

IN THE DISTRICT COURT IN AND FOR SHERIDAN COUNTY, WYOMING

NANCY J. RAINS,
In her individual capacity,

Plaintiffs,

v.

DAVID J. WITHROW and MARILYN
WITHROW, husband and wife,

Defendants.

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)
)
)
) Civil Action No. CV2006-51
)
)
)
)

**SETTLEMENT AGREEMENT AND STIPULATION FOR
DISMISSAL WITH PREJUDICE**

Plaintiff, Nancy J. Rains ("Rains"), upon the advice of her attorney: Debra J. Wendtland of Wendtland & Wendtland, LLP and Defendants: David J. Withrow and Marilyn Withrow ("Withrows"), upon the advice of their attorney: Tom C. Toner, of Yonkee & Toner, LLP, hereby enter into the following Settlement Agreement and Stipulation for Dismissal With Prejudice:

1. The Rains and Withrows (the "Parties") hereby expressly stipulate and agree to the accuracy of the real property boundary survey as stated on the June 12, 2007 Prestfeldt Survey as verifying the actual legal boundary between their respective properties. A copy of which is attached hereto and by this reference is incorporated herein as Exhibit A.
2. The Parties agree that the survey pins placed or located in the ground as referenced and relied upon in the attached Exhibit A Prestfeldt Survey shall not be tampered with by any party for any reason.
3. The Parties expressly stipulate and agree that, as depicted on the attached Prestfeldt Survey (Exhibit A), the Withrow buck-n-rail fence is currently located east of the true boundary line in some places along the boundary between the parties.
4. The parties agree that at such time as the buck-n-rail fence depicted on the attached Prestfeldt Survey (Exhibit A) is repaired or rebuilt in whole or in part, it shall be placed directly on the accurate property boundary between the Rains and Withrow lands as shown in the Presfeldt Survey (Exhibit A).

580063 AGREEMENT
BOOK 487 PAGE 0374
RECORDED 07/10/2007 AT 10:20 AM
AUDREY KOLTISKA, SHERIDAN COUNTY CLERK

which is the line designated
as "Deed Line (West Line of
E 1/2 SE 1/4 Per Dependent Resurvey of Section 13" on Exhibit A.

5. The Withrow's, for themselves and for their successors, assigns, heirs and/or transferees expressly hereby release, waive and agree never to claim ownership of any of those portions of the Rains' property which currently lie inside the current buck-n-rail fence as depicted on the attached Prestfeldt Survey (Exhibit A) either by a claim of adverse possession or based on any other claim, allegation or assertion of interest or possession.
6. The Parties otherwise hereby mutually release and waive all claims of any nature, known or unknown between them concerning their mutual property boundary or associated issues, such waiver and release to include but not limited to, claims arising under any legal or equitable theory in any way arising from incidents or communications between the parties which occurred prior to the execution of this Agreement and any claims by any Party for attorneys fees or costs. This is expressly intended by the Parties to be a general mutual release and waiver that further releases all claims by and between the parties, their agents, employees and representatives, on any basis for any claim of any kind.
7. Counsel for the parties hereby stipulate to the dismissal with prejudice of all pending claims in this matter and vacation of all trial settings and associated settings and deadlines herein and shall jointly submit a proposed form of order of dismissal in that regard to the Court within ten (10) days of the filing of this pleading.
8. This agreement shall bind the Parties and their respective heirs, successors and assigns. A copy of this agreement shall be recorded in the real property records of the Clerk and Recorder for Sheridan County, Wyoming.

DATED this _____ day of June, 2007.

PLAINTIFF:

Nancy J. Rains
Nancy J. Rains, D.D.S.

