

FAX COVER SHEET
FLYING -A- RANCH, INC.
CEA CORPORATION
ASHTON HI-TECH SEED CO.

Clen Atchley

Phone (208) 652-3560 or 652-7743

Shop Phone 652-3569

Fax (208) 652-7370

To: BLAKE

FAX 525-7177

Date: MAY 20, 2013

You should receive 5 pages, including this cover page.

Notes: Here is the court order allowing
crossing the Baum property.

Thanks!

Clen

Hyrum D. Erickson, ISBN 7688
 RIGBY, ANDRUS & RIGBY, *Chartered*
 Attorneys at Law
 25 North Second East
 P. O. Box 250
 Rexburg, Idaho 83440
 Telephone: 208-356-3633

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
 THE STATE OF IDAHO IN AND FOR THE COUNTY OF FREMONT

CLEN P. ATCHLEY AND EMMA LOU
 ATCHLEY, husband and wife,

Plaintiffs,

v.

RUSSELL O. BAUM FAMILY TRUST,

Defendant.

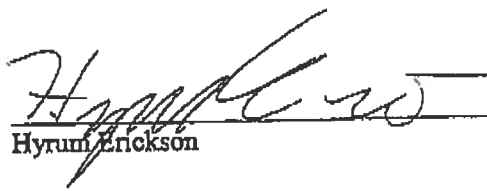
Case No. CV-13-108

STIPULATION

The parties stipulate and agree that Defendant provided Plaintiff notice of its election to have the pump placed on the west border of Defendant's parcel and the irrigation pipe placed along the west edge of Defendant's parcel in accordance with the Court's ruling from the bench on April 23, 2013, and subsequent written Order Granting Plaintiff's Motion for Injunction memorializing said ruling.

DATED this 3rd day of May, 2013.


 Thomas J. Budge


 Hyrum Erickson

Filed in chambers
5/6/13

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO IN AND FOR THE COUNTY OF FREMONT

CLEN P. ATCHLEY AND EMMA LOU
ATCHLEY, husband and wife,

Plaintiffs,

v.

RUSSELL O. BAUM FAMILY TRUST,

Defendant.

Case No. CV-13-108

**ORDER GRANTING PLAINTIFFS'
MOTION FOR INJUNCTION,
DENYING PLAINTIFF'S MOTION FOR
APPOINTMENT OF MASTER, AND
DENYING DEFENDANT'S MOTIONS
TO DISMISS, TO JOIN
INDISPENSABLE PARTY, AND TO
STAY**

On April 23, 2013, the Court heard the following motions pursuant to notice: Plaintiffs' Motion for Injunction, Plaintiffs' Motion for Order of Mediation, Plaintiffs' Motion for Appointment of Master, Defendant's Motion to Dismiss, or in the Alternative, to Join an Indispensable Party, and Plaintiffs' Motion to Stay. Plaintiffs were represented by Jerry Rigby and Hyrum Erickson of Rigby, Andrus & Rigby, Chtd. Defendant was represented Thomas J. Budge of Racine, Olson, Nye, Budge & Bailey, Chartered. The motions having been fully briefed, the Court heard testimony from Clen P. Atchley and Alan Baum and argument from

Order Granting Plaintiff's Motion for Injunction, Denying Plaintiff's Motion for Appointment of Master, and Denying Defendants' Motions to Dismiss, to Join Indispensable Party, and to Stay - Page 1

HEAtchley.ord.wpd

counsel. The Court then recessed for deliberations and after reconvening, RULED AS FOLLOWS:

1. Plaintiffs' Motion for Injunction is granted.

The Court finds that a) Plaintiffs have the right of eminent domain pursuant to I.C. §§ 42-1102 and 42-1106; b) the use to which the property will be applied, namely an easement for purposes of irrigation, is a use authorized by law; and c) Plaintiffs have sought, in good faith, to purchase the easements sought to be taken. As set out in I.C. § 7-721(2) this is a final order as to these issue and an appeal may be taken therefrom, however, no appeal shall stay further proceedings.

Therefore, Plaintiffs are granted possession and use of an easement for purpose of diverting water from the Fall River and conveying the water to Plaintiffs' property. Plaintiffs are authorized to place, near Defendant's currently existing pump, an irrigation pump to divert water from the Fall River. Plaintiffs are authorized to install irrigation pipe to convey the water across Defendant's property to the Plaintiffs' property using, as close as is practical, the same route used historically to irrigate Plaintiffs' property. Where practical, Plaintiffs will bury the pipe.

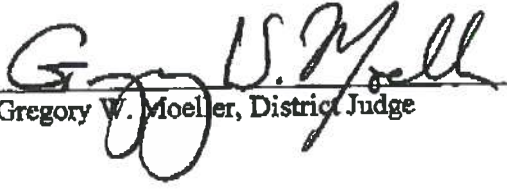
However, Defendant may elect to have the pump placed near the west border of Defendant's parcel and the irrigation pipe placed along the west edge of Defendant's parcel by notifying Plaintiffs of its election prior to Friday, ^{April} ~~May~~ 26 at 5:00 p.m. If Defendant elects for the pipe and pump to be placed on the west edge of its parcel, the Plaintiffs are authorized to place the pump in Plaintiffs' preferred location within approximately 200 feet of the west edge of Defendant's property and any road built to access the pump will be placed entirely on Defendant's property and follow the route shown on Attachment C of the Complaint. GWM

Pursuant to the parties stipulation at the hearing, the Court orders Plaintiffs to deposit with the Court, as just compensation pursuant to I.C. § 7-721(3), and as surety pursuant to I.R.C.P. 65(c), the total amount of \$16,000. After said amount is deposited, the Court will issue an order fixing a date from which the Plaintiffs shall be entitled to take possession of the easement.

Order Granting Plaintiff's Motion for Injunction, Denying Plaintiff's Motion for Appointment of Master, and Denying Defendants' Motions to Dismiss, to Join Indispensable Party, and to Stay - Page 2

HB\atchley.ord.wpd

2. Plaintiffs' Motion for Appointment of Master is denied.
 3. Defendant's Motion to Dismiss, or in the Alternative, to Join and Indispensable Party is denied.
 4. Defendant's Motion to Stay is denied.
 5. The Parties are ordered to mediation pursuant to I.R.C.P. 16(k) and such mediation shall take place on or before June 24, 2013.
- ORDERED this 3rd day of May, 2013.


Gregory W. Moeller, District Judge

CLERK'S CERTIFICATE OF SERVICE

This is to certify that on the 6 day of May, 2013, I served a copy of the foregoing by depositing a true and correct copy thereof in the United States mail, postage prepaid and addressed to:

Jerry Rigby
Hyrum Erickson
Rigby, Andrus & Rigby, Chtd.
P.O. Box 250
Rexburg, Idaho 83440

Thomas J. Budge
Racine Olson Nye Budge
& Bailey Chartered
P. O. Box 1391
Pocatello Idaho 83204

Filed
232-6109


Clerk

Order Granting Plaintiff's Motion for Injunction, Denying Plaintiff's Motion for Appointment of Master, and Denying Defendants' Motions to Dismiss, to Join Indispensable Party, and to Stay - Page 3

HEatchley.ord.wpd