens of Utah County and the State in general. The dike has a major influence on the land and its uses to the east since the natural influence of Utah Lake has been eliminated. The dike was constructed with a mix of County and State funds as a measure to protect upland property from the influence of Utah Lake. The dike currently extends northward for approximately one mile. In addition to the dike along the lake shore; major work, including diking, has been completed within Utah Lake State Park to protect park facilities from the lake. A canal has been constructed parallel to the dike on the east side to collect groundwater from upland property. A pump is located at the southern end of the dike to pump the water into the lake. The lake frequently reaches levels which are higher than the eastern side of the dike. The shoreline below (lakeward) of the dike and canal is covered with a variety of wetland plants and trees, including canary reedgrass (*Phragmites*), cattail, bulrush, tamarisk,

Russian Olive and Cottonwood. The drainage canal inside of the dike is generally void of these vegetative species. The area outside of the dike is heavily used by waterfowl and upland game. It is frequented by fishermen, boaters and hunters.

Utah Lake State Park (the park) is located immediately north of the Provo River and along the edge of the lake. A mix of Federal and State funds were used to construct the park. Dikes have been constructed around the park to protect it from rising lake levels. During the flooding of the early 1980's the park was completely inundated and considerable damage occurred. When the park re-opened, diking and other measures were implemented to reduce the risk of subsequent flooding. It is expected that additional flood prevention measures will be taken by the State should the threat of flooding re-occur. Because of flood control measures taken at the park along with shoreline diking, it is likely that the influence of Utah Lake on adjoining property located east of the dike and the park has been significantly reduced, if not entirely eliminated.

C. Description of the Proposed Boundary Line

The ownership boundary is proposed to be the east fence-line located above the dike and the eastern boundary of Utah Lake State Park. Additionally, the State relinquishes any claim to ownership of the upland private property owned by the AFFECTED LANDOWNERS listed on Page 2 of this document whose land lies below the meander line and east of the property owned by the PRIMARY LANDOWNERS as set forth in this document. Further, the State has no claim of ownership or dispute over ownership on lands located above the meander line within this area. This agreement does not include land claimed by K. Dale Despain and identified by tax number 19:041:0004 which is located to the north of the subject properties. This parcel is claimed by the United States of America as an unpatented parcel which was included in the April 11, 1889 John Wesley Powell Reservoir Withdrawal.

II. CRITERIA/CHECKLIST FOR EVALUATION (RULE, POLICY, ETC.)

A. Limitations of the Public Trust.

At common law, lands beneath navigable waters could not be owned privately but were considered to be held by the sovereign in public trust for the benefit of the community. It was early held by the United States Supreme Court that such lands and waters were not granted by Constitution to the United States but were reserved to the states.

In order to place Utah on an "equal footing" with the existing states, title to the land beneath lakes and streams capable of navigation were among the rights of sovereignty confirmed upon the State of Utah at the time of statehood. These "sovereign lands" are therefore established under the United States Constitution as lands of the State subject to a common law trust obligation to the public.

Article XX of the Utah Constitution confirms the public trust nature of these lands by declaring that all lands of the state "are hereby accepted and declared to be the public lands of the state and shall be held in trust for the people,... to be disposed of as may be provided by law, for the respective purpose for which they have been... acquired."

The limitations and purpose of the public trust which constrain the use and disposal of sovereign lands has been elaborated by federal and state case law. The basic issues affected by the public trust doctrine are (1) determination of the sovereign lands boundary; (2) nature of the public trust limitations on use of sovereign lands; and (3) conditions permitting disposal.

1. **Determination of sovereign lands boundary.** The question is one of fact based upon evidence of the ordinary high water mark as of the time of statehood. There area a variety of factors or tests employed for this purpose including the following:
 - a. A mark impressed on the land by the waters' effect upon the soil so as to deprive it of vegetation and its value for agriculture, Provo v. Jacobson, 176 P.2d 130 (Utah 1947).
 - b. Water elevation data in the absence of other data, IL S. v. Cameron, 466 F. Supp. 1099 (M.D. Fla. 1978).
 - c. The surveyed meander line, if no other information is adequate, Utah v. United States, 403 U.S. 9 (1971).
 - d. On Utah Lake an additional factor affecting the sovereign land boundary is the federal reservation of land below the meander line for reservoir purposes. This was the basis of the federal claim of ownership in Utah v. U.S., supra. The land that may lie below the meander line and above the high water mark may be subject to the federal claim.
2. **Nature of the public trust limitations on use.**
 - a. "[T]itle is held in trust for the people [present and future generations] of the State that they may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing therein freed from the obstruction or

interference of private parties" Illinois Central Railroad v. Illinois, 146 U.S. 387 at 452.

