

00-631-CD
DAVID A. BERLIN etux -vs- DELBERT L. HUNT etux

Law Offices of
FERRARO & YOUNG
BROCKWAY, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

44
44
DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

vs.

23
23
DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

No. ~~2000~~ - 631 C. D.

TYPE OF CASE: Civil

TYPE OF PLEADING: Action to
Quiet Title

Filed on behalf of Plaintiffs

Counsel of Record for this Party:
ROSS F. FERRARO, ESQ.
Supreme Court No. 79218

FERRARO & YOUNG
Attorneys at Law
690 Main Street
Brockway, PA 15824
814/268-2202

FILED

MAY 30 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

No. 2000 - _____ C. D.

Action To Quiet Title

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

KEYSTONE LEGAL SERVICES, INC.
211½ East Locust Street
Clearfield, PA 16830
814/765-9646

Prothonotary's Office
Clearfield County Courthouse
North Second Street
Clearfield, PA 16830
814/765-2641, ext. 5988

FERRARO & YOUNG
Attorneys for Plaintiffs
690 Main Street
Brockway, PA 15824

By:



Ross F. Ferraro, Esq.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

vs.

No. 2000 - _____ C.D.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

ACTION TO QUIET TITLE

COMPLAINT

AND NOW, comes DAVID A. BERLIN and TERESA A. BERLIN, his wife, by their Attorneys, FERRARO & YOUNG, and files the within Action To Quiet Title and respectfully sets forth the following:

1. DAVID A. BERLIN and TERESA A. BERLIN, his wife, Plaintiffs, are adult individuals who reside in Sandy Township, Clearfield County, at R.D.#2, Box 126, DuBois, PA, 15801, and are of full age and sui juris.
2. DELBERT L. HUNT and DOROTHY M. HUNT, his wife, Defendants, are adult individuals who reside in Sandy Township, Clearfield County, at R.D.#2, Box 127, DuBois, PA, 15801, and are of full age and sui juris.
3. Plaintiffs, by Deed dated January 8, 1987 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA in Deed Book 1134, at page 169, and by later Corrective Deed of December 17, 1998 and recorded in Clearfield County as Instrument No. 199801783, are the owners of a certain parcel of land located in Sandy Township, Clearfield County, PA, containing 0.656 acres, as set forth on the Survey of Lee-Simpson Associates, Inc., dated July 7, 1998, and which description of said property (copy of Deeds) and said survey are more fully set forth on Exhibit "A", attached hereto and made a part hereof.
4. Plaintiffs, by Deed dated May 17, 1995 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA, in Records Book 1677, at page 509 are the owners of a certain parcel of land located in Sandy Township, Clearfield County, PA, containing 5.33 acres, which description of said property (copy of Deed) is more fully set forth on Exhibit "B", attached hereto and made a part hereof.

5. In addition to the property set forth on Exhibit "A", containing 0.656 acres on the Northern side of said road and the 5.33 acres on the Southern side of said road herein set forth as Exhibit "B", Plaintiffs are also the owners of a parcel of land known as their "camp" property which they acquired ownership by Deed from James R. Pierce & Kathie Jo Pierce, dated July 20, 1999 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA, as Instrument No. 199912242, which description of said property (copy of Deed) is more fully set forth on Exhibit "C", attached hereto and made a part hereof.

6. The properties owned by Plaintiffs abut Beers Mine Road a/k/a Beers Mines Road a/k/a Coal Road are set forth on the Survey of Lee-Simpson Associates, Inc., said Survey attached hereto and made a part hereof as part of Exhibit "A" and Plaintiffs have used this road as an access road to their properties, located on both sides of said Beers Mine Road since 1987, and their predecessors in title used this road in excess of 21 years.

7. The chain of title for the properties owned by Plaintiffs are set forth on Exhibit "D", attached hereto and made a part hereof.

8. The Defendants are unlawfully interfering with the rights of the Plaintiffs to use Beers Mine Road, have been placing posts and markers along the said road which interferes with Plaintiffs' ability to enter on to their property, and have persisted in a course of conduct of harassment requiring Plaintiffs to bring this Action To Quiet Title in order to establish their right to the use of the said Beers Mine Road, and the Plaintiffs are requesting this Honorable Court to Order the Defendants to cease and desist from interfering with the rights of Plaintiffs.

9. The Defendants recently obtained a Quit Claim Deed dated December 17, 1999 recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA, as Instrument No. 199920850, alleging to have acquired ownership to the said road, to the exclusion of the Plaintiffs and other property owners' rights to use the said road. Attached hereto and made a part hereof as Exhibit "E" is a copy of said Quit Claim Deed.

10. The entrance to the properties owned by Plaintiffs as set forth on Exhibits "A", "B" and "C" have always been from Beers Mine Road, and Plaintiffs and their predecessors in title, have maintained the said road and treated this right of way as their own, for the purpose of ingress, egress and regress to their properties located on both sides of said road.

11. The said Deed from James R. Pierce & Kathie Jo Pierce to Plaintiffs referred to as the "CAMP" property (Exhibit "C") expressly grants to Plaintiffs the following:

"TOGETHER WITH THE RIGHT OF THE GRANTEES, THEIR HEIRS AND ASSIGNS, TO USE AN OLD COAL ROAD NOW LOCATED ON SAID PREMISES, NOW OR FORMERLY OF MUSTHAF, OF WHICH THE PREMISES HEREIN DESCRIBED WERE FORMERLY A PART; ...".

12. Despite repeated attempts by Plaintiffs with the Defendants to amicably resolve any differences, the Defendants continue to interfere with the rights of the Plaintiffs to use Beers Mine Road and encroach upon the land and rights of Plaintiffs, and continually harass Plaintiffs with vulgar and intimidating statements when Plaintiffs are outside attempting to enjoy the use of their properties.

13. Despite Plaintiffs sending several notices to the Defendants to cease and desist from interfering with their rights, the Defendants have failed to respond to said letters and continue in their improper and illegal course of conduct.

14. Plaintiffs bring this Action To Quiet Title to Order that the Defendants be forever barred from asserting any right or interest in the said Beers Mine Road inconsistent with the interest and claim of Plaintiffs as set forth in the Complaint, and to determine that the Quit Claim Deed obtained by Defendants does not preclude the use of said road by Plaintiffs according to the rights already acquired by Plaintiffs.

15. Plaintiffs request that the Defendants be required to remove any and all markers, posts, signs, fences or other encroachments along said road as being an interference with the rights of Plaintiffs, and that the Defendants be forever barred from encroaching or interfering with the rights of Plaintiffs, their heirs and assigns on the same.

16. As a result of the actions of the Defendants, Plaintiffs have incurred, and estimate they will incur the total sum of THREE THOUSAND FIVE HUNDRED and no/100ths (\$3,500.00) for legal fees, filing fees and Sheriff's costs in order to protect and enforce their rights as contained herein.

17. In addition to the fees and costs, Plaintiffs have been required to expend the sum of SEVEN HUNDRED FIFTY FIVE and no/100ths (\$755.00) DOLLARS to Area Abstracting & Filing Services, Inc. for an Abstract and Title Search of the subject premises of the within action.

WHEREFORE, Plaintiffs pray your Honorable Court to enter an Order granting relief to the Plaintiffs as follows:

- (a) Ordering that the Defendants, DELBERT L. HUNT and DOROTHY M. HUNT be forever barred from asserting any right, title and interest in the said Beers Mine Road inconsistent with the rights of the Plaintiffs to use

the said road for ingress, egress and regress to their properties, which include the properties as set forth on Exhibits "A", "B" and "C".

- (b) Order that the Defendants pay to the Plaintiffs the sum of THREE THOUSAND FIVE HUNDRED and no/100ths (\$3,500.00) DOLLARS being the estimated legal fees, filing fees and Sheriff's costs, as well as the amount of SEVEN HUNDRED FIFTY FIVE and no/100ths (\$755.00) DOLLARS being the amount which Plaintiffs were required to pay to Area Abstracting & Filing Service, Inc. for an Abstract of Title for a total of FOUR THOUSAND TWO HUNDRED SEVENTY FIVE and no/100ths (\$4,275.00) DOLLARS;
- (c) Order that the Defendants immediately remove any and all markers, posts, signs, fences or any other encroachments along said road, as being an unlawful interference with the Plaintiffs' rights to use and enjoy their properties and said road;
- (d) Order that if the Defendants interfere with the rights of the Plaintiffs in the use of said road, or harass the Plaintiffs while Plaintiffs are peaceably enjoying the use of their properties, that the Defendants be held in Contempt of Court, and be fined and/or incarcerated accordingly by your Honorable Court;
- (e) That the Court also recognize and Order that the Plaintiffs have a legal right to use the said Beers Mine Road in a free and uninterrupted manner, for the purpose of ingress, egress and regress to their properties, as well as the rights set forth for the use of said road in the camp deed as set forth on Exhibit "C";
- (f) Enter any other Order that the Court finds necessary for the granting of proper relief.

Respectfully submitted,

FERRARO & YOUNG

By: 

Ross F. Ferraro, Esq.
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA

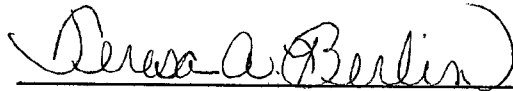
COUNTY OF JEFFERSON

ss:

DAVID A. BERLIN and TERESA A. BERLIN, being duly sworn according to law, depose and state that the facts set forth in the within Complaint are true and correct to the best of their knowledge, information and belief.



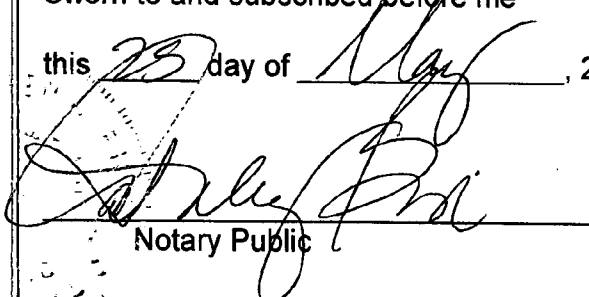
David A. Berlin



Teresa A. Berlin

Sworn to and subscribed before me

this 23 day of May, 2000.



Notary Public

Notarial Seal
Cathleen J. Bish, Notary Public
Brockway Boro, Jefferson County
My Commission Expires Dec. 16, 2000
Member, Pennsylvania Association of Notaries

This Deed

Made the 8th day of January nineteen hundred and eighty seven (1987)
Between ROBERT CRAWFORD and JANET L. CRAWFORD, Husband and Wife, of Dubois, Clearfield
County, Pennsylvania -----GRANTORS

A N D

DAVID A. BERLIN of Brockway, Jefferson County, Pennsylvania, his heirs and assigns,
-----GRANTEE

WITNESSETH, that in consideration of the sum of ONE DOLLAR (\$1.00) in hand
paid, the receipt whereof is hereby acknowledged, the Grantors do hereby grant and
convey unto the Grantee, his heirs and assigns,

ALL those two (2) parcels of land situated in Sandy Township, Clearfield
County, Pennsylvania bounded and described as follows:

PARCEL NO. 1

BEGINNING at a point in the Southeast corner thereof and in the margin
of a public road; thence in a Westerly direction along a coal road, 280 feet to
a point; thence in a Northerly direction along lands now or formerly of Bert L.
Jordan et ux. 200 feet, more or less, to a point; thence Southeasterly direction,
along the aforesaid public road, 228 feet, more or less to the place of beginning.

EXCEPTING AND RESERVING however, out of and from the above described
parcel, all gas, coal, oil and other minerals as fully as excepted and reserved in
prior deeds.

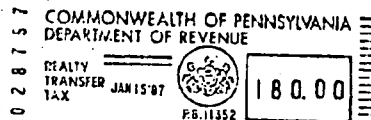
PARCEL NO. 2

BEGINNING at a post near a small brnach of Mountain Run; thence North
86 1/2 degrees East a distance of 300 feet, more or less to a point on South side of
Brockway Road; thence Easterly a distance of 40 feet to Beer Mine Road; thence in
a Southerly direction by line of Beer Run Road, a distance of 300 feet more or less
to a post; thence in a Westerly direction a distance of 30 feet, more or less, to a
post, the place of beginning.

EXCEPTING AND RESERVING, however, out of and from the above described
parcel all interests therein excepted and reserved in prior deeds.

BEING the same premises as conveyed to the Grantors herein by deed of
Robert M. Hook and Helen C. Hook, his wife, MELVA M. BEARDON and DONNIE K.
BEARDON, her husband, dated August 15, 1980 and recorded in the Clearfield County
Recorder's Office on September 9, 1980 in Deed Book 801 at page 585.

EXHIBIT "A" (1)



THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL, AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND.

The above notice is included in this Deed solely for the purpose of compliance with Act No. 431 approved the 17th day of July, A.D. 1957, and under no circumstances shall it be construed as a reservation of coal and incidental rights of mining and removing same if in fact there has not been an actual prior severance of coal or the right of surface support.

The Grantors do hereby certify that the true, full and complete value hereof, as required to be set forth herein, by the Realty Transfer Tax Act of the Commonwealth of Pennsylvania, is the sum of EIGHTEEN THOUSAND

DOLLARS 18,000.00

NOTICE The undersigned, as evidenced by the signature(s) to this notice and the acceptance and recording of this deed, (is, are) fully cognizant of the fact that the undersigned may not be obtaining the right of protection against subsidence, as to the property herein conveyed, resulting from coal mining operations and that the purchased property, herein conveyed, may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. This notice is inserted herein to comply with the Bituminous Mine Subsidence and Land Conservation Act of 1966.

To have and to hold by the grantee(s)

The Grantor(s) warrant
hereby conveyed.

SPECIALLY

the property

Witness the hand(s) and seal(s) of the Grantor(s)

Robert Crawford
ROBERT CRAWFORD



Janet L. Crawford
JANET L. CRAWFORD



Witness:

State of Pennsylvania,

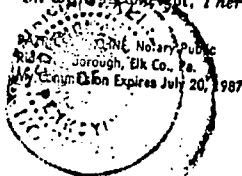
County of Elk

ss:

On this *14th* day of *January* 19 *87*, before me a Notary Public
the undersigned officer appeared *ROBERT CRAWFORD and JANET L. CRAWFORD*

known to me (or satisfactorily proven) to be the person(s) whose name(s) is (are) subscribed to the within
instrument, and acknowledged that he, she, or they executed the same for the purposes herein contained.

In witness whereof, I hereunto set my hand and official seal.



Patricia J. Kline

(Title of Officer)

Certificate of Residence

I hereby certify that the precise address of the grantee(s) is *R. D. #2, Box 80, Dubois, Pa.*
15801

Patricia J. Kline

State of Pennsylvania

County of _____ ss:

On this _____ day of _____ 19____
before me, the undersigned officer, personally
appeared

who acknowledged himself to be the

_____ of the grantor corporation,
and that he as such officer, being authorized to do so,
executed the foregoing instrument for the purposes
therein contained by signing the names of the corpo-
ration by himself as such officer.

In witness whereof, I have hereunto set my hand
and seal.

DUBOIS AREA SCHOOL (Title of Officer)

1% REALTY TRANSFER TAX

AMOUNT \$ 180.00

PAID 1-15-87 MICHAEL R. LYTLE

Date Agent

State Tax 180.00 Dubois Area Sch 90.00 Realty Tax 90.00 Deed	ROBERT CRAWFORD and Janet CRAWFORD, Husband and Wife, To DAVID BERLIN	LAW OFFICES JOHN H. CARTWRIGHT JOHN R. FERNAN DAVID A. WHITNEY RIDGWAY, PENNA.

Commonwealth of Pennsylvania,

County of Clearfield ss:

CLEARFIELD COUNTY
ENTERED OF RECORD 1-15-87
TIME 9:35 AM
BY David A. Whitney
FEES 13.50
Michael R. Lytle, Recorder

Recorded on the 15 day of Jan A. D. 1987

in the Recorder's office of the said County

in Deed Book 1134, page 169

In witness my hand and official seal.

My Commission Expires
First Monday in January, 1988

Michael R. Lytle
Recorder of Deeds
Entered of Record Jan 15 1987, 9:35 AM Michael R. Lytle, Recorder,

REGISTER AND RECORDER
CLEARFIELD COUNTY, PA

INVOICE # 1607

0202

BLL

#001 DEED

\$17.50

Instrument Number - 199801783

Recorded on - Dec 30, 1998 11:56:20 AM

Muni - SANDY TOWNSHIP

Grantor - BERLIN, DAVID A

Grantee - BERLIN, DAVID A

Consideration - \$1.00

Tax Basis - \$0.00

Fee Detail:

COUNTY RECORDING FEE	\$13.00
IMPROVEMENT FEE - COUNTY	\$1.00
IMPROVEMENT FEE - RECORDER	\$1.00
PER PAGE FEE	\$2.00
STATE WRIT FEE	\$0.50

TOTAL CHARGES \$17.50

PAYMENTS

CHECK: 3249 \$17.50

TOTAL PAYMENTS \$17.50

BALANCE DUE \$0.00

CUSTOMER:

FERRARO & YOUNG

690 MAIN STREET

BROCKWAY, PA 15824

THANK YOU

KAREN L. STARCK

AFFIDAVIT No. 30474

This Deed

MADE THE

17th

Day of

December

in the year

of our Lord one thousand nine hundred ninety-eight (1998)

BETWEEN **DAVID A. BERLIN and THERESA BERLIN**, his wife, of RD #2, Box 126, DuBois, Pennsylvania (15801)

Grantor s,

and

DAVID A. BERLIN and THERESA BERLIN, his wife, of RD #2, Box 126, DuBois, Pennsylvania (15801) to be held by them as tenants by the entirety

Grantee s:

WITNESSETH, that in consideration of ONE and no/100ths-----

-----(\$1.00)-----

-----Dollars,

in hand paid, the receipt whereof is hereby acknowledged, the said grantor s do hereby grant and convey to the said grantee s, their heirs and assigns,

ALL that certain piece, parcel or lot of land lying and being in **SANDY TOWNSHIP**, Clearfield County, Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at a 3/4-inch iron pin, said pin being at the intersection of the Northerly right-of-way line of Beers Mines Road and the Southerly right-of-way line of the Beers Run Road (Sandy Township T.R. 407); thence by the Northerly right-of-way line of Beers Mines Road, South 81° 32' 58" West, a distance of 295.24 feet to a 3/4-inch iron pin on the Northerly line of land now or formerly of Delbert and Dorothy Hunt; thence by said Northerly line of lands now or formerly of Delbert and Dorothy Hunt North 15° 40' 36" West, a distance of 34.96 feet to a 3/4-inch iron pin, said pin also being on the Northerly line of land now or formerly of Delbert and Dorothy Hunt; thence continuing by lands now or formerly of Hunt, North 66° 54' 24" West, a distance of 35.75 feet to an iron pin, said pin being on the Southeasterly line of other lands now or formerly of Hunt; thence by said Southeasterly line of other lands now or formerly of Hunt North 27° 46' 40" East, a distance of 143.91 feet to a 3/4-inch iron pin on the Southwesterly right-of-way line of Sandy Township, being Route 407 (Beers Run Road); thence by said Southwesterly right-of-way line of Sandy Township Route 407 (Beers Run Road) South 63° 23' 22" East, a distance of 239.55 feet to a point; thence continuing by said Southwesterly

right-of-way line of Sandy Township Route 407 South 65° 24' 11" East, a distance of 58.42 feet to an iron pin and place of beginning.

CONTAINING 0.656 acres, as set forth on the survey of Lee-Simpson Associates, Inc. dated July 7, 1998 which is attached hereto and made a part hereof.

THIS IS A CORRECTIVE DEED. The within conveyance being a portion of the same property conveyed to the Grantors-Grantees herein by Deed of January 8, 1987 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA, in Vol. 1134, at page 169.

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Shelly A. Allgeier

Debra Berlin

This 19th day of Dec., 1998

This document may not sell, convey, transfer, include or insure the title to the coal and the right of support underneath the surface land described or referred to herein, and the owner or owners of such coal may have the complete legal right to remove all of such coal, and, in that connection, damage may result to the surface of the land and any house, building or other structure on or in such land. The inclusion of this notice does not enlarge, restrict or modify any legal rights of estates otherwise created, transferred, excepted or reserved by this instrument.

(This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

AND, the said grantors, do hereby covenant and agree to and with the said grantees, that they, the grantors their heirs, executors and administrators, shall and will warrant -----GENERALLY----- and forever defend the herein above described premises, with the hereditaments and appurtenances, unto the said grantees their heirs and assigns, against the said grantors, and against every other person lawfully claiming or who shall hereafter claim the same or any part thereof.

