No. 31, Original

IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

STATE OF UTAH, *Plaintiff,*

v.

UNITED STATES OF AMERICA, *Defendant.*

MOTION OF MORTON INTERNATIONAL, INC. TO INTERVENE AS DEFENDANT, AND ANSWER

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MOTION OF MORTON INTERNATIONAL, INC. TO INTERVENE AS DEFENDANT, AND ANSWER

MORTON INTERNATIONAL, INC., a Delaware corporation (hereinafter referred to as "Morton"), by its attorneys, respectfully moves the Court for an order granting it leave to intervene as a defendant in this action in order to assert the defenses set forth in its proposed answer, *infra*, p. 11. The grounds of this motion are set forth below.

I. MORTON HAS AN INTEREST IN THE CONTROVERSY

In this action the State of Utah seeks a judicial determination of its title to certain lands situated below the surveyed meander line of the Great Salt Lake and an adjudication that the United States has no right, title or interest in or to those lands or the minerals therein. The action was instituted pursuant to Article III, Section 2, Clause 2 of the Constitution of the United States and the Act of June 3, 1966, 80 Stat. 192, as amended by Act of August 23, 1966, 80 Stat. 349. On May 15, 1967 the Court granted Utah leave to file its complaint and allowed the United States sixty days thereafter to file its answer. On July 14, 1967 the United States filed its answer.

Utah alleged in its complaint that on January 4, 1896, the date on which the State was admitted to the Union, the

Great Salt Lake was a navigable body of water and that therefore it is the owner of the absolute right to the bed of the Lake as delineated and determined by the official surveyed meander line. Utah has also alleged that it owns all of the minerals contained in the waters and bed of the Lake, and that it believes the United States claims to own approximately 436,000 acres of the bed of the Lake. The latter lands are generally identified on a map prepared by the Bureau of Land Management of the Department of Interior, a copy of which was appended to the complaint as Exhibit A.

In its answer, the United States denied Utah's allegations of ownership of the lands described in Exhibit A, admitted that the United States claims to own those lands, and prayed for an adjudication confirming and establishing that the United States is the owner of all right, title, and interest in those lands. The answer further prayed that the Court declare that the sole right of Utah is "to have these lands conveyed to it by the United States, and to pay for them in accordance with the provisions of the Act of June 3, 1966, as amended." (Answer, p. 3)

As shown on Exhibit A to the complaint, a part of the land claimed by the United States consists of exposed lands (hereinafter referred to as "relicted lands") situated between the present water's edge of the Lake and the surveyed meander line in those areas where the United States owns the land (hereinafter referred to as "uplands") situated above and adjacent to the meander line, and a part consists of relicted lands situated around the Lake where the uplands are owned by private persons. These latter relicted lands are referred to as "PL Reliction under Basart"[1] on Exhibit A.

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[1] "Basart" presumably refers to the theory of the administrative decision in *Madison* v. *Basart,* 59 I.D. 415 (1947). See fn. 3, *infra,* p. 5.

Morton claims title to a portion of the lands which, in this action, are being claimed both by Utah and the United States. To the extent that the latter claims can presently be ascertained, these lands are shown in red on the plat of survey, a copy of which is appended to the answer attached hereto as Exhibit II, *infra,* p. 24. Morton's claim of title is based on the following:

(a) Morton is the owner of tracts of uplands, deriving title from the United States, by virtue of mesne conveyances, through patents granted by the United States under authority of Acts of Congress and through the Enabling Act approved July 16, 1894, 28 Stat. 107. Those tracts are described, and those patents and Acts of Congress set forth, in Exhibit I to the answer, *infra,* p. 17. Those tracts are now, and have been at all times, riparian to the Lake.

(b) Pursuant to federal decisional law, the grants contained in the Government patents conveyed to Morton title to the tracts of relicted lands in front of Morton's uplands, which relicted lands are shown in Exhibit II.

It is Morton's further claim that its title with respect to each tract extends to the thread of the Lake. (The survey projections delineating Morton's ownership to the various threads of the Lake are shown on the plat of survey, Exhibit III of the answer, *infra,* p. 25; the lands from the water's edge to the various threads of the Lake are hereinafter referred to as "water covered lands.") The basis of this claim is that, on the date of Utah's admission to statehood, the Lake was not navigable, and therefore these water covered lands are part of Morton's property under federal decisional law.

The Statute authorizing the filing by Utah of its complaint in this action (Act of June 3, 1966, 80 Stat. 192, as amended by the Act of August 23, 1966, 80 Stat. 349) estab-

lished a method for determining title to the disputed lands. Section 2 of the Act in pertinent part provides:

> "Subject to the other provisions of this Act, the Secretary of the Interior shall by quitclaim deed convey to the State of Utah all right, title, and interest of the United States in lands including brines and minerals in solution in the brines or precipitated or extracted therefrom, lying below the meander line of the Great Salt Lake in such State, as duly surveyed heretofore or in accordance with Section 1 of this Act, whether such lands now are or in the future may become uncovered by the recession of the waters of said lake: Provided, ..."

and Section 4, in turn, provides in pertinent part:

> "As a condition of the conveyance authorized in this Act, and in consideration thereof, the State of Utah shall, (a) upon the express authority of an Act of its legislature, convey to the United States by quitclaim deed all of its rights, title and interest in lands upland from the meander line, which lands the State may claim against the United States by reason of said lands having been, or hereafter becoming, submerged by the waters of Great Salt Lake, and (b) . . . ."