6/26/07
Date

DEFENDANTS:

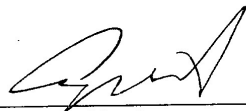
David J. Withrow
David J. Withrow

7/5/07
Date

Marilyn M. Withrow
Marilyn Withrow

7/5/07
Date

Approved as to form:


Debra J. Wendtland
Attorney for Plaintiff

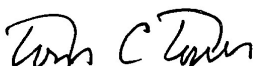
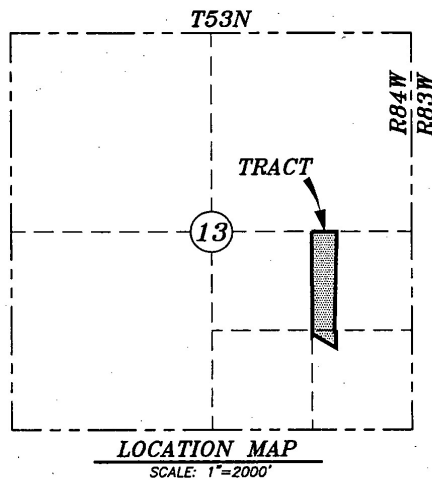
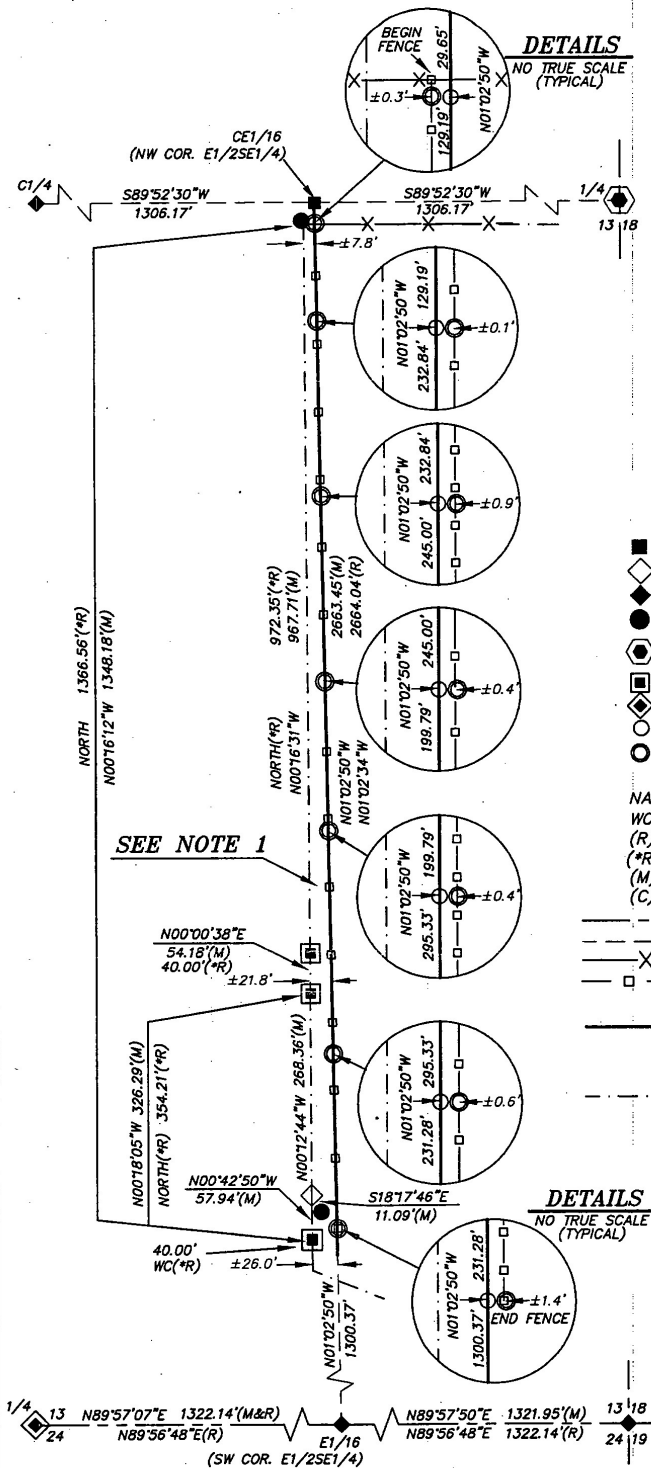