- b. **The state does not have the power to abdicate its role as trustee in favor of private parties**, Illinois Central, supra.
 - c. Public uses include **recreation**, NPCA v. Board of State Lands, 215 Utah Adv. Rep. 21 (1993); Arizona Center for Law in the Public Interest v. Hassell, 837 P.2d 158 (Ariz. 1991); **preservation**, NPCA, supra; State v. Lyon, 625 P.2d 239 (Cal.1981); National Audubon Society v. Superior Court, 33 Cal. 3d 419 (1983); and **public access**, Mathews v. Bay Head Improvement Assoc., 471 A.2d 355 (N.J. 1984).
3. **Conditions permitting disposal.** Sovereign lands can never be sold except to promote the interest of the public therein (purposes consistent with the public's right of use and enjoyment of the sovereign lands and waters) without any substantial impairment of the public interest in the lands and waters remaining. Illinois Central, supra; Arizona v. Hassell, supra.

III. Constitutional Limitations.

As discussed in the prior section, the Utah Constitution requires that the sovereign lands "shall be held in trust for the people, ... to be disposed of as may be provided by law, for the respective purposes for which they have been ... acquired." This limitation imposes obligations on the use of the lands as well as their disposal. See NPCA v. Board of State Lands, 215 Utah Adv. Rep. 21 (1993).

To date, the nature of the Utah Constitution's limitations appear to be similar to the public trust limitations.

A. Statutory Authority.

The authority of the Division of Forestry, Fire and State Lands to be responsible for policy for management of the sovereign lands is set forth in Utah Code Ann. 65-1-2. The authority for the Division to manage sovereign lands is set out in Utah Code Ann. 65A-1-4, 65A-2-1, and 65A-10-1.

The Division is required by Utah Code Ann. 65A-2-2 to develop planning procedures for natural and cultural resources. Utah Code Ann. 9-8-301 et seq. requires that the state protect paleontological, archeological, and cultural resources and Indian burial sites on sovereign lands.

The authority under Utah Code Ann. 65A-10-1 to sell or lease sovereign land is subject to "quantities and purposes that serve the public interest and do not interfere with the public trust."

The authority of the Division to establish boundaries is set forth in Utah Code Ann. 65-10-3 which provides:

1. The division, after consultation with the attorney general and affected state agencies, shall develop plans for the resolution of disputes over the location of sovereign land boundaries.
2. The division, after notice to affected state agencies and any person with an ownership interest in the land, may enter into agreements with owners of land adjoining navigable lakes and streams to establish sovereign land boundaries.

On July 21, 1993, pursuant to the authority of this statute, a plan was approved for the establishment of the sovereign land boundary for Utah Lake. The plan included a settlement agreement and information packet to be distributed to the landowners.

The resolution process requires that the Division meet with the adjoining land owners and that, if possible, a proposed boundary agreement be reached which is then the basis for a written decision document (Record of Decision). This proposed decision is subject to notice to the public, to adjacent land owners and to affected state agencies. Accordingly, this Record of Decision (ROD) will be distributed to the public, the state agencies and owners. If any parties file a petition for review, this agreement will be subject to review by the Division for consistency with the statute, rule and policy.

IV. EVALUATION OF FACTS

A. Boundary Location.

The changing level of Utah Lake had an unrestricted influence upon lands located upland of Utah Lake State Park and the dike northward of the park. The construction of the park and the dike have effectively terminated the effect of Utah Lake upon these upland properties. The dike was constructed with a mix of County and State funds for the purpose of protecting eastward upland property. Measures have also been taken to protect the park from the influence of the lake. A trail has been constructed on the dike by Utah County which is open for public use. The trail connects with a trail system along the Provo River. The trail and flood protection provided by the dike

North Provo River Landowners Boundary

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along with ULSP add considerable public benefit to Utah County and the State in general. The dike was intended to protect adjoining upland private property and has essentially eliminated the influence of the lake upon the upland property. The park has also influenced Utah Lake which, in turn, also affects upland (eastward) property. A combination of Federal, County and State funds were used to construct the northern dike and the park including improvements which will control flooding of the park and adjoining uplands.

