April 1, 2013

VIA HAND DELIVERY

Kent L. Jones, P.E.
Utah State Engineer
UTAH DIVISION OF WATER RIGHTS
1594 West North Temple, Suite 220
Salt Lake City, Utah 84116-3156

Re: Response of Kevin Tolton, M.D. to State Engineer's February 28, 2013 Letter Requesting Clarification Regarding Water Right Number 57-7800

Dear Mr. Jones:

As an initial matter, I appreciate the thoughtful manner in which you and your staff have approached Water Right Number 57-7800 (a28548) (the "Water Right"), which was approved in the January 3, 2013 Order of the State Engineer (the "Order").

I write in response to your February 28, 2013 letter requesting my understanding of my ownership interest in the Water Right and the historic diversion limitation.

As reflected in your February 28, 2013 letter, Water Right Number 57-7800 (a4178), certificated May 24, 1971, included the following rights:

Flow	Diversion	Depletion	Irrigation	Stockwatering	Domestic Use
0.0625 cfs	5.42 af	2.238 af	1.5476 af	0.42 af	1.35 af

As set forth in greater detail in the enclosed March 28, 2013 Memorandum Opinion by Ronald K. Christensen, Ph.D., P.E.,[1] my Water Right Number 57-7800 (a28548) includes the following rights:

Flow	Diversion	Depletion	Irrigation	Stockwatering	Domestic Use
0.0104 cfs	0.903 af	0.3729 af	0.2579 af	0.07 af	0.45 af

Title

[1] Mr. Christensen's Memorandum Opinion is enclosed as Exhibit "1."

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The Water Right flows from the South Despain Ditch right, which was 0.25 cfs with a priority date of 1856. [*See* Morse Decree, enclosed as Exhibit "2"]. Under the Morse Decree, I own portions of the following water rights: 57-9001, 57-7800, and 57-9013, all of which are derived from the original South Despain Ditch right. My water rights include rights to the water sources of the Wasatch Drain Tunnel, seeps, springs, lakes, other tunnels and drainage of Little Cottonwood Creek.

Furthermore, I have rights to all upstream water sources as a decreed water right holder including rights to Cecret Lake, the Wasatch Drain Tunnel source which includes Big Ditch Irrigation Company waters, Snowbird/Salt Lake County water right 57-10012 (a16843), 57-10013 (a16844), 57-10291 (a26764), and 57-8973 and their sources and points of diversion based upon the service area map filed by Salt Lake City and approved by the State Engineer.

Claims to carrier water are also made by reference herein which must be hydrologically accounted for by the State Engineer to prevent interference with a sufficient quantity of physical water necessary to deliver the applicant's full water right downstream at the mouth of the canyon. The total amount of water available to transfer should include carrier water provisions and accompanying calculations which account for mechanical losses associated with seepage, infiltration and evaporation.

With respect to the applicant's water rights, the following language from *Salt Lake City v. Silverfork Pipeline Co.* is instructive:

> We have consistently held that an appropriator of water rights also owns a vested interest in the source of that water, and no one may interfere with the source of the appropriator's water supply in a way that diminishes the quantity or quality of the appropriated water. This principle holds true regardless of how far the source may be from the place of use, and regardless of whether the source waters flow on the surface or underground.

2000 UT 3, ¶ 22 n.6; 5 P.3d 1206 (internal citations omitted), *overruled in part on other grounds*, *Otter Creek Reservoir Co. v. New Escalante Irrigation Co.*, 2009 UT 16, ¶ 13, 203 P.3d 1015. As an adjudicated owner of the above-referenced water rights, I am entitled to those vested interests in the water sources which the Utah Supreme Court references.

As the Order correctly notes, on September 25, 1962, change application Number a4178 was filed by Harold W. Bentley, who owned at the time one-fourth of the South Despain Ditch right of 0.25 cfs of Little Cottonwood Creek primary flow (*i.e.*, 0.0625 cfs of the first primary flow represented by WR 57-9001 and 57-7800, plus one-quarter of the South Despain Ditch surplus flows according to the Morse Decreed flow schedules now listed by the State Engineer's Office as WR 57-9013). Historically, the entire Morse

Decreed South Despain Ditch water right of 0.25 cfs including the surplus flows was used cooperatively amongst all of the South Despain Ditch water right owners. Informal water sharing agreements by and between the South Despain Water Users were used historically and are still in place today including an agreement between this applicant and Steve Runolfson at La Caille for use of applicant's summer and winter water.

The water under the Bentley change application 57-7800 (a4178) was for "the domestic requirements of three homes, 6 horses, 6 cattle, 100 chickens, and for the supplemental irrigation for 15 acres." [Change Application 57-7800 (a4178) ¶ 10, enclosed as Exhibit "3"]. Under that approved water right, "No return water would be returned to the source." [May 24, 1971 Water Right Number 57-7800 (emphasis added), enclosed as Exhibit "3"]. In other words, full depletion was expressly authorized.

As noted in Mr. Bentley's "Explanatory" section of change application a 4178, "[d]uring the irrigation season from April 1 to Oct.1 all of the primary and surplus water decreed to the South Despain Ditch is conveyed through the pipeline or the South Despain Ditch, depending on the size of the stream in the creek." [Change Application 57-7800 (a4178), Ex. "3"]. Importantly, Mr. Bentley further points out that one of the purposes of his change application is to obtain culinary water from a SLC pipeline since the "raw water of Little Cottonwood Creek is not fit for domestic purposes without complete treatment. This is an effort on the part of the applicant to obtain a supply of water that will meet the standards of domestic water." [*Id.*]. Mr. Bentley also states that change application a4178 is, "[f]iled with the approval of Salt Lake City Corporation and the South Despain Water Users." [*Id.*]. In addition, the culinary water delivered by Salt Lake City to the South Despain Water Users under a 1934 agreement is municipal water and therefore may have 100% depletion from the hydrologic system which full depletion is presumed in his statement that, "No return water would be returned to the source."

The fact that total depletion was contemplated and authorized is important for the reason that there are two parallel winter water rights in operation here. One is the exchange agreement with Salt Lake City, dated August 8, 1934, to obtain the "culinary reserve of 7500 Gallons per day" in the winter from October 1st to April 1st. The second is the Bentley change application itself which mentions the reserved culinary supply to be 8000 gallons per day presumably adding the 500 GPD owned by Lewis and Emma Maxfield (and now by their successor-in-interest Rulon T. Jeffs who later sold this right to SLC) which is mentioned in the 1934 Agreement but which is memorialized in a separate contract. Change Application a4178 appears to change an additional amount of water, not to the Murray Penstock pipeline point of diversion described in the 1934 exchange agreement, but rather to the Bentley well, stating as follows: "From the well the applicant proposes to divert 2,000 gallons per day between Oct.1 and April 1 of the next year, and 4,000 gallons per day from the well between April 1 and Oct. 1 at a rate equal to 0.0625 s.f., which is 28.05 g.p.m. The rest of the water of the South Despain Ditch owned by the applicant will still be diverted from the points of diversion described in par. 9." [*See* Change Application a4178 (emphasis added), [Ex. "3"_].

To review, Mr. Bentley only moved a portion of his Morse Decreed WR 57-9001 to the well. There appear to be two separate winter rights referenced here which are additive in nature, namely, the approved change application water (4000 GPD summer and 2000 GPD winter) and Bentley's share of the 1934 contract water (7500 divided by 5 equals 1500 GPD). The applicant is entitled to 1/6th of the 1500 GPD under the 1934 contract or 250 GPD.

Salt Lake City has consented to both the total South Despain Ditch winter water amount of 8000 GPD provided for by exchange contract which equates to 1500 GPD under Bentley's contractual right and the additional approved change application amounts, since there is no evidence that the city either opposed the Bentley change application or ever appealed the final Bentley Change Application Decision Memo issued by the State Engineer in district court. Salt Lake City is now estopped from objecting to the approved change amounts under a4178.

In its March 12, 2013 letter, Salt Lake City attempts to explain the nature of the various city contracts and includes a "Warranty Deed" from Rulon T. Jeffs to Salt Lake City purporting to convey 500 GPD winter water right. The city contends that water came from adverse possession. However, that deed shows the city's contention to be incorrect, expressly stating that the grantor and his predecessors "obtained their right as successors through the South Despain Irrigation Company water rights."

While there are many questions surrounding the winter water rights and Salt Lake City's exchange contracts, the city's March 12, 2013 letter does not provide any clarity on the contract issues, but rather represents a naked attempt to distract the State Engineer with claims and assertions that are unsupported, contracted by evidence in the record, or irrelevant.

Significantly, the State Engineer approved both the 2000 GPD winter diversion from the well source and the 4000 gallons per day in the summer months again from the same Bentley well. This became the law of the land with the State Engineer's approval (which was not appealed by Salt Lake City). This 2000 GPD of winter water is in addition to the 7500 GPD described in the 1934 South Despain Water Users Contract which has a different approved point of diversion, namely, the Murray Penstock pipeline diversion. As Bentley specifically says in his change application, both the South Despain Water Users and the city assented to change application a4178. Furthermore, Mr. Niermeyer, SLCPU director asserts in a letter to Lynn Biddulph that all of the water under the 1934 Agreement has been delivered to the South Despain Users. [*See* July 9, 2003 Letter of Jeff Niermeyer to Lynn Biddulph, enclosed as Exhibit "4"]. Salt Lake City did not appeal the Memorandum Decision dated May 27, 1963 regarding Change Application a4178, nor did it object to the Certificate of Permanent Change and was certainly aware that the 2000 GPD winter right was approved as winter water in addition to Murray Penstock municipal winter water provided under the terms of the 1934 exchange agreement. Therefore, the winter water amounts described in the 1934 exchange agreement were either assented to in the first place to be on top of the 2000 GPD winter rights approved under the Bentley change a4178 or the contract has been altered by course of conduct and the legal

doctrines of waiver and estoppel now prevent Salt Lake City from objecting to the 2000 GPD winter right under the approved Bentley change application.

On May 8, 2000, Bentley's successor-in interest Lynn Christensen Biddulph submitted Change Application Number a24463 seeking to change the Bentley well point of diversion back to the historic South Despain ditch location and pipeline. Her Change Application a24463 was approved August 4, 2000, and proof was last due for a24463 on August 31, 2012. The applicant submitted a request for extension of time on a24463 on August 8, 2012, which was granted on February 28, 2013 extending the proof date to August 31, 2014. In addition to Salt Lake City and Sandy's protracted but unsuccessful litigation, the time delays associated with the granting of this Reconsideration Request has further delayed this applicant's attempts at successfully putting this water right to beneficial use.

By way of review, I purchased the entire Biddulph water right, which includes one-fourth of the 0.25 cfs Morse Decreed amounts. These rights are represented by Water Right Numbers 57-9001, 57-7800, and 57-9013. From these three water rights into to, each of six parties received a one-sixth undivided interest, namely, Tolton, Haik, Maack, Melville, Hoge, and the Butler Group. Portions of these total rights, namely, the Bentley right 57-7800 were segregated into Water Right Numbers 57-7800, 57-10315, 57-10316, 57-10317, 57-10318 and 57-10319 and separate change applications were filed under those water right numbers.

Depletion

The protestants contend that the State Engineer miscalculated depletion with respect to the Change Application.[2] TTThe critica the total amount of diversion and the historic return flow requirements (*i.e.*, depletion calculus) so as to prevent impairment to all entitled downstream users. One of the key components in evaluating any potential impairment to Salt Lake City requires an analysis of water already moved up canyon by the city. For example, to prevent Salt Lake City from "Double Dipping," the city must be prevented from claiming return flows to which it is not entitled. In the case of Salt Lake City's approved "Canyonlands" change application 57-10015 (a16846), the summer irrigation right of 15.75 acre-feet was converted to a year round culinary right for 35 homes. The State Engineer allowed the full amount to be moved up but required 50% depletion or 7.875 acre-feet to be returned by Salt Lake City/Canyonlands contract holders to the creek. Salt Lake City double dips by being able to sell the full amount of water it moved up canyon (15.75 acre-feet) without any depletion penalty being applied as a requirement of the approved change application and then

[2] Salt Lake City's contention is ironic because it has obtained approval of change applications containing discrepancies and reflecting disparate treatment between the city and applicant, among others. Those discrepancies and that disparate treatment is contrary to statute and violative of the Due Process provisions of the state and federal constitutions.

recovers its own depletion (7.785 acre-feet) downstream to resell what was supposed to be subtracted from their water right as return flow depletion. So not only is the depletion calculus proposed by Salt Lake City unfair, but it also permits the city to double dip, by claiming, treating, and selling the depletable water as well. Salt Lake City is not entitled to claim its own depletion in the first place. Similarly, Salt Lake City cannot claim impairment of its water right by this applicant based upon the return flow because the city is not entitled to receive that return flow in the first place.

Salt Lake City's argument appears to be self-serving, as it is positioned to claim depletion under the Change Application. That would constitute an impermissible water right enlargement to the city. Salt Lake City has adamantly opposed to such illegal *de minimis* enlargements. Sauce for the goose is sauce for the gander.

At the time the change applications for the six water right owners were filed, it appears they were based upon the following calculations:

0.903 af x 6 parties = 5.42 acre-feet of divertable water

1) total right 57-9001 = 0.0625 cfs divided by 6 = 0.0565cfs x 7.48 gal/cf x 60 sec/min x 60 min/hour x 24 hours/day = 36,514.37 GPD

2) total right 57-9001= 0.0625 cfs x 448.8 gal/min/1cfs = 28.05 GPM

3) a) summer: 28.05 gpm x 60 min/hour x 24 hours/day = 40,392 GPD x 183 days of summer equals 7,391,736 gallons divided by 325,850 equals 22.684 acre-feet

b) winter: 7500 GPD divided by 5 equals 1500 GPD x 182 = 273,000 gallons x 1af/325850 gallons = 0.8378 af of winter

Therefore, total 25% of 0.0625 cfs = 22.684 af + 0.8378 af = 23.52 af (total 25% of original South Despain WR 57-9001)

2) With respect to surplus Morse Decreed water: WR 57-90013, we have NOT claimed this as being water we want to move up to Alta at the present time under 57-7800. The amount of surplus is for flows above 94.79 cfs (*i.e.*, .23 cfs, .83 cfs, and 1.06 cfs).

3) Depletion calculations are critical. The State Engineer gave Salt Lake City 50% depletion on change application 57-10015 (a16846). 15.75 af was asked for and 7.875 af was granted. Why did SLC get 50% depletion and this applicant received only 42.4% depletion for our domestic units? Reliance on the Dr. Hill study (Research Report 145) is not the case because Dr. Hill's study was done in 1994 and the Canyonlands/SLC 15.75 af change was approved by the State Engineer in 1997.

4) Other cases where SLC received favorable treatment over what we are getting (*i.e.*, disparate treatment):

a) 57-1009 approved 1997 "municipal purposes" LCW water 1.326 af asked for - 1.326 af approved, (100% depletion rule applied)
b) 57-10293a 26769 approved 2/5/2007 60 af asked for - 60 af approved
c) 57-10017 15.9 af asked for - 15.9 af approved
d) 20 changes 57-10016 - 57-10035 "Magic" Butler Ditch where 70 acres of irrigation gets approved as 539 af (instead of 70 ac 5af/ac = 350af).
e) 57-10011 (SLC) 0.422 af asked for - 0.422 af approved
f) 57-10010 167.9 af asked for - 167.9 af approved
g) 57-10012 (Snowbird) 2000 af asked for - 2000 af approved
h) 57-10013 (Alta) 500 af asked for - 500 af approved 1994
i) 57-10014 .221 af asked for - .221 af approved (SLC contract with John Cahill) [see enclosed Exhibit "5" of SLC approved change applications].

To the extent a miscalculation is found, the total depletion should instead be evenly divided amongst the six parties whose water rights were segregated from the South Despain mother right.

Mr. Christensen, from Water and Environmental Services, L.L.C has provided an analysis which reviews the State Engineer's calculations and addresses Salt Lake City's depletion arguments. [*See* Christensen Memorandum Opinion, Ex. "1"].

Impairment

The protestants complain about impairment, but generally, the State Engineer may not reject a permanent change application for the sole reason that the change would impair a vested water right. *See* Utah Code Ann. § 73-3-3 (7)(a). Moreover, there are methods to mitigate and/or remedy any potential impairment.

First, as set forth in the Order, the applicant can provide just compensation for any impairment. The likely cost of any impairment contemplated by the Change Application would be literally pennies per day.[3]

Second, to the extent that replacement water can be offered to mitigate potential impairment without amending the Change Application, then the applicant hereby offers such replacement water. The applicant owns additional water (not part of the Change Application), including 1 share of Hill Ditch, Midway Irrigation Company shares, Washington Irrigation Company shares, and water derived from the primary decreed water rights in Little Cottonwood Creek evidenced by the Morse Decree, namely South Despain

[3] In light of the relatively insignificant value of the impairment about which the protestants complain, it appears "the lady doth protest too much." William Shakespeare, Hamlet, act 3, sc. 2. For example, using SLC's water rate sheet where 1 billing unit equals 1000 gallons valued at $0.97, 70 gallons would be worth 9 cents. [see Exhibit "13"]

WR 57-9001 and WR 57-9013. The applicant also owns shares of Big Ditch Irrigation Company which has an exchange agreement with Salt Lake City which can be used to supply replacement water. [see Exhibit "12"]

Moreover, the applicant agrees to pay the prevailing rate for any water use not replaced by the above water rights, if any, to satisfy any potential concerns from the protestants about impairment. Power loss agreements are also easily obtainable to make hydroelectric power plants whole who might unlikely be impaired.

Third, the Order could be amended to allow seasonal usage. Indeed, Salt Lake City has utilized the same seasonal usage, including the East Jordan Irrigation Company which has converted over 20,000 acre-feet of summer water into year round water use. Similarly, the CUP and Jordan Valley Conservancy District routinely ask for and receive approval for summer water to be utilized year round. Again, 'sauce for the goose, is sauce for the gander.'

Interestingly, Salt Lake City claims it would not be feasible under my current change application for me to either acquire the necessary municipal authorizations required to build a home in a neighborhood with 8 already existing homes (this does not count all of the other homes in Albion Basin and Albion Alps Subdivisions) or to connect to the Town's pipeline which is a few hundred feet away from my lot at Alta or to excavate such thin and fragile soils in Alta such has already been done on the Town's entire water infrastructure pipeline system generally and which has been done specifically on the Cecret Lake pipeline cut through the supposedly sacred and untouchable heartland of Albion Basin with the full approval of Salt Lake City, the Town of Alta and the Wasatch Cache National Forest Service. [*See* photos of Alta pipeline from Alf's Restaurant and Lodge to Cecret Lake past the Tolton property enclosed as Exhibit "6"]. This extant pipeline system so close to my property speaks to feasibility as well.

The State Engineer approved for transfer Salt Lake City's summer irrigation water (*i.e.*, Cahoon Maxfield 57-10013 (a16844) for 500 acre-feet used below the Little Cottonwood treatment plant for year round culinary use in Alta which has a sewer system. Both the State Engineer and Salt Lake City agreed that the policy to be applied to such transfers would be the full divertible base right amount available and that the entire water right would be converted from summer irrigation to year round municipal/culinary use. The State Engineer and the city must now treat my water right with the same deference in calculating my divertible right. Furthermore, the city's Cahoon Maxfield *et al.* irrigable lands are located well below the water treatment plant intake flow diversion point. If Salt Lake City is not entitled to return flow at the mouth of the canyon with respect to its approved change application water derived from the Cahoon Maxfield Irrigation Company water, Walker Ditch water, Richards Ditch water etc., then it cannot be impaired with respect to those parent rights it moved up canyon. Not only that, but the city is double dipping. It moves water upstream in the canyon, sells that water to users via surplus sales contracts and then claims all of the return flow from the sold water and in turn sells the same water again and again. Salt Lake City should be required to let go of all of the return flows

required for downstream users so that no unauthorized return flow water is allowed to go through its water treatment plant at the mouth of the canyon. In other words, water transferred up canyon by the city should be prohibited from being captured by the treatment plant for resale as this is water right double dipping.

Salt Lake City's impairment complaint is a red herring. The city currently owns or controls a total water inventory of approximately 500,000 acre-feet of water. The State Engineer database shows that Salt Lake City's "Supplemental Group" of water rights filed under Number 411780 constitutes 245,882 acre-feet of water. This does not include 16,000 shares of water company stock the city owns, or CUP contracts. [*See* supplemental group Exhibit "7"].

This Supplemental Group 411780 represents only one half of the enormous 500,000 AF of water Salt Lake City holds in reserve. Salt Lake City's in-city demand of 50,000 AF and its 23,000 AF for "surplus" canyon customers represents a current need of only 15% of its water inventory. The significance of this fact is that it is mathematically impossible for the city to claim impairment based upon my 0.92 AF moving up canyon because they have 400,000 acre-feet of water in excess of their total practical water needs just based upon their Supplemental water inventory. By definition there can be no theoretical or practical impairment, period.

Salt Lake City holds over $ 1 billion of the State's water resources, but only beneficially uses $100-150 million worth of water leaving about $900 million worth of water rights illegally held and revertible to the State for use by other cities. The city cannot claim or assert impairment on hoarded water held in excess of its own future needs well beyond forty years of projection.

As a matter of law, Salt Lake City has a municipal and constitutional duty to serve the applicant water at Alta which stems from the Utah State Constitution XI, Article 6 and Utah Supreme Court rulings in *Platt v. Torrey* and *County Water Systems v. Salt Lake City Corp*. In addition, the city has the legal authority and constitutional duty to provide water service to the Town of Alta, and, in fact, filed a service area map as part of its change applications with the State Engineer's Office delineating its municipal service area which includes all of the Town of Alta as well as a much broader geographic area that includes the entire upper reaches of Big and Little Cottonwood Canyons. Now, after representing to the State Engineer as part of its approval that the service area is all of Big and Little Cottonwoods, Salt Lake City is estopped from denying its expanded service area as filed with the State Engineer's Office and from taking positions contrary to those taken in past judicial proceedings and with respect to representations made to the State Engineer's Office.

In *County Water System v. SLC*, the Utah Supreme Court held that the authority of a city to sell surplus water is a municipal function. The sale of surplus water is the same municipal function outside the city as inside the city limits. The whole basis for SLC claiming impairment of their water rights as a result of the Water Right is perplexing because I am already entitled to use their water for the very purpose for which I am

transferring my water right up canyon, namely, for domestic homes on private property.

I am an entitled beneficiary by contract to the 1976 SLC-Town of Alta Water Supply Agreement which agreement was specifically written for the purpose of serving all properties located within the Town boundaries as of the date of the agreement. By contract I am a legally entitled user of the water right upon which the 1976 Alta Water Supply Agreement is based including but not limited to approved SLC change applications 57-10012 (a16843), 57-10013 (a16844), 57-10291 (a26764) and 57-8973.

It is particularly instructive to examine each of these water rights in terms of seeing what right the applicant has to those approved change applications whether under contract law, where Salt Lake City acts as a retail provider of proprietary water, or under constitutional and statutory law, imposing municipal duties on the city (as is the case where it acquires and sells water as a municipal supplier and is exempt from public service commission regulation precisely because the city can only sell water with its municipal hat on).

Water is available under 57-10012 (a16843) [temporary change application No. t92-57-19] to be used in Salt Lake County Service Area Number 3 which has cross connections with the Town of Alta's municipal water supply and which is partly located within the Town's boundaries and lies within the TOA water source protection zone is also legally approved for my use as a property owner at Alta. But even more importantly, Salt Lake City filed a service area map with the State Engineer's Office delineating the service area boundaries which happens to include all of Big and Little Cottonwood Canyons peak to peak. The above mentioned water rights numbers are approved by the State Engineer to legally serve those areas which include my lot.

Interestingly, State Engineer Robert L. Morgan stated during the transcribed Salt Lake City's change application hearing (Kent Jones also in attendance) on 57-10012 (a16843) that, "2000 acre feet will be diverted the same as heretofore from the tunnel and it will ALL BE CONSUMED" (emphasis added) [*See* Hearing Transcript Exhibit "8"]. Little Cottonwood River Commissioner Ed Higbee also testified repeatedly during SLC's change application hearings that all sewer effluent is counted as creek flow and, therefore, was not considered as being lost to the hydrologic system (be that the Albion Basin sub hydrologic system, the Little Cottonwood creek itself or the Jordan River Basin systems). This critical material fact is currently not accounted for in the State Engineer's "ORDER" on Change Application 57-7800 (a28548). As a result of Mr. Higbee's water right accounting practices, no actual depletion penalties have been applied to Salt Lake City for water rights moved upstream to the Alta Snowbird areas of Little Cottonwood Canyon. [True enough, SLC has a 50% depletion requirement for only one of its approved change applications WR 57-10015 wherein SLC moved enough water for the construction of 35 homes in Albion Basin, however, of the full divertible amount of 0.45 acre-feet per home which was approved by the State Engineer SLC will eventually recapture its own depletion to resell again and again downstream]. In other words, sewer flow is not subtracted from creek flow by the court appointed River Commissioner for the purposes of either water right depletion accounting or water right distribution. Here again is another example where

the State Engineer has applied a different depletion standard to me that has not been applied to the city. Such a depletion penalty unilaterally applied to me is capricious, arbitrary and in violation of due process and equal protection right afforded United States citizens.

Another water right which was specifically moved up to Alta and which is legally available for my use is Salt Lake City's water right 57-10013 (a16844), [temporary change application No. t92-57-20] quantity: 114.375 CFS (500 AF) based upon Cahoon Maxfield et al exchange applications E2919 through E2922 filed March 30,1992, to be used "within the service area of Alta." Water right 57-10013 (a16844) is a Town of Alta water right in addition to the rights provided by Salt Lake City in 1976 for the properties located within the Town of Alta as of 1976. In reality, the city was illegally diverting water to Snowbird and the Town of Alta from 1976 until Cahoon Maxfield sued Salt Lake City and the city moved up the 500 acre-feet under 57-10013 (a16844).

Furthermore, I am entitled to use water intended to serve my property for domestic use which has the highest priority of beneficial use from water right 57-10291 (a26764) (providing some of the Alta Ski Lift snowmaking water which has the lowest category of beneficial use, which was approved for conversion from seasonal irrigation to year round culinary/municipal use, (quantity: 133.80 AF) at Cecret Lake and Little Cottonwood Creek points of diversion among others, the parent water right is also based upon Cahoon Maxfield et al exchange applications and Water Users Claim No. 57-8973, the intended purpose for part of this water right is for Alta Ski Lift Co. to use 40 million gallons of water for snowmaking. Interestingly snowmaking has a 17% evaporative depletion factor and yet neither change application 57-10291 (a 26764) nor 57-10013 (a16844) nor 57-10012 (a16843) have been penalized the lower depletion amounts prior to change application approvals by the State Engineer. What the State Engineer has done to my application goes against his duties of fair application of the law and due process and equal protection. At one time Mr. Hooten states that snowmaking has a 6% DEPLETION FACTOR [*See* Leroy Hooten, Director of SLCPU, letter to Mayor Palmer DePaulis dated November 19, 1987 enclosed as Exhibit "9"], ignoring the national 17% DEPLETION number, and yet incredulously Mr. Hooten applies for and gets approved by the State Engineer for a 100% DEPLETION BONUS. SLC and its legal representatives are now estopped from arguing one way against my application while seeking and being approved under different depletion standards and calculations (i.e. approved for 100% depletion of the full amount).

Under Utah Code section 73-3-21, use of water for "domestic purposes" has a higher priority over other uses. While my application is for the domestic use of a single family cabin and is in no way speculative, SLC has engaged in moving water for speculative purposes. It supplies approximately 50,000 acre-feet of water for city residents and approximately 24,000 acre-feet for canyon non SLC residents yet it has in excess of 500,000 acre-feet. The State Engineer has not sought to enforce 73-3-3 requirements against Salt Lake City. Worse yet, the State Engineer has permitted the city to change the nature and purpose of its summer irrigation water to year round culinary and municipal use and then has further allowed the city to degrade that water from municipal and culinary use

to snowmaking which is a low priority recreational use. Even worse, the State Engineer has assented to allowing Salt Lake City/Alta snowmaking to impair other winter water right owners including myself by virtue of the simple fact that instead of snowmaking acting as a type of "storage", free flowing underground winter water is pumped and then blasted through snowmaking guns to become snow. Downstream winter rights are impaired because, 1) winter flows are diminished because the snowmaking is contributing to low creek flow, and, 2) snowmaking adds to springtime peak runoff volumes which are not captured at the bottom of the canyon. Adding additional excessive spring runoff flows from snowmaking to already high flows in the neighborhood of 600-900 cfs simply cannot be captured by anyone. Snowmaking does not store water, it simply converts slower winter flows to un-useable peak springtime runoff flows.

Additionally, I own a water share in the Cecret Lake Water Company which has water rights in Cecret Lake and a developed spring located on land which was developed as private property which was patented out of federal ownership and now serves the water needs of Cecret Lake Subdivision including patented mining claims Cecret 1 and 2 as well as the Cole mining claims. This developed spring currently sits on re-acquired Forest Service land [making the FS subject to the spring rights thereon] and all other real property interests including access and maintenance of the road to the spring, to the Cecret Lake Subdivision and to Cecret Lake itself. My private property rights also include a right of way easement for all future roadways, water lines, power lines, and all utilities as the same may be constructed for the complete development of said patented mining claim; together with a right of way from existing right of way to described property, sufficient for travel and access", [*See* Tolton/Maack deeds Exhibit "10"] which speaks directly to Salt Lake City's concern about "feasibility." Concomitantly, my real property rights including my ingress and egress rights to my property are senior to those junior rights of the Forest Service afforded Alta Ski Lifts Company under their Forest Service/ASL Area Special Use Permit, therefore, ASL is burdened by and subject to my superior and senior road rights and utility easement rights.

I also have a contract right for water with Little Cottonwood Water Company which contracts have apparently been assigned to Salt Lake City after the city's takeover of the Little Cottonwood Water Company. Currently, there are approximately 8 other homes in my same Cecret Lake Subdivision neighborhood which are served water based upon all of the foregoing water rights.

With respect to *de minimis* impairments, the potential for impairment to Salt Lake City or others from this small quantity of water is not even capable of being measured, if such impairment even existed as has been explained in great detail above. The amounts of water we are talking about represent fractions of the limits of the errors in SLC's own water measuring devices. Salt Lake City has represented that its meter was "incapable" of measuring flows in the range of 7500 gallons per day.

Moreover, if one thinks about potential impairment in terms of free imported water available to Salt Lake City from the truckloads of beverages that go up the canyon each day in the form of wine, beer, soft drinks, and water, this quantity of imported water would

offset the infinitesimal potential for any impairment. Not only that, but if SLC or any other protestant can measure any impairment I will gladly buy retail water from Orem City for 50 cents per 1000 gallons and truck it up in a 50,000 gallon capacity semi-truck and simply pour it into the creek at the treatment plant for replacement water as allowed under Utah Code section 73-3-23.

By definition, the Water Right could not interfere with my "named beneficiary" contract right to use both Salt Lake City's water right and separately the Town of Alta's water right under the 1976 SLC-TOA Water Supply Agreement. Impairment, if seen as being the same molecules of water being used for the exact same home uses, does not exist. My right to use water under a municipal license cannot be impaired by my right to use my own water for the same exact domestic purpose. The city's impairment arguments should be rejected.

Storage

While, as we discussed, the Order implicitly permits certain water storage, the Order should be amended to approve Cecret Lake as an additional water storage site, as was originally requested and advertised in the Change Application. The applicant holds real property rights, which include easements and littoral rights with respect to Cecret Lake by virtue of owning certain adjacent mining claims known as the Cole, Cecret No.1 and Cecret Lake No. 2 claims. [*See* Deeds, enclosed as Exhibit "10"].

Additionally, Great Western Mining Company, LLC ("GWM"), in which the applicant is a managing member, owns a substantial amount of real estate in Alta including the mineral rights and road access rights to the Albion Basin Campground and Albion Alps Subdivision. [*See* Deeds and Maps, enclosed as Exhibit "11"].

Certain of the protestants have incorrectly claimed that it was impossible to store applicant's water in Cecret Lake because of a lack of road access. In reality, there are numerous county and private road rights of way and easements.

Not only is Cecret Lake water storage possible, but also it is in practice. Salt Lake City has stockpiled water in Cecret Lake for years.[4] Cecret Lake is a vi
location and should be specifically approved for fire flow storage.

Sincerely,

Kevin D. Tolton, M.D.

[4] Salt Lake City's stockpile of water appears to exceed that which is authorized.

Judy Maack

Judith Maack

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MEMORANDUM OPINION

Date: March 28, 2013
To: Kevin Tolton
From: Ronald K. Christensen, Ph.D., P.E.
Subject: Water Right/Hydrologic Analysis of Change Application a28548(57-7800)

As requested I have conducted a hydrologic analysis of the apparent historical beneficial use under Water Right No. 57-7800 and the hydrologic effect of the changes to be made under Change Application a28548(57-7800).

Summary and Recommendations

In summary, the diversion rights under Water Right No. 57-7800 appear to be more than sufficient for supply of domestic use for one family whether constrained by Salt Lake County contracts or not. However, the depletion rights of 0.3729 acre-feet annually are insufficient for full year around domestic use and fire protection use. The State Engineer will likely assess full depletion against the domestic use because the waste flow cannot be discharged to a septic tank or other system that would return the waste flow to the hydrologic system in the canyon. Fire protection will also be assessed full depletion.

Accordingly, I recommend you pursue two options in responding to the reconsideration of Change Application a28548 as follows:

(1) You can request approval for the full 0.45 year around domestic use requested in the Change Application with the condition that you meter your water use and cease your water use for the remainder of the year whenever your use reaches 0.3729 acre-feet unless you replace any use in excess of 0.3729 acre-feet up to 0.45 acre-feet under a approved artificial groundwater recharge permit. Under this option, you would have to either cease your use at 0.3729 acre-feet (303 days of use) or bring in by truck or other means 0.0771 acre-feet (25,125 gallons) of good quality water and infiltrate that water into the groundwater system under an approved groundwater recharge permit.

(2) You can also request in the alternative approval of a seasonal domestic right of 0.25 acre-feet (204 days) along with a fire protection right of 0.1229 acre-feet for a total fully depletable use of 0.3729 acre-feet. The 0.25 acre-foot seasonal domestic right is the State

Engineer's standard duty and allocation for seasonal use and allows for 204 days of domestic use annually. The 0.1229 acre-feet of fire protection allows for 40,061 gallons of fire use annually. Any additional fire storage water needed will need to be trucked in from the valley.

If in the first year you will have no domestic use because you will be building your cabin, my recommendation is to also request approval for a one-year only use of your 0.3729 acre-foot right for filling of fire protection storage. That approval would allow you to fill your fire protection storage by 121,518 gallons that first year.

Discussion

Attached is a spreadsheet analysis of the original 57-7800 water rights, the current segregated 57-7800 water rights after division and segregation into six equal individual rights, and the diversions and depletions requested under Change Application a28548.

The first spreadsheet page gives an analysis of the water rights as they are currently shown on the computer records of the State. However, recent letters from the State Engineer's office have indicated that those records may not be accurate due to long standing contracts between the former users of the water rights and Salt Lake City. The second page of the spreadsheet provides an analysis of the water rights as they may be constrained by those contracts. As it turns out, in the end whether the water rights are as they are currently reported in the State Engineer's computer files or as they are constrained by the Salt Lake City contracts, the result is the same. Either way there is only sufficient water rights for Change Application a28548 for domestic use of water for up to 303 days, or about 10 months out of the 365 day year as discussed below. There is not enough water depletion rights for year around use.

The first page of the spreadsheet analysis includes five tables. The first table shows that the original 57-7800 water rights included 0.73 acres of irrigation, stockwatering for 15 stock, and domestic use for three families. Each use has a State Engineer determined water duty, which is the acre-foot amount allowed for that use. That duty is 5.0 acre-feet/acre for irrigation, 0.028 acre-feet/head of stock, and 0.45 acre-feet per family domestic use. Multiplying the 0.73 acres of irrigation, 15 head of stock and 3 families domestic use by these water duties yields a total historical water right of 5.42 acre-feet of water use annually.

The second table divides the amounts in the first table into six equal parts and represents the acre-feet of water rights for diversion and beneficial use of water available under the current Tolton owned 57-7800 water right. That amount totals 0.903 acre-feet and represents the total amount of water that can be diverted to beneficial use in any one year.

However, 0.903 acre-feet only represents the right of diversion and does not represent the amount of water that can be consumed or depleted from the hydrologic system in any one year. The historical irrigation and domestic uses of the water did not consume all of the water diverted, but only some fraction of the water diverted. The State Engineer has determined that reasonable depletions for irrigation are 42.4 percent for irrigation water used in the Salt Lake Valley, 100

percent depletion for stock watering, and 20.0 percent depletion for domestic use. Using these depletion amounts, the third table computes the total historical depletion of each use under the original water right. While the fourth table computes the one-sixth divided interest of the amounts in the third table. That table shows that 0.3729 acre-feet of the historical depletion currently remains in the 57-7800 water right.

The fifth or bottom table shows an evaluation of the requested change application. The change application requests a change of the water right from the historical uses near the mouth of Little Cottonwood Creek Canyon to domestic use for one family high up the canyon. The State Engineer's duty for domestic use is 0.45 acre-feet of annual diversion right as shown in the bottom table. That amount is much less than the 0.903 diversion right for the 57-7800 water right (see the 2nd table) and leaves unused 0.453 acre-feet of diversion right (0.903 - 0.45).

However, because no septic tank drain fields are allowed in the canyon where the new domestic use is to be changed, no return flow from that 0.45 acre-feet of domestic use can be recognized. Rather, all wastewater and sewage from the domestic use must be discharged into the trunk sewer line that runs down the canyon to wastewater treatment facilities in the valley well below the canyon mouth. Without return flow from the domestic use, depletion to the Little Cottonwood Creek watershed is 100 percent. That means that the entire 0.45 acre-feet domestic use must be hydrologically treated as being entirely depleted from the Little Cottonwood Creek watershed because there is no return flow to the watershed. But, rather all wastewater must be discharged into a trunk sewer in the canyon and conveyed to treatment facilities far below in the valley.

The 100 percent 0.45 acre-feet of depletion presents a problem because as shown in the fourth table of page 1 of the spreadsheet, the depletion entitlement associated with water right 57-7800 is only 0.3729 acre-feet. As shown in the bottom table, that leaves the right 0.0771 acre-feet short of the 0.45 acre- feet of depletion required for year around use. However, that problem can be remedied in two ways: (1) you can recharge the groundwater system for any use in excess of the 0.3729 acre-feet of depletion, or (2) if your domestic use will be less than 204 days, the State Engineer treats that as seasonal use and you can simply ask for approval of seasonal domestic use. That seasonal use would entitle you to use 0.25 acre-feet annually.

Under the first option you can request approval for the full 0.45 year around domestic use requested in the Change Application with the condition that you meter your water use and cease your water use for the remainder of the year whenever your use reaches 0.3729 acre-feet unless you replace any use in excess of 0.3729 acre-feet under a approved artificial groundwater recharge permit. The 0.3729 acre-feet of use would give you 303 days of use. After that you would have to either cease your use at 0.3729 acre-feet or bring in by truck or other means 0.0771 acre-feet (25,125 gallons) of good quality water and infiltrate that water into the groundwater system under an approved groundwater recharge system and permit. An artificial recharge permit can be obtained from the State Engineer, but will require an application and approval process. Statutes and State Engineer regulations govern the recharge permit approval

process.

Under the second option or alternative, you can request approval for 0.25 acre-feet of seasonal use (204 days) for your cabin. That amount leaves 0.1229 acre-feet or 40,061 gallons available annually for fire protection. If the cabin is not used in the first year after approval, you could request approval for 0.3729 acre-feet or 121,518 gallons of diversion for filling fire protection storage that first year. Thereafter, any shortfall in fire protection needs in excess of 40,061 gallons annually will need to be trucked in.

If however, as noted above, the 57-7800 water rights are be constrained by old contracts with Salt Lake City, the second page of the attached spreadsheet provides an analysis of the water rights available for the change application in that event. It appears that the contracts may constrain the original 57-7800 water rights to 4000 gallons per day April 1 to September 30 each year and 2000 gallons per day October 1 through March 30 of each year. If that is correct, the original irrigation season total water rights are 2.2463 acre-feet and the winter season water rights are 1.1170 acre-feet for a total of 3.3633 acre-feet of allowed diversion. This diversion amount is less than the 5.42 acre-feet diversion amount shown in the first table of page 1 of the spreadsheet.

Further, a one-sixth interest in the 3.3633 acre-feet contract amount yields 0.5605 acre-feet of allowed diversion. But, that amount is more than the recommended seasonal domestic use of 0.25 acre-feet and 0.1229 acre-feet of annual fire protection ore total use of 0.3729 acre-feet for the change application. And so, even with the contract constraints, there is more than enough diversion right for the desired domestic use.

The allowed depletion amount still constrains the year around use. The depletion amount remains the same at 0.3729 acre-feet annually because even though the diversion right is less, the actual water depletion of the historical uses is what it was and is not changed. The same irrigation, stock, and families used the water and so had the same historical depletion of 0.3729 acre-feet. Thus, the historical depletion of 0.3729 acre-feet remains available even if the rights are governed by the contracts.

Further, the diversions will not be from Salt Lake City's pipeline at the mouth of the canyon. But rather, because the diversions will be from a well drawing groundwater high in the canyon, the gallons per day constraints of the contracts are not hydrologically applicable. Groundwater use from a well diverts water from groundwater storage. Accordingly, the effect of seasonal use on the flow of the creek will be significantly attenuated, smoothed, and reduced. Thus, because groundwater storage will be used instead of creek or pipeline water, hydrologically any flow reduction that may occur in the creek will be much less than the contract constraints as long as the annual depletion of 0.3729 acre-feet is not exceeded. Within that constraint, it appears that seasonal domestic water use and diversion of 40,061 gallons of fire protection annually can be made as needed without impairment of Salt Lake City's rights under the contracts.

Tolton Water Right/Change Application Review

Date: 3/11/2013 Draft

57-7800 Original Right

	Acres	#	Duty	Acre-feet
Irrigation	0.73		5.0	3.65
Stock		15	0.028	0.42
Families		3	0.45	1.35
			Total	5.42

Rights Evenly Split 6 ways

	Acres	#	Duty	Acre-feet
Irrigation	0.1217		5.0	0.608
Stock		2.5	0.028	0.070
Families		0.5	0.45	0.225
			Total	0.903

Original Depletion

		Acre-feet
Irrigation		1.5476
Stock		0.42
Families		0.27
	Total	2.238

Depletion Evenly Split 6 Ways

		Acre-feet
Irrigation		0.2579
Stock		0.0700
Families		0.0450
	Total	**0.3729** **(100 % depletion entitlement)**

Tolton a28548 Change Application

	Acres	#	Duty	Acre-feet	Depletion	Annual Depletion Acre-feet	**Constrained to 1/6 Depletion** Annual Depletion Acre-feet	Daily Depletion gal/day	Maximum No. of days
Irrigation	0		5.0	0.000	0	0			
Stock		0	0.028	0.000	0	0			
Families		1	0.45	0.450	100%	0.45			
			Total	0.450		**0.4500**	**0.3729**	**400**	**303**
			(fire protection not in totals)						
				Over depletion		**-0.0771**	**0**	**0**	**0**

Recommended Approval Request:

First Year Only					
Domestic use	0	0.25	0	100%	**0.0000**
Fire Protection	121,518 gals		0.3729	0.3729	**0.3729**
				Total Depletion	**0.3729**
Thereafter (all years after first year)					
Domestic seasonal	1	0.25	0.25	100%	**0.2500**
Fire protection	40,061 gals		0.123	0.123	**0.1229**
				Total Depletion	**0.3729**

Tolton Water Right/Change Application Review

Date: 3-11-2013 Draft

If constrained by change application and contract then 4000 gals/day April 1 to September 1 and 1500 gals/day October 1 through March 31.

	Irrigation Season		Winter Season	
Supply	4000 gal/day	Supply	1500 gal/day	**Total**
No. of Days	183	No. of Days	182	**Acre-feet**
Acre-feet	2.2463	Acre-feet	0.8378	**3.0840**
			1/6 interest	**0.5140**
			Depletion the same:	**0.3729**

Tolton a28548 Change Application (1/6 interest)

	Acres	#	Duty	Acre-feet	Depletion	Requested Annual Depletion Acre-feet	Requested Winter Depletion gal/day	**Constrained to Seasonal Use** Annual Depletion Acre-feet	Daily Depletion gal/day	Maximum No. of days
Irrigation	0		5.0	0.000	0	0	0			
Stock		0	0.028	0.000	0	0	0			
Families		1	0.45	0.450	100%	0.45	401.8			
		Total		0.450		**0.4500**	402	**0.2500**	**400**	**204**
				Over depletion		**-0.0771**	none	**0**	**0**	**0**
				Contract Supply			250		**400**	**204**
				Under supply			**152**	**0**	**0**	**0**

Recommended Approval Request:		Depletion Acre-feet	Depletion Gallons
Domestic use - first year		0	0
Fire Protection - first year		0.3729	121,518
Domestic use - thereafter (after first year)		**0.2500**	81,468
Fire Protection - thereafter (after first year)	Annual Depletion	**0.1229**	40,061
	Total Depletion	**0.3729**	121,529

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EXPERIENCE SUMMARY

Water and environmental engineering expert with 32 years experience. Extensive experience in water rights, water law, water/environmental engineering/ hydrology, water resource development, river basin management, hydrologic modeling, groundwater evaluations, watershed science, and designing, constructing, operating water resource supply, storage, and drainage systems including water policy, water institutions, and environmental regulation.

Expert witness experience in water systems, water rights, wells, groundwater, and hydrology. Water right related projects include expert testimony, State engineer hydrographic/water use surveys, water contracts evaluations and litigation assistance; water contract drafting, negotiations, review and evaluations; water rights valuation, sale, and transfer, water right title research and evaluations, water right proofs, water right appropriation and change applications drafting, submittal, administrative negotiations and regulatory compliance, and evaluation of federal reserved and Indian water rights. Other projects also include water system master plans, groundwater evaluations, well evaluations and well head protection plans, aquifer storage and recovery systems planning, stream diversions and modifications, endangered species in-stream flow analyses, river basin modeling, water quality evaluations and analyses, municipal water supply planning, and reservoir sizing and operational studies. Also, supervised design, construction, and operation of canals, pipelines, pump stations, diversion structures, sediment removal ponds, and mechanical screening equipment.

CREDENTIALS AND EXPERIENCE SUMMARY

Engineering Credentials/Experience

- **32 years experience** in civil/water engineering and water law in private consulting and government
- **Ph.D. Civil and Environmental Engineering** (water resources emphasis), 1996, Utah State University, Logan, UT
- **M.S. Civil Engineering** (water resources emphasis), 1980, Utah State University, Logan, UT
- **B.S. Watershed Science**, 1978, Utah State University College of Natural Resources, Logan, UT
- **Registered Professional Engineer** (Utah, 1984, #166380, Alabama, 2006, #28152-E)

EMPLOYMENT SUMMARY

Civil Engineer/Expert/Principal Consultant/Attorney. Water and Environmental Services, LLC., Highland, UT. April 2000-Date.

Adjunct Instructor. Utah Valley State College, Orem, UT. Hydrology. Fall Semester. 2007.

Adjunct Professor. Civil and Environmental Engineering Dept., Utah State University, Logan, UT. 1998-2001.

Supervising Civil/Water Engineer. Parsons Engineering Science, Inc., Salt Lake City, UT. 1990-April 2000.

