

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Case No. _____

MAUREEN McCLUSKEY and
ROBERT OXENBERG,
Plaintiffs,

-vs-

UNITED STATES FOREST SERVICE and
BRIAN FEREBEE, Regional Forester,
United States Forest Service, Region 2,
UNITED STATES DEPARTMENT OF AGRICULTURE, and
SONNY PERDUE, United States Secretary
of Agriculture,
UNITED STATES BUREAU OF LAND MANAGEMENT, and
JAMIE CONNELL,
State of Colorado Director.

United States [Bureau of Land Management](#)

WILLIAM PERRY PENDLEY,
Acting Director, United States [Bureau of Land Management](#),
UNITED STATES DEPARTMENT OF THE INTERIOR, and
DAVID BERNHARDT,
United States Secretary of the Interior, and
UNITED STATES OF AMERICA,
Defendants.

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COMPLAINT

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Plaintiffs, by their attorney, George M. Allen, state:

Introduction

1. This is an action for Declaratory Judgment, Judicial Review of a Final Agency Decision of the United States Forest Service, judicial action as necessary regarding actions of the Department of the Interior, and equitable relief, including, as applicable, preliminary and permanent injunctive relief, so that Plaintiffs may enjoy full and unlimited ownership rights to the property at issue, without further prohibition, encumbrance, or impediment.

2. Notwithstanding Plaintiffs' superior right, title and interest to the Property, the individual agency officer defendants (*e.g.*, defendants Ferebee, Perdue, Pendley, Connell, and Bernhardt), against whom this action is brought in their official capacities as federal agency officers and managers, have failed to recognize Plaintiffs' right, title, interest, and related rights of ownership, domain and usage as to the Property, and have thus prevented Plaintiffs from their fundamental and Constitutionally-protected right to complete quiet enjoyment and unfettered use of the Property.

Jurisdiction and Venue

3. This Court has jurisdiction of this action under 28 U.S.C. §1331, based on this Court having original jurisdiction of all actions arising under the Constitution, laws and treaties of the United States.

4. Plaintiffs seek Declaratory Judgment of their rights as to the Property, as provided by both Rule 57 of the Federal Rules of Civil Procedure and by the federal Declaratory Judgment Act, 28 U.S.C. §2201.

5. The jurisdiction of this Court is invoked to obtain judicial review and relief from final agency action of the United States Forest Service, by reason of the Forest Service's decision of record of October 21, 2014, denying Plaintiffs' administrative submissions for vindication of their ownership rights in the Property. Review of the Forest Service's final agency action is specifically provided under the Federal Administrative Procedure Act, 5 U.S.C. §§551, *et seq.*

6. Plaintiffs suggest the potential applicability of the federal Quiet Title Act, 28 U.S.C. §2409a, to secure to them their complete and unfettered use, and quiet enjoyment of the Property.

7. Plaintiffs seek the entry of such equitable relief as is necessary and appropriate to secure to them their complete and unfettered use, and quiet enjoyment of the Property, as provided by Rule 65 of the Federal Rules of Civil Procedure.

8. Plaintiffs suggest the potential applicability of the provisions and jurisprudence established under the All Writs Act, 28 U.S.C. §1651, derived from the Judiciary Act of 1789, ch. 20, 1 Stat. 73, as amended, in order to secure to them their complete and unfettered use of the Property.

9. Venue is appropriate in this District by reason of the location of the Property in this District, and venue is further made appropriate by this Court's proper jurisdiction as to defendants Ferebee and Connell, who carry out their Forest Service and BLM management responsibilities of their agency operations from their offices situated in Colorado.

Parties

10. Plaintiff are United States citizens. Maureen McCluskey was born in Boston, Massachusetts. Robert Oxenberg was born in Brooklyn, New York. They are husband and wife, and they have resided in or near Aspen, Colorado for the past 41 years. They presently reside during many months of the year at 2520 Lower River Road, Snowmass, Colorado 81654. They also maintain a residence during some parts of the year at Lake Worth, Florida.