The Act then establishes a procedure for the judicial determination of the title conveyed under the quitclaim deed of the United States. Section 5 in pertinent part provides that Utah:

> ". . . (b) may maintain an action in the Supreme Court of the United States to secure a judicial determination of the right, title and interest of the United States in the lands conveyed to the State of Utah pursuant to Section 2 of this Act. Consent to join the United States as a defendant to such an action is hereby given."

As set forth above, a substantial portion of the lands conveyed to Utah by the United States' quitclaim deed,

pursuant to the Act, is claimed by Morton.[2] In these circumstances, Morton plainly has an interest in the controversy.

II. A DECREE CANNOT BE MADE WITHOUT AFFECTING MORTON'S INTEREST; MORTON IS THEREFORE AN INDISPENSABLE PARTY

Clearly, no decree may be entered in this proceeding unless Morton is joined as a party. As shown above, a substantial portion of the lands, title to which is in dispute in this litigation, is claimed by Utah (on the theory that it owns the bed of the Lake of which these lands allegedly are a part), by the United States (under the common law doctrine of reliction and the Basart doctrine[3]), and by Morton (under the common law doctrine of reliction and by reason of its claim of non-navigability of the Lake). It is obvious, therefore, that the present parties are seeking an adjudication of Morton's interest as well as their own in this suit.

In a long line of decisions the Court has held that an absent person must be joined as a party to a pending equitable action if a decree cannot be entered without affecting his interest; if that party is not joined, the suit must be dismissed. One of the earliest such cases, *Mallow*

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[2] We assume that Utah and the United States exchanged quitclaim deeds in accordance with Sections 2 and 4 of the Act prior to the commencement of this action. But even if they did not do so, the suit nevertheless is one to have title to the disputed lands determined.

[3] The doctrine derives its name from the administrative decision in *Madison* v. *Basart*, 59 I.D. 415 (1947), in which the Department of Interior ruled that, where a substantial accretion had formed between the meander line and the shore line of the Missouri River by the time of the grant of a patent to a lot of public land abutting on a meander line, title to the accreted land did not pass under the patent.

v. *Hinde*, 25 U.S. (12 Wheat.) 193 (1827), involved a dispute over title to land. In that action neither the trustee holding legal title to the land nor the trust beneficiaries having equitable interests, from whom complainants alleged they derived title, were joined as defendants. In affirming a dismissal of the bill of complaint for failure to join these persons as parties the Court stated (25 U.S. at 198):

> "In this case, the complainants have no rights separable from, and independent of, the rights of persons not made parties. The rights of those not before the court lie at the very foundation of the claim of right by the plaintiffs, and a final decision cannot be made between the parties litigant without directly affecting and prejudicing the rights of others not made parties.
>
> "We do not put this case upon the ground of jurisdiction, but upon a much broader ground, which must equally apply to all courts of equity, whatever may be their structure as to jurisdiction. *We put it on the ground that no court can adjudicate directly upon a person's right, without the party being actually or constructively before the court.*" (Emphasis added)

The decision in *Mallow* v. *Hinde* was followed and expanded upon in the landmark case, *Shields* v. *Barrow,* 58 U.S. (17 How.) 130 (1855), involving an action to rescind a compromise and settlement agreement in which the plaintiff failed to join certain parties to the agreement. The Court reversed a decree for the plaintiff for failure to join these "indispensable parties" laying down the following guidelines (58 U.S. at 139):

> "The court [citing *Mallow* v. *Hinde, supra*] here points out three classes of parties to a bill in equity. They are: 1. Formal parties. 2. Persons having an interest in the controversy, and who ought to be made parties, in order that the court may act on that rule which requires it to decide on, and finally determine the entire controversy, and do complete justice, by adjusting all the rights involved in it. These persons are

> commonly termed necessary parties; but if their interests are separable from those of the parties before the court, so that the court can proceed to a decree, and do complete and final justice, without affecting other persons not before the court, the latter are not indispensable parties. 3. *Persons who not only have an interest in the controversy, but an interest of such a nature that a final decree cannot be made without either affecting that interest, or leaving the controversy in such a condition that its final termination may be wholly inconsistent with equity and good conscience.*" (Emphasis added)

Further, in considering the effect of the Act of Congress of February 28, 1839, 5 Stat. 321, relating to jurisdiction between parties, and the 47th Rule for the Equity Practice of the Circuit Courts of the United States made pursuant to that Act, the Court stated (58 U.S. at 141):

> "It remains true, notwithstanding the Act of Congress and the 47th rule, that a circuit court can make no decree affecting the rights of an absent person, and can make no decree between the parties before it, which so far involves or depends upon the rights of an absent person, that complete and final justice cannot be done between the parties to the suit without affecting those rights."[4]

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[4] The question of whether present Rule 19 of the Federal Rules of Civil Procedure has affected the indispensable party doctrine is presently before the Court in *Provident Trademens Bank & Trust Co.* v. *Lumbermens Mutual Casualty Co.*, 365 F.2d 802 (3rd Cir. 1966), cert. granted 386 U.S. 940 (1967). The court of appeals there held that the indispensable party doctrine is not procedural but declares substantive law and accords a substantive right to a person to be joined as a party when his interest may be affected by an action, and that therefore the doctrine was not affected by Rule 19, either before or after its revision in 1966. It is Morton's position that, regardless of the ultimate decision in that case, it is an indispensable party within the meaning of Rule 19 for the reasons stated in this motion.

