

Note:

Enclosed is a statement by  
the original owner of lot 2  
regarding the Jackson property -  
lot 3, which formerly belonged  
to Charles Drew.

Jim Hudson

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AUG 14 2008

Department of Water Resources  
Eastern Region

AFFIDAVIT OF MICHAEL L. ZANUTTO

In Re SRBA                     )  
                                          )  
Case No. 39576                 )  
                                          )  
Subcase No. 75-10705         )  
\_\_\_\_\_                          )

State of Idaho                 )  
                                          ) ss  
County of Lemhi                )

My name is Michael L. Zanutto. My current address is 78 South Cherokee Road, Salmon, Idaho. I purchased Lot 2, in Ajax Peak Subdivision, Lemhi County, Idaho, in 1980, being the second purchaser of property within the subdivision. Lot 2 lies directly to the east of Lot 3 and shares a common boundary running north and south. At the time of purchase, there was no road access to Lot 2. The developer, Maurice Foland, created a 50-foot wide easement for a road along the northern boundary of Lot 3 to access my property. The ground on much of Lot 3 was wet and boggy, even outside of the irrigation season. Prior to the construction of the access road to Lot 2, a vehicle could not be driven across Lot 3 to access my property. In 1981, I hired Mike Tupper Construction, of Salmon, Idaho, to construct an access road from the subdivision's main road to the area of my planned house site. Mr. Tupper inspected the proposed path of the road and informed me that a drain system would have to be installed for the entire length of the road across Lot 3 to drain the area where the road was to go. This significantly increased the cost of construction. At one point during construction, Mr. Tupper's dozer got stuck working in the saturated ground. Even after the road was constructed, several inches of water still accumulated on a low spot in the road approximately 100 feet east of the main subdivision road and remained during the entire irrigating season.

I began construction of a barn and house on the property shortly after the road was constructed. I lived on the property while building my house and traveled in and out almost daily. I owned the property until 1992. During the time that I owned and lived on Lot 2, I never observed any water being diverted out of the ditch that lies just north of Lot 3, on the McFarland ranch, and which

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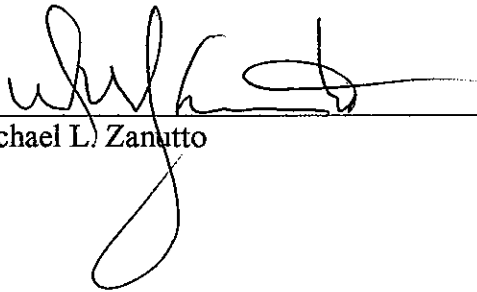
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runs parallel to the northern boundary of Lot 3. When I had the access road to Lot 2 constructed, no provision was made or requested to allow any water from the above ditch to be conveyed to any part of Lot 3 by means of a culvert or other method beneath the road bed. Likewise, no irrigation water was ever put across the road surface to irrigate any part of Lot 3. Charles Drew, the first purchaser of Lot 3, never requested or contacted me regarding the conveyance of any water from the ditch, either under or over the road, to Lot 3, for irrigation or any other purpose. Mr. Drew, in fact, installed his own drain system on the south side of the access road to redirect some of the abundant sub water to other parts of his property.

I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Date:

8-11-08

  
Michael L. Zanutto

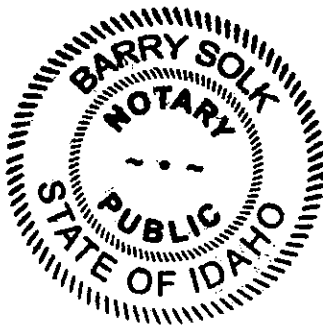
State of Idaho )

) ss

County of Lemhi )

On this 11<sup>TH</sup> day of August, 2008, before me, a Notary Public in and for said County and State, personally appeared Michael L. Zanutto, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.



  
NOTARY PUBLIC FOR IDAHO

Residing at:

SALMON, Idaho

My Commission Expires:

3/9/13