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Attorneys for Malinda and Vincent Tracy

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT FOR THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Subcase Nos. 74-15911

Case No. 39576

AFFIDAVIT OF MALINDA TRACY

STATE OF IDAHO)
) ss.
County of Lemhi)

MALINDA TRACY, being first duly sworn upon oath, deposes and says:

1. I am over the age of eighteen and state the following based upon my own personal knowledge.
2. I was born in 1967 in Salmon, Idaho.
3. My family has lived in the area of the property that I am claiming a water right since at least the time of my paternal grandparents. As a child, I spent lots of time on Bohannon Creek. Because of my personal experiences and what I have been told by my relatives, I feel I am very knowledgeable of the property.
4. My grandparents, Mick and Lola Andrews, who owned part of the Kauffman Ranch, which is now part of the Eagle Valley Ranch, told me stories about growing potatoes and

hay on the property. Mick and Lola Andrews were partners with my Aunt Norma and Uncle Jay Wellard. Aunt Norma and Uncle Jay told me similar stories about growing potatoes and hay on the property and how the water that was used to irrigate the potatoes and hay came from a pond that James Stoddard built to get the water here. My grandparents lived both above the pond and later below the pond.

5. When I was on the property with my father, I remember seeing water being flumed across the Jolly Ditch in a culvert, running down across the property where I now live. The water that was being flumed across the property came from the pond that James Stoddard built.

6. My grandmother on my mother's side worked for the Stoddards when my mother was a child picking potatoes here.

7. I am married to Vincent Tracy. John Tracy is my husband's uncle. John worked for Swahlen Ranch for 28 years. Swahlen Ranch is now Eagle Valley Ranch. For 15 of the years he worked for Swahlen Ranch, John was the watermaster. John has told me many times how our place was irrigated out of the pond that James Stoddard built just above our property. John and Alvin Bailey, who worked for Swahlen Ranch for 22 years, did all the hay and irrigating on our property.

8. As I said previously, the pond was built by James Stoddard. James Stoddard's son, Robert, has been to my house and personally told me the reason the pond was built was to get waste water to the property to irrigate potatoes and hay. Robert told me the pond was built in the early 1960s, how his dad went about building the pond, and how the waste water was then flumed across the Jolly Ditch to irrigate our property.

9. On May 19, 2010, I entered into an agreement to vacate trial with the claimants of water right nos. 74-179C, 74-179D, 74-180B (split into 74-15890 and 74-15891), 74-4006, 74-15520, and 74-15521. The agreement states, in part:

2. That Vincent and Malinda Tracy will proceed to file a claim for waste water, which comes from the Eagle Valley Ranch and will flume the waste water across the canal used by the District 74-C water users; and
3. That the District 74-C water users agree not to object to the waste water claim to be filed by the Tracys; and
4. The Tracys agree not to disturb the embankment of the canal. The Water District 74-C users consent and agree that the Tracys may install a flume across the canal providing that it will not disrupt the flow of water in the canal and will not disturb or degrade the banks of the District 74-C canal; and
5. Tracys will and do hereby withdraw their objections to the Amended Director's Report.

Memorandum Agreement to Vacate Trial Setting, SRBA Subcase Nos. 74-179C et al., pp. 1-2 (May 20, 2010).

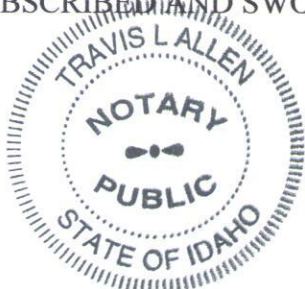
10. The "waste water" that is referred to in the agreement is water that is captured in the pond that was built by James Stoddard in the early 1960s for the specific purpose of irrigating our property. The "canal used by the District 74-C water users" that is referred to in the agreement is what I have previously referred to as the "Jolly Ditch."

DATED this 18 day of August, 2014.

Malinda Tracy
MALINDA TRACY

SUBSCRIBED AND SWORN TO BEFORE ME this 18 day of August, 2014.

(seal)



[Signature]
NOTARY PUBLIC for Idaho
Residing at: Salmon, ID
My Commission Expires: 8/30/2019