THIS IS TO CERTIFY FOR PENNSYLVANIA REALTY TRANSFER TAX THAT THE WITHIN CONVEYANCE IS EXEMPT AS BEING A CORRECTIVE DEED FOLLOWING A SURVEY OF THE PREMISES ALREADY OWNED BY THE GRANTORS-GRANTEES HEREIN.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF

Sally A. Allgeier

David A. Berlin
David A. Berlin

Theresa Berlin
Theresa Berlin



CERTIFICATE OF RESIDENCE

I do hereby certify that the precise residence and complete post office address of the within named grantee is

DAVID A. BERLIN
THERESA BERLIN
RD #2, BOX 126
DUBOIS PA 15801

Dec. 17 1998 R. Edward Terraw

Attorney for Grantors-Grantees

State of PENNSYLVANIA

County of JEFFERSON

On this, the

17th

day of

December

1998

before me, the

undersigned officer, personally appeared

DAVID A. BERLIN and THERESA BERLIN his wife

known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notarial Seal
Sally A. Allgeier, Notary Public
Brockway Boro, Jefferson County
My Commission Expires March 26, 1999
Member, Pennsylvania Association of Notaries

Sally A. Allgeier



KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY, PA
Pennsylvania

INSTRUMENT NUMBER
199801783

RECORDED ON
Dec 30, 1998
11:56:20 AM

RECORDING FEES - \$15.00
RECORDER
COUNTY IMPROVEMENT FUND \$1.00
RECORDER IMPROVEMENT FUND \$1.00
STATE WRIT TAX \$0.50
TOTAL \$17.50

FERRARO & YOUNG
ATTORNEYS AT LAW
BROCKWAY, PA 15824
PUNXSUTAWNEY, PA 15767

Recorder

Given under my hand and the seal of the said office, the date above written.

Vol. _____ Page _____

A. D. 19_____, in the Recorder's Office of said County, in Deed Book

Recorded on this _____ day of _____

County of _____

ss.

COMMONWEALTH OF PENNSYLVANIA

Deed

DAVID A. BERLIN &
THERESA BERLIN, his wife

and

DAVID A. BERLIN &
THERESA BERLIN, his wife

WARRANTY

Title of Officer.



known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

undersigned officer, personally appeared

On this, the _____

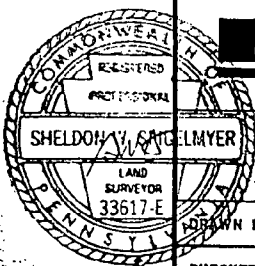
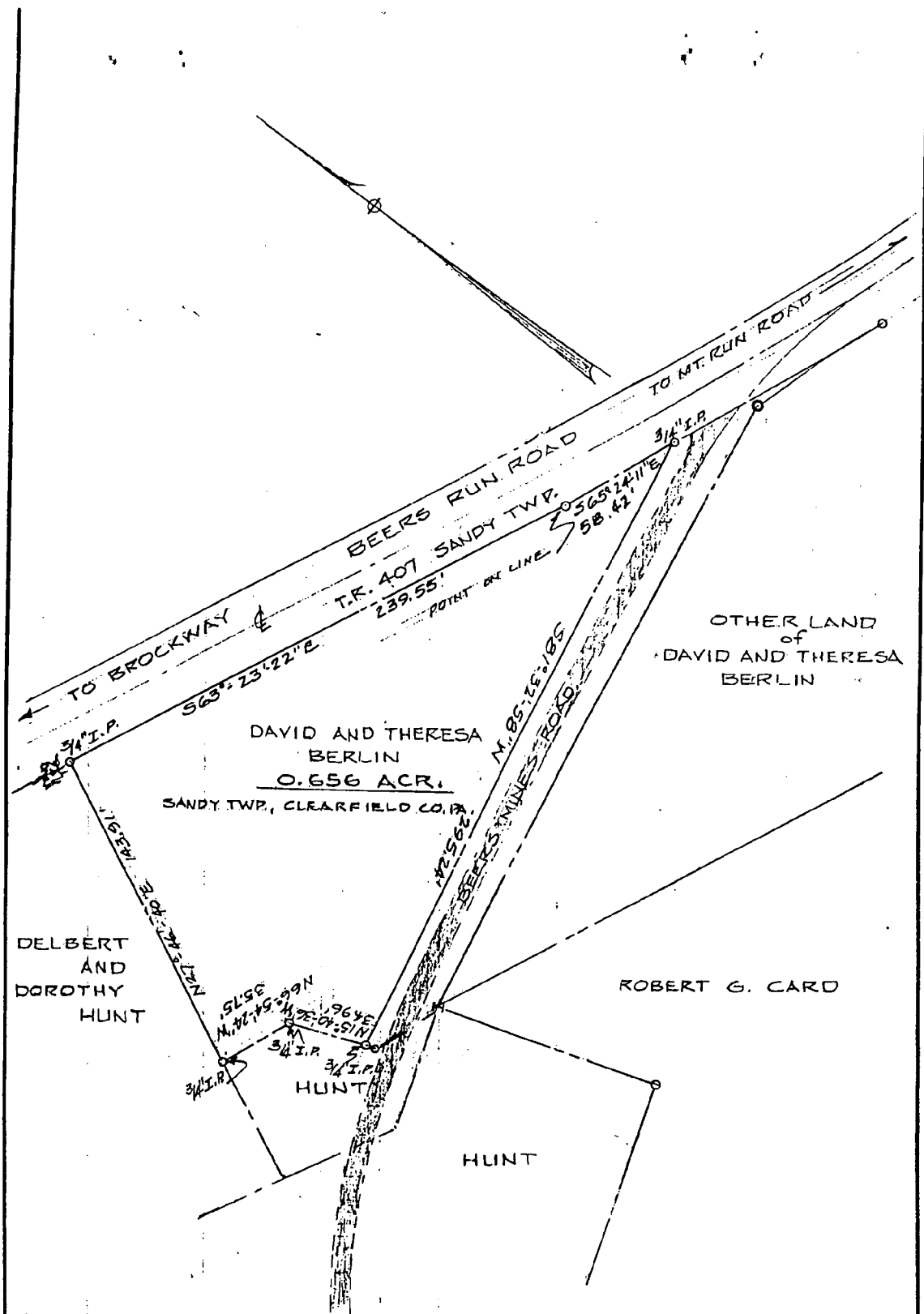
County of _____

State of _____

day of _____

{ ss.

, 19_____, before me, the



LEE - SIMPSON ASSOCIATES, INC.
CONSULTING ENGINEERS
 203 W. WEBER AVENUE, DUBOIS, PENNSYLVANIA 15801

814-371-7750

PLAT OF SURVEY

FOR
DAVID AND THERESA BERLIN

DRAWN BY: **S.W.S.**
 CHECKED BY: **S.W.S.**

DATE: **JULY 7, 1998**

SCALE **1" = 50'**

FILE NO. **M-369**

10-8545 ALBANY, ABB SMITH CO., PGM., PA LT2842-491

EXHIBIT "A" (3)

THIS INDENTURE

MADE the 17th day of May in

the year nineteen hundred and ninety-five (1995)

BETWEEN INTEGRA TRUST COMPANY, NATIONAL ASSOCIATION of 300 Fourth Avenue, Pittsburgh, Pennsylvania, Executor under the Last Will and Testament of EMMETT J. RUPERT, deceased, late of the Borough of Sykesville, Jefferson County, Pennsylvania, Party of the First Part and GRANTOR,

and

DAVID A. BERLIN and TERESA A. BERLIN, husband and wife, of R. D. 2, DuBois, Pennsylvania, AS TENANTS BY THE ENTIRETIES, Parties of the Second Part and GRANTEEES;

WHEREAS, Emmett J. Rupert died a resident of Sykesville Borough, Jefferson County, Pennsylvania, on August 13, 1993;

WHEREAS, Integra Trust Company, National Association, is the successor in interest to the Keystone National Bank, and has been duly appointed the Executor under the Last Will and Testament by appointment of the Register of Wills of Jefferson County on August 17, 1993, see Estate No. 1993-00225;

WHEREAS, under the terms of the Last Will and Testament of Emmett J. Rupert, the real estate described herein was not specifically devised;

NOW THIS INDENTURE WITNESSETH: That the said Integra Trust Company, National Association, Executor of the Estate of Emmett J. Rupert, for and in consideration of the sum of Six Thousand Five Hundred (\$6,500.00) Dollars, lawful money of the United States, to it well and truly paid by the said Grantees at and before the sealing and delivery hereof, the receipt of which is hereby acknowledged, by virtue of the power granted by law, has granted, bargained, sold, aliened, released and confirmed, and by these presents does grant, bargain, sell, alien, release and confirm unto the said Grantees, their heirs and assigns,

ALL that certain piece or parcel of land situate, lying and being in Sandy Township, Clearfield County, Pennsylvania, more fully bounded and described as follows:

BEGINNING at a point where the Mountain Run Road joins the South side of the road to Brockway (Beers Run Road);
THENCE proceeding along the South side of Beers Run Road a distance of 820 feet, more or less, to a point where the Beers Run Road joins with Beers Mines Road;

THENCE in a Southerly direction along the said Beers Mines Road a distance of 290 feet, more or less;

THENCE proceeding Eastward in a line parallel with the Beers Run Road a distance of 820 feet, more or less, to a point on the Mountain Run Road;

THENCE North along the said Mountain Run Road a distance of 290 feet, more or less, to the place of beginning.

CONTAINING approximately 5-1/2 acres, more or less, and being identified as Clearfield County Tax Map Parcel No. 128-E02-00016.

BEING a part of the same premises conveyed to Emmett J. Rupert by deed of the Federal Land Bank of Baltimore dated January 17, 1940, and recorded in Clearfield County Deed Volume 330, Page 349.

UNDER AND SUBJECT to any prior restrictions, covenants, reservations or exceptions as may be contained in prior deeds or transactions of record, however, this document makes no exception, reservation or other matter on behalf of the Grantor.

The Grantor disclaims any representations or warranties concerning the following:

(a) The existence of deep mine entries or portals on the premises or any underground mining.

(b) The status of the premises concerning on-site sewage treatment systems, and whether or not such property will qualify for on-site sewage treatment systems or permits.

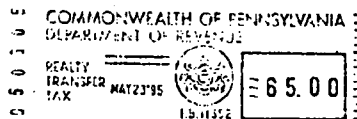
(c) The storage or usage of any hazardous waste as defined by State, Federal or local law.

It is hereby affirmed for purposes of the Commonwealth of Pennsylvania Realty Transfer Tax Act that the actual consideration for this conveyance does not exceed \$6,500.00.

DuBOIS AREA SCHOOL DISTRICT
1% REALTY TRANSFER TAX

AMOUNT \$ 65.00

PAID 5-23-95 KAREN L. STARCK
Date Agent



THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THIS INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Robert M. Nandy
Attorney for Grantees

hereby CERTIFY that this document
is recorded in the Recorder's Office of
Clearfield County, Pennsylvania.

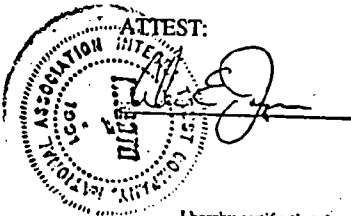


Karen L. Stark
Karen L. Stark
Recorder of Deeds

CLEARFIELD COUNTY
ENTERED OF RECORD
TIME 3:58 PM 5-23-85
BY *[Signature]*
FEES 13.00
Karen L. Stark, Recorder

AND the said Grantor, Integra Trust Company, National Association, Executor under the Last Will and Testament of Emmett J. Rupert, does hereby covenant and agree to and with the said Grantees, their heirs and assigns, that the said Grantor has not heretofore done or committed any act, matter or thing whereby the premises hereby granted, or any part thereof, is, are or shall be impeached, charged or encumbered in title, charge, estate or otherwise howsoever.

IN WITNESS WHEREOF, said Grantor has hereunto set its hand and seal, the day and year first above-written.



ATTEST:

INTEGRA TRUST COMPANY,
NATIONAL ASSOCIATION

BY: [Signature] (SEAL)

Certificate of Residence

I hereby certify, that the precise residence of the grantees herein is as follows:
R. D. #2, DuBois, PA 15801

[Signature]
Attorney or Agent for Grantee

COMMONWEALTH OF PENNSYLVANIA :
SS

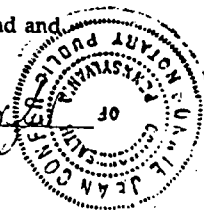
COUNTY OF JEFFERSON :

On this, the 17TH day of May, 1995, before me, the undersigned officer, personally appeared Thomas A. Wenner, who is the Assistant Vice President & Regional Trust Officer of the INTEGRA TRUST COMPANY, NATIONAL ASSOCIATION, and by virtue and in pursuance of the authority thereby vested in he, acknowledged the foregoing to be the act and deed of the INTEGRA TRUST COMPANY, NATIONAL ASSOCIATION.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notarial Seal
Bonnie Jean Conter, Notary Public
Pursuant to Law, Jefferson County
My Commission Expires Nov. 27, 1995
Member, Pennsylvania Association of Notaries

[Signature]
Notary Public



Entered of Record May 23 1995, 3:50 pm Karen L. Starck, Recorder

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY, PA
Pennsylvania

INSTRUMENT NUMBER
199912242

RECORDED ON
JUL 26, 1999
12:11:03 PM

RECORDING FEES - \$13.00
RECORDER
COUNTY IMPROVEMENT \$1.00
FUND
RECORDER
IMPROVEMENT FUND \$1.00
STATE TRANSFER TAX \$25.00
STATE WRIT TAX \$0.50
SANDY TOWNSHIP \$12.50
DUBOIS AREA \$12.50
SCHOOLS
TOTAL \$65.50

THIS DEED,

MADE the 20th day of July in the year nineteen hundred and ninety-nine (1999),

BETWEEN JAMES R. PIERCE and KATHIE JO PIERCE, husband and wife, of Shelocta, Pennsylvania; Grantors, parties of the first part;

A N D

DAVID A. BERLIN and TERESA A. BERLIN, husband and wife, of Sandy Township, Clearfield County, Pennsylvania, as tenants by the entireties, Grantees, parties of the second part.

WITNESSETH, That in consideration of Two Thousand Five Hundred Dollars (\$2,500.00), in hand paid, the receipt whereof is hereby acknowledged, the said Grantors do hereby grant and convey to the said Grantees,

ALL that certain piece or parcel of land situate, lying and being in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the Eastern boundary line of land now or formerly of Musthaf, of which the premises herein described were formerly a part, said pipe also being on the Westerly boundary line of land now or formerly of Harold Bundy; thence in a Southwesterly direction along said land now or formerly of Harold Bundy, 140 feet, more or less, to an iron pipe, at the former Southern corner of said land now or formerly of Musthaf, of which the premises herein described were formerly a part; thence in a Northerly direction along a stripped fill which is on land now or formerly of Francis Beer and Laurea Beer, 240 feet, more or less, to an iron pipe; thence in an Easterly direction along said land now or formerly of Musthaf, of which the premises herein described were formerly a part, 240 feet, more or less, to the place of beginning. Being a triangular piece of land situate at the Southern corner of said land now or formerly of Musthaf, of which the premises herein described were formerly a part.

TOGETHER with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, of which the premises herein described were

formerly a part; further granting to the grantees, their heirs and assigns, the right to enter upon said remaining premises now or formerly of Musthaf, for the purposes of obtaining water from a spring located thereon.


UNDER AND SUBJECT to all reservations, exceptions and conditions as contained in prior deeds of conveyance.

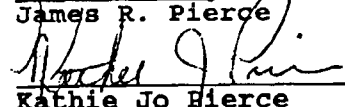
BEING the same premises which were conveyed to James R. Pierce, et ux. by deed of James R. Pierce, et ux., dated October 31, 1988, and recorded at Clearfield, Pennsylvania, in Deeds and Records Volume No. 1254, page 99.

Grantors herein state that the hereinabove described property is not presently being used for disposal of hazardous waste nor to the best of their knowledge, information and belief has it ever been used for the disposal of hazardous waste. This statement is made in compliance with the Solid Waste Management Act No. 1980 - 97, Section 405.

AND the said Grantors will specially warrant and forever defend the property hereby conveyed.

IN WITNESS WHEREOF, the said grantors have hereunto set their hands and seals the day and year first above written.


James R. Pierce (SEAL)


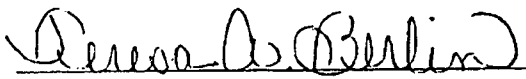

Kathie Jo Pierce (SEAL)

NTS

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

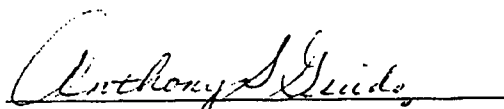




This 23rd day of July, 1999.

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE OF THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

CERTIFICATE OF RESIDENCE

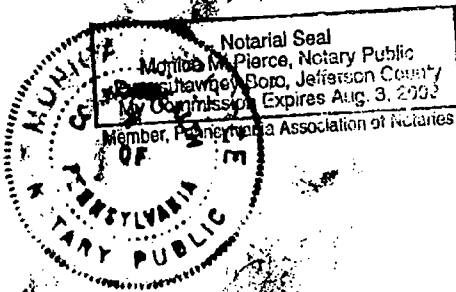
I/we hereby certify, that the precise residence for the Grantee herein is as follows:
R. D. #2, Box 126 DuBois, PA 15801


Attorney or Agent for Grantee

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF Clearfield :

On this, the 20th day of July, 1999, before me, the undersigned officer, personally appeared **JAMES R. PIERCE** and **KATHIE JO PIERCE**, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.



Monica M. Pierce

PARCEL #29

BERLIN - SOURCE OF TITLE: INST. #199801783

(CORRECTIVE DEED

CRAWFORD TO BERLIN: VOL. 1134/169 (2 PARCELS)

HOOK TO CRAWFORD: VOL. 801/585 (2 PARCELS)

BEARDON

CERT. OF ALLOTMENT - ESTATE OF ROBERT C. HOOK - VOL. 746/648
(2 PARCELS)

LOCKE TO HOOK: VOL. 517/576 (2 PARCELS)

REESMAN TO LOCKE: VOL. 499/691 (2 PARCELS)

CORRECTIONAL - REESMAN TO LOCKE VOL. 502/65 (2 PARCELS)

CORRECTIONAL - REESMAN TO LOCKE VOL. 501/209 (2 PARCELS)

WOOD TO REESMAN VOL. 489/391 (2 PARCELS)

FIRST TRACT

JORDAN TO WOOD: VOL. 477/389 (PARCEL)

REITZ TO JORDAN: VOL. 418/275 (36A + 16A)

COMM. TO REITZ: VOL. 418/274 (36A + 16A)

SOLD AS PROP. OF ROY WHITE AND
EDISON D. HOYT

SANDY TWP. TAX COLL. TO COMM. VOL. 418/273 (36A + 16A)

SOLD AS PROP. OF ROY WHITE AND
EDISON D. HOYT

HUGHES HEIRS TO HOYT: VOL. 85/205
51A, IN WT. 4090

OUT-SAGE: BERLIN
TO HUNT - 2,735
SQ. FT. VOL. 1237/284

2ND TRACT

CARD TO WOOD: VOL. 477/388 (PARCEL)

RUPERT TO CARD: VOL. 374/66 (PARCEL)

EX. & RES. TRACT # 1 5 1/2 A
SOLD TO BERLIN VOL. 1677/509 (#16)

EX. & RES. TRACT # 2 1 2/3 A

OUT-SAGE: RUPERT
TO BUNDY - VOL. 436/349
1 2/3 A.

FED. LAND BANK TO RUPERT VOL. 330/349
(56 A.)

BUNDY HEIRS BY SHERIFF TO FED. LAND
BANK, VOL. 315/40 (56 A.)

FYOCK TO BUNDY: VOL. 163/109 (50 A.)

HUGHES & CO. TO FYOCK: VOL. 272/530 (56 A.)

READING - TO HUGHES & CO. VARIOUS WTS. IN
VOL. 47/93 INCH. WT. 4090 + 4231 (SANDY)

AREA ABSTRACTING AND FILING SERVICE, INC.

Hemlock Hill, R. D. 1, Box 184

Falls Creek, PA 15840

Telephone: (814) 371-5128 Fax: (814) 371-8851

e-mail: jkmyers@key-net.net

Search For: Ross F. Ferraro, Attorney at Law
690 Main Street
Brockway, PA 15824

Date of Search: March 30, 2000

Search On: David A. and Theresa Berlin
T-407 & Old Coal Road
Sandy Township, Clearfield County, PA

Assessment: Tax I. D. #128.0-E02-000-00029. The property is assessed in the names of David A. and Theresa Berlin, whose mailing address is R. R. 2, Box 126, DuBois, PA, as a camp and 0.656 acres situated in Sandy Township, Clearfield County, PA. The assessed value is \$6,575 and the appraised value is \$26,300.

Abstract: The Clearfield County records have been searched regarding the above property from 1888 forward to the present time.

Source of Title: Instrument #199801783, dated December 17, 1998, and recorded December 30, 1998, David A. Berlin and Theresa Berlin, his wife, to David A. Berlin and Theresa Berlin, his wife, for the consideration of \$1.00 conveys 0.656 acres in Sandy Township, Clearfield County, PA. Corrective Deed. Note: Survey attached to deed has been marked in this report to identify properties included in overall search.

Volume 1134, page 169, dated January 8, 1987, and recorded January 15, 1987, Robert Crawford and Janet L. Crawford, husband and wife, to David Berlin, for the consideration of \$1.00 (tax paid on \$18,000) conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Special Warranty Deed. **Outsale of 2,735 square feet to Hunt, Volume 1237, page 284, copy with Hunt report.

Volume 801, page 585, dated August 15, 1980, and recorded August 25, 1980, Robert M. Hook and Helen C. Hook, his wife, and Melva M. Beardon and Donnie K. Beardon, her husband, to Robert Crawford and Janet L. Crawford, husband and wife, for the consideration of \$24,000 conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. General Warranty Deed.

