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RECEIVED

MAR 1 2010

Department of Water Resources

Attorneys for Vincent and Malinda Tracy

**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	)	Subcases:
	)	74-179C (Stokes)
	)	74-179D (Eagle Valley Ranch)
	)	74-180B:
	)	74-15890 (Stokes)
	)	74-15891 (Eagle Valley Ranch)
	)	74-4006 (Stokes)
Case No. 39576	)	74-15520 (Stokes)
	)	74-15521 (Eagle Valley Ranch)
	)	
	)	OBJECTION TO IDWR
	)	RECOMMENDATIONS BY
	)	VINCENT AND MALINDA TRACY

COMES NOW Malinda and Vincent Tracy by and thru their attorney of record, Milton A. Slavin, Esq. and objects to the Amended Director's Report dated January 29, 2010, as follows:

1. Vincent Tracy and Malinda Tracy, husband and wife purchased Lot 5 of Barracks Lane Subdivision on November 30, 2004, which made no specific mention of any lack or withdrawal of water rights appurtenant thereto. (See Attached Deed - Exhibit A)
2. Vincent Tracy and Malinda Tracy, understood that they had water rights for at least the 2.3 acres located on their Lot 5 - Barracks Lane Subdivision, and on July 1, 2008, they recieved

OBJECTION TO IDWR RECOMMENDATIONS
BY VINCE AND MALINDA TRACY - Page 1

computer generated printouts from the local Salmon Office for the Department of Water Resources showing the decreed water rights 74-15872 (split from 74-180B), 74-15870 (split from 74-179C) and 74-15868 (Split from 74-4006) (See attached IDWR water reports - Exhibit B)

3. A watermaster for Bohannon Creek for more than ten years, John B. Tracy, would testify that the 2.3 acres in question had been irrigated prior to the time it became subdivided and subsequent thereto. (See Attached Memo by John D Tracy- Exhibit C);

4. Vincent Tracy and Malinda Tracy purchased their Lot 5 of the Barracks Lane Subdivision which contained approximately 2.3 acres of irrigated land and received confirmation in July of 2008 of the decreed water rights referred to hereinabove from the Idaho Department of Water Resources and continued to irrigate the 2.3 acres in question until such time as the Supplemental Director's Report was filed in October of 2008 when they stopped under protest but at the insistence of B. Stokes. Tracys have therefor objected to and continue to object to the Amended Director's Report dated January 29, 2010.

DATED this first day of March, 2010.

Respectfully submitted,

SLAVIN LAW OFFICE, CHTD.

By:


MILTON A. SLAVIN

Attorney for

Vincent & Malinda Tracy

CERTIFICATE OF MAILING

I certify that a true and correct copy of the OBJECTION TO IDWR RECOMMENDATIONS BY VINCE AND MALINDA TRACY was mailed on March 1, 2010, with sufficient first-class postage to the following:

WATER DISTRICT 74-C
C/O BOYD STOKES
646 LEMHI RD
SALMON, ID 83467
Phone: 208-756-3923

MELVIN DOMKO
752 LEMHI RD
SALMON, ID 83467-5146
Phone: 208-756-6968

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098 (Fax: 208-287-6700)

BETTY W. STOKES
EARL DEAN STOKES
19 BARRACKS LN
SALMON, ID 83467

DANIEL & DEIDRE HYDE
25 W. FOOTHILL RD
SALMON, ID 83467

MALINDA VINCENT TRACY
VINCENT & MALINDA TRACY
VINCENT & MELINDA TRACY
3 PRAIRIE RD
SALMON, ID 83467

SIDNEY & MARLENE COOK
31 W. FOOTHILL RD
SALMON, ID 83467

EAGLE VALLEY RANCH LLC
446 BOHANNON CREEK RD
SALMON, ID 83467

EAGLE VALLEY RANCH LLC
6 STEWART RD
SHORT HILLS, NJ 07078
Phone: 973-376-5036

SHARED\DOCS\TRACY\IDWR2.OBJECTION\1909-09

OBJECTION TO IDWR RECOMMENDATIONS
BY VINCE AND MALINDA TRACY - Page 3

WARRANTY DEED

For Value Received STEVE COLLINS AND MISTY COLLINS

the grantor s, do hereby grant, bargain, sell and convey unto

VINCENT TRACY AND MELINDA TRACY, husband and wife,
 123 Holly Creek Rd, Lendore ID 83464
 the grantees s, the following described premises, in Lemhi County Idaho, to wit:

