

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

ALAMAR RANCH, LLC, an Idaho
limited liability company; and YTC,
LLC, an Idaho limited liability
company,

Plaintiffs,

v.

COUNTY OF BOISE, a political
subdivision of the State of Idaho,

Defendant.

Case no. 1:09-cv-004-BLW

**ORDER FOR PAYMENT OF
JUDGMENT**

THIS MATTER CAME BEFORE THE COURT, and the Court entered its Judgment (Dkt. 210) on December 17, 2010. Defendant thereafter filed for Chapter 9 relief in the United States Bankruptcy Court for the District of Idaho as Case No. 11-00481-TLM, and the Bankruptcy Court, Honorable Terry L. Myers, Chief Bankruptcy Judge presiding, determined for reasons therein stated, that Boise County was not insolvent (Memorandum of Decision, Dkt. 157).

Thereafter, the parties to this action participated in a settlement conference before the Honorable Larry M. Boyle, U.S. Magistrate, by Order entered September 8, 2011, (Dkt. 239). The Court and parties having considered the

Memorandum of Decision of the Bankruptcy Court, Dkt. 157 (hereinafter “Bankruptcy Decision”), and settlement having been reached as memorialized in Dkt. 241, the Court enters the following Order:

1. The terms of the settlement set forth in Dkt. 241 is hereby approved.
2. Boise County shall pay the total of \$5,400,000.00 as described in the Stipulation and as set forth herein. Boise County shall make the initial down payment of \$2,250,000.00, to the client trust account of Banducci, Woodard, Schwartzman PLLC, of which at least \$1,200,000.00 shall be paid on or before November 14, 2011 and the remaining balance of the initial payment shall be paid within thirty-five (35) days of the entry of this Order, but no later than December 21, 2011. Interest shall accrue on the remaining balance of \$4,200,000.00¹ from November 14, 2011 at 5.5% APR compounded annually.

3. The County property taxes owing by Eagle Springs LLC, in Boise County (property known as the “Southfork Landing”) for 2008, including all penalties and interest for those taxes, are satisfied and deemed paid in full. This is not a satisfaction of the taxes or assessments owed to other taxing districts.

4. As held by the Bankruptcy Court (Decision, at 32), “. . . county boards of commissioners are enjoined to make sufficient levies to meet appropriations and permitted, when necessary, to meet certain emergency

¹ \$5,400,000 less the first down payment of \$1,200,000; this sum shall be adjusted by the actual down payment received.

expenses not anticipated by the budget.” Boise County is ordered to levy up to the maximum value of two-tenths of one percent (.2%) of the County’s current taxable value even if such levy exceeds the dollar amount of property taxes certified for its annual budget for any one (1) of three (3) tax years preceding the current tax year, whichever is greater, for the past tax year, which amount may exceed the three percent (3%) budget limitation described in Idaho Code § 63-802(1)(a) in order to pay this emergency expense not anticipated by the budget. Article VII, § 15 also authorizes and this Court orders the County to levy up to “ten mills on the dollar, of taxable property, as shown by the last preceding assessment, for the creation of a special fund for the redemption” of warrants outstanding and unpaid to pay the stipulated judgment and meet the terms of the settlement. In the event the Idaho State Tax Commission refuses to approve the warrant redemption fund levy of .2% allowed pursuant to Idaho Code § 63-806(1), the County shall levy under Article VII, § 15, of the Idaho Constitution to pay the settlement amount.

5. As described in Dkt. 165, Motions Pursuant to FRBP 9023 and 7052, filed by Boise County, the parties have stipulated that Boise County cannot pay the full settlement amount of \$5,400,000.00 now. Accordingly, it is hereby ordered that Boise County levy above the 3% budget cap set forth in Idaho Code § 63-802(1)(a) as the County does not have sufficient funds presently available to pay the settlement amount in full. Boise County is ordered to levy to pay the settlement as allowed under Idaho Code § 63-806 to pay warrants outstanding and unpaid.

6. As held by the Bankruptcy Court (infra, Findings of Fact ¶ 8) the judgment debt is an ordinary and necessary expense within the meaning of Idaho Constitution Article VIII, § 3, for which no approval of the County electors is required.

On or before November 14, 2011, Boise County shall exercise its authority to issue warrants for the remaining balance of \$4,200,000.00 and establish a warrant redemption levy at the maximum value of two-tenths of one percent (.2%) of the County's current taxable property value of \$680,956,066.00. Boise County will pay a minimum annual payment of \$811,000.00 to the client trust account of Banducci, Woodard, Schwartzman PLLC, until the entire amount paid by the County has reached \$5,400,000.00, plus accrued interest. Such payments will be made bi-annually on or before February 28 and September 1 of each year beginning in 2013 until the remaining balance plus accrued interest is paid in full with a minimum total annual amount of \$811,000.00. In the event the County warrant redemption levy does not equal the minimum annual payment of \$811,000.00, all money in the county treasury on October 1 for the county current expense (general) fund, county road fund, county bridge fund or any other fund which is no longer needed must be transferred to the warrant redemption fund and used to make the minimum annual payment pursuant to Idaho Code § 63-806(2). In addition, the County shall continue to levy in successive budget years to redeem such outstanding warrants, until the remaining balance and accrued interest is

paid. No pre-payment penalty would be incurred by Boise County if the balance is paid sooner than set forth herein.

IT IS PROVIDED, HOWEVER, that should the Idaho State Tax Commission determine that the levy at .2% violates Idaho law and that the County must levy at .1% per Article VII, § 15, of the Idaho Constitution, as provided in paragraph 5 hereof, and if after the .1% levy there are not sufficient monies on October 1 of each year in the county current expense (general) fund, the county road fund, the county bridge fund or any other fund which are no longer needed to meet the minimum annual payment of \$811,000, then the minimum annual payment shall be modified to consist of the .1% levy plus those monies required to be transferred into the warrant redemption fund as provided in § 63-806(2).

7. The redemption warrants will be issued “in C/O Banducci, Woodard, Schwartzman PLLC, trust account for Alamar Ranch LLC/YTC LLC.”

8. Upon the payment of the \$2,250,000 down payment and the issuance of the warrants for the outstanding amount of \$3,150,000, plus interest compounded annually of 5.5%, the Judgment entered by this Court and Plaintiff’s claimed attorney fees and costs is deemed fully satisfied.

9. The Court reserves jurisdiction to enter any other orders or judgments to effectuate the terms hereof.

10. In the event the Idaho State Tax Commission refuses to approve the County’s levy or levies ordered herein, the County shall seek a declaratory judgment or other legal or equitable remedy against the Idaho State Tax

Commission as may be required to carry out this Order.

IT IS SO ORDERED.



DATED: November 10, 2011

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill

Chief Judge

United States District Court