

ORIGINAL

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2000 NOV -3 A 10: 27

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CLERK OF DISTRICT COURT
J.M.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

LAWRENCE GUMENSKI and)
JUDY M. GUMENSKI, husband)
and wife,)

Plaintiffs,)

vs.)

JAMES R. McBRIDE and)
KATHERINE McBRIDE, husband)
and wife,)

Defendants.)
_____)

Case No. CV-97-01746

**DEFENDANTS' MOTION FOR
PRELIMINARY INJUNCTION**

**Category: J.3.b.
Fee: \$9.00**

Defendants James and Katherine McBride, by and through their counsel of record, Patrick E. Miller, hereby move the court for an order enjoining and restraining plaintiffs Lawrence and Judy Gumenski, and their officers, agents, servants, and employees, until further order from the court,


from constructing an access road or driveway south of the existing driveway and within the utility easement corridor.

As grounds for this motion, plaintiffs rely upon the Court's Findings of Fact and Conclusions of Law dated December 6, 1999, in which the court found that the construction of an access road or driveway south of the existing driveway was not reasonably necessary; the Judgment dated August 18, 2000; and the Affidavit of Jim Meckel, P.E., supporting defendants present motion and filed concurrently herewith.

As further grounds for this motion, defendants assert that they have no adequate remedy at law or otherwise for the harm or damage threatened to be done by the plaintiffs proposed construction of an access road or driveway south of the existing driveway and within the utility easement corridor. Defendants will suffer irreparable harm, damage, and injury unless the above-described acts and conduct of the plaintiffs are enjoined as more fully evidenced in the affidavit of Jim Meckel, P.E., filed concurrently herewith.

Defendants request oral argument on this motion.

DATED this 2nd day of November, 2000.

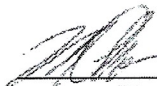
By 
Patrick E. Miller
Attorney for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of November, 2000, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Harold B. Smith, Esq.
Harold B. Smith, Chartered
P. O. Box 2083
715 Lakeside Avenue
Coeur d'Alene, ID 83816

U.S. MAIL
 HAND DELIVERED
 OVERNIGHT MAIL
 TELECOPY (FAX) to: 664-8885



Patrick E. Miller

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