The rule of *Shields* v. *Barrow* that the failure to join an indispensable party is fatal error and the criteria there established for determining whether an absent party is indispensable have been followed in many decisions of this Court. *E.g., Barney* v. *Baltimore City,* 73 U.S. (6 Wall.) 280 (1868); *Williams* v. *Bankhead,* 86 U.S. (19 Wall.) 563 (1874); *Kendig* v. *Dean,* 97 U.S. 423 (1878); *State of California* v. *Southern Pacific Co.,* 157 U.S. 229 (1895); *State of Minnesota* v. *Northern Securities Co.,* 184 U.S. 199 (1902); *Western Union Telegraph Co.* v. *Pennsylvania,* 368 U.S. 71 (1961).

It is clear that Morton's interest in these lands would, within the meaning of the indispensable party doctrine, be "affected by the decree," even though a decree entered in its absence would not technically be binding on Morton. In *State of California* v. *Southern Pacific Co.,* 157 U.S. 229 (1895), the State brought an original action to settle a title dispute over certain tidelands of the Bay of San Francisco along the Oakland water front. The Court held that the failure to join the City of Oakland and the Oakland Water-Front Company, each claiming to have an interest in the lands, prevented the Court from proceeding to a decree as between the parties, stating (157 U.S. at 257):

> "We have no hesitation in holding that when an original cause is pending in this court to be disposed of here in the first instance, and in the exercise of an exceptional jurisdiction, it does not comport with the gravity and finality which should characterize such an adjudication to proceed in the absence of parties whose rights would be in effect determined, *even though they might not be technically bound in subsequent litigation in some other tribunal.*" (Emphasis added)

Similarly, in the widely-quoted case of *State of Washington* v. *United States,* 87 F.2d 421 (1936), the Ninth

Circuit held a party to be indispensable even though it would not technically have been bound by a decree entered in its absence. There, a lessee was sued for the right to possession of lands and the lessor was not joined. The Court held that the suit would have to be dismissed for want of an indispensable party unless the lessor were joined because a decree entered in its absence would place a cloud on its title.

Applying the equitable principles developed and adhered to by this Court it is clear that Morton is an indispensable party to this action. The basis of Morton's claims (and consequently its rights and interests) with respect to the subject lands is not severable and distinct from that of Utah and the United States, but, in fact, is inextricably bound up in the claims of the two parties. The United States claims title to these lands as against Morton under the Basart doctrine. That claim presupposes the existence of certain facts at the time the patents to such lands were granted which would have, in the Government's view, prevented a conveyance of such lands to be included within the patent grants. Utah claims title to these same lands as of the date of its statehood as successor to the United States' interest in its sovereign capacity. Accordingly, an adjudication of title in favor of either Utah or the United States with respect to the lands claimed by Morton would necessarily affect adversely Morton's interest. In such case, a cloud would be placed on Morton's title with respect to which it would in all probability have no legal remedy.[5] Such a result would be "wholly inconsistent with equity and good conscience." *Shields* v. *Barrow, supra.*

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[5] In disregard of Morton's right of ownership, the State of Utah has seized and taken, without instituting judicial proceedings, Morton's lands lying below the meander line of the Lake (*i.e.*, the relicted and water covered lands). To protect its rights, Morton has

(continued on next page)

For the foregoing reasons the motion of Morton International, Inc. for leave to intervene as a party defendant in this action should be granted.

Respectfully submitted,

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(continued from preceding page)
filed suit against the State and various of its officials and others in the United States District Court for the District of Utah (Civil No. C-127-66) alleging that Utah has taken and deprived it of property without due process of law in violation of the Fourteenth Amendment to the Constitution. Utah filed an answer and counterclaim alleging, among other things, that "the United States owns or claims to own certain interests in the lands and other properties which plaintiff seeks to obtain by its amended complaint, and is therefore an indispensible party [sic] party to this action," and that, since the United States has not been made a party to that action, the complaint should be dismissed.

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ANSWER OF DEFENDANT MORTON INTERNATIONAL, INC.

FIRST DEFENSE

I.

Defendant MORTON INTERNATIONAL, INC. admits the allegations of paragraph I of the Complaint.

II.

This defendant denies the allegation of the first sentence of paragraph II of the Complaint to the effect that plaintiff owns the lands which are the subject of this action. This defendant admits the remaining allegations of paragraph II of the Complaint.

III.

This defendant denies all the allegations in paragraph III of the Complaint to the extent that they may be construed as allegations of fact.

IV.