Based upon the existence of the northern dike and the park, the State relinquishes any claim to ownership of the upland private property located below the meander line and east of the park and the eastern fence-line along the dike located north of the park and as further identified under "PRIMARY LANDOWNERS & AFFECTED LAND OWNERS" within this document. The eastern fence-line of the northern dike as it exists on March 1, 1998 and the eastern ownership boundary of Utah Lake State Park are, therefore, determined to be the permanent boundary between State Sovereign Land and adjacent upland private property within this part of the lake as depicted in Exhibit B.

Additionally, based upon execution of this settlement, the State and Utah County agree as follows: The County will continue to maintain the dike and trail and the State and County will allow access along the dike to adjacent land owners for routine maintenance and operation of their adjoining private property. The State will also grant a perpetual easement for the pipeline which carries water from the pump located on the south end of the dike to Utah Lake. The State further agrees that once this boundary agreement is executed, it will not impound water on the upland property.

B. Access.

Access to the sovereign lands along the described boundary is available from the lake and from the trail along the dike located north of the park. Public access is also available through designated portions of the park. The State does not assert public access across or upon any private property located above or eastward of the dike and the park under this agreement.

C. Authority for agreement.

The proposed agreement has been pursued according to the plan for resolution of the sovereign lands boundary approved by the board on July 21, 1993. The owners of the adjacent properties, affected state agencies and the public will be advised that this decision document is complete and available for review. This will satisfy the requirements of the plan, as set forth, and Utah Code Annotated 65A-10-3.

North Provo River Landowners Boundary
Page 10

This proposed boundary line is supportable based on the presence of the dike located north of the park and Utah Lake State Park. The possible sovereign land values are all within the land and water below this line.

V. CONCLUSION/ACTION

Based upon the above analysis, the Division determines that the boundary should be established between the bed of Utah Lake and the PRIMARY LANDOWNERS as set forth in this Record of Decision and as shown on the attached exhibits. The State relinquishes any claim to ownership of private land located below the meander line (westward) and upland (eastward) of the eastern fence-line of the dike located north of Utah Lake State Park as it exists on 1 March 1998 and eastward of the eastern property boundary of Utah Lake State Park. The State, therefore, Quit Claims any interest it may have to the upland private property owners as listed at the beginning of this document under "PRIMARY LANDOWNERS" who own property within the designated boundary as depicted in Exhibit B. The Division shall execute the attached Agreement of Stipulation and Compromise between the Division of Forestry, Fire and State Lands and the PRIMARY LANDOWNERS with the purpose of finally and fully resolving the boundary between the State's sovereign lands and the lands of the PRIMARY LANDOWNERS. This agreement also resolves the ownership boundary with AFFECTED LANDOWNERS as herein described in that the State relinquishes any claim to ownership of these lands.

VI. ADMINISTRATIVE APPEALS

A. Parties having an interest in this action may file a petition for administrative review by the director of the Department of Natural Resources. Said petition must be in writing and shall contain:

1. the statute, rule, or policy with which the division action is alleged to be inconsistent;
2. the nature of the inconsistency of the division action with the statute, rule or policy;
3. the action the petitioner feels would be consistent under the circumstances with statute, rule or policy; and
4. the injury realized by the party that is specific to the party arising from division action. If the injury identified by the petition is not peculiar to the petitioner as a result of the division action, the director will decline to undertake consistency review.

Said petition must be received by the Director of the Division of Forestry, Fire and State Lands by 5:00 p.m. on June 8, 1998

APPROVED BY:

PREPARED BY:

KF Kappe
for ARTHUR W. DUFAULT, DIRECTOR
DIVISION OF FORESTRY, FIRE
AND STATE LANDS

RJ Buehler
RICHARD J. BUEHLER
WASATCH FRONT AREA MANAGER

DATE: 5/18/98

DATE: 5/15/98

REVIEWED BY:

Step G Boyd
STEPHEN G. BOYDEN
ASSISTANT ATTORNEY GENERAL

DATE: 5/18/98

LIST OF EXHIBITS

- A. PROPERTY LOCATION MAPS**
 - A1. GENERAL LOCATION ON UTAH LAKE SHORELINE**
 - A2. PARCEL(S) LOCATION**
- B. LOCATION OF PROPOSED BOUNDARY LINE**
- C. PROPOSED AGREEMENT OF STIPULATION AND COMPROMISE**
- D. PHOTOGRAPHS**