Volume 746, page 048, Certificate of Award or Allotment of Real Estate in Statement of Proposed Distribution, Estate of Robert C. Hook, to Robert M. Hook, ½; Melva M. Beardon, ½, conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Robert C. Hook died 12/10/76, Estate #77-10, Insolvent.

Volume 517, page 576, dated September 24, 1965, and recorded October 2, 1965, James E. Locke and Dorothy S. Locke, his wife, to Robert C. Hook, for the consideration of \$1.00 (Transfer Tax paid on \$3,200) conveys two parcels in Sandy Township, Clearfield County, PA. parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. General Warranty Deed.

Volume 502, page 65, dated March 6, 1963, and recorded May 28, 1963, George A. Reesman and Sarah R. Reesman, his wife, and Paul H. Reesman, his wife, to James E. Locke, for the consideration of \$1.00 conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Purpose of the deed is to add the names of Mary E. Reesman and Sarah R. Reesman as additional grantors. General Warranty Deed.

Volume 501, page 209, dated March 6, 1963, and recorded April 19, 1963, George A. Reesman and Sarah R. Reesman, his wife, and Paul H. Reesman, his wife, to James E. Locke, for the consideration of \$1.00 conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Purpose of the deed is to add the names of Mary E. Reesman and Sarah R. Reesman as additional grantors. General Warranty Deed. Appears to be the same as the above correctional deed, possibly recorded for each grantor.

Volume 499, page 691, dated January 7, 1963, and recorded January 8, 1963, George A. Reesman and Paul H. Reesman, to James L. Locke, for the consideration of \$2,800 conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. General Warranty Deed.

Volume 489, page 391, dated November 18, 1960, and recorded June 9, 1961, Frank Wood and Mary Wood, his wife; LeRoy Wood and Margaret Wood, his wife; and Delona Wood and Bertha Wood, his wife, to George A. Reesman and Paul H. Reesman, for the consideration \$1.00 and other consideration, conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Warrant and Forever Defend.

The title follows two separate chains at this point.

First Tract:

Volume 477, page 389, dated March 17, 1952, and recorded September 3, 1959, Bert L. Jordan and Mary Jordan, his wife, to Frank Wood, LeRoy Wood and Delone Wood, for the consideration of \$50 conveys part of a larger parcel situated in Sandy Township, Clearfield County, PA. Excepting and reserving all gas in and under. Excepting and reserving all coal, oil and other minerals. Warrant Forever.

Volume 418, page 275, Assignment recorded January 17, 1952, by A. H. Reitz, widow, to Burt L. Jordan and Mary Jordan, his wife, for the consideration of \$1.00, conveys 36 acres and 16 acres in Sandy Township, Clearfield County, PA, sold by the County Commissioners as property of Roy Waite and Edison D. Hoyt. Note: J. S. Reitz died 10/13/50, Estate #20945, no real estate listed in estate file and no tax paid on real estate.

Volume 418, page 274, recorded January 17, 1952, County Commissioners (who purchased lands from County Treasurer on January 10, 1936) for the consideration of \$25.00 conveys 36 and 16 acres situated in Sandy Township, Clearfield County, PA. to J. S. Reitz, sold as the property of Roy Waite and Edison D. Hoyt, on January 24, 1942.

Volume 418, page 272, recorded January 17, 1952, Treasurer of Clearfield County, to County Commissioners, for unpaid taxes for the year 1931 in the amount of \$37.90, sold 36 and 16 acres in Sandy Township, Clearfield County, PA, assessed in the names of Roy Waite and Edison D. Hoyt.

Note: Did not locate a deed for surface into both Roy Waite and Edison D. Hoyt. May have been unrecorded.

Volume 85, page 205, dated March 26, 1894, and recorded October 20, 1894, Hoover Hughes Humes, et al, (Geo. w. Hoover and Elizabeth, his wife, by E. C. Humes, Attorney in Fact recorded in Bellefonte, PA and Wm. V. Hughes and Rebecca his wife, by E. C. Humes, Attorney in Fact recorded in Bellefonte, PA), to Edson Hoyt, for the consideration of \$255 conveys 51 acres in Warrant No. 4090, Sandy Township, Clearfield County, PA. Reserving all coal, coal oil and other minerals with full rights of way to mine and remove the same.

Second Tract:

Volume 477, page 388, dated June 7, 1950, and recorded September 3, 1959, Grant Card and Ada Card, his wife, to Frank Wood, Leroy Wood, and Delone Wood, for the consideration of \$75.00 conveys parcel in Sandy Township, Clearfield County, PA. Subject to all exceptions and reservations. Being part of larger parcel. Warrant and Forever Defend.

Volume 374, page 66, dated December 14, 1945, and recorded February 8, 1946, Emmett J. Rupert, a single man, to Grant Card and Ada Card, his wife, for the consideration of \$1,000 conveys all the **surface** to a parcel of land situate in Sandy township, Clearfield County, PA. Excepting and reserving two tracts, one containing 5 ½

acres and the second, 1 2/3 acres. Also excepting and reserving all coal, oil, gas and other minerals with full rights of egress, regress and ingress to go upon the premises and explore, mine and remove the same together with full and complete rights and privileges to erect suitable buildings, etc. Also excepting and reserving. Special Warranty Deed. **Outsale of 5 1/2 acres to Berlin, see report on tax parcel #16. Outsale of 1 2/3 acres to Earl C. Bundy, copy enclosed, Volume 436, page 349.

Volume 330, page 349, dated January 17, 1940, and recorded March 12, 1940, The Federal Land Bank of Baltimore to Emmett J. Rupert, for the consideration of \$1,400 conveys 56 acres in Sandy Township, Clearfield County, PA. **Reserving all coal, coal oil and other minerals in or upon the said land with full rights of way to mine and remove the same, with the right to go on and across the land for the purpose of removing the same. Subject to all conveyances and reservations of coal, oil, gas, minerals and easements of record.**

Volume 315, page 40, recorded January 18, 1937, Isaac Bundy Heirs by Sheriff of Clearfield County to Federal Land Bank of Baltimore, for the consideration of \$25 conveys 56 acres in Sandy Township, Clearfield County, PA. **Reserving all coal, coal oil and other minerals, etc., with full rights of way to mine and remove the same, with the right to go on and across the land for the purpose of removing the same at the pleasure of grantors.** Isaac Bundy died March--, 1934, Estate #16048. No tax due.

Volume 163, page 109, dated September 29, 1906, and recorded April 11, 1907, Charles Fyock and Minerva Fyock, his wife, to Isaac Bundy, for the consideration of \$650 conveys 56 acres in Sandy township, Clearfield County, PA. **Reserving all coal, coal oil and other minerals in or upon said land with full rights of way to mine and remove the same and also all saw timber, with the right to go on and across the land, etc.** Warrant and Forever Defend.

Volume 272, page 530, dated September 19, 1893, and recorded October 17, 1924, Hoover Hughes, et al, to Charles Fyock, for the consideration of \$280 conveys 56 acres in Warrants Nos. 4231 and 4090 in Sandy Township, Clearfield County, PA. **Reserving all coal, coal oil and other minerals in or upon said land with full rights of way to mine and remove the same and also all saw timber, with the right to go on and across the land, etc.**

Both chains of title come from the following deed:

Volume 47, page 93, dated September 16, 1881, and recorded May 25, 1888, John G. Reading and Sarah, his wife; Augustus G. Richey and Anna, his wife; Charles Bartles, William P. Emery and An, his wife; George H. Bartles and Lois, his wife; and Judiah Higgins and Charity, his wife, to G. W. Hoover, W. V. Hughes, E. C. Humes and J. P. Harris, composing Hoover Hughes and Company, for the consideration of \$70,000 conveys 7,130 acres in several warrants in Huston and Sandy Township, including Warrants 4090 and 4231. **Excepting and reserving all the coal, coal oil and other**

minerals, etc., with the right to enter and take away the same, to erect such structures, ways, buildings, railroads, and shafts thereon both up and down, etc., to successfully mine and take away, etc.

Miscellaneous:

Volume 1231, page 036, Storage Grant (No Surface Operation)

Judgments, Liens, Taxes:

Tax Claim Bureau: 1998 and 199 taxes, copy enclosed.

Mortgages: Volume 1786, page 13, dated September 3, 1996, and recorded September 5, 1996, David A. Berlin and Teresa A. Berlin, to Associates consumer Discount Company, mortgages Tax #29 and Tax #16 in the principal amount of \$52,766.63;

Volume 1972, page 41, dated September 18, 1998, and recorded September 25, 1998, David A. Berlin and Teresa A. Berlin, to City National Bank of WV, mortgages Tax #29, in the principal amount of \$28,900.

Judgments:

NOTE: VOL. 369/305 and 369/308 - *Old Mfg. Not Set.*
None

Ejectments: #80-1156-CD, Mary Jordan Vs. Edson Hoyt, a/k/a Edison Hoyt and Roy Waite, Action to Quiet Title, 51 acres; ORDER VOL. 798/368

#80-2562-CD, Robert Crawford and Janet L. Crawford Vs. Roy Waite and Edison D. Hoyt, Actin to Quiet Title on parcel. ORDER VOL. 807/59

Federal Tax Liens: None

State Tax Liens: None

Secured transactions: None

Mechanic's Liens: None

Domestic Rel. Search: Information not provided by attorney's office for this search.

PARCEL #16

BERLIN: SOURCE OF TITLE: VOL. 1677/509 S 1/2 N
INTEGRAL TRUST CO., EX. UNDER AUST OF EMMETT J.
RUPERT TO DAVID AND TERESA A. BERLIN

FED. LAND BANK TO RUPERT: VOL. 330/349

THIS IS S 1/2 N. EX. & RES. IN DEED TO
CARD CONVEYING PARCEL VOL. 374/66

FOKLOWS AND TRACT OF PARCEL #39 CHAIN

AREA ABSTRACTING AND FILING SERVICE, INC.

Hemlock Hill, R. D. 1, Box 184

Falls Creek, PA 15840

Telephone: (814) 371-5128 Fax: (814) 371-8851

e-mail: jkmyers@key-net.net

Search For: Ross F. Ferraro, Attorney at Law
690 Main Street
Brockway, PA 15824

Date of Search: March 30, 2000

Search On: David A. and Teresa A. Berlin
T-407 and 17031
Sandy Township, Clearfield County, PA

Assessment: Tax I. D. #128-0-E02-000-00016. The property is assessed in the names of David A. and Teresa A. Berlin, whose mailing address is R. R. 2, DuBois, PA 15801, as 5.33 acres, 1 acre undeveloped and 4.3 acres of woodland, in Sandy Township, Clearfield County, PA. The assessed value is \$1,575 and the appraised value is \$6,300.

Abstract: The Clearfield County records have been searched regarding the above property from 1888 forward to the present time.

Source of Title: Volume 1677, page 509, dated May 17, 1995, and recorded May 23, 1995, Integra Trust company, national Association, Executor under the Last Will and Testament of Emmett J. Rupert, deceased, to David A. Berlin and Teresa A. Berlin, for the consideration of \$6,500 conveys 5 ½ acres identified as Tax #128-E02-00016. Under and subject to. Disclaims. Recites Volume 330, page 349, Federal Land Bank to Rupert. This is the 5 ½ acres excepted and reserved in deed between Rupert and Card in Volume 374, page 66.

Chain follows the second thereof back to 1888.

Judgments, Liens, Taxes:

Tax Claim Bureau: 1998 and 1999 Taxes, copy enclosed.

Mortgages: Volume 1786, page 13, dated September 3, 1996, and recorded September 5, 1996, David A. and Teresa A. Berlin to Associates Consumer Discount Company,

**mortgages Tax #29 and #16 in the principal amount of
\$52,766.63**

Judgments:	None
Federal Tax Liens:	None
State Tax Liens:	None
Secured transactions:	None
Mechanic's Liens:	None
Domestic Rel. Search:	Information not provided by attorney's office for this search.

30.1 (MAP 1280-D01-30.1)
PROPERTY AT
END OF COAL
ROAD 0.384

BECKIN FROM PIERCE INT. # 1999/12242	GRANTS RIGHT TO USE OLD COAL ROAD
PIERCE TO PIERCE VOL. 12354/099	GRANTS RIGHT TO USE OLD COAL ROAD
GHADD TO PIERCE VOL. 847/325	GRANTS RIGHT TO USE OLD COAL ROAD, WATER FROM SPRING
MUSTHAFF TO GHADD VOL. 520/679	GRANTS RIGHT TO OLD COAL ROAD, (1966) WATER FROM SPRING (PORTION OF LANDS IN 508/347)
BECK TO MUSTHAFF 508/347	
GARVIN TO BECK 377/186	
BECK TO GARVIN 377/184	

AREA ABSTRACTING AND FILING SERVICE, INC.

Hemlock Hill, R. D. 1, Box 184

Falls Creek, PA 15840

Telephone: (814) 371-5128 Fax: (814) 371-8851

e-mail: jkmyers@key-net.net

Search For: Ross F. Ferraro, Attorney at Law
690 Main Street
Brockway, PA 15824

Date of Search: March 30, 2000

Search On: David A. and Teresa A. Berlin
T-407 Off
Sandy Township, Clearfield County, PA

Note: This is not a full search, but is only a look at the chain of title to recently purchased Berlin property. This was done because this property sits at the end of the Coal Road.

Assessment: Tax I. D. #128-0-D01-000-030.1. The property is assessed in the names of David A. and Teresa A. Berlin, whose mailing address is R. R. 2, Box 126, DuBois, PA 15801, as a one story frame camp situated on 0.380 acre in Sandy Township, Clearfield County, PA. The assessed value is \$1,025 and the appraised value is \$4,100.

Chain of Title: From the present time to 1934. This property comes from the larger transfer from Reading to Hoover Hughes. It refers to the right to use the coal road, and also in the last deed copied which was recorded in 1936, it reserved the right to all coal, coal oil and other minerals, etc., with full rights to mine and remove the same. In the report of the mineral chain of title in Volume 152, page 533, you will note a copy of a map (deed from Lee to N. T. Arnold) that shows Warrants 4090, 4231 and 4234, and reserves 270 acres to Samuel Brown. A road is clearly marked on this map. The map may be compared with the present day map.

Source of Title: Instrument #199912242, dated July 20, 1999, and recorded July 26, 1999, James R. Pierce and Katie Jo Pierce, husband and wife, to David A. Berlin and Teresa A. Berlin, husband and wife, for the consideration of \$2,500 conveys parcel in Sandy Township, Clearfield County, PA. **Together with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, etc. and the right to enter upon said remaining premises now or formerly of Musthaf for the purpose of obtaining water from a spring located thereon. Under and Subject. Special Warranty Deed.**

Volume 1254, page 099, dated October 31, 1988, and recorded November 15, 1988, James R. Pierce and Kathie Jo Pierce, husband and wife, to James R. Pierce and Kathie Jo Pierce, husband and wife, for the consideration of \$1.00 conveys parcel in Sandy Township, Clearfield County, PA. **Together with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, etc. and the right to enter upon said remaining premises now or formerly of Musthaf for the purpose of obtaining water from a spring located thereon.** Under and Subject. General Warranty Deed.

Volume 847, page 325, Carl B. Gladd and Dorothy L. Gladd, husband and wife, to James R. Pierce, a single man, for the consideration of \$200 conveys parcel in Sandy Township, Clearfield County, PA. **Together with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, etc. and the right to enter upon said remaining premises now or formerly of Musthaf for the purpose of obtaining water from a spring located thereon.** Under and Subject. General Warranty Deed.

Volume 520, page 679, dated March 31, 1966, and recorded April 4, 1966, Joseph C. Musthaf and Marian A. Musthaf, husband and wife, to Carl D. Gladd and Dorothy L. Gladd, husband and wife, for the consideration of \$100 conveys parcel in Sandy Township, Clearfield County, PA. **Together with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, etc. and the right to enter upon said remaining premises now or formerly of Musthaf for the purpose of obtaining water from a spring located thereon.** Under and Subject. General Warranty Deed.

Volume 508, page 347, dated May 29, 1964, and recorded June 8, 1964, Francis Beer and Laurea Beer, husband and wife, to Joseph C. Musthaf and Marian A. Musthaf, husband and wife, for the consideration of \$300 conveys parcel in Sandy Township, Clearfield County, PA. being a portion of second piece described in Volume 377, page 186. Under and subject to. General Warranty Deed.

Volume 377, page 186, dated May 20, 1940, and recorded July 9, 1946, Wilbur Garvin, a single man, to Francis Beer and Laurea Beer, husband and wife, for the consideration of \$100 conveys four parcels in Sandy township, Clearfield County, PA, the second parcel being the larger piece from which the above deed comes. Subject to several exceptions and reservations in Vol. 307, page 567. General Warranty Deed.

Volume 377, page 184, dated May 20, 1940, and recorded July 9, 1946, Francis Beer, a married man, and Laurea Beer, his wife, to Wilbur Garvin, for the consideration of \$1.0 conveys four parcels in Sandy Township, the second parcel being the larger piece from which Volume 508, page 347 comes. General Warranty Deed.

Volume 307, page 566, dated May 8, 1930, and recorded May 31, 1934, George Beer and Mary M. C. Beer, his wife, to Francis Beer, for the consideration of \$1.00 conveys three parcels in Sandy Township, Clearfield County, PA, see second piece. Property goes back to deed from Reading to Hoover Hughes, Warrants 4231 and 4234. **Reserves coal, etc, and full rights to mine and remove the same.**

#3- Subd.

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

INSTRUMENT NUMBER
199920850

RECORDED ON
Dec 23, 1999
14:09:29 AM

RECORDING FEES - \$13.00
RECORDER
COUNTY IMPROVEMENT \$1.00
FUND
REORDER
IMPROVEMENT FUND \$1.00
STATE TRANSFER TAX \$1.50
STATE MHT TAX \$0.50
SANDY TOWNSHIP \$0.75
DUBOIS AREA SCHOOLS \$0.75
TOTAL \$18.50

Paul Cherry

QUIT-CLAIM DEED

THIS INDENTURE,

MADE the 17th day of December,

in the year nineteen hundred and ninety-nine (1999)

BETWEEN ROBERT G. CARD, single, of Sandy Township, Clearfield County, Pennsylvania,
GRANTOR, Party of the First Part;

A
N
D

DELBERT L. HUNT and DOROTHY M. HUNT, husband and wife, of Sandy Township,
Clearfield County, Pennsylvania, as Tenants by the Entireties, GRANTEES, Parties of the
Second Part;

WITNESSETH, that in consideration of the sum of--ONE HUNDRED FIFTY and 00/100-----
-----(\$150.00)-----Dollars,
receipt whereof is hereby acknowledged, the said Grantor does hereby release, remise and quit
claim to the said Grantees,

ALL that certain piece, parcel or lot of land, lying and being situate in Sandy Township,
Clearfield County, Pennsylvania, being bounded and described as follows, to wit:

BEGINNING at a ¾" iron reinforcing bar on the northwesterly right of
way line of Sandy Township Rt. 407, said ¾" reinforcing bar also being the
southeast corner of land of David and Theresa Berlin (0.656 acre tract);

thence by the southwesterly right of way line of T.R. 407, South 65° 24'
11" East, 40.02 feet the northwesterly line of other lands of David and
Theresa Berlin (4.46 acre tract);

thence by the northwesterly line of lands of David and Theresa Berlin (4.46 acre tract), South 82° 13' 15" West, 298.85 feet to an old iron rail at the northeasterly line of land of Robert G. Card;

thence crossing Beers Mine Road North 71° 51' 06" West, 32.99 feet to a southeasterly corner of other lands of Delbert and Dorothy Hunt;

thence by the northeasterly line of land of Delbert and Dorothy Hunt, North 15° 40' 36" West, 3.58 feet to the southwest corner of lands of David and Theresa Berlin (0.656 acre tract);

thence by the southeasterly line of lands of David and Theresa Berlin (0.656 acre tract); North 81° 32' 58" East, 295.24 feet to a ¾" iron reinforcing bar and place of beginning.

BEING Parcel Number Three of the Delbert and Dorothy Hunt Consolidation Plan as shown on the plat of survey map filed in Map File 1933 No. of the Clearfield County Courthouse, said road area being 5955.91 square feet or 0.136 acres.

The above description was prepared by Sheldon W. Spigelmyer, Registered Surveyor, Registration No. SU-033617E, of Lee Simpson Associates, Inc., in accordance with a survey performed by him on May 28, 1998.

UNDER AND SUBJECT to all exceptions, reservations, restrictions, covenants, conditions, and easements which may appear in the recorded chain of title.

GRANTORS HAVE NO ACTUAL KNOWLEDGE OF ANY HAZARDOUS WASTE AS DEFINED BY ACT NO. 1980-1997 OF THE COMMONWEALTH OF PENNSYLVANIA, HAVING BEEN OR WHICH IS PRESENTLY BEING DISPOSED ON OR ABOUT THE SUBJECT PREMISES DESCRIBED IN THIS DEED OF CONVEYANCE.

IN WITNESS WHEREOF, the said Grantors have hereunto set their hands and seals
the day and year first above written.