11. The United States Forest Service is an agency of the Department of Agriculture, and Defendant Brian Ferebee is the Regional Forester of Region 2 of the United States Forest Service. As such, he is the senior agency official responsible for the various actions and inactions of personnel of the United States Forest Service who have

active responsibility for administration of the White River National Forest. The Property at issue borders the White River National Forest. Defendant Ferebee is an indispensable party for obtaining full and complete relief sought in this action.

12. The United States Department of Agriculture is a Constitutionally-created Department of the Government of the United States, and Defendant Sonny Perdue is the Secretary of Agriculture, and is the senior-most agency official responsible for the various actions and inactions of personnel of the United States Forest Service who have active responsibility for actions of the United States on the White River National Forest. Defendant Perdue is an indispensable party for obtaining full and complete relief sought in this action.

13. The United States Bureau of Land Management is an agency of the United States Department of the Interior, and Defendant Jamie Connell is the Colorado State Director of the Bureau of Land Management. As such, he is the senior agency official responsible for the various actions and inactions of personnel of the Bureau of Land Management who have active responsibility for administration of the BLM activities and actions in Colorado. Among other things, BLM issues property maps that identify public lands, and to the extent any such maps identify the Property as public land, they are inaccurate, and potentially damaging to Plaintiffs. Defendant Connell is an indispensable party for obtaining full and complete relief sought in this action.

14. Defendant William Perry Pendley is Acting Director of the Bureau of Land Management. As such, he is the senior agency official responsible for the various actions and inactions of personnel of the Bureau of Land Management throughout the United States. Among other things, BLM issues property maps that identify public lands, and to the extent any such maps identify the Property as public land, they are inaccurate, and potentially damaging to Plaintiffs. Defendant Pendley is an indispensable party for obtaining full and complete relief sought in this action.

15. The United States Department of the Interior is a Constitutionally-created Department of the Government of the United States, and Defendant David Bernhardt is the United States Secretary of the Interior, and is the senior-most agency official responsible for the various actions and inactions of personnel of the Bureau of Land Management, and of the Interior Department, who have active responsibility for actions of the Interior Department that affect the Property. Defendant Bernhardt is an indispensable party for obtaining full and complete relief sought in this action.

16. The United States of America is a proper and necessary defendant in this action.

Related Pending Litigation

17. Presently pending in the United States Court of Federal Claims is that Court's Case No. 19-cv-01516-LKG, titled *Maureen McCluskey and Robert Oxenberg v. United States of America*. The USCFC filing was made under the Tucker Act, 28 U.S.C.

§1491, to protect the right of Plaintiffs to an award of just compensation, as alternative or additional relief to the relief sought by the plaintiffs in this action.

General Averments

18. The legal description of the Property is set forth in Exhibit 1 to this Complaint. Public record of the Property is found in the records of Pitkin County, Colorado at Page 257 of Ditch Book 2A on June 21, 1960, under what is believed to be Reception No. 109840. As a Recorded Document with date of recordation in 1960, the Recordation in Ditch Book 2A is an Historic Document that is presumptively valid under Rule 902 of the Federal Rules of Evidence. The Property lies within Section 28, Township 10 South, Range 84 West of the Sixth Principal Meridian, Pitkin County, Colorado.

19. As of July, 1937, undisputed that legal title to the land in question was vested in one Charles Evans.

20. Plaintiff's title derives from an entity known as the Aspen Park Association, unincorporated association, made up of several prominent Aspen residents, including the Mayor of Aspen.

21. There was significant activity in conveyance of the Property in the late 1930's. Eight deeds conveying or purporting to convey the Property related to the Aspen Park Association came into being between August of 1937 and July 1941.

22. Detailed research by Plaintiff Robert Oxenberg, a resident of the Aspen area for over four decades, has established that seven the eight above-referenced deeds had major mistakes.

23. The Aspen Park Association was formed in 1922, as an unincorporated association of men, the sole purpose for which was ownership, development, and sale of a 160-acre parcel three and one-half miles east of Aspen, along Colorado State Route 82, the Independence Pass Road.

24. An Escrow Agreement dated June 4, 1941, which pertained to a deed from the Aspen Park Association to Rev. A.R. Smith, a Cincinnati, Ohio clergyman, made reference to, and accounted for what was described as the balance of the 160 acres that were then still owned by the Aspen Park Association.