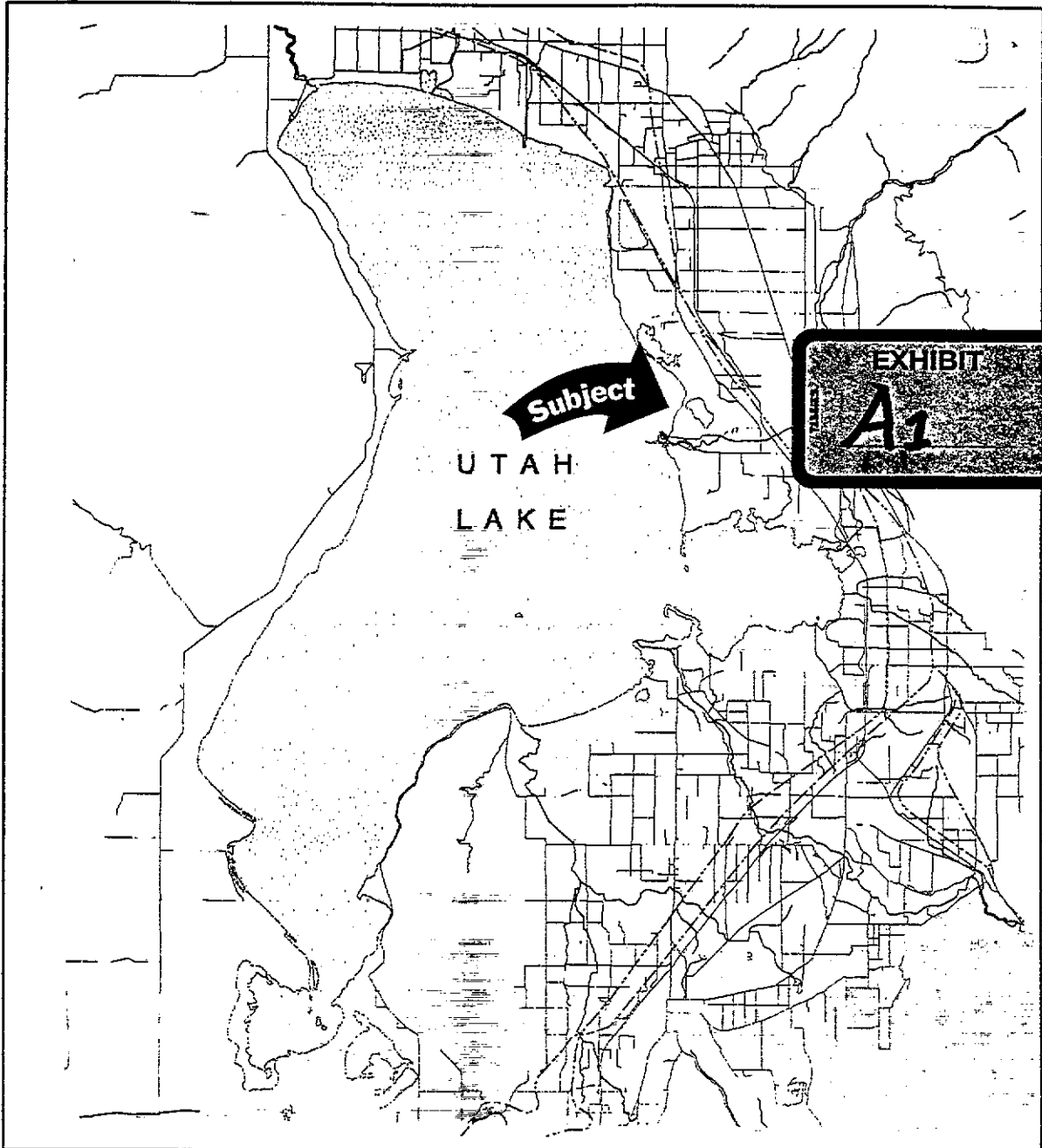
EXHIBIT A



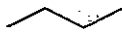

PROPERTY LOCATION MAPS

Utah Lake Subject Parcel(s) Location