This defendant is without knowledge or information sufficient to form a belief as to the truth of the first two sen-

tences of paragraph IV of the Complaint. This defendant admits the allegations of the third sentence of paragraph IV of the Complaint. This defendant denies the allegations of the fourth and fifth sentences of paragraph IV of the Complaint. This defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in the sixth and seventh sentences of paragraph IV of the complaint. This defendant denies the allegations contained in the eighth sentence of paragraph IV of the Complaint. This defendant admits the allegations contained in the ninth, tenth, eleventh and twelfth sentences of paragraph IV of the Complaint. This defendant admits that the claim of ownership of the subject lands by the United States of America is adverse to plaintiff State of Utah's claim of ownership, but this defendant denies plaintiff's claim of ownership contained in the thirteenth sentence of paragraph IV of the Complaint. This defendant denies the allegations contained in the fourteenth sentence of paragraph IV of the Complaint, except this defendant admits that the United States has no right, title or interest in or to any of the lands illustrated in Exhibit A of the Complaint or any other part of the lands described in Section 2 of the Act of June 3, 1966, 80 Stat. 192, as amended, as to which this defendant claims ownership as hereinafter set forth in the Second Defense of this Answer.

V.

This defendant denies all the allegations contained in paragraph V of the Complaint to the extent that they may be construed as allegations of fact, except that this defendant admits that plaintiff has issued a number of mineral leases to lessees with respect to the subject lands who are able and anxious to establish a mineral industry around the Great Salt Lake, that the minerals and brines included within the

waters of the Great Salt Lake have a substantial value if the same can be extracted, processed and marketed, that any mineral development thereof requires the use of the exposed lands for purposes of mineral extraction, that the mineral extraction industry cannot proceed until there is certainty of title as to the subject lands, that the claims and actions of the United States have impaired the plaintiff and its lessees from proceeding with the mineral extraction industry, and that the claims and actions of the United States have cast a cloud on the alleged ownership of the plaintiff to the subject lands.

VI.

This defendant denies each and every allegation of the Complaint not specifically admitted, denied or qualified.

SECOND DEFENSE

This defendant realleges as part of this defense each of the admissions, denials and qualifications of paragraphs I through VI of its First Defense and further answering states:

I.

This defendant is the owner of tracts of lands (hereinafter referred to as "uplands") and derives title thereto from the United States by virtue of mesne conveyances through government patents under authority of Acts of Congress and through the Enabling Act, approved July 16, 1894, 28 Stat. 107, which uplands are described and which patents and Acts of Congress are set forth in Exhibit I attached hereto and made a part of this Answer, and are shown in black on the plat of survey attached hereto and made a part of this Answer as Exhibit II. These uplands are now and have been at all times pertinent hereto riparian to the Great Salt Lake.

II.

The grants contained in said government patents, through mesne conveyances, conveyed to this defendant title in fee simple to the tracts of lands shown in crosshatching in Exhibit II, which tracts are hereinafter referred to as "relicted lands". These relicted lands are in front of this defendant's uplands and have been exposed by the recession of the waters of the great Salt Lake. They have been annexed to and have become part of this defendant's uplands by virtue of the grants contained in said government patents and the Acts of Congress under which said patents were issued, so that the boundary between said uplands, as annexed to said relicted lands, and the water covered lands underlying the waters of the Lake is the water's edge of the Lake wherever it might be from time to time.

III.

This defendant's ownership with respect to each tract of land described in Exhibits I and II extends to the thread of the Great Salt Lake, and the survey projections delineating this defendant's ownership to the various threads of the Lake are shown in the plat of survey attached hereto and hereby made a part of this Answer as Exhibit III. These lands from the water's edge to the various threads of the Lake are hereinafter referred to as "water covered lands". On January 4, 1896, the date on which the State of Utah was admitted to statehood, those portions of the Lake set forth in Exhibit III as this defendant's water covered lands were not navigable, nor was the balance of the Lake navigable on such date. These water covered lands have been annexed to and have become a part of this defendant's uplands, as annexed to said relicted lands, by virtue of the grants contained in said government patents and the Acts of Congress under which said patents were issued.

IV.

A substantial portion of the lands described in Section 2 of the Act of June 3, 1966, 80 Stat. 192, as amended, which have been conveyed by the United States to the plaintiff in accordance with the provisions of the Act and which are the subject matter of this action, are lands owned by this defendant as set forth in paragraphs I, II and III of the Second Defense and, to the extent presently ascertainable, are shown in red on Exhibit II. Neither the plaintiff nor the United States has any right, title or interest in or to any of defendant's relicted lands or water covered lands which constitute a part of the lands described in Section 2 of the Act of June 3, 1966, as amended.

WHEREFORE, this defendant prays that a decree be entered by this Court:

(a) Confirming, declaring and establishing that this defendant is the owner of all right, title and interest in all of said relicted and water covered lands described in paragraphs I, 11 and III of the Second Defense which constitute a part of the lands described in Section 2 of the Act of June 3, 1966, as amended, and the minerals located therein;

(b) Confirming, declaring and establishing that the State of Utah and the United States are without any right, title or interest in said relicted and water covered lands and the minerals located therein;

(c) Declaring that any conveyance, pursuant to Section 2 of the Act of June 3, 1966, as amended, made by the United States to the State of Utah with respect to said relicted and water covered lands be null and void;

(d) Granting this defendant such other and further relief as this Court may deem proper and necessary in the premises.

