

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

SEP 10 2008

By _____ Clerk

Deputy Clerk

3. Your affiant's grandfather and grandmother, namely, Earl L. Cusic, and Doris I. Cusic, husband and wife, acquired the Whitted Property on or about July 17, 1951, pursuant to a quitclaim deed executed by George F. Sanders and Ada L. Sanders, husband and wife, as grantors, in favor of Earl L. Cusic and Doris I. Cusic, husband and wife, as grantees, which quitclaim deed was recorded with the Canyon County Recorder's office on February 4, 1952, as instrument no. 385366 (the "Cusic Quitclaim Deed").

4. The Cusics were the fee simple owners of the Whitted Property continuously from July 17, 1951, through January 4, 1990, when it was conveyed to Craig Whitted and your affiant, but Mr. Cusic passed away in 1986, and his interest was transferred to Ms. Cusic.

5. My spouse, Craig Whitted, and your affiant acquired the Whitted Property on or about January 4, 1990, pursuant to a certain warranty deed executed by Doris Irene Cusic, as grantor, in favor of Craig Whitted and your affiant, which warranty deed was recorded with the Canyon County Recorder's office on June 30, 1990, as instrument no. 9001773 (the "Whitted Warranty Deed").

6. That Craig Whitted and your affiant have been the owners of the Whitted Property continuously since they acquired it on January 4, 1990.

7. That your affiant resided on the Whitted Property since 1979 except for part of 1983, 1984 and 1985, and then commencing in May of 1985, your affiant resided on the Whitted Property continuously to the present date. During such period of time, your affiant raised livestock and raised crops on the Whitted Property.

8. The subject well was drilled in the 1960s.

9. When your affiant was younger, I recall my grandparents, Earl and Doris Cusic, drawing water from the subject well in the 1970s, 1980s, to water their animals. In addition, my husband, Craig Whitted, and I have watered our animals from the well during the time we have resided on the Whitted Property.

10. The Peaveys utilized the well on a permissive basis from the 1960s clear up and through 1999, when they sold the Smith Property.

11. After my husband, Craig Whitted, and I purchased the Whitted Property, the Peaveys, the operators of the feedlot and owners of Canyon Cattle Co., Inc., approached us about purchasing the well. Craig and I decided to continue with what had been done in the past and give Canyon Cattle Co., Inc. permission to use the well on a non-exclusive basis instead of selling it to Canyon Cattle Co., Inc.

12. Craig Whitted, Doris Cusic, and your affiant were all present when this permission was given to Canyon Cattle Co., Inc. about using the subject well.

13. At no time was use of the subject well by an owner or occupant of the Smith Property adverse or under claim of right. Rather, all such use was on a permissive basis granted by the owner(s) of the Whitted Property.

14. That at no time did any owner or occupant of the Smith Property pay any property taxes relating to the Whitted Property or the subject well on the Whitted Property.

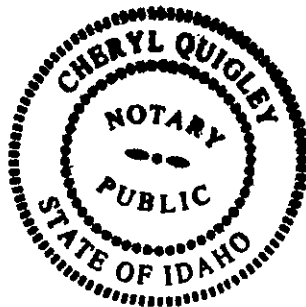
15. That at no time did any owner or occupant of the Smith Property own any right, title or interest in and to the Whitted Property or the subject well.

FURTHER YOUR AFFIANT SAITH NOT.

DATED this 8 day of September, 2008.

Sheilla Whitted
SHEILLA WHITTED

SUBSCRIBED AND SWORN to before me this 8 day of September,
2008.



Cheryl Quigley
Notary Public for Idaho
Residing at Kuna, Id.
Commission expires: 5-18-13

Checked ID. Dr. Lic.
NP3006390 exp 12-28-10

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 9th day of September, 2008, a true and correct copy of the foregoing document was served as follows:

John M. Marshall J. Will Varin GIVENS PURSLEY LLP PO Box 2720 Boise, ID 83701-2720	☐ First Class Mail ☒ Hand Delivery ☐ Facsimile ☐ Overnight Delivery
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Kimbell D. Gourley