

Robert L. Janicki, #5493
Michael L. Ford, #8586
STRONG & HANNI
9350 South 150 East, Suite 820
Sandy, Utah 84070
Telephone: (801) 532-7080
Facsimile: (801) 323-2090
Attorneys for Defendant
R. Steve Creamer

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA ex. rel.
Mark Christopher Tracy,

Plaintiff,

vs.

EMIGRATION IMPROVEMENT
DISTRICT, a Utah Special Service District;
BARNETT INTERMOUNTAIN WATER
CONSULTING, a Utah corporation;
CAROLLO ENGINEERS Inc., a California
professional corporation; AQUA
ENVIRONMENTAL SERVICES, INC., a
Utah corporation; AQUA ENGINEERING.
INC., a Utah corporation; R. STEVE
CREAMER, an individual; FRED A.
SMOLKA, an individual; MICHAEL
HUGHES (AKA MICHAEL SCOTT
HUGHES), an individual; MARK STEVENS,
an individual; DAVID BRADFORD, an
individual; LYNN HALES, an individual;
ERIC HAWKES, an individual; DON A.
BARNETT, an individual; JOE SMOLKA, an
individual; RONALD R. RASH, an
individual; KENNETH WILDE, an
individual; MICHAEL B. GEORGESON , an
individual; KEVIN W. BROWN, an
individual; ROBERT ROUSSELLE; an
individual; LARRY HALL, an individual;

**DEFENDANT R. STEVE CREAMER'S
JOINDER IN EID'S AND CAROLLO'S
RENEWED MOTIONS TO DISMISS
PLAINTIFF'S THIRD AMENDED
COMPLAINT**

Case No.: 2:14-cv-00701

Judge: Jill N. Parrish

THE BOYER COMPANY, L.C., a Utah company; CITY DEVELOPMENT, INC., a Utah Corporation, and DOES 1-145, Defendants.	
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Defendant R. Steve Creamer (“Creamer”), by and through counsel and pursuant to the Court’s Order dated July 20, 2020 [ECF 280], hereby respectfully submits this Joinder in Carollo’s renewed motion to dismiss Plaintiff’s Third Amended Complaint [ECF 281] and EID’s renewed motion to dismiss Plaintiff’s Third Amended Complaint [ECF 282] and states as follows:

INCORPORATION BY REFERENCE OF CO-DEFENDANTS’ MOTION TO DISMISS

Pursuant to D. U. Civ. R. 7(a)(4), Creamer incorporates by reference Co-Defendant Carollo Engineers, Inc.’s (“Carollo”) Renewed Motion to Dismiss Plaintiff’s Third Amended Complaint [ECF 281] and Emigration Improvement District’s (“EID”) Renewed Motion to Dismiss Plaintiff’s Third Amended Complaint [ECF 282].

ARGUMENT

Steve Creamer is a private landowner in Emigration Canyon. He is not an officer or member of EID or Carollo. Tracy’s Third Amended Complaint does not allege that Creamer made any false claims to the federal government but rather that he conspired with co-defendants to present a false claim. Notwithstanding, the arguments set forth in both Carollo’s Renewed Motion to Dismiss and EID’s Renewed Motion to Dismiss have equal application to the claims alleged against Creamer in Tracy’s Third Amended Complaint. Given the arguments set forth in Co-Defendants’ Renewed Motions to Dismiss, the allegations in Tracy’s Third Amended Complaint

against Creamer fail to state a claim upon which relief can be granted. On that basis, the claims against Creamer should be dismissed.

CONCLUSION

For the reasons set forth herein, as well as in Carollo's Renewed Motion to Dismiss [ECF 281] and EID's Renewed Motion to Dismiss [ECF 282], the Court should dismiss Tracy's Third Amended Complaint against R. Steve Creamer.

DATED this 10th day of August 2020.

STRONG & HANNI

/s/ Michael L. Ford

Robert L. Janicki
Michael L. Ford
Attorneys for R. Steve Creamer

MAILING CERTIFICATE

I hereby certify that on the 10th day of August 2020, a true and correct copy of the foregoing **DEFENDANT R. STEVE CREAMER'S JOINDER IN EID'S AND CAROLLO'S RENEWED MOTIONS TO DISMISS PLAINTIFF'S THIRD AMENDED COMPLAINT** was filed using the court's EM/ECF system, which sent notice to counsel of record.

/s/ Michael L. Ford _____