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AUG 04 2014
DEPARTMENT OF
WATER RESOURCES

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

Case No. 39576

A. Subcase 74-15911

(Insert water right number
From the Objection Form)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please **print or type** the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name:

John Alfred Simpson

Address:

774 Lemhi Road

Salmon, Idaho 83467

Daytime Phone:

(208) 756-6845

Name & Address of Attorney, if any:

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO
WHICH YOU ARE RESPONDING

Name:

Malinda and Vincent Tracy

Address:

3 Prairie Road

Salmon, ID 83467

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

1. ☐ Name and Address
2. ☐ Source
3. ☐ Quantity
4. ☒ Priority Date
5. ☒ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☒ Place of Use

11. Recommendation

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. VERIFICATION (Must be Completed)

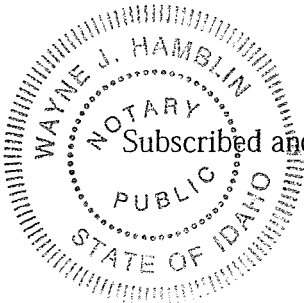
State of Idaho)
)ss.
County of Lemhi)

John Alfred Simpson duly sworn, upon oath, deposes and says:
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

John Alfred Simpson
(Signature of person filing response)

(Attorney signing in representative capacity)



Subscribed and sworn to before me on:

July 31, 2014

Wayne J. Hamblin
Notary Public for

Residing at: Salmon, Lemhi County Idaho

My Commission Expires: 4/28/2016

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

F. CERTIFICATE OF MAILING

I certify that on August 1, 2014, ~~199~~, I mailed the original and copies of this response, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Malinda and Vincent Tracy
Address: 3 Prairie Road, Salmon, ID 83467

3. One copy to the party who filed the objection at the following address:

Name: Malinda and Vincent Tracy
Address: 3 Prairie Road, Salmon, ID 83467

4. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

John Alfred Simpson
Your signature or signature of attorney
mailing on your behalf

July 31, 2014

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

I am submitting this letter in response to the July 8, 2014 objection filed by Malinda and Vincent Tracy. The Tracy's objection requested the Court's re-consideration of the December 31, 2013 Director's Report that recommended the Tracy's claim for a water right be disallowed (SRBA Case No. 39576, Subcase No. 74-15911).

I hereby submit to the Court my support of the Director's recommendation that the Tracy's water right claim be disallowed for the following reasons:

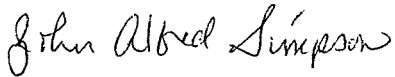
1. A prior claim for wastewater (originating from the same source as in the Tracy's claim) was filed for property owned by Kirk J. Knudsen in 1990 (Claim No A74-10168). I purchased that property in May 2000 at which time I filed a notice of change of water right. Despite my submission of evidence of prior usage of the water that claim was disallowed by the Court.
2. Upon recommendation of Roxanne Brown (former IDWR Staff) I submitted application for a permit to develop a water right for the use of this wastewater. My application for permit was submitted on March 25, 2005. That water right license was issued on December 27, 2013 (License No. 74-15624).
3. Malinda Tracy claims her property has been irrigated for the past 50 years. That statement is false. Her property is part of the Barracks Lane subdivision established in 1992. No water rights were conveyed with the property as stated on the Warranty Deed with exception of wastewater from the former Kaufman Ranch. The wastewater in question originating from the former Kaufman Ranch was historically conveyed to property that I now own as evidenced by the existence of a ditch that I currently use. The Tracy's property has not been legally irrigated with any wastewater since having been subdivided in 1992. The existing Bohannon Creek 3 irrigation ditch precludes doing so without excavation of an additional ditch and/or conveyance by means of pipe over/under.
4. The wastewater for which the Tracy's have filed claim originates from a diversion/headgate on Bohannon Creek and is conveyed via the Bohannon Creek 6 ditch to land owned by Eagle Valley Ranch. The wastewater flows off Eagle Valley land into an IDWR tagged headgate structure and ditch located on my property. After leaving my property that wastewater has always flowed into the BCC 3 ditch. The Tracy's do not have permission to access either my land or Eagle Valley land for the purpose of maintaining a ditch or controlling flow of wastewater to their property.
5. Prior to submission of this claim, the Tracy's applied for an Application for Permit (No. 74-15889). That application was met with protest by several parties which were later withdrawn.

However, subsequent correspondence from IDWR (October 23, 2013) states that the Tracy's also filed an Application for Permit on May 30, 2013 for the use of this wastewater . There is also mention in the letter from IDWR of my existing right to use the wastewater in question. For this reason alone, the Tracy's claim should be disallowed.

6. The Tracy's recently applied for/obtained an irrigation water right for the use of groundwater from a well on their property (No. 74-15889).

I ask that the Court carefully consider my responses to the Recommendation made in the December 31, 2013 Director's Report regarding the claim made by Malinda and Vincent Tracy. If you have any questions regarding my request please contact me.

Sincerely,

A handwritten signature in cursive script that reads "John Alfred Simpson".

John Alfred Simpson