

June 9, 2009

Special Master
Theodore R. Booth
District Court-SRBA
Twin Falls County, Idaho

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED
2009 JUN 15 AM 10 41

Re: Sub case numbers 47-04082 and 47-14988 of case number 39576

Dear Sir:

Wilson Creek (the source of the water in question) runs through our property in Melon Valley. We, along with many others, receive irrigation and stock water from this creek. The legal description is: Township 9 South, Range 14 East of the Boise Meridian, Twin Falls County, Idaho, Section 22: That portion of the Northwest Quarter of the Southeast Quarter of the Southwest Quarter, lying Southeast of the center of Mud Creek.

Since Wilson Creek and Mud Creek both flow year round, whether TFCC has water in their canals or not, we object to the use of the term "waste water." Other terms that might be more truthful include: creek water, unused water, unappropriated water, available water, or some other term.

According to information provided by attorneys representing TFCC, "In the early 1900's TFCC began installing drains, tiles and waste ways to gather this waste water." It is interesting to note that the water was not being "gathered" to be used for irrigation. It was being drained because it was not considered useful. Their current position that they "may even recapture and re-use the waste water" lends credence to the rumor that after they establish a "right" to this water they will be able to dry up the creeks by pumping "their water" wherever they want.

TFCC seems to infer that their involvement in "installing drains, tiles and waste ways" gives them a right to the water. If the water is theirs, they should also be responsible for maintaining the tiles and drains. At a prior public meeting a TFCC spokesperson stated that maintenance was the responsibility of the land owner. TFCC should not be able to have it both ways. Another thought along the same line—if the water in the various creeks belongs to TFCC, wouldn't they be responsible for any erosion or other damage along the banks?

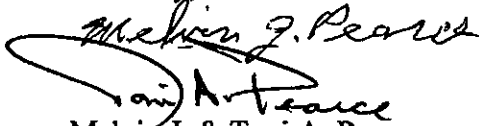
TFCC's assertion that water which "seeps through the ground" is still theirs, if upheld, will ultimately allow them to lay claim to the aquifer under any area they convey water for irrigation. They also could possibly expect payment for "recharging" the aquifer by the natural seepage throughout the canal system. Springs come from the aquifer. TFCC also purports this water is "waste water" and consequently theirs.

Please consider the following scenario. Snake River water flow is reduced to a trickle at Milner Dam where water is diverted into the various canal systems. If all of the water

that enters the Snake River after that diversion is considered "waste water" (which it would be according to TFCC's position) the canal companies could, "recapture and re-use" water from the Snake River anywhere West of Milner Dam. Such a claim should be obviously untenable and should be rejected.

We respectfully request their objection to Water Rights 47-04082 and 47-14988 be dismissed.

Sincerely,

A handwritten signature in black ink, appearing to read "Melvin J. Pearce". The signature is written in a cursive style with a large, sweeping initial 'M'.

Melvin J. & Toni A. Pearce
1235A E 4325 N
Buhl, Idaho 83316