

74-179C  
179D  
180B  
4006  
15520

74-15521  
15890  
15891

646 Lemhi Road  
Salmon, ID 83467  
March 10, 2010

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|-----------------------------------------------------------------------------------------|-----------------------|
| DISTRICT COURT-SRBA<br>Fifth Judicial District<br>County of Twin Falls - State of Idaho |                       |
| MAR 12 2010                                                                             |                       |
| By _____                                                                                | Clerk<br>Deputy Clerk |

Dear Snake River Basin Adjudication personnel and other interested parties,

The water users of 74-C would like to respond to the objections submitted by Malinda and Vincent Tracy and their attorney, Mr. Milton Slavin. After discussing the above said objections, we would like you to know that we approve the Amended Director's Report and our response to their objections are as follows:

1. We feel that there is not any new issues or rebuttals that have not already been discussed and ruled upon in the previous hearings.
2. In their first objection, they state that their deed, "made no mention of any lack or withdrawal of water rights appurtenant thereto". No water right is mentioned because according the warranty deed between Dean stokes and David Freel, *No water was transferred except any waste water*. We quote from that legal contract "It is mutually understood and agreed that the only water rights transferred with the above described Real Estate, will be waste water only. Waste water from 900 acres formerly known as the Kaufman ranch".
3. Their second objection states that they felt they had a water right only because they filed for a right. They were trying to get water from the Jolley ranch before any legal right had been given and before the water master even knew of their applied right. After the water master received a notice of a right, Jerry Elzinga worked with Boyd Stokes and Malinda to work out a way to deliver the water that should be delivered.
4. The third objection says that John Tracy, a water master on the creek for many years "would testify that the 2.3 acres in question had been irrigated prior to the time it became subdivided and subsequent thereto". We have never denied this allegation. We all know that some of the land was irrigated until the warranty deed was signed by the previously mentioned parties. After the Tracy received the right, they were irrigating land that had never been irrigated before,

land that was sagebrush and greasewood. Many people have lived in that subdivision before the Tracy family moved in, and not **ONE** has ever tried to file for any water. Our response is not that the land was ever irrigated, but the fact that there is no water right.

5. The last objection says they received confirmation in July 2008 which is correct however, prior to that time, the Tracy were illegally taking water without the confirmation from IDWR. After they received confirmation, they continued to receive water, much of the time taking more water than their allotted right. They took the water by cutting gaps in the ditch bank, thus damaging and weakening the ditch bank that takes water to the Jolley ranch. This was all done without any way to control, monitor or record the amount taken. As a water district, we protested the right and in October of 2008 The Supplemental Director's Report stated they had no water right and that no water should be delivered.

In conclusion, we feel the objections filed by Malinda and Vincent Tracy and Mr. Slavin are not valid reasons to go to trial. These same objections have previously been discussed in hearings and have been ruled on by the courts. As stated above, we find the Amended Director's Report to be accurate and fair as stated by the warranty deed. We hope you will take our suggestion in settling this matter without a trial.

Yours sincerely,

Members of Water District 74-C

*Earl Dean Stokes*

*E. Dale Jolley*

*Eagle Valley Ranch by Mike Kossler manager*

*Boyd Stokes*