

Stevenson v. County Water Dist. of Billings Heights (verdict)

DISTRICT COURT

VERDICT: \$295,000, home damage from county water tank leak . . . inverse condemnation claim directed out for failure of proof, admitted liability for negligence.

A Billings jury found Ron & Kaye Stevenson's house damages from a leaking County Water District of Billings Heights water tank to be \$295,000. Judge Watters had ruled in 9/12 that the leak constituted inverse condemnation, but following close of evidence directed verdict for CWD on inverse condemnation because Stevensons had produced no proof of market value or diminution, instead arguing that Sunburst and Lampi now require restoration damages for inverse condemnation. CWD admitted liability as to negligence.

Stevensons purchased a home in 1989 below a 2 million gallon county water reservoir. They claimed they had no problems with the home until 2003 when the foundation settled. They contended that the tank had leaked since 2003. It was inspected generally in 2004 and 2009 but not specifically for leaks. A 6 gpm leak was identified in 1/10. It was patched in 3/10. Stevensons stated that their house and land then dried out. Neighbors testified to the same. Stevensons initially demanded \$220,000 to repair the home plus \$48,000 in repair expenses. CWD's insurer advanced \$219,000. Stevensons stated in 3/12 that the floor slab had heaved, rendering the house unfixable, and demanded \$427,000 for a new home. CWD admitted legal liability for all damages caused by the leak but disputed causation and extent of damages. Jim Schilke testified that the foundation had been moving since it was built, the leak was a minor part of the house's problems, and the house could be repaired.

Plaintiffs' experts: PE Wes Krivonen, Billings; environmental scientist Kevin Walsh, Billings; Eric Hulteng, Billings (construction costs).

Defendant's experts: PE Jim Schilke, Billings; Chad Campbell (Liquid Engineering), Billings; Jeremy Maus, Bozeman (residential construction).

Demand, \$520,000; offer of judgment, \$265,000 plus attorney fees. Jury request, \$475,000 plus general damages at jury's discretion; jury suggestion, \$205,000. Mark Parker, mediator.

Jury deliberated 3 hours 4th day.

Stevenson v. County Water Dist. of Billings Heights, Yellowstone, DV-10-548, 4/4/13.

Kenneth Tolliver & Matthew Gallinger (Tolliver Law Firm), Billings, for Stevensons; Randall Nelson (Nelson & Dahle), Billings, for CWD (American Alternative Ins., Glatfelter Underwriting Services).

