

463174

Instrument # 463174

IDAHO COUNTY, IDAHO,

9-11-2008

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Recorded for : DENNIS ALBERS

ROSE E. GEHRING

Fee: 18.00

Ex-Officio Recorder Deputy

ROAD RIGHT OF WAY EASEMENT

THIS EASEMENT, made and entered into on this 5<sup>th</sup> day of September, 2008, by and between KATHY J. NICKENS, Trustee of the NICKENS FAMILY TRUST, of 3913 W. Hood Court, Kennewick, WA 99336, hereinafter referred to as the Grantor, and RUSSELL J. VESSEY, a single man, of Rt. 1 Box 7K, Battle Ridge Rd., Kooskia, ID 83539, hereinafter referred to as the Grantee.

*WITNESSETH:*

WHEREAS, the Grantor is the owner of a certain parcel of real property located in Idaho County, State of Idaho, more particularly described as follows:

SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 25, Township 32 North, Range 4 East, B.M., Idaho County, State of Idaho; and,

WHEREAS, the Grantee is now the owner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 25, Township 32 North, Range 4 East, B.M.; and,

WHEREAS, through the NW corner of the Grantor's property there is an existing logging road which connects the Grantee's property to a public road in the Elk Meadows Subdivision, which road lies between Lot 7, Block B, and Lot 7, Block D of said subdivision; and,

WHEREAS, an approximate location of the road through the NE corner of the Grantor's property is shown in Exhibit A, attached hereto and hereby incorporated by this reference, as it connects to the Battle Ridge Road in the Elk Meadows Subdivision and to the Vessey property to the North; and,

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WHEREAS, the Grantee now desires and needs to obtain a road easement through the Grantor's property as shown by the dotted black line on Exhibit A through the existing road to a width of 50 feet to connect to the Battle Ridge Road as is described herein; and,

WHEREAS, the parties now desire to reduce their respective agreements to writing.

NOW, THEREFORE, IT IS HEREBY MUTUALLY COVENANTED, PROMISED, AND AGREED AS FOLLOWS:

I.

That the Grantor, docs by these presents, hereby grant unto the Grantee, his successors and assigns, a permanent easement for road and right of way purposes 60 feet in width on and across the NE corner of the Grantor's property above-described in the place where that road is now located and is generally depicted on Exhibit A by a broken black dotted line.

The right of way hereby conveyed is for the purpose of providing the Grantee, his heirs and assigns, vehicular access to the Grantee's property from the Battle Ridge Road Northwesterly through the Grantor's property and entering the South boundary of the Grantee's property. The Grantee shall have the right to enter upon said easement to grade, fill, level, build, or rebuild the road over and across the ground granted by the right of way.

II

Costs of road development shall be exclusively with the Grantee, and the Grantor shall not have to contribute in any way now or in the future to the road costs.

III

This agreement shall be binding upon the heirs and assigns of both parties hereto. This right of way shall, however, not be exclusive to the Grantee and consequently, the

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Grantor, its successors and assigns, shall be permitted to use said easement and right of way in common with the Grantee and his successors.

Each party agrees that the easement herein granted shall be permanent in nature and run with the land.

IV

In the event a disagreement would occur concerning the construction of this agreement in any fashion the parties agree to submit any such future dispute that cannot be settled by the parties to arbitration, by one arbitrator picked by the sitting District Judge in and for Idaho County, Idaho, who shall hear the respective parties evidence and enter an award to solve the parties' disputes. The rules of the Idaho Arbitration Act shall be applicable where not in conflict herewith and any arbitrator picked by the sitting District Judge shall have the ability under Idaho State law to award attorney fees to the prevailing party from the nonprevailing party in such dispute. The parties agree that any award of the arbitrator in such circumstance shall be binding and nonappealable.

V

It is understood that a duplicate copy of this agreement shall be recorded in the Idaho County Recorder's Office so that the respective properties herein mentioned will be subject to and benefitted by the granted easement, now and in the future.

VI

All work on the easement done by the Grantee, or his successors and assigns, shall be in a good and workmanlike manner and any work attempted shall always result in a safe and travelable road surface with appropriate base rock and gravel as from time to time are required by the circumstances.

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VII

The Grantee shall hold the Grantor harmless on account of any work done on the easement area, in all respects, concerning any claims that might be made against the Grantor's property by persons traveling across the easement area.

ADDITIONAL PROVISIONS:

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

NICKENS FAMLY TRUST

By

*Kathy J. Nickens, Trustee*  
KATHY J. NICKENS, Trustee

*Russell J. Vessey*  
RUSSELL J. VESSEY

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