Law Clerk. Snow, Christensen, and Martineau, Salt Lake City, UT. Part-time 1997-1998.

Staff Civil/Water Engineer. Central Utah Water Conservancy District, Orem, UT. 1985-1990.

Civil/Water Engineer. Rollins, Brown, and Gunnell, Inc., Provo UT. 1980-1985.

Graduate Research Assistant. Utah Water Research Laboratory, Logan, UT. Part-time 1977-1980.
Hydrologic/Forestry Aid. Coconino National Forest, Flagstaff, AZ. Summers 1976-1978.
Hydrologic Technician. Utah State University College of Natural Resources, Logan, UT. Part-time during school years 1976-1977.

OTHER SPECIAL TRAINING

Attorney at Law (Utah State Bar #8530; Washington State Bar #37345)
J.D. of Law with Environmental and Natural Resources Law Certificate, 1999, University of Utah College of Law, Salt Lake City, UT
U.S. Bureau of Reclamation Workshops
Water Systems Management Workshop (1 week)
Dam Tenders Workshop (one day).
Utah State University, Pipe Network Analysis Workshop (1 week).

PROJECTS, EXPERIENCE AND SKILLS

Water Rights Analysis and Administration

- Provided expert evaluation and deposition testimony regarding domestic and irrigation water rights and water application rights in a large surface and ground water rights case in Utah.
- Provided expert evaluation and expert report of well and surface water rights conveyed by a developer to Alpine City, Utah including title research, water right amount/yield analysis, analysis of well tests and well capacity, analysis of aquifer groundwater hydrology, analysis of the value of a well in relation to its location and use in the City's culinary and irrigation water systems, and opposing expert report rebuttal.
- Expert evaluation and affidavit testimony for a large irrigation well right in Utah.
- Testified as an expert witness in a proof of appropriation case including completing a hydrographic survey of water use and testimony regarding approved water rights and the beneficial use of the approved water rights.
- Expert evaluation and deposition testimony regarding the effect of logging related hydrologic changes on the riparian water rights of landowners on the Elk River in the redwood forest region of North Coastal California for a lands and water rights damage case.
- Prepared numerous water rights evaluations in Utah, Arizona, New Mexico, Wyoming, Nevada, California, Washington, Idaho, and Montana.
- Prepared and submitted to the State Engineer many water right proofs for wells and hydroelectric plants.
- Assisted with a water right inventory for the Coconino National Forest in Northern Arizona including water right documentation and quantification.
- Prepared water-right change applications and applications to appropriate, and participated in State Engineer water right hearings.
- Researched water right title and prepared and submitted many Reports of Title Conveyance to the Utah State Engineer's office regarding title and ownership of water rights in the State of Utah.

- Served as Technical/Quality Control Director and as a water right file analyst for the highly successful Geographical Information System (GIS) based Lower Rio Grande/Nutt Hockett Hydrographic Survey completed for the New Mexico State Engineer. This hydrographic survey inventoried over 90,000 acres of irrigated lands and over 30,000 wells and individual water rights for timely adjudication of water rights in the lower Rio Grande Basin of New Mexico.
- Completed various water rights related investigations involving most of the major river systems of the western United States. including evaluation of interstate river compacts on the Colorado, Rio Grande, and Bear Rivers.
- Assisted irrigation districts throughout the West in defending water rights, benefits, and privileges afforded them under Bureau of Reclamation law and contracts.
- Reviewed and commented on the Jicarilla-Apache federal reserved Indian water rights hydrographic survey including amounts and validity of water claims.
- Completed a water supply/water rights assessment of the Animas River for the San Juan Water Commission and determined worst case Indian water rights impacts on the Animas River water supply.
- Completed a review of groundwater and surface water rights and estimated water right yield for the ten (10) communities of South Utah County, Utah.
- Wrote computer program and processed data for a water use inventory of the State of Utah funded by the Utah State Engineer. The computer program and inventory subsequently became an important part of water rights and use administration in Utah.
- Evaluated the hydrologic effects of San Luis Valley irrigation practice changes on Rio Grande flows and water rights.

Other Expert Witness Projects

- Provided expert witness hydrology analysis and affidavit testimony for a lake hydrology, flooding, and water quality case in Saskatchewan, Canada including expert hydrologic analysis and water quality impact analysis.
- Provided expert witness hydrology, hydraulics, and erosion analysis for a storm water drainage damage and erosion case in Carson City, Nevada including rainfall and runoff analysis, flood frequency analysis, and evaluation of the causes of erosion damage.
- Completed surface water and ground water hydrology and water quality studies and expert witness report involving potential contamination of water supplies from a nuclear power generation facility in Florida.
- Evaluated stream hydrology, hydraulics, flooding, and erosion effects of a stream temporary crossing near St. Louis Missouri.
- Providing expert analysis for a major river and reservoir operations flooding case in the Brisbane River Basin of Australia including evaluation of all aspects of hydrology and evaluation and simulation of reservoir operations during a major flooding event on the Brisbane River.
- Evaluated stream hydrology, flooding, and sedimentation effects on downstream lands and facilities

from a recreational home/residential development for a lands damage case in West Virginia.

- Completed a hydrologic investigation of reservoir storm operations and analyzed downstream flooding from a hydropower dam and reservoir on the Tallapoosa River, Alabama and provided deposition testimony for a flood damage case.
- Completed a hurricane hydrologic reservoir/spillway operations study for evaluation of downstream flooding effects along Big Creek and the Escatawpa River, Mississippi and provided deposition testimony for a flood damage case
- Evaluated hydrology and sources of sedimentation and bar formation in a navigational canal for a boat injury case in Louisiana and provided deposition testimony.
- Conducted a flood drainage/water supply canal safety criteria and design study at a canal/roadway crossing for an injury case in Florida.

Water Supply Planning

- Completed a municipal water supply Level II feasibility study for Bedford, Wyoming included estimation of ungaged and gaged stream flow, evaluation of water rights, and estimation of unappropriated water.
- Conducted a surface water supply study for Star Valley, Wyoming included estimation of ungaged and gaged stream flow, evaluation of water rights, and estimation of unappropriated water.
- Completed a water supply needs study for the ten (10) communities of South Utah County, Utah including evaluation of the water right yield of all city water rights.
- Completed municipal water right and supply evaluations for Orem City and Wasatch County, Utah.
- Developed a master plan for Elephant Butte Irrigation District, Las Cruces, New Mexico for the conversion of nearly 200,000 acre-feet of irrigation water to municipal use including water treatment facilities up to 350 mgd in capacity and transmission pipelines up to 96 inches in diameter.
- Conducted a water supply study to provide a surface water municipal supply for El Paso, Texas: computer simulation of two large reservoirs on the Rio Grande and associated delivery systems.
- Completed a regional water supply plan for the Rincon Valley and the lower Rio Grande Valley above Leasburg, for the Elephant Butte Irrigation District.
- Completed water yield and feasibility studies for alternative configurations of the proposed Animas-LaPlata Project.
- Completed municipal return flow analyses for San Juan Water Commission municipal entities.

Environmental and Regulatory/Institutional/Water Policy Experience

- Completed an evaluation and assisted the State of Utah in determining the institutional feasibility of enlarging the Bureau of Reclamation's Hyrum Reservoir for municipal supply for the Wasatch Front, Utah.
- Participated in multi-disciplinary and multi-project Central Utah Project (CUP) coordination meetings and discussions.

- Prepared a successful NPDES Clean Water Act permit application for removal of residual chlorine prior to release of water to Utah Lake.
- Reviewed an in-stream flow requirement study for a blue ribbon trout fishery in the Provo River, Utah and provided independent analyses and comments on study results.
- Participated in an interagency team for determining in-stream fishery flow requirements for Rock Creek and the Duchesne River, Utah.
- Reviewed and made comments on interagency team findings for required endangered species in-stream flows on the San Juan River, New Mexico and Utah including comments on study assumptions, findings, and recommendations.
- Participated as a committee member in the interagency hydrology and coordination committees for the Navajo Reservoir Reoperation EIS, 1999-2000.
- Participated in EIS public scoping meetings and interagency public involvement meetings for proposed Bureau of Reclamation Central Utah Project (CUP) facilities.
- Reviewed and commented on the CUP Spanish Fork/Nephi (SFN) System EIS. Assisted the Strawberry Water Users Association in preparing letter comments to the Bureau of Reclamation.
- Reviewed and provided comments to the San Juan Water Commission on the recently released Bureau of Reclamation Animas-LaPlata Project Supplemental Environmental Impact Statement.
- Reviewed and commented on USGS and State of Utah hydrologic and salinity modeling of the Great Salt Lake for Union Pacific Railroad.
- Reviewed and commented on the Great Salt Lake Comprehensive Management Plan and assisted Union Pacific Railroad in preparing letter comments for submittal to the State of Utah regarding flood control operations of the Great Salt Lake pumping project and management of lake salinity.

Hydrology/Modeling/River Basin Management

- Conducted a water right hydrologic analysis for the enlargement of Bishop Creek Reservoir, Nevada including analysis and extension of available streamflow data and reservoir operational modeling for determining the optimum size of the reservoir basin for optimum water supply from the reservoir.
- Conducted watershed and river basin management computer modeling studies of the many of the larger rivers of the Western United States including the Rio Grande, the Green River, the San Juan River, the Colorado River, the Jordan River, the Bear River, and the North Platte River. Reservoir operation studies have included water rights and operations of Lake Powell, and Lake Mead for determination of the proper water supply intake level at Lake Mead. Other studies have included evaluations on the Snake River and Columbia River.
- Conducted water supply/quality research investigations for the Central Utah Project: Water rights and accounting modeling for reservoir, pipeline and diversion sizing, and operational studies on the Duchesne, Weber, and Provo Rivers and on Utah Lake. Included use of all U.S. Bureau of Reclamation computer models for simulation of the Central Utah Project and the BYU developed Utah Lake Water Quality Simulation Model.
- Assisted in evaluations and negotiations for reservoir and water right operating agreements for

Strawberry and Deer Creek Reservoirs. Reviewed and commented on reservoir operating agreements for Jordanelle and Hyrum Reservoirs.

- Conducted water supply research investigations: river basin water right and reservoir modeling of upper Bear River Basin in Utah and Wyoming. Included stochastic streamflow generation of upper Bear River tributary flows, reservoir and reservoir computer operational studies on stochastically generated flows along with water right demand simulations and evaluation of the Bear River Compact and its effect on river operations and available water.
- Retained by the San Juan Water Commission to perform RiverWare water right operation studies and flood control analyses for the Bureau of Reclamation's Navajo Reservoir Re-operation Environmental Impact Statement.
- Performed an independent RiverWare San Juan River modeling output evaluation for the San Juan Water Commission and reviewed and commented on BOR/USFWS endangered fish species in-stream flow evaluations and recommendations.
- Analyzed the economic feasibility of flood control methods for the Great Salt Lake through stochastic annual streamflow and hydrologic computer simulation including West Desert pumping and diking systems at critical areas along the lake shore.
- Evaluated all significant Rio Grande gaging station records (including low flow conveyance channel and Compact stations), Rio Grande Commission records, precipitation and evaporation data, and reservoir storage and release data for modeling of the water supplies available from the Elephant Butte and Caballo Reservoirs of the Rio Grande Project. Work included statistical analyses, missing data estimation, long-term trend analyses, return flow analyses, river gain/loss analyses, and hydrogeologic analyses.
- Evaluated San Juan-Chama Reclamation Project effects on streamflows of the Rio Grande.
- Completed a 100-year floodplain evaluation and mapping study for the West Fork Cabin Camp on the Madison River, Montana including both gaged and ungaged flood frequency analysis and estimation, on-site river survey, and river hydraulic modeling.
- Assisted with fortran computer programming for river basin modeling of the Senegal River, Africa.

Hydrogeology/Groundwater/Surface Water Conjunctive Management

- Prepared geohydrology water source evaluations and well-head protection plans for two wells and three springs near Scofield and near Lehi, Utah including evaluation of groundwater travel times and determination of water origination areas for the wells and springs.
- Completed hydrologic evaluation for a West Salt Lake Valley, Utah Aquifer Storage and Recovery (ASR) Feasibility evaluation for short-term storage of surface water. Included review of the hydrogeology of the Salt Lake Valley and the feasibility of infiltration basins or well injection of surface water into the groundwater system of West Salt Lake Valley.
- Completed hydrologic evaluation for a Cedar Valley, Utah Aquifer Storage and Recovery (ASR) Feasibility evaluation for long-term storage of surface water. Included review of the hydrogeology of the Cedar Valley and the feasibility of infiltration basin or well injection of surface water into the groundwater system of Cedar Valley.

- Completed a hydrologic evaluation for a Utah Lake and Jordan River, Utah Water Conservation and Aquifer and Storage Recovery (ASR) Master Plan which would conserve and develop 86,000 acre-feet of municipal and outdoor irrigation water through use and re-use of return flows. Included research of the hydrogeology of the Salt Lake, Utah, and Cedar Valleys and the feasibility of infiltration basins or well injection of surface water into the groundwater system of the Salt Lake, Utah, and Cedar Valleys.
- Completed a hydrologic evaluation of aquifer storage and recovery (ASR) system feasibility for two sites in the Mesilla Valley of the Lower Rio Grande including analysis of area hydrogeology and aquifer storage and yield capability.
- Completed a hydrogeologic review of the Honerine Mine workings and tunnels to determine feasibility of use as a water supply for Tooele City, Utah.
- Completed a surface water/groundwater research investigation for the permitting of a coal loading facility, Price, Utah. Performed a well pump test for determination of aquifer characteristics and determined groundwater sources.
- Conducted a surface/groundwater interaction research study to determine sources of groundwater for the St. John area of Rush Valley, Utah.
- Completed canal seepage/water conservation investigations for the $34 million Duchesne River Canal Rehabilitation Program of the CUP.

Pipeline/Canal/Water System/Hydropower Design

- Supervised design, construction, and operation of a $34 million irrigation canal rehabilitation project including administration of eleven (11) construction contracts, administration of bidding, construction scheduling, materials testing and inspection, surveying, weekly construction progress meetings, and monthly payment requests. review of plans and specifications, negotiation and liaison with canal companies, and supervision of construction inspection.
- Conducted canal and aqueduct capacity studies including computation of water surface or hydraulic profiles for open channels, pipelines, bridges, culverts, and tunnels.
- Completed research for the feasibility of hydroelectric power generation including estimation and evaluation of streamflows and power output for Last Chance Power Plant, Utah
- Conducted hydroelectric power generation and requirement studies for the Southern Nevada Water Authority Treatment and Transmission Facility including power requirement and power source option studies.
- Designed 2.5 miles of 30-inch wastewater effluent ocean outfall pipeline extending 1.5 miles into the ocean.
- Performed large diameter water transmission pipeline route analyses, hydraulics, and pump station evaluations, treated water facility disinfection plans, and electrical power supply and transmission facility studies to provide ultimate water delivery to Las Vegas, Nevada.
- Conducted engineering studies for an environmental impact statement (EIS) on replacing a raw water supply pipeline for Boulder, Colorado: evaluation of alternative pipeline alignments, diversion, and small storage sites for an 800 psi pressure pipeline.

- Completed a feasibility study for a 600 mgd pump station connected to Hoover Dam on the Colorado River with a hydraulic lift of over 1200 feet.
- Performed large diameter water transmission pipeline route analyses, hydraulics, and pump station evaluations, treated water facility disinfection plans, and electrical power supply and transmission facility studies to provide ultimate water delivery to Las Vegas, Nevada.
- Conducted canal and aqueduct capacity studies including computation of water surface or hydraulic profiles for open channels, pipelines, bridges, culverts, and tunnels.
- Performed large pump station design and operational evaluations.
- Participated in annual inspections of dams, reservoirs, tunnels, large diameter pipelines, and canals.
- Completed an overflow evaluation for the Jordan Valley Water Treatment Plant, Salt Lake County, Utah and developed overflow control alternatives.
- Evaluated operational problems for three municipal water treatment plants.
- Designed water transmission pipelines and large storm drains.
- Conducted a geologic and structural evaluation of the Cedar Mountain Tunnel of the Shoshone Reclamation Project of Wyoming including sonar sensing of voids behind the concrete walls of the tunnel and the development of a tunnel rehabilitation strategy and design.

Water Quality Evaluations

- Researched suspended sediment, settlement, and bedload prediction models and developed a suspended sediment and bedload spreadsheet model of the Payette River for the Horseshoe Bend Hydroelectric Facility for prediction of diverted flow and downstream river sediment loads.
- Completed conceptual water treatment plant and system designs for desalination of brackish groundwater and surface water including facility sizing, treatment train formulation, and waste stream treatment.
- Conducted a salinity/water quality investigation of the Jordan River, Utah including water quality sampling and monitoring for its entire length from Utah Lake to the Great Salt Lake, all major incoming tributaries, and most minor tributaries.
- Prepared conceptual designs and feasibility analysis for a desalination plant for treating saline mineral springs discharging to Utah Lake at Bird Island and Lincoln Point, Utah.
- Developed storm hydrology design criteria and standards for urban development within American Fork City and developed Best Management Practices (BMP's) for water quality compliance standards for urban developments in American Fork City, Utah. Included storm drainage system mapping, drainage system computer simulation and evaluations and formulation of master drainage plans and regulations for future development in the city while meeting EPA regulations.
- Conducted a water supply and water quality modeling investigation and completed a Salinity Management Control Plan for Utah Lake, Utah.
- Participated on the interagency review team for the CUP Utah Lake Salinity Management Study:

reviewed modeling assumptions, input data, and model output and made comments on interpretation and how to improve model results.

- Completed a salinity management study for the Lower Mesilla Valley, New Mexico/Texas including evaluation of salinity sources, irrigation and natural evapotranspiration salt concentrating effects, and development of potential salt management strategies.
- Completed a salinity management plan for new uses of Utah Lake and Jordan River waters under the proposed Utah Lake and Jordan River Storage and Conservation Plan, Utah.
- Investigated Bird Island Mineral Springs in the middle of Utah Lake to determine salinity and other water quality parameters to develop a salinity control and remediation plan for preventing mineral contamination of Utah Lake waters.
- Reviewed and commented on salinity management alternatives for the Great Salt Lake proposed by the Utah State Division of Forestry, Fire and State Lands.
- Conducted water quality research project monitoring of Oak Creek, Arizona to determine progressive water quality changes downstream and impacts of humans on the aquatic environment.

Water Management and Conservation

- Developed a master plan for water conservation, rehabilitation, and upgrade of the Strawberry Valley Project, a large irrigation project in South Utah County, Utah.
- Assisted with the $3 million CUP Water Conservation and Management Study: helped develop water conservation and management strategies for the CUP including both municipal and irrigation conservation measures.
- Developed a master plan for re-use of reclaimed wastewater in West Covina, California to irrigate parks and golf courses.
- Completed a water conservation application for the funding of the rehabilitation of the Strawberry High Line Canal for the Strawberry Water Users Association.
- Completed canal seepage/water conservation investigations for the $34 million Duchesne River Canal Rehabilitation Program of the CUP.

Flooding, Dam Safety, Spillway Design

- Completed Corps of Engineers Phase I inspection reports for five dams in Utah including the Pete Winward, Big East, McClellan, Dry Lake, and Maple Lake Dams.
- Performed Probable Maximum Flood reservoir spillway evaluations and design studies for nine dams. Dams included:

  Fish Creek Dam, Wyoming
  Reed Valley Dam, Arizona
  South Willow Dam, Utah
  West Fork Reservoir, Utah
  Grantsville Dam, Utah
  Sulphur Creek Reservoir Enlargement, Wyoming
  Quail Creek Dam, Utah
  Yankee Meadows Reservoir Enlargement, Utah
  Millerton Reservoir, Utah

  Work included estimation and determination of probable precipitation, probable maximum floods using the COE HEC-1 program, HEC-1 dam break analyses, hydrologic routing of dam break floods, and HEC-2 analysis of dam break flood plains.

- Conducted eight separate flood insurance studies for communities of Utah including research of past flooding and flood heights, research of watershed hydrology, completion of hydrology reports, HEC-1 flood hydrograph simulation and calibration against streamflow records, HEC-2 riverine open-channel and bridge hydraulics, alluvial fan flooding and prediction, and FEMA floodplain mapping. Completed flood insurances studies and mapping for the cities of Logan, St. George, Cedar City, Salina, Manti, Richfield, Provo, and Salt Lake County.

- Performed Probable Maximum Flood reservoir spillway evaluations and design studies for nine dams. Dams included:

  Fish Creek Dam, Wyoming
  Reed Valley Dam, Arizona
  South Willow Dam, Utah
  West Fork Reservoir, Utah
  Grantsville Dam, Utah
  Sulphur Creek Reservoir Enlargement, Wyoming
  Quail Creek Dam, Utah
  Yankee Meadows Reservoir Enlargement, Utah
  Millerton Reservoir, Utah

  Work included estimation and determination of probable precipitation, probable maximum floods using the COE HEC-1 program, HEC-1 dam break analyses, hydrologic routing of dam break floods, and HEC-2 analysis of dam break flood plains.

- Developed a storm drainage master plan for the Salt Lake International Airport. Work included hydrologic estimation of 10-year and 25-year storm events and computer simulation of the Salt Lake International airport storm drainage network system.

- Developed storm drainage master plan for the 5600 West Central area of Salt Lake County, Utah. Work included hydrologic computer simulation of 10-year and 25-year storm events and development of storm network systems to handle predicted storm hydrographs.

- Assisted forest hydrologist, conducted stream gaging and water quality monitoring, and constructed erosion control structures on the Coconino National Forest, Arizona.

REPORTS, PAPERS AND PUBLICATIONS
Engineering/Water Resources/Hydrology Publications

Overflow Evaluation for the Jordan Valley Water Treatment Plant, prepared for the Jordan Valley Water Conservancy District, Parsons Engineering Science, Inc., Salt Lake City, Utah, January 2000.

Development of Salinity Management Alternatives, El Paso - Las Cruces Regional Sustainable Water Project, Boyle Engineering and Parsons Engineering Science, Inc., Salt Lake City, Utah, July 1999.

Water Requirement Study for South Utah County, Utah, prepared for the Strawberry Water Users Association and the Central Utah Water Conservancy District, Parsons Engineering Science, Inc., Salt Lake City, Utah, August 1995.

Surface Water Supply Master Plan for the City of Las Cruces, New Mexico, prepared for the Elephant Butte Irrigation District, Parsons Engineering Science, Inc., Salt Lake City, Utah, 1995.

New Mexico/Texas Aquifer Storage and Recovery Project, prepared for the Texas/New Mexico Settlement Commission, Boyle Engineering and Parsons Engineering Science, Inc., Salt Lake City, Utah, 1995.

Last Chance Power Plant Feasibility Study, prepared for the Strawberry Water Users Association, Engineering Science, Inc., Salt Lake City, Utah, 1994.

Regional Water Supply Plan for the Lower Rio Grande Valley Above Leasburg, prepared for Elephant Butte Irrigation District, Engineering Science, Inc., Salt Lake City, Utah, April 1994.

Strawberry Valley Project Master Plan for South Utah County Irrigation Distribution System, Rehabilitation, Enlargement, and Water Conservation, prepared for the Strawberry Water Users Association, Engineering Science, Inc., Salt Lake City, Utah, March 1994.

Cedar Mountain Tunnel Evaluation for Shoshone Project Powers Board, Engineering Science, Inc., Salt Lake City, Utah, August 1993.

Water Conservation Application for the Strawberry High Line Canal, prepared for the Strawberry Water Users Association, Engineering Science, Inc., Salt Lake City, Utah, June 1993.

New Mexico/Texas Joint Conveyance Facility for Rio Grande Project Water, Phase I Report, prepared for the Joint Settlement Commission, Boyle Engineering Corp. and Engineering Science, Inc., Salt Lake City, Utah, May 1993.

Reclaimed Water Use Plan, prepared for City of West Covina, CA, Engineering Science, Inc., Pasadena, CA, August 1991.

Star Valley Municipal Water Supply Project, Level II, Surface Water Sources, Engineering Science, Inc., Salt Lake City, Utah, January 1991.

Surface Water Supply Alternative for El Paso, Texas, prepared for the New Mexico Entities, Engineering Science, Inc., Salt Lake City, Utah, June 1990.

Salinity Control Plan for Utah Lake, Central Utah Water Conservancy District, Orem, Utah, 1989.

Investigation of Bird Island Mineral Springs, Utah Lake, Central Utah Water Conservancy District, Orem, Utah, 1989.

Hydrology Study for Hibbard Bridge on Rancheria Creek, CA, Rollins, Brown, and Gunnell, Inc., Provo, Utah, April 1985.

Hydrology Report for Provo, Utah Flood Insurance Study, prepared for the Federal Emergency Management Agency, Rollins, Brown, and Gunnell, Inc., Provo, Utah, July 1985.

Hydrology Report for Richfield, Utah Flood Insurance Study, prepared for the Federal Emergency Management Agency, Rollins, Brown, and Gunnell, Inc., Provo, Utah, 1985.

Hydrology Report for Salina, Utah Flood Insurance Study, prepared for the Federal Emergency Management Agency, Rollins, Brown, and Gunnell, Inc., Provo, Utah, April 1984.

Airside/Landside Drainage Improvements Final Design Report, prepared for the Salt Lake City Airport Authority, Utah, Rollins, Brown, and Gunnell, Inc., Provo, Utah, May 1984.

5600 West-Central Master Drainage Plan, prepared for West Valley City, Utah, Rollins, Brown, and Gunnell, Inc., Provo, Utah, May 1984.

Salt Lake International Airport Master Drainage Study, prepared for the Salt Lake City Airport Authority, Utah, Rollins, Brown, and Gunnell, Inc., Provo, Utah, January 1984.

Some Lake Level Control Alternatives for the Great Salt Lake, Utah Water Research Laboratory, 1983.

Impact of the Level of the Great Salt Lake at the Salt Lake City International Airport, prepared for the Salt Lake City Airport Authority, Utah, Rollins, Brown, and Gunnell, Inc., Provo, Utah, September 1983.

Hydrology Report of Flood Insurance Studies for Logan, Utah and Adjacent Areas, prepared for the Federal Emergency Management Agency, Rollins, Brown, and Gunnell, Inc., Provo, Utah, June 1981.

Hydrology Report of Flood Insurance Studies for Cedar City, Utah and Adjacent Areas, prepared for the Federal Emergency Management Agency, Rollins, Brown, and Gunnell, Inc., Provo, Utah, March 1981.

Hydrology Report of Flood Insurance Studies for St. George, Utah and Adjacent Areas, prepared for the Federal Emergency Management Agency, Rollins, Brown, and Gunnell, Inc., Provo, Utah, February 1981.

Pete Winward Dam, Phase I Inspection Report, prepared for the Utah State Division of Water Rights, Utah, Rollins, Brown, and Gunnell, Inc., Provo, Utah, September 1980.

McClellan Dam, Phase I Inspection Report, prepared for the Utah State Division of Water Rights, Utah, Rollins, Brown, and Gunnell, Inc., Provo, Utah, September 1980.

Maple Lake Dam, Phase I Inspection Report, prepared for the Utah State Division of Water Rights, Utah, Rollins, Brown, and Gunnell, Inc., Provo, Utah, September 1980.

Dry Lake Dam, Phase I Inspection Report, prepared for the Utah State Division of Water Rights, Utah, Rollins, Brown, and Gunnell, Inc., Provo, Utah, September 1980.

Big East Dam, Phase I Inspection Report, prepared for the Utah State Division of Water Rights, Utah, Rollins, Brown, and Gunnell, Inc., Provo, Utah, September 1980.

Economic Feasibility of Pumping or Diking as a Means for Flood Control of the Great Salt Lake, Utah State University, 1980, Master's Thesis.

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IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF

UTAH, IN AND FOR COUNTY OF SALT LAKE

****

UNION & EAST JORDAN IRRIGATION COMPANY,
a Corporation,

Plaintiff,

vs.

RICHARDS IRRIGATION COMPANY, a Corpora tion,
UNION & JORDAN IRRIGATION COMPANY, a Corporation,
WALKER DITCH COMPANY, a corpora tion, SANDY
IRRIGATION COMPANY, a corporation, JAMES
PROCTOR, O. A. H. ROULKS, HYRUM H. FORBUSH,
WILLIAM MONTEER, DAVID PROCTOR,,CHARLES WERNGREN,
E. R. MORGAN, HYRUM SMITH, HENRY C. MONTEER, JOHN
DOE JOHNSON, whose true name is plaintiff, is
unknown, JOSEPH THOMPSON, JR., JOHN DOE STRING-
RUBER, WHOSE OTHER AND TRUE NAME IS TO PLAINTIFFS
UNKNOWN, PETER VANVALKERNBERG, A. H. ROCK, JAMES
A . MUIR, GEORGE DRYBERK, AND DAVID NICHOLS,

Defendants,

D E C R E E

NO. 4802

****

From the foregoing findings of fact a nd conclusions of la w the court now ORDERS, ADJUDGES AND DECREES a s follows, to-wit:

Par. 27. That all the defenda nts in this action have been duly and regularly served with summons or have duly and regularly appea red herein, and they have either pleaded or the time to plead has elapsed, the proof of all which is now on file herein, a nd every person, known and unknown, who claims any water in Little Cottonwood is now a party to this action, and has either pleaded herein or the time to plea d has elapsed, proof of all which is now on file herein.

Par. 28. That in the year 1848 and in each year thereafter until and including the year 1856, the water of said stream was first diverted into the ditches in this finding specified, and used and appropria ted as a primary wa ter right for a gricultural, domestic and culinary purposes by certain of these defendants and their predecessors in interest, during each and every year; and in the year 1856 all the primary water of sa id stream wa s appropriated for the purposes aforesaid by such defendants and their predecessors in interest, and the whole of such water then was, and ever since has been, and now is, reasonably necessary for such uses and purposes. The primary water appropriated as aforesa id amounts to 94.79 second feet. The parties to this action, with but few exceptions, have not introduced evidence as to the extent of the individual ownership of water of the respective owners in a particular ditch, but have proved

only the aggregate ownership in a particular ditch, and accordingly have requested this court to distribute the aggregate amount of water to a particular ditch, instead of distributing to each owner what he owns in such ditch. The owners of the following ditches appropriated, prior to the year 1856, the following amounts of water, expressed in cubic feet per second or second feet, which amounts of water are now owned by such owners and which are hereby distributed to them, to-wit:

NAMES OF DITCHES

North Despain; there is spring near the head of this ditch; if the water therefrom falls below .20 second feet, then the balance is to be taken from Little Cottonwood, and if such spring water exceeds such amount, then the excess is to be turned into said Little Cottonwood,

	SECOND FEET
North Despain	.20
South Despain	.25
Brady Number One	1.
Brady Number Two (changed for domestic & municipal in S.L.C. See App A-1239)	.41
Bissinger	.08
Van Valkenburg a-1285 (a)	.25
Total	2 .29

Of the remaining part of the primary water, the difference between 94.79 second feet and 2.29 second feet, belongs to and is hereby distributed to the owners of the following five ditches at their heads in the following proportions, to-wit:

NAMES OF DITCHES	AMOUNTS
Tanner	4/18
Richards	2 /18
Cahoon & Maxfield	5/18
Union & Jordan	5/18
Walker	2/18

Provided, however, there shall be a deduction from such primary water of said last five named ditches for the Salt Lake County Water Company, its successors and assigns, to be diverted into the Sandy Ditch, as hereinafter stated.

The primary water above referred to shall be determined by measuring all the water flowing in at the heads of all of the above ditches, twelve in number, respectively.

Par. 29. The owners of the last five named ditches are entitled to maintain a tight dam across Little Cottonwood at the intake of the Walker Ditch in order to obtain the primary and surplus water to which they are entitled.

Par. 30. The owners of the Brown Ditch have appropriated for the uses aforesaid all of the water rising in the bed of Little Cottonwood between,

the intake to the Walker Ditch and the intake to the Brown Ditch, as well as all the water that flows past the intake of the Walker Ditch, now exceeding in all the maximum capacity of the Brown Ditch, and the Brown Ditch is entitled to take all the water flowing in Little Cottonwood below the intake of the Walker Ditch, now exceeding such maximum capacity.

Par. 31. Surplus water is what runs in Little Cottonwood in excess of 94.79 second feet.

In the year 1856 said above named twelve primary ditches were enlarged to carry surplus water and surplus water was appropriated therefor, and said twelve primary ditches are of equal priority as to surplus water, and after such year surplus ditches were constructed and enlarged to carry surplus water and surplus water was appropriated therefor. The tabulated statement below stated in this finding shows in the first column the number of the primary and surplus ditches, and the second column shows the years respectively when said twelve primary ditches and said surplus ditches appropriated surplus water. Where surplus ditches, including said twelve primary ditches are specified in said statement as having been taken out or having made appropriations in the same year, then such surplus ditches have no priority over each other, but they take surplus water proportionately. The figures in columns three, four and five express the different amounts of water in second feet and fractions thereof. The surplus water is to be measured at the head of each ditch. The figures in column three of said statement under the words "Second Feet" and "100ths", opposite the names of said twelve primary ditches, show the amount of surplus water that such twelve primary ditches are first entitled to take, and they take in proportion to their such respective surplus amounts. After said twelve primary ditches have been supplied with surplus water to the extent stated in said column three, then said next named fifteen surplus ditches take water (surplus) according to their said respective priorities and to the amount expressed opposite their respective names in said column three. Whenever there is more surplus water than 64.30 second feet in said Little Cottonwood, measured at the heads of said twenty-seven ditches, then none of such twenty-seven ditches shall take surplus water as specified in said column three, but they then take--not according to priority but--proportionately according to their respective capacities as specified in said column five.

Surplus ditch number 28 has a capacity of five second feet, as specified in said statement, but it is to have no surplus water until said first named twenty-seven ditches have their said total of surplus water amounting to 303.57 second feet. The said tabulated statement is as follows, to-wit:

Number of Ditch	Year of Appropriation	Name of Ditch Owner, or Corporation	Amount of surplus water to be drawn in priority of right as shown by year of appropriation but first twelve ditches take proportionately.		Total amount of appropriation of surplus water to be distributed proportionately according to capacities as shown in column 5, without regard to priorities, except as to ditch 28.
Col. 1	Col. 2		Column 3	Col. 4	Col. 5
			Sec. Feet	Sec. Feet	Sec. Feet
1.	1856	North Despain) both to	.23	.83	1.16
2.	"	South Despain) have			
3.	"	Bissinger	.24	.87	1.11
4.	"	Greenwood	.71	2.63	3.34
5.	"	W. P. Brady or Brady No.2	.11	.44	.55
6	"	Van Valkenburg	.2[illegible]9	1.10	1.39
7.	"	M.H.Brady or Brady No. 1	.16	.66	.82
8.	"	Richards	1.41	5.27	6.68
9.	"	Tanner	2.36	8.64	11.00
10.	"	Union & Jordan	3.54	13.16	16.70
11.	"	Cahoon & Maxfield	6.61	2 4.55	31.16
12.	"	Walker	1.41	5.27	6.68
			Total 17.07		
13.	1887	Brown	2.36	8.76	11.12
14.	"	Union & East Jordan	9.45	35.09	44.54
15.	1870	Sandy	11.81	43.87	55.68
16.	1877	South Despain Extension	3.54	13.16	16.70
17.	"	Nicol	6.99	2 5.96	32.95
18.	1879	Johnson or Little Nicol	1.51	5.79	7.30
19.	1880	North Despain Extension	.48	2.02	2.50
2 0.	1886	Steinbruber or Stangrover	.71	2.54	3.25
21.	1888	Thompson	2.71	10.08	12.79
22.	"	Griffith	.24	.87	1.11
2 3.	1894	Last Chance	3.71	13.81	17.52
24.	"	Lym	2.78	10.33	13.11
2 5.	1896	Hanson, situate on the north) side of Little Cottonwood)	.24	.87	1.11
26.	1896	Erickson	.35	1.35	1.70
27.	1904	Baker	.35	1.35	1.70
			64.30	239.27	303.57
28.	1909	George Kay			5.00

The said surplus water is owned by the owners of the ditches respectively as set forth in this paragraph, and such surplus water is hereby distributed in accordance with the foregoing schedule contained in this paragraph.

Par. 32. That the findings of fact, conclusions of law and decree in the case in said court wherein George D. Dryberg, et al., were plaintiffs, and Richards Irrigation Company and others were defendants, are hereby set aside and vacated.

Par. 33. That certain agreement dated March 1, 1878, between James Winchester and others, first parties, and Utah Southern Railroad Company and others, second parties, is hereby terminated and superseded by this decree.

Par. 34. The Sa lt La ke County Water Company, by agreement and consent, is to have perpetually and continually, except as hereinafter stated, turned into the Sandy Ditch one tenth of all the primary water (except the primary water that goes to said first named seven ditches specified in paragraph four hereof) when considered as running and measured at the different times of measurement during each year at the heads of Tanner, Richards, Cahoon and Maxfield, Union and Jordan, and Walker ditches; and, with the exception of August, if such one-tenth is less than one and one-half second feet measured at the head of the Sandy Ditch, then sa id Water Company is entitled to have additional water turned into such ditch from Little Cottonwood to make one and one-half second feet of water at such head. Said Water Company is to pay to the Treasurers of the Tanner, Richards, Cahoon & Maxfield, Union & Jordan and Walker ditches seventy-five dollars per month, payable quarter-yearly in advance, commencing June 1, 1910; whenever said Water Company has turned to it more than said one-tenth in order to make the amount of water up to sa id one and one-half second feet, then during the time it uses such additional water it shall pay to sa id Treasurers twenty-five dollars for each calendar month, and fractions of a monthshall be paid for as full months. If said Water Company shall be in default hereunder for twenty days after written notice to make payment, then it shall at the option of any of sa id last five named ditches, at once forfeit to said Tanner, Richards, Cahoon & Maxfield, Union & Jordan and Walker ditches all its rights and properties hereby given to it. Said Water Company agrees to pay reasonable attorneys' fees to said Tanner, Richards, Cahoon & Maxfield, Union & Jordan and Walker ditches for successfully enforcing in court their rights herein as to said payments and forfeiture. Payments hereunder shall be made to said Treasurers in the following proportions, to-wit:

Tanner	4/18
Richards	2/18
Cahoon & Maxfield	5/18
Union & Jordan a-1265(4)	5/18
Walker	2/18

Par. 35. No defaults have been entered because it is so difficult to say that any one person is not entitled to any water, but no one is entitled to any of the water of Little Cottonwood except as he may be an owner in some of the ditches to which water is distributed, and then only as such ditch is entitled to water as herein found.

Par. 36. The plaintiff shall pay the Clerk's costs; each party to this action shall pay his own costs, and no costs shall be taxed by one party against another except that the Tanner, Richards, Cahoon & Maxfield, Union & Jordan and Walker ditches shall be entitled to tax costs for serving summonses in this action and such costs shall be paid as follows to-wit: Fifty one hundredths thereof shall be paid by the Tanner, Richards, Cahoon & Maxfield, Union & Jordan and Walker ditches; twenty-five one-hundredths thereof shall be paid by the plaintiff; four one-hundredths thereof shall be paid by the Brown Ditch; Twelve one-hundredths thereof shall be paid by the Sandy Ditch; six one-hundredths thereof shall be paid by the Nicol Ditch; one one-hundredth thereof shall be paid by the Johnson or Little Nicol Ditch; and two one-hundredths thereof shall be paid by the South Despain Extension Ditch.

The costs taxed heretofore for serving summonses in this action amounted to one hundred and thirty-one dollars, and such sums is now decreed the proper amount for such service.

Par. 37. Peter Van Valkenburg is hereby appointed Commissioner, until the further order of this court, to carry the decree herein into effect. The Commissioner's expense and compensation shall be paid, during the season of primary water, by the owners of such primary water and in the proportion that each ditch is entitled to such water; and during the season of surplus water such expense and compensation shall be paid in proportion to the amount of surplus water herein awa rded to each ditch.

Par. 38. No party to this action has held, under claim of right or otherwise, either the open, peaceable, continuous, uninterrupted, notorious, visible or adverse use or possession of any water of Little Cottonwood; nor has any party to this action taken or threatened to take any water which the said Plaintiff owns or is entitled to; nor has any party to this action had knowledge of any fact which stops him from claiming any water which he has heretofore appropriated, nor has he done anything inequitable or omitted to do anything that is equitable, or which should operate as an estoppel from insisting on all his rights; nor has any party to this action omitted to do anything he should have done or done anything to mislead or prejudice or induce any other party to this action to do anything, or omit to do anything, to his injury or prejudice. Nor has any party to this action unreasonably delayed the assertion of his rights.

Par. 39. The Commissioner provided for herein may divide and distribute the water by hours or days or by constant streams, or in any other manner, as in his judgment seems best, so as to secure the greatest efficiency for the water. All of the above, however, is subject to the supervision and control of this court.

Par. 40. The decree heretofore rendered and filed herein a nd dated November 12, 1909, is hereby vacated and set aside, but it is again to come into full force and effect the same as though never vacated if this decree for any cause or reason should be vacated.

Par. 41. All Parties hereto have duly agreed to these findings of fact, conclusions of law, and decree.

Par. 42. All persons who have any interest in the water of Little Cottonwood have been duly served and have either pleaded herein or the time to plead has elapsed; and no one has any right to such water except as specified in this decree.

Par. 43. All known and unknown parties hereto, together with their agents and employees, are hereby enjoined from in any way interfering with the waters of Little Cottonwood except as specified in this decree.

Done in open Court, June 16, 1910.

C. W. Morse, Judge

ATTEST:
Margaret Zane Witcher, Clerk
By N. H. Tanner, Deputy Clerk

(SEAL)

this action, with but few exceptions, have not introduced evidence as to the extent of the individual ownership of water of the respective owners in a particular ditch, but have proved only the aggregate ownership in a particular ditch, and accordingly have requested this court to distribute the aggregate amount of water to a particular ditch, instead of distributing to each owner what he owns in such ditch. The owners of the following ditches appropriated, prior to the year 1856, the following amounts of water, expressed in cubic feet per second or second feet, which amounts of water are now owned by such owners and which are hereby distributed to them, to-wit:

NAMES OF DITCHES	SECOND FEET.	
North Despain; there is a spring near the head of this ditch; if the water therefrom falls below .20 second feet, then the balance is to be taken from Little Cottonwood, and if such spring water exceeds such amount, then the excess is to be turned into said Little Cottonwood,	.20	57-9000
South Despain,	.25	57-9001
Greenwood,	1.	57-9002
Brady Number One	.41	57-9003
Brady Number Two	.10	57-9004
Bissinger,	.08	57-9005
Van Valkenburg,	.25	57-9006
TOTAL,	2.29	

Of the remaining part of the primary water, the difference between 94.79 second feet and 2.29 second feet, belongs to and is hereby distributed to the owners of the following five ditches at their heads in the following proportions, to-wit:

NAMES OF DITCHES	AMOUNTS.	
Tanner,	4/18	57-9007
Richards,	2/18	57-9008
Cahoon & Maxfield,	5/18	57-9009
Union & Jordan,	5/18	57-9010
Walker,	2/18	57-9011

Provided, however, there shall be a deduction from such primary water of said last five named ditches for the Salt Lake County Water Company, its successors and assigns, to be diverted into the Sandy Ditch, as hereinafter stated.

The primary water above referred to shall be determined by measuring all the water flowing in at the heads of all of the above ditches, twelve in number, respectively.

Number of Ditch.	Year of Appriopriation.	Name of Ditch, Owner, or Corporation.	Amount of surplus water to be drawn in priority of right as shown by year of appropriation, but first twelve ditches take proportionately.				Total amount of appropriation of surplus water to be distributed proportionately according to capacities as shown in column 5, without regard to priorities, except as to ditch 28.		
Col.1	Col.2		Column 3		Col. 4		Col. 5.....		
			Sec. feet	100s feet	Sec. feet		Second feet	100s feet	
1.	1856	North Despain) both to		23		83	1	06	57-9013
2.	"	South Despain) have							
3.	"	Bissinger		24		87	1	11	57-9013
4.	"	Greenwood		71	2	63	3	34	57-9014
5.	"	W.P. Brady or Brady No. 2		11		44		55	57-9015
6.	"	Van Valkenburg		29	1	10	1	39	57-9016
7.	"	M. H. Brady or Brady No. 1		16		66		82	57-9017
8.	"	Richards -	1	41	5	27	6	68	57-9018
9.	"	Tanner	2	36	8	64	11	00	57-9019
10.	"	Union & Jordan	3	54	13	16	16	70	57-9020
11.	"	Cahoon & Maxfield,	6	61	24	55	31	16	57-9021
12.	"	Walker	1	41	5	27	6	68	57-9022
									57-9023
13.	1867	Brown	2	36	8	76	11	12	57-9024
14.	"	Union & East Jordan	9	45	35	09	44	54	57-9025
15.	1870	Sandy	11	81	43	87	55	68	57-9026
16.	1877	South Despain Extension	3	54	13	16	16	70	57-9027
17.	"	Nicol	6	99	25	96	32	95	57-9028
18.	1879	Johnson or Little Nicol	1	51	5	79	7	30	57-9029
19.	1880	North Despain Extension		48	2	02	2	50	57-9030
20.	1886	Steingruber or Stangrover		71	2	54	3	25	57-9031
21.	1888	Thompson	2	71	10	08	12	79	57-9032
22.	"	Griffith		24		87	1	11	57-9033
23.	1894	Last Chance	3	71	13	81	17	52	57-9034
24.	"	Lym	2	78	10	33	13	11	57-9035
25.	1896	Hanson, situate on the north) side of Little Cottonwood)		24		87	1	11	57-9036
26.	1896	Erickson		35	1	35	1	70	57-9037
27.	1904	Baker		35	1	35	1	70	57-9038
			64	30	239	27	303	57	
28.	1909	George Kay					5	00	

3

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

CERTIFICATION

I HEREBY CERTIFY that the attached documents are a true and correct copy from **Water Right File Number 57-7800** of the **Division of Water Rights:**

1. Memorandum Decision re Water Right No. 57-7800 (a-4178) dated May 27, 1963 (two pages – single sided)
2. Report of Well Driller re Water Right No. 57-7800 (a-4178) dated March 11, 1964 (one page – single sided)
3. Application for Permanent Change of Point of Diversion, Place and Nature of Use of Water re Water Right No. 57-7800 (a-4178) dated March 18, 1964 (three pages – single sided)
4. State Engineer's Endorsements re Water Right No. 57-7800 (a-4178) dated May 24, 1971 (one page – single sided)
5. Certificate of Permanent Change of Point of Diversion, Place, Purpose or Period of Use of Water re Water Right No. 57-7800 (a-4178) dated May 24, 1971 (one page – single sided)
6. Proof of Permanent Change of Point of Diversion, Place, Purpose, and Period of Use of Water re Water Right No. 57-7800 (a-4178) dated May 24, 1971.

SAID DOCUMENT is on file in the Division of Water Rights, located at 1594 West North Temple Street, Suite 220, Salt Lake City, UT 84114.

Dated this 6th day of February 2013.

Kent L. Jones, P.E.
State Engineer

Attachments

1594 West North Temple, Suite 220, PO Box 146300, Salt Lake City, UT 84114-6300
telephone (801) 538-7240 • facsimile (801) 538-7467 • *www.waterrights.utah.gov*

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION NO. a-4178	)))	MEMORANDUM DECISION

Change Application No. a-4178 was filed by Harold W. Bentley to change the point of diversion and nature of use of a portion of a right contained in the Little Cottonwood Creek Decree in Case No. 4802 dated June 16, 1910.