Sealed and delivered
in the presence of:

Shaula M. Cherry Robert G. Card (SEAL)

(SEAL)

NTS

CERTIFICATE OF RESIDENCE

I hereby certify that the correct address and place of residence of the Grantees herein is
as follows:

RD #2, Box 127
Do Bois, PA 15801

Shaula M. Cherry
Attorney or Agent for Grantees

COMMONWEALTH OF PENNSYLVANIA

:
: SS.
:

COUNTY OF CLEARFIELD

On this, the 17th day of December, 1999, before me, a Notary Public, personally appeared ROBERT G. CARD, single, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

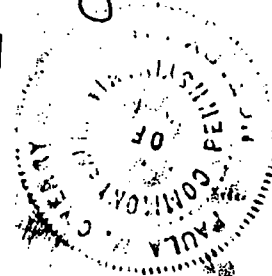
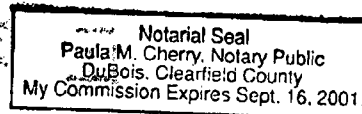
My commission expires:

9-16-2001

NOTARY PUBLIC
CLEARFIELD COUNTY
PENNSYLVANIA

[Signature]

Notary Public



FILED

MAY 30 2000

William A. Shaw
Prothonotary

pd \$90.00

ROSS F. FERRARO

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

BERLIN, DAVID A. & TERESA A.

00-631-CD

VS

HUNT, DELBERT L.


COMPLAINT ACTION TO QUIET TITLE
SHERIFF RETURNS

NOW JUNE 6, 2000 AT 9:47 AM DST SERVED THE WITHIN COMPLAINT
ACTION TO QUIET TITLE ON DELBERT L. HUNT, DEFENDANT AT
RESIDENCE RD 2 BOX 127, DUBOIS, CLEARFIELD COUNTY,
PENNSYLVANIA BY HANDING TO DARLENE HUNT, DAUGHTER A TRUE AND
ATTESTED COPY OF THE ORIGINAL COMPLAINT ACTION TO QUIET
TITLE AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: SNYDER

NOW JUNE 6, 2000 AT 9:47 AM DST SERVED THE WITHIN COMPLAINT
ACTION TO QUIET TITLE ON DOROTHY M. HUNT, DEFENDANT AT
RESIDENCE RD 2 BOX 127, DUBOIS, CLEARFIELD COUNTY,
PENNSYLVANIA BY HANDING TO DARLENE HUNT, DAUGHTER A TRUE AND
ATTESTED COPY OF THE ORIGINAL COMPLAINT ACTION TO QUIET
TITLE AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: SNYDER

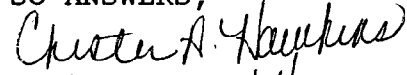

34.21 SHFF. HAWKINS PAID BY: ATTY.
20.00 SURCHARGE PAID BY: ATTY.

SWORN TO BEFORE ME THIS


12th DAY OF June 2000


WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2002
Clearfield Co., Clearfield, PA.

SO ANSWERS,



CHESTER A. HAWKINS
SHERIFF

FILED

JUN 12 2000
09:47 pm
William A. Shaw
Prothonotary 

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801

OK

IN THE COURT OF COMMON PLEAS OF CLEARIFIED COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DAVID A. BERLIN and
TERESA A. BERLIN,

Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT,

Defendants

No. 00-631 C.D.

Action to Quiet Title

Type of Pleading: Preliminary
Objections

Filed on behalf of: Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

FILED

JUN 26 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DAVID A. BERLIN and
TERESA A. BERLIN,

Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT,

Defendants

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No. 00-631 C.D.

Action to Quiet Title

PRELIMINARY OBJECTIONS

AND NOW, comes Defendants, Delbert L. Hunt and Dorothy M. Hunt, by and
through their attorneys, The Hopkins Law Firm, and states as follows:

**I. PLAINTIFF'S COMPLAINT FAILS TO STATE A CAUSE OF
ACTION FOR WHICH RELIEF MAY BE GRANTED**

1. Plaintiff's Complaint is an action to quiet title. Paragraph 16 of Plaintiff's

Complaint states:

"As a result of the actions of the Defendants, Plaintiffs have incurred, and estimate they will incur the total sum of THREE THOUSAND FIVE HUNDRED and no/100ths (\$3,500.00) for legal fees, filing fees and Sheriff's costs in order to protect and enforce their rights as contained herein"

Paragraph 17 of Plaintiff's Complaint states as follows:

"In addition to the fees and costs, Plaintiffs have been required to expend the sum of SEVEN HUNDRED FIFTY FIVE and no/100ths (\$755.00) DOLLARS to Area Abstracting & Filing Services, Inc. for an Abstract and Title Search of the subject premises of the within action."


Plaintiff's "WHEREFORE" clause (b) requests the Court to:

"Order that the Defendants pay to the Plaintiff the sum of THREE THOUSAND FIVE HUNDRED and no/100ths (\$3,500.00) DOLLARS being the estimated legal fees, filing fees and Sheriff's costs, as well as the amount of SEVEN HUNDRED FIFTY FIVE and no/100ths (\$755.00) DOLLARS being the amount which Plaintiffs were required to pay to Area Abstracting & Filing Service, Inc. for an Abstract of Title for a total of FOUR THOUSAND TWO HUNDRED SEVENTY FIVE and no/100ths (\$4,275.00) DOLLARS."

The law of the Commonwealth of Pennsylvania is that Plaintiff is not entitled to an award of counsel fees and abstracting expenses in a quiet title action.

WHEREFORE, Defendants respectfully request this Honorable Court strike paragraphs 16 and 17 of Plaintiffs' Complaint and "WHEREFORE" clause (b) of Plaintiffs' Complaint thereby eliminating all claims for legal fees and abstracting expenses.

Respectfully submitted,


David J. Hopkins, Esquire
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DAVID A. BERLIN and
TERESA A. BERLIN,

Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT,

Defendants

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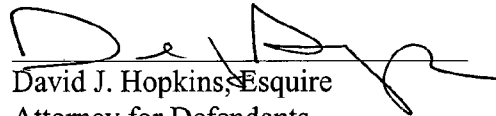
No. 00-631 C.D.

Action to Quiet Title

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Preliminary Objections filed on behalf of Defendants, Delbert L. Hunt and Dorothy M. Hunt, was forwarded on the 26th day of June, 2000, by U.S. Mail, postage prepaid, to all counsel of record, addressed as follows:

Ross F. Ferraro, Esquire
Ferraro & Young
690 Main Street
Brockway, PA 15824



David J. Hopkins, Esquire
Attorney for Defendants
Supreme Court No. 42519

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL ACTION

DAVID A. BERLIN and

:

TERESA A. BERLIN

:

-vs-

:

No. 00 - 631 - CD

DELBERT L. HUNT and

:

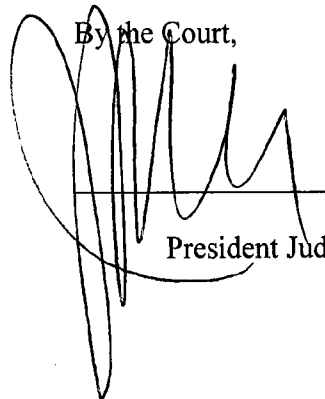
DOROTHY M. HUNT

:

ORDER

NOW, this 11th day of October, 2000, following argument into Preliminary Objections filed on behalf of Defendants above-named, it is the ORDER of this Court that said Objections be and are hereby sustained to the extent that Plaintiffs shall, within 20 days from date hereof, amend their Complaint to allege arbitrary, vexatious or bad faith conduct on behalf of Defendants in order to justify Plaintiff's claim for counsel fees and costs.

By the Court,



President Judge

FILED

OCT 11 2000

William A. Shaw
Prothonotary

FILED

NOT 11 2000

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William A. Shaw
Prothonotary

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10/24

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

: No. 00 – 631 - C.D.
:
: TYPE OF CASE: Civil
:
: TYPE OF PLEADING:
: Amended Action to Quiet Title
:
: Filed on behalf of Plaintiffs
:
: Counsel of Record for this Party:
: **ROSS F. FERRARO, ESQ.**
: Supreme Court No. 79218
:
: FERRARO & YOUNG
: Attorneys at Law
: 690 Main Street
: Brockway, PA 15824
: 814/268-2202

FILED

OCT 27 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

No. 00 – 631 – C.D.

Action To Quiet Title

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Amended Complaint and Notice are served, by entering a written appearance personally or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

KEYSTONE LEGAL SERVICES, INC.
211½ East Locust Street
Clearfield, PA 16830
814/765-9646

Prothonotary's Office
Clearfield County Courthouse
North Second Street
Clearfield, PA 16830
814/765-2641, ext. 5988

FERRARO & YOUNG
Attorneys for Plaintiffs
690 Main Street
Brockway, PA 15824

By: _____


Ross F. Ferraro, Esq.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

No. 00 – 631 - C.D.

ACTION TO QUIET TITLE

AMENDED COMPLAINT

AND NOW, comes **DAVID A. BERLIN** and **TERESA A. BERLIN**, his wife, by their Attorneys, **FERRARO & YOUNG**, and files the within Action To Quiet Title and respectfully sets forth the following:

1. **DAVID A. BERLIN** and **TERESA A. BERLIN**, his wife, Plaintiffs, are adult individuals who reside in Sandy Township, Clearfield County, at R.D.#2, Box 126, DuBois, PA, 15801, and are of full age and sui juris.

2. **DELBERT L. HUNT** and **DOROTHY M. HUNT**, his wife, Defendants, are adult individuals who reside in Sandy Township, Clearfield County, at R.D.#2, Box 127, DuBois, PA, 15801, and are of full age and sui juris.

3. Plaintiffs, by Deed dated January 8, 1987 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA in Deed Book 1134, at page 169, and by later Corrective Deed of December 17, 1998 and recorded in Clearfield County as Instrument No. 199801783, are the owners of a certain parcel of land located in Sandy Township, Clearfield County, PA, containing 0.656 acres, as set forth on the Survey of Lee-Simpson Associates, Inc., dated July 7, 1998, and which description of said property (copy of Deeds) and said survey are more fully set forth on Exhibit "A", attached hereto and made a part hereof.

4. Plaintiffs, by Deed dated May 17, 1995 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA, in Records Book 1677, at page 509 are the owners of a certain parcel of land located in Sandy Township, Clearfield County, PA, containing 5.33 acres, which description of said property (copy of Deed) is more fully set forth on Exhibit "B", attached hereto and made a part hereof.

5. In addition to the property set forth on Exhibit "A", containing 0.656 acres on the Northern side of said road and the 5.33 acres on the Southern side of said road herein set forth as Exhibit "B", Plaintiffs are also the owners of a parcel of land known as their "camp" property which they acquired ownership by Deed from James R. Pierce & Kathie Jo Pierce, dated July 20, 1999 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA, as Instrument No. 199912242, which description of said property (copy of Deed) is more fully set forth on Exhibit "C", attached hereto and made a part hereof.

6. The properties owned by Plaintiffs abut Beers Mine Road a/k/a Beers Mines Road a/k/a Coal Road are set forth on the Survey of Lee-Simpson Associates, Inc., said Survey attached hereto and made a part hereof as part of Exhibit "A" and Plaintiffs have used this road as an access road to their properties, located on both sides of said Beers Mine Road since 1987, and their predecessors in title used this road in excess of 21 years.

7. The chain of title for the properties owned by Plaintiffs are set forth on Exhibit "D", attached hereto and made a part hereof.

8. The Defendants are unlawfully interfering with the rights of the Plaintiffs to use Beers Mine Road, have been placing posts and markers along the said road which interferes with Plaintiffs' ability to enter on to their property, and have persisted in a course of conduct of harassment requiring Plaintiffs to bring this Action To Quiet Title in order to establish their right to the use of the said Beers Mine Road, and the Plaintiffs are requesting this Honorable Court to Order the Defendants to cease and desist from interfering with the rights of Plaintiffs.

9. The Defendants recently obtained a Quit Claim Deed dated December 17, 1999 recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA, as Instrument No. 199920850, alleging to have acquired ownership to the said road, to the exclusion of the Plaintiffs and other property owners' rights to use the said road. Attached hereto and made a part hereof as Exhibit "E" is a copy of said Quit Claim Deed.

10. The entrance to the properties owned by Plaintiffs as set forth on Exhibits "A", "B" and "C" have always been from Beers Mine Road, and Plaintiffs and their predecessors in title, have maintained the said road and treated this right of way as their own, for the purpose of ingress, egress and regress to their properties located on both sides of said road.

11. The said Deed from James R. Pierce & Kathie Jo Pierce to Plaintiffs referred to as the "CAMP" property (Exhibit "C") expressly grants to Plaintiffs the following:

"TOGETHER WITH THE RIGHT OF THE GRANTEES, THEIR HEIRS AND ASSIGNS, TO USE AN OLD COAL ROAD NOW LOCATED ON SAID PREMISES, NOW OR FORMERLY OF MUSTHAF, OF WHICH THE PREMISES HEREIN DESCRIBED WERE FORMERLY A PART; ...".

12. Despite repeated attempts by Plaintiffs with the Defendants to amicably resolve any differences, the Defendants continue to interfere with the rights of the Plaintiffs to use Beers Mine Road and encroach upon the land and rights of Plaintiffs, and continually harass Plaintiffs with vulgar and intimidating statements when Plaintiffs are outside attempting to enjoy the use of their properties.

13. Despite Plaintiffs sending several notices to the Defendants to cease and desist from interfering with their rights, the Defendants have failed to respond to said letters and continue in their improper and illegal course of conduct.

14. Plaintiffs bring this Action To Quiet Title to Order that the Defendants be forever barred from asserting any right or interest in the said Beers Mine Road inconsistent with the interest and claim of Plaintiffs as set forth in the Complaint, and to determine that the Quit Claim Deed obtained by Defendants does not preclude the use of said road by Plaintiffs according to the rights already acquired by Plaintiffs.

15. Plaintiffs request that the Defendants be required to remove any and all markers, posts, signs, fences or other encroachments along said road as being an interference with the rights of Plaintiffs, and that the Defendants be forever barred from encroaching or interfering with the rights of Plaintiffs, their heirs and assigns on the same.

16. As a result of the Defendants' arbitrary, vexatious, and capricious actions, in bad faith, in continuing to harass Plaintiffs and encroach upon their rightful use of the road and property as set forth above, Plaintiffs have been forced to file the within action Defendants.

17. As a result of the Defendants' arbitrary, vexatious, capricious and bad faith conduct, Plaintiffs have incurred Attorney's Fees, filing fees and Sheriff's costs, and estimate that they will incur at least a total sum of THREE THOUSAND FIVE HUNDRED and no/100ths (\$3,500.⁰⁰) DOLLARS for legal fees, filing fees and Sheriff's costs in order to protect and enforce their rights as contained herein, with the within action having to be filed by Plaintiffs as a result of Defendants' arbitrary, vexatious, capricious and bad faith conduct.

18. In addition to the fees and costs which the Plaintiffs have incurred and anticipate further, Plaintiffs have been required to expend the sum of SEVEN HUNDRED FIFTY FIVE and no/100ths (\$755.⁰⁰) DOLLARS to Area Abstracting &

Filing Services, Inc. for an Abstract and Title Search of the subject premises of the within action, and anticipate that there may be further costs for abstracting and title searches regarding the road and property involved in the within action, as a result of Defendants' arbitrary, vexatious, capricious and bad faith conduct.

19. That Plaintiffs are entitled to Attorney's Fees and other costs, due to the Defendants' conduct, which has been arbitrary, vexatious, capricious and in bad faith.

WHEREFORE, Plaintiffs pray your Honorable Court to enter an Order granting relief to the Plaintiffs as follows:

- (a) Ordering that the Defendants, **DELBERT L. HUNT** and **DOROTHY M. HUNT** be forever barred from asserting any right, title and interest in the said Beers Mine Road inconsistent with the rights of the Plaintiffs to use the said road for ingress, egress and regress to their properties, which include the properties as set forth on Plaintiffs' Exhibits "A", "B" and "C".
- (b) Order that the Defendants pay to the Plaintiffs the sum of THREE THOUSAND FIVE HUNDRED and no/100ths (\$3,500.⁰⁰) DOLLARS being the estimated legal fees, filing fees and Sheriff's costs, as well as the amount of SEVEN HUNDRED FIFTY FIVE and no/100ths (\$755.⁰⁰) DOLLARS being the amount which Plaintiffs have already been required to pay to Area Abstracting & Filing Service, Inc. for an Abstract of Title, for a total of FOUR THOUSAND TWO HUNDRED SEVENTY FIVE and no/100ths (\$4,275.⁰⁰) DOLLARS, and any other costs that the Court may deem appropriate in this matter;
- (c) Order that the Defendants immediately remove any and all markers, pins, posts, signs, fences, gates or any other encroachments along said road and along Plaintiffs' properties, as being an unlawful interference with the Plaintiffs' rights to use and enjoy their properties and the said road;
- (d) Order that if the Defendants interfere with the rights of the Plaintiffs in the use of said road, or harass the Plaintiffs while Plaintiffs are peaceably enjoying the use of their properties, that the Defendants be held in Contempt of Court, and be fined and/or incarcerated accordingly by your Honorable Court;
- (e) That the Court also recognize and Order that the Plaintiffs have a legal right to use the said Beers Mine Road in a free and uninterrupted manner, for the purpose of ingress, egress and regress to their properties, as well as the rights set forth for the use of said road in the camp deed as set forth on Exhibit "C";

- (f) Enter any other Order that the Court finds necessary for the granting of proper relief.

Respectfully submitted,

FERRARO & YOUNG

By: _____

A handwritten signature in cursive script, appearing to read "Ross F. Ferraro", written over a horizontal line.

Ross F. Ferraro, Esq.
Attorney for Plaintiffs

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF JEFFERSON

ss:

DAVID A. BERLIN and **TERESA A. BERLIN**, being duly sworn according to law, depose and state that the facts set forth in the within Complaint are true and correct to the best of their knowledge, information and belief.



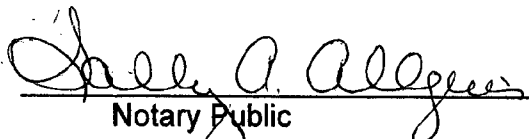
David A. Berlin



Teresa A. Berlin

Sworn to and subscribed before me

this 25th day of October, 2000.



Notary Public

Notarial Seal
Sally A. Allgeier, Notary Public
Brockway Boro, Jefferson County
My Commission Expires Mar. 26, 2003
Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiff

vs.

No. 00 – 631 – C.D.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

CERTIFICATE OF SERVICE

I, **ROSS F. FERRARO, ESQ.**, Attorney for the Plaintiffs in the above matter, do hereby certify that this 26th day of October, 2000, I have served a true and correct copy of the Plaintiffs Amended Complaint/Action to Quiet Title upon the Attorney and Parties involved in this matter at the address hereinafter set forth:

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

FERRARO & YOUNG

Date:

10/26/2000

BY:



Ross F. Ferraro, Esq.

FILED

OCT 27 2000
011200/2<<athy
William A. Shaw
Prothonotary

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 16801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DAVID A. BERLIN and
TERESA A. BERLIN,

Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT,

Defendants

No. 00-631 C.D.

Action to Quiet Title

Type of Pleading: Answer to
Amended Complaint, New
Matter and Counterclaim

Filed on behalf of: Plaintiff

Counsel of Record for this party:

DAVID J. HOPKINS, ESQUIRE
Attorney at Law
Supreme Court No. 42519

900 Beaver Drive
DuBois, Pennsylvania 15801

(814) 375-0300

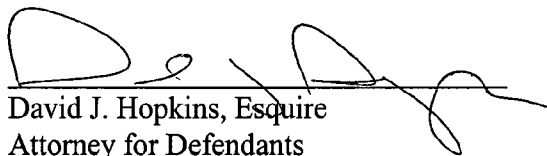
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William A. Shaw
Prothonotary

NOTICE TO PLEAD

You are hereby notified to plead
to the within pleading within
twenty (20) days of service thereof
or default judgment may be entered
against you.


David J. Hopkins, Esquire
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DAVID A. BERLIN and
TERESA A. BERLIN,

Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT,

Defendants

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No. 00-631 C.D.

Action to Quiet Title

ANSWER TO AMENDED COMPLAINT,
NEW MATTER AND COUNTERCLAIM

AND NOW, comes Defendants, Delbert L. Hunt and Dorothy M. Hunt, by and through their attorneys, The Hopkins Law Firm, and answers Plaintiffs' Amended Complaint as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.

6. Admitted in part and denied in part. Plaintiffs admit some of the properties owned by Plaintiffs are contiguous to Beers Mine Road. Defendants further admit Plaintiffs obtained use of the road by Deed from James R. Pierce and Kathie Jo Pierce to David A. Berlin and Teresa A. Berlin by Deed dated July 20, 1999. Any useage of the roadway prior to 1987 by Plaintiffs predecessors was with the consent of the

Defendants and/or Defendants' predecessors and the remaining allegations set forth in paragraph 6 are denied and strict proof is demanded at trial.

7. Neither admitted nor denied. Answering Defendants are unable to admit nor deny the allegations set forth in paragraph 7 and strict proof is demanded at trial.

8. Denied. Plaintiffs are unlawfully utilizing Beers Mine Road to access their property which is contiguous to Sandy Township Route 407 (Beers Run Road). Defendants recognize Plaintiffs' right to use Beers Mine Road for the limited purpose of accessing property Plaintiffs acquired from James R. Pierce and Kathie Jo Pierce as set forth herein.