25. In the 1941 deed from the Aspen Park Association to Rev. Smith -- a historic recorded document -- it is shown that all of the intended conveyances could properly be added to one another to account for the original 160-acre homestead that was the initial holding of the Aspen Park Association. The Escrow Agreement referenced in the above paragraph shows 30 acres as subdivision; 6 acres for the right of way for State Road 82; and 52 acres to the United States Forest Service. Simple arithmetic compels a simple conclusion: the June 4, 1941 Escrow Agreement is susceptible of no interpretation other than that the Aspen Park Association members believed, as of June 4, 1941, that the

Association had available 72 remaining acres, more or less, of the initial 160-acre land holding of the Association.

26. In July of 1941, the Board of the Aspen Park Association deeded to themselves 72 acres, more or less, as individuals, and the following day they deeded 70 acres, more or less, from themselves as individuals to Rev. A.R. Smith.

27. The arithmetic referenced above elucidates the true intentions of the true owners of the 160 acres that made up the totality of the conveyances: the two-acre difference corresponded to a request by the United States to "acquire small fractions of land west of State Road 82" to connect to some of the 52.5 acres the Forest Service was acquiring.

28. The historic records show that the Aspen Park Association had decided on May 14, 1939 to donate the small fractions of land west of State Road 82 to the United States Government. The small fractions comprised approximately 2+ acres per the May 14, 1939 document.

29. The seven major mistakes in the deeds in August 1937 through July 1941 are consistent with the Plaintiffs' understanding, after research, that the major misunderstanding, in all probability a scrivener's error, seen in the seven of eight erroneous deeds, but more certainly attributable to a reference seen when a Forester Spencer, of the United States Forest Service in Denver, asked the Government's title attorney, a man named Paul, also in Denver, to make reference in some fashion to

additional land to the intended 2 acre donation that was the Aspen Park Association's clearly documented understanding and intent.

30. For an unknown reason, Forester Spencer did this without any now discernible record of communication with the Aspen Park Association. In the legal description of the government's re-scribed Quit Claim deed there was added approximately 15 acres seen only by decoding a legal description the Aspen Park Association members had no professional competence to achieve, of valuable land elsewhere, in all four cardinal directions, north, south, east, and west, of State Road 82, to the two-acre donation that was mutually agreed. The mutually agreed two acres were swamp land west of State Road 82.

31. The good title of the Plaintiffs derives from the good title of the Aspen Park Association deed conveyances, first to themselves as individuals, then, the following day, from themselves as individuals to Rev. Smith, by warranty deed.

32. Thereafter, Rev. Smith deeded the property he had acquired from the Aspen Park Association by warranty deed to Margaret Myers. That land was then conveyed from the estate of Margaret Myers to Plaintiff Maureen McCluskey in a 1985 Quit Claim deed.

33. Notwithstanding the above accurate history of the land title of Maureen McCluskey, and appurtenant rights of her husband Robert Oxenberg, the agency

defendants have declined to confirm the good title of the plaintiffs, thus making this suit necessary.

34. It is the intent of the Plaintiffs to amend this initial Complaint following a meeting that local Aspen-area Forest Service officials have suggested take place on or after October 28, 2019.

35. It is noteworthy that a retired Forest Service official, Forest Service surveyor Wyman Bontrager, has previously suggested reformation to the Plaintiffs as a means of resolution of the issues in this action.

36. This suit is brought at this time out of an abundance of caution to preserve the rights of the Plaintiffs should further discussions with local Aspen-area Forest Service officials not produce a definitive resolution.

**First Claim for Relief
(Declaratory Judgment)**

37. All preceding paragraphs are incorporated herein.

38. This Court should exercise its jurisdiction under Rule 57 of the Federal Rules of Civil Procedure, and the federal Declaratory Judgment Act, 28 U.S.C. §2201, to enter a Declaratory Judgment that Plaintiffs are the only true and lawful owners of all right, title and interest, and all rights of unfettered use and quiet enjoyment of the Property.