The applicant is apparently the owner of a 1/4 interest in .25 sec.-ft. of water, which has been diverted from Little Cottonwood Creek through the South Despain Ditch and used for domestic, stock watering and irrigation purposes. The applicant now proposes to divert 2,000 gallons of water per day between October 1 and April 1 of each year and 4,000 gallons per day between April 1 and October 1 at a rate not to exceed .0625 sec.-ft. from a well to be located in Section 12, T3S, R1E, SLB&M. The water is to be used for domestic requirements of three homes, watering of horses, cattle and chickens and supplemental irrigation of 2 acres of land. The remainder of his right is to be used as before. This change application was protested by Granite Water Company and Joseph F. Sturdy.

In conversation with Mr. Clyde, attorney for the protestant, Granite Water Company, he indicated that they did not wish the protest to be the subject of the hearing provided that adequate protection was given to their existing rights to divert water from the Granite Spring area and it also provided that the applicant be made aware of the requirements that water be replaced should operation of the well interfere with flow of water from the spring area.

Mr. Sturdy indicated in his protest that he has a well near his home and wishes only to protect his rights and requests that the application be rejected unless proper protection can be given to these rights.

From our investigation of this area, it appears that during most of the year

water can be diverted from the well as indicated without interfering with vested rights. However, there may be times during the year when the total amount of pumping from the applicant's wells and others located within the area would lower the water table sufficiently to cause interference with the rights of the Granite Water Company and others. It is felt that the applicant should be made aware of this possibility and that he should make adequate provisions in his plans to provide for replacement of water should it be established that his well was the cause of interference.

It is, therefore, ordered and Change Application No. a-4178 is hereby, APPROVED, subject to all prior rights and to rights interfered with by reason of the change, which may be junior to applicant's right.

This decision is subject to the provisions of Section 73-3-14, Utah Code Annotated, 1953, which provides for plenary review by the filing of a civil action in the appropriate district court within sixty days from date hereof.

Dated this 27th day of May, 1963.

Wayne D. Criddle
WAYNE D. CRIDDLE
STATE ENGINEER

RKH/js/le

CC: Granite Water Company
c/o Edward W. Clyde, Attorney
351 South State Street
Salt Lake City, Utah

CC: Joseph Sturdy
3558 East 9800 South
Little Cottonwood Road
Salt Lake City, Utah

CC: Mr. Edward W. Clyde
Attorney at Law
351 South State Street
Salt Lake City, Utah

Form 113—5M—12-60

Examined Mar-11-1964 RCT
Recorded: B. C. 3-18-64 RCT T. B. RCT
Inspection Sheet 3-23-64
Copied 3-24-64 RS

REPORT OF WELL DRILLER
STATE OF UTAH

Application No. a 4178
Claim No.
Coordinate No. (D-3-1)12 bcd

GENERAL STATEMENT: Report of well driller is hereby made and filed with the State Engineer, in accordance with the laws of Utah. (This report shall be filed with the State Engineer within 30 days after the completion or abandonment of the well. Failure to file such reports constitutes a misdemeanor.)

(1) WELL OWNER:
Name Harold Bentley
Address Star Route Sandy

(2) LOCATION OF WELL:
County Salt Lake Ground Water Basin (leave blank)
North ~~80 318~~ 242' feet, East ~~1 406~~ 770' feet from ~~E 1/4~~ W 1/4 Corner
~~South~~ ~~West~~
of Section 12, T 3 S N/S, R 1 E E/W SLBM/USM (strike out words not needed)

(3) NATURE OF WORK (check): New Well ☒
Replacement Well ☐ Deepening ☐ Repair ☐ Abandon ☐
If abandonment, describe material and procedure:

(4) NATURE OF USE (check):
Domestic ☒ Industrial ☐ Municipal ☐ Stockwater ☐
Irrigation ☐ Mining ☐ Other ☐ Test Well ☐

(5) TYPE OF CONSTRUCTION (check):
Rotary ☐ Dug ☐ Jetted ☐
Cable ☒ Driven ☐ Bored ☐

(6) CASING SCHEDULE: Threaded ☐ Welded ☒
8" Diam. from 0 feet to 144 feet Gage
" Diam. from feet to feet Gage
" Diam. from feet to feet Gage
New ☒ Reject ☐ Used ☐

(7) PERFORATIONS: Perforated? Yes ☐ No ☐
Type of perforator used mill
Size of perforations 2" inches by 1/4" inches
150 perforations from 134 feet to 100 feet
perforations from feet to feet
perforations from feet to feet
perforations from feet to feet
perforations from feet to feet

(8) SCREENS: Well screen installed? Yes ☐ No ☒
Manufacturer's Name
Type Model No.
Diam. Slot size Set from ft. to
Diam. Slot size Set from ft. to

(9) CONSTRUCTION:
Was well gravel packed? Yes ☐ No ☒ Size of gravel:
Gravel placed from feet to feet
Was a surface seal provided? Yes ☐ No ☐
To what depth? feet
Material used in seal:
Did any strata contain unusable water? Yes ☐ No ☐
Type of water: Depth of strata
Method of sealing strata off:

Was surface casing used? Yes ☐ No ☐
Was it cemented in place? Yes ☐ No ☐

(10) WATER LEVELS:
Static level 42 feet below land surface Date dec 18
Artesian pressure feet above land surface Date

LOG RECEIVED:
RECEIVED 11 1964
ENGINEER

(11) FLOWING WELL:
Controlled by (check) Valve ☐
Cap ☐ Plug ☐ No Control ☐
Does well leak around casing? Yes ☐
No ☐

(12) WELL TESTS: Drawdown is the distance in feet the water level is lowered below static level.
Was a pump test made? Yes ☒ No ☐ If so, by whom?
Yield: gal./min. with feet drawdown after hours
" " " " "
" " " " "
Bailer test 25 gal./min. with 2 feet drawdown after hours
Artesian flow g.p.m. Date
Temperature of water Was a chemical analysis made? No ☐ Yes ☐

(13) WELL LOG: Diameter of well 8" inches
Depth drilled 145 feet. Depth of completed well 143 feet.

NOTE: Place an "X" in the space or combination of spaces needed to designate the material or combination of materials encountered in each depth interval. Under REMARKS make any desirable notes as to occurrence of water and the color, size, nature, etc., of material encountered in each depth interval. Use additional sheet if needed.

DEPTH From	DEPTH To	Clay	Silt	Sand	Gravel	Cobbles	Boulders	Hardpan	Conglomerate	Bedrock	Other	REMARKS
0	63			X	X		X					
57	70			X								cemented
70	97			X	X							little water
97	99	X										
99	115			X	X							some clay
115	128			X	X							
128	137	X			X							
137	145				X							

Work started Nov 20, 1963 Completed Dec 2, 1963

(14) PUMP:
Manufacturer's Name
Type: H. P.
Depth to pump or bowles feet

Well Driller's Statement:
This well was drilled under my supervision, and this report is true to the best of my knowledge and belief.

Name INTERMOUNTAIN ENGINEERS
(Person, firm, or corporation) (Type or print)
Address 2455 FOREST HILL DRIVE SALT LAKE CITY 9, UTAH
(Signed) [signature]
(Well Driller)
License No. 200 Date Febr, 19 64

USE OTHER SIDE FOR ADDITIONAL REMARKS

Form 107—6-57—2M

CHANGE APPLICATION NO. a-4178

Application for Permanent Change of Point of Diversion, Place and Nature of Use of Water

STATE OF UTAH

Do not fill out this blank until you have read carefully and thoroughly understand the "Rules and Regulations" on the back hereof and all the notes in the body of it.

For the purpose of obtaining permission to permanently change the point of diversion, place or nature of use of (Strike out written matter not needed)

water right acquired by Little Cottonwood Creek Decree Case 4302 June 16, 1910

(Give No. of Application, certificate of appropriation, title and date of Decree or other identification of right)

to that hereinafter described, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of the Laws of Utah.

1. *The name of the applicant is* Harold W. Bentley
2. *The post-office address of the applicant is* Star Route, Sandy, Utah
3. †*The flow of water which has been or was to have been used* ~~in second-feet~~ *is* 1/4 of 0.25 s. f. = 0.062 s.f.
4. †*The quantity of water which has been or was to have been used in acre-feet is* (see Explanatory)
5. †*The water has been or was to have been used each year from* Jan. 1 (Month) (Day) *to* Dec. 31 (Month) (Day) *incl.*
6. †*The water has been or was to have been stored each year from* (Month) (Day) *to* (Month) (Day) *incl.*
7. *The drainage area to which source of supply belongs is* (Leave blank)
8. *The direct source of supply is* Little Cottonwood Creek *in* Salt Lake *County.*
9. †*The point of diversion as described in the original Application or the point at which the water has been diverted is situated at a point* Pipe line p. of d. is South 336' and E 4512' from N¼ Cor. Sec. 7, T3S, R2E, S.L.B. & M. **South Despain Ditch point of Diversion is: 318 ft. South and 108 ft. West of the E¼ Cor. of Sec. 12, T3S, R1E, SLB&M.**
10. †*The water involved has been or was to have been used for the following purposes:* The water has been used for domestic, stock-watering and supplemental irrigation purposes in the SW¼NW¼ of Sec. 12, T 3 S, R 1 E, S.L.B. & M.

Total 15 *Acres.*

NOTE—If for irrigation, give legal subdivision of land and total acreage which has been or was to have been irrigated. If for other purposes, give nature, place and extent of use or proposed use.

11. †*The point at which water has been or was to have been returned to the stream channel is situated as follows:* No water has ever been returned to the source

NOTE—The above space is to be filled in only when all or part of the water is returned to the natural stream or channel.

The Following Changes Are Proposed

12. *The flow of water to be changed in cubic feet per second is* 0.0625 (see Explanatory)
13. *The quantity of water to be changed* ~~*in acre-feet*~~ *is* 2000 gals. per day
14. *The water will be used each year from* Jan. 1 (Month) (Day) *to* Dec. 31 (Month) (Day) *incl.*
15. *The water will be stored each year from* (Month) (Day) *to* (Month) (Day) *incl.*
16. *The point at which it is now proposed to divert the water is situated (See note).* N 242' and E 270' from W¼ Cor. Sec. 12, T 3 S, R 1 E, S.L.B. & M.

NOTE—The "point of diversion," or "point of return," must be located by course and distance or by rectangular distances with reference to some regularly established United States land corner or United States mineral monument if within a distance of six miles of either, or if a greater distance, to some prominent and permanent natural object.

17. *The proposed diverting and conveying works will consist of* an 8" well between 200 and 300 feet deep, pump and 350' of 1½" pipe
18. *The cross-section of the diverting channel will be.* (Strike out ones not needed)
19. *The nature of the diverting channel will be:* ~~earth, wood~~, iron, ~~concrete~~ (Strike out the ones not needed)

†Strike out written matter not needed.

APPROVAL DATE 3/18/43 ST. ENG. 64 ACT

Well drilled in lieu of pipe

SEE CERTIFICATE FOR CORRECTION

450

20. *The length of the diverting channel, exclusive of laterals, will be* ..... *feet*
(If an existing channel is used give only the length of that part used under this Application)

21. *The top width of the diverting channel will be (if a ditch)* ..... *feet*

22. *The bottom width of the diverting channel will be (if a ditch)* ..... *feet*

23. *The depth of water in the diverting channel will be (if a ditch)* ..... *feet*

24. *The width of diverting channel will be (if a flume)* ..... *feet*

25. *The depth of water in the diverting channel will be (if a flume)* ..... *feet*

26. *The diameter of the diverting channel will be (if a pipe)* 8 and 1½ *inches*

27. *The grade of the diverting channel will be* vertical *feet per thousand*

28. *The point at which it is proposed to return the water is situated* (See note under 16)
No water will be returned to the source

29. *The water is to be used* for the domestic requirements of three homes, to water 6 horses, 6 cattle, 100 chickens, and for the supplemental irrigation of 2 acres, all located within S½NW¼ Sec. 12, T 3 S, R 1 E, S.L.B. & M.

Total 2 *acres.*

NOTE—If for irrigation, give legal subdivisions of land to be irrigated. If for other purposes, give place and extent of proposed use. If for power give number, size and make of wheels, head under which they will operate, total H. P. to be developed and place where power will be used.

30. *The character of the soil to be irrigated is* sandy; *subsoil* gravel

NOTE—Number 30 is to be filled in only when proposed change is for irrigation.

31. *If paragraph 12 designates that only part of the right described in paragraph 1 to 11 inclusive is to be changed, designate the status of the water so affected by this change as to its being abandoned or used as heretofore.*

The water described between Pars. 3 to 11 has been used each year and will all be used in the future

EXPLANATORY

NOTE—Paragraph 13 on page 1 must not be used except when storage is contemplated; in such case Paragraph 14 should indicate the time in each year during which the water will be released and used. The lands to be inundated by the reservoir must be described in the space below this note as nearly as may be and by government subdivisions if upon surveyed land, and the area of the reservoir when at full stage should be given in acres; the height of the impounding dam must also be specified.

The following additional facts are set forth in order to define more clearly the full purpose of the proposed change:

The applicant is the owner of a 1/4 interest in 0.25 s. f. which was decreed to the South Despain Ditch in Little Cottonwood Creek Decree of 1910 Case 4302. The ditch water has been and is now being used for domestic purposes by all the water users of the South Despain Ditch. Before 1934 that portion of the water used for domestic purposes was turned directly from the ditch into a cistern at each home. Since 1934 that portion of the decreed water used for domestic purposes has been conveyed to each house through a pipe line under an exchange agreement with Salt Lake City Corporation. As consideration for the construction of the pipe system, the owners of the waters of the South Despain Ditch transferred to Salt Lake City Corporation the right to the use of the primary water of the South Despain Ditch, amounting to 0.25 s.f. from Oct. 1 to April 1, excepting therefrom a domestic supply of 2,000 gallons per day which was reserved by the water users and is now delivered to them through the pipe line.

During the irrigation season from April 1 to Oct. 1 all of the primary and surplus water decreed to the South Despain Ditch is conveyed through the pipe line ~~[illegible]~~ or ~~[illegible]~~ the South Despain Ditch, depending on the size of the stream in the creek.

Extensive investigations and studies involving the creek flow of Little Cottonwood Creek, the springs and other wells in the mouth of Little Cottonwood Canyon above the Wasatch Fault Line, have proved a very definite relationship. The springs in this area were considered as part of the creek flow in the decree. The water developed from wells in this area since the decree has also been considered as part of the decreed creek flow.

The water developed from the well proposed to be drilled by this change application is also to be considered as part of the decreed creek flow. This change application does not propose to appropriate, and is made with the approval of Salt Lake City Corporation and the South Despain Ditch water users.

The raw water of Little Cottonwood Creek is not fit for domestic purposes without complete treatment. This is an effort on the part of the applicant to

Howard Benton

Signature of Applicant.

Form 107--C 2--58 1M

Change Application No.....

EXPLANATORY

obtain a supply of water that will meet the standards of domestic water.

This change application changes only the point of diversion of part of the decreed water of Little Cottonwood Creek owned by the applicant, which is a 1/4 interest in the South Despain Ditch water rights.

From the well the applicant proposes to divert 2,000 gallons per day between Oct. 1 and April 1 of the next year, and 4,000 gallons per day from the well between April 1 and Oct. 1 at a rate equal to 0.0625 s. f., which is 28.05 g.p.m. The water will be pumped from the well through a meter and into a pressure tank, from which it will be diverted as required. The rest of the water of the South Despain Ditch owned by the applicant will still be diverted from the points of diversion described in par. 9.

Permission to proceed immediately with the drilling is urgently requested.

Signature of Applicant.

(This page is not to be filled in by applicant)

State Engineer's Endorsements

1. 2 pm Sept. 25, 1962 Change Application received over counter ~~by mail~~ in State Engineer's office by
2. Priority of right to make change brought down to, on account of
3. Sept. 25, 1962 Fee for filing Application, $30.00, received by Receipt No. 05615
4. Application copied in Change Book No. 26, page 469, and indexed by
5. Sept. 26, 1962 Application platted by
6. 1-10-63 Application examined by
7. Application returned, with letter, to for correction
8. Corrected application resubmitted over counter by mail to State Engineer's office.

8a. Copy brought up to date (red inked) and placed in record book by

9. Fee for publishing notice requested.
10. Fee for publishing notice $, Received by Receipt No.
11. 1-10-63 Application approved for advertisement by
12. Feb. 7, 1963 Notice to water users prepared by
13. Feb. 14, 1963 Publication began; was completed Feb. 28-1963
    Notice published in Murray Eagle, Murray, Utah
14. Feb. 13, 1963 Proof slips checked by
15. Change Application protested by

March 11, 1963 Publisher paid MEV 2-1388

16. April 4, 1963 Application designated for approval ~~rejection~~ by
17. Fee for approving Application requested
18. Fee for approving application, $2.50, received by Receipt No.
19. May 27, 1963 Change Application ~~proof, read~~ photostated by le
20. May 27, 1963 Change Application approved ~~rejected~~ and returned to applicant

This Application is approved on the following conditions:

1. Actual construction work necessitated by proposed change shall be diligently prosecuted to completion.
2. Proof of change shall be submitted to the State Engineer's office by September 30, 1965.
3. Subject to prior rights whether diverting directly from the source hereof or from other sources to which this water is tributary (including rights junior to the original application or rights which might be impaired by the change or changes) for diversion and use as herein described.

Wayne D. Criddle
Wayne D. Criddle, State Engineer.

21. Time for making proof of change extended to 9/30/67 9/30/69 Sept. 30, 1970
22. Proof of change submitted.
23. Fee for filing proof of change, $1.00, received by Receipt No.
24. Fee for examining maps, profiles and drawings, $5.00, received by Receipt No.
25. Fee for issuing certificate of change, $1.00, received by Receipt No.
26. May 24, '71 Certificate of change, No. a-702, issued.

I hereby certify that the foregoing is a true copy of the Application by to change the point of diversion, place and nature of use of water as shown, with endorsements thereon, on the records of my office on the date given below.

Salt Lake City, Utah May 24, 1971 Hubert C. Lambert
State Engineer.

Change Application No. a-4178

Form 5

CERTIFICATE OF PERMANENT CHANGE OF POINT OF DIVERSION, PLACE, PURPOSE OR PERIOD OF USE OF WATER

STATE OF UTAH

Change Application No. a-4178 (57-7800) Certificate No. a-702

1. Nature of change: Point of diversion ☒ Place of use ☐ Purpose of use ☐ Period of use ☐

2. Name of applicant Harold W. Bentley TITLE CHANGE-SEE ABSTRACT

3. Address of applicant 3515 East, South Little Cottonwood Road
Sandy, Utah 84070

4. Source of supply Underground Water (well) Drainage area Utah Lake and Jordan River

5. Priority of original right Little Cottonwood Decree No. 4802 dated June 16, 1910 Priority of change September 25, 1962

6. Right or rights upon which change was based Little Cottonwood Decree No. 4802 of June 16, 1910

7. Quantity of water changed .0625 c.f.s. _____ Acre-ft.

8. Nature and annual period of use: (both dates inclusive)

X	Irrigation	from	April 1	to	October 31
X	Stockwatering	from	January 1	to	December 31
X	Domestic	from	January 1	to	December 31
	Municipal	from		to	
		from		to	

9. Point of diversion North 242 feet East 770 feet from the W¼ Corner Section 12, T3S, R1E, SLBM.
Salt Lake County, Utah

10. Description of diverting works 8 inch well, 145 feet deep

11. Place and/or extent of use
DOMESTIC: 3 families
STOCKWATERING: 6 horses, 6 cattle, 100 chickens
IRRIGATION: .73 acre in SW¼NW¼ Section 12, T3S, R1E, SLBM

12. Other rights appurtenant None

This certificate entitles the holder to use only sufficient water from all rights combined to constitute an economic duty without waste.

The right evidenced by this certificate is restricted to the change described herein, and the certificate in no way establishes nor validates the water right claimed by the applicant, and the change is to in no way enlarge the original right or rights.

The works employed in this change are to be operated and maintained in such manner and condition as will prevent waste of water.

In Witness Whereof, I have hereunto set my hand and affixed the seal of my office this 24th day of May, 19 71.

Hubert C. Lambert
State Engineer
Hubert C. Lambert

PROOF OF PERMANENT CHANGE OF POINT OF DIVERSION, PLACE, PURPOSE, AND PERIOD OF USE OF WATER

STATE OF UTAH

AUG 3 1970
WATER RIGHTS COUNTER
WATER RIGHTS OFFICE

Change Application No. a-4178 (57-7800)

1. Nature of Change: Point of Diversion ☒ Place of Use ☐ Nature of Use ☐ Period of Use ☐

2. Name of Applicant Harold W. Bentley TITLE CHANGE-SEE ABSTRACT

3. Address of Applicant 3515 East, South Little Cottonwood Road, Sandy, Utah

4. Source of Supply Underground Water Drainage Area

5. Right or rights upon which change is based Little Cottonwood Decree Case 4802

6. Quantity of water changed 0.0625 c.f.s. acre feet

7. Nature and Period of Use:

Irrigation	from	1 April	to	31 October
Domestic	from	1 January	to	31 December
Stockwatering	from	1 January	to	31 December
Municipal	from		to	
Other	from		to	

8. The point of diversion from the source is in Salt Lake County, situated at a point North 242' and East 770' from the West 1/4 Corner of Section 12 T 3S R1E SLB & M

9. Present method of diversion 8-inch well 145 feet deep

10. If water is used for irrigation purposes, give legal subdivisions of land irrigated Part of the SW 1/4 of the NW 1/4 Section 12 T 3S, R1E, SLB & M Approx. 0.73 acres.

11. If water is used for stockwatering purposes, give the number and kind of stock watered Not to exceed 6 horses, 6 cattle, 100 chickens or equivalent stock.

12. If water is used for domestic purposes, give number of families served 3

13. If water is used for municipal purposes (a) give name of municipality NA
(b) If municipality serves areas outside of corporate limits, describe legal subdivision served and uses made of water NA

14. If water is used for other purposes, give a general description of such uses NA

15. Give place of use by legal subdivisions for all uses described in paragraphs 11 to 14 inclusive Part of SW 1/4 of the NW 1/4 Sec 12, T3S, R1E, SLB & M

16. The point where the water is returned to the natural channel, if returned, is situated NA

17. The water is used supplementally to the following rights NA

18. Water was measured by Grant K. Borg, P.E. Date 16 July 1970
(Name of Hydrographer)

19. Water was measured by vessel, ~~weir, reservoir capacity, or by~~*
(strike words not needed)

*(Give sufficient data under "General Remarks" to enable State Engineer to check the water measurements. It is necessary that the results of a series of such measurements be given.)

SEE CERTIFICATE

GENERAL REMARKS
(See Instructions on page 4)

Flow from well was measured by timing the pumped flow into a 55 gallon drum. 55 gallons in 125 seconds or 26 gpm.

There are never more than 12 horses and/or cattle and 100 chickens being watered at one time.

(General Remarks continued on page 3)

(Fill in blank spaces, but do not sign until proof has been submitted to the State Engineer and accepted as sufficient)

CERTIFICATE OF APPLICANT

STATE OF UTAH)
COUNTY OF Salt Lake) ss

Harold W. Bentley being first duly sworn, certifies that he is the person, ~~assignee or~~ of who made an application to change point of diversion in Salt Lake County; that said application is filed in the Division of Water Rights Office as No. a-4178 that he, as applicant, employed Grant K. Borg, P.E. to compile information for the purpose of completion of proof of change and that he hereby accepts and submits that written proof together with maps consisting of 1 sheets, No. 1 to 1 incl., and that each and all items contained therein are true to the best of his knowledge and belief.

Harold Bentley
Applicant or his agent

Subscribed and sworn to before me this 27 day of April, 19 71
(Seal)
My commission expires 14 July, 19 73

Marilyn Ann Harris
NOTARY PUBLIC

CERTIFICATE OF PROOF ENGINEER

STATE OF UTAH)
COUNTY OF Salt Lake) ss

Grant K. Borg being first duly sworn, certifies that he was employed to prepare proof of change under Application No. a-4178, that the accompanying tracings were prepared from field surveys made by him between the 10 day of July, 19 70 and 16 day of July, 19 70; that these tracings numbered 1 to 1, and when combined with the written proof, fully describe the completed change and that each and all items contained herein are true to the best of his knowledge.

Grant K. Borg
PROOF ENGINEER

Subscribed and sworn to before me this 21st day of July, 19 70
(Seal)
My commission expires 14 July, 19 73

Marilyn Ann Harris
NOTARY PUBLIC

STATE ENGINEER'S ENDORSEMENT

Dates

	Application received in Division of Water Rights Office; Approved
	Proof of change due in Division of Water Rights Office.
Aug 3, 1970	Written proof and maps received in Division of Water Rights Office by lw
April 13, 1971	Written proof and maps returned for correction by DB
	Corrected written proof and maps resubmitted, received by
	Field checked by
	Corrected written proof and maps examined and Certificate written by
May 24, '71	Certificate of Change issued a-702
	Maps, profiles, and drawings are filed

This written proof and the maps, profiles, and drawings pertaining thereto, are found to comply with the requirements of the Laws of Utah, and the same are hereby approved.

May 24, 19 71

Hubert C. Lambert
STATE ENGINEER

Form 5

CERTIFICATE OF PERMANENT CHANGE OF POINT OF DIVERSION, PLACE, PURPOSE OR PERIOD OF USE OF WATER

STATE OF UTAH

Change Application No. a-4178 (57-7800) Certificate No. a-702

1. Nature of change: Point of diversion ☒ Place of use ☐ Purpose of use ☐ Period of use ☐
2. Name of applicant Harold W. Bentley
3. Address of applicant 3515 East, South Little Cottonwood Road
   Sandy, Utah 84070
4. Source of supply Underground Water (well) Drainage area Utah Lake and Jordan River
5. Priority of original right Little Cottonwood Decree No. 4802 dated June 16, 1910 Priority of change September 25, 1962
6. Right or rights upon which change was based Little Cottonwood Decree No. 4802 of June 16, 1910
7. Quantity of water changed .0625 c.f.s. _____ Acre-ft.
8. Nature and annual period of use: (both dates inclusive)

X	Irrigation	from	April 1	to	October 31
X	Stockwatering	from	January 1	to	December 31
X	Domestic	from	January 1	to	December 31
	Municipal	from		to	
		from		to	

9. Point of diversion North 242 feet East 770 feet from the W¼ Corner Section 12, T3S, R1E, SLBM.
   Salt Lake County, Utah
10. Description of diverting works 8 inch well, 145 feet deep
11. Place and/or extent of use
    DOMESTIC: 3 families
    STOCKWATERING: 6 horses, 6 cattle, 100 chickens
    IRRIGATION: .73 acre in SW¼NW¼ Section 12, T3S, R1E, SLBM
12. Other rights appurtenant None

This certificate entitles the holder to use only sufficient water from all rights combined to constitute an economic duty without waste.

The right evidenced by this certificate is restricted to the change described herein, and the certificate in no way establishes nor validates the water right claimed by the applicant, and the change is to in no way enlarge the original right or rights.

The works employed in this change are to be operated and maintained in such manner and condition as will prevent waste of water.

In Witness Whereof, I have hereunto set my hand and affixed the seal of my office this 24th day of May, 19 71.

Hubert C. Lambert
State Engineer

Hubert C. Lambert

Form 107—6-57—2M

CHANGE APPLICATION NO. a-4175

Application for Permanent Change of Point of Diversion, Place and Nature of Use of Water

STATE OF UTAH

Do not fill out this blank until you have read carefully and thoroughly understand the "Rules and Regulations" on the back hereof and all the notes in the body of it.

For the purpose of obtaining permission to permanently change the point of diversion, place or nature of use of (Strike out written matter not needed)

water right acquired by Little Cottonwood Creek Decree Case 4363 June 16, 1910
(Give No. of Application, certificate of appropriation, title and date of Decree or other identification of right)

to that hereinafter described, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of the Laws of Utah.

1. *The name of the applicant is* Harold W. Bentley
2. *The post-office address of the applicant is* Star Route, Sandy, Utah
3. †*The flow of water which has been or was to have been used in second-feet is* 1/4 of 0.25 s. f. = 0.0625 s. f.
4. †*The quantity of water which has been or was to have been used in acre-feet is* (see Explanatory)
5. †*The water has been or was to have been used each year from* Jan. 1 (Month) (Day) *to* Dec. 31 (Month) (Day) *incl.*
6. †*The water has been or was to have been stored each year from* ..... (Month) (Day) *to* ..... (Month) (Day) *incl.*
7. *The drainage area to which source of supply belongs is* ..... (Leave blank)
8. *The direct source of supply is* Little Cottonwood Creek *in* Salt Lake *County.*
9. †*The point of diversion as described in the original Application or the point at which the water has been diverted is situated at a point* Pipe line p. of d. is South 836' and E 4518' from N¼ Cor. Sec. 7, T3S, R2E, S.L.B. & M. South Despain Ditch point of Diversion is: 318 ft. South and 408 ft. West of the E¼ Cor. of Sec. 12, T3S, R1E, SLB&M.
10. †*The water involved has been or was to have been used for the following purposes:* The water has been used for domestic, stock-watering and supplemental irrigation purposes in the SW¼ of Sec. 12, T 3 S, R 1 E, S.L.B. & M.

3

Total 15 *Acres.*

NOTE—If for irrigation, give legal subdivision of land and total acreage which has been or was to have been irrigated. If for other purposes, give nature, place and extent of use or proposed use.

11. †*The point at which water has been or was to have been returned to the stream channel is situated as follows:* No water has ever been returned to the source

NOTE—The above space is to be filled in only when all or part of the water is returned to the natural stream or channel.

The Following Changes Are Proposed

12. *The flow of water to be changed in cubic feet per second is* 0.0625 (see Explanatory)
13. *The quantity of water to be changed in acre-feet is* 2600 gals. per day
14. *The water will be used each year from* Jan. 1 (Month) (Day) *to* Dec. 31 (Month) (Day) *incl.*
15. *The water will be stored each year from* ..... (Month) (Day) *to* ..... (Month) (Day) *incl.*
16. *The point at which it is now proposed to divert the water is situated (See note)* N 242' and E 270' from W¼ Cor. Sec. 12, T 3 S, R 1 E, S.L.B. & M.

NOTE—The "point of diversion," or "point of return," must be located by course and distance or by rectangular distances with reference to some regularly established United States land corner or United States mineral monument if within a distance of six miles of either, or if a greater distance, to some prominent and permanent natural object.

17. *The proposed diverting and conveying works will consist of* an 8" well between 200 and 300 feet deep, pump and 350' of 1½" pipe
18. *The cross-section of the diverting channel will be.* (Strike out ones not needed)
19. *The nature of the diverting channel will be:* ~~earth,~~ ~~wood,~~ iron, ~~concrete.~~ (Strike out the ones not needed)

†Strike out written matter not needed.

8" 3/18/43

SEE CERTIFICATE

20. *The length of the diverting channel, exclusive of laterals, will be* .... *feet*
(If an existing channel is used give only the length of that part used under this Application)

21. *The top width of the diverting channel will be (if a ditch)* .... *feet*

22. *The bottom width of the diverting channel will be (if a ditch)* .... *feet*

23. *The depth of water in the diverting channel will be (if a ditch)* .... *feet*

24. *The width of diverting channel will be (if a flume)* .... *feet*

25. *The depth of water in the diverting channel will be (if a flume)* .... *feet*

26. *The diameter of the diverting channel will be (if a pipe)* 8 and 1½ *inches*

27. *The grade of the diverting channel will be* vertical *feet per thousand*

28. *The point at which it is proposed to return the water is situated* (See note under 16) ....
No water will be returned to the source

29. *The water is to be used* for the domestic requirements of three homes, to water 6 horses, 6 cattle, 100 chickens, and for the supplemental irrigation of 2 acres, all located within S½NW¼ Sec. 12, T 3 S, R 1 E, S.L.B. & M.

Total 2 *acres.*

NOTE—If for irrigation, give legal subdivisions of land to be irrigated. If for other purposes, give place and extent of proposed use. If for power give number, size and make of wheels, head under which they will operate, total H. P. to be developed and place where power will be used.

30. *The character of the soil to be irrigated is* sandy; *subsoil* gravel

NOTE—Number 30 is to be filled in only when proposed change is for irrigation.

31. *If paragraph 12 designates that only part of the right described in paragraph 1 to 11 inclusive is to be changed, designate the status of the water so affected by this change as to its being abandoned or used as heretofore.*
The water described between Pars. 3 to 11 has been used each year and will all be used in the future

EXPLANATORY

NOTE—Paragraph 13 on page 1 must not be used except when storage is contemplated; in such case Paragraph 14 should indicate the time in each year during which the water will be released and used. The lands to be inundated by the reservoir must be described in the space below this note as nearly as may be and by government subdivisions if upon surveyed land, and the area of the reservoir when at full stage should be given in acres; the height of the impounding dam must also be specified.

The following additional facts are set forth in order to define more clearly the full purpose of the proposed change:

The applicant is the owner of a 1/4 interest in 0.25 s. f. which was decreed to the South Despain Ditch in Little Cottonwood Creek Decree of 1910. Case 4802. The ditch water has been and is now being used for domestic purposes by all the water users of the South Despain Ditch. Before 1934 that portion of the water used for domestic purposes was turned directly from the ditch into a cistern at each home. Since 1934 that portion of the decreed water used for domestic purposes has been conveyed to each house through a pipe line under an exchange agreement with Salt Lake City Corporation. As consideration for the construction of the pipe system, the owners of the waters of the South Despain Ditch transferred to Salt Lake City Corporation the right to the use the primary water of the South Despain Ditch, amounting to 0.25 s.f., from Oct. 1 to April 1, excepting therefrom a domestic supply of 8,000 gallons per day which was reserved by the water users and is now delivered to them through the pipe line.

During the irrigation season from April 1 to Oct. 1 all of the primary and surplus water decreed to the South Despain Ditch is conveyed through the pipe line ~~xxxx~~ or ~~[illegible]~~ ~~[illegible] part of the South Despain Ditch water [illegible]~~ the South Despain Ditch, depending on the size of the stream in the creek.

Extensive investigations and studies involving the creek flow of Little Cottonwood Creek, the springs and other wells in the mouth of Little Cottonwood Canyon above the Wasatch Fault Line, have proved a very definite relationship. The springs in this area were considered as part of the creek flow in the decree. The water developed from wells in this area since the decree has also been considered as part of the decreed creek flow.

The water developed from the well proposed to be drilled by this change application is also to be considered as part of the decreed creek flow. This change application does not propose to appropriate, and is filed with the approval of Salt Lake City Corporation and the South Despain Ditch water users.

The raw water of Little Cottonwood Creek is not fit for domestic purposes without complete treatment. This is an effort on the part of the applicant to

Harvey Bentley (signature)
Signature of Applicant.

Form 107--C 2--58 1M

Change Application No.. .....

EXPLANATORY

obtain a supply of water that will meet the standards of domestic water.

This change application changes only the point of diversion of ¾ part of the decreed water of Little Cottonwood Creek owned by the applicant, which is a 1/4 interest in the South Despain Ditch water rights.

From the well the applicant proposes to divert 2,000 gallons per day between Oct. 1 and April 1 of the next year, and 4,000 gallons per day from the well between April 1 and Oct. 1 at a rate equal to 0.0275 c. f., which is 20.05 g.p.m. The water will be pumped from the well through a meter and into a pressure tank, from which it will be diverted as required. The rest of the water of the South Despain Ditch owned by the applicant will still be diverted from the points of diversion described in par. 9.

Permission to proceed immediately with the drilling is urgently requested.

Signature of Applicant.

(This page is not to be filled in by applicant)

State Engineer's Endorsements

1. 2 pm Sept. 25, 1962 Change Application received over counter ~~by mail~~ in State Engineer's office by [illegible]
2. ..... Priority of right to make change brought down to, on account of .....
3. Sept. 25, 1962 Fee for filing Application, $30.00, received by [illegible] Receipt No. 25615
4. ..... Application copied in Change Book No. Ch 26, page 469, and indexed by Kj
5. Sept 26, 1962 Application platted by [illegible]
6. 1-10-63 Application examined by [illegible]
7. ..... Application returned, with letter, to ..... for correction
8. ..... Corrected application resubmitted over counter by mail to State Engineer's office.

8a. ..... Copy brought up to date (red inked) and placed in record book by .....

9. ..... Fee for publishing notice requested.
10. ..... Fee for publishing notice $....., Received by ..... Receipt No. .....
11. 1-10-63 Application approved for advertisement by [illegible]
12. Feb. 7, 1963 Notice to water users prepared by [illegible]
13. Feb. 14, 1963 Publication began; was completed Feb. 28-1963
    Notice published in Murray Eagle, Murray, Utah
14. Feb. 13, 1963 Proof slips checked by [illegible]
15. ..... Change Application protested by .....

March 14, 1963 Publisher - proof [illegible]

16. April 4, 1963 Application designated for approval ~~rejection~~ by [illegible]
17. ..... Fee for approving Application requested .....
18. ..... Fee for approving application, $2.50, received by ..... Receipt No. .....
19. May 27, 1963 Change Application ~~proof, read~~ photostated by le
20. May 27, 1963 Change Application approved ~~rejected~~ and returned to applicant

This Application is approved on the following conditions:

1. *Actual construction work necessitated by proposed change shall be diligently prosecuted to completion.*
2. *Proof of change shall be submitted to the State Engineer's office by* September 30, 1965.
3. Subject to prior rights whether diverting directly from the source hereof or from other sources to which this water is tributary (including rights junior to the original application or rights which might be impaired by the change or changes) for diversion and use as herein described

Wayne D. Criddle
Wayne D. Criddle, State Engineer.

21. ..... Time for making proof of change extended to 9/30/67 9/30/69 Sept. 30, 1970
22. ..... Proof of change submitted.
23. ..... Fee for filing proof of change, $1.00, received by ..... Receipt No. .....
24. ..... Fee for examining maps, profiles and drawings, $5.00, received by ..... Receipt No. .....
25. ..... Fee for issuing certificate of change, $1.00, received by ..... Receipt No. .....
26. May 24, '71 Certificate of change, No. a-702, issued.

I hereby certify that the foregoing is a true copy of the Application by ..... to change the point of diversion, place and nature of use of water as shown, with endorsements thereon, on the records of my office on the date given below.

Salt Lake City, Utah May 24, 1971 Hubert C. Lambert
State Engineer.

Change Application No. a-4128

Form 113—5M—12-60

Examined Mar-11-1964 ACT
Recorded: B. C. 3-18-64 ACT T. B. ACT
Inspection Sheet 3-23-64
Copied 3-24-64 R.S.

REPORT OF WELL DRILLER

STATE OF UTAH

Application No. a 4178
Claim No.
Coordinate No. (2)-3-1)12 [illegible]

GENERAL STATEMENT: Report of well driller is hereby made and filed with the State Engineer, in accordance with the laws of Utah. (This report shall be filed with the State Engineer within 30 days after the completion or abandonment of the well. Failure to file such reports constitutes a misdemeanor.)

(1) WELL OWNER:

Name Harold Bentley
Address Star Route Sandy

(2) LOCATION OF WELL:

County Salt Lake Ground Water Basin (leave blank)
North ~~80 318~~ 242' feet, East ~~W 406~~ 770' feet from ~~E 1/4~~ W 1/4 Corner
~~South~~ ~~West~~
of Section 12, T 3 S N/S, R 1 E E SLBM/W USM (strike out words not needed)

(3) NATURE OF WORK (check):

New Well ☒
Replacement Well ☐ Deepening ☐ Repair ☐ Abandon ☐
If abandonment, describe material and procedure:

(4) NATURE OF USE (check):

Domestic ☒ Industrial ☐ Municipal ☐ Stockwater ☐
Irrigation ☐ Mining ☐ Other ☐ Test Well ☐

(5) TYPE OF CONSTRUCTION (check):

Rotary ☐ Dug ☐ Jetted ☐
Cable ☒ Driven ☐ Bored ☐

(6) CASING SCHEDULE:

Threaded ☐ Welded ☒
8" " Diam. from 0 feet to 144 feet Gage
" Diam. from feet to feet Gage
" Diam. from feet to feet Gage
New ☒ Reject ☐ Used ☐

(7) PERFORATIONS:

Perforated? Yes ☐ No ☐
Type of perforator used mill
Size of perforations 2" inches by 1/4" inches
150 perforations from 134 feet to 100 feet
perforations from feet to feet
perforations from feet to feet
perforations from feet to feet
perforations from feet to feet

(8) SCREENS:

Well screen installed? Yes ☐ No ☒
Manufacturer's Name
Type Model No.
Diam. Slot size Set from ft. to
Diam. Slot size Set from ft. to

(9) CONSTRUCTION:

Was well gravel packed? Yes ☐ No ☒ Size of gravel:
Gravel placed from feet to feet
Was a surface seal provided? Yes ☐ No ☐
To what depth? feet
Material used in seal:
Did any strata contain unusable water? Yes ☐ No ☐
Type of water: Depth of strata
Method of sealing strata off:

Was surface casing used? Yes ☐ No ☐
Was it cemented in place? Yes ☐ No ☐

(10) WATER LEVELS:

Static level 42 feet below land surface Date dec 18
Artesian pressure feet above land surface Date

LOG RECEIVED:

RECEIVED 11 1964 [illegible] ENGINEER [illegible]

(11) FLOWING WELL:

Controlled by (check) Valve ☐
Cap ☐ Plug ☐ No Control ☐
Does well leak around casing? Yes ☐ No ☐

(12) WELL TESTS:

Drawdown is the distance in feet the water level is lowered below static level.

Was a pump test made? Yes ☒ No ☒ If so, by whom?
Yield: gal./min. with feet drawdown after hours
" " " "
" " " "
Bailer test 25 gal./min. with 2 feet drawdown after hours
Artesian flow g.p.m. Date
Temperature of water Was a chemical analysis made? No ☐ Yes ☐

(13) WELL LOG:

Diameter of well 8" inches
Depth drilled 145 feet. Depth of completed well 143 feet.

NOTE: Place an "X" in the space or combination of spaces needed to designate the material or combination of materials encountered in each depth interval. Under REMARKS make any desirable notes as to occurrence of water and the color, size, nature, etc., of material encountered in each depth interval. Use additional sheet if needed.

DEPTH From	DEPTH To	Clay	Silt	Sand	Gravel	Cobbles	Boulders	Hardpan	Conglomerate	Bedrock	Other	REMARKS
0	63			X	X		X					
57	70			X								cemented
70	97			X	X							little water
97	99	X										
99	115			X	X							some clay
115	128			X	X							
128	137	X			X							
137	145				X							

Work started Nov 20, 1963 Completed Dec 2, 1963

(14) PUMP:

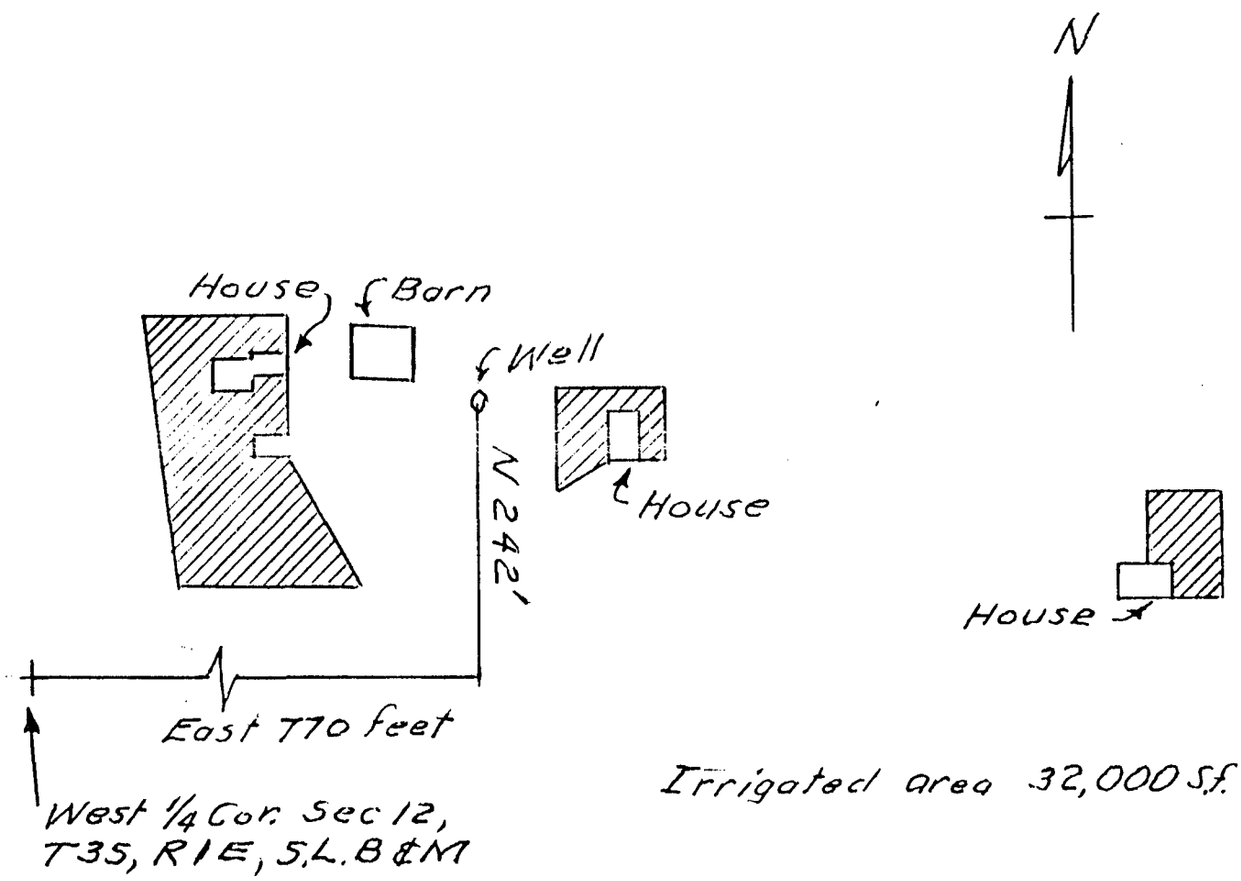
Manufacturer's Name
Type: H. P.
Depth to pump or bowles feet

Well Driller's Statement:

This well was drilled under my supervision, and this report is true to the best of my knowledge and belief.

Name INTERMOUNTAIN DRILLING CORP. (Person, firm, or corporation) (Type or print)
2333 WOODWRIGHT ROAD
Address SALT LAKE CITY 9, UTAH
(Signed) [signature] (Well Driller)
License No. 200 Date Febr, 1964

USE OTHER SIDE FOR ADDITIONAL REMARKS



PROOF OF PERMANENT CHANGE
OF POINT OF DIVERSION
Change Application No. a-4178
For Harold W. Bentley
Salt Lake County, Utah

Scale 1" = 150'	G K Borg
July 21, 1970	Prof Eng. & L.S. No 903

Sheet 1 of 1 Sheets

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION NO. a-4178	)))	MEMORANDUM DECISION

Change Application No. a-4178 was filed by Harold W. Bentley to change the point of diversion and nature of use of a portion of a right contained in the Little Cottonwood Creek Decree in Case No. 4802 dated June 16, 1910.

The applicant is apparently the owner of a 1/4 interest in .25 sec.-ft. of water, which has been diverted from Little Cottonwood Creek through the South Despain Ditch and used for domestic, stock watering and irrigation purposes. The applicant now proposes to divert 2,000 gallons of water per day between October 1 and April 1 of each year and 4,000 gallons per day between April 1 and October 1 at a rate not to exceed .0625 sec.-ft. from a well to be located in Section 12, T3S, R1E, SLB&M. The water is to be used for domestic requirements of three homes, watering of horses, cattle and chickens and supplemental irrigation of 2 acres of land. The remainder of his right is to be used as before. This change application was protested by Granite Water Company and Joseph F. Sturdy.

