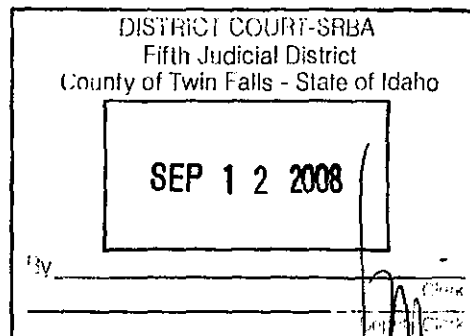


John M. Marshall, ISB # 5678
 J. Will Varin, ISB # 6981
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 601 W. Bannock Street
 P.O. Box 2720
 Boise, Idaho 83701-2720
 Telephone: 208-388-1200
 Facsimile: 208-388-1300



Attorneys for Sarah Jane Smith

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re: SRBA

Subcase No.: 63-7539

Case No. 39576

AFFIDAVIT OF J. WILL VARIN

STATE OF IDAHO)
) ss,
 County of Ada)

J. WILL VARIN, being first duly sworn, deposes and says:

1. I am over 18 years old and otherwise competent to testify in this matter and make this affidavit based upon my own personal knowledge.
2. I am one of the attorneys of record for Claimant Sarah Jane Smith in this matter and am personally familiar with the facts of this matter and the documents that have been produced in discovery in this matter and make this affidavit based upon my own personal knowledge.
3. Attached hereto as Exhibit A is a true and correct copy of Objector Craig Whitted's written responses to Sarah Jane Smith's First Discovery Request.

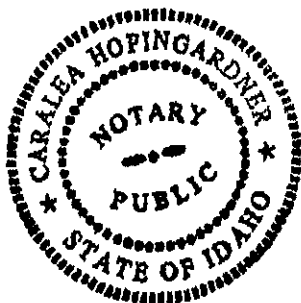
FURTHER, YOUR AFFIANT SAYETH NAUGHT.

AFFIDAVIT OF J. WILL VARIN - 1

Dated this 12th day of September, 2008

J. Will Varin
J. Will Varin

SUBSCRIBED AND SWORN before me this 12th day of September, 2008.



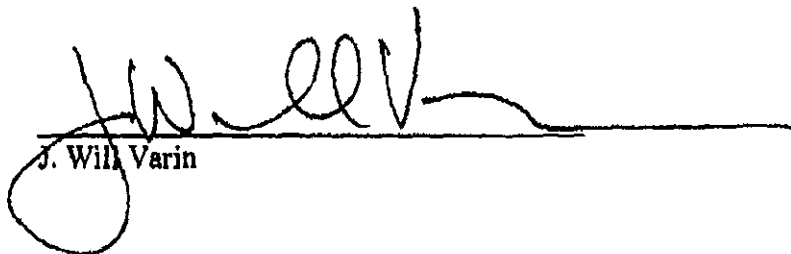
Caralea Hopingardner
Notary Public
Residing at: Boise, ID
My Commission Expires: 5/8/2010

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of September, 2008, I caused to be served a true and correct copy of the foregoing document by the method indicated below and addressed to the following:

Kimball D. Gourley
Trout Jones Gledhill Furhman, P.A.
225 N. 9th Street, Suite 820
PO Box 1097
Boise, ID 83701-1097

☐ U.S. Mail
☐ By hand
☐ Overnight
☒ Facsimile


J. Will Varin

WHITTED Well

My knowledge of where the well is located.

My surveys.

Other recorded surveys.

The adjudication applications.

The owner did not use the water for more than 12 years 7 months. Water right is forfeit.
after 5 years of no use, 92.07.17 05.02.19 05.03.02

The trespass of the person who had the well drilled,

He had full knowledge of the trespass and told not to drill the well before drilling was started.

Supreme court case Rabido et al v Furey IDAHO 1920 page 4 line 17

And any other laws or court cases that says water rights cannot be developed in trespass.

My witnesses will testify in person on the trespass of the person who drilled the well,
other than the Dept. of Water Resources. ,