Lot 5 of Barracks Lane Subdivision, according to the official plat thereof, filed for record in Book 6 of Plats at Page 6 official records of Lemhi County, Idaho, and amended in Book 6 of Plats at Page 6A and further amended in Book 6 of Plats at Page No. 14, records of Lemhi County, ID

The above conveyance is made free and clear of all other encumbrances except; Rights of way and easements, reservation in Federal patents and state deeds, or other restrictions imposed by law, building and use restrictions of records, building and zoning regulations and ordinances of any governmental unit whether of sight or of record.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever, And the said Grantor sdo hereby covenant to and with the said Grantees, that they the owners in fee simple of said premises; that they are free from all Incumbrances

and that the Y with warrant and defend the same from all lawful claims whatsoever.

Dated: November 20, 2004

[Signature]
 STEVE COLLINS

[Signature]
 MISTY COLLINS

STATE OF IDAHO, COUNTY OF Lemhi--ss
 On this 20th day of NOV, 2004
 before me, a notary public in and for said State, personally appeared
 STEVE COLLINS AND
 MISTY COLLINS

known to me to be the persons whose names s are
 subscribed to the within instrument, and acknowledged
 to me that they executed the same.



[Signature]
 Notary Public
 Salmon, Idaho

Comm. Expires 2/19/2009

STATE OF IDAHO, COUNTY OF Lemhi
 I hereby certify that this instrument was filed for record at the request of Lemhi Title

at 50 minutes past 2 o'clock P.M.,
 this 20th day of December
2004, in my office, and duly recorded in Book
 of Deeds at page

[Signature]
 Notary Public

By _____ Deputy.

Fees \$300

Mail to:

INSTRUMENT NO. 261143

LEMHI TITLE & ABSTRACT -- SALMON, IDAHO

EXHIBIT "A"
 Tracy Objection

Page 1

07/01/2008

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 74-15872

WATER RIGHT NUMBER: 74-15872

Owner TypeName and Address

Current Owner

MALINDA TRACY VINCENT
3 PRARIE RD.
SALMON, ID 83467
(208)766-8653

Priority Date: 03/09/1912

Basis: Decreed

Status: Active

SourceTributary

BOHANNON CREEK

LEMHI RIVER

Beneficial UseFrom ToDiversion RateAnnual Volume

IRRIGATION

03/15 to 11/15

0.050 CFS

Total Diversion:

0.050 CFS

Location of Point(s) of Diversion

BOHANNON CREEK

SE1/4NE1/4

Sec. 28, Twp 21N, Rge 23E, B.M.

LEMHI County

Place of Use

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
21N 23E 29			2.1					.2									2.3

Total Acres: 2.3

Conditions of Approval:

1. E56 Use of this right with right no. 74-15870 and 74-15868 is limited to the irrigation of a combined total of 2.3 acres in a single irrigation season.
2. E64 This right authorizes the irrigation of 2.3 total acres.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:EXHIBIT "B"
Tracy Objection

Page 2

07/01/2008

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 74-15872

Comments:

1. narave 7/1/2008 change of ownership
Comment: split from water right 74-1808
2. narave 7/1/2008 10:46:40 AM
Comment: Updated Shape
3. narave 7/1/2008 10:48:01 AM
Comment: Updated Shape

Dates and Other Information:

Licensed Date:
Decreed Date: 7/9/2007
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre: 0.02
Generic Max Volume Per Acre: 3.5
Decree Defendant:
Decree Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
		2.3