In conversation with Mr. Clyde, attorney for the protestant, Granite Water Company, he indicated that they did not wish the protest to be the subject of the hearing provided that adequate protection was given to their existing rights to divert water from the Granite Spring area and it also provided that the applicant be made aware of the requirements that water be replaced should operation of the well interfere with flow of water from the spring area.

Mr. Sturdy indicated in his protest that he has a well near his home and wishes only to protect his rights and requests that the application be rejected unless proper protection can be given to these rights.

From our investigation of this area, it appears that during most of the year

water can be diverted from the well as indicated without interfering with vested rights. However, there may be times during the year when the total amount of pumping from the applicant's wells and others located within the area would lower the water table sufficiently to cause interference with the rights of the Granite Water Company and others. It is felt that the applicant should be made aware of this possibility and that he should make adequate provisions in his plans to provide for replacement of water should it be established that his well was the cause of interference.

It is, therefore, ordered and Change Application No. a-4173 is hereby, APPROVED, subject to all prior rights and to rights interfered with by reason of the change, which may be junior to applicant's right.

This decision is subject to the provisions of Section 73-3-14, Utah Code Annotated, 1953, which provides for plenary review by the filing of a civil action in the appropriate district court within sixty days from date hereof.

Dated this 27th day of May, 1963.

Wayne D. Criddle
WAYNE D. CRIDDLE
STATE ENGINEER

REH/js/le

CC: Granite Water Company
c/o Edward W. Clyde, Attorney
351 South State Street
Salt Lake City, Utah

CC: Joseph Sturdy
3558 East 9800 South
Little Cottonwood Road
Salt Lake City, Utah

CC: Mr. Edward W. Clyde
Attorney at Law
351 South State Street
Salt Lake City, Utah

POOR QUALITY ORIGINALS

NOTICE TO WATER USERS

The following applications have been filed with the State Engineer to change or appropriate water in Salt Lake County, State of Utah, throughout the entire year unless otherwise designated. All locations are in SLB&M.

To Change:

a-4178 - Harold W. Bentley, Star Route, Sandy, Ut. proposes to change the point of diversion of .0625 sec.-ft. of .25 sec.-ft. of water evidenced by Little Cottonwood Creek Decree Case 4802, dated June 16, 1910. The water has been diverted from Little Cottonwood Creek at the following points: (1) Pipe line point of diversion S. 836 ft. and E. 4518 ft. from W¼ Cor. Sec. 7, T3S, R2E; (2) South Despain Ditch point of diversion S. 318 ft. and W. 408 ft. from E¼ Cor. Sec. 12, T3S, R1E, and used for domestic and stock-watering purposes, and from Apr. 1 to Oct. 1, as a supplemental supply for the irrigation of 15 acres, all uses in SW¼NW¼ Sec. 12, T3S, R1E.

Hereafter, 2000 gallons per day of the above described right will be diverted from Oct. 1 to Apr. 1, and 4000 gallons per day of the above described right will be diverted from Apr. 1 to Oct. 1, both at a rate not to exceed .0625 sec.-ft. of water from an 8-in. well, bet. 200 and 300 ft. deep at a point N. 242 ft. and E. 770 ft. from W¼ Cor. Sec. 12, T3S, R1E., and used for the domestic requirements of three families, for the watering of 6 horses, 6 cattle and 100 chickens, and from Apr. 1 to Oct. 1, as a supplemental supply, for the irrigation of 2 acres, all uses in SW¼NW¼ Sec. 12, T3S, R1E.

To Appropriate:

34680 - H. H. Packer Company, 4180 So. State St., Salt Lake City, Ut. .0315 sec.-ft. from a 2-in. well, 378 ft. deep at a point S. 509 ft. and E. 727 ft. from NW Cor. Sec. 6, T2S, R1E. The water is to be used from Apr. 1 to Oct. 31 for the irrigation of .1 acre in NW¼NW¼ said Sec. 6.

34770 - Robert R. Busby, 1124 Vine St., Salt Lake City, Ut. .015 sec.-ft. from a 4-in. well, bet. 100 and 400 ft. deep at a point S. 1010 ft. and E. 1000 ft. from N¼ Cor. Sec. 20, T2S, R1E. The water is to be used for the domestic requirements of one family, and from Apr. 1 to Oct. 31 for the irrigation of

ments of one family, and from Apr. 1 to Oct. 31 for the irrigation of 1/4 acre, all uses in SE¼NW¼NE¼ said Sec. 20.

34779 - Charles E. Steiner, 1053 East 3950 So., Salt Lake City, Ut. .015 sec.-ft. from a 3-in. well, bet. 100 and 200 ft. deep at a point N. 1310.5 ft. and E. 388.5 ft. from S¼ Cor. Sec. 32, T1S, R1E. The water is to be used for the domestic requirements of one family, and from Apr. 1 to Oct. 31 for the irrigation of 1/4 acre, all uses in NW¼SW¼SE¼, SW¼NW¼SE¼ said Sec. 32.

34783 - George B. Catmull, 1701 East 4620 South, Salt Lake City, Ut. .015 sec.-ft. from a 3-in. well, bet. 100 and 300 ft. deep at a point N. 857 ft. and E. 233 ft. from S¼ Cor. Sec. 4, T2S, R1E. The water is to be used for the domestic requirements of one family,for the watering of 4 horses, and from Apr. 1 to Oct. 31 for the irrigation of 1/4 acre, all uses in NW¼SW¼SE¼ said Sec. 4.

34789 - John A. Ward, 1420 Spring Lane, Salt Lake City, Ut. .10 sec.-ft. from a 6-in. well, bet. 90 and 200 ft. deep at a point S. 414 ft. and E. 666 ft. from W¼ Cor. Sec. 9, T2S, R1E. The water is to be used for the domestic requirements of one family, for the watering of 2 cattle, and from Apr. 1 to Oct. 31 for the irrigation of 1 acre, all uses in NW¼SW¼ said Sec. 9.

34803 - Christensen Equipment Rental Co., 4221 So. Main St., Salt Lake City, Ut. .015 sec.-ft. from a 2-in. well, bet. 100 and 400 ft. deep at a point N. 1747.47 ft. and E. 133.28 ft. from W¼ Cor. Sec. 6, T2S, R1E. The water is to be used for the domestic requirements of 10 people, and from Apr. 1 to Oct. 31 for the irrigation of 1/4 acre, all uses in SW¼NW¼NW¼ said Sec. 6.

34847 - Hans Stanley Hansen, 1102 East 1st South, Apt. 1, Salt Lake City, Ut. .015 sec.-ft. from a 4-in. well, bet. 100 and 300 ft. deep at a point N. 1793 ft. and W. 160.5 ft. from E¼ Cor. Sec. 5, T2S, R1E. The water is to be used

for the domestic requirements of one family, and from Apr. 1 to Oct. 31 for the irrigation of 1/4 acre, all uses in SE¼NE¼NE¼ said Sec. 5.

Protests resisting the granting of any of the foregoing applications with reasons therefor, must be filed in duplicate with the State Engineer, 442 State Capitol, Salt Lake City, Utah, on or before March 30, 1963.

Wayne D. Criddle
STATE ENGINEER.

Published in Murray Eagle, Murray, Utah, from February 14 to February 28, 1963.

THE STATE OF UTAH

OFFICE OF STATE ENGINEER

SALT LAKE CITY

WAYNE D. CRIDDLE
STATE ENGINEER

RE: APPLICATION NO. a-4178
2/27/63

NOTICE TO WATER USERS

The following applications have been filed with the State Engineer to change or appropriate water in Salt Lake County, State of Utah, throughout the entire year unless otherwise designated. All locations are in SLB&M.

To Change:

a-4178—Harold W. Bentley, Star Route, Sandy, Ut. proposes to change the point of diversion of .0625 sec.-ft. of .25 sec.-ft. of water evidenced by Little Cottonwood Creek Decree Case 4802, dated June 16, 1910. The water has been diverted from Little Cottonwood Creek at the following points: (1) Pipe line point of diversion S. 836 ft. and E. 4518 ft. from W¼ Cor. Sec. 7, T3S, R2E; (2) South Despain Ditch point of diversion S. 318 ft. and W. 408 ft. from E¼ Cor. Sec. 12, T3S, R1E, and used for domestic and stock-watering purposes, and from Apr. 1 to Oct. 1, as a supplemental supply for the irrigation of 15 acres, all uses in SW¼-NW¼ Sec. 12, T3S, R1E.

Hereafter, 2000 gallons per day of the above described right will be diverted from Oct. 1 to Apr. 1, and 4000 gallons per day of the above described right will be diverted from Apr. 1 to Oct. 1, both at a rate not to exceed .0625 sec.-ft. of water from an 8-in. well, bet. 200 and 300 ft. deep at a point N. 242 ft. and E. 770 ft. from W¼ Cor. Sec. 12, T3S, R1E., and used for the domestic requirements of three families, for the watering of 6 horses, 6 cattle and 100 chickens, and from Apr. 1 to Oct. 1, as a supplemental supply, for the irrigation of 2 acres, all uses in SW¼NW¼ Sec. 12, T3S, R1E.

Protests resisting the granting of any of the foregoing applications with reasons therefor, must be filed in duplicate with the State Engineer, 442 State Capitol, Salt Lake City, Utah, on or before March 30, 1963.

Wayne D. Criddle
STATE ENGINEER

Published in Murray Eagle, Murray, Utah, from February 14 to February 28, 1963

4/1/63

NOTICE TO WATER USERS PUBLISHED IN Murray Eagle, Murray, Utah, from February 14 to February 28, 1963.

PROTESTING PERIOD ENDED: March 30, 1963, with no protests filed.

NOTICE TO WATER USERS

The following applications have been filed with the State Engineer to change or appropriate water in Salt Lake County, State of Utah, throughout the entire year unless otherwise designated. All locations are in SLB&M.

To Change:

a-4178—Harold W. Bentley, Star Route, Sandy, Ut. proposes to change the point of diversion of .0625 sec.-ft. of .25 sec.-ft. of water evidenced by Little Cottonwood Creek Decree Case 4802, dated June 16, 1910. The water has been diverted from Little Cottonwood Creek at the following points: (1) Pipe line point of diversion S. 836 ft. and E. 4518 ft. from W¼ Cor. Sec. 7, T3S, R2E; (2) South Despain Ditch point of diversion S. 318 ft. and W. 408 ft. from E¼ Cor. Sec. 12, T3S, R1E, and used for domestic and stock-watering purposes, and from Apr. 1 to Oct. 1, as a supplemental supply for the irrigation of 15 acres, all uses in SW¼-NW¼ Sec. 12, T3S, R1E.

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To Appropriate:

34680—H. H. Packer Company, 4180 So. State St., Salt Lake City, Ut. .0315 sec.-ft. from a 2-in. well, 378 ft. deep at a point S. 509 ft. and E. 727 ft. from NW Cor. Sec. 6, [illegible] used from Apr. 1 to Oct. 31 for the irrigation of .1 acre in NW¼NW¼ said Sec. 6.

34770 — Robert R. Busby, 1124 Vine St., Salt Lake City, Ut. .015 sec.-ft. from a 4-in. well, bet. 100 and 400 ft. deep at a point S. 1010 ft. and E. 1000 ft. from N¼ Cor. Sec. 20, T2S, R1E. The water is to be used for the domestic requirements of one family, and from Apr. 1 to Oct. 31 for the irrigation of ¼ acre, all uses in SE¼NW¼NE¼ said Sec. 20.

34779—Charles E. Steiner, 1053 East 3950 So., Salt Lake City, Ut. .015 sec.-ft. from a 3-in. well, bet. 100 and 200 ft. deep at a point N. 1310.5 ft. and E. 388.5 ft. from S¼ Cor. Sec. 32, T1S, R1E. The water is to be used for the domestic requirements of one family, and from Apr. 1 to Oct. 31 for the irrigation of ¼ acre, all uses in NW¼SW¼SE¼, SW¼NW¼SE¼ said Sec. 32.

34783—George B. Catmull, 1701 East 4620 South, Salt Lake City, Ut. .015 sec.-ft. from a 3-in. well, bet. 100 and 300 ft. deep at a point N. 857 ft. and E. 233 ft. from S¼ Cor. Sec. 4, T2S, R1E. The water is to be used for the domestic requirements of one family, for the watering of 4 horses, and from Apr. 1 to Oct. 31 for the irrigation of ¼ acre, all uses in NW¼SW¼SE¼ said Sec. 4.

34789—John A. Ward, 1420 Spring Lane, Salt Lake City, Ut. .10 sec.-ft. from a 6-in. well, bet. 90 and 200 ft. deep at a point S. 414 ft. and E. 666 ft. from W¼ Cor. Sec. 9, T2S, R1E. The water is to be used for the domestic requirements of one family, for the watering of 2 cattle, and from Apr. 1 to Oct. 31 for the irrigation of 1 acre, all uses in NW¼SW¼ said Sec. 9.

34803 — Christensen Equipment Rental Co., 4221 So. Main St., Salt Lake City, Ut. .015 sec.-ft. from a 2-in. well, bet. 100 and 400 ft. deep at a point N. 1747.47 ft. and E. 133.28 ft. from W¼ Cor. Sec. 6, T2S, R1E. The water is to be used for the domestic requirements of 10 families, and from Apr. 1 to Oct. 31 for the irrigation of ¼ acre, all uses in SW¼NW¼-NW¼ said Sec. 6.

RECEIVED
AUG 07 2000
PUBLIC UTILITIES

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)
) MEMORANDUM DECISION
NUMBER 57-7800 (a24463))

Change Application Number 57-7800 (a24463), in the name of Lynn Christensen Biddulph, was filed on May 8, 2000, to change the point of diversion and place of use of 0.0625 cfs of water. Heretofore, the water has been diverted from an 8-inch diameter well, 143 feet deep, located North 242 feet and East 770 feet from the W¼ Corner of Section 12, T3S, R1E, SLB&M, and used for the irrigation of 0.73 acre from April 1 to October 31, the watering of 15 cattle or equivalent, and the domestic purposes of three families in the SW¼NW¼ of Section 12, T3S, R1E, SLB&M.

Hereafter, it is proposed to divert 0.0625 cfs of water from Little Cottonwood Creek at a point located South 318 feet and West 408 feet from the E¼ Corner of Section 12, T3S, R1E, SLB&M, and from the South Despain Ditch at a point located South 836 feet and East 4518 feet from the W¼ Corner of Section 7, T3S, R2E, SLB&M. The water is to be used for the irrigation of 0.73 acre from April 1 to October 31, the watering of 15 cattle or equivalent, and the domestic purposes of three families in the SW¼NW¼ of Section 12, T3S, R1E, SLB&M.

The application was advertised in the Deseret News on June 1, 2000, and June 8, 2000, and was protested by Salt Lake City Corporation and Sandy City. In the written protests it is stated that the water right is encumbered by an agreement with Salt Lake City, and that the property has been subdivided into several properties and the applicant may only be part owner of the water right.

The State Engineer has reviewed the change application, the underlying water right, and the protests and notes that in the explanatory of the change application it states, "Applicant is simply returning to her original decreed point of diversion and thereby correcting the State Engineer's files to conform to existing and historical practice. That is, Applicant and Applicant's predecessors never stopped taking water from the pipeline constructed by Salt Lake City under Agreement dated August 8, 1934. Applicant's predecessor completed Change Application No. a4178 (57-7800) in anticipation of using a separate water well for a residential development project but never completed its project plan. By this application, Applicant is merely correcting the State Engineer records to show that Applicant is still taking water from the Salt Lake City line and is, in fact, abandoning the well constructed under Change Application No. a4178. Applicant will continue using water as originally decreed and as modified by its Agreement with Salt Lake City dated August 8, 1934." The applicant has stated that the water right never was changed to the well as certificated, even though the prior owner had submitted proof and been issued a

certificate. The demand on the water has continued to be on the tap that is on the Murray City penstock, not on the well. Based on documents filed with the State Engineer, title to the underlying water right appears to be in the name of the applicant. If any other party submits different title evidence, ownership may be changed. It appears that the change application can be approved provided conditions are imposed.

In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, ORDERED and Change Application Number 57-7800 (a24463) is hereby APPROVED subject to prior rights and the following conditions:

1. This change application is approved subject to the conditions and provisions of the Little Cottonwood Creek Decree as modified by the August 8, 1934 agreement between Salt Lake City and the Despains, Butlers, and the Gills.

2. The well drilled under the prior change shall be sealed from bottom to top by a licensed well driller in the State of Utah and in accordance with state rules and regulations for well abandonment.

3. No agency of the state guarantees title to certain water rights. In the event of title conflicts, the involved parties may require court action or stipulation between entities to resolve disputes.

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 4th day of August, 2000.

Robert L. Morgan, P.E., State Engineer

RLM:JER:et

Mailed a copy of the foregoing Memorandum Decision this 4th day of August, 2000, to:

Lynn Christensen Biddulph
1045 Tuomppian Court
Kayenta, UT 84738

John W. Anderson
Pruitt, Gushee and Bachtell
Suite 1850 Beneficial Life Tower
Salt Lake City, UT 84111-1495

Salt Lake City Corporation
c/o LeRoy W. Hooton
1530 South West Temple
Salt Lake City, UT 84115

Sandy City
c/o Mike Wilson
10000 Centennial Parkway
Sandy, UT 84070

BY: Eileen Tooke
Eileen Tooke, Secretary

LAW OFFICES
PRUITT, GUSHEE & BACHTELL
SUITE 1850 BENEFICIAL LIFE TOWER
SALT LAKE CITY, UTAH 84111-1495
(801) 531-8446
E-mail: pgb.law@mci2000.com

TELECOPIER (801) 531-8468

ROBERT G. PRUITT, JR.
OLIVER W. GUSHEE, JR.
THOMAS W. BACHTELL
A. JOHN DAVIS, III
JOHN W. ANDERSON
FREDERICK M. MacDONALD
GEORGE S. YOUNG
JOHN F. WALDO
ANGELA L. FRANKLIN
JOHN S. FLITTON
MICHAEL S. JOHNSON
CHRISTOPHER J. CASTILLO

OF COUNSEL
ROBERT G. PRUITT, III
BRENT A. BOHMAN

December 18, 1998

RECEIVED
JAN 06 1999
WATER RIGHTS
SALT LAKE

Eric Anderson
State Engineer's Office
1594 W. North Temple, Suite 201
Salt Lake City, UT 84114

Lynn Biddulph 435-655-8511

RE: South Despain Ditch decreed right, Water Right No. 57-7800

Dear Marge:

I am providing the following title information to update the title of Lynn (Christensen) Biddulph in the above referenced water right.

1. The Little Cottonwood Decree, dated June 16, 1910, and attached hereto as Exhibit "A" awarded the South Despain Ditch .25 cfs of primary water together with surplus flows. The decree reflects that the parties had no formal ownership structure in the ditch, e.g. mutual water company, and merely opted for distribution of the aggregate amount of water to their ditch.

2. Through an Agreement dated August 8, 1934, by and between Salt Lake City and the South Despain ditch owners, Salt Lake City (1) purchased the winter portion of the South Despain ditch water right, and (2) agreed to construct and maintain a 6" main pipeline to provide water service to the ditch owners. In this Agreement, the ditch owners specifically excepted a culinary reserve of 7,500 gallons per day to be delivered into the pipe system during non-irrigation season. The ditch owners, as a group, thus retained the entire irrigation season water right and the reserved 7,500 gallons per day during the non-irrigation season. Agreement attached as Exhibit "B".

3. On May 24, 1971, Harold W. Bently completed a water well based on his portion of the South Despain Water Right (Title acquired through Geroge F. and Prudence Despain) and thereby defined his interest as being 25% of the .25 cfs flow or .0625 cfs. The beneficial uses were listed as 3 families, 6 horses, 6 cattle, 100 chickens

APPLICATION FOR PERMANENT CHANGE OF WATER

STATE OF UTAH

RECEIVED
DEC 17 2003
WATER RIGHTS
SALT LAKE

Rec. by 28
Fee Rec. 150
Receipt # 03-05760

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated, as amended.

*WATER RIGHT NO. 57 - 7800 *APPLICATION NO. a 25548

Changes are proposed in (check those applicable)
X point of diversion. X place of use. X nature of use. X period of use.

1. **OWNER INFORMATION** Kevin Tolton
Name(s): c/o Daniel A. Jensen *Interest: ____ %
Address: 185 So. State, Suite 1300
City: Salt Lake City State: Utah Zip Code: 84111

2. ***PRIORITY OF CHANGE:** ____ ***FILING DATE:** ____
*Is this change amendatory? (Yes/No): ____

3. **RIGHT EVIDENCED BY:** A portion of 57-7800, 1910 Morse Decre
Prior Approved Change Applications for this right: a24463

RECEIVED
DEC 18 2003
WATER RIGHTS
SALT LAKE

**********HERETOFORE**********

4. **QUANTITY OF WATER:** 0.0625 cfs and/or ____ ac-ft.
5. **SOURCE:** Little Cottonwood Creek, South Despain Ditch
6. **COUNTY:** Salt Lake
7. **POINT(S) OF DIVERSION:** (1) S 318 ft and W 408 ft from E ¼ corner Sec. 12, T3S, R1E, SLM (South Despain Ditch); (2) S 836 ft and E 4518 ft from W ¼ corner Sec. 7, T3S, R2E, SLM (pipeline)
Description of Diverting Works: ____

8. **POINT(S) OF REDIVERSION**
The water has been rediverted from ____ at a point: ____
Description of Diverting Works: ____

9. **POINT(S) OF RETURN**
The amount of water consumed is ____ cfs or ____ ac-ft.
The amount of water returned is ____ cfs or ____ ac-ft.
The water has been returned to the natural stream/source at a point(s): ____

*** These items are to be completed by the Division of Water Rights**

State of Utah

DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

>>>>>>>>>OFFICIAL RECEIPT<<<<<<<<

RECEIPT No. 09-01204 DATE: April 9, 2009

RECEIVED FROM:

DR KEVIN D TOLTON
1454 SKYLINE DRIVE
BOUNTIFUL, UT 84010

NATURE OF SERVICE:		FEE:
Nonuse Application	57-7800	75.00
	TOTAL:	$75.00

METHOD OF PAYMENT: Check 6059

RECEIVED BY: SNAVA

1594 West North Temple, Suite 220, PO Box 146300, Salt Lake City, UT 84114-6300
telephone (801) 538-7240 • facsimile (801) 538-7467 • *www.waterrights.utah.gov*

SW¼ NW⁴ SECTION 12 T. 3 S., R. 1E.

SALT LAKE BASE & MERIDIAN

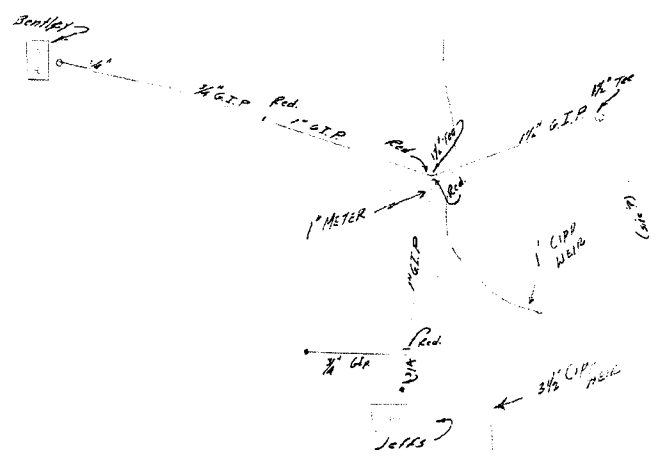
SCALE 1" = 100'

7-1-34
Mayfield Agreement
10-1 to 4-1
Allowed 500 G.P.D.
Bill Excess At City Rate
Assign - R.T. Jeffs

8-8-34
Desmain Agreement
10-1 to 4-1
Allow. 7500 G.P.D.
Excess Bill At City Rates

4-1 to 10-1
?
No Allowance

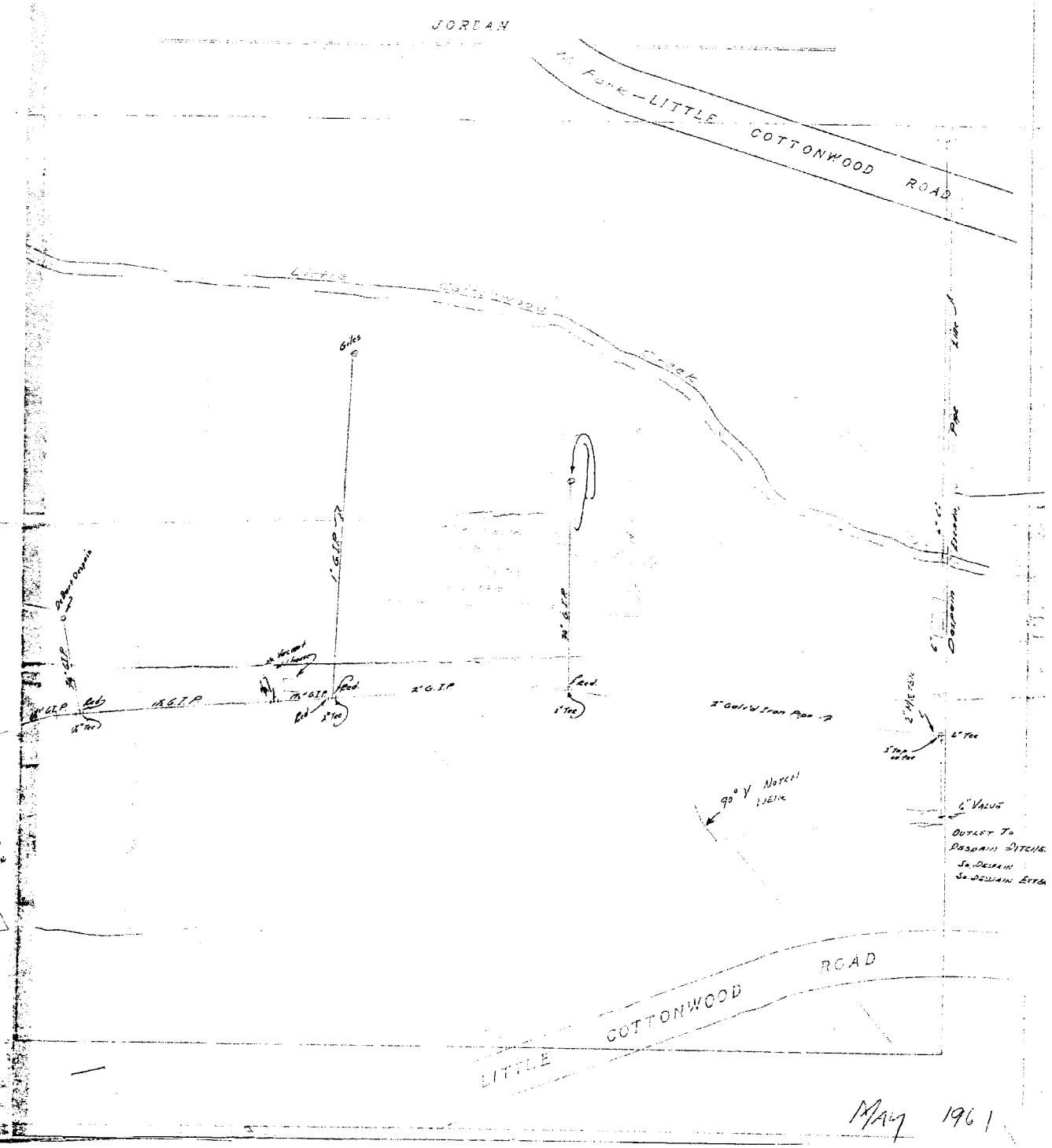
Assigns
Bell 1 hour
Giles 1 " (Jenkins)
Desmain - 2 hours
Desmain 1 "
Jensen - (Burned Down) 1964



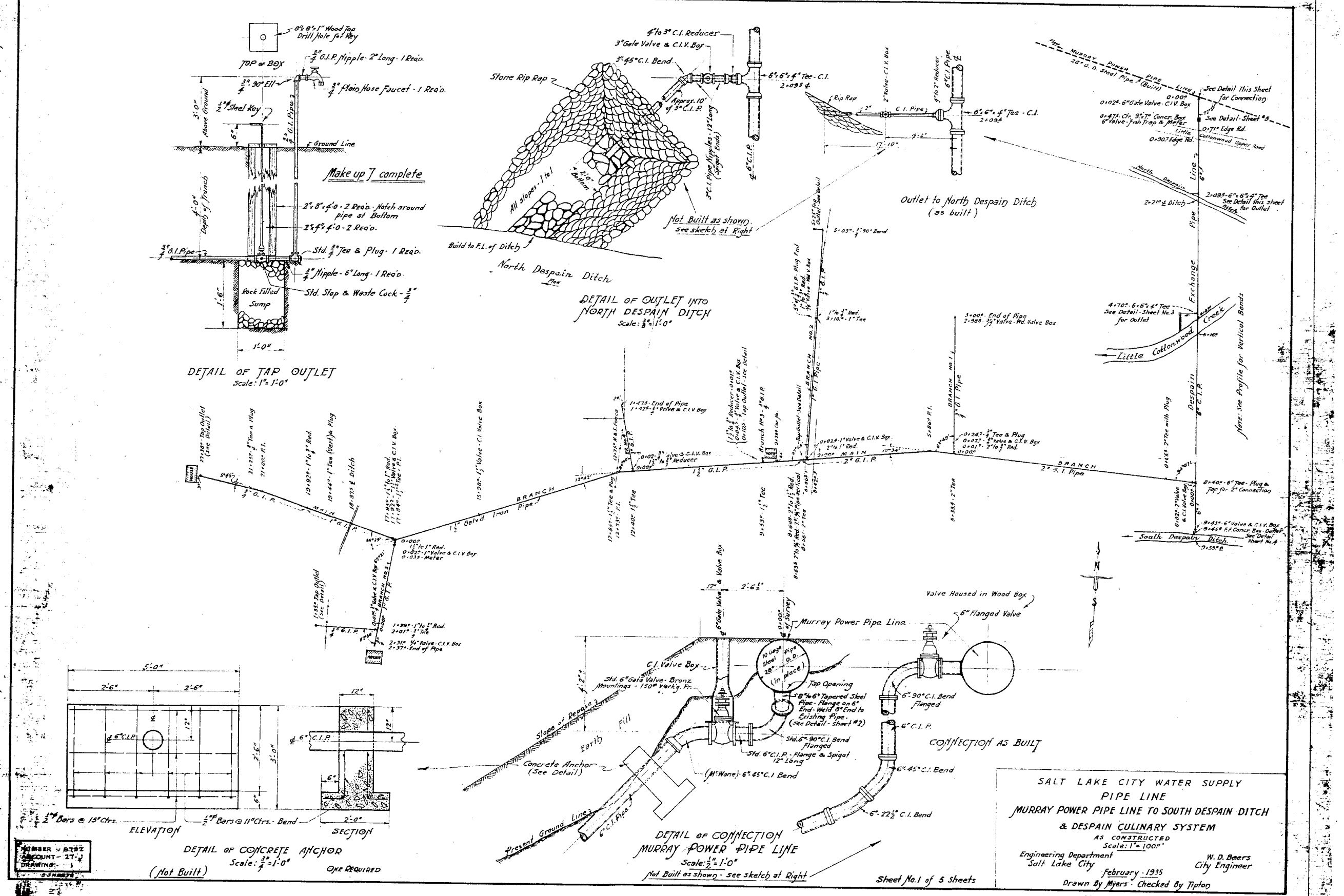
S.E.¼ N.W.⁴ SECTION 12 TP 3S. R. 1E

SALT LAKE MERIDIAN

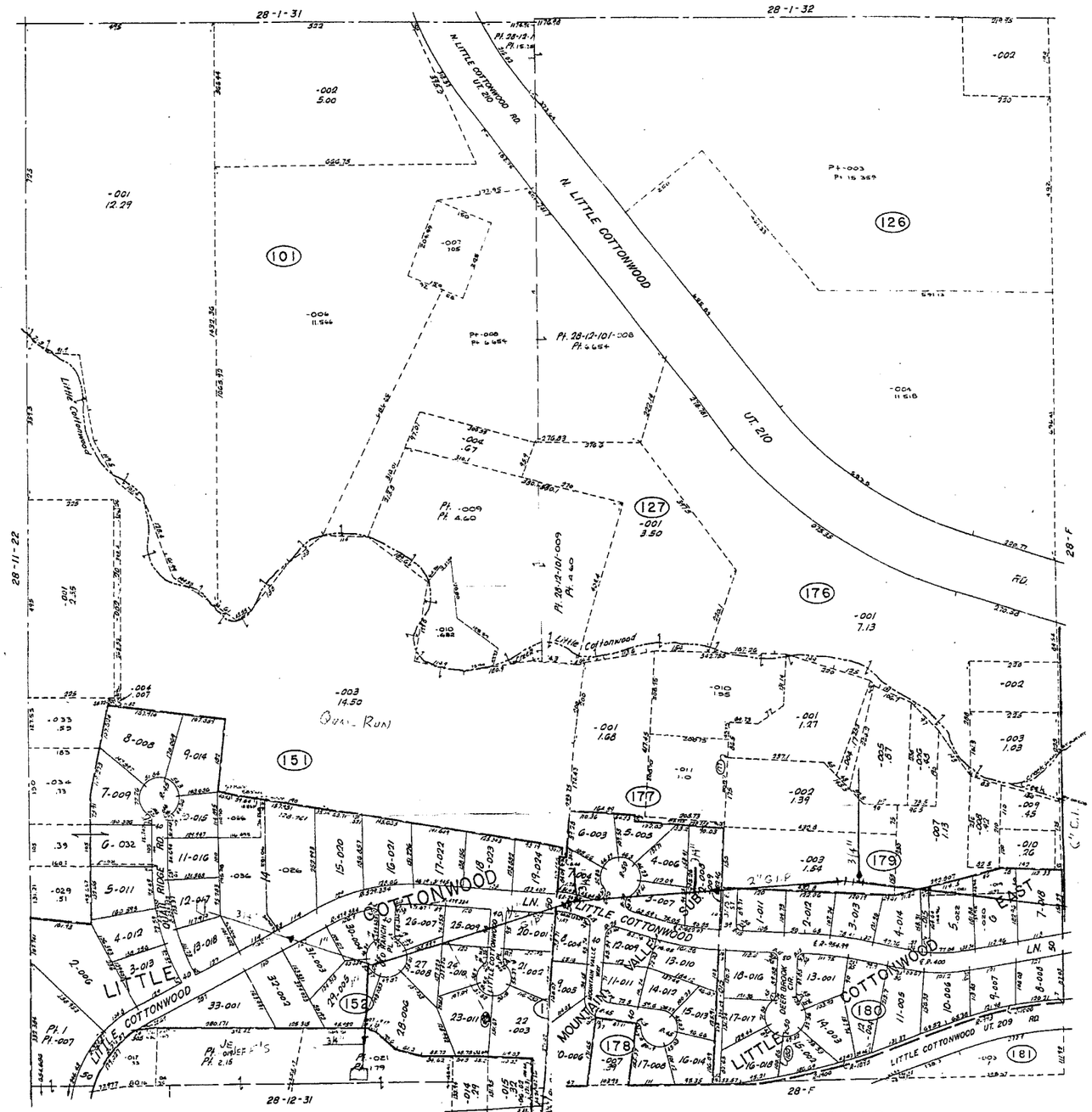
SCALE 100



May 1961



DETAIL OF TAP OUTLET
Scale: 1" = 1'-0"
Make up T complete
DETAIL OF OUTLET INTO NORTH DESPAIN DITCH
Scale: 3/8" = 1'-0"
Stone Rip Rap
North Despain Ditch
Not Built as shown. See sketch at Right
Outlet to North Despain Ditch (as built)
Little Cottonwood Creek
South Despain Ditch
Despain Exchange Pipe Line
Note: See Profile for Vertical Bends
DETAIL OF CONCRETE ANCHOR
Scale: 3/4" = 1'-0"
(Not Built)
ONE REQUIRED
ELEVATION
SECTION
DETAIL OF CONNECTION MURRAY POWER PIPE LINE
Scale: 1/2" = 1'-0"
Not Built as shown - see sketch at Right
Murray Power Pipe Line
Valve Housed in Wood Box
6" Flanged Valve
CONNECTION AS BUILT
Concrete Anchor (See Detail)
Present Ground Line
Earth Fill
Slope of Repose
Sheet No. 1 of 5 Sheets
SALT LAKE CITY WATER SUPPLY
PIPE LINE
MURRAY POWER PIPE LINE TO SOUTH DESPAIN DITCH
& DESPAIN CULINARY SYSTEM
AS CONSTRUCTED
Scale: 1" = 100'
Engineering Department
Salt Lake City
W. D. Beers
City Engineer
February - 1935
Drawn By Myers · Checked By Tipton



2613

SCALE: 1" = 100'

28-12-11

SALT LAKE CO.

W. 1/2 N.W. 1/4 SEC. 12 T.3S. R.1E.

SALT LAKE CO.

E. 1/2 N.W. 1/4 SEC. 12 T.3S. R.1E.

2614

SCALE: 1" = 100'

28-12-12

SEGREGATION HISTORY for: 57-7800 **********RUN DATE: 12/29/2003

57-7800 was originally filed for:

	FLOW IN CFS		QUANTITY IN ACRE-FEET	WATER USES IRRIGATED ACREAGE	STOCK (ELUs)	DOMESTIC (FAMILIES)
	0.0625	OR	5.42	0.7300	15	3

Acre-foot amount estimated from beneficial uses.

The following Water Rights have been Segregated from 57-7800:

The following Water Rights have been Segregated from

(1) WRNUM: 57-10315 APPL#: NAME: The Butler Management Group FILED: 12/23/2003 STATUS: APPR/REJ: 13/ / 0	0.0012	OR	0.9	0.0900		1
(2) WRNUM: 57-10316 APPL#: NAME: Haik, Mark C. FILED: 12/29/2003 STATUS: APPR/REJ: 13/ / 0	0.0012	OR	0.9	0.0900		1
(3) WRNUM: 57-10317 APPL#: NAME: Maack, Judith FILED: 12/29/2003 STATUS: APPR/REJ: 13/ / 0	0.0012	OR	0.9	0.1800		
(4) WRNUM: 57-10318 APPL#: NAME: Marvin A. Melville Trust FILED: 12/29/2003 STATUS: APPR/REJ: 13/ / 0	0.0012	OR	0.9	0.1800		
(5) WRNUM: 57-10319 APPL#: NAME: Hoge, William S. FILED: 12/29/2003 STATUS: APPR/REJ: 13/ / 0	0.0012	OR	0.9	0.1800		

	CFS		ACRE-FEET	IRRIGATED ACREAGE	STOCK (ELUs)	DOMESTIC (FAMILIES)
57-7800 currently has: All DOMESTIC has been SEGREGATED OFF.	0.0565	OR	0.92	0.0100	15	1

END OF DATA

SCANNED

4

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

ROSS C. "ROCKY" ANDERSON
MAYOR

July 9, 2003

Lynn Christensen-Biddulph
664 Bench Lago Road
Grace, Idaho 84241

Re: South Despain Ditch Information

Dear Lynn:

Per our conversation please find information below to answer questions you presented to me regarding the diversion of water off of Little Cottonwood Creek for the South Despain Irrigation Company. I understand that you need the following information for filing your proof due for water right 57-7800 (a24463) with the Utah State Engineer.

We have previously provided you with diversion records for the summer irrigation season for the South Despain diversions for the period of 1989 to 2002. The summer irrigation water of 0.25 cfs was delivered during 1990, 1991, and 1997, however the diversion records for those years cannot be found.

As you are aware, the City has a contract with South Despain for all of its non-irrigation season water right except for a requirement to deliver 7500 gallons per day through a 6 inch pipe off of the Murray penstock. Salt Lake City has diverted the water under our agreement with the South Despain Company, during the non-irrigation season, at the Metropolitan Water Treatment Plant located on Little Cottonwood Creek. The water was beneficially used within the City's service area. The 7500 gallons (0.0116 cfs) of water required to be delivered to the South Despain Company through the 6 inch pipe off the Murray penstock was also delivered during the time period. The 6 inch meter on the 6 inch pipe was sized for the summer flow of 0.25 cfs and does not record the low flows of 0.0116 cfs during the winter months. Also, the meter is buried under snow much of the winter months and cannot be read.

I trust this provides the information you need.

Sincerely,

Jerry T. Niermeyer
Deputy Director

JN

cc: John Flinton
Chris Bramhall – Deputy City Attorney
file

1530 SOUTH WEST TEMPLE, SALT LAKE CITY, UTAH 84115
TELEPHONE: 801-483-6900 FAX: 801-483-6818

RECYCLED PAPER

Lynn Christensen-Biddulph
1045 Tuomppian Court
Ivins, Utah 84738

July 26, 2003

Jeffry T. Niermeyer
Salt Lake City Corporation
1530 S. W. Temple
Salt Lake City, Utah 84115

Dear Jeff,

I have received your letter regarding the missing records of 1990,1991, and 1997 and the confirmation of the delivery of the my winter water for my right #57-7800.

I feel there are a three inaccurate statements in the letter.
First, there is no such thing as the "South Despain Company". We are not a company; simply owners in agreement by the signed Agreement of 1934 with SLC Corporation.

Second," the diversion Cannot be at the Metropolitan Water Treatment Plant";because if it is, it is in violation of the Agreement. It states on page 1 of the Agreement that the conveyance of the Primary waters are to be diverted where said pipe line crosses the center of Section 12,T.3S.,R.1E.,S.L.B.& M, to the South Despain Ditch, at a point near the east line of the N.W. 1/4 of Section 12.

Third, stating that" the use of the water was beneficially used within the City's service", really cannot be verified, because as you stated, SLC cannot and does not measure that small of amount of 1,875 gals a day which is my water right in #57-7800.

I do appreciate the letter in the fact that you, representing SLC Corpration confirms that the records are missing in 1990,91,97 and that my winter water of 1,875 gallons a day has been delivered since 1934.

Regards

LYNN CHRISTENSEN-BIDDULPH
cc: John Flintton/ Chris Bramhall/ Leroy Hooten

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

DEEDEE CORRADINI
MAYOR

April 3, 1996

Ms. Lynn Biddulph
3515 E. Little Cottonwood Road
Salt Lake City, Utah 84092

Dear Ms. Biddulph:

We appreciated the time that you have taken to resolve the South Despain Water Users issue regarding Salt Lake City supplying water to the South Despain users under the agreement with the Despain's dated January 31, 1913. It is Salt Lake City's intent to comply with the agreement.

Salt Lake City has installed a meter on the 6-inch pipeline which is connected to the Murray City penstock pipe. To be in compliance with the 1913 agreement, please be advised that during the summer months Salt Lake City intends to throttle the valve to the 6-inch meter in a manner which will only allow the South Despain users to receive .25 cfs. The distribution of water to the users beyond the 6-inch meter is the responsibility of the South Despain water right owners. If any of the South Despain users desire to have any of their water rights conveyed from the diversion in Little Cottonwood Creek into the South Despain ditch, an appropriate reduction of water through the meter will be made.

During the winter months, the meter will be restricted to provide to the users a maximum of 7500 gallons per day as stipulated in the contract.

We would appreciate you sending us copies of records of those people who have water rights under the agreement. All previous water billings from the City to South Despain users have been voided by the department.

Sincerely,

LeRoy W. Hooton

LEROY W. HOOTON, JR.
Director

ETD/srb
CC: Jim Lewis
So. Despain Water Users
File

1530 SOUTH WEST TEMPLE, SALT LAKE CITY, UTAH 84115
TELEPHONE: 801-483-6768 FAX: 801-483-6818

5

W-C Protest

United States Department of Agriculture | Forest Service | Wasatch-Cache NF

Reply to: 2540

Date: May 27, 1993

Subject: Protest Application to Appropriated Water

To: Regional Forester

I request that you submit a protest concerning the following applications filed by Salt Lake City Corporation to Mr. Robert L. Morgan, State Engineer, 1636 West North Temple, Salt Lake City, UT, 84116:

Application Number	Purpose
Source: Big Cottonwood Creek	
57-10016 (a16811)	Brighton Lodge
57-10017 (a16812)	Brighton LDS Camp
57-10019 (a16814)	Evergreen Summer Home
57-10020 (a16815)	Solitude Ski Resort
57-10023 (a16818)	Mill D Homes Assoc.
57-10033 (a16828)	Solitude Ski Resort
57-10035 (a16840)	Storm Mountain Picnic Area
	Spruces Campground
	Jordan Pines Recreation Area
	Redman Campground
Source: Little Cottonwood Creek	
57-10009 (a16839)	Albion Guard Station
	Tanner Flat Campground
	Albion Basin Campground
57-10012 (a16843)	Recreation: resort use at Snowbird including snow making
57-10013 (a16844)	Snow making at Alta
Source: Mill Creek	
57-10040 (a16386)	Porter Fork Summer Home Association
57-10041 (a16837)	Millcreek Inn Restaurant
57-10042 (a16838)	Box Elder Picnic Area
	Millcreek Guard Station
	Church Fork Picnic Area
	Maple Grove and Terraces Picnic Areas

The basis of the protest is that the Forest Service is already putting the water from these sources to beneficial use; therefore, there is no unappropriated water remaining. The ski resorts, restaurant, and summer home associations are National Forest special use permittees and all the uses are on National Forest land. It is Forest Service policy that water uses on National Forest land for National Forest multiple-use objectives will be in the name of the United

Attn: Bill Levere

NOTICE TO WATER USERS

The State Engineer received the following Application to Appropriate Water in Salt Lake County. (Locations in SLB&M).

Persons objecting to an application must file a Protest stating the reasons for protest. To have a hearing before the State Engineer, persons must request a hearing in the Protest. Protest must be filed in duplicate with the State Engineer, 1636 West North Temple, Salt Lake City, Utah 84116, (801-538-7240) on or before MAY 29, 1993. (PROTESTS MUST BE LEGIBLE WITH A RETURN ADDRESS) These are informal proceedings as per Rule R655-6-2 of the Division of Water Rights.

(LEGEND: Point(s) of Diversion = POD; Place of Use = POU; Nature of Use = USE)

Salt Lake City Corporation has filed 20 change applications in Big Cottonwood Canyon to change the POD & POU of water as evidenced by C.W. Morse Decree for Big Cottonwood Creek, Third Dist., Civil #8921, Butler Ditch, Water Right Number 57-8966. HERETOFORE: SOURCE: Big Cottonwood Creek. POD: (1) S 1900 W 1450 from NE Cor, Sec 25, T2S, R1E (2) N 800 E 1400 from SW Cor, Sec 20, T2S, R2E. USE: Municipal: In Salt Lake City.

57-10016(a16811) HEREAFTER: QUANTITY: 0.52 ac-ft. SOURCE: Springs. POD: S 638 E 14 from NW Cor, Sec 2, T3S, R3E. (Brighton Lodge) USE: Same as Heretofore. POU: SW¼ Sec 35, T2S, R3E.

57-10017(a16812) HEREAFTER: QUANTITY: 0.022 cfs or 15.9 ac-ft. SOURCE: Unnamed Spring. POD: N 443 W 1130 from SE Cor, Sec 34, T2S, R3E. (Brighton LDS Camp) USE: Same as Heretofore. POU: SW¼ Sec 35, T2S, R3E.

57-10018(a16813) HEREAFTER: QUANTITY: 18.0 ac-ft. SOURCE: Unnamed Stream. POD: S 778 E 603 from S¼ Cor, Sec 18, T2S, R3E. (Cardiff Fork Assoc.) USE: Same as Heretofore. POU: N½ Sec 18, T2S, R3E.