39. The doctrine of merger is applicable to interpretation of the contemporaneous instruments by which Plaintiffs' primary predecessor in interest as to

the Property, the Aspen Park Association, made transactions involving the personnel of the Forest Service during the years immediately preceding World War II.

Second Claim for Relief
(Administrative Procedure Act, 5 U.S.C. §§551, *et seq.*)

40. All preceding paragraphs are incorporated herein.

41. Plaintiffs have suffered a direct personal injury that is fairly traceable to the actions and inactions of the agency officer defendants, and particularly by the agency officers of the United States Forest Service, by reason of the Forest Service having failed to take such steps and effectuate such orders as are necessary to secure to Plaintiffs their unfettered use and quiet enjoyment of their ownership of the Property.

42. Plaintiffs injuries are likely to be redressed the by relief requested in this Claim under the Administrative Procedure Act.

43. The APA relief for Plaintiffs should include at least all such orders as are reasonably necessary to cause the agency defendants to take such actions as are needed to establish conclusively the rights of Plaintiffs with regard to the Property.

44. The requested relief includes entry of such orders and directives as are reasonably necessary to relieve Plaintiffs from the adverse effects of prior actions and inactions of the Forest Service, as those actions and inactions are set forth above.

Third Claim for Relief
(Quiet Title Act, 28 U.S.C. §2409a)

45. All preceding paragraphs are incorporated herein.

46. Plaintiffs' claims, as alleged in the General Averments above, establishes their right to a judgment on their behalf under the provisions of the federal Quiet Title Act, 28 U.S.C. §2409a, to secure to them a determination and judgment of this Court that establishes their right to complete unfettered use, and quiet enjoyment of the Property.

**Fourth Claim for Relief
(Equitable Relief Under Rule 65, Fed. R. Civ. Proc.)**

47. All preceding paragraphs are incorporated herein

48. This Court should enter and order such equitable relief as is necessary and appropriate to secure to Plaintiffs their complete and unfettered use, and quiet enjoyment of the Property, as provided by Rule 65 of the Federal Rules of Civil Procedure.

49. In ordering relief for Plaintiffs under this Claim for Relief, this Court should exercise its full panoply of equitable powers, including but not limited to injunction, mandamus, reformation, rescission, waiver, and ratification, to fully vindicate Plaintiffs' rights to full and complete unfettered use and quiet enjoyment of the Property.

**Fifth Claim for Relief
(All Writs Act, 28 U.S.C. §2251)**

50. All preceding paragraphs are incorporated herein

51. This Court should exercise the provisions and jurisprudence established under the All Writs Act, 28 U.S.C. §1651, derived from the Judiciary Act of 1789, ch. 20, 1 Stat. 73, as amended, in order to secure to Plaintiffs their complete and unfettered use of the Property.

Prayer for Relief

A. This Court should exercise its jurisdiction under Rule 57 of the Federal Rules of Civil Procedure, and the federal Declaratory Judgment Act, 28 U.S.C. §2201, to enter a Declaratory Judgment that Plaintiffs are the only true and lawful owners of all right, title and interest, and all rights of unfettered use and quiet enjoyment of the Property.

B. This Court should make such orders as are reasonably necessary and lawful under the terms for relief of the Administrative Procedure Act, to grant relief for Plaintiffs that must include at least all such orders as are reasonably necessary to cause the agency defendants to take such actions as are needed to establish conclusively the rights of Plaintiffs with regard to the Property. The requested relief includes entry of such orders and directives as are reasonably necessary to relieve Plaintiffs from the adverse effects of prior actions and inactions of the Forest Service, as those actions and inactions are set forth above.

C. This Court should enter orders as necessary to vindicate Plaintiffs' right to a judgment on their behalf under the provisions of the federal Quiet Title Act, 28 U.S.C. §2409a, to secure to them a determination and judgment of this Court that establishes their right to complete unfettered use, and quiet enjoyment of the Property.