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Of Counsel

September, 1967.

CERTIFICATE OF SERVICE

I, Frank A. Wollaeger, one of the attorneys for Morton International, Inc. and a member of the Bar of this Court, do hereby certify that five (5) copies each of the foregoing Motion and Answer were personally served upon the Solicitor General of the United States of America, Department of Justice, Washington, D. C. 20530, and the Attorney General of Utah, 236 State Capitol Building, Salt Lake City, Utah, by having the same delivered to their respective offices, pursuant to paragraphs 1 and 2 of Rule 33 of the Rules of this Court.

Frank A. Wollaeger
Counsel for Morton International, Inc.

EXHIBIT I

BOX ELDER COUNTY

All of Sec. 1 in T 11 N, R 9 W, SLB&M.

United States Patent No. 60 (Railroad Grant) dated October 25, 1895 pursuant to Act of Congress approved July 1, 1862 as amended by the Act of July 2, 1864 and the Act of July 3, 1866.

Lots 5 and 6 of Sec. 2 in T 11 N, R 9 W, SLB&M and Lots 7 and 8 of Sec. 2.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

All of Sec. 5 in T 11 N, R 8 W, SLB & M.

United States Patent No. 52 (Railroad Grant) dated August 7, 1894 pursuant to Act of Congress approved July 1, 1862 as amended by the Act of July 2, 1864 and the Act of July 3, 1866.

Lots 3, 4, 5, 6, 7, 8 and 9 of Sec. 6, T 11 N, R 8 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Lot 10 of Sec. 6, T 11 N, R 8 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

All of Sec. 9, T 11 N, R 8 W, SLB&M.

United States Patent No. 52 (Railroad Grant) dated August 7, 1894 pursuant to Act of Congress approved July 1, 1862 as amended by the Act of July 2, 1864 and the Act of July 3, 1866.

WEBER COUNTY

Lots 1, 2 and 3 of Sec. 28, T 6 N, R 3 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

EXHIBIT I (continued)

WEBER COUNTY (continued)

Lots 1 and 2, Sec. 29, T 6 N, R 3 W, SLB&M.

United States Patent No. 83 (Railroad Grant) dated January 11, 1899, pursuant to Act of Congress approved July 1, 1862 and July 2, 1864.

Lot 1, Sec. 34, T 6 N, R 3 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Lots 1, 2, 3 and 4, Sec. 12, T 6 N, R 4 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

DAVIS COUNTY

That portion of the SW ¼ of Sec. 5, T 3 N, R 1 W, SLB&M, lying NE of the Shore of Great Salt Lake and NW and SW of the lines described as follows: Beginning at a point N 40° W 1.2 chains from a point, on the S line of said Section, 14 chains W of the SE corner of the SW ¼ of said Section, running thence N 35° 50′ E 0.76 chains, N 40° W 23.53 chains, N 38° W to the W line of said Section commencing again at said point of beginning and running thence S 35° 50′ W to the S line of said Section.

United States Patent No. 38 (Railroad Grant) dated June 17, 1901 pursuant to Act of Congress approved July 1, 1862 and July 2, 1864

A tract of land bounded by line beginning 22.75 chains S of NW corner of Sec. 6, T 3 N, R 1 W, SLB&M, S 84°, E 69.2 Rods, S 74°, E 68 rods, S 59°, E 80 rods, S 76°, E 30 chains, S to Great Salt Lake, NW along shore of said lake to W line of Section N to beginning.

Homestead certificate #4428 dated March 1, 1892 pursuant to Act of Congress approved May 20, 1862. United States Certificate #4199 dated November 17, 1894 pursuant to Act of Congress of April 24, 1820

EXHIBIT I (continued)

DAVIS COUNTY (continued)

Lot 1 of Sec. 8, T 3 N, R 1 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Tract bounded by a line commencing at a point which is N 88° 25′ W 13.25 chains, S 24° E 10.80 chains and S 71° 45′ W 14 chains from the NE corner of the NW ¼ of the SE ¼ of Sec. 9, T 3 N, R 1 W, SLB&M, running thence S 45° 45′ E 2.45 chains, S 42° 45′ E 15 chains, S 37° E 16.25 chains W to shore of Great Salt Lake, NW along the shore of said lake to its intersection with a line running S 71° 45′ W from point of beginning and thence N 71° 45′ E to said point of beginning.

United States Patent No. 18 (Railroad Grant) dated February 24, 1877, pursuant to Act of Congress approved July 1, 1862 as amended by Act of Congress of July 2, 1864.

Tract bounded by a line beginning 29.03 chains W of the NE corner of Sec. 22, T 3 N, R 1 W, SLB&M, running thence S 25.47 chains, NW 12.50 chains to the SW corner of the NW ¼ of the NE ¼ of said section, W to Great Salt Lake, NE along the shore of said lake to its intersection with the N line of said section and thence E to said point of beginning.

Homestead certificate No. 1577, dated November 20, 1882 pursuant to Act of Congress approved May 20, 1862.