57-10019(a16814) HEREAFTER: QUANTITY: 6.75 ac-ft. SOURCE: Evergreen Mine Tunnel. POD: N 370 E 80 from SW Cor, Sec 26, T2S, R3E. (Evergreen Summer Home Assoc.) USE: Same as Heretofore. POU: SW¼ Sec 35, T2S, R3E.

57-10020(a16815) HEREAFTER: QUANTITY: 7.65 ac-ft. SOURCE: Alta Mine Tunnel. POD: N 1700 W 3500 from SE Cor, Sec 28, T2S, R3E. (Solitude Ski Resort) USE: Same as Heretofore. POU: N½NE¼ Sec 27, T2S, R3E.

57-10021(a16816) HEREAFTER: QUANTITY: 5.304 ac-ft. SOURCE: Lake (Evergreen) Mine Tunnel & Springs. POD: (1) N 130 E 450, Source: Spring (2) N 27 E 547, Source: Spring (3) N 420 E 652 from SW Cor, Sec 16, Source: Spring (4) N 500 E 600 from SW Cor, Sec 22, Source: Spring (5) N 337 E 845 from SW Cor, Sec 23, Source: Spring (6) N 370 E 80 from SW Cor, Sec 26, Source: Lady of the Lake Mine Tunnel (7) S 1473 W 460, Source: Spring (8) N 780 W 480 from N¼ Cor, Source: Spring (9) N 800 E 400 from S¼ Cor, Sec 35, T2S, R3E., Source: Spring. (12 Individuals) USE: Same as Heretofore. POU: SW¼SW¼ Sec 16; SE¼SE¼ Sec 22; SW¼SW¼ Sec 23; NW¼NW¼ Sec 26; SW¼SW¼ Sec 27; SE¼NW¼,SE¼SW¼ Sec 35, T2S, R3E.

57-10022(a16817) HEREAFTER: QUANTITY: 4.05 ac-ft. SOURCE: Lady of the Lake Mine Tunnel. POD: N 370 E 80 from SW Cor, Sec 26, T2S, R3E. (Lady of the Lake Subdivision) USE: Same as Heretofore. POU: SW¼SW¼ Sec 26; SE¼SE¼ Sec 27, T2S, R3E.

57-10023(a16818) HEREAFTER: QUANTITY: 10.35 ac-ft. SOURCE: Unnamed Spring or Stream in Mill "D" North Fork. POD: S 1100 W 850 from NE Cor, Sec 8, T2S, R3E. (Mill "D" Homes Assoc.) USE: Same as Heretofore. POU: NW¼NE¼,NW¼ Sec 17, T2S, R3E.

57-10024(a16819) HEREAFTER: QUANTITY: 11.7 ac-ft. SOURCE: Spring and Big Cottonwood Creek. POD: (1) S 422 W 505, Source: Big Cottonwood Creek (2) S 1021 W 379 from E¼ Cor, Sec 20, T2S, R3E., Source: Spring. (Mule Hollow Water Co.) USE: Same as Heretofore. POU: E½ Sec 20, T2S, R2E.

57-10025(a16820) HEREAFTER: QUANTITY: 4.5 ac-ft. SOURCE: Spring. POD: S 1021 W 379 from E¼ Cor, Sec 20, T2S, R2E. (Mule Hollow Water Co.) USE: Same as Heretofore. POU: NE¼SE¼ Sec 20, T2S, R2E.

57-10026(a16821) HEREAFTER: QUANTITY: 2.21 ac-ft. SOURCE: Unnamed Spring. POD: S 1680 E 2240 from NW Cor, Sec 26, T2S, R3E. (Robert R. Scott) USE: Same as Heretofore. POU: E½NW¼ Sec 26, T2S, R3E.

57-10027(a16822) HEREAFTER: QUANTITY: 13.95 ac-ft. SOURCE: Unnamed Spring. POD:

S 1960 W 1400 from E¼ Cor, Sec 34, T2S, R3E. (Silver Lake Estates No. 1 Subdivision) USE: Same as Heretofore. POU: SW¼NW¼ Sec 35, T2S, R3E.

57-10028(a16823) HEREAFTER: QUANTITY: 1.768 ac-ft. SOURCE: Unnamed Spring. POD: N 554 E 908 from S¼ Cor, Sec 18, T2S, R3E. (Timpine Water Co.) USE: Same as Heretofore. POU: SW¼NE¼ Sec 18, T2S, R3E.

57-10029(a16824) HEREAFTER: QUANTITY: 18.0 ac-ft. SOURCE: Unnamed Spring. POD: N 1980 E 660 from S¼ Cor, Sec 16, T2S, R3E. (Bear Trap Subdivision) USE: Same as Heretofore. POU: S½SW¼ Sec 16, T2S, R3E.

57-10030(a16825) HEREAFTER: QUANTITY: 29.172 ac-ft. SOURCE: Unnamed Spring. POD: S 465 W 3190 from NE Cor, Sec 21, T2S, R3E. (Big Cottonwood Pine Tree Subdivision) USE: Same as Heretofore. POU: S½ Sec 16, T2S, R3E.

57-10031(a16826) HEREAFTER: QUANTITY: 54.9 ac-ft. SOURCE: Unnamed Springs. POD: (1) S 1720 W 800 (2) S 1374 W 375 from E¼ Cor, Sec 26, T2S, R3E. (Forest Glen Subdivision) USE: Same as Heretofore. POU: NW¼,NE¼SW¼ Sec 26; NE¼NE¼ Sec 27, T2S, R3E.

57-10032(a16827) HEREAFTER: QUANTITY: 41.4 ac-ft. SOURCE: Unnamed Springs. POD: N 400 W 1750 from SE Cor, Sec 7, T2S, R3E. (Mount Haven Owners Assoc.) USE: Same as Heretofore. POU: E½NW¼ Sec 18, T2S, R3E.

57-10033(a16828) HEREAFTER: QUANTITY: 0.45 cfs or 144.0 ac-ft. SOURCE: Alta Mine Tunnel. POD: N 1700 W 35020 from SE Cor, Sec 28, T2S, R3E. (Solitude Ski Resort) USE: Same as Heretofore. POU: NE¼ Sec 27, T2S, R3E.

57-10034(a16829) HEREAFTER: QUANTITY: 148.5 ac-ft. SOURCE: Kentucky Utah Mining Company Tunnel. POD: S 4000 E 1000 from NW Cor, Sec 22, T2S, R3E. (Silver Fork Pipeline Assoc.) USE: Same as Heretofore. POU: E½ Sec 21, T2S, R3E.

57-10035(a16840) HEREAFTER: QUANTITY: 1.326 ac-ft. SOURCE: Spring Areas. POD: (1) S 400 W 600 from NE Cor, Sec 28, T2S, R2E (Storm Mountain Picnic Area) (2) N 550 E 1900 (3) N 950 E 1500 from SW Cor, Sec 17 (Spruces Campground and Jordan Pines Recreation Area) (4) N 1700 W 750 from SE Cor, Sec 27, T2S, R3E. (Redman

Campground) USE: Same as Heretofore. POU: SE¼ Sec 20, T2S, R2E; S½NW¼,SW¼ Sec 17; S½NE¼,N½SE¼ Sec 18; W½ Sec 26; N½ Sec 27, T2S, R3E.

Salt Lake City Corporation has filed seven change application in Little Cottonwood Canyon to change the POD, POU, & USE of water as evidenced by C.W. Morse Decree, Civil #4802, Water Right No. 57-8973. HERETOFORE: SOURCE: Little Cottonwood Creek. POD: (1) S 234 E 102 from W¼ Cor, Sec 28 (2) N 77 W 663 (3) N 1363 W 1143 2from E¼ Cor, Sec 29 (4) S 1800 E 7087 from N¼ Cor, Sec 34, T2S (5) N 2309 W 743 from E¼ Cor, Sec 11, T3S, R1E (6) S 838 E 4512 from W¼ Cor, Sec 7, T3S, R2E. USE: Municipal: In Salt Lake City and it's service area.

57-10009(a16839) HEREAFTER: QUANTITY: 1.326 ac-ft. SOURCE: Spring Areas. POD: (1) W 1700 from SE Cor, Sec 32, T2S, R3E (Albion Guard Station) (2) S 1500 E 500 from NW Cor, Sec 11, T3S, R2E (Tanner Flat Campground) (3) S 550 W 700 from NE Cor, Sec 9, T3S, R3E. (Albion Basin Campground) USE: Same as Heretofore. POU: NW¼ Sec 11, T3S, R2E; E½NW¼ Sec 5; NE¼ Sec 9, T3S, R3E.

57-10010(a16841) HEREAFTER: QUANTITY: 167.9 ac-ft. SOURCE: Quincy Mine Tunnel. POD: S 2950 W 480 from N¼ Cor, Sec 5, T3S, R3E. (Alta Peruvian Lodge & 13 others) USE: Same as Heretofore. POU: SW¼NW¼ Sec 5, T3S, R3E.

57-10011(a16842) HEREAFTER: QUANTITY: 0.442 ac-ft. SOURCE: Unnamed Spring. POD: S 222 E 301 from W¼ Cor, Sec 12, T3S, R2E. (Charlotte Sturdy) USE: Same as Heretofore. POU: NW¼SW¼ Sec 12, T3S, R1E.

57-10012(a16843) HEREAFTER: QUANTITY: 2000.0 ac-ft. SOURCE: Tunnels, Gad Valley Spring, & Little Cottonwood Creek. POD: Same as Heretofore, but adding the following: (1) N 2037 E 3907 from S¼ Cor, Sec 32, T2S, Source: Fredrick (Hellgate) Tunnel (2) S 3567 W 1309 from NE Cor, Sec 6, Source: Wasatch Drain Tunnel (3) S 4842 W 388 from NE Cor, Sec 7, Source: Gad Valley Spring (4) S 1827 W 2992 from N¼ Cor, Sec 8, T3S, R3E., Source: Tunnel on J. P. Lode Mine Claim.

(near Snowbird) USE: Same as Heretofore, but adding the following: Municipal: In Salt Lake County Service Area No.3; In Salt Lake City; Recreation: resort use at Snowbird including snow making.. POU: Same as Heretofore, but adding the following: within the service area of Salt Lake County Service Area #3. Any remaining water is used same as Heretofore.

57-10013(a16844) HEREAFTER: QUANTITY: 500.0 ac-ft. SOURCE: Bay City Mine Tunnel & Little Cottonwood Creek. POD: Same as Heretofore, but adding the following: (1) S 400 W 1500, Source: Bay City Mine (2) S 2950 E 200 from SE Cor, Sec 32, T2S, R3E., Source: Little Cottonwood Creek. (near Alta) USE: Same as Heretofore, but adding the following: Municipal: In Town of Alta; In Salt Lake City; Other: Snow making. POU: Same as Heretofore, but adding the following: within the service area of Alta Town. Any remaining water is used same as Heretofore.

57-10014(a16845) HEREAFTER: QUANTITY: 0.221 ac-ft. SOURCE: Little Cottonwood Creek. POD: S 400 E 750 from NW Cor, Sec 4, T3S, R3E. (John D. Cahill) USE: Same as Heretofore. POU: E½NW¼ Sec 4, T3N, R3E.

57-10015(a16846) HEREAFTER: QUANTITY: 15.75 ac-ft. SOURCE: Spring and Mine Tunnel. POD: (1) S 230 W 900, Source: Mine Tunnel (2) N 412 W 833 from NE Cor, Sec 9, T3S, R3E., Source: Spring. (Albion Basin Subdivision) USE: Same as Heretofore. POU: N½NE¼,SE¼NE¼ Sec 9, T3S, R3E.

Salt Lake City Corporation has filed three change applications in Mill Creek Canyon to change the POD & POU of water as evidenced by C.W. Morse Decree for Mill Creek, Third District Court, Civil #4449, Hoagland & Murphy Ditch, Water Right No. 57-8967. HERETOFORE: SOURCE: Mill Creek. POD: (1) S 315 E 500 from NW Cor, Sec 34, T1S, R1E. USE: Municipal: In Salt Lake City.

57-10040(a16836) HEREAFTER: QUANTITY: 7.75 ac-ft. SOURCE: Spring Area. POD: N 450 E 300 from S¼ Cor, Sec 34, T1S, R2E. (Porter Fork Summer Home Association) USE: Same as Heretofore. POU: SW¼SW¼ Sec 27; N½NW¼,SE¼NW¼,NE¼SW¼,W½SE¼ Sec 34, T1S, R2E.

57-10041(a16837) HEREAFTER: QUANTITY: 5.304 ac-ft. SOURCE: Spring. POD: N 2650 W 1350 from SE Cor, Sec 29, T1S, R2E. (Millcreek Inn Restaurant) USE: Same as Heretofore. POU: NW¼NW¼ Sec 33, T1S, R2E.

57-10042(a16838) HEREAFTER: QUANTITY: 1.768 ac-ft. SOURCE: Spring Areas. POD: (1) N 350 E 3200 from SW Cor (Box Elder Picnic Area) (2) N 1500 from SE Cor, Sec 28 (Millcreek Guard Station) (3) N 2650 W 800 from SE Cor, Sec 29 (Church Fork Picnic Area) (4) S 1700 E 3200 from NW Cor, Sec 35, T1S, R2E. (Maple Grove and Terraces Picnic Areas) USE: Same as Heretofore. POU: SW¼SW¼ Sec 27; SW¼,S½SE¼ Sec 28; SW¼SW¼,SE¼ Sec 29, T1S, R2E.

Salt Lake City Corporation has filed three change applications in Parley's Canyon to change the POD, POU, & USE of water as evidenced by C. W. Morse Decree, Third Dist. Court case #5680, Paragraph VI, Kennedy Ditch, Water Right No. 57-8965. HERETOFORE: SOURCE: Parley's Canyon Creek. POD: (1) S 1490 from NW Cor, Sec 10, T1S, R3E. STORAGE: Mountain Dell, Capacity 3038.6 ac-ft., height of dam 160 ft., inundating 86.00 acs. in S½N½,S½S½ Sec 3; NE¼ Sec 9; NW¼ Sec 10, T1S, R3E. USE: Municipal: In Salt Lake City.

57-10036 (a16786) HEREAFTER: QUANTITY: 29.0 ac-ft. SOURCE: Unnamed Springs. POD: (1) N 600 E 300 from SW Cor, Sec 27 (2) S 850 W 2030 from NE Cor, Sec 28, T1S, R3E. (Forest Home Company) USE: Same as Heretofore. POU: Sec 28, T1S, R3E.

57-10037(a16787) HEREAFTER: QUANTITY2: 4.301 ac-ft. SOURCE: Unnamed Springs. POD: (1) S 100 E 1050 from W¼ Cor, Sec 8 (2) S 400 E 90 from W¼ Cor (3) S 1300 W 900 (4) S 500 W 2400 (5) S 1300 W 1000 (6) S 1360 W 1060 (7) S 1690 W 25 from E¼ Cor, Sec 19 (8) N 600 E 300 from SW Cor, Sec 27, T1S, R3E. (9 individuals and Beehive-Wasatch Bowhunters) USE: Irrigation: from Apr 1 to Oct 31, total acreage 0.19 acs; Municipal: In Salt Lake City; Other: Dust Control. POU: NE¼SW¼ Sec 8; NW¼SW¼,N½SE¼,SE¼SE¼ Sec 19; SW¼SW¼ Sec 27, T1S, R3E.

57-10039(a16789) HEREAFTER: QUANTITY: 6.74 ac-ft. SOURCE: Springs. POD: (1) N 850 W 2606, Source: North Spring (2) N 810 W 2606 from SE Cor, Sec 19, T1S, R3E.,

Source: South Spring. (Lambs Canyon - Lost Acres Water Users) USE: Same as Heretofore. POU: SW¼SE¼ Sec 19, T1S, R3E.

57-10038(a16788): Salt Lake City Corporation propose(s) to change the POD, POU, & USE o water as evidenced by C.W. Morse Decree, Third District Court Case #5680 Paragraph XVI, (Pinehurst Company).

HERETOFORE: QUANTITY: 0.167 cfs 50.87 ac-ft. SOURCE: . POD: (1) Directly on stream from a point in NE¼SE¼ Sec. 19 to a point in SE¼SE¼ Sec. 19, T1S, R3E USE: Irrigation: from Apr 1 to Oct 31, total acreage 10.00 acs, sole supply 10.00 acs; Stockwatering: 15 head of livestock; Domestic: 1 family.

HEREAFTER: QUANTITY: 50.87 ac-ft. SOURCE: Lambs Fork and Pinehurst Spring. POD: (1) S 1420 from NW Cor, Sec 10, Source: Lamb's Fork of Parley's Canyon Creek (2) S 1577 W 60 from E¼ Cor, Sec 19, T1S, R3E., Source: Pinehurst Spring. (Parley's Canyon) STORAGE: Mountain Dell, Capacity 3038.6 ac-ft., height of dam 160 ft., inundating 86.00 acs. in S½N½,S½S½ Sec 3; NE¼ Sec 9; NW¼ Sec 10, T1S, R3E. USE: Municipal: In Salt Lake City. POU E½SE¼ Sec 19, T1S, R3E.

59-394(a17153): Copperton Improvement District propose(s) to change the POD of water as evidenced by Application No. 59-394 (A15716).

HERETOFORE: QUANTITY: 1.939 cfs or 1403.77 ac-ft. SOURCE: Underground Water Wells (2). POD: (1) S 1260 W 744, 12 in. well 1200 ft. deep (2) S 1841 W 2177 from NE Cor, Sec 5, T3S, R2W., 20 in. well 1275 ft. deep. STORAGE: Section 7 Reservoir, Capacity 0.396 ac-ft. in SE¼SE¼ Sec 7, T3S, R2W. USE: Municipal: In Copperton Improvement District.

HEREAFTER: QUANTITY: 1.939 cfs or 1403.77 ac-ft. SOURCE: 20 in. well 910 ft. deep. POD: Same as Heretofore, but adding the following: (1) S 1534 W 770 from NE Cor, Sec 4, T3S, R2W. (2 miles NE of Copperton) STORAGE: Same as Heretofore USE: Same as Heretofore POU: Same as Heretofore.

59-5258(a17269): Herriman Pipeline & Development Company propose(s) to change the POD of water as evidenced by 59-5258 (a14689).

HERETOFORE: QUANTITY: 1.0 cfs. SOURCE: 12 in. well 100 ft. to 500 ft. deep. POD: (1) N 800 E 700 from SW Cor, Sec 3, T4S, R2W. USE: Irrigation: from Apr 1 to Oct 31, total acreage 100.00 acs; Stockwatering: 70 head of livestock; Domestic: 50 families. POU: SW¼ Sec 34; S½NE¼,NW¼NE¼,SE¼NW¼,SW¼,N½SE¼ Sec 35; SW¼NW¼ Sec 36, T3S, R2W.

HEREAFTER: QUANTITY: 1.0 cfs. SOURCE: 8 in. well 100 ft. to 500 ft. deep. POD: Same as Heretofore, but adding the following: (1) S 150 E 900 from NW Cor, Sec 10, T4S, R2W. (Herriman) USE: Same as Heretofore. POU: Same as Heretofore.

Robert L. Morgan, P.E.
STATE ENGINEER

Published in Deseret News
on APRIL 15, 22, & 29, 1993.

UTAH DIVISION OF WATER RIGHTS
NWPLAT POINT OF DIVERSION LOCATION PROGRAM

MAP CHAR	WATER RIGHT	QUANTITY CFS	QUANTITY AND/OR AC-FT	SOURCE DESCRIPTION or WELL INFO DIAMETER	DEPTH	YEAR LOG	POINT OF DIVERSION DESCRIPTION NORTH	EAST	CNR	SEC	TWN	RNG	B&M	U N	A P	P E	T R	S U	U G	P W	R T	R E P D
~~0~~	~~5710127~~	~~5.8000~~	4189.95	Big Cottonwood Creek, Springs,			N 1700	W 3500	SE	28	2S	3E	SL	X							X	
	WATER USE(S): DOMESTIC										PRIORITY DATE: 07/19/1996											
	Crawford, Wayne Grant				9503 Hunts End Drive						Sandy										UT 84092	
~~0~~	~~5710148~~	~~.0000~~	4.95	Big Cottonwood Creek, Springs,			N 1700	W 3500	SE	28	2S	3E	SL	X							X	
	WATER USE(S): DOMESTIC										PRIORITY DATE: 07/19/1996											
	Crawford, Wayne G.				9503 Hunts End Drive						Sandy										UT 84092	
0	a16815	.0000	7.65	Alta Mine Tunnel			N 1700	W 3500	SE	28	2S	3E	SL		X				X			
	WATER USE(S): MUNICIPAL										PRIORITY DATE: 06/22/1992											
	Salt Lake City Corporation				1530 South West Temple						Salt Lake City										UT 84115	
0	a16828	.4500	144.00	Alta Mine Tunnel			N 1700	W 3500	SE	28	2S	3E	SL		X				X			
	WATER USE(S): MUNICIPAL										PRIORITY DATE: 06/22/1992											
	Salt Lake City Corporation				1530 South West Temple						Salt Lake City										UT 84115	
~~1~~	~~5710127~~	~~5.8000~~	4189.95	Big Cottonwood Creek, Springs,			N 1700	W 7500	SE	27	2S	3E	SL	X							X	
	WATER USE(S): DOMESTIC										PRIORITY DATE: 07/19/1996											
	Crawford, Wayne Grant				9503 Hunts End Drive						Sandy										UT 84092	
~~1~~	~~5710148~~	~~.0000~~	4.95	Big Cottonwood Creek, Springs,			N 1700	W 7500	SE	27	2S	3E	SL	X							X	
	WATER USE(S): DOMESTIC										PRIORITY DATE: 07/19/1996											
	Crawford, Wayne G.				9503 Hunts End Drive						Sandy										UT 84092	
2	57 8897	5.0000	.00	Wasatch Mine Tunnel & Unnamed			N 1200	W 4000	SE	25	2S	2E	SL	X								X
	WATER USE(S): POWER										PRIORITY DATE: 09/06/1989											
	Balls, Dave M.				11530 South 2950 West						South Jordan										UT 84065	
3	57 9140	1.3230	.00	Meadow, Gustave Adolph,and Cla			N 720	W 8251	S4	30	2S	3E	SL			X				X		
	WATER USE(S): IRRIGATION OTHER																					
	Salt Lake City Corporation				1530 South West Temple						Salt Lake City										UT 84115	
4	57 9140	1.3230	.00	Meadow, Gustave Adolph,and Cla			S 350	W 1600	N4	31	2S	3E	SL			X				X		
	WATER USE(S): IRRIGATION OTHER																					
	Salt Lake City Corporation				1530 South West Temple						Salt Lake City										UT 84115	
5	5710140	3.1200	.00	Workings of Cardiff, Columbus			N 2300	E 200	SW	32	2S	3E	SL	X								X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER										PRIORITY DATE: 02/07/1997											
	Crawford, Wayne Grant				9503 Hunts End Drive						Sandy										UT 84092	
	Snowbird Corporation				P. O. Box 92900						Snowbird										UT 84092-9000	
	Snowbird Corporation				500 Eagle Gate Tower 60 E. So. Temple						Salt Lake City										UT 84111	
6	5710140	3.1200	.00	Workings of Cardiff, Columbus			N 2037	E 3907	S4	32	2S	3E	SL	X								X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER										PRIORITY DATE: 02/07/1997											
	Crawford, Wayne Grant				9503 Hunts End Drive						Sandy										UT 84092	
	Snowbird Corporation				P. O. Box 92900						Snowbird										UT 84092-9000	
	Snowbird Corporation				500 Eagle Gate Tower 60 E. So. Temple						Salt Lake City										UT 84111	
6	a16843	.0000	2000.00	Tunnels,Spring & Lit. Cottonwo			N 2037	E 3907	S4	32	2S	3E	SL		X				X			
	WATER USE(S): MUNICIPAL OTHER										PRIORITY DATE: 10/09/1992											
	Salt Lake City Corporation				1530 South West Temple						Salt Lake City										UT 84115	
7	5710127	5.8000	4189.95	Big Cottonwood Creek, Springs,			S 1960	W 1400	E4	34	2S	3E	SL	X							X	
	WATER USE(S): DOMESTIC										PRIORITY DATE: 07/19/1996											
	Crawford, Wayne Grant				9503 Hunts End Drive						Sandy										UT 84092	
7	5710148	.0000	4.95	Big Cottonwood Creek, Springs,			S 1960	W 1400	E4	34	2S	3E	SL	X							X	
	WATER USE(S): DOMESTIC										PRIORITY DATE: 07/19/1996											
	Crawford, Wayne G.				9503 Hunts End Drive						Sandy										UT 84092	
7	a16822	.0000	13.95	Unnamed Spring			S 1960	W 1400	E4	34	2S	3E	SL		X				X			
	WATER USE(S): MUNICIPAL										PRIORITY DATE: 06/22/1992											
	Salt Lake City Corporation				1530 South West Temple						Salt Lake City										UT 84115	

UTAH DIVISION OF WATER RIGHTS
NWPLAT POINT OF DIVERSION LOCATION PROGRAM

MAP CHAR	WATER RIGHT	QUANTITY CFS	QUANTITY AND/OR	QUANTITY AC-FT	SOURCE DESCRIPTION or WELL INFO DIAMETER	DEPTH	YEAR LOG	POINT OF DIVERSION DESCRIPTION NORTH	EAST	CNR	SEC	TWN	RNG	B&M	UNP	APR	TER	SUR	UGW	PWP	RED
G	5710140	3.1200		.00	Workings of Cardiff, Columbus			S 2950	W 480	N4	5	3S	3E	SL	X						X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER									PRIORITY DATE: 02/07/1997											
	Crawford, Wayne Grant					9503 Hunts End Drive					Sandy				UT 84092						
	Snowbird Corporation					P. O. Box 92900					Snowbird				UT 84092-9000						
	Snowbird Corporation					500 Eagle Gate Tower 60 E. So. Temple					Salt Lake City				UT 84111						
G	a16841	.0000		167.90	Quincy Mine Tunnel			S 2950	W 480	N4	5	3S	3E	SL		X			X		
	WATER USE(S): MUNICIPAL									PRIORITY DATE: 06/24/1992											
	Salt Lake City Corporation					1530 South West Temple					Salt Lake City				UT 84115						
H	5710140	3.1200		.00	Workings of Cardiff, Columbus			S 2950	E 200	NW	4	3S	3E	SL	X						X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER									PRIORITY DATE: 02/07/1997											
	Crawford, Wayne Grant					9503 Hunts End Drive					Sandy				UT 84092						
	Snowbird Corporation					P. O. Box 92900					Snowbird				UT 84092-9000						
	Snowbird Corporation					500 Eagle Gate Tower 60 E. So. Temple					Salt Lake City				UT 84111						
H	a16844	.0000		500.00	Bay City Mine Tun. & L. Cotton			S 2950	E 200	SE	32	2S	3E	SL		X			X		
	WATER USE(S): MUNICIPAL OTHER									PRIORITY DATE: 09/28/1992											
	Salt Lake City Corporation					1530 South West Temple					Salt Lake City				UT 84115						
I	a26764	.0000		133.80	Little Cottonwood Creek and 2			S 3140	W 2990	NE	5	3S	3E	SL	X				X		
	WATER USE(S): MUNICIPAL OTHER									PRIORITY DATE: 06/13/2002											
	Salt Lake City					1530 South West Temple					Salt Lake City				UT 84115						
J	57 8778	2.6960		.00	Wasatch Drain Tunnel			S 3364	W 3739	S4	32	2S	3E	SL		X			X		
	WATER USE(S): OTHER									PRIORITY DATE: 03/25/1985											
	Lone Peak Partners					Snowbird Resort Plaza					Snowbird				UT 84092						
J	5710151	4.0000		.00	Wasatch Drain Tunnel			S 3364	W 3739	S4	32	2S	3E	SL	X				X		
	WATER USE(S): DOMESTIC MUNICIPAL OTHER									PRIORITY DATE: 07/15/1997											
	Snowbird Corporation					Snowbird Resort Plaza					Snowbird				UT 84092						
J	5710140	3.1200		.00	Workings of Cardiff, Columbus										X						X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER									PRIORITY DATE: 02/07/1997											
	Crawford, Wayne Grant					9503 Hunts End Drive					Sandy				UT 84092						
	Snowbird Corporation					P. O. Box 92900					Snowbird				UT 84092-9000						
	Snowbird Corporation					500 Eagle Gate Tower 60 E. So. Temple					Salt Lake City				UT 84111						
J	a15854	2.6960		.00	Wasatch Drain Tunnel			S 3364	W 3739	S4	32	2S	3E	SL		X			X		
	WATER USE(S): OTHER									PRIORITY DATE: 10/05/1990											
	Lone Peak Partners					Snowbird Resort Plaza					Snowbird				UT 84092						
K	57 8813	11.0000		.00	Wasatch Drain Tunnel			S 3567	W 1309	NE	6	3S	3E	SL	X				X		
	WATER USE(S): POWER									PRIORITY DATE: 02/27/1986											
	Snowbird LTD.										Snowbird				UT 84092						
K	5710140	3.1200		.00	Workings of Cardiff, Columbus			S 3567	W 1309	NE	6	3S	3E	SL	X						X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER									PRIORITY DATE: 02/07/1997											
	Crawford, Wayne Grant					9503 Hunts End Drive					Sandy				UT 84092						
	Snowbird Corporation					P. O. Box 92900					Snowbird				UT 84092-9000						
	Snowbird Corporation					500 Eagle Gate Tower 60 E. So. Temple					Salt Lake City				UT 84111						
K	5710151	4.0000		.00	Wasatch Drain Tunnel										X						X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER									PRIORITY DATE: 07/15/1997											
	Snowbird Corporation					Snowbird Resort Plaza					Snowbird				UT 84092						
K	5710140	3.1200		.00	Workings of Cardiff, Columbus			S 3567	W 1309	NE	6	3S	3E	SL	X						X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER									PRIORITY DATE: 02/07/1997											
	Crawford, Wayne Grant					9503 Hunts End Drive					Sandy				UT 84092						
	Snowbird Corporation					P. O. Box 92900					Snowbird				UT 84092-9000						
	Snowbird Corporation					500 Eagle Gate Tower 60 E. So. Temple					Salt Lake City				UT 84111						

UTAH DIVISION OF WATER RIGHTS
NWPLAT POINT OF DIVERSION LOCATION PROGRAM

MAP CHAR	WATER RIGHT	QUANTITY CFS	QUANTITY AND/OR	QUANTITY AC-FT	SOURCE DESCRIPTION or WELL INFO DIAMETER	DEPTH	YEAR LOG	POINT OF DIVERSION DESCRIPTION NORTH	EAST	CNR	SEC	TWN	RNG	B&M	UNPRO	APPROP	PERIOD	TRANSF	SUPPL	UGRD	WELL	PRIOR DATE
K	a16843	.0000		2000.00	Tunnels,Spring & Lit. Cottonwo			S 3567	W 1309	NE	6	3S	3E	SL		X			X			
	WATER USE(S): MUNICIPAL OTHER																					PRIORITY DATE: 10/09/1992
	Salt Lake City Corporation					1530 South West Temple						Salt Lake City						UT 84115				
K	57 8813	11.0000		.00	Wasatch Drain Tunnel													X			X	
	WATER USE(S): POWER																					PRIORITY DATE: 02/27/1986
	Snowbird LTD.											Snowbird						UT 84092				
L	57 5919	5.5700		.00	Tunnel			S 3492	W 2075	NE	6	3S	3E	SL		X			X			
	WATER USE(S): DOMESTIC MINING																					PRIORITY DATE: 00/00/1912
	Wasatch Mines Company					1109 Newhouse Building						Salt Lake						UT				
M	57 8778	2.6960		.00	Wasatch Drain Tunnel												X				X	
	WATER USE(S): OTHER																					PRIORITY DATE: 03/25/1985
	Lone Peak Partners					Snowbird Resort Plaza						Snowbird						UT 84092				
M	5710151	4.0000		.00	Wasatch Drain Tunnel													X			X	
	WATER USE(S): DOMESTIC MUNICIPAL OTHER																					PRIORITY DATE: 07/15/1997
	Snowbird Corporation					Snowbird Resort Plaza						Snowbird						UT 84092				
M	5710140	3.1200		.00	Workings of Cardiff, Columbus													X			X	
	WATER USE(S): DOMESTIC MUNICIPAL OTHER																					PRIORITY DATE: 02/07/1997
	Crawford, Wayne Grant					9503 Hunts End Drive						Sandy						UT 84092				
	Snowbird Corporation					P. O. Box 92900						Snowbird						UT 84092-9000				
	Snowbird Corporation					500 Eagle Gate Tower 60 E. So. Temple						Salt Lake City						UT 84111				
M	a15854	2.6960		.00	Wasatch Drain Tunnel												X				X	
	WATER USE(S): OTHER																					PRIORITY DATE: 10/05/1990
	Lone Peak Partners					Snowbird Resort Plaza						Snowbird						UT 84092				
N	57 8664	65.0000		.00	Little Cottonwood Creek			S 4300	E 1100	NW	6	3S	3E	SL	X				X			
	WATER USE(S): POWER																					PRIORITY DATE: 12/17/1982
	Snowbird Ltd.											Snowbird						UT 84092				
O	57 8664	65.0000		.00	Little Cottonwood Creek													X			X	
	WATER USE(S): POWER																					PRIORITY DATE: 12/17/1982
	Snowbird Ltd.											Snowbird						UT 84092				
P	57 3	6.0000		.00	Little Cottonwood Creek			N 628	E 4686	SW	2	3S	2E	SL		X			X			
	WATER USE(S): POWER OTHER																					PRIORITY DATE: 09/02/1904
	Continental Mines and Smelting Corporati					409 Dooly Block						Salt Lake City						UT				
Q	5710140	3.1200		.00	Workings of Cardiff, Columbus			N 412	W 833	NE	9	3S	3E	SL	X				X			
	WATER USE(S): DOMESTIC MUNICIPAL OTHER																					PRIORITY DATE: 02/07/1997
	Crawford, Wayne Grant					9503 Hunts End Drive						Sandy						UT 84092				
	Snowbird Corporation					P. O. Box 92900						Snowbird						UT 84092-9000				
	Snowbird Corporation					500 Eagle Gate Tower 60 E. So. Temple						Salt Lake City						UT 84111				
Q	a16846	.0000		15.75	Spring and Mine Tunnel			N 412	W 833	NE	9	3S	3E	SL		X			X			
	WATER USE(S): MUNICIPAL																					PRIORITY DATE: 06/24/1992
	Salt Lake City Corporation					1530 South West Temple						Salt Lake City						UT 84115				
R	5710140	3.1200		.00	Workings of Cardiff, Columbus			S 230	W 900	NE	9	3S	3E	SL	X				X			
	WATER USE(S): DOMESTIC MUNICIPAL OTHER																					PRIORITY DATE: 02/07/1997
	Crawford, Wayne Grant					9503 Hunts End Drive						Sandy						UT 84092				
	Snowbird Corporation					P. O. Box 92900						Snowbird						UT 84092-9000				
	Snowbird Corporation					500 Eagle Gate Tower 60 E. So. Temple						Salt Lake City						UT 84111				
R	a16846	.0000		15.75	Spring and Mine Tunnel			S 230	W 900	NE	9	3S	3E	SL		X			X			
	WATER USE(S): MUNICIPAL																					PRIORITY DATE: 06/24/1992
	Salt Lake City Corporation					1530 South West Temple						Salt Lake City						UT 84115				

UTAH DIVISION OF WATER RIGHTS
NWPLAT POINT OF DIVERSION LOCATION PROGRAM

MAP CHAR	WATER RIGHT	QUANTITY CFS	AND/OR AC-FT	SOURCE DESCRIPTION or WELL INFO DIAMETER	DEPTH	YEAR LOG	NORTH	EAST	POINT OF DIVERSION DESCRIPTION CNR	SEC	TWN	RNG	B&M	U N	A P	P R	T E	S U	U G	P W	R T	E D
S	a26764	.0000	133.80	Little Cottonwood Creek and 2			S 175	W 450	N4	9	3S	3E	SL	X					X			
	WATER USE(S): MUNICIPAL OTHER								PRIORITY DATE: 06/13/2002													
	Salt Lake City				1530 South West Temple				Salt Lake City				UT 84115									
T	57 3	6.0000	.00	Little Cottonwood Creek													X					X
	WATER USE(S): POWER OTHER								PRIORITY DATE: 09/02/1904													
	Continental Mines and Smelting Corporati				409 Dooly Block				Salt Lake City				UT									
U	a16839	.0000	1.33	Spring Areas			S 550	W 700	NE	9	3S	3E	SL		X				X			
	WATER USE(S): MUNICIPAL								PRIORITY DATE: 06/24/1992													
	Salt Lake City Corporation				1530 South West Temple				Salt Lake City				UT 84115									
V	a26764	.0000	133.80	Little Cottonwood Creek and 2			S 950	W 400	N4	8	3S	3E	SL	X					X			
	WATER USE(S): MUNICIPAL OTHER								PRIORITY DATE: 06/13/2002													
	Salt Lake City				1530 South West Temple				Salt Lake City				UT 84115									
W	57 1	12.0000	.00	Little Cotonwood Creek			S 1126	E 340	NW	11	3S	2E	SL			X		X				
	WATER USE(S): POWER								PRIORITY DATE: 05/27/1903													
	Columbus Consolidated Mining Company, Th				37 Commercial Blk.				Salt Lake City				UT									
W	a16839	.0000	1.33	Spring Areas			S 1500	E 500	NW	11	3S	2E	SL		X				X			
	WATER USE(S): MUNICIPAL								PRIORITY DATE: 06/24/1992													
	Salt Lake City Corporation				1530 South West Temple				Salt Lake City				UT 84115									
X	5710140	3.1200	.00	Workings of Cardiff, Columbus			S 1827	W 2992	N4	8	3S	3E	SL	X								X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER								PRIORITY DATE: 02/07/1997													
	Crawford, Wayne Grant				9503 Hunts End Drive				Sandy				UT 84092									
	Snowbird Corporation				P. O. Box 92900				Snowbird				UT 84092-9000									
	Snowbird Corporation				500 Eagle Gate Tower 60 E. So. Temple				Salt Lake City				UT 84111									
X	a16843	.0000	2000.00	Tunnels,Spring & Lit. Cottonwo			S 1827	W 2992	N4	8	3S	3E	SL		X				X			
	WATER USE(S): MUNICIPAL OTHER								PRIORITY DATE: 10/09/1992													
	Salt Lake City Corporation				1530 South West Temple				Salt Lake City				UT 84115									
Y	5710140	3.1200	.00	Workings of Cardiff, Columbus			S 7300	W 1450	SE	33	2S	3E	SL	X								X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER								PRIORITY DATE: 02/07/1997													
	Crawford, Wayne Grant				9503 Hunts End Drive				Sandy				UT 84092									
	Snowbird Corporation				P. O. Box 92900				Snowbird				UT 84092-9000									
	Snowbird Corporation				500 Eagle Gate Tower 60 E. So. Temple				Salt Lake City				UT 84111									
Z	5710140	3.1200	.00	Workings of Cardiff, Columbus			S 222	E 301	W4	12	3S	2E	SL	X								X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER								PRIORITY DATE: 02/07/1997													
	Crawford, Wayne Grant				9503 Hunts End Drive				Sandy				UT 84092									
	Snowbird Corporation				P. O. Box 92900				Snowbird				UT 84092-9000									
	Snowbird Corporation				500 Eagle Gate Tower 60 E. So. Temple				Salt Lake City				UT 84111									
Z	a16842	.0000	.44	Unnamed Spring			S 222	E 301	W4	12	3S	2E	SL		X				X			
	WATER USE(S): MUNICIPAL								PRIORITY DATE: 06/24/1992													
	Salt Lake City Corporation				1530 South West Temple				Salt Lake City				UT 84115									
a	a26764	.0000	133.80	Little Cottonwood Creek and 2			S 900	E 550	W4	9	3S	3E	SL	X					X			
	WATER USE(S): MUNICIPAL OTHER								PRIORITY DATE: 06/13/2002													
	Salt Lake City				1530 South West Temple				Salt Lake City				UT 84115									
b	5710140	3.1200	.00	Workings of Cardiff, Columbus			S 4842	W 388	NE	7	3S	3E	SL	X								X
	WATER USE(S): DOMESTIC MUNICIPAL OTHER								PRIORITY DATE: 02/07/1997													
	Crawford, Wayne Grant				9503 Hunts End Drive				Sandy				UT 84092									
	Snowbird Corporation				P. O. Box 92900				Snowbird				UT 84092-9000									
	Snowbird Corporation				500 Eagle Gate Tower 60 E. So. Temple				Salt Lake City				UT 84111									
b	a16843	.0000	2000.00	Tunnels,Spring & Lit. Cottonwo			S 4842	W 388	NE	7	3S	3E	SL		X				X			
	WATER USE(S): MUNICIPAL OTHER								PRIORITY DATE: 10/09/1992													
	Salt Lake City Corporation				1530 South West Temple				Salt Lake City				UT 84115									

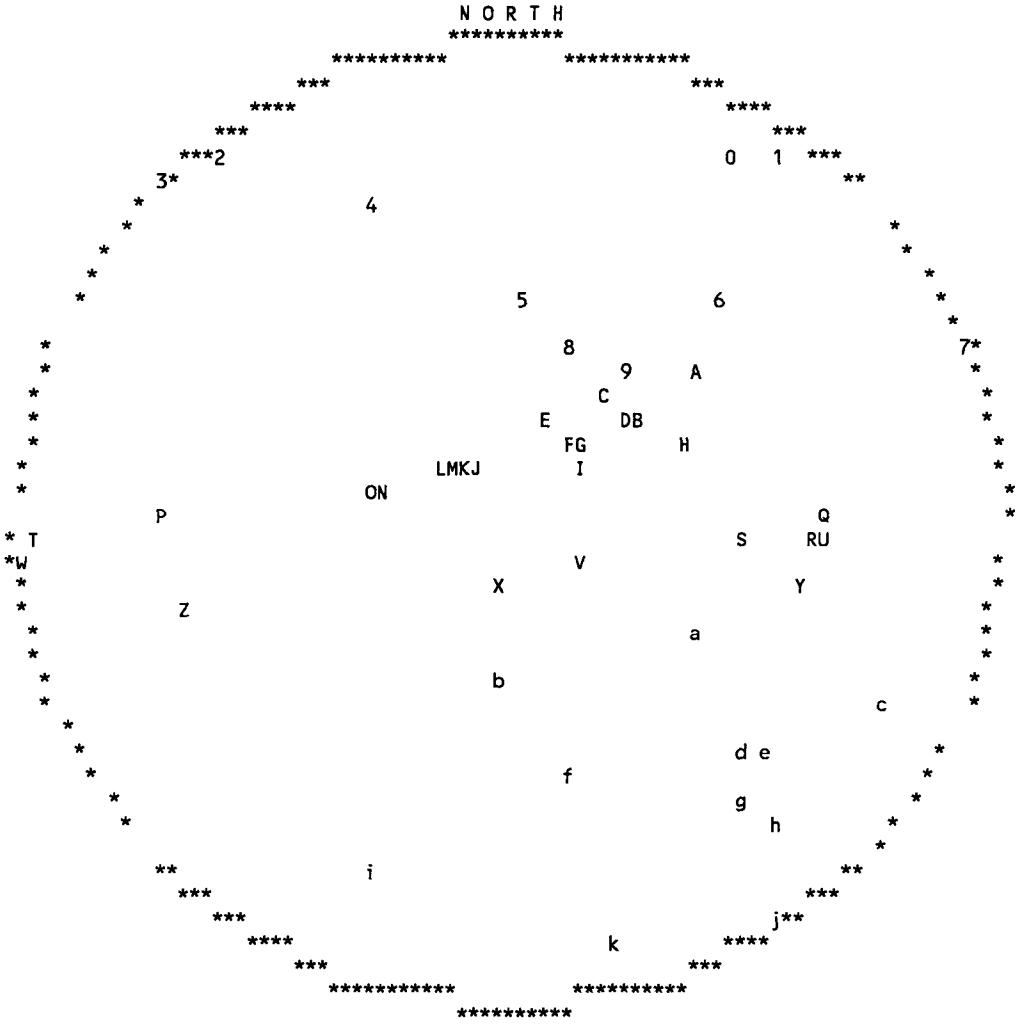
UTAH DIVISION OF WATER RIGHTS
NWPLAT POINT OF DIVERSION LOCATION PROGRAM

MAP CHAR	WATER RIGHT	QUANTITY CFS	AND/OR AC-FT	SOURCE DESCRIPTION or WELL INFO DIAMETER	DEPTH	YEAR LOG	NORTH	EAST	POINT OF DIVERSION DESCRIPTION CNR	SEC	TWN	RNG	B&M	U N N	A P P	P R R	T E R	S U R	U G W	R T P	E E D
c	a26769	.0000	60.00	Little Cottonwood Creek			S 300	E 1200	SE	9	3S	3E	SL	X				X			
	WATER USE(S): MUNICIPAL OTHER								PRIORITY DATE: 06/14/2002												
	Salt Lake City Corp. (Dept. of Public Ut			1530 South West Temple Street					Salt Lake City				UT 84115								
~~d~~	~~55 7337~~	~~.0000~~	~~.00~~	~~Pittsburg Lake~~													X	X	X		
	WATER USE(S): OTHER								PRIORITY DATE: 00/00/1855												
	USA Forest Service			324 - 25th Street					Ogden				UT 84401								
~~e~~	~~55 6952~~	~~.0000~~	~~16.19~~	Pittsburg Lake			S 2263	E 220	N4	16	3S	3E	SL				X	X			
	WATER USE(S):								PRIORITY DATE: 11/08/1935												
	Pleasant Grove Irrigation Company			9610 North Winchester Drive					Cedar Hills				UT 84063								
~~e~~	~~55 103~~	~~.0000~~	~~28.33~~	~~Pittsburg Lake~~			S 2263	E 220	N4	16	3S	3E	SL				X	X			
	WATER USE(S): STOCKWATERING								PRIORITY DATE: 11/08/1935												
	Lehi Irrigation Company			P.O. Box 316					Lehi				UT 84043								
~~e~~	~~55 7197~~	~~40.4800~~	~~.00~~	~~Pittsburg Lake~~			S 2263	E 220	N4	16	3S	3E	SL				X	X			
	WATER USE(S): IRRIGATION								PRIORITY DATE: 11/08/1935												
	American Fork Irrigation Company			1078 West State Street					American Fork				UT 84003								
~~f~~	~~a26233~~	~~.0000~~	~~10.00~~	~~Mineral Spring / Niagara~~ Adit			S 2801	W 644	N4	17	3S	3E	SL	X				X			
	WATER USE(S): OTHER								PRIORITY DATE: 01/04/2002												
	Kennecott Utah Copper Corporation			265 East 100 South, suite 300					Salt Lake City				UT 84111								
~~g~~	~~55 7337~~	~~.0000~~	~~.00~~	~~Pittsburg Lake~~													X	X	X		
	WATER USE(S): OTHER								PRIORITY DATE: 00/00/1855												
	USA Forest Service			324 - 25th Street					Ogden				UT 84401								
~~g~~	~~55 7338~~	~~.0000~~	~~.00~~	Pittsburg ~~Creek~~													X	X	X		
	WATER USE(S): OTHER								PRIORITY DATE: 00/00/1855												
	USA Forest Service			324 - 25th Street					Ogden				UT 84401								
~~h~~	~~55 5114~~	~~.0000~~	~~.00~~	~~Pittsburg Creek~~													X	X	X		
	WATER USE(S): STOCKWATERING																				
	USA Forest Service			324-25th Street					Ogden				UT 84401								
~~h~~	~~55 5114~~	~~.0000~~	~~.00~~	~~Pittsburg Creek~~													X	X	X		
	WATER USE(S): STOCKWATERING																				
	USA Forest Service			324-25th Street					Ogden				UT 84401								
~~h~~	~~55 7374~~	~~.0000~~	~~.00~~	~~American Fork Creek~~													X	X	X		
	WATER USE(S): STOCKWATERING								PRIORITY DATE: 00/00/1855												
	USA Forest Service			324 - 25th Street					Ogden				UT 84401								
~~h~~	~~55 7338~~	~~.0000~~	~~.00~~	Pittsburg ~~Creek~~													X	X	X		
	WATER USE(S): OTHER								PRIORITY DATE: 00/00/1855												
	USA Forest Service			324 - 25th Street					Ogden				UT 84401								
i	57 8749	16.7000	.00	White Pine Creek			S 490	E 1044	NW	19	3S	3E	SL				X	X			
	WATER USE(S): IRRIGATION OTHER								PRIORITY DATE: 06/16/1910												
	State of Utah Board of Water Resources			1594 West North Temple, Ste 310					Salt Lake City				UT 84114-6201								
i	a3861	16.7000	.00	White Pine Creek			S 490	E 1044	NE	24	3S	2E	SL		X			X			
	WATER USE(S): OTHER								PRIORITY DATE: 06/16/1910												
	State of Utah Board of Water Resources			1594 West North Temple, Ste 310					Salt Lake City				UT 84114-6201								
~~j~~	~~55 5119~~	~~.0150~~	~~.00~~	~~Silver Leaf Spring~~													X	X	X		
	WATER USE(S): STOCKWATERING								PRIORITY DATE: 00/00/1855												
	USA Forest Service			324 - 25th Street					Ogden				UT 84401								
~~k~~	~~55 6441~~	~~4.0000~~	~~.00~~	~~Mary Ellen Gulch~~			N 2250	W 2075	SE	20	3S	3E	SL	X					X		
	WATER USE(S):								PRIORITY DATE: 10/16/1979												
	Carter, Nancy			13647 South 1700 West					Riverton				UT 84065								

UTAH DIVISION OF WATER RIGHTS
WATER RIGHT POINT OF DIVERSION PLOT CREATED THU, OCT 31, 2002, 9:11 AM
PLOT SHOWS LOCATION OF 86 POINTS OF DIVERSION

PLOT OF AN AREA WITH A RADIUS OF 15750 FEET FROM A POINT
N 0 FEET, E 0 FEET OF THE SW CORNER,
SECTION 5 TOWNSHIP 3S RANGE 3E SL BASE AND MERIDIAN

PLOT SCALE IS APPROXIMATELY 1 INCH = 6000 FEET



STATEMENT OF OWNERSHIP SEGREGATION

Perfected Water Right

STATE OF UTAH

*Prepared by*_____
*Date Prepared*_____
*Microfilmed*_____
*Roll #*_____

For the purpose of informing the State Engineer of the acquisition of a portion of a perfected water right, this statement is hereby made, based upon the following showing of facts.