D. This Court should enter and order such equitable relief as is necessary and appropriate to secure to Plaintiffs their complete and unfettered use, and quiet enjoyment of the Property, as provided by Rule 65 of the Federal Rules of Civil Procedure. In ordering relief for Plaintiffs under their Fourth Claim for Relief, this Court should exercise its full panoply of equitable powers, including but not limited to injunction, mandamus, reformation, rescission, waiver, and ratification, to fully vindicate Plaintiffs' rights to full and complete unfettered use and quiet enjoyment of the Property.

E. This Court should exercise the provisions and jurisprudence established under the All Writs Act, 28 U.S.C. §1651, derived from the Judiciary Act of 1789, ch. 20, 1 Stat. 73, as amended, in order to secure to Plaintiffs their complete and unfettered use of the Property.

F. That judgment be entered against the United States for costs of this suit, including payment of attorneys' fees under the provisions of 5 U.S.C. §504, and of the Equal Access to Justice Act, 28 U.S.C. §2412, including experts' fees, costs of appraisal, travel and investigative expenses, and,

G. That Plaintiff be awarded such other and further legal and equitable relief as this Court may deem just and proper.

Respectfully submitted,

s/ Geo. M. Allen
George M. Allen
Counsel for Plaintiffs

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS Maureen McCluskey and Robert Oxenberg</p> <p>(b) County of Residence of First Listed Plaintiff <u>Pitkin</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> George M. Allen, 206-A Society Drive, Telluride CO 81435 970.369.1000; yxgeo@yahoo.com</p>	<p>DEFENDANTS US Forest Service, Brian Ferebee, U.S. Department of Agriculture, Sonny Perdue, Jamie Connell, US Bureau of Land Management, William County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i></p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td></td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT *(Place an "X" in One Box Only)* Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
			<p style="text-align: center;">PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act
			<p style="text-align: center;">LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p style="text-align: center;">SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<p style="text-align: center;">FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration <input checked="" type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutional of State Statutes
<p style="text-align: center;">REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p style="text-align: center;">CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p style="text-align: center;">PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District *(specify)*
 6 Multidistrict Litigation - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
28 USC 2201; 5 USC 551, et seq.; 28 USC 2409a; 28 USC 1651

Brief description of cause: _____ AP Docket

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE Lydia Kay Griggsby DOCKET NUMBER 19-cv-01516-LKG (USFC)

DATE 10/21/2019 SIGNATURE OF ATTORNEY OF RECORD s/ Geo. M. Allen

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

PARCEL B

A tract of land in the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 28, Township 10 South, Range 84 West of the 6th Principal Meridian more particularly described as follows: Beginning at a point of the North-South center line of SW $\frac{1}{4}$ of Section 28, 1048' North of the South line of Section 28; thence North 160' to the Southwesterly boundary line of the Independence Pass Road; thence following the said boundary Easterly approximately 650' as the same curves Easterly and Northerly to a point which is 570' East and 15' South of the center of SW $\frac{1}{4}$ of Sec. 28; thence Southerly parallel with the North-South center line of SW $\frac{1}{4}$ of Section 28, 325'; thence Westerly parallel to the East-West center line of SW $\frac{1}{4}$ of Section 28, 570' more or less to the point of beginning. Excepting therefrom that portion of said tract used as the Difficult Camp Ground Road, and excepting that part of said tract lying South and West of said Difficult Camp Ground Road.

PARCEL C

A tract of land in the N $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 28, Township 10 South, Range 84 West of the 6th Principal Meridian, more particularly described as follows: Beginning at a point on the North-South center line of said Section 28 where said center line intersects with the East-West center line of the SW $\frac{1}{4}$ of said Section 28; thence Westerly along the East-West center line of the SW $\frac{1}{4}$ of Section 28, 766'; thence South and parallel to the North-South center line of Section 28, 340'; thence East and parallel to the East-West center of the SW $\frac{1}{4}$ of Section 28, 440'; thence South and parallel to the North-South center line of Section 28, 335'; Thence East and parallel to the East-West center line of the SW $\frac{1}{4}$ of Section 28 to its intersection with the North-South center line of Section 28; thence North along the North-South center line of Section 28 to the point of beginning excepting therefrom that portion of said tract used as the Right of Way of the Independence Pass Road.

COUNTY OF PITKIN, STATE OF COLORADO