Homestead certificate No. 511 dated September 30, 1882 pursuant to Act of Congress approved May 20, 1862.

United States certificate No. 222 dated September 30, 1871 pursuant to Act of Congress of April 24, 1820.

Lot 1, Sec. 34, T 3 N, R 1 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

EXHIBIT I (continued)

DAVIS COUNTY (continued)

All of Lots 1, 2 and 3, Sec. 35, T 3 N, R 1 W, SLB&M.

United States Patent No. 39 (Railroad Grant) dated June 17, 1901, pursuant to Act of Congress approved July 1, 1862 and July 2, 1864.

All of Lot 1, Sec. 1, T 3 N, R 2 W, SLB&M.

United States Patent No. 44 (Railroad Grant) dated January 7, 1902 pursuant to Act of Congress approved July 1, 1862 and July 2, 1864.

Tract bounded by a line commencing at a point 1307.1 ft. W from the NE corner of Lot 1, Sec. 18, T 4 N, R 2 W, SLB&M, running thence South 5° 8′ E 480 ft., S 35° 33′ E 670.2 ft., S 3° 23′ W 911.3 ft., S 45° 26′ E 492.2 ft., S 34° 22′ E 324.2 ft., S 4° E 562 ft., S 54° 40′ E 370 ft., S 423.3 ft., W 450 ft., S 225 ft., S 76° E 515.4 ft., S 38° 5′ E 971.52 ft., S 260.7 ft., S 61° 30′ W 396 ft., S 80° W 241.56 ft., N 46.2 ft. to the S line of said Section, W to Great Salt Lake, N along shore of lake to N line of said Section and thence E to said point of beginning.

Homestead certificate No. 3230 dated October 18, 1886 pursuant to Act of Congress approved May 20, 1862

United States Certificate No. 331 dated November 9, 1891 pursuant to Act of Congress of April 24, 1820

Lots 1, 2 and 3 of Sec. 19, T 4 N, R 2 W, SLB&M.

United States Patent No. 29 (Railroad Grant) dated February 24, 1897 pursuant to Act of Congress approved July 1, 1862 and July 2, 1864.

Tract bounded by a line beginning at the SE corner of the NE ¼ of Sec. 19, T 4 N, R 2 W, SLB&M, running thence W 20 chains, N 20 chains, W 20 chains, N 643.5 ft., E 1650 ft., S 1303.5 ft., E 990 ft., S 1303.5 ft., E 990 ft., and thence S 660 ft. to said point of beginning.

United States Patent No. 29 (Railroad Grant) dated February 24, 1897 pursuant to Act of Congress approved July 1, 1862 and July 2, 1864.

EXHIBIT I (continued)

DAVIS COUNTY (continued)

The SW ¼ and the S ½ of the SE ¼ of Sec. 27, T 4 N, R 2 W, SLB&M.

United States Patent No. 44 (Railroad Grant) dated January 7, 1902 pursuant to Act of Congress approved July 1, 1862 and July 2, 1864.

Lots 1, 2 3 and 4, Sec. 28 T 4 N, R 2 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

All of Sec. 29, T 4 N, R 2 W, SLB&M, lying N and E of Great Salt Lake.

United States Patent No. 29, (Railroad Grant) dated February 24, 1897 pursuant to Act of Congress approved July 1, 1862 and July 2, 1864.

Lots 1 and 2 of Sec. 34, T 4 N, R 2 W, SLB&M.
Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Lots 1 and 2, and the N ½ of the NW¼ of Sec. 35, T 4 N, R 2 W, SLB&M.

United States Patent No. 44 (Railroad Grant) dated January 7, 1902 pursuant to Act of Congress approved July 1, 1862 and July 2, 1864.

SALT LAKE COUNTY

Lots 1, 2, 3 and 4, of Sec. 6, T 1 N, R 2 W, SLB&M.
Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Lots 1, 2, 3 and 4 of Sec. 13, T 1 N, R 3 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Lots 1, 2, 3 and 4, and NE ¼ of SE ¼ of NE ¼ of Sec. 24, T 1 N, R 3 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

EXHIBIT I (continued)

SALT LAKE COUNTY (continued)

Lots 1, 2, 3 and 4 of Sec. 25 and Lot 1 in Sec. 26, T 1 N, R 3 W, SLB&M.

United States certificate No. 719 dated November 9, 1891 pursuant to Act of Congress of April 24, 1820

Lot 1, Sec. 31, T 2 N, R 2 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Commencing at SE corner Sec. 3, T 1 S, R 3 W, SLB&M, N 213 rods, W 685.75 ft., N 29° 30′ E 528 ft. to S line Lot 1, W to Lake Shore line, SW along said line to N line of tract deeded to Western Phosphates, Inc. thence along said line S 49° E 350 ft., thence along 10° curve to right 230 ft., S 24° 40′ E 115 ft., S 56° 45′ E 80 ft., S 30° 45′ E 395 ft., S 49° 33′ E 950 ft., thence along 6° curve to left 751.39 ft., N 85° 21′ E 979.501 ft. N 310 ft. to beginning. Less Utah Copper Ground and State Road.