WATER RIGHT #: 57-10009 APPLICATION #: Priority Date:

WATER RIGHT SEPARATED FROM: 57-8973 (Decree)
(Contract: F.S for Tanners Flat & Albion Basin Campgr. & Albion Guard St.a16839)
****

1. OWNERSHIP INFORMATION:

   A. NAME: Salt Lake City Corp.
   Department of Public Utilities
   ADDRESS: 1530 South West Temple, Salt Lake City, UT 84115

2. SOURCE INFORMATION:

   A. QUANTITY OF WATER: 1.326 acre-feet

   B. DIRECT SOURCE: Little Cottonwood Creek COUNTY: Salt Lake

   C. DRAINAGE AREA: Lower Jordan River-East

   D. COMMON DESCRIPTION:

   E. POINTS OF DIVERSION -- SURFACE:

   (1) S 234 feet E 102 feet from W¼ corner, Section 28, T 2S, R 1E, SLBM
   DIVERT WORKS: Little Cottonwood Tanner Ditch

   (2) N 77 feet W 663 feet from E¼ corner, Section 29, T 2S, R 1E, SLBM
   DIVERT WORKS: Cahoon & Maxfield Ditch

   (3) N 1363 feet W 1143 feet from E¼ corner, Section 29, T 2S, R 1E, SLBM
   DIVERT WORKS: Walker Ditch

   (4) S 1800 feet E 707 feet from N¼ corner, Section 34, T 2S, R 1E, SLBM
   DIVERT WORKS: Richards Ditch

   (5) N 2309 feet W 743 feet from E¼ corner, Section 11, T 3S, R 1E, SLBM
   DIVERT WORKS: Little Cottonwood Div. Dam

   (6) S 838 feet E 4512 feet from W¼ corner, Section 7, T 3S, R 2E, SLBM
   DIVERT WORKS: Murray City Power Plant

CHANGE: a16839 WATER RIGHT: 57-10009 CERT. NO.:

EVIDENCED BY: C.W. Morse Decree, Civil #4802, Water Right No.
57-8973

CHANGES: Point of Diversion [X], Place of Use [X], Nature of Use [ ], Reservoir Storage [ ].

NAME: Salt Lake City Corporation
OWNER MISC: Department of Public Utilities
ADDR: 1530 South West Temple
CITY: Salt Lake City STATE: UT ZIP: 84115 INTEREST:

Filing: 06/24/1992 Priority: 06/24/1992 Advertise Paper: 08 Date: / / Protested? Appr/Rej: / /
Proof Due: / / Ext Filed: / / Elec/Proof: Filed: / / Cert. or WUC Issued: / /
Lap, Etc.: / /

Status: UNAP Date Verified: 03/23/1993 Initials: JER

<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<H E R E T O F O R E>>

FLOW: 1.326 acre-feet
SOURCE: Little Cottonwood Creek TRIBUTARY:
COUNTY: Salt Lake

POINTS OF DIVERSION -- SURFACE:

(1) S 234 ft. E 102 ft. from W4 corner, Section 28, T 2S, R 1E, SLBM
Diverting Works: Little Cottonwood Tanner Ditch Source:

(2) N 77 ft. W 663 ft. from E4 corner, Section 29, T 2S, R 1E, SLBM
Diverting Works: Cahoon & Maxfield Ditch Source:

(3) 1363 ft. W 1143 ft. from E4 corner, Section 29, T 2S, R 1E, SLBM
Diverting Works: Walker Ditch Source:

(4) 00 ft. E 707 ft. from N4 corner, Section 34, T 2S, R 1E, SLBM
Diverting Works: Richards Ditch Source:

(5) N 2309 ft. W 743 ft. from E4 corner, Section 11, T 3S, R 1E, SLBM
Diverting Works: Diversion Dam Source:

(6) S 838 ft. E 4512 ft. from W4 corner, Section 7, T 3S, R 2E, SLBM
Diverting Works: Murray City Power Plant Source:

PLACE OF USE OF WATER RIGHT:

NATURE OF USE:

###MUNICIPAL: Salt Lake City PERIOD OF USE: 01/01 TO 12/31

<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<H E R E A F T E R>>>

FLOW: 1.326 acre-feet REMAINING WATER:
SOURCE: Spring Areas TRIBUTARY:
COUNTY: Salt Lake COMMON DESCRIPTION: Little Cottonwood Canyon

POINT-OF-DIVERSION: Changed as follows:

POINTS OF DIVERSION -- SURFACE:

(1) ft. W 1700 ft. from SE corner, Section 32, T 2S, R 3E, SLBM
Diverting Works: Albion Guard Station Source:

(2) S 1500 ft. E 500 ft. from NW corner, Section 11, T 3S, R 2E, SLBM
Diverting Works: Tanner Flat Campground Source:

(3) 0 ft. W 700 ft. from NE corner, Section 9, T 3S, R 3E, SLBM
Diverting Works: Albion Basin Campground Source:

STATEMENT OF OWNERSHIP SEGREGATION

Perfected Water Right

STATE OF UTAH

*Prepared by*_____
*Date Prepared*_____
*Microfilmed*_____
*Roll #*_____

For the purpose of informing the State Engineer of the acquisition of a portion of a perfected water right, this statement is hereby made, based upon the following showing of facts.

WATER RIGHT #: 57-10016 APPLICATION #: Priority Date:

WATER RIGHT SEPARATED FROM: 57-8966 (Diligence Claim)
(Contract Brighton Lodge Limited a16811)

****

1. OWNERSHIP INFORMATION:

   A. NAME: Salt Lake City
   Department of Public Utilities
   ADDRESS: 1530 South West Temple, Slt Lake City, UT 84115

2. SOURCE INFORMATION:

   A. QUANTITY OF WATER: 0.52 acre-feet

   B. DIRECT SOURCE: Big Cottonwood Creek COUNTY: Salt Lake

   C. DRAINAGE AREA: Lower Jordan River-East

   D. COMMON DESCRIPTION:

   E. POINTS OF DIVERSION -- SURFACE:

   (1) S 1900 feet W 1450 feet from NE corner, Section 25, T 2S, R 1E, SLBM

   (2) N 800 feet E 1400 feet from SW corner, Section 20, T 2S, R 2E, SLBM

3. WATER USE INFORMATION:

   MUNICIPAL: from Jan 1 to Dec 31. Salt Lake City.

:HANGL: a16811 WATER RIGHT: 57-10016 CERT. NO.:

:IGH ENCED BY: C.W. Morse Decree for Big Cottonwood Creek, Third
Dist., Civil #8921, Butler Ditch, W.R. No.57-10016

:HANGES: Point of Diversion [X], Place of Use [X], Nature of Use [X], Reservoir Storage [ ].

:AME: Salt Lake City Corporation OWNER MISC: Department of Public Utilities
.DDR: 1530 South West Temple
:ITY: Salt Lake City STATE: UT ZIP: 84115 INTEREST:

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iling: 06/22/1992 Priority: 06/22/1992 Advertise Paper: Date: / / Protested? Appr/Rej: / /
roof Due: / / Ext Filed: / / Elec/Proof: Filed: / / Cert. or WUC Issued: / /
ap, Etc.: / /

tatus: UNAP Date Verified: / / Initials:

<<<<<<<<<<<<H E R E T O F O R E>>>>>>>>>>>>

LOW: 0.52 acre-feet
OURCE: Big Cottonwood Creek TRIBUTARY:
OUNTY: Salt Lake

OINTS OF DIVERSION -- SURFACE:
1) S 1900 ft. W 1450 ft. from NE corner, Section 25, T 2S, R 1E, SLBM
Diverting Works: Dam and Inlet Structures Source:
2) N 800 ft. E 1400 ft. from SW corner, Section 20, T 2S, R 2E, SLBM
Diverting Works: Dam and Inlet Structures Source:

LA USE OF WATER RIGHT:

ATURE OF USE:

###MUNICIPAL: Salt Lake City PERIOD OF USE: 01/01 TO 12/31

<<<<<<<<<<<<H E R E A F T E R>>>>>>>>>>>>

LOW: 0.52 acre-feet REMAINING WATER:
OURCE: Springs TRIBUTARY:
OUNTY: Salt Lake COMMON DESCRIPTION: Big Cottonwood Canyon

OINT-OF-DIVERSION: Changed as follows:

OINT OF DIVERSION -- SURFACE:
1) S 638 ft. E 14 ft. from NW corner, Section 2, T 3S, R 3E, SLBM
Diverting Works: Spring Collection System Source:

LACE OF USE OF WATER RIGHT: Changed as follows:

	NORTH-EAST4 NE NW SW SE	NORTH-WEST4 NE NW SW SE	SOUTH-WEST4 NE NW SW SE	SOUTH-EAST4 NE NW SW SE
ec 35 T 2S R 3E SLBM	* : : : *	* : : : *	* X: X: X: X*	* : : : *

ATURE OF USE: Changed as follows:

IPAL: Salt Lake City PERIOD OF USE: 01/01 TO 12/31

STATEMENT OF OWNERSHIP SEGREGATION

Perfected Water Right

STATE OF UTAH

*Prepared by*_____
*Date Prepared*_____
*Microfilmed*_____
*Roll #*_____

For the purpose of informing the State Engineer of the acquisition of a portion of a perfected water right, this statement is hereby made, based upon the following showing of facts.

WATER RIGHT #: 57-10019 APPLICATION #: Priority Date:

WATER RIGHT SEPARATED FROM: 57-8966 (Diligence Claim)
(Contract Evergreen Summer home Assoc. a16814)

****

1. OWNERSHIP INFORMATION:

   A. NAME: Salt Lake City Corp.
   Department of Public Utilities
   ADDRESS: 1530 South West Temple, Salt Lake City, UT 84115

2. SOURCE INFORMATION:

   A. QUANTITY OF WATER: 6.75 acre-feet

   B. DIRECT SOURCE: Big Cottonwood Creek COUNTY: Salt Lake

   C. DRAINAGE AREA: Lower Jordan River-East

   D. COMMON DESCRIPTION:

   E. POINTS OF DIVERSION -- SURFACE:

   (1) S 1900 feet W 1450 feet from NE corner, Section 25, T 2S, R 1E, SLBM

   (2) N 800 feet E 1400 feet from SW corner, Section 20, T 2S, R 2E, SLBM

3. WATER USE INFORMATION:

   MUNICIPAL: from Jan 1 to Dec 31. Salt Lake City.

CHANGE: a16814 WATER RIGHT: 57-10019 CERT. NO.:

RIC IDENCED BY: C.W. Morse Decree for Big Cottonwood Creek, Third Dist., Civil #8921, Butler Ditch, W.R. No.57-10019

CHANGES: Point of Diversion [X], Place of Use [X], Nature of Use [X], Reservoir Storage [ ].

NAME: Salt Lake City Corporation OWNER MISC: Department of Public Utilities
ADDR: 1530 South West Temple
CITY: Salt Lake City STATE: UT ZIP: 84115 INTEREST:

Filing: 06/22/1992 Priority: 06/22/1992 Advertise Paper: Date: / / Protested? Appr/Rej: / /
Proof Due: / / Ext Filed: / / Elec/Proof: Filed: / / Cert. or WUC Issued: / /
Lap, Etc.: / /

Status: UNAP Date Verified: / / Initials:

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STATEMENT OF OWNERSHIP SEGREGATION

Perfected Water Right

STATE OF UTAH

*Prepared by*_____
*Date Prepared*_____
*Microfilmed*_____
*Roll #*_____

For the purpose of informing the State Engineer of the acquisition of a portion of a perfected water right, this statement is hereby made, based upon the following showing of facts.

WATER RIGHT #: 57-10020 APPLICATION #: Priority Date:

WATER RIGHT SEPARATED FROM: 57-8966 (Diligence Claim)
(Contract Giles Flat Water Users Assoc. Inc. a16815)

****

1. OWNERSHIP INFORMATION:

   A. NAME: Salt Lake City Corp
   Department of Public Utilities
   ADDRESS: 1530 South West Temple, Salt Lake City, UT

2. SOURCE INFORMATION:

   A. QUANTITY OF WATER: 7.65 acre-feet

   B. DIRECT SOURCE: Big Cottonwood Creek COUNTY: Salt Lake

   C. DRAINAGE AREA: Lower Jordan River-East

   D. COMMON DESCRIPTION:

   E. POINT OF DIVERSION -- SURFACE:

   (1) N 800 feet E 1400 feet from SW corner, Section 20, T 2S, R 2E, SLBM

3. WATER USE INFORMATION:

   MUNICIPAL: from Jan 1 to Dec 31. Salt Lake City.

IANGE: a16815 WATER RIGHT: 57-10020 CERT. NO.:

IGHT EVIDENCED BY: C.W. Morse Decree for Big Cottonwood Creek, Third
Dist., Civil #8921, Butler Ditch, W.R. No.57-10020

ANGES: Point of Diversion [X], Place of Use [X], Nature of Use [X], Reservoir Storage [ ].

AME: Salt Lake City Corporation OWNER MISC: Department of Public Utilities
DDR: 1530 South West Temple
ITY: Salt Lake City STATE: UT ZIP: 84115 INTEREST:

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iling: 06/22/1992 Priority: 06/22/1992 Advertise Paper: Date: / / Protested? Appr/Rej: / /
roof Due: / / Ext Filed: / / Elec/Proof: Filed: / / Cert. or WUC Issued: / /
ap, Etc.: / /

tatus: UNAP Date Verified: / / Initials:

H E R E T O F O R E

OW: 7.65 acre-feet
URCE: Big Cottonwood Creek TRIBUTARY:
OUNTY: Salt Lake

OINTS OF DIVERSION -- SURFACE:
1) S 1900 ft. W 1450 ft. from NE corner, Section 25, T 2S, R 1E, SLBM
Diverting Works: Dam and Inlet Structures Source:
2) N 800 ft. E 1400 ft. from SW corner, Section 20, T 2S, R 2E, SLBM
Diverting Works: Dam and Inlet Structures Source:

LACE OF USE OF WATER RIGHT:

ATURE OF USE:

###MUNICIPAL: Salt Lake City PERIOD OF USE: 01/01 TO 12/31

H E R E A F T E R

OW: 7.65 acre-feet REMAINING WATER:
URCE: Alta Mine Tunnel TRIBUTARY:
OUNTY: Salt Lake COMMON DESCRIPTION: Big Cottonwood Canyon

OINT-OF-DIVERSION: Changed as follows:

OINT OF DIVERSION -- SURFACE:
1) N 1700 ft. W 3500 ft. from SE corner, Section 28, T 2S, R 3E, SLBM
Diverting Works: Source:

LACE OF USE OF WATER RIGHT: Changed as follows:

	NORTH-EAST4 NE NW SW SE	NORTH-WEST4 NE NW SW SE	SOUTH-WEST4 NE NW SW SE	SOUTH-EAST4 NE NW SW SE
ec 27 T 2S R 3E SLBM	* X: X: : *	* : : : *	* : : : *	* : : : *

ATURE OF USE: Changed as follows:

###MUNICIPAL: Salt Lake City PERIOD OF USE: 01/01 TO 12/31

STATEMENT OF OWNERSHIP SEGREGATION

Perfected Water Right

STATE OF UTAH

*Prepared by*_____
*Date Prepared*_____
*Microfilmed*_____
*Roll #*_____

For the purpose of informing the State Engineer of the acquisition of a portion of a perfected water right, this statement is hereby made, based upon the following showing of facts.

WATER RIGHT #: 57-10033 APPLICATION #: Priority Date:

WATER RIGHT SEPARATED FROM: 57-8966 (Diligence Claim)
(Contract Bravo Ski Corp. (Solitude Ski Resort Co.) a16828)

****

1. OWNERSHIP INFORMATION:

   A. NAME: Salt Lake City Corp
   Department of Public Utilities
   ADDRESS: 1530 South West Temple, Salt Lake City, UT 84115

2. SOURCE INFORMATION:

   A. QUANTITY OF WATER: 144.0 acre-feet

   B. DIRECT SOURCE: Big Cottonwood Creek COUNTY: Salt Lake

   C. DRAINAGE AREA: Lower Jordan River-East

   D. COMMON DESCRIPTION:

   E. POINTS OF DIVERSION -- SURFACE:

   (1) S 1900 feet W 1450 feet from NE corner, Section 25, T 2S, R 1E, SLBM

   (2) N 800 feet E 1400 feet from SW corner, Section 20, T 2S, R 2E, SLBM

3. WATER USE INFORMATION:

   MUNICIPAL: from Jan 1 to Dec 31. Salt Lake City.

ANGE: a16828 WATER RIGHT: 57-10033 CERT. NO.:

GHT ENCED BY: C.W. Morse Decree for Big Cottonwood Creek, Third Dist., Civil #8921, Butler Ditch, W.R. No.57-10033

ANGES: Point of Diversion [X], Place of Use [X], Nature of Use [X], Reservoir Storage [ ].

ME: Salt Lake City Corporation OWNER MISC: Department of Public Utilities
DR: 1530 South West Temple
TY: Salt Lake City STATE: UT ZIP: 84115 INTEREST:

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ling: 06/22/1992 Priority: 06/22/1992 Advertise Paper: Date: / / Protested? Appr/Rej: / /
oof Due: / / Ext Filed: / / Elec/Proof: Filed: / / Cert. or WUC Issued: / /
p, Etc.: / /

tus: UNAP Date Verified: / / Initials:

****
<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<<H E R E T O F O R E>>>

MESSAGE DISPLAY FOR RICK PATTEN

R.Patten
usan

om: RICHARD KLINE
stmark: 06/10/93 0928 hrs Delivered: 06/10/93 0928 hrs

bject: Discussion/Tim Doxey at SLC water

---

ssage:
st documenting my discussion with Tim Doxey at Salt Lake City
blic Utilities yesterday June 9. You may filed this note in the
propriate place for any future reference. I called Mr. Doxey to
t clarification on why the City had filed their recent applications
r change in Points of Diversion and Points of Use for water in Big
ttonwood, Little Cottonwood, and Mill Creek. He indicated that
eir filing was mostly due to a request from the State Engineer to
so. Since the City has been negotiating a number of surplus water
les contracts with various canyon water users (including some
tional Forest uses), the State is requiring the City to be more
ecific in the descriptions of where these water sources and uses
re located. Little has been done over the years to determine the
ore specific locations - compared to those set in the original Morse
ecrees of the early 1900's. Although the City has always maintained
hat it has control/ownership of the canyon water rights, Mr. Doxey
aid the recent filings are not intended to impair the long-standing
greement between the City and the Forest Service for supplying water
o recreational and administrative facilities in the watersheds.

----------X----------

MESSAGE DISPLAY FOR RICK PATTEN

S.GIANNTTINO:R04F19A
R.PATTEN:R04F19A
)EAN
R.Hamner

:om: Gary Boyle:R04A
)stmark: 09/15/93 0834 hrs Delivered: 09/15/93 0834 hrs
:atus: Previously read Filed
ıbject: SLC APPLICATIONS

ɜssage:
alked to Kent Jones re: withdrawing our applications. We can ask to
ɜ noticed on all future actions and the State will do so. We can
lso be heard at the hearings; but, we give up any right to appeal
he decision of the State Engineer or to file an action in court if
e disagree with the decision.

We have 9 diligence claims in Area 57: 5 in Big Cottonwood
anyon and 4 in Mill Creek Canyon. All are for stockwater for 0.015
fs (6.7 gpm) with a priority date of 1847(!). Sources are: Mill
reek Canyon, Little Water, Willow Creek, Mule Hollow, Beartrap Fork,
ill D, Desolation Lake, Dog Lake, and Big Water Gulch. These are
tockwatering on the source, no developed water.

Historically, we have not gone to court over any decision of the
tate Engineer (Dean, is this correct? I know of no instances where
e have). So withdrawing our protest might not be as drastic as
t sounds.

I think we should also look at 38 Stat. 714 a little closer than
ve so far. I think we have a bigger club there than we think.

I am available for questions.

-------X-------

MESSAGE DISPLAY FOR RICK PATTEN

Rick Patten

SUSAN GIANNETTINO
ostmark: 09/20/93 0659 hrs Delivered: 09/20/93 0659 hrs
tatus: Previously read
ubject: Reply to a reply: Forwarded: SLC/Forest Service water rights hearin

---

eply text:
rom: SUSAN GIANNETTINO:R04F19A
ate: 09/20/93 0659 hrs
o hurry on this...by mid oct at latest, ok? thanks

receding message:
rom: Rick Patten:R04F19A
ate: 09/16/93 2007 hrs
'll handle it.
.... -=< Rick >=-

'rom: SUSAN GIANNETTINO:R04F19A
ate: 09/16/93 1643 hrs
e sure you are filing gardner's and boyle's messages. need to draft
etter withdrawing protests but ensuring we stay involved.

'rom: Dean A. Gardner:R04A
ate: 09/15/93 1039 hrs
n the light of Gary's message of today I think that you should look
rably toward the request from SLC that the FS should withdraw its
st to the application it made to change points of diversion of
s water right to confirm to the diversion points on the Wasatch
ront for recreation and snowmaking uses. It is obvious that the
ity is trying to firm up its current services and its Agreement with
ou and do so within the pecularities of Utah water rights law. It
ppears that the sooner this issue can be brought to a close, the
etter. The alternative of trying to establish federal rights on
hese diversion points by changing the stockwater claims that are in
he pending general adjudication of the Jordan River to recreational
ses would probably have to be delayed until the adjudication is
ompleted. It would also be so controversial that it would be better
o get what we can now.

-------=========X=========-------

MESSAGE DISPLAY FOR RICK PATTEN

s.giannttino:r04f19A
r.patten:r04f19A
.boyle
.hamner
d.gardner

:om: Dean A. Gardner:R04A
›stmark: 09/15/93 1039 hrs Delivered: 09/15/93 1039 hrs
:atus: Certified Previously read Urgent Filed
ıbject: SLC/Forest Service water rights hearing

ɜssage:
ı the light of Gary's message of today I think that you should look
ıvorably toward the request from SLC that the FS should withdraw its
rotest to the application it made to change points of diversion of
ts water right to confirm to the diversion points on the Wasatch
ront for recreation and snowmaking uses. It is obvious that the
ity is trying to firm up its current services and its Agreement with
ɔu and do so within the pecularities of Utah water rights law. It
ppears that the sooner this issue can be brought to a close, the
etter. The alternative of trying to establish federal rights on
hese diversion points by changing the stockwater claims that are in
he pending general adjudication of the Jordan River to recreational
ses would probably have to be delayed until the adjudication is
ompleted. It would also be so controversial that it would be better
o get what we can now.

-------X-------

MESSAGE DISPLAY FOR RICK PATTEN

R.Patten

SUSAN GIANNETTINO
ostmark: 09/16/93 1643 hrs Delivered: 09/16/93 1643 hrs
tatus: Previously read
ubject: Forwarded: SLC/Forest Service water rights hearing

---

omments:
rom: SUSAN GIANNETTINO:R04F19A
ate: 09/16/93 1643 hrs
e sure you are filing gardner's and boyle's messages. need to draft
etter withdrawing protests but ensuring we stay involved.

essage:
rom: Dean A. Gardner:R04A
ate: 09/15/93 1039 hrs
n the light of Gary's message of today I think that you should look
avorably toward the request from SLC that the FS should withdraw its
rotest to the application it made to change points of diversion of
ts water right to confirm to the diversion points on the Wasatch
ront for recreation and snowmaking uses. It is obvious that the
ity is trying to firm up its current services and its Agreement with
ou and do so within the pecularities of Utah water rights law. It
ppears that the sooner this issue can be brought to a close, the
etter. The alternative of trying to establish federal rights on
hese diversion points by changing the stockwater claims that are in
pending general adjudication of the Jordan River to recreational
would probably have to be delayed until the adjudication is
ompleted. It would also be so controversial that it would be better
o get what we can now.

-------X-------

MESSAGE DISPLAY FOR RICK PATTEN

R.Patten:R04F19A

Gary Boyle:R04A
stmark: 07/23/93 1318 hrs Delivered: 07/23/93 1318 hrs
atus: Certified
bject: Forwarded: Reply to: Protest Hearing

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mments:
om: Gary Boyle:R04A
te: 07/23/93 1318 hrs
n you give Dean a call and brief him on the issues.

evious comments:
om: Dean A. Gardner:R04A
ate: 07/23/93 1257 hrs
es, /so far I don't know anything about what the issues are or what
r arguments will be.

essage:
rom: Gary Boyle
ate: 07/22/93 1640 hrs
he hearings for our protests of the Salt Lake City Corporation
pplications will be held Wednesday, August 4, at 9:30, 10:00 and
:00 pm at the Department of Natural Resources Building, second
looor conference room no. 214, 1636 West North Temple. I will make
very attempt to be there. Dean: are you available to attend the
e ngs???

-------X-------

MESSAGE DISPLAY FOR KATHLEEN ANDERSON

SUSAN
ILL
ICK
G.BOYLE:R04A
R.HALL:R04A
K.ANDERSON

rom: KATHLEEN ANDERSON
ostmark: Jul 28,93 10:47 AM Delivered: Jul 28,93 10:47 AM

ubject: WATER RIGHTS ISSUE

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essage:
UST TALKED TO JIM RILEY, STATE ENGINEERS OFFICE, WHO IS RESPONSIBLE
OR THE AREA WHICH INCLUDES BIG AND LITTLE COTTONWOOD CANYONS. HE
AID THAT THE CITY GOT SO MANY PROTESTS AGAINST THEIR APPLICATIONS
OR WATER RIGHTS THAT THEY HAVE DECIDED TO FALL BACK AND REGROUP.
ALT LAKE FEELS THAT THEY HAVE A STRATEGY WHICH THEY CAN DEVELOP
HICH WILL ADDRESS MOST OF THE CONCERNS RAISED BY THOSE WHO
ILED PROTESTS. THEREFORE, ALL THE WATER RIGHTS HEARINGS DEALING
ITH SLC ARE GOING TO BE CANCELLED. I ASKED JIM WHEN HE THOUGHT THIS
SSUE WOULD BE ADDRESSED AGAIN FORMALLY AND HE SAID PROBABLY IN A
EAR. I ASSUME THAT THEY WILL BE CONTACTING EVERYONE IN WRITING SOON.
ATHY

-------=========X=========-------

MESSAGE DISPLAY FOR KATHLEEN ANDERSON

G.BOYLE:R04A
R.HALL:R04A
K.ANDERSON
S.GIANNETTINO
B.LEVERE

rom: SUSAN GIANNETTINO
ostmark: Jul 28,93 5:14 PM Delivered: Jul 28,93 5:14 PM
tatus: Previously read
ubject: THE LATEST AND LAST WORD (FOR NOW) ON SLC WATER RIGHTS HEARING...

---

essage:
IM DOXEY OF CITY AND I JUST TALKED. THE HEARINGS HAVE BEEN POSTPONED
OT CANCELLED BUT POSTPONED FOR A MONTH OR TWO. TIM AND I AGREED WE
ANTED TO MEET BUT WILL DO IT IN LATE AUGUST. THE REASON FOR THE
ITY AGREEING WITH A POSTPONEMENT IS THAT THEY HAVE A ONGOING LAWSUIT
ITH A GROUP OF SUMMER HOME OWNERS AT BRIGHTON IN BIG COTTONWOOD, THE
ETTLEMENT OF WHICH WILL DEAL WITH MANY OF THE PROTEST POINTS RAISED
Y FOLKS WITH THIS FILING. THIS LAWSUIT SHOULD, HE SAID, BE SETTLED
Y LATE FALL. I KNOW NOTHING MORE THAN THIS; WILL NEED TO DO
ESEARCH ON WHAT ALL THIS IS ABOUT. ANYWAY...DID AGREE... WILL NOT
EET ON FRIDAY!!! WILL MEET LATER WHEN WE CAN GET PATTEN THERE.
ATHY, PLEASE HELP ME REMEMBER TO SET THIS UP WHEN WE GET RICK'S
ALENDAR AND CAN COORDINATE WITH BOYLE, GARDINER, YOU ME AND RICK.
HANKS.

-------=========X========-------

MESSAGE DISPLAY FOR RICK PATTEN

RICK

KATHLEEN ANDERSON
ostmark: 07/29/93 0645 hrs Delivered: 07/29/93 0645 hrs

ubject: Forwarded: THE LATEST AND LAST WORD (FOR NOW) ON SLC WATER RIGHTS H

---

omments:
rom: KATHLEEN ANDERSON:R04F19A
ate: 07/29/93 0645 hrs
EE SUSAN'S MESSAGE BELOW. I CAN FILL IN THE DETAILS OF WHAT ALL
HIS IS ABOUT. SUSAN WOULD LIKE TO GET COPIES OF THE MORRIS DECREE
HICH SLC IS USING IN THEIR APPLICATION FOR THE WATER RIGHTS. I
NDERSTAND THAT THERE ARE ALSO SOME "CONTRACTS" (THIS FROM THE STATE
NGINEERS OFFICE) WHICH CONTAIN MORE SPECIFIC INFO RELATING TO SLC.
OULD YOU PLEASE GET COPIES OF THIS INFO. THE STATE FOLKS WERE
ILLING TO MAKE COPIES OF EVERYTHING BUT I DON'T THINK WE WANT THAT.
JUST THE REFERENCES TO SLC. WE CAN TALK WHEN YOU GET BACK. K

Message:
From: SUSAN GIANNETTINO
Date: 07/28/93 1714 hrs
TIM DOXEY OF CITY AND I JUST TALKED. THE HEARINGS HAVE BEEN POSTPONED
NOT CANCELLED BUT POSTPONED FOR A MONTH OR TWO. TIM AND I AGREED WE
WANTED TO MEET BUT WILL DO IT IN LATE AUGUST. THE REASON FOR THE
CITY AGREEING WITH A POSTPONEMENT IS THAT THEY HAVE A ONGOING LAWSUIT
W[illegible] A GROUP OF SUMMER HOME OWNERS AT BRIGHTON IN BIG COTTONWOOD, THE
[illegible]EMENT OF WHICH WILL DEAL WITH MANY OF THE PROTEST POINTS RAISED
B[illegible]OLKS WITH THIS FILING. THIS LAWSUIT SHOULD, HE SAID, BE SETTLED
BY LATE FALL. I KNOW NOTHING MORE THAN THIS; WILL NEED TO DO
RESEARCH ON WHAT ALL THIS IS ABOUT. ANYWAY...DID AGREE... WILL NOT
MEET ON FRIDAY!!! WILL MEET LATER WHEN WE CAN GET PATTEN THERE.
KATHY, PLEASE HELP ME REMEMBER TO SET THIS UP WHEN WE GET RICK'S
CALENDAR AND CAN COORDINATE WITH BOYLE, GARDINER, YOU ME AND RICK.
THANKS.

-------X-------

STATEMENT OF OWNERSHIP SEGREGATION

Perfected Water Right

STATE OF UTAH

*Prepared by*_____
*Date Prepared*_____
*Microfilmed*_____
*Roll #*_____

For the purpose of informing the State Engineer of the acquisition of a portion of a perfected water right, this statement is hereby made, based upon the following showing of facts.

WATER RIGHT #: 57-10035 APPLICATION #: Priority Date:

WATER RIGHT SEPARATED FROM: 57-8966 (Diligence Claim)
(Contract USDA Forest Service for Spruces & Jordan Pines campgr. a16840)

****

1. OWNERSHIP INFORMATION:

   A. NAME: Salt Lake City Corp
   Department of Public Utilities
   ADDRESS: 1530 South West Temple, Salt Lake City, UT

2. SOURCE INFORMATION:

   A. QUANTITY OF WATER: 1.326 acre-feet

   B. DIRECT SOURCE: Big Cottonwood Creek COUNTY: Salt Lake

   C. DRAINAGE AREA: Lower Jordan River-East

   D. COMMON DESCRIPTION:

   E. POINTS OF DIVERSION -- SURFACE:

   (1) S 1900 feet W 1450 feet from NE corner, Section 25, T 2S, R 1E, SLBM

   (2) N 800 feet E 1400 feet from SW corner, Section 20, T 2S, R 2E, SLBM

3. WATER USE INFORMATION:

   MUNICIPAL: from Jan 1 to Dec 31. Salt Lake City.

IANGE: a16840 WATER RIGHT: 57-10035 CERT. NO.:

GHT `ENCED BY: C.W. Morse Decree for Big Cottonwood Creek, Third District, Civil #8921, Butler Ditch, W.R. 57-10035

IANGES: Point of Diversion [X], Place of Use [X], Nature of Use [X], Reservoir Storage [ ].

IME: Salt Lake City Corporation OWNER MISC: Department of Public Utilities
DR: 1530 South West Temple
TY: Salt Lake City STATE: UT ZIP: 84115 INTEREST:

---

ling: 06/24/1992 Priority: 06/24/1992 Advertise Paper: Date: / / Protested? Appr/Rej: / /
oof Due: / / Ext Filed: / / Elec/Proof: Filed: / / Cert. or WUC Issued: / /
p, Etc.: / /

atus: UNAP Date Verified: / / Initials:

****
<<

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

F.S. R-4
RECEIVED
JAN 16 1997
RL

IN THE MATTER OF CHANGE APPLICATION)
) MEMORANDUM DECISION
NUMBER 57-10035 (a16840))

Change Application Number 57-10035 (a16840), in the name of Salt Lake City Corporation, was filed on June 24, 1992, to change the point of diversion, place of use, and nature of use of 1.326 acre-feet of water. Heretofore, the water has been diverted from Big Cottonwood Creek at two points located: (1) South 1900 feet and West 1450 feet from the NE Corner of Section 25, T2S, R1E, SLB&M; and (2) North 800 feet and East 1400 feet from the SW Corner of Section 20, T2S, R2E, SLB&M, and used for municipal purposes in Salt Lake City.

Hereafter, it is proposed to divert 1.326 acre-feet of water from spring areas, located: (1) South 400 feet and West 600 feet from the NE Corner of Section 28, T2S, R2E, SLB&M; (2) North 550 feet and East 1900 feet from the SW Corner of Section 17, T2S, R3E, SLB&M; (3) North 950 feet and East 1500 feet from the SW Corner of Section 17, T2S, R3E, SLB&M; and (4) North 1700 feet and West 750 feet from the SE Corner of Section 27, T2S, R3E, SLB&M, to be used for the same purposes as heretofore in the SE¼ of Section 20, T2S, R2E, SLB&M; the S½NW¼, and the SW¼ of Section 17; the S½NE¼, the N½SE¼ of Section 18; the W½ of Section 26; and the N½ of Section 27, T2S, R3E, SLB&M. In the application it is stated that a contract has been made between Salt Lake City and the USDA Forest Service for the Forest Service to divert up to 0.442 acre-foot of water annually at each of the three locations as described in Big Cottonwood Canyon for recreational and incidental purposes.

The application was advertised in the Deseret News from April 15, 1993, to April 29, 1993, and was protested by Robert J. Murdock et al and United States Forest Service. Late protests were filed by Salt Lake County and Wayne Crawford. In the protests it is stated that the approval of the change application will impair the rights of the protestants, a surplus sales contract does not guarantee that water will be available for the people who are using the water, the water from the sources has already been placed to beneficial use by the Forest Service, and the Forest Service requires that all uses by special use permittees be in the name of the United States; thus, the applicant does not have authority to file such a change application.

A hearing was held on August 28, 1996, in Salt Lake City, Utah. At the hearing the applicant explained the history of the underlying water rights and the nature of the contracts by which the change is based. The protestants in attendance reiterated their protests.

The State Engineer has reviewed the change application, the underlying water rights, the protests, the information submitted at the hearing, and other associated water rights and has noted:

A. This change application is filed on the decreed Butler Ditch water right. The Butler Ditch Irrigation Company was dissolved on December 20, 1974. It appears that all of the shares of stock had been transferred to Salt Lake City; hence, all of the assets of the company passed to Salt Lake City, including the Butler Ditch water right. The applicant has indicated that all of the water of Butler Ditch has been diverted for municipal use since the time that the company was dissolved, thus maintaining the right

and providing an underlying right for the change application.

B. The question of surplus water contracts with county residents is not within the purview of the State Engineer. Should those residents or entities deem that those contracts are not sufficient for their needs, they can obtain other water rights and file the appropriate change applications for the proposed uses.

C. The Forest Service filed a letter dated October 22, 1993, wherein they informed the State Engineer that they no longer object to the change application.

D. Conditions are necessary to ensure that other rights are not impaired by this change application. The exchange agreements between the irrigation companies and Salt Lake City for replacement water from Utah Lake will lessen the likelihood of impairment. The total flow of all change applications filed by the applicant in Big Cottonwood Canyon and the diversions by Salt Lake City at the mouth of the canyon cannot exceed the total of the city's water rights in the canyon.

E. The underlying decreed Butler Ditch water rights now owned by Salt Lake City Corporation are for irrigation purposes and some domestic and stockwatering uses. This change application converts the nature of use to municipal use for 1.326 acre-foot. The balance of Salt Lake City's water right under this decreed award would remain under the historical purposes. Should the city wish to convert these uses to municipal, submission of other change applications is necessary.

In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, **ORDERED** and Change Application Number 57-10035 (a16840) is hereby **APPROVED** subject to prior rights and the following conditions:

1. The applicant shall install permanent measuring devices to measure both the instantaneous flow rate and the total volume of water diverted. Records shall be kept at least monthly of all water diverted under this change. These measuring devices and the records shall be made available to the State Engineer at all reasonable times to regulate this change.

2. The applicant shall submit on an annual basis by January 31 of each year for the prior calendar year evidence that the diversions of water under this change and under the balance of the applicant's Butler Ditch right do not exceed the historical amount. Such measurements and information shall also be required as part of the submittal of proof of beneficial use.

3. The historical water diversion would have irrigated 0.265 acre. About 50% of the water would have been consumed, and 50% would have returned to the

system. To prevent enlargement, depletion under the change cannot exceed 0.663 acre-foot.

This Decision is subject to the provisions of Rule R655-6-17 (1992 Utah Administrative Code--formerly R625) of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 15th day of January, 1997.

EL
P.E., State Engineer

RLM:JER:et

Mailed a copy of the foregoing Memorandum Decision this 15th day of January, 1997, to:

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, UT 84115

EL

EL

Salt Lake County
c/o EL
2001 South State Street, #S3600
Salt Lake City, UT 84190-1200

US Forest Service
Intermountain Region
324 25th Street
Ogden, UT 84401

BY: EL
Secretary

THE OFFICE OF
SALT LAKE COUNTY ATTORNEY

DAVID E. YOCOM
COUNTY ATTORNEY

WALTER R. ELLETT, CHIEF DEPUTY
JUSTICE DIVISION
WILLIAM R. HYDE, CHIEF DEPUTY
CIVIL DIVISION
DONALD SAWAYA, CHIEF DEPUTY
GOVERNMENTAL SERVICES DIVISION

July 29, 1993

Board of County Commissioners
of Salt Lake County
2001 South State Street, #N2100
Salt Lake City, Utah 84190-1000

ATTN: E. James Bradley, Chairman

Re: Salt Lake City Change of Use Applications - Water Rights
- Utah State Engineer

Gentlemen:

You referred a letter to our office by Robert J. Murdock, a professional engineer, apparently received by the County about May 28, 1993. This letter challenged Salt Lake City's change of use applications and multiple water applications dealing with Big Cottonwood, Little Cottonwood, Parleys and Millcreek water courses. Attached is a memo and our research on these matters.

As you can see from the discussion in the memo we have to make a decision before August 4, 1993, as to whether to appear in a limited capacity in the administrative proceedings. Based upon that appearance or other actions, further appeal of this matter may be appropriate. The August 4th date is a scheduled administrative proceeding and hearing before the State Engineer on these change of use applications. It appears none of them involve Salt Lake County water rights directly, but any decision of the State Engineer may impact our prior positions concerning surplus water from municipalities and the use of water for purposes of fire suppression.

This office needs to know of your decision in regard to our appearing on behalf of the County, either at the August 4th hearing or future proceedings in this matter. Please advise as soon as possible.

Sincerely,

WILLIAM R. HYDE
Chief Deputy County Attorney
Civil Division

Attachment
pc: David Yocom

MEMORANDUM

To: Bill Hyde
From: Craig Anderson and Rick Wathen
Re: Salt Lake City Change Applications
Date: July 27, 1993

I. Background

A. Change Applications

Salt Lake City has filed a number of change applications with the Utah State Engineer. Robert J. Murdock, a professional engineer, sent a letter dated May 28, 1993, addressed to Robert L. Morgan, the State Engineer, protesting the change applications filed by Salt Lake City. A copy of the letter was sent to Commissioner Bradley and was received in his office on June 1, 1993. The letter was forwarded to the County Attorney's Office by Commissioner Bradley on June 1st, after the thirty day deadline (May 29,1993) for filing a protest.

B. Basis for the City's Change Applications

Each of the change applications are based on prior contracts with Salt Lake City to provide water. It appears that many of these prior contracts were negotiated by Salt Lake City in the past without formal approval. Furthermore, all of the applications deal with a change in the "nature of use" of the water. This involves changing what the City claims to be "municipal" use to other uses such as recreation. The fundamental problem is that the "municipal" use was never approved by the State Engineer.

For example #16837 request to divert water to be used by the Millcreek Inn. Obviously, the Millcreek Inn has been in operation and using water for some time. Also, #16843 requests a diversion of water to Salt Lake County service area #3 (Snowbird) pursuant to an agreement with Salt Lake County. The contract between the city and county was signed in 1980. Simply stated, the City is trying to change a municipal use that has never been approved.

It appears that Salt Lake City may now be trying to comply with the states water diversion requirements. Utah Code § 73-3-3. Non-compliance is a class B misdemeanor for each day of the unlawful change, constituting a separate offense, separately punishable. Id. at (9)(b).

C. Description of the change applications.

LITTLE COTTONWOOD CANYON

16839- USDA for recreational purposes
16841- Alta Peruvian Lodge for incidental uses of 13 homes
16842- Charlotte Sturdy for domestic requirements
16843- Salt Lake County to provide service to SL County service area #3 (Snowbird) resort use including snow making

16844- Alta City resort use including snow making
16845- John D. Cahill for domestic use
16846- Canyonlands, Inc. domestic requirements up to 35 homes

BIG COTTONWOOD CANYON

16811- Brighton Lodge for fire protection
16812- Board of Advisors of LDS camp for domestic purposes
16813- Cardiff Fork Assoc. for domestic use of up to 40 homes
16814- Evergreen Summer Homes domestic for up to 15 homes
16815- Giles Flat Water Users Association domestic up to 17 homes
16816- 12 named individuals for domestic use
16817- Lady of the Lake subdivision for domestic use up to 9 homes
16818- Wasatch National Forest within Mill "D" homes association (homeowners have special use permit through WNF) for domestic use up to 23 homes
16819- Mule Hollow Water Co., Inc. for domestic use up to 26 homes and 1 lodge
16820- Walter J. Plumb III for domestic use up to 10 homes
16821- Robert Scott for domestic use up to 5 homes
16822- James Moyle for domestic use up to 31 homes
* protest by relative who claims ownership to rights
16823- Timberline Water Co. for domestic use up to 4 homes
16824- John A. Ward for domestic use up to 40 homes
* Ward is protesting claiming original right to water
16825- Big Cottonwood Pine Tree Water Co. for domestic up to 66 homes
16826- Joy F. Dunyon for domestic use up to 122 homes
16827- Mount Haven Owners Assoc. for domestic use up to 92 homes
16828- Bravo Ski Corp. (Solitude Resort) domestic use for up to 320 rental units and fire protection
16829- Silver Park Pipeline Corp. for domestic use up to 330 homes
16840- US Department of Agriculture for recreational and incidental use

PARLEY'S CANYON

16786- Forest Home Co. for domestic use of up to 125 homes
16787- 10 named individuals for domestic use
16788- For Salt Lake City's Mountain Dell storage reservoir to service Lamb's Canyon users
16789- Lost Acres Water Users Assoc. for domestic use up to 22 homes

MILLCREEK CANYON

16836- Porter Fork Summer Home Assoc. for up to 31 summer homes
16837- Allan Frandsen for use of Millcreek Inn
16838- US Department of Agriculture for recreational and incidental use

D. Protests of Applications

The protests range from challenges to the ownership of certain water rights, to the beneficial use of the water and public welfare.

1. Murdock - Mr. Robert Murdock's protest of the proposed change application is based on his belief that the applications will interfere with the "beneficial use" of the water and will otherwise be detrimental to the general public welfare. Mr. Murdock's position is based on the characterization of the water as "surplus." His public welfare concerns are essentially as follows:

a. Surplus water provided to non-residents for culinary and sanitary purposes may be discontinued by the City at any time;
b. The surplus water sold by the City is high quality culinary water and is being used for irrigation, dust control, snow making, and other uses for which lower quality water is more suitable.
c. Surplus water used for irrigation, dust control and snow making, should be given a lower priority in preference to residential culinary and sanitary uses. Mr. Murdock also notes that several of the applications are deficient because they are either untimely or in error.