9. Admitted.

10. Denied. Plaintiffs' property set forth on Exhibit "A" and Exhibit "B" have access to Township Route 407 and have never required access to Beers Mine Road. There use has not been continuous hostile use for twenty one (21) years.

11. Admitted.

12. Denied. Plaintiffs have never attempted an amicable resolution of difference with Defendants. To the contrary, Defendants have caused damage to the roadway, torn down Defendants' fences, plowed sub-base from the roadway, used vulgar and intimidating statements to the Defendants and by way of further answer, but not by way of limitation, speeding past Defendants' home.

13. Denied. It is the Plaintiffs who have refused to cease and desist interfering with the rights of Plaintiffs.

14. This paragraph calls for a legal conclusion and no answer is required of Defendants.

15. No answer is required of this paragraph.

16. Denied. To the contrary, the Defendants have acted arbitrarily, vexatious, capriciously, in bad faith in an attempt to harass Defendants and encroach upon Defendants' rightful property.

17. Denied. Answering Defendants are without sufficient knowledge to admit or deny the allegations set forth in paragraph 17. To the extent an answer is required, Defendants deny they are liable to Plaintiffs for attorney fees.

18. Denied. Answering Defendants are without sufficient knowledge to admit or deny the allegations set forth in paragraph 18. Defendants deny they are liable to Plaintiffs for abstracting fees of Seven Hundred Fifty Five (\$755.00) Dollars.

19. Denied. Plaintiffs are the parties who have acted arbitrarily, vexatiously, capriciously and in bad faith.

WHEREFORE, Defendants pray your Honorable Court dismiss Plaintiffs' Amended Complaint with prejudice.

NEW MATTER

20. Plaintiffs' Complaint is prohibited as a result of Defendants' justification in prohibiting Plaintiffs from accessing a roadway for which Plaintiffs have no right to use when accessing property set forth in Exhibit "A" and Exhibit "B" of Plaintiffs' Complaint.

21. The actions of Defendants are privileged inasmuch as Defendants are the owners of Beers Mine Road and Plaintiffs have no right to use said roadway when accessing Plaintiffs' property set forth on Exhibit "A" and Exhibit "B" of Plaintiffs' Complaint.

22. Plaintiffs' claims are barred inasmuch as Plaintiffs have not utilized the roadway exclusively and hostilely to the Defendant for twenty one (21) years.

23. Plaintiffs' claims are barred inasmuch as Plaintiffs have no right to access their property set forth on Exhibit "A" and Exhibit "B" of Plaintiffs' Complaint using Beers Mine Road.

COUNTERCLAIM

24. Defendant/Plaintiff on the Counterclaim, Delbert L. Hunt and Dorothy M. Hunt, husband and wife, (hereinafter "Hunt") are adult individuals who reside in Sandy Township, Clearfield County, at R.D. #2, Box 127, DuBois, Pennsylvania 15801 and are of full age and sui juris.

25. Plaintiff/Defendant on the Counterclaim, David A. Berlin and Teresa A. Berlin, husband and wife, (hereinafter "Berlin") are adult individuals who reside in Sandy Township, Clearfield County, at R.D. #2, Box 126, DuBois, Pennsylvania 15801 and are of full age and sui juris.

26. Plaintiffs are the owners of all of the real property identified in yellow as set forth in Exhibit "A" attached hereto and incorporated by reference and further as set forth in the following Deeds:

(a) Deed from Delbert Hunt, a/k/a Delbert L. Hunt, and Dorothy Hunt, a/k/a Dorothy M. Hunt, husband and wife, to Delbert L. Hunt and Dorothy M. Hunt, recorded as Instrument No. 19992072 in the Office of the Recorder of Deeds of Clearfield County.

(b) Deed from Delbert Hunt and Dorothy Hunt to Delbert L. Hunt and Dorothy M. Hunt, dated December 14, 1999, and recorded as Instrument No. 199920722 in the Office of the Recorder of Deeds of Clearfield County.

(c) Deed from Robert C. Card to Delbert L. Hunt and Dorothy M. Hunt, dated December 17, 1999, and recorded as Instrument No. 199920850 in the Office of the Recorder of Deeds of Clearfield County.

All of the aforesaid Deeds are set forth in a consolidation plan as shown on the plat of survey map filed in Map File No. 1933 of the Clearfield County Courthouse, which is incorporated by reference as if set forth at length herein.

27. Hunt is the owner of property generally known as Beers Mine Road. Berlin owns property on either side of Beers Mine Road and said property is also contiguous to Township Route 407 (Beers Run Road).

28. Berlin has, without authorization or privilege utilized Beers Run Road to access Berlin's property which is also contiguous to Township Route 407 (Beers Run Road).

29. Berlin has caused damage to said roadway as follows:

- (a) Caused ruts in said roadway;
- (b) Bulldozed gravel off of said roadway;
- (c) Removed a water ditch along said roadway.

30. Berlin has also acted in an offensive, morally bankruptcy fashion while utilizing said roadway causing great distress to Hunt.

31. Hunt has attempted to resolve said difference with Berlin without success.

32. As a result of Berlin's continued use and destruction of the roadway without cause nor justification, Hunt is forced to incur both legal fees and abstract fees.

33. The actions of Berlin are arbitrary, vexatious, capricious and bad faith conduct and as a result of same Hunt is forced to incur legal and abstracting fees in an amount not yet determined.

WHEREFORE, Defendant/Plaintiff on the Counterclaim, Delbert L. Hunt and Dorothy M. Hunt, pray this Honorable Court grant them the following relief:

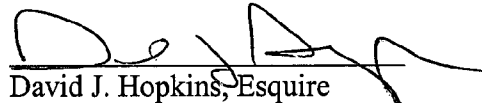
(a) Prohibiting David Berlin and Teresa Berlin and their successors and assigns from utilizing Beers Mine Road to access their real property which is contiguous to Township Route 407 (Beers Run Road);

(b) Obligate David Berlin and Teresa Berlin, jointly and severally, to pay the legal fees incurred by Delbert L. Hunt and Dorothy M. Hunt in defending the lawsuit commenced by the Berlins and in the prosecution of this just action;

(c) Obligate David Berlin and Teresa Berlin, jointly and severally, to pay the abstracting fees incurred by Delbert L. Hunt and Dorothy M. Hunt in the prosecution of this just action;

(d) Such other and further relief as the Court deems fair, just and equitable.

Respectfully submitted,


David J. Hopkins, Esquire
Attorney for Defendants

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

DAVID A. BERLIN and
TERESA A. BERLIN,

Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT,

Defendants

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No. 00-631 C.D.

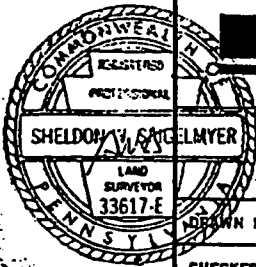
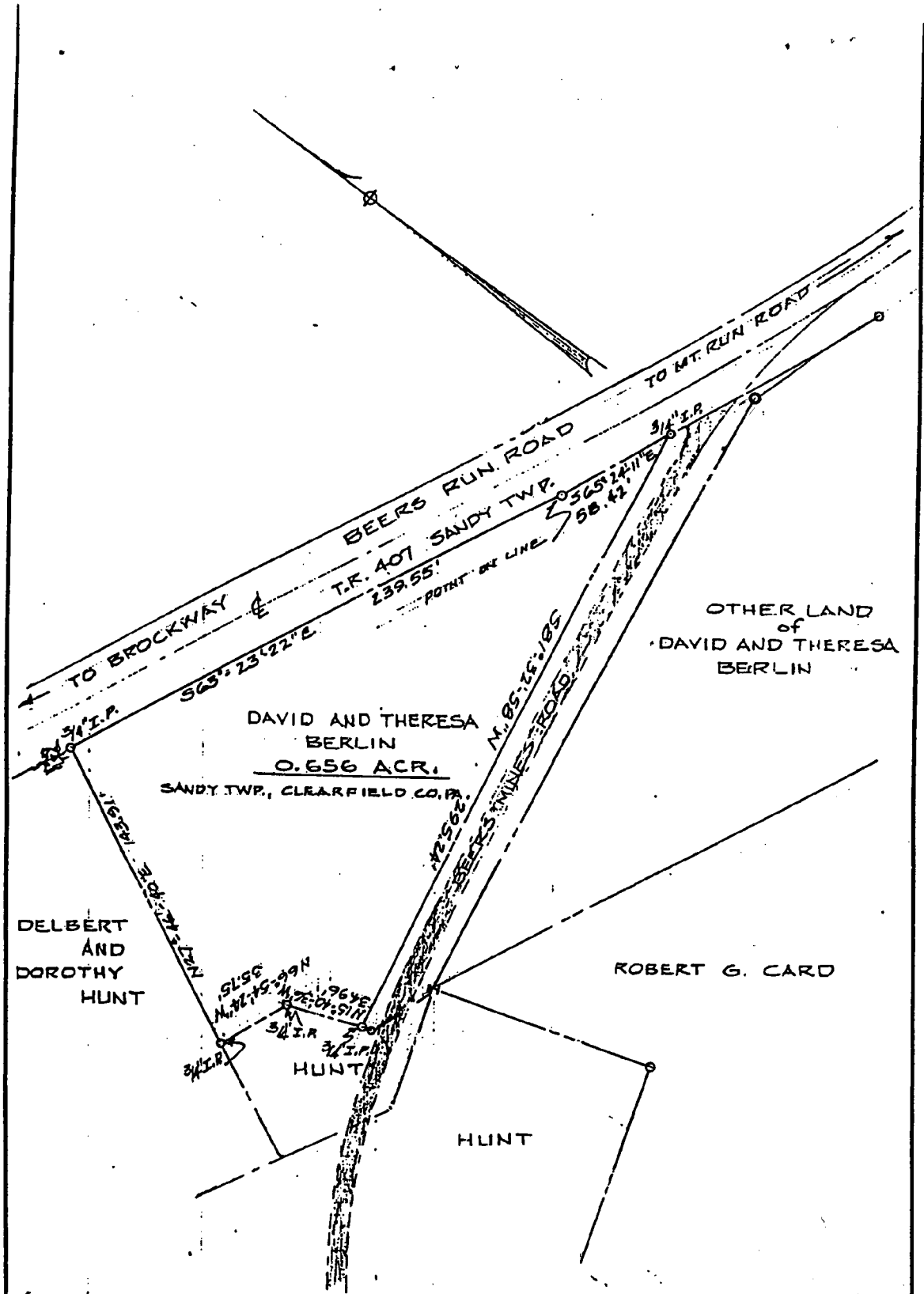
Action to Quiet Title

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Amended Complaint, New Matter and Counterclaim Objections filed on behalf of Defendants, Delbert L. Hunt and Dorothy M. Hunt, was forwarded on the 18th day of November, 2000, by U.S. Mail, postage prepaid, to all counsel of record, addressed as follows:

Ross F. Ferraro, Esquire
Ferraro & Young
690 Main Street
Brockway, PA 15824


David J. Hopkins, Esquire
Attorney for Defendants
Supreme Court No. 42519



LEE - SIMPSON ASSOCIATES, INC.
CONSULTING ENGINEERS
 203 W. WEBER AVENUE, DUBOIS, PENNSYLVANIA 15801

814-371-7750

PLAT OF SURVEY

FOR
DAVID AND THERESA BERLIN

DRAWN BY:	S.W.S.	DATE:	JULY 7, 1998
CHECKED BY:	S.W.S.	SCALE:	1" = 50'
		FILE NO.:	M-369

10-8948 ALBANY, AND SMITH CO., PGM., PA. LT384E-491

EXHIBIT "A" (3)

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

No. 00 – 631 C.D.

Action to Quiet Title

Type of Pleading: **Answer to
Defendants' New Matter and
Counterclaim**

Filed on behalf of: Plaintiffs

Counsel of Record for this Party:
ROSS F. FERRARO, ESQ.
Supreme Court No. 79218

FERRARO & YOUNG
Attorneys at Law
690 Main Street
Brockway, PA 15824
(814) 268-2202

FILED

DEC 06 2000

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

No. 00 – 631 C.D.

Action to Quiet Title

ANSWER TO DEFENDANTS' NEW MATTER AND COUNTERCLAIM

AND NOW, come the Plaintiffs, **DAVID A. BERLIN** and **TERESA A. BERLIN**, by their Attorneys, **FERRARO & YOUNG**, and file the within Answer to Defendants' New Matter and Counterclaim as follows:

ANSWER TO NEW MATTER

20. **DENIED.** It is Denied that the Plaintiffs' Complaint is prohibited as averred in paragraph 20 of Defendants' New Matter. To the contrary, Plaintiffs' Complaint is well based and justified by law, in that the different Deeds as set forth in Exhibit "A", Exhibit "B" and Exhibit "C" of Plaintiffs' Complaint, as well as Plaintiffs' continuous use of the roadway over the years permits them to continue to use the said road, and also allows them to bring the within Action to Quiet to Title against the Defendants.

21. **DENIED.** It is Denied that the actions of the Defendants are privileged as the alleged owners of the Beers Mine Road as averred by Defendants in paragraph 21 of Defendants' New Matter. To the contrary, Plaintiffs herein aver that the actions of the Defendants are unreasonable, arbitrary, vexatious, and capricious by the Defendants unlawful encroachment and harassment regarding

the use of the said roadway and properties by the Plaintiffs, to which Plaintiffs have the right to use as set forth in Exhibit "A", Exhibit "B" and Exhibit "C" of Plaintiffs' Complaint.

22. **DENIED.** It is Denied that the Plaintiffs' claims are barred as alleged by the Defendants in paragraph 22 of Defendants' New Matter. To the contrary, Plaintiffs are certainly entitled to bring the within Action to Quiet Title against the Defendants, due to Defendants' unreasonable and unlawful actions against the Plaintiffs and their interference with the Plaintiffs' rights to use their properties and the road known as Beers Mine Road.

23. **DENIED.** It is Denied that the Plaintiffs' claims are barred as averred by the Defendants in paragraph 23 of Defendants' New Matter that the Plaintiffs have no right to access their property as set forth in the Exhibits. To the contrary, the Plaintiffs' claims and Action to Quiet Title against the Defendants are proper, and the Plaintiffs do have the legal right to access their property through Beers Mine Road as set forth on Exhibits "A" through Exhibit "E" of the Plaintiffs' Complaint.

ANSWER TO COUNTERCLAIM

24. Admitted.

25. Admitted.

26. **DENIED.** It is Denied that the Defendants, DELBERT L. HUNT and DOROTHY M. HUNT, are the owners of all the real property identified in yellow highlight as set forth in Exhibit "A" of Defendants' Counterclaim, and also Denied as to any averments that the Defendants are the owners of these properties as set forth in paragraph 26 of Defendants' Counterclaim, and strict proof of the same is demanded at trial.

27. **DENIED.** It is adamantly Denied that the Defendants, DELBERT L. HUNT and DOROTHY M. HUNT, are the owners of any property known as Beers Mine Road. To the contrary, Berlins actually own portions of Beers Mine Road since they own property on both sides of Beers Mine Road with the Deeds granting said properties clearly indicating that the Plaintiff Berlins own to the center of the road from each side, as provided by the Deeds and Pennsylvania law.

28. **DENIED.** It is Denied that Berlin has utilized Beers Run Road or Beers Mine Road without authorization or privilege to gain access to their property as averred in paragraph 28 of Defendants' Counterclaim, and strict proof of any such averment is demanded at Trial. Further, the Plaintiffs have in fact properly used Beers Mine Road and Beers Run Road, as authorized by their Deeds, and use of the road, as well as allowed for by Pennsylvania law.

29. **DENIED.** It is Denied that the Plaintiffs Berlin have caused any damage to the said roadway, and strict proof of any said averments of damage by the Defendants as contained in paragraph 29 of Defendants' Counterclaim are demanded at trial.

30. **DENIED.** It is Denied that Plaintiffs Berlin have acted in any inappropriate manner and strict proof of the averments contained in paragraph 30 of the Defendants' Counterclaim are demanded at trial.

31. **DENIED.** It is Denied that the Defendants Hunt have attempted to resolve their differences with the Plaintiffs, and to the contrary, it is the Plaintiffs who have attempted on several occasions by oral discussions and by written correspondence to resolve their differences with the Defendants Hunts, to which the Defendants have either ignored or refused any such proposals for resolution by Plaintiffs. Any averments to the contrary by the Defendants as set forth in paragraph 31 of Defendants' Counterclaim are Denied and strict proof of the same is demanded at trial.

32. **DENIED.** It is Denied that the Plaintiffs have improperly used or destroyed any parts of the subject roadway without cause or justification for which Defendants are entitled to bring a claim for legal fees or abstract fees as set forth in paragraph 32 of Defendants' Counterclaim, and strict proof of the same is demanded at trial. To the contrary, the Defendants have acted arbitrarily, vexatious, capriciously and in bad faith in an attempt to harass the Plaintiffs and encroach upon the Plaintiffs' right to use and enjoy their property and the road.

33. **DENIED.** It is Denied that the actions of the Plaintiffs Berlin are in any manner arbitrary, vexatious, capricious or in bad faith or that Defendant Hunt was forced to incur legal or abstracting fees for which he is entitled to recover from the Plaintiffs, and strict proof of any such averments in paragraph 33 of Defendants' Counterclaim are demanded at trial. To the contrary, the Plaintiffs aver that the Defendants are the only party who has acted arbitrarily, vexatious, capriciously and in bad faith in an attempt to harass Plaintiffs and encroach upon Plaintiffs' property rights, and it is the Plaintiffs who are entitled to recover damages.

WHEREFORE, Plaintiffs, DAVID A. BERLIN and TERESA A. BERLIN, respectfully pray your Honorable Court to dismiss the Defendants' New Matter and Counterclaim with prejudice, and deny any relief requested by the Defendants in their Counterclaim or New Matter.

Respectfully submitted,
FERRARO & YOUNG

By: 

Ross F. Ferraro, Esq.
Attorney for Plaintiffs,
David A. Berlin and Teresa A. Berlin

VERIFICATION

I verify that the statements made in the within Answer to Defendants' New Matter and Counterclaim are true and correct. I understand that false statements made herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 12/5/2000



David A. Berlin



Theresa A. Berlin

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

vs.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

No. 00 – 631 C.D.

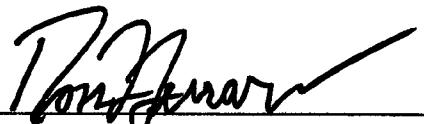
Action to Quiet Title

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Plaintiffs' Answer to the Defendants' New Matter and Counterclaim were filed on behalf of the Plaintiffs, David A. Berlin and Teresa A. Berlin, and that a certified copy of the same was forwarded on the 5th day of December, 2000, by U.S. Mail, postage prepaid, to all counsel of record, addressed as follows:

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

Respectfully submitted:



Ross F. Ferraro, Esquire
Attorney for Plaintiffs
Supreme Court No. 79218

[illegible]

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2000

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DEC-06 2000
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William A. Shaw
Prothonotary

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DEC-06 2000

William A. Shah
Prothonotary

Fluoridation



• *Chlorophyll a* (Chl a) is the primary photosynthetic pigment in most plants and algae. It is a green pigment that absorbs light energy in the blue and red regions of the visible spectrum. Chl a is essential for the light-dependent reactions of photosynthesis, where it converts light energy into chemical energy in the form of ATP and NADPH.

[illegible]

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

v.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

No. 00 – 631 C.D.

Action to Quiet Title

Type of Pleading: **CERTIFICATE
OF READINESS**

Filed on behalf of: Plaintiffs

Counsel of Record for this Party:

R. EDWARD FERRARO, ESQ

Supreme Court No. 05880

ROSS F. FERRARO, ESQ.

Supreme Court No. 79218

FERRARO & YOUNG

Attorneys at Law

690 Main Street

Brockway, PA 15824

(814) 268-2202

FILED

MAR 20 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

DAVID A. BERLIN and
TERESA A. BERLIN, his wife,
Plaintiffs

v.

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife,
Defendants

No. 00 – 631 C.D.

Action to Quiet Title

CERTIFICATE OF SERVICE

I, **ROSS F. FERRARO, ESQ.**, Attorney for Plaintiffs, do hereby certify that I have today sent a true and correct copy of the within CERTIFICATE OF READINESS FOR TRIAL to David J. Hopkins, Esq., Attorney for Defendants, at the following address:

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

FERRARO & YOUNG

Date: 3/19/2001

By: 
Ross F. Ferraro, Esq.
Attorney for Plaintiffs

FILED

MAR 20 2001

m/10:19/70.c.c

William A. Shaw

Prothonotary

Copy to CA

[Signature]

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

**DAVID A. BERLIN and
TERESA A. BERLIN**, his wife,
Plaintiffs

No. 00 – 631 C.D.

v.

**DELBERT L. HUNT and
DOROTHY M. HUNT**, his wife,
Defendants

Action to Quiet Title

CERTIFICATE OF READINESS FOR TRIAL

TO THE PROTHONOTARY:

Pursuant to Clearfield County Local Rule 212.2, I hereby certify that the within matter is ready for Trial as:

1. The pleadings are closed;
2. No Motions are outstanding and Discovery has been completed and the case is ready for Trial;
3. This Action does not yet appear on any Trial or Argument list;
4. Counsel who will actually try this Action are:
 - A. For Plaintiffs: R. Edward Ferraro, Esquire
Ross F. Ferraro, Esquire
Phone No.: (814) 268-2202
 - B. For Defendants: David J. Hopkins, Esquire
Phone No.: (814) 375-0300
5. This case is to be heard as a Non-Jury Trial and should last approximately two (2) days; and
6. Notice of the Certificate of Readiness has been given to the Attorneys representing all other parties.