United States certificate No. 440 dated January 10, 1889 pursuant to Act of Congress of April 24, 1820

TOOELE COUNTY

Lot 1, Sec. 6, T 2 S, R 4 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Lots 1, 2, 3 and 4 and the SE ¼ of NE¼ of Sec. 7, T 2 S, R 4 W, SLB&M.

United States certificate No. 686 dated November 20, 1890 pursuant to Act of Congress of April 24, 1820

Lots 1, 2, 3, 4 and 5, Sec. 4, T 2 S, R 5 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Lot 1, Sec. 9, T 2 S, R 5 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

EXHIBIT I (continued)

TOOELE COUNTY (continued)

Lots 1, 2, 3 and 4, Sec. 10, T 2 S, R 5 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

Lots 2, 3 and 4, Sec. 11, T 2 S, R 5 W, SLB&M.

Act of Congress approved July 16, 1894 (28 Stat. 107) (Enabling Act)

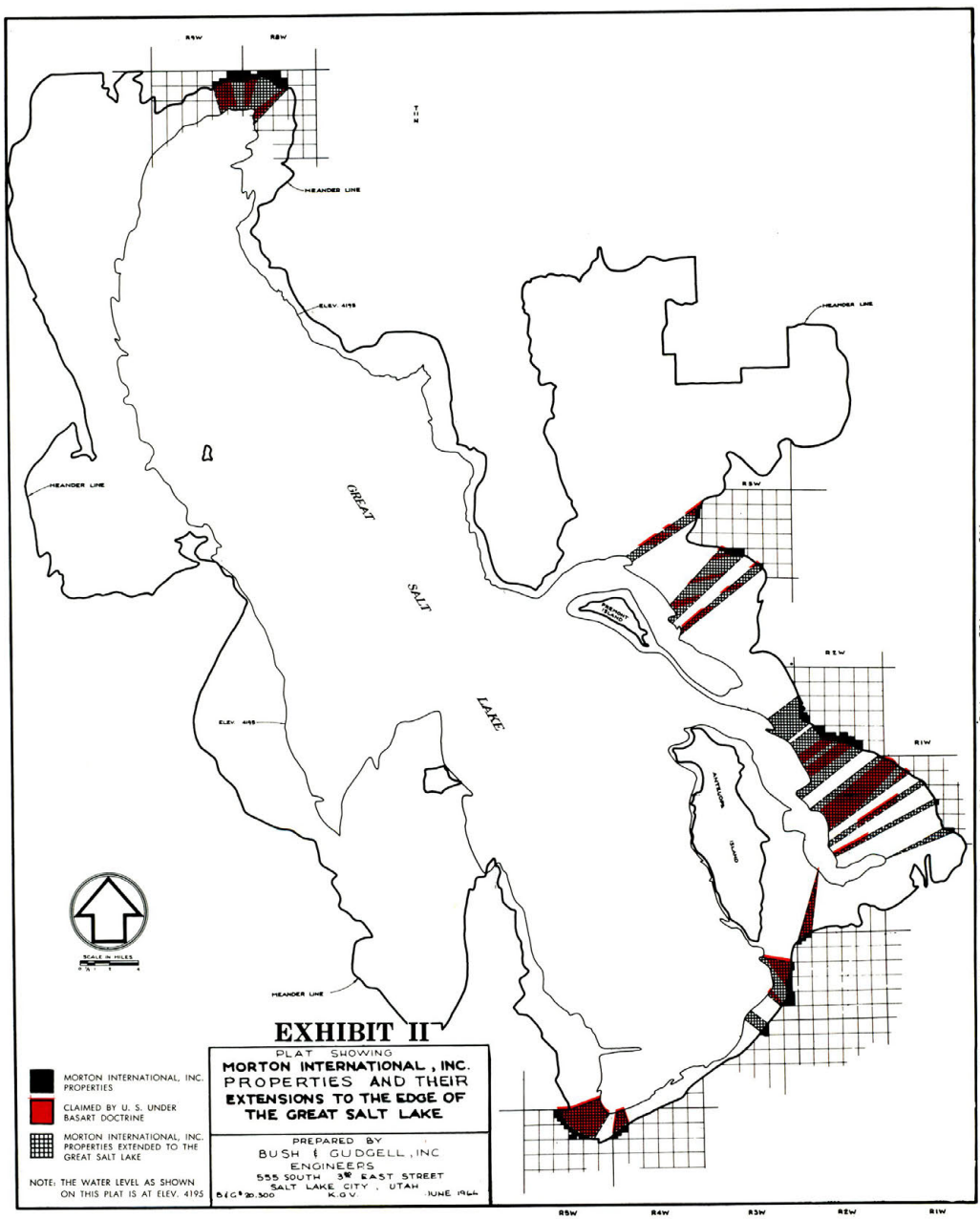


EXHIBIT II

PLAT SHOWING
MORTON INTERNATIONAL, INC. PROPERTIES AND THEIR EXTENSIONS TO THE EDGE OF THE GREAT SALT LAKE