Mr. Murdock's goal is to move away from reliance on surplus water, by forming an independent public entity (special service district) or private entity (mutual water company) to acquire and hold water rights for the benefit of residents of the unincorporated County. Most of the points raised by Mr. Murdock are the same as the issues in the White City case: (1) termination of service without notice; (2) "double taxation" - in the form of paying taxes to the Salt Lake County Conservancy District and paying higher rates to the City for surplus water; and (3) the threat of annexation.

Mr. Murdock is of the opinion that the County Commission could form a special service district to perform this function for the residents of the east side of the County. A special service district may be more desirable than a mutual water company given the number of people involved. Residents of the west side of the County receive water from the Salt Lake County Water Conservancy District.

2. Forest Service - Applications are improper because Salt Lake City lacks the authority to change water flow on U.S. Forest Service property. (This may involve the federal reserved water rights issue under the Winters Doctrine).

3. The following dispute ownership of many of the water rights:

Cahoon and Maxfield Irrigation Company
Evergreen Summer Home Association
Big Cottonwood Pine Tree Water Company
Kurt Zilm, David Vanier and Kelly Ragsdale
Silverlake Subdivision
Ward Investment Company
Silver Fork Pipeline Corp.

4. H. Stauffer disputes many of the applications on the basis that the changes will disrupt head water flow.

II. Administrative Procedures

A. Informal Hearing

Water rights disputes are governed by administrative procedures. Utah Admin. R. 655-6 (1993). Disputes before the Division of Water Rights are conducted as informal proceedings. Id. at 655-6-2. To become a party to an informal proceeding regarding a water change application a protest must be filed with the Division of Water Rights within 30 days after notice of the pending change application is published. Utah Code §73-3-7(1). The deadline for protesting the Salt Lake City applications was May 29, 1993. (phone conversation on 6/22/93 with Judy at the Division of Water Rights).

Protests filed after the expiration of the protest period will be placed on file and will become part of the administrative record. Utah Admin. R. 655-6-5(B)(5)(d). The late protestant will receive notice of the proceedings. Id. A late protestant may participate in the hearing as a witness, and with the consent of the Presiding Officer, may also participate in the Division's investigation. Id. at R.655-6-11(B). However, the protestant does not become a party to the action, Id. at 655-6-5(B)(5)(d), and may not seek judicial review. Id. at R.655-6-11(B). (Perhaps in contradiction, Utah Code §73-3-14(1)(a) states that "any person aggrieved" by an order of the State Engineer may seek judicial review of that order).

B. Standard of Administrative Review

It is the duty of the State Engineer to withhold approval of appropriation applications if the use would interfere with a more beneficial use, or if it will unreasonably affect public recreation or the natural stream environment, or if it will prove detrimental to the public welfare. Utah Code §73-3-8(1) (1992). The State Engineer has the same duty regarding permanent change applications. Bonham v. Morgan, 788 P.2d 497,502 (Utah 1989). Generally, an

Commission. The County may also submit a written statement of of position rather than attending and participating in the hearing. This approach would allow the Commission to evaluate the impact of the change applications on the residents of the County prior to becoming involved in any litigation.

Second, the County can wait for the State Engineer's decision on the change applications. If the State Engineer's determination is adverse to one or more of the protestants, and his decision is appealed to the district court, the County may intervene in the proceedings as a party. Because an appeal will involve de novo review, the County can address all of the relevant issues. The only limitation is that a party to the administrative proceeding must file an appeal.

Please review this matter with the Commissioners and advise me regarding how they wish to proceed in this matter. A decision must be made before the August 4, 1993, hearing date.

TRANSACTION REPORT

AUG- 9-93 MON 10:45

RECEIVE

#	DATE	S. T.	NAME	TIME	PGS	NOTE	DP
01	AUG- 9	10:40	G3	4'54"	8	OK	

8-10-93
KG
Copy
Le Roy M
Ray
Noval
Stan G.

DAVID E. YOCOM (3581)
Salt Lake County Attorney
By: CRAIG W. ANDERSON (0078)
Deputy County Attorney
2001 South State Street, #S3600
Salt Lake City, Utah 84190-1200
Telephone: (801) 468-3420

8-11-93

Tim -
I sent a copy
to Stan -
LeRoy gave copies
to Ray & Joe at the
meeting today
Z

BEFORE THE STATE

UTAH DIVISION OF WA

IN RE:

CHANGE APPLICATIONS
57-10036 (a16786),
57-10037 (a16787),
57-10038 (a16788),
57-10039 (a16789),
57-10040 (a16836),
57-10041 (a16837),
57-10042 (a16838),
57-10016 (a16811),
57-10017 (a16812),
57-10018 (a16813),
57-10019 (a16814),
57-10020 (a16815),
57-10021 (a16816),
57-10022 (a16817),
57-10023 (a16818),
57-10024 (a16819),
57-10025 (a16820),
57-10026 (a16821),
57-10027 (a16822),
57-10028 (a16823),
57-10029 (a16824),
57-10030 (a16825),
57-10031 (a16826),
57-10032 (a16827),
57-10033 (a16828),
57-10034 (a16829),
57-10035 (a16830),

SALT LAKE COUNTY
NOTICE OF INTEREST

57-10009 (a16839),
57-10010 (a16841),
57-10011 (a16842),
57-10012 (a16843),
57-10013 (a16844),
57-10014 (a16845),
57-10015 (a16846).

Salt Lake County, by and through its counsel of record, Craig W. Anderson, Deputy County Attorney, hereby gives notice of its interest in the public welfare aspects of the above-referenced change applications, and requests written notice of any and all proceedings, determinations and actions.

DATED this 3 day of August, 1993.

DAVID E. YOCOM
Salt Lake County Attorney

By Craig W. Anderson
CRAIG W. ANDERSON
Deputy County Attorney

MAILING CERTIFICATE

I hereby certify that I caused a true and correct copy of the foreoing Notice of Interest to be mailed, postage prepaid, this 3rd day of August, 1993, to the following:

Robert L. Morgan
Department of Natural Resources
Division of Water Rights
1636 West North Temple, Suite 220
Salt Lake City, Utah 84115-3156

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, Utah 84115

Robert J. Murdock
2964 East 3135 South
Salt Lake City, Utah 84109

Gray F. Reynolds
Regional Forester
U.S. Department of Agriculture
Forest Service
324 25th Street
Ogden, Utah 84401

E. J. Skeen, Esq.
536 East 400 South
Salt Lake City, Utah 84102

Reiko Intooka

att.rt.notice.cwa

APPLICATION FOR PERMANENT CHANGE OF WATER

Rec. by NT
Fee Paid $ 30.00
Receipt # 6 2492
Microfilmed
Roll #

JUN 2 . 1982

STATE OF UTAH

FILE

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. 57 - 8973 *APPLICATION NO. a 916839

Changes are proposed in (check those applicable)

_____ point of diversion. _____ place of use. _____ nature of use. _____ period of use.

1. OWNER INFORMATION

Name: Salt Lake City Corporation (Department of Public Utilities) *Interest: ____%

Address: 1530 South West Temple

City: Salt Lake City State: Utah Zip Code: 84115

2. *PRIORITY OF CHANGE: _____ *FILING DATE: _____

*Is this change amendatory? (Yes/No): No

3. RIGHT EVIDENCED BY: C. W. Morse Decree for Little Cottonwood Creek, Third District Court, Civil #4802, Water Right No. 57-8973

Prior Approved Change Applications for this right: _____

********** HERETOFORE **********

4. QUANTITY OF WATER: _____ cfs and/or 1.326 ac-ft.
5. SOURCE: Little Cottonwood Creek
6. COUNTY: Salt Lake
7. POINT(S) OF DIVERSION: See Attached Sheet

Description of Diverting Works: _____

8. POINT(S) OF REDIVERSION

The water has been rediverted from _____ at a point: _____

Description of Diverting Works: _____

9. POINT(S) OF RETURN

The amount of water consumed is _____ cfs or _____ ac-ft.

The amount of water returned is _____ cfs or _____ ac-ft.

The water has been returned to the natural stream/source at a point(s): _____

*These items are to be completed by the Division of Water Rights.

Permanent Change

10. **NATURE AND PERIOD OF USE**

Irrigation: From _____ to _____
Stockwatering: From _____ to _____
Domestic: From _____ to _____
Municipal: From January 1 to December 31
Mining: From _____ to _____
Power: From _____ to _____
Other: From _____ to _____

11. **PURPOSE AND EXTENT OF USE**

Irrigation: _____ acres. Sole supply of _____ acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City
Mining: _____ Mining District in the _____ Min
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

12. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): _____

13. **STORAGE**

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 tract(s): _____

========== THE FOLLOWING CHANGES ARE PROPOSED ==========

14. **QUANTITY OF WATER:** _____ cfs and/or 1,326 ac-ft.
15. **SOURCE:** Spring Areas
Balance of the water will be abandoned: _____, or will be used as heretofore: X
16. **COUNTY:** Salt Lake
17. **POINT(S) OF DIVERSION:** See Explanatory

Description of Diverting Works: _____
*COMMON DESCRIPTION: _____

18. **POINT(S) OF REDIVERSION**

The water will be rediverted from _____ at a point: _____

Description of Diverting Works: _____

19. **POINT(S) OF RETURN**

The amount of water to be consumed is _____ cfs or _____ ac-ft.
The amount of water to be returned is _____ cfs or _____ ac-ft.
The water will be returned to the natural stream/source at a point(s): _____

20. NATURE AND PERIOD OF USE

Irrigation: From ______ to ______
Stockwatering: From ______ to ______
Domestic: From ______ to ______
Municipal: From January 1 to December 31
Mining: From ______ to ______
Power: From ______ to ______
Other: From ______ to ______

21. PURPOSE AND EXTENT OF USE

Irrigation: ______ acres. Sole supply of ______ acres.
Stockwatering (number and kind): ______
Domestic: ______ Families and/or ______ Persons.
Municipal (name): Salt Lake
Mining: ______ Mining District at the ______ Mine.
Ores mined: ______
Power: Plant name: ______ Type: ______ Capacity: ______
Other (describe): ______

22. PLACE OF USE

Legal description of place of use by 40 acre tract(s): See Explanatory

23. STORAGE

Reservoir Name: ______ Storage Period: from ______ to ______
Capacity: ______ ac-ft. Inundated Area: ______ acres.
Height of dam: ______ feet.
Legal description of inundated area by 40 tract(s): ______

24. EXPLANATORY

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): ______

See Attachment

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

______
Signature of Applicant(s)

FOREST SERVICE LITTLE COTTONWOOD CREEK

ITEM 7, POINTS OF DIVERSION: Attachment #1

1. Little Cottonwood Tanner Ditch Company: S 234 ft and E 102 ft from the W 1/4 Corner Section 28, Township 2 South, Range 1 E, Salt Lake Base and Meridian.

2. Cahoon and Maxfield Irrigation Company: N 77 ft and W 663 ft from the E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

3. Walker Ditch Company: N 1363 ft and W 1143 ft from E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

4. Richards Irrigation Company: S 1800 ft and E 707 ft from N 1/4 Corner Section 34, Township 2 South Range 1 East, Salt Lake Base and Meridian.

5. Murray City Power Plant Diversion: S 838 ft and E 4512 from W 1/4 Corner Section 7, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

6. Little Cottonwood Creek Diversion Dam: N 2309 ft and W 743 ft from E 1/4 Corner Section 11, Township 3 S, Range 1 East, Salt Lake Base and Meridian.

ITEM 17, POINT OF DIVERSION:

1. Tanner Flat Campground: S 1500 ft and E 500 ft from NW Corner Section 11, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

2. Albion Guard Station: W 1700 ft from SE Corner Section 32 Township 2 South, Range 3 East, Salt Lake Base and Meridian.

3. Albion Basin Campground: S 550 ft and W 700 ft from NE Corner Section 9, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

ITEM 22, PLACE OF USE:

1. Tanners Flat Campground: NW 1/4 Section 11, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

2. Albion Guard Station: E 1/2 NW 1/4, Section 5, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

3. Albion Basin Campground: NE 1/4, Section 9, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

ITEM 24, EXPLANATORY:

This change application is based on rights in Little Cottonwood Tanner Ditch company, Cahoon and Maxfield Irrigation Company, Walker Ditch Company and Richards Irrigation Company. The rights are shown in the C.W. Morse Decree on Little Cottonwood Creek, Civil No. 4802, Dated June 16, 1910. The use of these rights is defined further by a statement of Water Users Claim No. 57-8973 entered in the proposed determination of water rights.

The balance of the rights will continue to be used for municipal purposes by Salt Lake City.

A contract has been made between Salt Lake City Corporation and the USDA, Forest Service, for the Forest Service to divert up to 0.442 acre-feet of water annually at each of the three locations shown in Little Cottonwood Canyon for recreational and incidental purposes.

STATEMENT OF OWNERSHIP SEGREGATION

Perfected Water Right

STATE OF UTAH

*Prepared by*_____
*Date Prepared*_____
*Microfilmed*_____
*Roll #*_____

For the purpose of informing the State Engineer of the acquisition of a portion of a perfected water right, this statement is hereby made, based upon the following showing of facts.

WATER RIGHT #: 57-10009 APPLICATION #: Priority Date:

WATER RIGHT SEPARATED FROM: 57-8973 (Decree)
(Contract: F.S for Tanners Flat & Albion Basin Campgr. & Albion Guard St.a16839)
****

1. **OWNERSHIP INFORMATION:**

   A. **NAME:** Salt Lake City Corp.
   Department of Public Utilities
   ADDRESS: 1530 South West Temple, Salt Lake City, UT 84115

2. **SOURCE INFORMATION:**

   A. **QUANTITY OF WATER:** 1.326 acre-feet

   B. **DIRECT SOURCE:** Little Cottonwood Creek **COUNTY:** Salt Lake

   C. **DRAINAGE AREA:** Lower Jordan River-East

   D. **COMMON DESCRIPTION:**

   E. **POINTS OF DIVERSION -- SURFACE:**

   (1) S 234 feet E 102 feet from W¼ corner, Section 28, T 2S, R 1E, SLBM
   DIVERT WORKS: Little Cottonwood Tanner Ditch

   (2) N 77 feet W 663 feet from E¼ corner, Section 29, T 2S, R 1E, SLBM
   DIVERT WORKS: Cahoon & Maxfield Ditch

   (3) N 1363 feet W 1143 feet from E¼ corner, Section 29, T 2S, R 1E, SLBM
   DIVERT WORKS: Walker Ditch

   (4) S 1800 feet E 707 feet from N¼ corner, Section 34, T 2S, R 1E, SLBM
   DIVERT WORKS: Richards Ditch

   (5) N 2309 feet W 743 feet from E¼ corner, Section 11, T 3S, R 1E, SLBM
   DIVERT WORKS: Little Cottonwood Div. Dam

   (6) S 838 feet E 4512 feet from W¼ corner, Section 7, T 3S, R 2E, SLBM
   DIVERT WORKS: Murray City Power Plant

3. **WATER USE INFORMATION:**

MUNICIPAL: from Jan 1 to Dec 31. Salt Lake City.

----

3. **WATER USE INFORMATION:**

MUNICIPAL: from Jan 1 to Dec 31. Salt Lake City.

APPLICATION FOR PERMANENT CHANGE OF WATER

STATE OF UTAH

Rec. by KKH
Fee Rec. 75
Receipt # 02-0204

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated, as amended.

*WATER RIGHT NO. 57 - 10291 *APPLICATION NO. a 26764

Changes are proposed in (check those applicable)

X point of diversion. X place of use. X nature of use. ____ period of use.

1. **OWNER INFORMATION**

Name(s): Salt Lake City Corporation (Department of Public Utilities) *Interest: ____ %

Address: 1530 South West Temple Street

City: Salt Lake City State: Utah Zip Code: 84115

2. *PRIORITY OF CHANGE: 6-13-02 *FILING DATE: 6-13-02

*Is this change amendatory? (Yes/No): ____

3. RIGHT EVIDENCED BY: C.W. Morse Decree for Little Cottonwood Creek (Union & East Jordan v. Richards, Third District Court, Civil No. 4802, June 16, 1910); 57-8973 (See attached Sheet 1).

Prior Approved Change Applications for this right: See attached Sheet 1.

**********HERETOFORE**********

4. QUANTITY OF WATER: 481.635 cfs and/or 35,000 ac-ft.
5. SOURCE: Little Cottonwood Creek
6. COUNTY: Salt Lake
7. POINT(S) OF DIVERSION: See attached Sheet 1.

Description of Diverting Works: ____

RECEIVED
JUN 13 2002
WATER RIGHTS
SALT LAKE

8. POINT(S) OF REDIVERSION

The water has been rediverted from ____ at a point: ____

Description of Diverting Works: ____

9. POINT(S) OF RETURN

The amount of water consumed is ____ cfs or ____ ac-ft.

The amount of water returned is ____ cfs or ____ ac-ft.

The water has been returned to the natural stream/source at a point(s): Jordan River

* These items are to be completed by the Division of Water Rights

10. NATURE AND PERIOD OF USE

Irrigation:	From	April 1	to	October 15
Stockwatering:	From		to	
Domestic:	From		to	
Municipal:	From	January 1	to	December 31
Mining:	From		to	
Power:	From		to	
Other:	From		to	

11. PURPOSE AND EXTENT OF USE

Irrigation: 1487.93 acres. Sole supply of _____ acres.

Stockwatering (number and kind): _____

Domestic: _____ Families and/or _____ Persons.

Municipal (name): Salt Lake City and its water service area.

Mining: _____ Mining District in the _____ Mine.

Ores mined: _____

Power: Plant name: _____ Type: _____ Capacity: _____

Other *(describe)*: _____

12. PLACE OF USE

Legal description of place of use by 40 acre tract(s): _____

Municipal uses within Salt Lake City and its service area. Irrigation of lands served by the Little Cottonwood Tanner Ditch Company (WR 57-10061, E2919); Cahoon & Mansfield Irrigation Company (WR 57-10062, E2920); Walker Ditch Company (WR 57-10063, E2921); and Richards Irrigation Company (WR 57-10064, E2922).

13. STORAGE

Reservoir Name: _____ Storage Period: from _____ to _____

Capacity: _____ ac-ft. Inundated Area: _____ acres

Height of dam: _____ feet.

Legal description of inundated area by 40 acre tract(s): _____

**********THE FOLLOWING CHANGES ARE PROPOSED**********

14. QUANTITY OF WATER: _____ cfs and/or 133.80 ac-ft.

15. SOURCE: Little Cottonwood Creek Drainage and 2 unnamed springs.

Balance of the water will be abandoned: _____, or will be used as heretofore: _____

16. COUNTY: Salt Lake

17. POINT(S) OF DIVERSION: ~~Same as heretofore from the 6 points of diversion identified as Nos. 1 through 6 under the above paragraph 7 and adding the 8 points of diversion identified as Nos. 7 through 14 on attached Sheets 2 and 3 under paragraph 17.~~

Description of Diverting Works: _____

*COMMON DESCRIPTION: _____

18. POINT(S) OF REDIVERSION

The water will be rediverted from Little Cottonwood Creek at a point: _____

~~See 8 points of diversion in paragraph 17 above.~~

Description of Diverting Works: _____

19. POINT(S) OF RETURN

The amount of water to be consumed is _____ cfs or 33.14 ac-ft.
The amount of water to be returned is _____ cfs or 100.86 ac-ft.
The water will be returned to the natural stream/source at a point(s): Along the natural channel of Little Cottonwood Creek above the points designated as Nos. 5 and 6 under paragraph 17 above.

20. NATURE AND PERIOD OF USE

Irrigation:	From	April 1	to	Oct. 15, Incl.
Stockwatering:	From		to	
Domestic:	From	January 1	to	Dec. 31, Incl.
Municipal:	From	January 1	to	Dec. 31, Incl.
Mining:	From		to	
Power:	From		to	
Other:	From	October 1	to	Jan. 31, Incl.

21. PURPOSE AND EXTENT OF USE

Irrigation: 1,487.33 acres. Sole supply of (same as heretofore, see paragraph 11) acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City and its water service area and now including Alta Ski Resort as specified by Agreement and noted herein.
Mining: _____ Mining District at the _____ Mine.
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

22. PLACE OF USE

Legal description of place of use by 40 acre tract(s): Same as heretofore within Salt Lake City water service area and now including Alta Ski Resort as specified by Agreement and noted herein.

23. STORAGE

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 acre tract(s): _____

24. EXPLANATORY

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of the same size if necessary): See attached Sheet 3.

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

Timothy W. Hooper
Signature of Applicant

Signature of Applicant

Paragraph 3 - Continued

Also, in part evidenced by approved Exchange Application Nos. 57-10061 (E2919); 57-10062 (E2920); 57-10063 (E2921); 57-10064 (E2922). Salt Lake City entered into an "Agreement and Water Supply Permit for Snowmaking" with Alta Ski Lifts Company dated April 12, 1993, as amended by First Amendment dated March 15, 1994, Second Amendment dated April 13, 1996, Third Amendment dated December 2, 1998, and Fourth Amendment dated October 4, 2000, covering 40,000,000 gallons per year (122.76 acre feet) for snow making purposes.

In addition, Salt Lake City entered into a Water Supply Agreement with Alta Ski Lifts Company dated March 15, 1997 for diversion from 2 springs for domestic and culinary purposed at the Watson Shelter and Alpenglow Shelter totaling 3,600,000 gallons per year (11.05 acre feet) and as Amended December 2, 1998 to allow connections to snow making water supply lines. Copies of the above Water Supply Agreements and Amendments are attached hereto.

Approved Change Applications:
57-10009 (a16839); 57-10010 (a16841); 57-10011 (a16842); 57-10012 (a16843); 57-10013 (al6844); 57-10014 (a16845), and 57-10015 (a16846), totaling 2,685.64 acre feet per year, leaving 32,314.361 acre feet under Water Right No. 57-8973.

Paragraph 7 – Continued

1. Little Cottonwood Tanner Ditch Company: South 234 ft. and East 102 ft. from the West Quarter Corner, Section 28, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

2. Cahoon and Maxfield Irrigation Company: North 77 ft. and West 663 ft. from the East Quarter Corner, Section 29, Township 2 South, Range 1 East, Salt Lake Base and Merdian.

3. Walker Ditch Company: North 1363 ft. and West 1143 ft. from East Quarter Corner, Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

4. Richards Irrigation Company: South 1800 ft. and East 707 ft. from North Quarter Corner, Section 34, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

5. Murray City Power Plant Diversion: South 838 ft. and East 4512 from West Quarter Corner Section 7, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

CHANGE APPLICATION _____
WATER RIGHT _____

SALT LAKE CITY
DEPTARTMENT OF PUBLIC UTILITIES

6. Little Cottonwood Creek Diversion Dam: North 2309 ft. and West 743 ft. from East Quarter Corner, Section 11, Township 3 South, Range 1 East, Salt Lake Base and Meridian.

Paragraph 17 – Continued

1. Little Cottonwood Tanner Ditch Company: South 234 ft. and East 102 ft. from the West Quarter Corner, Section 28, Township 2 South, Range 1 East, Salt Lake Base and Meridan.

2. Cahoon and Maxfield Irrigation Company: North 77 ft. and West 663 ft from the East Quarter Corner, Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

3. Walker Ditch Company: North 1363 ft. and West 1143 ft. from East Quarter Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

4. Richards Irrigation Company: South 1800 ft. and East 707 ft. from North Quarter Corner, Section 34, Township 2 South, Range 1 East, Slat Lake Base and Meridian.

5. Murray City Power Plant Diversion: South 838 ft. and East 4512 from West Quarter Corner, Section 7, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

6. Little Cottonwood Creek Diversion Dam: North 2309 ft. and West 743 ft. from East Quarter Corner, Section 11, Township 3 South, Range 1 East, Salt Lake Base and Meridian.

7. Little Cottonwood Creek near Jump Hill – North 700 ft. & East 1150 ft. from Center Section 5, Township 3 South, Range 3 East, Salt Lake Base and Meridian-snow making.

8. Hecla Mine Tunnel – South 300 ft. & West 950 ft. from Center Section 5, Township 3 South, Range East, Salt Lake Base and Meridian – snow making.

9. Quincy Mine Tunnel – South 500 ft. & West 350 ft. from Center Section 5, Township 3 South, Range 3 East, Salt Lake Base and Meridian – snow making.

10. Cecret Lake – South 900 ft. & East 550 ft. from West Quarter Corner, Section 9, Township 3 South, Range 3 East, Salt Lake Base and Meridian – snow making.

11. Detention Pond – South 1984 ft. & East 1041 ft. from Northwest Corner Section 5, Township 3 South, Range 3 East, Salt Lake Base and Meridian – snow making.

12. Tom Moore Mine, South 1035 feet and East 283 feet from the North Quarter Corner of Section 5, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

13. Watson Shelter: South 950 ft. and West 400 ft. from North Quarter Corner of Section 8, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

14. Alpenglow Shelter: South 175 ft. and West 450 ft. from North Quarter Corner of Section 9, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

Explanatory – Continued

The purposes of the change application are to provide Alta Ski Lifts Company with snow making water from October 1 through January 31, inclusive, and culinary and domestic water from January 1 to December 31, inclusive, for the Watson Shelter and Apenglow Shelter, all pursuant to the attached Water Supply Agreements and amendments. Of the total 133.80 AF per year covered by this change application, 122.76 AF per year will be diverted for snow making purposes, of which 22.10 AF per year will be consumed and 100.66 AF per year will find its way into the natural channel of Little Cottonwood Creek above Salt Lake City's existing points of diversion and 11.05 AF per year will be used at the Watson Shelter and Apenglow Shelter for culinary and domestic purposes.

This change application is based in part on Salt Lake City's rights in Little Cottonwood Creek awarded to Little Cottonwood Tanner Ditch Company, Cahoon & Maxfield Irrigation Company, Walker Ditch Company and Richards Irrigation Company. Under the C.W. Morse Decree on Little Cottonwood Creek, Civil No. 4802, dated June 16, 1910, and the four approved exchange applications with each of those four companies. The use of the waters under these rights is defined further by a Statement of Water Users Claim No. 57-8973 entered in the Proposed Determination of Water Rights.

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

DEEDEE CORRADINI
MAYOR

November 20, 1998

RECORDED
DEC 0 2 1998
CITY RECORDER

Kendrick D. Cowley
City Recorder
City/County Building
451 South State Street
Salt Lake City, Utah 84111

Re: First Amendment to Water Supply Agreement – Alta Ski Lifts Company

Dear Mr. Cowley:

Please find enclosed the original document for the above-mentioned agreement between Alta Ski Lifts Company and Salt Lake City Corporation.

The agreement has been signed by the Public Utilities Director and I recommend that it be executed by you in behalf of Salt Lake City Corporation and a return a copy to this department for distribution.

Sincerely,

LeRoy W. Hooton

LeRoy W. Hooton, Jr.
Director

:kg
enclosure(s)
cc: File

1530 SOUTH WEST TEMPLE, SALT LAKE CITY, UTAH 84115
TELEPHONE: 801-483-6900 FAX 801-483-6818

RECYCLED PAPER

FIRST AMENDMENT TO WATER SUPPLY AGREEMENT

RECORDED

THIS FIRST AMENDMENT TO WATER SUPPLY AGREEMENT, made and entered

DEC 0 2 1998

into as of _____ (this "Amendment"), by and between SALT LAKE CITY

CITY RECORDER

CORPORATION, a municipal corporation of the State of Utah (the "City"), and ONNO WIERINGA, dba ALTA SKI LIFTS COMPANY, P.O. Box 8007, Alta, Utah 84092 (the "Permittee"),

WITNESSETH:

WHEREAS, the City and the Permittee have heretofore entered into that certain Water Supply Agreement, dated as of March 15, 1997 (the "Agreement"), pursuant to which the City has agreed to provide raw water for culinary purposes to the Permittee under the terms and provisions of the Agreement; and

WHEREAS, the City and the Permittee have also entered into that certain Agreement and Water Supply Permit for Snowmaking, dated as of April 12, 1993, as amended; and

WHEREAS, the parties desire to amend the Agreement at this time to allow connections to the snowmaking water supply lines for certain purposes under the Agreement; and

NOW THEREFORE, for and in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

SECTION 1. A new paragraph 13 is hereby added to the Agreement, which paragraph 13 shall read as follows:

> Permittee has requested permission to connect to the snowmaking lines constructed and maintained by Permittee pursuant the terms of that certain Agreement and Water Supply Permit for Snowmaking between the City and the Permittee, dated April 12, 1993, for the purpose of providing an alternate source

of water supply to the Watson Shelter and the Alpenglow Shelter (Alf's Restaurant) pursuant to this Agreement. It is anticipated that the water supplied through connections to the snowmaking system will provide a more reliable source of supply during the late winter months in the event the spring sources identified in this Agreement fail to produce sufficient water to meet Permittee's needs. Permittee may connect to such snowmaking system upon the following conditions:

(a) Permittee shall satisfy it's water needs out of the spring sources identified above in this Agreement to the extent possible, and shall obtain water through the snowmaking system only when and to the extent necessary.

(b) All connections to all sources identified herein, including the snowmaking system, shall be inspected and approved by the Salt Lake City/County Health Department.

(c) Water usage from all sources identified herein, including the snowmaking system, shall be separately metered.

(d) Water transmitted to the Alpenglow Shelter and the Watson Shelter from snowmaking supply lines shall be used for flush toilets and fire protection only, and may not be used for any other culinary or domestic purpose. Further, total water usage for all purposes from all sources may not exceed historical average maximum usage.

(e) Water usage by the Permittee under this Agreement from any snowmaking system source shall be considered delivered under this Agreement, and shall be governed by the terms and conditions hereof and not the above-referenced snowmaking agreement.

(f) All connections to the snowmaking system shall be approved by the City. In connection with any such requested approval, Permittee shall demonstrate to the reasonable satisfaction of the City, that such connections are more convenient and economical to Permittee, and involve less damage to the watershed, than connections to the Town of Alta's water system pursuant to paragraph 12 above.

(g) All connections to the snowmaking system shall be made using trench technologies which minimize the area of disturbance, and result in the least damage to plants and vegetation and alteration of terrain.

(h) Connections to the snowmaking system, when authorized and approved pursuant to this paragraph 13, shall be allowed notwithstanding any provisions to the contrary contained in the snowmaking agreement.

SECTION 2. Except as amended by this Amendment, the Agreement shall remain in full force and effect in accordance with the terms thereof.

IN WITNESS WHEREOF, the parties have caused this First Amendment to Water Supply Agreement to be effective as of the day and year first above-written.

RECORDED
DEC 0 2 1998
CITY RECORDER

SALT LAKE CITY CORPORATION

By: Leroy W. Hooton, Jr.
Director, Department of Public Utilities

ATTEST AND COUNTERSIGN:

Chief Deputy City Recorder

SALT LAKE CITY, UTAH
CORPORATE SEAL

ONNO WIERINGA dba
ALTA SKI LIFTS COMPANY

By: Onno Wieringa
Its President

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 12/1/98
By

STATE OF UTAH)
:ss.
County of Salt Lake)

On the 4th day of November, 1998, personally appeared before me ONNO WIERINGA, who, being by me duly sworn did say that he is the President of ONNO WIERINGA dba ALTA SKI LIFTS COMPANY, a Utah corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors; and said person acknowledged to me that said corporation executed the same.

BARBARA ALTUM
NOTARY PUBLIC - STATE of UTAH
P.O. BOX 8007
ALTA, UT 84092
COMM. EXPIRES 10-29-2000

Barbara Altum
NOTARY PUBLIC, residing
in Salt Lake County, Utah

My Commission Expires:
29 Oct 2000

\Agreem98\first amend to water supply agr.doc

C 97-260

APR 1 2 1999

PUBLIC UTILITIES

FIRST AMENDMENT TO WATER SUPPLY AGREEMENT

RECORDED
DEC 0 2 1998
CITY RECORDER

7310839

THIS FIRST AMENDMENT TO WATER SUPPLY AGREEMENT, made and entered into as of _____ (this "Amendment"), by and between SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah (the "City"), and ONNO WIERINGA, dba ALTA SKI LIFTS COMPANY, P.O. Box 8007, Alta, Utah 84092 (the "Permittee"),

WITNESSETH:

WHEREAS, the City and the Permittee have heretofore entered into that certain Water Supply Agreement, dated as of March 15, 1997 (the "Agreement"), pursuant to which the City has agreed to provide raw water for culinary purposes to the Permittee under the terms and provisions of the Agreement; and

WHEREAS, the City and the Permittee have also entered into that certain Agreement and Water Supply Permit for Snowmaking, dated as of April 12, 1993, as amended; and

WHEREAS, the parties desire to amend the Agreement at this time to allow connections to the snowmaking water supply lines for certain purposes under the Agreement; and

NOW THEREFORE, for and in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

SECTION 1. A new paragraph 13 is hereby added to the Agreement, which paragraph 13 shall read as follows:

> Permittee has requested permission to connect to the snowmaking lines constructed and maintained by Permittee pursuant the terms of that certain Agreement and Water Supply Permit for Snowmaking between the City and the Permittee, dated April 12, 1993, for the purpose of providing an alternate source

BOOK 8265 PAGE 0899

of water supply to the Watson Shelter and the Alpenglow Shelter (Alf's Restaurant) pursuant to this Agreement. It is anticipated that the water supplied through connections to the snowmaking system will provide a more reliable source of supply during the late winter months in the event the spring sources identified in this Agreement fail to produce sufficient water to meet Permittee's needs. Permittee may connect to such snowmaking system upon the following conditions:

(a) Permittee shall satisfy it's water needs out of the spring sources identified above in this Agreement to the extent possible, and shall obtain water through the snowmaking system only when and to the extent necessary.

(b) All connections to all sources identified herein, including the snowmaking system, shall be inspected and approved by the Salt Lake City/County Health Department.

(c) Water usage from all sources identified herein, including the snowmaking system, shall be separately metered.

(d) Water transmitted to the Alpenglow Shelter and the Watson Shelter from snowmaking supply lines shall be used for flush toilets and fire protection only, and may not be used for any other culinary or domestic purpose. Further, total water usage for all purposes from all sources may not exceed historical average maximum usage.

(e) Water usage by the Permittee under this Agreement from any snowmaking system source shall be considered delivered under this Agreement, and shall be governed by the terms and conditions hereof and not the above-referenced snowmaking agreement.

(f) All connections to the snowmaking system shall be approved by the City. In connection with any such requested approval, Permittee shall demonstrate to the reasonable satisfaction of the City, that such connections are more convenient and economical to Permittee, and involve less damage to the watershed, than connections to the Town of Alta's water system pursuant to paragraph 12 above.

(g) All connections to the snowmaking system shall be made using trench technologies which minimize the area of disturbance, and result in the least damage to plants and vegetation and alteration of terrain.

(h) Connections to the snowmaking system, when authorized and approved pursuant to this paragraph 13, shall be allowed notwithstanding any provisions to the contrary contained in the snowmaking agreement.

SECTION 2. Except as amended by this Amendment, the Agreement shall remain in full force and effect in accordance with the terms thereof.

IN WITNESS WHEREOF, the parties have caused this First Amendment to Water Supply Agreement to be effective as of the day and year first above-written.

RECORDED
DEC 0 2 1998
CITY RECORDER

SALT LAKE CITY CORPORATION

By: Leroy W. Hooton, Jr.
Director, Department of Public Utilities

ATTEST AND COUNTERSIGN:

Chief Deputy City Recorder

SALT LAKE CITY, UTAH
CORPORATE SEAL

ONNO WIERINGA dba
ALTA SKI LIFTS COMPANY

By: Onno Wieringa
Its President

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date 12/1/98
By

BOOK 8265 PAGE 6901

STATE OF UTAH)
:ss.
County of Salt Lake)

On the 4th day of November, 1998, personally appeared before me ONNO WIERINGA, who, being by me duly sworn did say that he is the President of ONNO WIERINGA dba ALTA SKI LIFTS COMPANY, a Utah corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors; and said person acknowledged to me that said corporation executed the same.

BARBARA ALTUM
NOTARY PUBLIC - STATE of UTAH
P.O. BOX 8007
ALTA, UT 84092
COMM. EXPIRES 10-29-2000

Barbara Altum
NOTARY PUBLIC, residing
in Salt Lake County, Utah

My Commission Expires:
29 Oct 2000

\Agreem98\first amend to water supply agr.doc

7310839
04/02/99 1:08 PM**NO FEE**
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
SL CITY - RECORDER
REC BY:R JORDAN ,DEPUTY - WI

BOOK 8265 PAGE 0902

ALTA SKI AREA

P.O. Box 8007
Alta, UT 84092-8007

Telephone: (801) 359-1078
Office FAX: (801) 799-2340
Shop FAX: (801) 799-2341
www.altaskiarea.com

1938-1998
60 Years
Thank You

FAX Cover Sheet

To: JEFF NIERMEYER Date: 1-12-99

Dept.: From:

FAX #: 483-6855 Number Of Pages: 6

Recorded Snow Report (801)572-3939
www.altaskiarea.com

Snow Depth: 51" Snowfall Last 24 Hours: – Snowfall Since ~~November 1st~~ Mid Oct.: 181"

Comments:

Jeff,
Here's the Town letter I mentioned & one other I'm not sure you have.

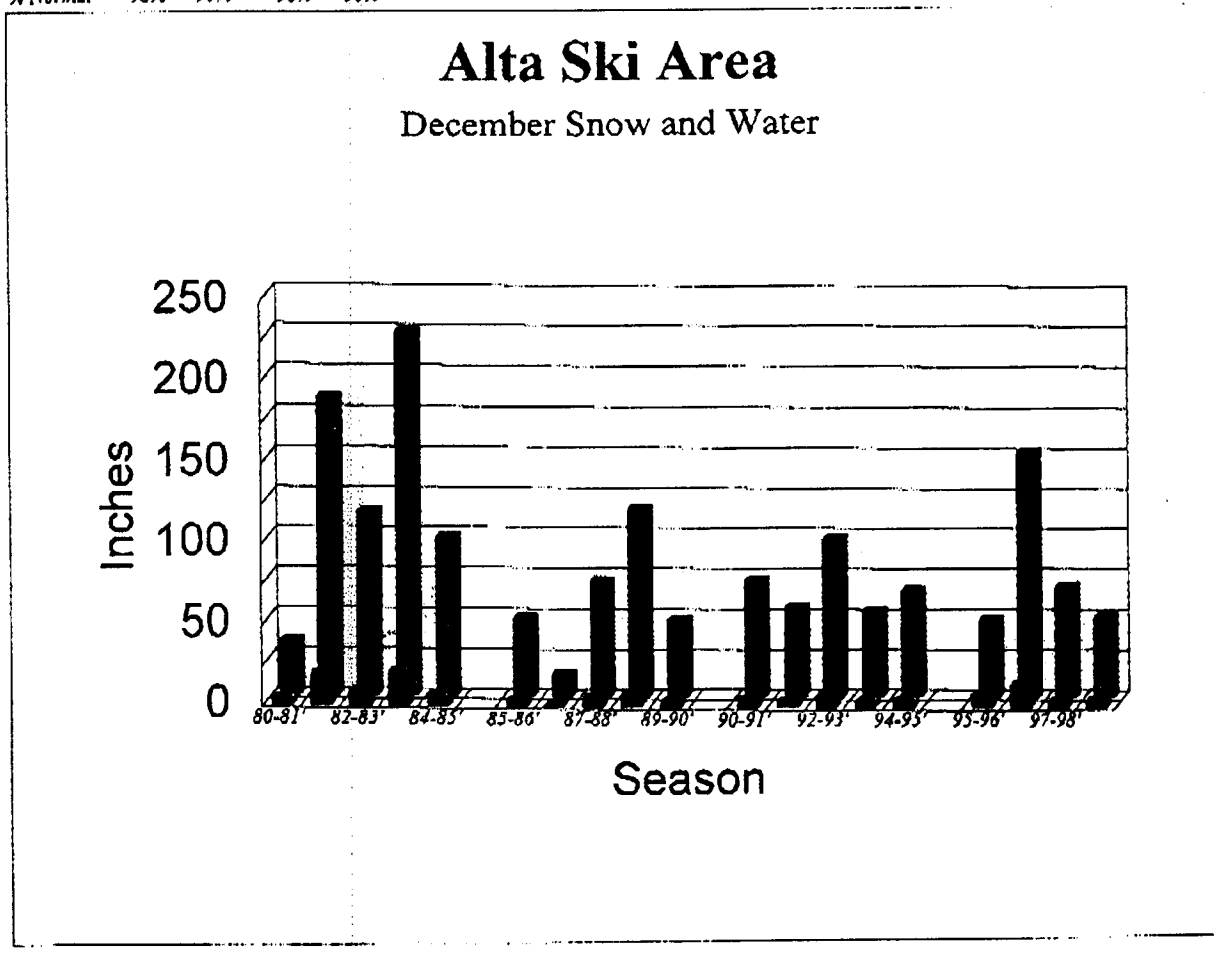
Orme

799-2260 ~~799-2158~~

50" of snow in October that stayed on the North Faces.

Alta Ski Lifts Alta, Utah
Nov .1st to May 1st

Season	November snow	November h2o	December snow	December h2o	January snow	January h2o	Febuary snow	Febuary h2o	March snow	March h2o	April snow	April h2o	Year to Date Totals		Density
80-81'	40.00	4.65	34.00	3.73									74.00	8.38	11.32%
81-82'	47.00	4.24	184.00	18.65									231.00	22.89	9.91%
82-83'	67.00	5.02	114.00	8.81									181.00	13.83	7.64%
83-84'	153.00	12.60	225.00	20.16									378.00	32.76	8.67%
84-85'	102.00	9.99	98.00	6.11									200.00	16.10	8.05%
85-86'	106.00	9.24	48.50	3.48									154.50	12.72	8.23%
86-87'	58.00	5.25	13.50	0.76									71.50	6.01	8.41%
87-88'	27.50	2.15	71.50	4.89									99.00	7.04	7.11%
88-89'	142.00	11.07	116.50	7.89									258.50	18.96	7.33%
89-90'	69.50	6.45	47.50	2.81									117.00	9.26	7.91%
90-91'	104.00	8.39	72.00	4.13									176.00	12.52	7.11%
91-92'	109.50	10.24	55.50	3.21									165.00	13.45	8.15%
92-93'	93.50	7.71	97.50	6.48									191.00	14.19	7.43%
93-94'	38.50	3.20	53.00	3.06									91.50	6.26	6.84%
94-95'	152.00	10.12	65.50	4.03									217.50	14.15	6.51%
95-96'	56.00	6.32	48.50	7.68									104.50	13.98	13.38%
96-97'	67.00	6.20	152.00	13.85									219.00	20.05	9.16%
97-98'	48.50	3.98	68.50	3.67									117.00	7.65	6.54%
98-99'	*81.00*	*6.37*	*50.00*	*3.83*									131.00	10.20	7.79%
Time Period	**November snow**	**November h2o**	**December snow**	**December h2o**	**January snow**	**January h2o**	**Febuary snow**	**Febuary h2o**	**March snow**	**March h2o**	**April snow**	**April h2o**	**Year to Date Totals**		**Density**
80-85'>	81.80	7.30	131.00	11.48									*212.80*	*18.78*	*8.83%*
85-90'>	80.60	6.63	59.50	3.97									140.10	10.60	7.71%
90-98'>	82.28	7.05	86.94	6.85									169.22	13.90	8.21%
98-99'>	*81.00*	*6.37*	*50.00*	*3.83*									*131.00*	*10.20*	*7.79%*
98-99' % Normal	*98%*	*90%*	*58%*	*56%*									*77%*	*73%*	*95%*



PRESIDENT
WILLIAM H. LEVITT

BOARD OF TRUSTEES
BARBARA BANNON
ALAN H. KAFF
CHARLES G. MORTON
JAMES R. SHANF

TOWN OF ALTA
ALTA, UTAH
84070

10 September 1977

Mr. John Cahill
Alta Peruvian Lodge
Alta Utah, 84070

Dear John:

On behalf of the Town of Alta, we hereby grant you the right and privilege to hook on and receive water from the Alta Town Culinary Water System.

This grant is for the Grizzley Gulch area and is in effect at any time you deem necessary. This right must first be cleared through the Public Works Department Alta.

For the Alta Town Board
Charles S. Eubank, Jr.
Public Works Director, Alta

cc: Alta Town Board

Recorded JUL 11 1978 at 3:57 pm.
Request of Mathis & Campbell
KATIE L. DIXON, Recorder
Salt Lake County, Utah
$ 5.00 By [illegible] Deputy
REF. 310 SE - Main 84101
05262-379-32 to 34

D5262

3136617

GRANT OF EASEMENT

In exchange for the right to connect a water line to the Culinary Water System for the TOWN OF ALTA, a Municipal Organization and Body Corporate and Politic of the State of Utah (subject however, to payment of all necessary installation, connection, and water use charges) and for other valuable consideration, JOHN D. CAHILL, GRANTOR, hereby grants, bargains, conveys and sells to TOWN OF ALTA, UTAH, GRANTEE, a perpetual, non-exclusive ten foot (10') wide easement and the right to enter upon Grantor's land for the sole purpose of installing, constructing, operating, servicing, repairing, and maintaining a buried culinary water line, the centerline of which culinary water line is described in attachment "A" annexed hereto and made a part hereof.

The easement and right-of-way hereby granted covers a strip of land ten feet (10') in width, five feet (5') wide on each side of the center line of said culinary water line described in attachment "A", wheresoever said culinary water line passes over, under or across any of the Grantor's land located in Section 4, or Township 3 South, Range 3 East, Salt Lake Base & Meridian, Salt Lake County, Utah.

Grantor reserves the right to cross over or under said easement and right-of-way, to place or grant other easements along or across said easement and right-of-way, and to build upon or over said easement and right-of-way so long as such other uses do not in any way hinder or prevent Grantee's use of said easement and right-of-way for the limited purposes herein granted.

WITNESS the hand of said Grantor, this 19th day of September, 1977.