Combined Water Rights: 74-15868 , 74-15870 , 74-15872

Water Supply Bank:

Page 1

07/01/2008

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 74-15870

WATER RIGHT NUMBER: 74-15870

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	MALINDA TRACY VINCENT 3 PRARIE RD. SALMON, ID 83467 (208)756-8653

Priority Date: 06/01/1897

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
BOHANNON CREEK	LEMHI RIVER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	0.020 CFS	
	<u>Total Diversion:</u>	0.020 CFS	

Location of Point(s) of Diversion

BOHANNON CREEK	SE1/4NE1/4	Sec. 28, Twp 21N, Rge 23E, B.M.
LEMHI County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
21N	23E	29				2.1													2.3

Total Acres: 2.3

Conditions of Approval:

1. E55 Use of this right with right no. 74-15868 and 74-15872 is limited to the irrigation of a combined total of 2.3 acres in a single irrigation season.
2. E54 This right authorizes the irrigation of 2.3 total acres.
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(5), Idaho Code.

Remarks:

Page 2

07/01/2008

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 74-15870

Comments:

1. narave 7/1/2008 change of ownership
Comment: split from 74-179C
2. narave 7/1/2008 10:30:46 AM
Comment: Updated Shape
3. narave 7/1/2008 10:32:50 AM
Comment: Updated Shape

Dates and Other Information:

Licensed Date:
Decreed Date: 7/9/2007
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre: 0.02
Generic Max Volume Per Acre: 3.5
Decree Defendant:
Decree Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
		2.3

Combined Water Rights: 74-15868 , 74-15870 , 74-15872

Water Supply Bank:

Page 1

07/01/2008

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 74-15868

WATER RIGHT NUMBER: 74-15868

Owner Type

Current Owner

Name and Address

MALINDA TRACY VINCENT
3 PRARIE RD.
SALMON, ID 83467
(208)756-8553

Priority Date: 04/01/1959

Basis: Decreed

Status: Active

Source

LEMHI RIVER

Tributary

SALMON RIVER

Beneficial Use

IRRIGATION

From To

03/15 to 11/15

Diversion Rate

0.050 CFS

Annual VolumeTotal Diversion:

0.050 CFS

Location of Point(s) of Diversion

LEMHI RIVER

SE1/4SE1/4SE1/4

Sec. 29, Twp 21N, Rge 23E, B.M.

LEMHI County

Place of Use

IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
21N 23E 29	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	2.3
			2.1				.2										

Total Acres: 2.3

Conditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. E84 This right authorizes the irrigation of 2.3 total acres.
3. E55 Use of this right with right no. 74-15870 and 75-15872 is limited to the irrigation of a combined total of 2.3 acres in a single irrigation season.

Remarks:

Page 2

07/01/2008

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 74-15868

Comments:

1. narave 7/1/2008 ownership change
Comment: split from water right 74-4006
2. narave 7/1/2008 10:59:58 AM
Comment: Updated Shape
3. narave 7/1/2008 11:01:23 AM
Comment: Updated Shape

Dates and Other Information:

Licensed Date:
Decreed Date: 7/9/2007
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre: 0.02
Generic Max Volume Per Acre: 3.5
Decree Defendant:
Decree Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

<u>Rate</u>	<u>Volume</u>	<u>Acres</u>
		2.3

Combined Water Rights: 74-15868 , 74-15870 , 74-15872

Water Supply Bank:

August 20, 2008

This letter is in reference to Vincent and Mindy Tracy's water right on Barracks Lane.

I am John Tracy and worked for the Swahlen Ranch on Behannon Cr. for over thirty years. I was also the water master on Behannon Cr. for around ten years.

I saw the map provided to the Tracy's by the water department showing the land's the water right covered and it is fairly accurate for what has been irrigated in the past.

The last owner to irrigate the land was Dave Freel. Sometime in the late 80's he subdivided the property in around 10 plots of 5 or so acres. As with most subdivisions in this area it is years before anything is done to most parcels.

John B. Tracy