

IN THE DISTRICT COURT OF MORGAN COUNTY, STATE OF UTAH

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Pioneer Pipe Line Company, :  
A corporation Plaintiff :

vs :

JOHN R. GAILEY, JOHN W. ROBINS :  
and CORA B. ROBINS, his wife, :  
H. J. BARNES and EVA L. BARNES :  
his wife, and GOLDEN PORTER, :  
KENNETH PORTER, and RUSSELL :  
PORTER, partners doing business :  
under the firm name and style of :  
PORTER BROTHERS, :  
Defendants :

( FINAL ORDER OF CONDEMNATION )  
Civil No. 668

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This case having come on regularly for trial before the Court acting without a jury during the month of October, 1953, and the case having been re-opened for the taking of further testimony on the 30th day of December, 1953, and the trial having been continued with a jury as to the question of damages on the 13th day of April, 1955, and the Court in accordance with Rule 54 (e) expressly determining that there is not just reason for delay until the remaining portions of the condemnation action are tried as to the other defendants, and the court expressly directing the trial of and entry of Judgment in that portion of this condemnation case involving defendants John R. Gailey, John W. Robins and Cora B. Robins, his wife, H.J. Barnes and Eva L. Barnes, his wife, hereinafter referred to as Gailey, Robins and Barnes, and Golden Porter, Kenneth Porter and Russell Porter, partners doing business under the firm name and style of Porter Brothers, hereinafter referred to as Porters, and the court having heard evidence adduced by both sides and the jury having entered a verdict as to damages, and the Court being fully advised in the premises, and the Court having made its Findings of Fact and Conclusions of Law as to that portion of the case against defendants Gailey, Robins, Barnes and Porters, and plaintiff having paid to the Clerk of the Court for the benefit of said defendants the amounts awarded to said defendants; now therefore, its is

ORDERED, ADJUDGED AND DECREED, that plaintiff is awarded a right-of-way and easement, during construction, over a strip of land 80 feet wide, 40 feet on each side of the center line thereof. The construction has been completed. Plaintiff is hereby awarded a permanent right-of-way and easement over a strip of land 33 feet wide, 16½ feet on each side of the center line thereof. The location, route and termini of said easement and right-of-way is identified by the course of the center line thereof which is particularly described as:

Beginning at a point 329 feet South of the Northeast Corner of Section 35, Township 5 North, Range 1 East, Salt Lake Base and Meridian; thence North 84°44' West 1123 feet; thence North 73°26' West 972 feet; thence North 70°48' West 767 feet; thence North 74°17' West 264 feet; thence North 76°30' West 412 feet; thence North 73°30' West 101 feet; thence North 75°24' West 980 feet; thence North 70°07' West 667 feet; thence North 59°45' West 692 N.71°24' West 227 feet; thence North 85°24' West 81 feet; thence South 78°20' West 210 feet; thence South 04°54' West 1358 feet; thence South 87°06' West 234 feet; thence South 79°55' West 216 feet to the point of exit; said point being 1146 feet North of the Southwest Corner of the Southeast quarter of Section 27, Township 5 North, Range 1 East, Salt Lake Base and Meridian, Morgan County, Utah, said easement containing approximately 15.19 acres.

Such easements and rights-of-way shall give to the plaintiff the right to lay, maintain inspect, operate, protect, repair, replace and remove a pipe line for the transportation of liquids and gases, together with the right of unimpared access to said pipe line and the right of ingress and egress on, over and through said land for any and all purposes necessary and incident to the exercise of the above rights. The owners of the property shall have the right to fully enjoy and use the premises except as the same may be necessary for the above purposes, but may not built, create or construct any obstruction, engineering

works or other structure over said pipe line, nor permit the same to be done by others. The pipe line constructed by the plaintiff across lands under cultivation shall, at the time of construction thereof, be buried to such depth as will not interfere with the cultivation, except that at the option of the plaintiff, it may be placed above the channel of any stream, ravine, ditch or other watercourse.

The boundary lines of said rights of way shall be lengthened or shortened at their extremities to conform to the boundary lines of the parcel of land which is being crossed by said easements and right-of-way.

Dated this 3 day of May, 1955.

Parley E. Norseth  
District Judge

COUNTY OF MORGAN )  
STATE OF UTAH ) ss I. W. Richard Thompson, County Clerk and Ex-Officio Clerk of  
the Second Judicial District Court of the State of Utah, in and for the County of Morgan, do hereby certify that the foregoing is a full, true and correct copy of the original FINAL ORDER OF CONDEMNATION as appears on file AND RECORD in my office in Morgan City. Witness My hand and Seal, this 5 day of May, 1955.

W. Richard Thompson  
Clerk

(Seal)

Filed for Record and Recorded May 10, A.D. 1955, at 9:30 o'clock AM

Margie M. Rogers  
Deputy County Recorder

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Affidavit

No. 27414  
STATE OF UTAH )  
COUNTY OF MORGAN ) : ss.

JOSEPH MIKESELL and HEBER SPACKMAN, being duly sworn each for himself, says:  
That he is a citizen of the United States of America, a resident of Morgan County, State of Utah, that he is over the age of Fifty Years (50), and that he has been a resident of Morgan County, State of Utah, all his life.  
That he was well and personally acquainted with Moses G. Smethurst and his immediate family  
That the members of the family of Moses G. Smethurst were, Minnie Smethurst, his wife; William Smethurst, sometimes known as William S. Smethurst, one and the same person, a son; Octave Smethurst, a son; Dora V. Smethurst, a daughter; and Lovina Smethurst, also known as Lavina Smethurst, but being one and the same person, a daughter. That the above named persons constitute the entire family of Moses G. Smethurst, Deceased.  
William S. Smethurst and William Smethurst, named as Grantor in that certain Warranty Deed to Elmer D. Adams, Grantee, dated October 8, 1937 and recorded October 8, 1937 in Book "N" of Deeds, at Page 210, Morgan County Records, are one and the same person.  
The correct Spelling of the family name is Smethurst.  
This affidavit is made from personal knowledge and from personal acquaintance with Moses G. Smethurst and the immediate members of his family, and not from hearsay. We lived in the same community for many years and were well and truly acquainted with all members and persons living in the community of Porterville, Morgan County, State of Utah, the home of the Smethurst Family.  
IN WITNESS WHEREOF, We have hereunto set our hands this 18th day of May, A.D. 1955.

Joseph Mikesell  
Heber Spackman

Subscribed and sworn to before me this 18th day of May, A.D. 1955.  
My Commission Expires  
March 12, 1957 (Seal)

A. C. Welch  
Notary Public