Respectfully submitted,
FERRARO & YOUNG

By: 

Ross F. Ferraro, Esq.
Attorney for Plaintiffs,
David A. Berlin and Teresa A. Berlin

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

DAVID A. BERLIN and :
TERESA A. BERLIN, his wife :
-VS- : No. 00 - 631 - CD
DELBERT L. HUNT and :
DOROTHY M. HUNT, his wife :

PRE-TRIAL ORDER

NOW, this 15th day of August, 2001, following pre-trial conference in the above-captioned matter, it is the ORDER of this Court that trial, without a jury, shall be and is hereby scheduled to begin Tuesday, November 20, 2001, at 9:00 a.m. and to continue through Wednesday, November 21, 2001.

By the Court,

President Judge

FILED
AUG 15 2001
William A. Shaw
Prothonotary

FILED

0/a:2561
AUG 15 2001

William A. Shaw
Prothonotary

1 cc Ferraro
1 cc Hopkins



CP
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

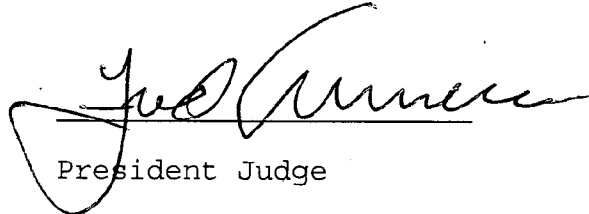
CIVIL DIVISION

DAVID A. BERLIN and :
TERESA A. BERLIN, his wife :
VS. : NO. 00-631-CD
DELBERT L. HUNT and :
DOROTHY M. HUNT, his wife :

O R D E R

NOW, this 20th day of November, 2001, following the conclusion of civil non-jury trial in the above-captioned matter, it is the ORDER of this Court that Plaintiff supply the Court with brief within thirty (30) days from date hereof, with Defendant's brief being due fifteen (15) days thereafter.

BY THE COURT,


President Judge

FILED

DEC 05 2001

6/12:45 / WMY
William A. Shaw
Prothonotary

Cent. to Atty Ferraro



+
Hopkins

FILED

DEC 05 2001

William A. Shaw
Prothonotary

R. EDWARD FERRARO

ATTORNEY AT LAW

R. EDWARD FERRARO
DAVID L. YOUNG

GREGORY M. KRUK
FRED D. HUMMEL
ROSS F. FERRARO

690 MAIN STREET
BROCKWAY, PENNSYLVANIA 15824

(814) 268-2202
Fax: (814) 265-8740

December 4, 2000
Brockway, PA

306 W. MAHONING STREET
PUNXSUTAWNEY, PENNSYLVANIA 15767

(814) 938-8881
Fax: (814) 938-2953

William Shaw, Prothonotary
CLEARFIELD COUNTY COURTHOUSE
PO Box 549
Clearfield, PA 16830

In re: David A. Berlin and Theresa A. Berlin vs. Delbert Hunt, et al.
No. 00 – 631 – C.D.

Dear Bill:

You will recall that recently we filed an **AMENDED COMPLAINT/ACTION TO QUIET TITLE** back on October 27, 2000. We just discovered that the Exhibits that were attached to the original Complaint were inadvertently omitted from being attached to the Amended Complaint.

Therefore, I am enclosing herewith for filing with the Amended Complaint the Exhibits referred to in said Amended Complaint, Exhibit A through Exhibit E. We ask that you file these Exhibits of record to make the Amended Complaint complete for the Court and the parties involved.

It is important to note that we have discussed this matter with all interested parties, and Attorney David Hopkins consents to these Exhibits being filed with the Amended Complaint.

Thank you for your attention and assistance in completing this item. If you have any questions or anything further is needed, please contact me at our Brockway office.

Very truly yours,


Ross F. Ferraro

just file

RFF/vam
Enclosures

cc: David J. Hopkins, Esquire (w/enclosure)
M/M David A. Berlin (wo/enclosure)

This Deed

Made the 8th day of January nineteen hundred and eighty seven (1987)
Between ROBERT CRAWFORD and JANET L. CRAWFORD, Husband and Wife, of Dubois, Clearfield
County, Pennsylvania -----GRANTORS

A N D

DAVID A. BERLIN of Brockway, Jefferson County, Pennsylvania, his heirs and assigns,
-----GRANTEE

WITNESSETH, that in consideration of the sum of ONE DOLLAR (\$1.00) in hand
paid, the receipt whereof is hereby acknowledged, the Grantors do hereby grant and
convey unto the Grantee, his heirs and assigns,

ALL those two (2) parcels of land situated in Sandy Township, Clearfield
County, Pennsylvania bounded and described as follows:

PARCEL NO. 1

BEGINNING at a point in the Southeast corner thereof and in the margin
of a public road; thence in a Westerly direction along a coal road, 280 feet to
a point; thence in a Northerly direction along lands now or formerly of Bert L.
Jordan et ux. 200 feet, more or less, to a point; thence Southeasterly direction,
along the aforesaid public road, 228 feet, more or less to the place of beginning.

EXCEPTING AND RESERVING however, out of and from the above described
parcel, all gas, coal, oil and other minerals as fully as excepted and reserved in
prior deeds.

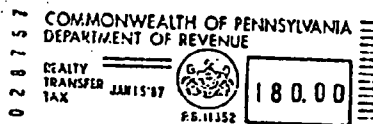
PARCEL NO. 2

BEGINNING at a post near a small brnach of Mountain Run; thence North
86 1/2 degrees East a distance of 300 feet, more or less to a point on South side of
Brockway Road; thence Easterly a distance of 40 feet to Beer Mine Road; thence in
a Southerly direction by line of Beer Run Road, a distance of 300 feet more or less
to a post; thence in a Westerly direction a distance of 30 feet, more or less, to a
post, the place of beginning.

EXCEPTING AND RESERVING, however, out of and from the above described
parcel all interests therein excepted and reserved in prior deeds.

BEING the same premises as conveyed to the Grantors herein by deed or
Robert M. Hook and Helen C. Hook, his wife, MELVA M. BEARDON and DONNIE K.
BEARDON, her husband, dated August 15, 1980 and recorded in the Clearfield County
Recorder's Office on September 9, 1980 in Deed Book 801 at page 585.

EXHIBIT "A" (1)



THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL, AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND.

The above notice is included in this Deed solely for the purpose of compliance with Act No. 431 approved the 17th day of July, A.D. 1957, and under no circumstances shall it be construed as a reservation of coal and incidental rights of mining and removing same if in fact there has not been an actual prior severance of coal or the right of surface support.

The Grantors do hereby certify that the true, full and complete value hereof, as required to be set forth herein, by the Realty Transfer Tax Act of the Commonwealth of Pennsylvania, is the sum of EIGHTEEN THOUSAND

DOLLARS 18,000.00

NOTICE The undersigned, as evidenced by the signature(s) to this notice and the acceptance and recording of this deed, (is, are) fully cognizant of the fact that the undersigned may not be obtaining the right of protection against subsidence, as to the property herein conveyed, resulting from coal mining operations and that the purchased property, herein conveyed, may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. This notice is inserted herein to comply with the Bituminous Mine Subsidence and Land Conservation Act of 1966.

To have and to hold by the grantee(s)

The Grantor(s) warrant
hereby conveyed.

SPECIALLY

the property

Witness the hand(s) and seal(s) of the Grantor(s)

Robert Crawford

ROBERT CRAWFORD



Janet L. Crawford

JANET L. CRAWFORD



Witness:



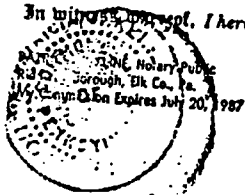
State of Pennsylvania,

County of Elk

ss:

On this 14th day of January 19 87, before me a Notary Public
the undersigned officer appeared ROBERT CRAWFORD and JANET L. CRAWFORDknown to me (or satisfactorily proven) to be the person(s) whose name(s) is (are) subscribed to the within
instrument, and acknowledged that he, she, or they executed the same for the purposes herein contained.

In witness whereof, I hereunto set my hand and official seal.



James J. Kline

(Title of Officer)

Certificate of Residence

I hereby certify that the precise address of the grantee(s) is R. D. #2, Box 80, Dubois, Pa.
15801

David A. Kline

Vol. 1134 Page 172

State of Pennsylvania

County of _____ ss:

On this _____ day of _____ 19____
before me, the undersigned officer, personally
appeared

who acknowledged himself to be the

_____ of the grantor corporation,
and that he as such officer, being authorized to do so,
executed the foregoing instrument for the purposes
therein contained by signing the names of the corpo-
ration by himself as such officer.

In witness whereof, I have hereunto set my hand
and seal.

DuBOIS AREA SCHOOL (Title of Officer)

1% REALTY TRANSFER TAX

AMOUNT \$ 180.00

PAID 1-15-87 MICHAEL R. LITTLE

Date Agent

State Tax 180.00 DuBois Area Sch Society Tax 90.00	Deed	ROBERT CRANFORD and Janet CRANFORD, Husband and Wife,	To	DAVID BERLIN
		LAW OFFICES JOHN H. CARTWRIGHT JOHN R. FERNAN DAVID A. WHITNEY RIDGWAY, PENNA.		

Commonwealth of Pennsylvania,

County of Clearfield ss:

CLEARFIELD COUNTY
ENTERED OF RECORD 1-15-87
TIME 9:35 AM
BY David A. Whitney
FEES 13.50
Michael R. Little, Recorder

Recorded on the

15 day of

Jan A. D. 1987

in the Recorder's office of the said County

in Deed Book 1134, page 169

Witness my hand and official seal.

My Commission Expires
First Monday in January, 1988

Michael R. Little
Recorder of Deeds
Entered of Record Jan 15 1987 9:35 AM Michael R. Little, Recorder

REGISTER AND RECORDER
CLEARFIELD COUNTY, PA

INVOICE # 1607

0202

BLL

#001 DEED

\$17.50

Instrument Number - 199801783

Recorded on - Dec 30, 1998 11:56:20 AM

Muni - SANDY TOWNSHIP

Grantor - BERLIN, DAVID A

Grantee - BERLIN, DAVID A

Consideration - \$1.00

Tax Basis - \$0.00

Fee Detail:

COUNTY RECORDING FEE \$13.00

IMPROVEMENT FEE - COUNTY \$1.00

IMPROVEMENT FEE - RECORDER \$1.00

PER PAGE FEE \$2.00

STATE WRIT FEE \$0.50

TOTAL CHARGES \$17.50

PAYMENTS

CHECK: 3249 \$17.50

TOTAL PAYMENTS \$17.50

BALANCE DUE \$0.00

BY ORDER:

FERRARO & YOUNG

690 MAIN STREET

BROCKWAY, PA 15824

THANK YOU

KAREN L. STARCK

AFFIDAVIT No. 30474

This Deed

MADE THE

17th

Day of

December

in the year

of our Lord one thousand nine hundred ninety-eight (1998)

BETWEEN DAVID A. BERLIN and THERESA BERLIN, his wife, of RD #2, Box 126, DuBois, Pennsylvania (15801)

Grantor s,

and DAVID A. BERLIN and THERESA BERLIN, his wife, of RD #2, Box 126, DuBois, Pennsylvania (15801) to be held by them as tenants by the entirety

Grantee s:

WITNESSETH, that in consideration of ONE and no/100ths-----

-----(\$1.00)-----

-----Dollars,

in hand paid, the receipt whereof is hereby acknowledged, the said grantor s do hereby grant and convey to the said grantee s, their heirs and assigns,

ALL that certain piece, parcel or lot of land lying and being in SANDY TOWNSHIP, Clearfield County, Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at a 3/4-inch iron pin, said pin being at the intersection of the Northerly right-of-way line of Beers Mines Road and the Southerly right-of-way line of the Beers Run Road (Sandy Township T.R. 407); thence by the Northerly right-of-way line of Beers Mines Road, South 81° 32' 58" West, a distance of 295.24 feet to a 3/4-inch iron pin on the Northerly line of land now or formerly of Delbert and Dorothy Hunt; thence by said Northerly line of lands now or formerly of Delbert and Dorothy Hunt North 15° 40' 36" West, a distance of 34.96 feet to a 3/4-inch iron pin, said pin also being on the Northerly line of land now or formerly of Delbert and Dorothy Hunt; thence continuing by lands now or formerly of Hunt, North 66° 54' 24" West, a distance of 35.75 feet to an iron pin, said pin being on the Southeasterly line of other lands now or formerly of Hunt; thence by said Southeasterly line of other lands now or formerly of Hunt North 27° 46' 40" East, a distance of 143.91 feet to a 3/4-inch iron pin on the Southwesterly right-of-way line of Sandy Township, being Route 407 (Beers Run Road); thence by said Southwesterly right-of-way line of Sandy Township Route 407 (Beers Run Road) South 63° 23' 22" East, a distance of 239.55 feet to a point; thence continuing by said Southwesterly

right-of-way line of Sandy Township Route 407 South 65° 24' 11" East, a distance of 58.42 feet to an iron pin and place of beginning.

CONTAINING 0.656 acres, as set forth on the survey of Lee-Simpson Associates, Inc. dated July 7, 1998 which is attached hereto and made a part hereof.

THIS IS A CORRECTIVE DEED. The within conveyance being a portion of the same property conveyed to the Grantors-Grantees herein by Deed of January 8, 1987 and recorded in the Office of the Recorder of Deeds in and for Clearfield County, PA, in Vol. 1134, at page 169.

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Shelly A. Allgier

Theresa Berlin

This 19th day of Dec., 1998

This document may not sell, convey, transfer, include or insure the title to the coal and the right of support underneath the surface land described or referred to herein, and the owner or owners of such coal may have the complete legal right to remove all of such coal, and, in that connection, damage may result to the surface of the land and any house, building or other structure on or in such land. The inclusion of this notice does not enlarge, restrict or modify any legal rights of estates otherwise created, transferred, excepted or reserved by this instrument.

(This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

AND, the said grantors, do hereby covenant and agree to and with the said grantees, that they, the grantors their heirs, executors and administrators, shall and will warrant and forever defend the herein above described premises, with the hereditaments and appurtenances, unto the said grantees their heirs and assigns, against the said grantors, and against every other person lawfully claiming or who shall hereafter claim the same or any part thereof.

THIS IS TO CERTIFY FOR PENNSYLVANIA REALTY TRANSFER TAX THAT THE WITHIN CONVEYANCE IS EXEMPT AS BEING A CORRECTIVE DEED FOLLOWING A SURVEY OF THE PREMISES ALREADY OWNED BY THE GRANTORS-GRANTEES HEREIN.

IN WITNESS WHEREOF, said grantors have hereunto set their hands and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF

Sally A. Allgeier

David A. Berlin
David A. Berlin

Theresa Berlin
Theresa Berlin



CERTIFICATE OF RESIDENCE

I do hereby certify that the precise residence and complete post office address of the within named grantee is

DAVID A. BERLIN
THERESA BERLIN
RD #2, BOX 126
DUBOIS PA 15801

Dec. 17 1998 R. Edward Terraw

Attorney for Grantors-Grantees

State of PENNSYLVANIA

County of JEFFERSON

On this, the *17th*

day of *December*

, 19*98*

undersigned officer, personally appeared

DAVID A. BERLIN and THERESA BERLIN his wife

known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notarial Seal
Sally A. Allgeier, Notary Public
Brockway Boro, Jefferson County
My Commission Expires March 26, 1999
Member, Pennsylvania Association of Notaries

Sally A. Allgeier



KAREN L. STARCK
REGISTER AND RECORDER
DEARBOROUGH COUNTY, PA
Pennsylvania

INSTRUMENT NUMBER
19801783
RECORDED ON
DEC 30, 1998
11:56:20 AM

CORDING FEES - \$15.00
CORDER
COUNTY IMPROVEMENT \$1.00
CORDER \$1.00
PROVEMENT FUND
STATE WRIT TAX \$0.50
TOTAL \$17.50

FERRARO & YOUNG
ATTORNEYS AT LAW
BROCKWAY, PA 15824
PUNXSUTAWNEY, PA 15767

Given under my hand and the seal of the said office, the date above written.
Recorder
Vol. _____ Page _____
A. D. 19____, in the Recorder's Office of said County, in Deed Book _____
Recorded on this _____ day of _____
County of _____ ss.
COMMONWEALTH OF PENNSYLVANIA

Deed

DAVID A. BERLIN &
THERESA BERLIN, his wife

and

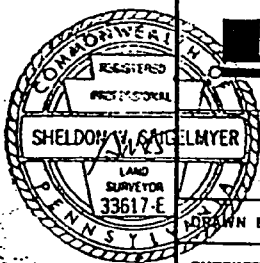
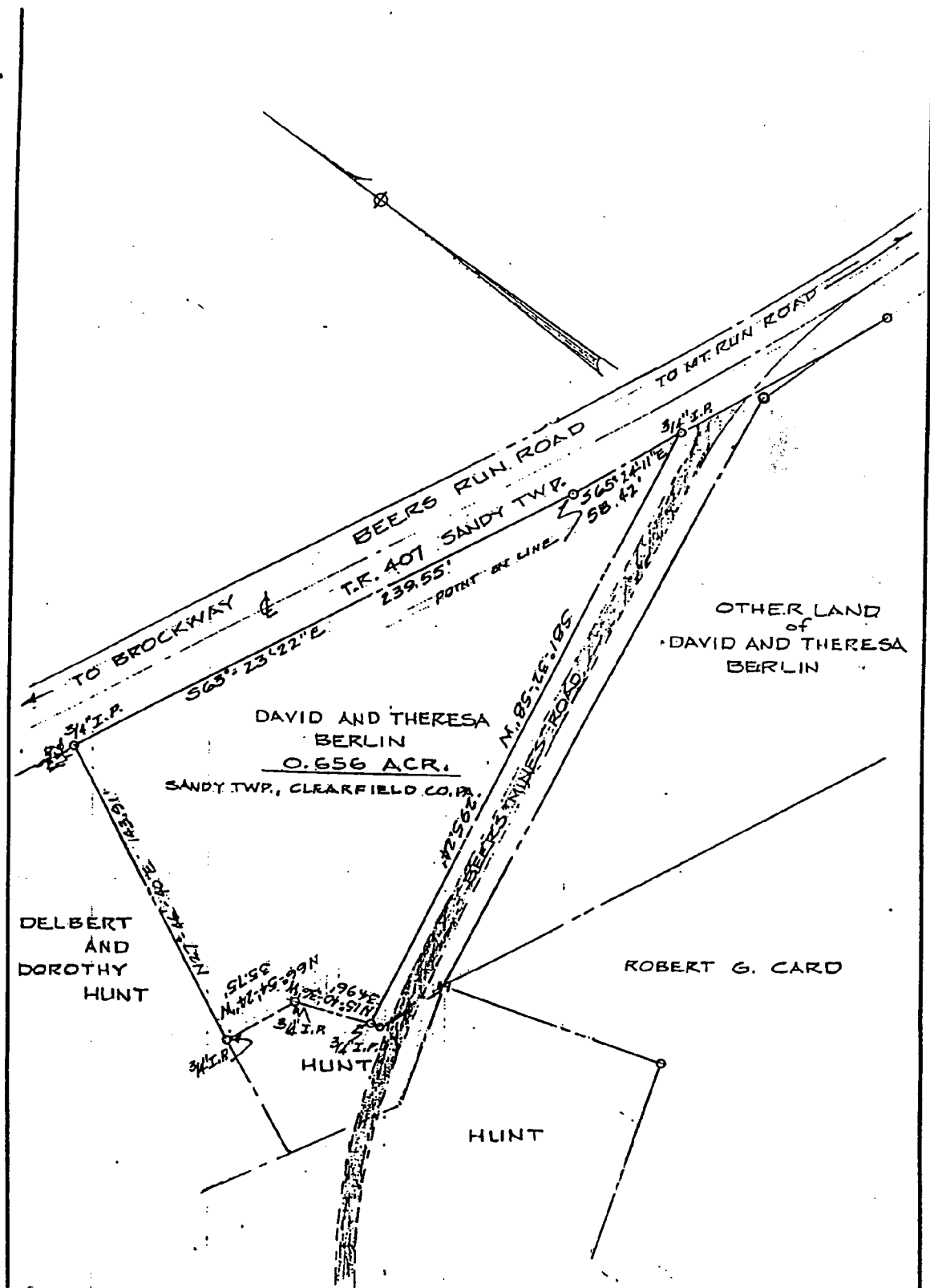
DAVID A. BERLIN &
THERESA BERLIN, his wife

WARRANTY

Title of Officer.



State of _____
County of _____
On this, the _____ day of _____, 19____, before me, the undersigned officer, personally appeared _____ known to me (or satisfactorily proven) to be the person whose name _____, and acknowledged that he executed the same for the purposes therein contained. IN WITNESS WHEREOF, I hereunto set my hand and official seal.
subscribed to the within instru-



LEE - SIMPSON ASSOCIATES, INC.
CONSULTING ENGINEERS
203 W. WEBER AVENUE, DUBOIS, PENNSYLVANIA 15801

814-371-7750

PLAT OF SURVEY

for
DAVID AND THERESA BERLIN

DRAWN BY: S.W.B.
CHECKED BY: S.W.B.