Utah Dept. of Natural Resources
Div. of Forestry, Fire & State Lands



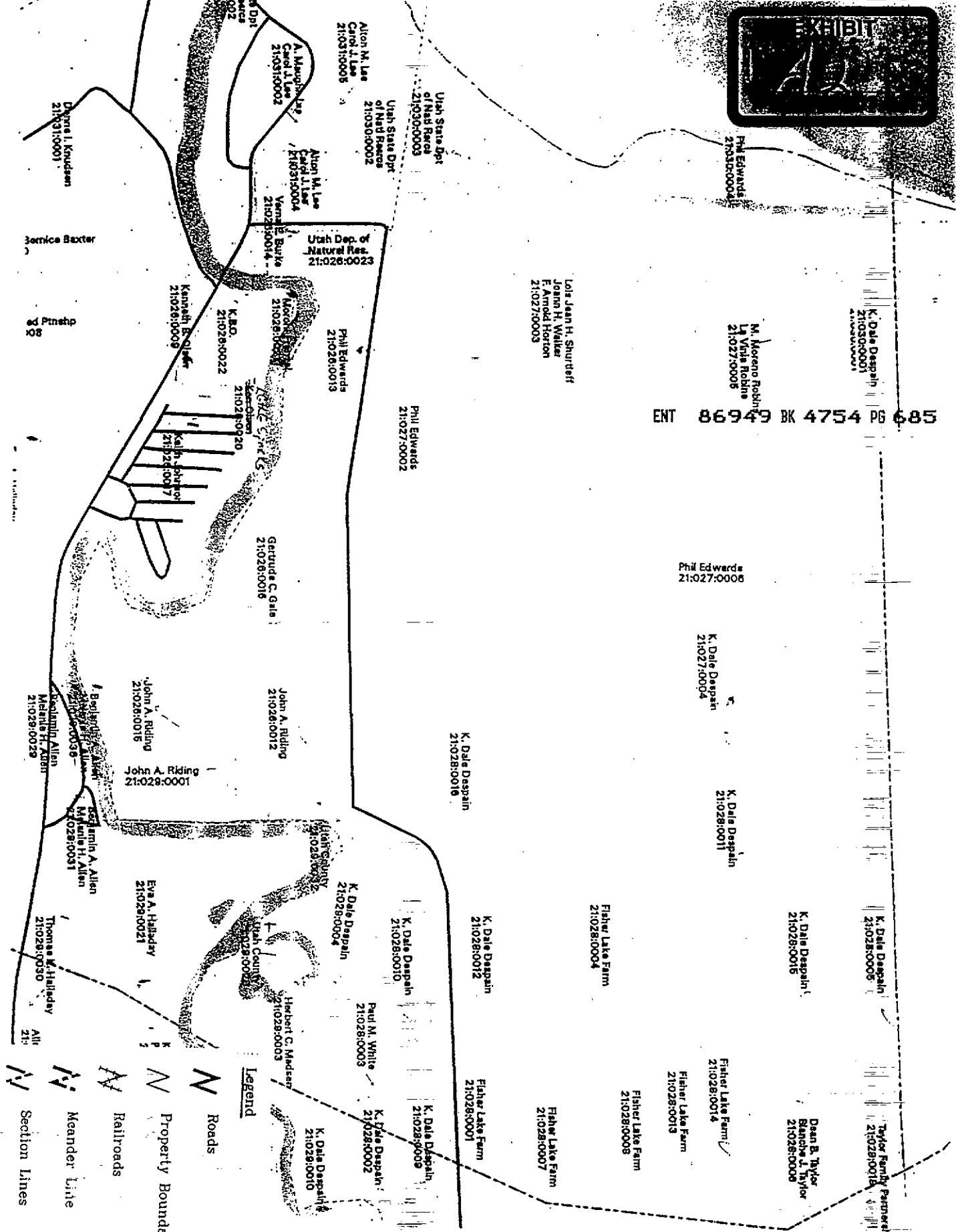
-  Roads
-  Railroads
-  Water Courses
-  Water Bodies