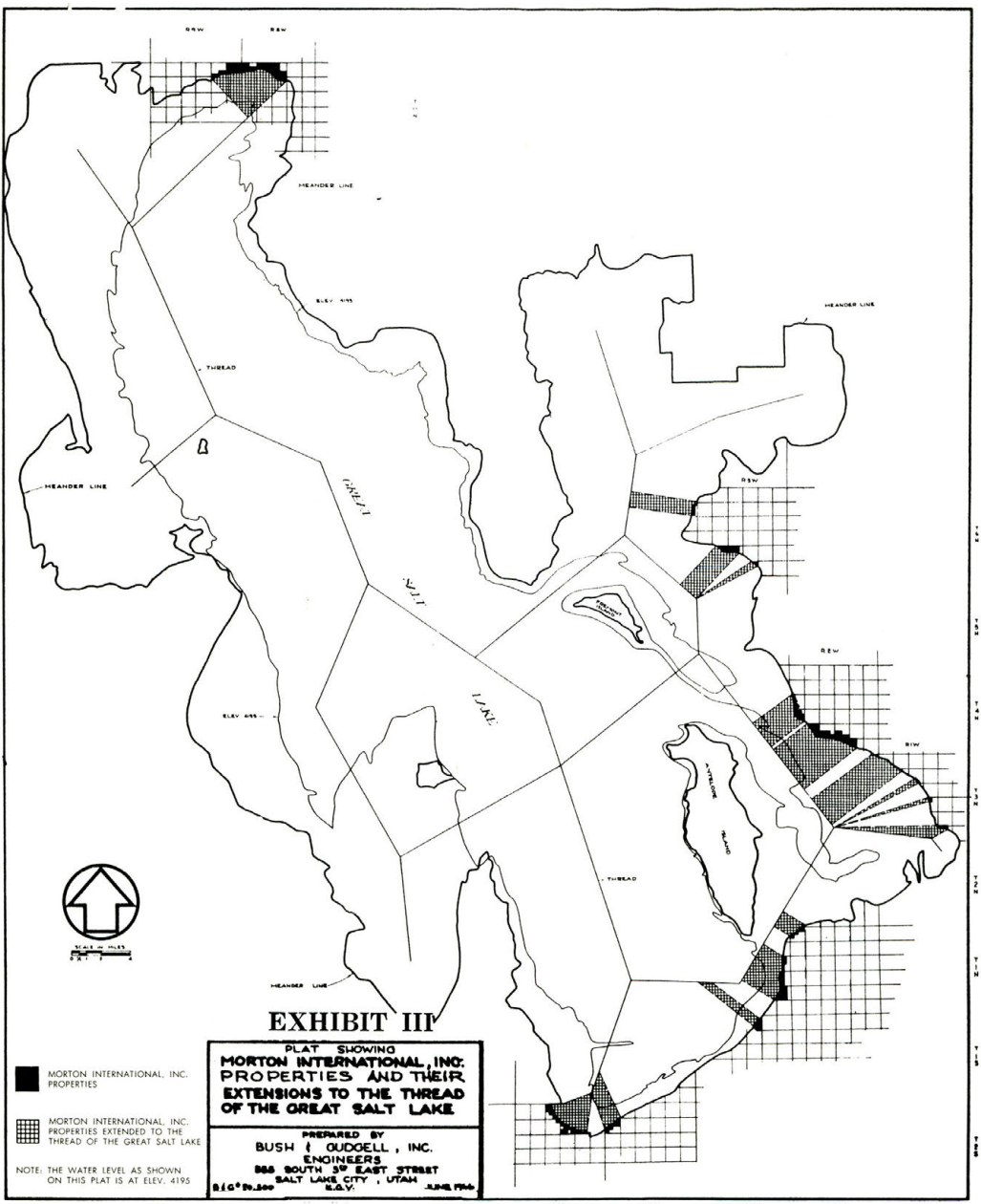
PREPARED BY
BUSH & GUDGELL, INC.
ENGINEERS
555 SOUTH 3RD EAST STREET
SALT LAKE CITY, UTAH
B & G # 20-300 K.G.V. JUNE 1966

MORTON INTERNATIONAL, INC. PROPERTIES

CLAIMED BY U. S. UNDER BASART DOCTRINE

MORTON INTERNATIONAL, INC. PROPERTIES EXTENDED TO THE GREAT SALT LAKE

NOTE: THE WATER LEVEL AS SHOWN ON THIS PLAT IS AT ELEV. 4195


R5W
R4W
R3W
R2W
R1W
MEANDER LINE
ELEV. 4195
THREAD
GREAT SALT LAKE
ANTELOPE ISLAND
SCALE IN MILES
0 1 2 4
EXHIBIT III
PLAT SHOWING
MORTON INTERNATIONAL, INC.
PROPERTIES AND THEIR
EXTENSIONS TO THE THREAD
OF THE GREAT SALT LAKE
PREPARED BY
BUSH & GUDGELL, INC.
ENGINEERS
868 SOUTH 3RD EAST STREET
SALT LAKE CITY, UTAH
B.G.V.
MORTON INTERNATIONAL, INC. PROPERTIES
MORTON INTERNATIONAL, INC. PROPERTIES EXTENDED TO THE THREAD OF THE GREAT SALT LAKE
NOTE: THE WATER LEVEL AS SHOWN ON THIS PLAT IS AT ELEV. 4195