DATE: JULY 7, 1998

SCALE 1" = 50'

FILE NO. M-369

10-8848 ALBANESE, A&B SMITH CO., PCH., PA. LT3842-491

THIS INDENTURE

MADE the 17th day of May in

the year nineteen hundred and ninety-five (1995)

BETWEEN INTEGRA TRUST COMPANY, NATIONAL ASSOCIATION of 300 Fourth Avenue, Pittsburgh, Pennsylvania, Executor under the Last Will and Testament of EMMETT J. RUPERT, deceased, late of the Borough of Sykesville, Jefferson County, Pennsylvania, Party of the First Part and GRANTOR,

and

DAVID A. BERLIN and TERESA A. BERLIN, husband and wife, of R. D. 2, DuBois, Pennsylvania, AS TENANTS BY THE ENTIRETIES, Parties of the Second Part and GRANTEES;

WHEREAS, Emmett J. Rupert died a resident of Sykesville Borough, Jefferson County, Pennsylvania, on August 13, 1993;

WHEREAS, Integra Trust Company, National Association, is the successor in interest to the Keystone National Bank, and has been duly appointed the Executor under the Last Will and Testament by appointment of the Register of Wills of Jefferson County on August 17, 1993, see Estate No. 1993-00225;

WHEREAS, under the terms of the Last Will and Testament of Emmett J. Rupert, the real estate described herein was not specifically devised;

NOW THIS INDENTURE WITNESSETH: That the said Integra Trust Company, National Association, Executor of the Estate of Emmett J. Rupert, for and in consideration of the sum of Six Thousand Five Hundred (\$6,500.00) Dollars, lawful money of the United States, to it well and truly paid by the said Grantees at and before the sealing and delivery hereof, the receipt of which is hereby acknowledged, by virtue of the power granted by law, has granted, bargained, sold, aliened, released and confirmed, and by these presents does grant, bargain, sell, alien, release and confirm unto the said Grantees, their heirs and assigns,

ALL that certain piece or parcel of land situate, lying and being in Sandy Township, Clearfield County, Pennsylvania, more fully bounded and described as follows:

Vol 1677 Page 510

BEGINNING at a point where the Mountain Run Road joins the South side of the road to Brockway (Beers Run Road);

THENCE proceeding along the South side of Beers Run Road a distance of 820 feet, more or less, to a point where the Beers Run Road joins with Beers Mines Road;

THENCE in a Southerly direction along the said Beers Mines Road a distance of 290 feet, more or less;

THENCE proceeding Eastward in a line parallel with the Beers Run Road a distance of 820 feet, more or less, to a point on the Mountain Run Road;

THENCE North along the said Mountain Run Road a distance of 290 feet, more or less, to the place of beginning.

CONTAINING approximately 5-1/2 acres, more or less, and being identified as Clearfield County Tax Map Parcel No. 128-E02-00016.

BEING a part of the same premises conveyed to Emmett J. Rupert by deed of the Federal Land Bank of Baltimore dated January 17, 1940, and recorded in Clearfield County Deed Volume 330, Page 349.

UNDER AND SUBJECT to any prior restrictions, covenants, reservations or exceptions as may be contained in prior deeds or transactions of record, however, this document makes no exception, reservation or other matter on behalf of the Grantor.

The Grantor disclaims any representations or warranties concerning the following:

(a) The existence of deep mine entries or portals on the premises or any underground mining.

(b) The status of the premises concerning on-site sewage treatment systems, and whether or not such property will qualify for on-site sewage treatment systems or permits.

(c) The storage or usage of any hazardous waste as defined by State, Federal or local law.

It is hereby affirmed for purposes of the Commonwealth of Pennsylvania Realty Transfer Tax Act that the actual consideration for this conveyance does not exceed \$6,500.00.

DUBOIS AREA SCHOOL DISTRICT
1% REALTY TRANSFER TAX

AMOUNT \$ 65.00
PAID 5-23-95 KASEN L. STARCK
Date Agent

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
REALTY TRANSFER TAX
NATZPS
65.00
1.9.11.11.12

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THIS INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

Robert M. Nandy
Attorney for Grantees

Hereby CERTIFY that this document
is recorded in the Recorder's Office of
Clearfield County, Pennsylvania.

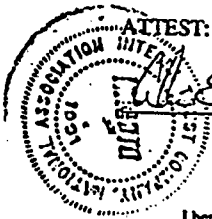


Karen L. Starck
Karen L. Starck
Recorder of Deeds

CLEARFIELD COUNTY
ENTERED OF RECORD
TIME 3:58 PM 5-23-85
BY Karen L. Starck
FEES 13.75
Karen L. Starck, Recorder

AND the said Grantor, Integra Trust Company, National Association, Executor under the Last Will and Testament of Emmett J. Rupert, does hereby covenant and agree to and with the said Grantees, their heirs and assigns, that the said Grantor has not heretofore done or committed any act, matter or thing whereby the premises hereby granted, or any part thereof, is, are or shall be impeached, charged or encumbered in title, charge, estate or otherwise howsoever.

IN WITNESS WHEREOF, said Grantor has hereunto set its hand and seal, the day and year first above-written.



ATTEST:

INTEGRA TRUST COMPANY,
NATIONAL ASSOCIATION

BY: Thomas A. Wenner (SEAL)
Assistant Vice President

Certificate of Residence

I hereby certify, that the precise residence of the grantees herein is as follows:
R. D. #2, DuBois, PA 15801

Robert M. A. Lavelle
Attorney or Agent for Grantee

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF JEFFERSON : SS

On this, the 17th day of May, 1995, before me, the

undersigned officer, personally appeared Thomas A. Wenner, who is the
Assistant Vice President &
Regional Trust Officer of the INTEGRA TRUST COMPANY, NATIONAL

ASSOCIATION, and by virtue and in pursuance of the authority thereby
vested in he, acknowledged the foregoing to be the act and deed of the
INTEGRA TRUST COMPANY, NATIONAL ASSOCIATION.

IN WITNESS WHEREOF, I have hereunto set my hand and
official seal.

Notarial Seal
Bonnie Jean Corbett, Notary Public
Pursuant to the Bar, Jefferson County
My Commission Expires Nov. 27, 1996
Member, Pennsylvania Association of Notaries

Bonnie Jean Corbett
Notary Public



Entered of Record May 23 1995, 3:50 pm Karen L. Starck, Recorder

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY, PA
Pennsylvania

INSTRUMENT NUMBER
199912242

RECORDED ON
Jul 26, 1999
12:11:03 PM

RECORDING FEES - \$13.00
RECORDER
COUNTY IMPROVEMENT \$1.00
FUND
RECORDER
IMPROVEMENT FUND \$1.00
STATE TRANSFER TAX \$25.00
STATE WRIT TAX \$0.50
SANDY TOWNSHIP \$12.50
DUBOIS AREA \$12.50
SCHOOLS
TOTAL \$65.50

THIS DEED,

MADE the 20th day of July in the year nineteen hundred and ninety-nine (1999),

BETWEEN JAMES R. PIERCE and KATHIE JO PIERCE, husband and wife, of Shelocta, Pennsylvania; Grantors, parties of the first part;

A N D

DAVID A. BERLIN and TERESA A. BERLIN, husband and wife, of Sandy Township, Clearfield County, Pennsylvania, as tenants by the entireties, Grantees, parties of the second part.

WITNESSETH, That in consideration of Two Thousand Five Hundred Dollars (\$2,500.00), in hand paid, the receipt whereof is hereby acknowledged, the said Grantors do hereby grant and convey to the said Grantees,

ALL that certain piece or parcel of land situate, lying and being in Sandy Township, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the Eastern boundary line of land now or formerly of Musthaf, of which the premises herein described were formerly a part, said pipe also being on the Westerly boundary line of land now or formerly of Harold Bundy; thence in a Southwesterly direction along said land now or formerly of Harold Bundy, 140 feet, more or less, to an iron pipe, at the former Southern corner of said land now or formerly of Musthaf, of which the premises herein described were formerly a part; thence in a Northerly direction along a stripped fill which is on land now or formerly of Francis Beer and Laurea Beer, 240 feet, more or less, to an iron pipe; thence in an Easterly direction along said land now or formerly of Musthaf, of which the premises herein described were formerly a part, 240 feet, more or less, to the place of beginning. Being a triangular piece of land situate at the Southern corner of said land now or formerly of Musthaf, of which the premises herein described were formerly a part.

TOGETHER with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, of which the premises herein described were

formerly a part; further granting to the grantees, their heirs and assigns, the right to enter upon said remaining premises now or formerly of Musthaf, for the purposes of obtaining water from a spring located thereon.


UNDER AND SUBJECT to all reservations, exceptions and conditions as contained in prior deeds of conveyance.

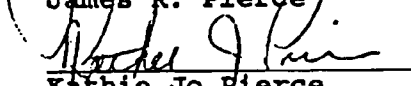
BEING the same premises which were conveyed to James R. Pierce, et ux. by deed of James R. Pierce, et ux., dated October 31, 1988, and recorded at Clearfield, Pennsylvania, in Deeds and Records Volume No. 1254, page 99.

Grantors herein state that the hereinabove described property is not presently being used for disposal of hazardous waste nor to the best of their knowledge, information and belief has it ever been used for the disposal of hazardous waste. This statement is made in compliance with the Solid Waste Management Act No. 1980 - 97, Section 405.

AND the said Grantors will specially warrant and forever defend the property hereby conveyed.

IN WITNESS WHEREOF, the said grantors have hereunto set their hands and seals the day and year first above written.


James R. Pierce (SEAL)

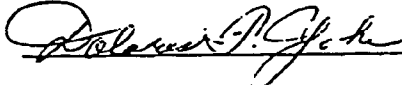
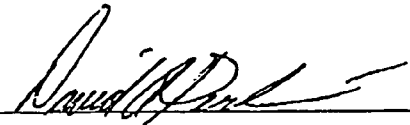
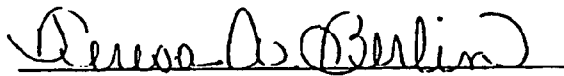

Kathie Jo Pierce (SEAL)

NTS

NOTICE

In accordance with the provisions of "The Bituminous Mine Subsidence and Land Conservation Act of 1966", I/we, the undersigned grantee/grantees, hereby certify that I/we know and understand that I/we may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interest in the coal. I/we further certify that this certification is in a color contrasting with that in the deed proper and is printed in twelve point type preceded by the word "notice" printed in twenty-four point type.

Witness:

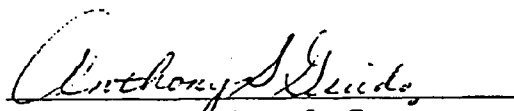




This 23rd day of July, 1999.

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE OF THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

CERTIFICATE OF RESIDENCE

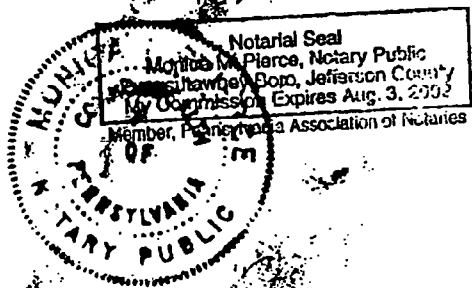
I/we hereby certify, that the precise residence for the Grantee herein is as follows:
R. D. #2, Box 126 DuBois, PA 15801


Attorney or Agent for Grantee

COMMONWEALTH OF PENNSYLVANIA :
: ss.
COUNTY OF Clearfield :

On this, the 20th day of July, 1999, before me, the undersigned officer, personally appeared JAMES R. PIERCE and KATHIE JO PIERCE, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.



Monica M. Pierce

PARCEL #21

BERLIN - SOURCE OF TITLE: INST. #19801783

(CORRECTIVE DEED)

CRAWFORD TO BERLIN: VOL. 1134/169 (2 PARCELS)

HOOK TO CRAWFORD: VOL. 801/585 (2 PARCELS)
BERNARD

CERT. OF ALIGNMENT - ESTATE OF ROBERT C. HOOK - VOL. 746/048
(2 PARCELS)

LOCKE TO HOOK: VOL. 517/576 (2 PARCELS)

REESMAN TO LOCKE: VOL. 499/691 (2 PARCELS)

CORRECTIONAL - REESMAN TO LOCKE VOL. 503/65 (2 PARCELS)

CORRECTIONAL - REESMAN TO LOCKE VOL. 501/209 (2 PARCELS)

WOOD TO REESMAN VOL. 489/391 (2 PARCELS)

FIRST TRACT

JORDAN TO WOOD: VOL. 477/389 (PARCEL)

REITZ TO JORDAN: VOL. 418/275 (36A + 16A)

COMM. TO REITZ: VOL. 418/274 (36A + 16A)

SOLD AS PROP. OF ROY WHITE AND
EDISON D. HOYT

SANDY TWP. TAX CASH TO COMM. VOL. 418/272 (36A + 16A)

SOLD AS PROP. OF ROY WHITE AND
EDISON D. HOYT

2ND TRACT

CARD TO WOOD: VOL. 477/388 (PARCEL)

RUPERT TO CARD: VOL. 374/66 (PARCEL)

EX. & RES. TRACT # 1 5/8A
SOLD TO BERLIN VOL. 1677/509 (#16)

EX. & RES. TRACT # 2 1 2/3A

--- OUT - SALE: RUPERT
TO BUNDY - VOL. 436/349
1 2/3A.

FED. LAND BANK TO RUPERT VOL. 330/349
(56A.)

BUNDY HEIRS BY SHERIFF TO FED. LAND
BANK, VOL. 315/40 (56A.)

FYOCK TO BUNDY: VOL. 163/109 (50A)

HUGHES & CO.

HUGHES TO FYOCK: VOL. 272/530 (56A)

READING - TO HUGHES & CO. VARIOUS WTS. IN
VOL. 47/93 FIVE. WT. 4090 + 4231 (SANDY)

HUGHES HEIRS TO HOYT VOL. 85/205
51A, IN WT. 4090

OUT - SALE: BERLIN
TO HUNT - 2,735
SQ. FT. VOL. 1237/284

AREA ABSTRACTING AND FILING SERVICE, INC.

Hemlock Hill, R. D. 1, Box 184

Falls Creek, PA 15840

Telephone: (814) 371-5128 Fax: (814) 371-8851

e-mail: *jkmyers@key-net.net*

Search For: Ross F. Ferraro, Attorney at Law
690 Main Street
Brockway, PA 15824

Date of Search: March 30, 2000

Search On: David A. and Theresa Berlin
T-407 & Old Coal Road
Sandy Township, Clearfield County, PA

Assessment: Tax I. D. #128.0-E02-000-00029. The property is assessed in the names of David A. and Theresa Berlin, whose mailing address is R. R. 2, Box 126, DuBois, PA, as a camp and 0.656 acres situated in Sandy Township, Clearfield County, PA. The assessed value is \$6,575 and the appraised value is \$26,300.

Abstract: The Clearfield County records have been searched regarding the above property from 1888 forward to the present time.

Source of Title: **Instrument #199801783**, dated December 17, 1998, and recorded December 30, 1998, David A. Berlin and Theresa Berlin, his wife, to David A. Berlin and Theresa Berlin, his wife, for the consideration of \$1.00 conveys 0.656 acres in Sandy Township, Clearfield County, PA. Corrective Deed. **Note: Survey attached to deed has been marked in this report to identify properties included in overall search.**

Volume 1134, page 169, dated January 8, 1987, and recorded January 15, 1987, Robert Crawford and Janet L. Crawford, husband and wife, to David Berlin, for the consideration of \$1.00 (tax paid on \$18,000) conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Special Warranty Deed. **Outsale of 2,735 square feet to Hunt, Volume 1237, page 284, copy with Hunt report.

Volume 801, page 585, dated August 15, 1980, and recorded August 25, 1980, Robert M. Hook and Helen C. Hook, his wife, and Melva M. Beardon and Donnie K. Beardon, her husband, to Robert Crawford and Janet L. Crawford, husband and wife, for the consideration of \$24,000 conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. General Warranty Deed.

Volume 746, page 048, Certificate of Award or Allotment of Real Estate in Statement of Proposed Distribution, Estate of Robert C. Hook, to Robert M. Hook, ½; Melva M. Beardon, ½, conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Robert C. Hook died 12/10/76, Estate #77-10, Insolvent.

Volume 517, page 576, dated September 24, 1965, and recorded October 2, 1965, James E. Locke and Dorothy S. Locke, his wife, to Robert C. Hook, for the consideration of \$1.00 (Transfer Tax paid on \$3,200) conveys two parcels in Sandy Township, Clearfield County, PA. parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. General Warranty Deed.

Volume 502, page 65, dated March 6, 1963, and recorded May 28, 1963, George A. Reesman and Sarah R. Reesman, his wife, and Paul H. Reesman, his wife, to James E. Locke, for the consideration of \$1.00 conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Purpose of the deed is to add the names of Mary E. Reesman and Sarah R. Reesman as additional grantors. General Warranty Deed.

Volume 501, page 209, dated March 6, 1963, and recorded April 19, 1963, George A. Reesman and Sarah R. Reesman, his wife, and Paul H. Reesman, his wife, to James E. Locke, for the consideration of \$1.00 conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Purpose of the deed is to add the names of Mary E. Reesman and Sarah R. Reesman as additional grantors. General Warranty Deed. Appears to be the same as the above correctional deed, possibly recorded for each grantor.

Volume 499, page 691, dated January 7, 1963, and recorded January 8, 1963, George A. Reesman and Paul H. Reesman, to James L. Locke, for the consideration of \$2,800 conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. General Warranty Deed.

Volume 489, page 391, dated November 18, 1960, and recorded June 9, 1961, Frank Wood and Mary Wood, his wife; LeRoy Wood and Margaret Wood, his wife; and Delona Wood and Bertha Wood, his wife, to George A. Reesman and Paul H. Reesman, for the consideration \$1.00 and other consideration, conveys two parcels in Sandy Township, Clearfield County, PA. Parcel 1: Excepting and reserving. Parcel 2: Excepting and reserving. Warrant and Forever Defend.

The title follows two separate chains at this point.

First Tract:

Volume 477, page 389, dated March 17, 1952, and recorded September 3, 1959, Bert L. Jordan and Mary Jordan, his wife, to Frank Wood, LeRoy Wood and Delone Wood, for the consideration of \$50 conveys part of a larger parcel situated in Sandy Township, Clearfield County, PA. Excepting and reserving all gas in and under. Excepting and reserving all coal, oil and other minerals. Warrant Forever.

Volume 418, page 275, Assignment recorded January 17, 1952, by A. H. Reitz, widow, to Burt L. Jordan and Mary Jordan, his wife, for the consideration of \$1.00, conveys 36 acres and 16 acres in Sandy Township, Clearfield County, PA, sold by the County Commissioners as property of Roy Waite and Edison D. Hoyt. Note: J. S. Reitz died 10/13/50, Estate #20945, no real estate listed in estate file and no tax paid on real estate.

Volume 418, page 274, recorded January 17, 1952, County Commissioners (who purchased lands from County Treasurer on January 10, 1936) for the consideration of \$25.00 conveys 36 and 16 acres situated in Sandy Township, Clearfield County, PA. to J. S. Reitz, sold as the property of Roy Waite and Edison D. Hoyt, on January 24, 1942.

Volume 418, page 272, recorded January 17, 1952, Treasurer of Clearfield County, to County Commissioners, for unpaid taxes for the year 1931 in the amount of \$37.90, sold 36 and 16 acres in Sandy Township, Clearfield County, PA, assessed in the names of Roy Waite and Edison D. Hoyt.

Note: Did not locate a deed for surface into both Roy Waite and Edison D. Hoyt. May have been unrecorded.

Volume 85, page 205, dated March 26, 1894, and recorded October 20, 1894, Hoover Hughes Humes, et al, (Geo. w. Hoover and Elizabeth, his wife, by E. C. Humes, Attorney in Fact recorded in Bellefonte, PA and Wm. V. Hughes and Rebecca his wife, by E. C. Humes, Attorney in Fact recorded in Bellefonte, PA), to Edson Hoyt, for the consideration of \$255 conveys 51 acres in Warrant No. 4090, Sandy Township, Clearfield County, PA. Reserving all coal, coal oil and other minerals with full rights of way to mine and remove the same.

Second Tract:

Volume 477, page 388, dated June 7, 1950, and recorded September 3, 1959, Grant Card and Ada Card, his wife, to Frank Wood, Leroy Wood, and Delone Wood, for the consideration of \$75.00 conveys parcel in Sandy Township, Clearfield County, PA. Subject to all exceptions and reservations. Being part of larger parcel. Warrant and Forever Defend.

Volume 374, page 66, dated December 14, 1945, and recorded February 8, 1946, Emmett J. Rupert, a single man, to Grant Card and Ada Card, his wife, for the consideration of \$1,000 conveys all the surface to a parcel of land situate in Sandy township, Clearfield County, PA. Excepting and reserving two tracts, one containing 5 ½

acres and the second, 1 2/3 acres. Also excepting and reserving all coal, oil, gas and other minerals with full rights of egress, regress and ingress to go upon the premises and explore, mine and remove the same together with full and complete rights and privileges to erect suitable buildings, etc. Also excepting and reserving. Special Warranty Deed. **Outsale of 5 1/2 acres to Berlin, see report on tax parcel #16. Outsale of 1 2/3 acres to Earl C. Bundy, copy enclosed, Volume 436, page 349.