May 1997



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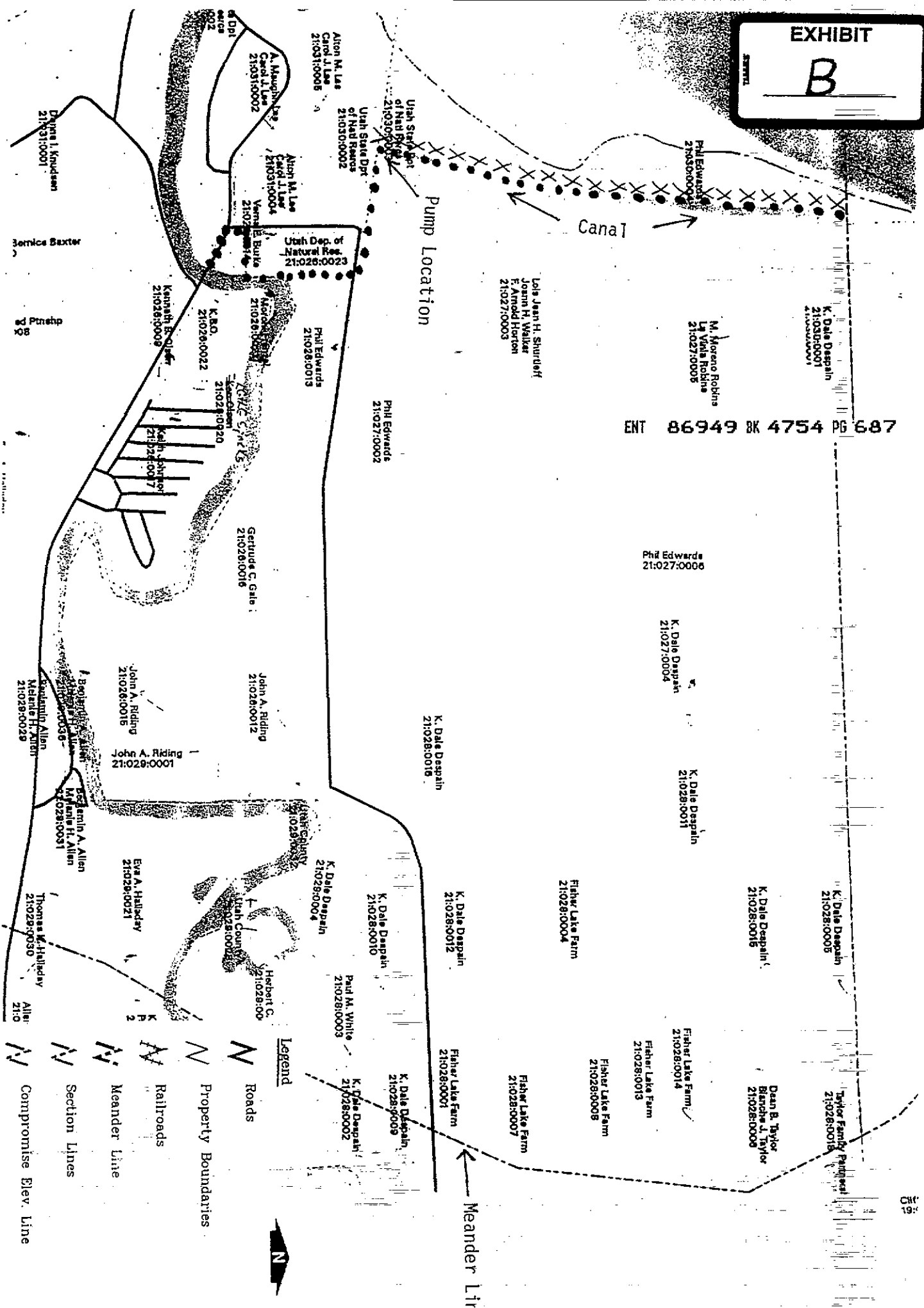
- Water
- Compromise Elev. Line
- Roads
- Property Boundaries
- Railroads
- Meander Line
- Section Lines

Lake elev. = 4487 ft.

EXHIBIT B

MAP OF PROPOSED BOUNDARY

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- Water Lake elev. = 4487 ft.
- XXX Dike
- Proposed Boundary
- Property Boundaries
- Roads
- Railroads
- Meander Line
- Section Lines
- Compromise Elev. Line



EXHIBIT C

**AGREEMENT OF STIPULATION &
COMPROMISE**

EXHIBIT 1

(Legal description to be provided by the Utah County Surveyor)

EXHIBIT D
PHOTOGRAPHS



Looking North along the dike/trail which is a County Centennial project.

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Looking South along the dike/trail, the canal is to the left and the lake is visible on the right.



Looking North from the south end of the dike, pump is located at bottom left of photo.

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Dike/trail looking North, canal is on the right of the photo.