Tom C. Toner
Attorney for Defendants

Exhibit A



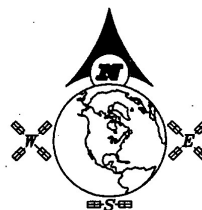
LEGEND

- ◆ FOUND 3-1/4" ALUMINUM CAP PER PLS 2615
- ◆ FOUND 1-1/2" ALUMINUM CAP PER PE&LS 537 (NA)
- ◆ FOUND 3" BRASS CAP PER PLS 2615
- FOUND 1-1/2" ALUMINUM CAP PER PLS 102 (NA)
- ⬢ FOUND 2" IRON PIPE (SET 3-1/4" ALUMINUM CAP PER PLS 2615, PRIOR SURVEY)
- ⬢ FOUND 2" ALUMINUM CAP PER PE&LS 3864 (NA)
- ⬢ FOUND 3-1/2" ALUMINUM CAP PER PE&LS 3864
- CALCULATED: NOTHING FOUND/NOTHING SET
- LINE POINT: (SET NAIL & STAKE ON EAST SIDE OF BUCK AND RAIL FENCE POST)
- NA NOT ACCEPTED
- WC WITNESS CORNER
- (R) RECORD (PER PRIOR SURVEY, MAY 1998)
- (*R) RECORD (PER LOT DIVISION PERMIT NO. LD-05-004)
- (M) MEASURED
- (C) CALCULATED

- SECTION LINE
- INTERIOR SECTION LINE
- FENCE LINE (BARBED WIRE)
- FENCE LINE (BUCK AND RAIL)
- DEED LINE (WEST LINE OF E1/2SE1/4, PER DEPENDENT RESURVEY OF SECTION 13)
- DEED LINE PER COUNTY LOT DIVISION PERMIT NO.: LD-05-004, PER PE&LS 3864 (NA)

NOTES

1. AREA LYING BETWEEN WEST LINE OF THE E1/2SE1/4 SECTION 13 & WEST LINE OF LOT DIVISION PERMIT FROM THE BEGINNING TO THE END OF THE BUCK AND RAIL FENCE IS ± 0.53 ACRES.
2. SEE COUNTY LOT DIVISION PERMIT NO.: LD-05-004 FILED IN DRAWER A, PLAT NO. 350, SHERIDAN COUNTY COURTHOUSE.



SCALE: 1"=200

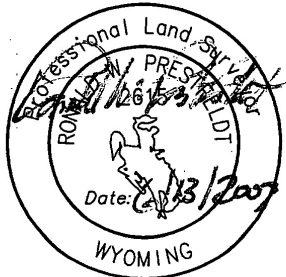
BASIS OF BEARINGS IS

WYOMING COORDINATE SYSTEM NAD 1983, EAST CENTRAL ZONE
DISTANCES ARE SURFACE

SURVEYOR'S CERTIFICATE

STATE OF WYOMING :SS
COUNTY OF SHERIDAN

I, RONALD W. PRESTFELDT, A DULY REGISTERED LAND SURVEYOR IN THE STATE OF WYOMING, DO HEREBY CERTIFY THAT THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION.



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RESTFELDT
SURVEYING

PO BOX 3082
SHERIDAN, WY 82801
307-672-7415
FAX 674-5000

JN: 27074
DN: 2007/20070740
JUNE 12, 2007


RECORD OF SURVEY

CLIENT: GARRY & NANCY RAINS

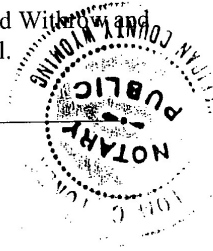
LOCATION: LOCATED IN THE E1/2SE1/4 OF SECTION 13, TOWNSHIP 53 NORTH, RANGE 84 WEST, 6TH PRINCIPAL MERIDIAN, SHERIDAN COUNTY, WYOMING.

State of Wyoming
County of Sheridan

The foregoing instrument was acknowledged before me by David Withrow and
Marilyn Withrow this 5th day of July, 2007. Witness my hand and official seal.


Notary Public

My commission expires: Nov. 26, 2009



STATE OF WYOMING)
) ss.
County of Sheridan)

The foregoing instrument was acknowledged before me this 9th day of July, 2007, by Nancy J. Rains.

WITNESS my hand and official seal.



Leslie R. Mellinger
Notary Public

My Commission expires: 11.10.09