Volume 330, page 349, dated January 17, 1940, and recorded March 12, 1940, The Federal Land Bank of Baltimore to Emmett J. Rupert, for the consideration of \$1,400 conveys 56 acres in Sandy Township, Clearfield County, PA. Reserving all coal, coal oil and other minerals in or upon the said land with full rights of way to mine and remove the same, with the right to go on and across the land for the purpose of removing the same. Subject to all conveyances and reservations of coal, oil, gas, minerals and easements of record.

Volume 315, page 40, recorded January 18, 1937, Isaac Bundy Heirs by Sheriff of Clearfield County to Federal Land Bank of Baltimore, for the consideration of \$25 conveys 56 acres in Sandy Township, Clearfield County, PA. Reserving all coal, coal oil and other minerals, etc., with full rights of way to mine and remove the same, with the right to go on and across the land for the purpose of removing the same at the pleasure of grantors. Isaac Bundy died March--, 1934, Estate #16048. No tax due.

Volume 163, page 109, dated September 29, 1906, and recorded April 11, 1907, Charles Fyock and Minerva Fyock, his wife, to Isaac Bundy, for the consideration of \$650 conveys 56 acres in Sandy township, Clearfield County, PA. Reserving all coal, coal oil and other minerals in or upon said land with full rights of way to mine and remove the same and also all saw timber, with the right to go on and across the land, etc. Warrant and Forever Defend.

Volume 272, page 530, dated September 19, 1893, and recorded October 17, 1924, Hoover Hughes, et al, to Charles Fyock, for the consideration of \$280 conveys 56 acres in Warrants Nos. 4231 and 4090 in Sandy Township, Clearfield County, PA. Reserving all coal, coal oil and other minerals in or upon said land with full rights of way to mine and remove the same and also all saw timber, with the right to go on and across the land, etc.

Both chains of title come from the following deed:

Volume 47, page 93, dated September 16, 1881, and recorded May 25, 1888, John G. Reading and Sarah, his wife; Augustus G. Richey and Anna, his wife; Charles Bartles, William P. Emery and An, his wife; George H. Bartles and Lois, his wife; and Judiah Higgins and Charity, his wife, to G. W. Hoover, W. V. Hughes, E. C. Humes and J. P. Harris, composing Hoover Hughes and Company, for the consideration of \$70,000 conveys 7,130 acres in several warrants in Huston and Sandy Township, including Warrants 4090 and 4231. Excepting and reserving all the coal, coal oil and other

minerals, etc., with the right to enter and take away the same, to erect such structures, ways, buildings, railroads, and shafts thereon both up and down, etc., to successfully mine and take away, etc.

Miscellaneous:

Volume 1231, page 036, Storage Grant (No Surface Operation)

Judgments, Liens, Taxes:

Tax Claim Bureau: 1998 and 199 taxes, copy enclosed.

Mortgages: Volume 1786, page 13, dated September 3, 1996, and recorded September 5, 1996, David A. Berlin and Teresa A. Berlin, to Associates consumer Discount Company, mortgages Tax #29 and Tax #16 in the principal amount of \$52,766.63;

Volume 1972, page 41, dated September 18, 1998, and recorded September 25, 1998, David A. Berlin and Teresa A. Berlin, to City National Bank of WV, mortgages Tax #29, in the principal amount of \$28,900.

Judgments:

NOTE: VOL. 369/305 and 369/308 - Old Mtg. Not Set.
None

Ejectments:

#80-1156-CD, Mary Jordan Vs. Edson Hoyt, a/k/a Edison Hoyt and Roy Waite, Action to Quiet Title, 51 acres; *ORDER Vol. 798/368*

#80-2562-CD, Robert Crawford and Janet L. Crawford Vs. Roy Waite and Edison D. Hoyt, Actin to Quiet Title on parcel. *ORDER Vol. 807/59*

Federal Tax Liens: None

State Tax Liens: None

Secured transactions: None

Mechanic's Liens: None

Domestic Rel. Search: Information not provided by attorney's office for this search.

PAGE #16

BERLIN: SOURCE OF TITLE: VOL. 16, 11/507 5 1/2 H.
INTEGRAL TRUST CO., EX. UNDER AUST OF GIMMERTS,
RUPERT TO DAVID AND TERESA A. BERLIN

FED. LAND BANK TO RUPERT: VOL. 330/349
THIS IS 5 1/2 H. EX. & RES. IN DEED TO
CARD CONVEYING PARCELS VOL. 374/66

FOLLOWS AND TRACT OF PARCELS #29 CHRYN

AREA ABSTRACTING AND FILING SERVICE, INC.

Hemlock Hill, R. D. 1, Box 184

Falls Creek, PA 15840

Telephone: (814) 371-5128 Fax: (814) 371-8851

e-mail: jkmyers@key-net.net

Search For: Ross F. Ferraro, Attorney at Law
690 Main Street
Brockway, PA 15824

Date of Search: March 30, 2000

Search On: David A. and Teresa A. Berlin
T-407 and 17031
Sandy Township, Clearfield County, PA

Assessment: Tax I. D. #128-.0-E02-000-00016. The property is assessed in the names of David A. and Teresa A. Berlin, whose mailing address is R. R. 2, DuBois, PA 15801, as 5.33 acres, 1 acre undeveloped and 4.3 acres of woodland, in Sandy Township, Clearfield County, PA. The assessed value is \$1,575 and the appraised value is \$6,300.

Abstract: The Clearfield County records have been searched regarding the above property from 1888 forward to the present time.

Source of Title: Volume 1677, page 509, dated May 17, 1995, and recorded May 23, 1995, Integra Trust company, national Association, Executor under the Last Will and Testament of Emmett J. Rupert, deceased, to David A. Berlin and Teresa A. Berlin, for the consideration of \$6,500 conveys 5 ½ acres identified as Tax #128-E02-00016. Under and subject to. Disclaims. Recites Volume 330, page 349, Federal Land Bank to Rupert. This is the 5 ½ acres excepted and reserved in deed between Rupert and Card in Volume 374, page 66.

Chain follows the second thereof back to 1888.

Judgments, Liens, Taxes:

Tax Claim Bureau: 1998 and 1999 Taxes, copy enclosed.

Mortgages: Volume 1786, page 13, dated September 3, 1996, and recorded September 5, 1996, David A. and Teresa A. Berlin to Associates Consumer Discount Company,

**mortgages Tax #29 and #16 in the principal amount of
\$52,766.63**

Judgments: None

Federal Tax Liens: None

State Tax Liens: None

Secured transactions: None

Mechanic's Liens: None

Domestic Rel. Search: Information not provided by attorney's office for this search.

PL. 2011 (11/11/11) (11/11/11)
PROPERTY AT
END OF COAL
ROAD 0.384

BECKIN FROM PIERCE INT. # 1997/2242 GRANTS RIGHT TO USE OLD COAL ROAD
PIERCE TO PIERCE VOL. 1254/099 GRANTS RIGHT TO USE OLD COAL ROAD
GHARD TO PIERCE VOL. 847/325- GRANTS RIGHT TO USE OLD COAL ROAD, WATER FROM SPRING
MUSTHAFF TO GHARD VOL. 520/679 GRANTS RIGHT TO OLD COAL ROAD, (1966) WATER FROM SPRING (PORTION OF LANDS IN 508/347)
BECK TO MUSTHAFF 508/347
GHARDIN TO BECK 377/182
BECK TO GHARDIN 377/184

AREA ABSTRACTING AND FILING SERVICE, INC.

Hemlock Hill, R. D. 1, Box 184

Falls Creek, PA 15840

Telephone: (814) 371-5128 Fax: (814) 371-8851

e-mail: jkmyers@key-net.net

Search For: Ross F. Ferraro, Attorney at Law
690 Main Street
Brockway, PA 15824

Date of Search: March 30, 2000

Search On: David A. and Teresa A. Berlin
T-407 Off
Sandy Township, Clearfield County, PA

Note: This is not a full search, but is only a look at the chain of title to recently purchased Berlin property. This was done because this property sits at the end of the Coal Road.

Assessment: Tax I. D. #128-0-D01-000-030.1. The property is assessed in the names of David A. and Teresa A. Berlin, whose mailing address is R. R. 2, Box 126, DuBois, PA 15801, as a one story frame camp situated on 0.380 acre in Sandy Township, Clearfield County, PA. The assessed value is \$1,025 and the appraised value is \$4,100.

Chain of Title: From the present time to 1934. This property comes from the larger transfer from Reading to Hoover Hughes. It refers to the right to use the coal road, and also in the last deed copied which was recorded in 1936, it reserved the right to all coal, coal oil and other minerals, etc., with full rights to mine and remove the same. In the report of the mineral chain of title in Volume 152, page 533, you will note a copy of a map (deed from Lee to N. T. Arnold) that shows Warrants 4090, 4231 and 4234, and reserves 270 acres to Samuel Brown. A road is clearly marked on this map. The map may be compared with the present day map.

Source of Title: Instrument #199912242, dated July 20, 1999, and recorded July 26, 1999, James R. Pierce and Katie Jo Pierce, husband and wife, to David A. Berlin and Teresa A. Berlin, husband and wife, for the consideration of \$2,500 conveys parcel in Sandy Township, Clearfield County, PA. Together with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, etc. and the right to enter upon said remaining premises now or formerly of Musthaf for the purpose of obtaining water from a spring located thereon. Under and Subject. Special Warranty Deed.

Volume 1254, page 099, dated October 31, 1988, and recorded November 15, 1988, James R. Pierce and Kathie Jo Pierce, husband and wife, to James R. Pierce and Kathie Jo Pierce, husband and wife, for the consideration of \$1.00 conveys parcel in Sandy Township, Clearfield County, PA. **Together with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, etc. and the right to enter upon said remaining premises now or formerly of Musthaf for the purpose of obtaining water from a spring located thereon.** Under and Subject. General Warranty Deed.

Volume 847, page 325, Carl B. Gladd and Dorothy L. Gladd, husband and wife, to James R. Pierce, a single man, for the consideration of \$200 conveys parcel in Sandy Township, Clearfield County, PA. **Together with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, etc. and the right to enter upon said remaining premises now or formerly of Musthaf for the purpose of obtaining water from a spring located thereon.** Under and Subject. General Warranty Deed.

Volume 520, page 679, dated March 31, 1966, and recorded April 4, 1966, Joseph C. Musthaf and Marian A. Musthaf, husband and wife, to Carl D. Gladd and Dorothy L. Gladd, husband and wife, for the consideration of \$100 conveys parcel in Sandy Township, Clearfield County, PA. **Together with the right of the grantees, their heirs and assigns, to use an old coal road now located on the said premises, now or formerly of Musthaf, etc. and the right to enter upon said remaining premises now or formerly of Musthaf for the purpose of obtaining water from a spring located thereon.** Under and Subject. General Warranty Deed.

Volume 508, page 347, dated May 29, 1964, and recorded June 8, 1964, Francis Beer and Laurea Beer, husband and wife, to Joseph C. Musthaf and Marian A. Musthaf, husband and wife, for the consideration of \$300 conveys parcel in Sandy Township, Clearfield County, PA. being a portion of second piece described in Volume 377, page 186. Under and subject to. General Warranty Deed.

Volume 377, page 186, dated May 20, 1940, and recorded July 9, 1946, Wilbur Garvin, a single man, to Francis Beer and Laurea Beer, husband and wife, for the consideration of \$100 conveys four parcels in Sandy township, Clearfield County, PA, the second parcel being the larger piece from which the above deed comes. Subject to several exceptions and reservations in Vol. 307, page 567. General Warranty Deed.

Volume 377, page 184, dated May 20, 1940, and recorded July 9, 1946, Francis Beer, a married man, and Laurea Beer, his wife, to Wilbur Garvin, for the consideration of \$1.0 conveys four parcels in Sandy Township, the second parcel being the larger piece from which Volume 508, page 347 comes. General Warranty Deed.

Volume 307, page 566, dated May 8, 1930, and recorded May 31, 1934, George Beer and Mary M. C. Beer, his wife, to Francis Beer, for the consideration of \$1.00 conveys three parcels in Sandy Township, Clearfield County, PA, see second piece. Property goes back to deed from Reading to Hoover Hughes, Warrants 4231 and 4234. **Reserves coal, etc, and full rights to mine and remove the same.**

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

INSTRUMENT NUMBER
199920850

RECORDED ON
Dec 23, 1999
11:09:29 AM

RECORDING FEES - \$13.00
RECORDER

COUNTY IMPROVEMENT \$1.00
FUND

RECORDER IMPROVEMENT FUND \$1.00

STATE TRANSFER TAX \$1.50

STATE WRIT TAX \$0.50

SANDY TOWNSHIP \$0.75

DUBOIS AREA SCHOOLS \$0.75

TOTAL \$18.50
Paul Cherry

#3- Subd.
QUIT-CLAIM DEED

THIS INDENTURE,

MADE the 17th day of December,

in the year nineteen hundred and ninety-nine (1999)

BETWEEN ROBERT G. CARD, single, of Sandy Township, Clearfield County, Pennsylvania,

GRANTOR, Party of the First Part;

A
N
D

DELBERT L. HUNT and DOROTHY M. HUNT, husband and wife, of Sandy Township, Clearfield County, Pennsylvania, as Tenants by the Entireties, GRANTEES, Parties of the Second Part;

WITNESSETH, that in consideration of the sum of--ONE HUNDRED FIFTY and 00/100-----
-----(\$150.00)-----Dollars,

receipt whereof is hereby acknowledged, the said Grantor does hereby release, remise and quit claim to the said Grantees,

ALL that certain piece, parcel or lot of land, lying and being situate in Sandy Township, Clearfield County, Pennsylvania, being bounded and described as follows, to wit:

BEGINNING at a ¾" iron reinforcing bar on the northwesterly right of way line of Sandy Township Rt. 407, said ¾" reinforcing bar also being the southeast corner of land of David and Theresa Berlin (0.656 acre tract);

thence by the southwesterly right of way line of T.R. 407, South 65° 24' 11" East, 40.02 feet the northwesterly line of other lands of David and Theresa Berlin (4.46 acre tract);

thence by the northwesterly line of lands of David and Theresa Berlin (4.46 acre tract), South 82° 13' 15" West, 298.85 feet to an old iron rail at the northeasterly line of land of Robert G. Card;

thence crossing Beers Mine Road North 71° 51' 06" West, 32.99 feet to a southeasterly corner of other lands of Delbert and Dorothy Hunt;

thence by the northeasterly line of land of Delbert and Dorothy Hunt, North 15° 40' 36" West, 3.58 feet to the southwest corner of lands of David and Theresa Berlin (0.656 acre tract);

thence by the southeasterly line of lands of David and Theresa Berlin (0.656 acre tract); North 81° 32' 58" East, 295.24 feet to a ¾" iron reinforcing bar and place of beginning.

BEING Parcel Number Three of the Delbert and Dorothy Hunt Consolidation Plan as shown on the plat of survey map filed in Map File 1933 No. of the Clearfield County Courthouse, said road area being 5955.91 square feet or 0.136 acres.

The above description was prepared by Sheldon W. Spigelmyer, Registered Surveyor, Registration No. SU-033617E, of Lee Simpson Associates, Inc., in accordance with a survey performed by him on May 28, 1998.

UNDER AND SUBJECT to all exceptions, reservations, restrictions, covenants, conditions, and easements which may appear in the recorded chain of title.

GRANTORS HAVE NO ACTUAL KNOWLEDGE OF ANY HAZARDOUS WASTE AS DEFINED BY ACT NO. 1980-1997 OF THE COMMONWEALTH OF PENNSYLVANIA, HAVING BEEN OR WHICH IS PRESENTLY BEING DISPOSED ON OR ABOUT THE SUBJECT PREMISES DESCRIBED IN THIS DEED OF CONVEYANCE.

IN WITNESS WHEREOF, the said Grantors have hereunto set their hands and seals
the day and year first above written.

Sealed and delivered
in the presence of:

Paula M. Cherry

Robert G. Card

(SEAL)

(SEAL)

NTS

CERTIFICATE OF RESIDENCE

I hereby certify that the correct address and place of residence of the Grantees herein is
as follows:

RD #2, Box 127
Do Bois, PA 15801

Paula M. Cherry

Attorney or Agent for Grantees

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

SS.

On this, the 17th day of December, 1999, before me, a Notary Public, personally appeared ROBERT G. CARD, single, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My commission expires: 9-16-2001

Paula M. Cherry
Notary Public

Notarial Seal
Paula M. Cherry, Notary Public
DuBois, Clearfield County
My Commission Expires Sept. 16, 2001



FILED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

FEB 28 2002

DAVID A. BERLIN, and
TERESA A. BERLIN, his wife

William A. Shaw
Prothonotary

-VS-

No. 00 - 631 - CD

DELBERT L. HUNT and
DOROTHY M. HUNT, his wife

OPINION AND ORDER

Plaintiffs above-named, seek to quiet title to confirm the right to use Beers Mine Road in accessing their premises in Sandy Township, Clearfield County. In support of their claim, they have alleged four bases for their claim.

1. That by virtue of their ownership of parcels abutting the road on both sides, they own Beers Mine Road in that area;
2. Second, that they have obtained an easement by implication;
3. Third, that they have obtained a prescriptive easement; and
4. Fourth, that they have an express easement.

With regards to the first issue, both parties agree that Plaintiffs own parcels of land on both sides of Beers Mine Road directly across from each other and they therefore are owners of Beers Mine Road in that location and this Court does find that that portion of Beers Mine Road that runs contiguous with both properties of the Plaintiffs on each side of said road is owned by them to the center line. In so holding, this Court does not prevent any other lawful user of the road from making use thereof in the future.

Plaintiffs next claim the use of the entire roadway of Beers Mine Road. Under Pennsylvania law, when an owner of land conveys a portion thereof, an easement over either of the separated parcels may arise by implication, even if not expressly reserved by deed. If a part of the land conveyed is subject to an open, visible, permanent and continuous easement in favor of another party, the property conveyed is subject to an implied easement. See Burns

Manufacturing v. Boehm, 457 Pa. 307, 356 A.2d 763 (1976) and Tosh v. Witts, 381 pa. 225, 113 A.2d 226 (1955).

The elements of an easement by implication as set forth in Possessky v. Diem, 440 Pa. Super. 287, 655 A.2d 1004 (1995) and DePietro v. Triano, 167 Pa. 29, 74 A.2d 710 are as follows:

1. Separation of title to two or more parts of the real estate;
2. The obvious and continued use of the road before separation of title, to show intent to make the apparent easement permanent;
3. The easement is reasonably necessary to the beneficial enjoyment of the dominant tenement; and
4. The use is continuous and self-acting.

In the instant case, there has been a separation into two or more parts of the real estate. The stipulated chain of title clearly indicates that the original grants of the Plaintiffs' and Defendants' properties were from the same Warrant and came from a common grantor.

Second, the obvious and continuous use of the road before separation indicates an intent to make the apparent easement permanent. As testified by Roger Simpson, Plaintiffs' expert surveyor, the exhibits entered through him show Beers Mine Road in existence well prior to the separation transaction of the properties.

Third, the easement is reasonably necessary to the beneficial enjoyment of the dominant tenement. The testimony of Plaintiffs' witnesses, as well as Plaintiffs themselves, clearly indicates that Beers Mine Road was the only access road to the Berlin's property together with their predecessors in title over the last 30 or 40 years. Moreover, Plaintiffs testimony indicates that the easement is necessary for the purpose of placing a water line and septic system across and under the road to their to their other parcel of land which is necessary for the beneficial enjoyment thereof.

Fourth, the use of the road is continuous and self-acting. As set forth above, the Berlins and their predecessors in title have continually used and maintained Beers Mine Road over the past 30 or 40 years. This was the only access road to Plaintiffs' property prior to 1999 when the Berlins built a temporary road to use during the course of this litigation. Plaintiffs' exhibits clearly show the roadway in question here has been in existence since at least 1929.

This Court places no weight on the quit claim deed obtained by the Defendants to a portion of Beers Mine Road. Under the law thereof, a quit claim deed can only transfer the legal interest possessed by the grantor and here the Court finds that grantor Robert and/or Grant Card had no legal interest in the ownership of Beers Mine Road.

Finally, this Court finds that the Plaintiffs in fact have an express easement for the use of Beers Mine Road to access their camp, as both parties agree that this right exists.

In ruling as it does, this Court further finds that neither party is entitled to recover counsel fees or costs.

WHEREFORE, the Court enters the following:

ORDER

NOW, this 27th day of February, 2002, in accordance with the foregoing Opinion, it is the ORDER of this Court that judgment in the above-captioned action to quiet title be and is hereby entered in favor of the Plaintiffs and against the Defendants and that Plaintiffs have legal right to use said Beers Mine Road in a free and uninterrupted manner for the purpose of ingress, egress and regress to their properties as set forth above.

By the Court,

President Judge

FILED

1cc Atty Ferraro

013:37 ~~824~~

FEB 28 2002

1cc Atty Hopkins

1cc S.M. Keel

William A. Shaw
Prothonotary

WAS
7/22