John D. Cahill
JOHN D. CAHILL

STATE OF UTAH)
; ss
COUNTY OF SALT LAKE)

On the 19th day of September, 1977, personally appeared before me, JOHN D. CAHILL, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

Notary Public, residing at:

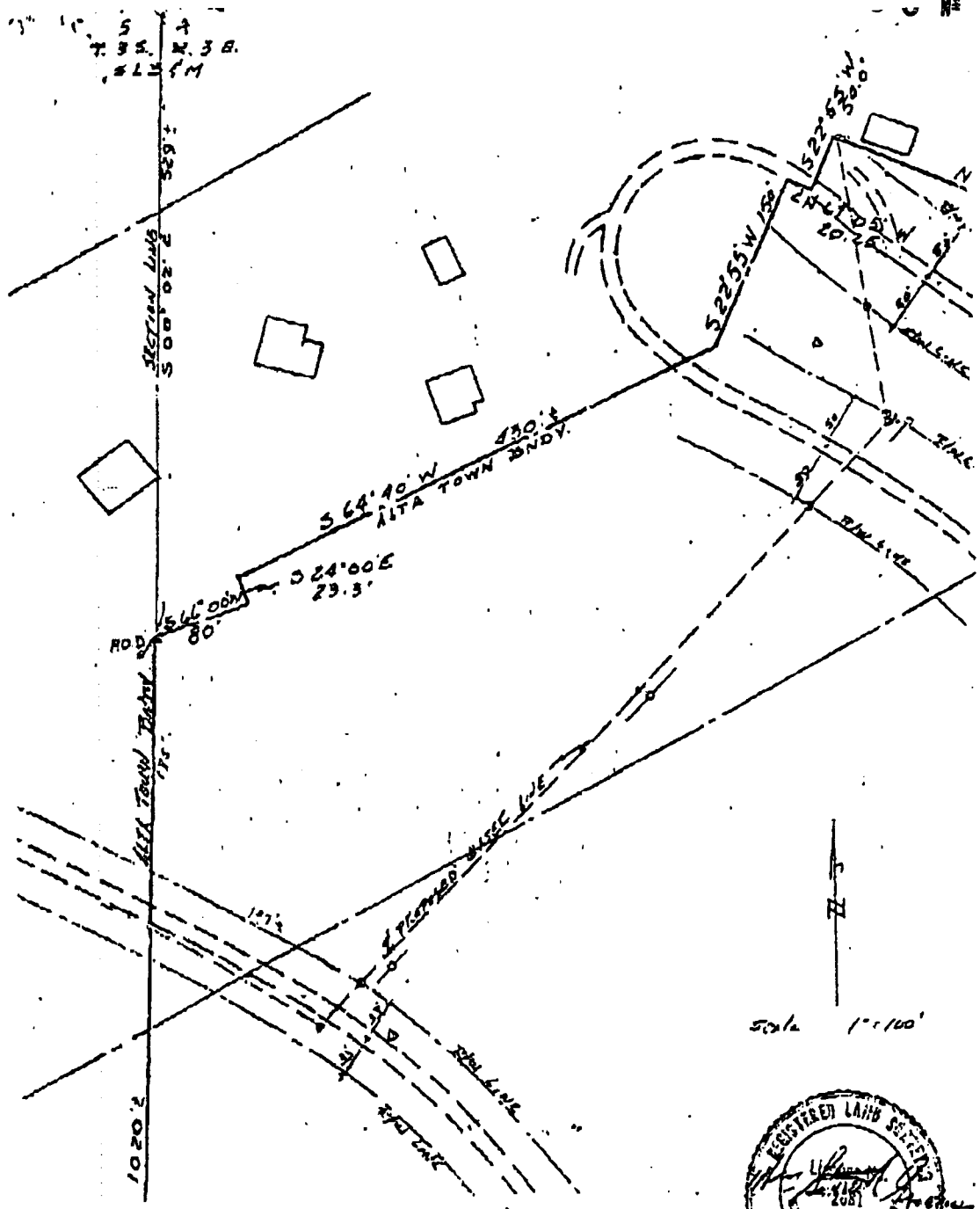
My Commission Expires:

16 January 1981 S.L.C. Ut.

ATTEST:

City Recorder

BOOK 4704 PAGE 1462



CENTER LINE DESCRIPTION OF A 10 FOOT WIDE EASEMENT FOR A CULINARY WATER LINE ACROSS THE JOHN CAHILL PROPERTY AT ALTA, UTAH.

BEGINNING at a point which is South 00° 02' East 724 feet, more or less, from the Northwest corner of Section 4, Township 3 South, Range 3 East, Salt Lake Base and Meridian and Southeasterly 197 feet, more or less, along the Northeasterly Right of Way Line of a 66 Foot Wide Forest Roadway and running thence Northeasterly 530 feet, more or less, parallel to and 10 feet Northwesterly from the Center Line of a Power and Telephone Transmission Line, to the Westerly Right of Way Line of a 100 Foot Wide Forest Roadway; thence Northeasterly across said Roadway 101 feet; thence North 11°39' West 95 Feet, more or less, to the Southerly Right of Way Line of a 100 Foot Wide Forest Roadway; thence North 11°39' West 195 Feet across said Roadway to the Northerly Corner of the John Cahill property.

REGISTERED LAND SURVEYOR
STATE OF UTAH

BOOK 4704 PAGE 1463

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

DEEDEE CORRADINI
MAYOR

December 22, 1998

Onno Wieringa
General Manager
P.O. Box 8007
Alta, Utah 84092-8007

Dear Onno:

We received by mail Alta Powder Cards for LeRoy Hooton, Jeff Niermeyer and Florence Reynolds. As public officials it is important that we adhere to a strict standard of conflict of interest. Consequently we can not accept these cards.

Best Regards,

LeRoy W. Hooton

LeRoy W. Hooton Jr.
Director Public Utilities

1530 SOUTH WEST TEMPLE, SALT LAKE CITY, UTAH 84115
TELEPHONE: 801-483-6900 FAX 801-483-6818

RECYCLED PAPER

CONTRACT ROUTING FORM

REQUESTING DEPARTMENT/DIVISION Public Utilities	DATE 11/20/1998
DEPARTMENTAL CONTACT Karryn Greenleaf	PHONE 483-6769
CONTRACTING PARTY: Alta Ski Lifts Company	REF #
SUBJECT: First Amendment Water Supply Agreement	

Number of Copies 1

Expected Completion 11/98

	Yes	No
Insurance Required	☐	☒
Insurance Attached	☐	☒

RECORDER

RECORDED DEC 0 2 1998 CITY RECORDER

RECEIVED DEC 0 2 1998 CITY RECORDER

FINANCE

Contract No. _____

Vendor No. _____

Account No. _____

Funds Available _____

Funds Not Needed JR

RECEIVED DEC 3 1998 PUBLIC UTILITIES

ATTORNEY

Approved as to Form

Date 12/1/98 By Chris Burbidge

RECEIVED CITY NOV 2 3 1998 ATTORNEY'S OFFICE

COPY DISTRIBUTION

Date _____ To _____

ALTA SKI LIFTS COMPANY
P.O. Box 8007 • ALTA, UTAH 84092-8007
PHONE 801-359-1078 • FAX 801-799-2340
www.altaskiarea.com

RECEIVED
FEB 23 2000
PUBLIC UTILITIES

Copy
Jeff
LeRoy
Kerry
Chris B.
File original.

February 18, 2000

Mr. Jeff Niermeyer
Salt Lake City Water
1530 South West Temple
Salt Lake City, Utah 84115

Dear Jeff:

I would like to request a change in our surplus water contract from our current 20 million gallons up to 40 million gallons.

With the recent approval by the Forest Service to finish our snowmaking system build out, our want for water is increasing. The snowmaking infrastructure and acreage in our build out is consistent with the Snowmaking Master Plan that we submitted in 1988. Our estimate on how much water we would want was not close, but that is the difference between projections and reality.

As we have discussed, we do not want to routinely use 40 million gallons of water, but during a low snow year and if the water is available, it certainly is a great benefit to us and our skiers.

Please let me know if you have any questions or need further information.

Sincerely,

Onno

Onno Wieringa
Alta Ski Lifts Co.

db

ALTA

ESTABLISHED 1938

State of Utah

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY

Michael O. Leavitt
Governor

Dianne R. Nielson, Ph.D.
Executive Director

Don A. Ostler, P.E.
Director

288 North 1460 West
P.O. Box 144870
Salt Lake City, Utah 84114-4870
(801) 538-6146
(801) 538-6016 Fax
(801) 536-4414 T.D.D.
www.deq.state.ut.us Web

RECEIVED
JAN 12 2000
PUBLIC UTILITIES

Water Quality Board
Leroy H. Wullstein, Ph.D.
Chairman
K.C. Shaw, P.E.
Vice Chairman
Robert G. Adams
Nan Bunker
Ray M. Child, C.P.A.
John R. Cushing, Mayor
Dianne R. Nielson, Ph.D.
Ronald C. Sims, Ph.D.
Douglas E. Thompson, Mayor
J. Ann Wechsler
William R. Williams
Don A. Ostler, P.E.
Executive Secretary

January 3, 2000

Mr. Onno Wieringa
Alta Ski Lifts Company
P.O. Box 8007
Alta, Utah 84092

Dear Mr. Wieringa:

We are responding to your letter dated December 13, 1999 in which you asked for an opinion from the Utah Division of Water Quality of a "request we have presented regarding pumping water into Cecret Lake for short-term snowmaking water storage."

William O. Moellmer, Ph.D. of our office has conducted a site visit and evaluated the chemical data you have provided of the source waters that you will use and also that of Cecret Lake. An evaluation of the data indicates that the pumping of the source water from Wildcat Pond, Little Cottonwood Creek, or Quincy Mine should not cause any exceedence of water quality standards nor cause any increase in concentrations in the lake with one exception — zinc. That data shows that the zinc concentration in Cecret lake is approximately 10 ug/l and that the zinc concentration in the pumped water is approximately 30 ug/l. These values are at the extreme lower level of detection and probably the difference in values is not significant. The chronic water quality standard for zinc is 110 ug/l. We understand that the source water eventually reaches Little Cottonwood Creek whether it is stored in Cecret Lake or not.

The Division has no objection to your pumping the indicated source waters to Cecret Lake for snowmaking provided you continue to show through metals monitoring (on a monthly basis during the pumping season) there is no significant increase in metals concentrations in the source waters above that provided in your data. Please also note that this letter does not authorize the diversion or use of any waters. This can only be done through the Division of Water Rights.

If you have any questions about this matter, please contact Mr. Moellmer of my staff.

Sincerely,

Don A. Ostler, P.E.
Director

DAO:wom

cc: Salt Lake City - County Health Department
Salt Lake City Water Department
Division of Water Rights

K:\WQ\DIRECTOR\DOSTLER\WP\
FILE: MOELLMER/WP/ALTA

file

Contact Record

Topic: Alta Ski Lifts

Date: 6-18-99

Participants: Onno Wieringo - Alta Ski Lifts
Jeff M, Russ H, Karyn

- [x] Meeting
- [ ] Phone Call
- [ ] Document
- [ ] Other

Notes

Point	Observations	Followup Action	Date
	Education of Public to Watershed issues -		
	- Set up group w/ Ski industry & F.S. for guidance		
	- Signage - Icons		
	4th & 5th grade education		
1	Change Application info.		
2	Snowmaking plan - Reservoiring?		
3	Water amount need.		
	Explaination of CA.		
	- contracts done		
	- Bill for Joe's time! for agreements		
	- Need Source of water identified		
	-		

ALTA SKI LIFTS COMPANY
P.O. Box 8007 • ALTA, UTAH 84092-8007
PHONE 801-359-1078 • FAX 801-799-2340

JUL 14 1999

Salt Lake City Water
Mr. Jeff Niermeyer
1530 South West Temple
Salt Lake City, UT 84115

Copy Jeff Karen Russ today file original

July 8, 1999

Dear Jeff,

Thank you for the opportunity to meet with you, Russ and Karen last week. It was good for Buck and Al to gain understanding of your concerns.

In this letter I will try to summarize our direction and the wants relative to water and reservoirs.

The first issue is the possible use of snowmaking water for non-culinary uses in Alf's and Watson restaurants. We already have the plumbing, in Alf's, capable of completely separating two water sources. As we plan for a replacement building for Watson's we would need to design for that use. Our anticipated uses would be things like toilets and fire protection. Our preference is to use your spring sources for everything, as our first and primary use.

The next subject is our anticipated "water want" relative to snowmaking. As we discussed, if we build out the rest of our snowmaking as approved by the Forest Service, it could take 40 million gallons, if available, in an exceptionally dry year. I would hope that 30 million would be in excess of our normal want. Some of the amount is tied to the efficiencies we may, or may not, gain through reservoirs. As we discussed, having plenty of available water during cold spells can make a big difference in how much water we use to make a given amount of snow.

Our last request deals with reservoirs. If we start with the assumption that we could temporarily store water in Cecret Lake without compromising water quality or watershed health, everything about using Cecret Lake is our best option. Our initial studies lead us to believe that we can satisfy your water quality objectives. If we cannot, we would like to pursue buried tanks and bulk heading in the Quincy and/or Hecla mines.

Please let me know what actions, if any, you need from me.

Sincerely,

Onno

Onno Wieringa
Alta Ski Area

60 YEARS Since ALTA 1938

THANK YOU

1/11/99

Vtg. Little Cottonwood
UDOT.

- Operation 975-4951 Russ Harner
Engineer Region II Stan Burns
Russ Home
Gwyn Greenleaf

Proposed - UDOT

- Fuel Facility -
- 4 Bays - store heavy equipment
- Living quarters (4) Avalanche
- Office for Avalanche.
Truck Maintenance - Emergency

Alta - Fuel

+ Hard to get to. in parking area
+ Puts Alta in commercial mode
+ Need both gas & diesel
+ Currently, fueling out of tanks in pick-ups.
+
No salt storage - except for the trucks them-self.

- Sewer is in place.
- water by the by pass road.

- Time line - sell Cottonwood Station
Early spring / New @ I-215 & 3900 So.

1/11/99

Question

① - Will we allow water sales outside of Alta Town Boundary?

② Mitigation of impact acceptable?

3. Location - Snowbird next to Snowbird Maintenance

Get back to Stan Burns & Russ Aaron

12/29/98

Meeting — Ono. Jeff
Tom Ward

- Water is available under 1875 Contract to Cahill.
- Will be deducted from 1976 Alta Contract.
- Volume & Rate: Not determined yet - ~ 20% of 150,00 max.
- Source - Quincy Mine
-

APPLICATION FOR TEMPORARY CHANGE OF WATER

15

RECEIVED
MAR 30 1992
WATER RIGHTS
SALT LAKE

Rec. by JD
Fee Paid $ 135.00
Receipt # 954
Microfilmed
Roll #

FILE
Snowbird

STATE OF UTAH

For the purpose of obtaining permission to make a temporary change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. 57 - Area *APPLICATION NO. t 92-57-20

Changes are proposed in (check those applicable)

_____ point of diversion. _____ place of use. _____ nature of use. _____ period of use.

1. OWNER INFORMATION
   Name: Salt Lake City (Department of Public Utilities) *Interest: ____%
   Address: 1530 South West Temple, Salt Lake City, Utah 84115
   City: Salt Lake City State: Utah Zip Code: 84115

2. *PRIORITY OF CHANGE: _____ *FILING DATE: _____
   *Is this change amendatory? (Yes/No): _____

3. RIGHT EVIDENCED BY: See Paragraph #3, Attachment #1

   Prior Approved Temporary Change Applications for this right: _____

********** HERETOFORE **********

4. QUANTITY OF WATER: 114.375 cfs and/or See Paragraph #4, Attachment #1 ac-ft.
5. SOURCE: Little Cottonwood Creek
6. COUNTY: Salt Lake
7. POINT(S) OF DIVERSION: See Paragraph #7 on Attachment #1

   Description of Diverting Works: _____

8. POINT(S) OF REDIVERSION
   The water has been rediverted from _____ at a point: _____

   Description of Diverting Works: _____

9. POINT(S) OF RETURN
   The amount of water consumed is _____ cfs or _____ ac-ft.
   The amount of water returned is _____ cfs or _____ ac-ft.
   The water has been returned to the natural stream/source at a point(s): _____

*These items are to be completed by the Division of Water Rights.

NOTICE TO WATER USERS

The State Engineer received the following Application to Appropriate Water in Salt Lake County (Locations in SL B&M).

Persons objecting to an application must file a Protest stating the reasons for the protest. To have a hearing before the State Engineer, persons must request a hearing in the Protest. Protest must be filed in duplicate with the State Engineer, 1636 West North Temple, Salt Lake City, Utah 84116, (801-538-7240) on or before May 21, 1992. (PROTESTS MUST BE LEGIBLE WITH A RETURN ADDRESS). These are informal proceedings as per Rule R655-6-2 of the Division of Water Rights.

57-AREA (t92-57-19): Department of Public Utilities Salt Lake City propose(s) to change the POD, POU, & USE of water as evidenced by C.W. Morse Decree #4802, date June 16, 1910.

HERETOFORE: QUANTITY: 114.375 cfs. SOURCE: Little Cottonwood Creek. POD: (1) N 77 W 663 (2) S 234 E 102 (3) N 1363 W 1143 from E1/4 Cor, Sec 29 (4) N 840 E 707 from SE Cor, Sec 34, T2S, (5) N 2309 W 744 from E1/4 Cor, Sec 11, T3S, R1E, (6) S 838 E 4512 from W1/4 Cor, Sec 7, T3S, R2E. USE: Irrigation: from Apr 1 to Oct 15, total acreage 1487.33 acs. POU within the service area of Little Cottonwood Tanner Ditch Company, Cahoon & Maxfield Irrigation Company, Walker Ditch Company, and the Richards Irrigation Company.

HEREAFTER: QUANTITY: 2000.0 ac-ft. SOURCE: Tunnels and Springs, POD: Same as Heretofore, but adding the following: (1) N 2037 E 3907 from S1/4 Cor, Sec 32, T2S, SOURCE: Fredrick (Hellgate) Tunnel (2) S 3567 W 1309 from NE Cor, Sec 6, Source: Wasatch Drain Tunnel (3) S 4842 W 388 from NE Cor, Sec 7, Source: Gad Valley Spring (4) S 1827 W 2992 from N1/4 Cor, Sec 8, T3S, R3E, Source: Tunnel on J.P. Lode Mining Claim. (Snowbird) USE: Same as Heretofore, but adding the following: Municipal: in Salt Lake City from Apr 1 to Apr 1; In Salt Lake County Service Area #3 from Apr 1 to Apr 1; Recreation: from Apr 1 to Apr 1, Resort use in Little Cottonwood Canyon including snowmaking. POU: Same as Heretofore, but additing the Service areas of Salt Lake City and Salt Lake County Service Area #3 (Snowbird).

57-AREA (t92-57-20): Department of Public Utilities Salt Lake City propose(s) to change the POD, POU, & USE of water as evidenced by C.W. Morse Decree #4802, date June 16, 1910.

HERETOFORE: QUANTITY: 114.375 cfs. SOURCE: Little Cottonwood Creek. POD: (1) N 77 W 663 (2) S 234 E 102 (3) N 1363 W 1143 from E1/4 Cor, Sec 29 (4) N 840 E 707 from SE Cor, Sec 34, T2S, (5) N 2309 W 744 from E1/4 Cor, Sec 11, T3S, R1E, (6) S 838 E 4512 from W1/4 Cor, Sec 7, T3S, R2E. USE: Irrigation: from Apr 1 to Oct 15, total acreage 1487.33 acs. POU within the service area of Little Cottonwood Tanner Ditch Company, Cahoon & Maxfield Irrigation Company, Walker Ditch Company, and the Richards Irrigation Company.

HEREAFTER: QUANTITY: 500.0 ac-ft. SOURCE: Little Cottonwood Cr & Bay City Tunl. POD: Same as Heretofore, but adding the following: (1) S 2950 E 200 from NW Cor, Sec 4, SOURCE: Little Cottonwood Cr above Snake Pit (2) S 400 W 1500 from NE Cor, Sec 5, Source: Bay City Mine Tunnel. (Alta) USE: Same as Heretofore, but adding the following: Municipal: in Salt Lake City from Apr 1 to Apr 1; In Alta City from Apr 1 to Apr 1; Recreation: Resort use in Little Cottonwood Canyon including snowmaking. POU: Same as Heretofore, but additing the service areas of Salt Lake City and Alta City.

Robert L. Morgan, P.E.
STATE ENGINEER

Published in Deseret News on May 14, 1992.
56820080

NOTICE TO WATER USERS

The following applications requesting an EXTENSION OF

3. The "heretofore" points of diversion are described in attachment #3. In paragraph 17, under the heading, "The Following Changes are Proposed:", it is stated, "Same as Heretofore & See Attachment #4". Attachment #4 lists the Bay City Mine Tunnel and Little Cottonwood Creek located above the Snake Pit. The applicant does not own and has no contract right to the water rights to be changed to permit diversion of water from the sources described.

4. The applicant's ownership of Little Cottonwood Creek water rights is being litigated in a case entitled, "Cahoon and Maxfield Irrigation Company, et al, vs. Salt Lake City, Civil No. 920900826, pending in the District Court of the Third Judicial District in and for Salt Lake County, State of Utah. A decision on the temporary change application should be deferred until that case is decided.

A hearing on the above numbered temporary change application is requested.

DATED: May 20th, 1992.

LITTLE COTTONWOOD TANNER DITCH COMPAN

Arion Erekson

ARION EREKSON, Vice President
5419 South Ninth East
Salt Lake City, Utah 84117

E J Skeen

E. J. SKEEN, No. 2969
536 East 400 South
Salt Lake City, Utah 84102
Telephone: (801) 359-2329

Attorney for Protestant

RECEIVED
MAY 20 1992
WATER RIGHTS
SALT LAKE

E. J. SKEEN, No. 2969
Attorney for Protestant
536 East 400 South
Salt Lake City, Utah 84102
Telephone: (801) 359-2329

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF TEMPORARY CHANGE APPLICATION NO. 92-57-20, FILED BY SALT LAKE CITY (DEPT. OF PUBLIC UTILITIES), TO CHANGE 500 AC-FT OF WATER TO BAY CITY MINE TUNNEL AND LITTLE COTTONWOOD CREEK LOCATED ABOVE THE SNAKE PIT.	PROTEST

THE UNDERSIGNED, owner of decreed water rights in Little Cottonwood Creek, protests the above-described temporary change application upon the following grounds:

1. The protestant is the owner, with others, of the water rights sought to be changed.

2. The applicant has only a contract interest in the water rights sought to be changed which is limited to use in Salt Lake City.

(a) In Attachment #1, paragraph 3, of the application, it is claimed by the applicant that such water rights are evidenced by C. W. Morse decree 4802, dated June 16, 1910. Such decree awards no water rights to Salt Lake City.

(b) In the same attachment, it is claimed by the applicant that such water rights are evidenced by applications for exchange of water for the four ditch companies listed in paragraph 7. Such paragraph 7 lists the following irrigation ditches: The Little Cottonwood Tanner Ditch Company, Cahoon & Maxfield Irrigation Company, Walker Ditch Company, and The Richards Irrigation Company. The exchange applications referred to were filed March 30, 1992, and have not been advertised, and, of course, have not been approved. Such applications are being litigated upon the ground that Salt Lake City does not own the water right which it seeks to exchange.

Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
Robert L. Morgan
State Engineer

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

1636 West North Temple, Suite 220
Salt Lake City, Utah 84116-3156
801-538-7240

JUN 1 1992

Copy:
LeRoy
Joe N.
Ray M.
ED H - ~~original~~
file-original

FILE

May 29, 1992

SALT LAKE CITY DEPARTMENT OF PUBLIC UTILITIES
1530 SOUTH WEST TEMPLE
SALT LAKE CITY UT 84115

RE: Appl. Nos.
t92-57-20 — Snowbird

Dear Applicant:

Please find enclosed the following document relating to the above numbered application:

Correspondence
filed by: Little Cottonwood Tanner Ditch Company
c/o Arion Erekson, Vice President
5419 South Ninth East
Salt Lake City, UT 84117

If you desire to answer the issues raised in the correspondence, submit same in duplicate on or before June 18, 1992.

If the correspondence indicates a protest and requests a hearing, a hearing may be scheduled at a later date. If a hearing is not requested, the holding of a hearing will be at the discretion of the State Engineer. All documents concerning your application will become a permanent part of your file and used in the decision making process.

If a hearing is held on this application, notice of this hearing will be sent at a later date to you and all interested parties.

Sincerely,

Robert L. Morgan, P.E.
State Engineer

RLM:dd
Enclosure

an equal opportunity employer

3. The "heretofore" points of diversion are described in attachment #3. In paragraph 17, under the heading, "The Following Changes are Proposed:", it is stated, "Same as Heretofore & See Attachment #4". Attachment #4 lists the Bay City Mine Tunnel and Little Cottonwood Creek located above the Snake Pit. The applicant does not own and has no contract right to the water rights to be changed to permit diversion of water from the sources described.

4. The applicant's ownership of Little Cottonwood Creek water rights is being litigated in a case entitled, "Cahoon and Maxfield Irrigation Company, et al, vs. Salt Lake City, Civil No. 920900826, pending in the District Court of the Third Judicial District in and for Salt Lake County, State of Utah. A decision on the temporary change application should be deferred until that case is decided.

A hearing on the above numbered temporary change application is requested.

DATED: May 20, 1992.

WALKER DITCH COMPANY

A. Glen Humpherys

A. GLEN HUMPHERYS, President
274 East 6790 South
Midvale, Utah 84047

E. J. Skeen

E. J. SKEEN, No. 2969
536 East 400 South
Salt Lake City, Utah 84102
Telephone: (801) 359-2329

Attorney for Protestant

RECEIVED
MAY 20 1992
WATER RIGHTS
SALT LAKE

E. J. SKEEN, No. 2969
Attorney for Protestant
536 East 400 South
Salt Lake City, Utah 84102
Telephone: (801) 359-2329

IN THE OFFICE OF THE STATE ENGINEER

IN THE MATTER OF TEMPORARY CHANGE APPLICATION NO. 92-57-20, FILED BY SALT LAKE CITY (DEPT. OF PUBLIC UTILITIES), TO CHANGE 500 AC-FT OF WATER TO BAY CITY MINE TUNNEL AND LITTLE COTTONWOOD CREEK LOCATED ABOVE THE SNAKE PIT.	PROTEST

THE UNDERSIGNED, owner of decreed water rights in Little Cottonwood Creek, protests the above-described temporary change application upon the following grounds:

1. The protestant is the owner, with others, of the water rights sought to be changed.

2. The applicant has only a contract interest in the water rights sought to be changed which is limited to use in Salt Lake City.

(a) In Attachment #1, paragraph 3, of the application, it is claimed by the applicant that such water rights are evidenced by C. W. Morse decree 4802, dated June 16, 1910. Such decree awards no water rights to Salt Lake City.

(b) In the same attachment, it is claimed by the applicant that such water rights are evidenced by applications for exchange of water for the four ditch companies listed in paragraph 7. Such paragraph 7 lists the following irrigation ditches: The Little Cottonwood Tanner Ditch Company, Cahoon & Maxfield Irrigation Company, Walker Ditch Company, and The Richards Irrigation Company. The exchange applications referred to were filed March 30, 1992, and have not been advertised, and, of course, have not been approved. Such applications are being litigated upon the ground that Salt Lake City does not own the water right which it seeks to exchange.

Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
Robert L. Morgan
State Engineer

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

1636 West North Temple, Suite 220
Salt Lake City, Utah 84116-3156
801-538-7240

JUN 1 1992

May 29, 1992

SALT LAKE CITY DEPARTMENT OF PUBLIC UTILITIES
1530 SOUTH WEST TEMPLE
SALT LAKE CITY UT 84115

FILE

RE: Appl. Nos.
t92-57-20 Snowbird

Dear Applicant:

Please find enclosed the following document relating to the above numbered application:

Correspondence
filed by: Walker Ditch Company
c/o A. Glen Humpherys, President
274 East 6790 South
Midvale, UT 84047

If you desire to answer the issues raised in the correspondence, submit same in duplicate on or before June 18, 1992.

If the correspondence indicates a protest and requests a hearing, a hearing may be scheduled at a later date. If a hearing is not requested, the holding of a hearing will be at the discretion of the State Engineer. All documents concerning your application will become a permanent part of your file and used in the decision making process.

If a hearing is held on this application, notice of this hearing will be sent at a later date to you and all interested parties.

Sincerely,

Robert L. Morgan, P.E.
State Engineer

RLM:dd
Enclosure

an equal opportunity employer

The balance of the rights will continue to be used for municipal purposes by Salt Lake City.

A contract has been made between Salt Lake City Corporation and Salt Lake County Service Area-No. 3 - Snowbird for the service area to divert up to 1152 acre-feet of water annually for domestic, commercial and incidental requirements within the service area.

ITEM 7, POINTS OF DIVERSION: **Attachment #1**

1. Little Cottonwood Tanner Ditch Company: S 234 ft and E 102 ft from the W 1/4 Corner Section 28, Township 2 South, Range 1 E, Salt Lake Base and Meridian.

2. Cahoon and Maxfield Irrigation Company: N 77 ft and W 663 ft from the E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

3. Walker Ditch Company: N 1363 ft and W 1143 ft from E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

4. Richards Irrigation Company: S 1800 ft and E 707 ft from N 1/4 Corner Section 34, Township 2 South Range 1 East, Salt Lake Base and Meridian.

5. Murray City Power Plant Diversion: S 838 ft and E 4512 from W 1/4 Corner Section 7, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

6. Little Cottonwood Creek Diversion Dam: N 2309 ft and W 743 ft from E 1/4 Corner Section 11, Township 3 S, Range 1 East, Salt Lake Base and Meridian.

ITEM 15, SOURCES:

1. Tunnel on J. P. Lode Mining Claim
2. Wasatch Drain Tunnel
3. Fredrick (Hellgate) Tunnel
4. Gad Valley Spring

ITEM 17, POINTS OF DIVERSION:

1. S 7107 ft and W 2991 ft from S 1/4 Corner Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

2. S 3567 Ft and W 1309 ft from NE Corner Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

3. N 2037 ft and E 390 ft from S 1/4 Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

4. S 9507 ft and W 3497 ft from NE Corner Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

ITEM 24, EXPLANATORY:

This change application is based on rights in Little Cottonwood Tanner Ditch company, Cahoon and Maxfield Irrigation Company, Walker Ditch Company and Richards Irrigation Company. The rights are shown in the C.W. Morse Decree on Little Cottonwood Creek, Civil No. 4802, Dated June 16, 1910. The use of these rights is defined further by a statement of Water Users Claim No. 57-8973 entered in the proposed determination of water rights.

20. NATURE AND PERIOD OF USE

Irrigation: From _____ to _____
Stockwatering: From _____ to _____
Domestic: From _____ to _____
Municipal: From January 1 to December 31
Mining: From _____ to _____
Power: From _____ to _____
Other: From _____ to _____

21. PURPOSE AND EXTENT OF USE

Irrigation: _____ acres. Sole supply of _____ acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City
Mining: _____ Mining District at the _____ Mine.
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

22. PLACE OF USE

Legal description of place of use by 40 acre tract(s): Salt Lake County Service Area No. 3 - Snowbird

23. STORAGE

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 tract(s): _____

24. EXPLANATORY

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): See Attachments

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

H. Roy W. Hoot
Signature of Applicant(s)

10. **NATURE AND PERIOD OF USE**

Irrigation: From _____ to _____
Stockwatering: From _____ to _____
Domestic: From _____ to _____
Municipal: From January 1 to December 31
Mining: From _____ to _____
Power: From _____ to _____
Other: From _____ to _____

11. **PURPOSE AND EXTENT OF USE**

Irrigation: _____ acres. Sole supply of _____ acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City
Mining: _____ Mining District in the _____ Mine.
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

12. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): _____

13. **STORAGE**

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 tract(s): _____

********** **THE FOLLOWING CHANGES ARE PROPOSED** **********

14. QUANTITY OF WATER: _____ cfs and/or 1153 ac-ft.
15. SOURCE: See Explanatory
Balance of the water will be abandoned: _____, or will be used as heretofore: _____
16. COUNTY: Salt Lake
17. POINT(S) OF DIVERSION: See Explanatory

Description of Diverting Works: _____
*COMMON DESCRIPTION: _____

18. **POINT(S) OF REDIVERSION**

The water will be rediverted from _____ at a point: _____

Description of Diverting Works: _____

19. **POINT(S) OF RETURN**

The amount of water to be consumed is _____ cfs or _____ ac-ft.
The amount of water to be returned is _____ cfs or _____ ac-ft.
The water will be returned to the natural stream/source at a point(s): _____

Dup

STATEMENT OF OWNERSHIP SEGREGATION

Perfected Water Right

STATE OF UTAH

*Prepared by*_____
*Date Prepared*_____
*Microfilmed*_____
*Roll #*_____

For the purpose of informing the State Engineer of the acquisition of a portion of a perfected water right, this statement is hereby made, based upon the following showing of facts.

WATER RIGHT #: 57-10012 APPLICATION #: Priority Date:

WATER RIGHT SEPARATED FROM: 57-8973 (Decree)
(Contract Salt Lake County Service Area No.3 (Snowbird) a16843)

****

1. **OWNERSHIP INFORMATION:**

   A. **NAME:** Salt Lake City Corp.
   Department of Public Utilities
   ADDRESS: 1530 South West Temple, Salt Lake City, UT 84115

2. **SOURCE INFORMATION:**

   A. **QUANTITY OF WATER:** 2,000.0 acre-feet

   B. **DIRECT SOURCE:** Little Cottonwood Creek **COUNTY:** Salt Lake

   C. **DRAINAGE AREA:** Lower Jordan River-East

   D. **COMMON DESCRIPTION:**

   E. **POINTS OF DIVERSION -- SURFACE:**

   (1) N 77 feet W 663 feet from W¼ corner, Section 28, T 2S, R 1E, SLBM
   DIVERT WORKS: Cahoon & Maxfield Ditch

   (2) S 234 feet E 102 feet from E¼ corner, Section 29, T 2S, R 1E, SLBM
   DIVERT WORKS: Little Cottonwood Tanner Ditch

   (3) N 1363 feet W 1143 feet from E¼ corner, Section 29, T 2S, R 1E, SLBM
   DIVERT WORKS: Walker Ditch

   (4) S 1800 feet E 707 feet from N¼ corner, Section 34, T 2S, R 1E, SLBM
   DIVERT WORKS: Richards Ditch

   (5) N 2309 feet W 744 feet from E¼ corner, Section 11, T 3S, R 1E, SLBM
   DIVERT WORKS: Little Cottonwood Div. Dam

   (6) S 838 feet E 4512 feet from W¼ corner, Section 7, T 3S, R 2E, SLBM
   DIVERT WORKS: Murray City Power Plant

3. **WATER USE INFORMATION:**

MUNICIPAL: from Jan 1 to Dec 31. Salt Lake City & it's service area.

APPLICATION FOR PERMANENT CHANGE OF WATER

STATE OF UTAH

JUN 24 1992

Rec. by KT
Fee Paid $ 120.00
Receipt # 624923
Microfilmed
Roll #

add. fee of $60 received 10/9/92 see correspondence file

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

***WATER RIGHT NO.** 57-8973 ***APPLICATION NO. a** 16843

Changes are proposed in (check those applicable)

_____ point of diversion. _____ place of use. _____ nature of use. _____ period of use.

1. **OWNER INFORMATION**

Name: Salt Lake City Corporation (Department of Public Utilities) *Interest: ____%

Address: 1530 South West Temple

City: Salt Lake City State: Utah Zip Code: 84115

2. ***PRIORITY OF CHANGE:** _____ ***FILING DATE:** _____

*Is this change amendatory? (Yes/No): No

3. **RIGHT EVIDENCED BY:** C. W. Morse Decree for Little Cottonwood Creek, Third District Court, Civil #4802, Water Right No. 57-8973

Prior Approved Change Applications for this right: _____

************************************ **HERETOFORE** ************************************

4. **QUANTITY OF WATER:** _____ cfs and/or 1152 ac-ft.
5. **SOURCE:** Little Cottonwood Creek
6. **COUNTY:** Salt Lake
7. **POINT(S) OF DIVERSION:** See Attached Sheet

Description of Diverting Works: _____

8. **POINT(S) OF REDIVERSION**

The water has been rediverted from _____ at a point: _____

Description of Diverting Works: _____

9. **POINT(S) OF RETURN**

The amount of water consumed is ____ cfs or ____ ac-ft.

The amount of water returned is ____ cfs or ____ ac-ft.

The water has been returned to the natural stream/source at a point(s): _____

***These items are to be completed by the Division of Water Rights.**

Permanent Change

10. **NATURE AND PERIOD OF USE**

Irrigation: From _____ to _____
Stockwatering: From _____ to _____
Domestic: From _____ to _____
Municipal: From January 1 to December 31
Mining: From _____ to _____
Power: From _____ to _____
Other: From _____ to _____

11. **PURPOSE AND EXTENT OF USE**

Irrigation: _____ acres. Sole supply of _____ acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City
Mining: _____ Mining District in the _____ Mine.
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

12. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): _____

13. **STORAGE**

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 tract(s): _____

************************ **THE FOLLOWING CHANGES ARE PROPOSED** ************************

14. **QUANTITY OF WATER:** _____ cfs and/or 1153 ac-ft.
15. **SOURCE:** See Explanatory
Balance of the water will be abandoned: _____, or will be used as heretofore: _____
16. **COUNTY:** Salt Lake
17. **POINT(S) OF DIVERSION:** See Explanatory

Description of Diverting Works: _____
*COMMON DESCRIPTION: _____

18. **POINT(S) OF REDIVERSION**

The water will be rediverted from _____ at a point: _____

Description of Diverting Works: _____

19. **POINT(S) OF RETURN**

The amount of water to be consumed is _____ cfs or _____ ac-ft.
The amount of water to be returned is _____ cfs or _____ ac-ft.
The water will be returned to the natural stream/source at a point(s): _____

20. **NATURE AND PERIOD OF USE**

Irrigation:	From 1 April	to 15 October
Stockwatering:	From ____	to ____
Domestic:	From 1 January	to 31 December
Municipal:	From 1 January	to 31 December
Mining:	From ____	to ____
Power:	From ____	to ____
Other:	From 1 January	to 31 December

21. **PURPOSE AND EXTENT OF USE** Same as Heretofore (Not Defined in the Decree) See Attachment # and Attachment #

Irrigation: ____ acres. Sole supply of ____ acres.

Stockwatering (number and kind): ____

Domestic: ____ Families and/or ____ Persons.

Municipal (name): Salt Lake City & its Service Areas in Salt Lake County

Mining: ____ Mining District at the ____ Mine.

Ores mined: ____

Power: Plant name: ____ Type: ____ Capacity: ____

Other (describe): Resort Use in Little Cottonwood Canyon including Snow Making

22. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): Same as Heretofore and Salt Lake County Service Area #3 - See Attachment #5

23. **STORAGE**

Reservoir Name: ____ Storage Period: from ____ to ____

Capacity: ____ ac-ft. Inundated Area: ____ acres.

Height of dam: ____ feet.

Legal description of inundated area by 40 tract(s): ____

24. **EXPLANATORY**

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): See Attachment #6 and #7

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

LeRoy W. Hooton

Signature of Applicant(s)

ITEM 7, POINTS OF DIVERSION: **Attachment #1**

1. Little Cottonwood Tanner Ditch Company: S 234 ft and E 102 ft from the W 1/4 Corner Section 28, Township 2 South, Range 1 E, Salt Lake Base and Meridian.

2. Cahoon and Maxfield Irrigation Company: N 77 ft and W 663 ft from the E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

3. Walker Ditch Company: N 1363 ft and W 1143 ft from E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

4. Richards Irrigation Company: S 1800 ft and E 707 ft from N 1/4 Corner Section 34, Township 2 South Range 1 East, Salt Lake Base and Meridian.

5. Murray City Power Plant Diversion: S 838 ft and E 4512 from W 1/4 Corner Section 7, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

6. Little Cottonwood Creek Diversion Dam: N 2309 ft and W 743 ft from E 1/4 Corner Section 11, Township 3 S, Range 1 East, Salt Lake Base and Meridian.

ITEM 15, SOURCES:

1. Tunnel on J. P. Lode Mining Claim
2. Wasatch Drain Tunnel
3. Fredrick (Hellgate) Tunnel
4. Gad Valley Spring

ITEM 17, POINTS OF DIVERSION:

1. S 7107 ft and W 2991 ft from S 1/4 Corner Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

2. S 3567 Ft and W 1309 ft from NE Corner Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

3. N 2037 ft and E 390 ft from S 1/4 Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

4. S 9507 ft and W 3497 ft from NE Corner Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

ITEM 24, EXPLANATORY:

This change application is based on rights in Little Cottonwood Tanner Ditch company, Cahoon and Maxfield Irrigation Company, Walker Ditch Company and Richards Irrigation Company. The rights are shown in the C.W. Morse Decree on Little Cottonwood Creek, Civil No. 4802, Dated June 16, 1910. The use of these rights is defined further by a statement of Water Users Claim No. 57-8973 entered in the proposed determination of water rights.

The balance of the rights will continue to be used for municipal purposes by Salt Lake City.

A contract has been made between Salt Lake City Corporation and Salt Lake County Service Area-No. 3 - Snowbird for the service area to divert up to 1152 acre-feet of water annually for domestic, commercial and incidental requirements within the service area.

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE	)	
	)	MEMORANDUM DECISION
APPLICATION NUMBER 57-10012 (a16843)	)	

Change Application Number 57-10012 (a16843), in the name of Salt Lake City Corporation, was filed on October 9, 1992, to appropriate 114.375 cfs of water from Little Cottonwood Creek, located: 1) South 234 feet and East 102 feet from the W¼ Corner of Section 28, T2S, R1E, SLB&M; 2) North 77 feet and West 663 feet from the E¼ Corner of Section 29, T2S, R1E, SLB&M; 3) North 1363 feet and West 1143 feet from the E¼ Corner of Section 29, T2S, R1E, SLB&M; 4) South 1800 feet and East 707 feet from the N¼ Corner of Section 34, T2S, R1E, SLB&M; 5) North 2309 feet and West 743 feet from the E¼ Corner of Section 11, T3S, R1E, SLB&M; 6) South 838 feet and East 4512 feet from the W¼ Corner of Section 7, T3S, R2E, SLB&M; 7) South 7107 feet and West 2991 feet from S¼ Corner of Section 32, T2S, R3E, SLB&M; 8) South 3567 feet and West 1309 feet from the NE Corner of Section 6, T3S, R3E, SLB&M; 9) North 2037 feet and East 390 feet from the S¼ Corner of Section 32, T2S, R3E, SLB&M; 10) South 9507 feet and West 3497 feet from the NE Corner of Section 6, T3S, R3E, SLB&M and used for municipal in Salt Lake City and its service area, Salt Lake County Service Area #3, and resort use at Snowbird including snow making. The application was approved on July 12, 1994, and proof of beneficial use was last due on April 30, 1998.

The applicant has filed a request for extension of time within which to submit proof with the State Engineer stating that the construction of the facilities has been completed and a portion of the water put to beneficial use. Additional time is being requested to place this water right to full beneficial use.

Information contained in the file indicates that, to date, there has been physical development completed under this application. Approximately four years have passed since the application was approved. However, the applicant's affidavit in support of the application may justify reasonable cause for delay.

The applicant is placed on notice that future extension requests must comply with the provisions of Section 73-3-12, Utah Code Annotated 1953. The State Engineer may grant extensions of time for a public agency if the application "meets the reasonable future requirements of the public". The applicant in future extension requests must satisfy Section 73-3-12 by providing detailed efforts of due diligence or reasonable future requirements of the public, or the requests may be denied.

It is, therefore, **ORDERED** and an extension of time within which to submit proof is **GRANTED** on Change Application Number 57-10012 (a16843) to and including April 30, 2003.

This extension is granted in accordance with the law which states: "The construction of the works and the application of water to beneficial use shall be diligently prosecuted to completion within the time fixed by the State Engineer. Extensions of time ... may be granted by the State Engineer on proper showing of diligence or reasonable cause for delay ... In the consideration of an application to extend the time in which to place the water to beneficial use under an approved application, ... the State Engineer shall deny such extension and declare the application lapsed, unless the applicant affirmatively shows that he has exercised or is exercising reasonable and due diligence in working toward completion of the appropriation."

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Your contact with this office, should you need it, is with the Utah Lake/Jordan River Regional Office. The telephone number is (801) 538-7421.

Dated this 23rd day of June, 1998.

Robert L. Morgan, P.E., State Engineer
BY: Kent L. Jones, P.E. Assistant State Engineer for Appropriation

RLM:JER:dd

Mailed a copy of the foregoing Memorandum Decision this 23rd day of June, 1998, to:

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, UT 84115

BY: Dana Dredge, Extension Secretary

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEDEE CORRADINI
MAYOR

DEPARTMENT OF PUBLIC UTILITIES
Water Supply & Waterworks
Water Reclamation & Stormwater

MAILED
AUG 13 1993
FILE

August 12, 1993

Doug Evans
Salt Lake County Service Area #3
Snowbird
P. O. Box 67
Snowbird, Utah 84092

Re: Second Amendment of the Agreement with Salt Lake County Service Area No. 3

Dear Mr. Evans:

In researching our files we cannot find a signed copy of the above-mentioned agreement. Please find enclosed for review and signature an original of this agreement.

Upon completion of signing the document and having it notarized, please return to the Public Utilities Department, 1530 South West Temple, Salt Lake City, Utah 84115, Attention Karryn Greenleaf, for further processing.

Thank you for your cooperation in this matter.

Sincerely,

LEROY W. HOOTON, JR.
Director

/kg
enclosure(s)
cc: Kent Hoopingarner
File

29 P

VAN COTT, BAGLEY, CORNWALL & McCARTHY
A Professional Corporation
50 South Main Street, Suite 1600
P.O. Box 45340
Salt Lake City, Utah 84145
Telephone: (801) 532-3333

DATE: _____
TIME: _____
OPERATOR: _____

Telecopy No. (801) 534-0058

TELECOPIER COVER LETTER

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: **LeRoy Hooton**

CITY/STATE:

TELECOPY NO: 483-6818

CONFIRMATION NO: 483-6768

FROM:

NAME: **Tom Berggren**

CITY/STATE: Salt Lake City, Utah

RE:

COMMENTS:

TOTAL NUMBER OF PAGES: 2 (INCLUDING COVER LETTER)

DATE: June 14, 1995

TIME: 4:30 p.m.

ORIGINAL WILL NOT FOLLOW

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE

PHONE: (801) 532-3333, Ext. 358 or 458

Client Name: TGB

Client No.: 00136 Matter No.: 00001

The information transmitted by this Facsimile is considered Attorney Privileged and Confidential and is intended only for the use of the individual or entity named. If the reader of this message is not the intended recipient, you should be aware that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and destroy this Facsimile. Thank you.

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

DEEDEE CORRADINI
MAYOR

FILED
APR 8 1994
FILE

April 4, 1994

Doug Evans
General Manager
Salt Lake County
Service Area-No. 3
P. O. Box 920067
Snowbird, Utah 84092-0067

RE: Amendment to Water Supply Agreement to Permit Snowmaking and Amendment of Water Supply Agreement

Dear Mr. Evans:

Please find enclosed, for your review and signature, the original documents for the above-noted agreements.

Will you please sign the documents, have them notarized and return them to the Public Utilities Department, 1530 South West Temple, Salt Lake City, Utah 84115, Attention Karryn Greenleaf, for further processing.

If you need any additional information, please feel free to call Tim Doxey at 483-6771.

Thank you for your cooperation in this matter.

Sincerely,

LeRoy W. Hooton

LEROY W. HOOTON, JR.
Director

/kg
cc: file

1530 SOUTH WEST TEMPLE, SALT LAKE CITY, UTAH 84115
TELEPHONE: 801-483-6768 FAX: 801-483-6818

AMENDMENT TO WATER SUPPLY AGREEMENT
TO PERMIT SNOW MAKING

THIS AGREEMENT AMENDMENT is made and entered into as of _____, by and between SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah, hereinafter "City", and SALT LAKE COUNTY SERVICE AREA NO. 3 - SNOWBIRD, hereinafter "Company", wherein the parties desire to and do hereby amend that certain agreement between them dated December 28, 1972, amended January 24, 1984, to add snowmaking as a permitted use of water at the Snowbird ski resort in Little Cottonwood Canyon, by amending paragraph 5 to hereafter read as follows:

5. The uses of water supplied hereunder shall be limited solely to domestic, commercial and snowmaking purposes and shall not be used for irrigation or agricultural sprinkling. Company may use up to a total of thirty million (30,000,000) gallons of water annually for snowmaking, unless a larger amount is authorized for one (1) year by the City's director of public utilities (Director), if available from the amounts of water authorized under paragraphs 1 and 2 hereof, with diversion from the above and below described diversion points if these do not interfere with the rights of others. Said water authorized under this paragraph shall be used solely for snowmaking by Snowbird during the months of October through March of each year. Each diversion for snowmaking shall be metered with a protected meter approved by the Director or his designee. Company will provide access to City for reading of the meters. Company will convey said meters to the City and City will thereafter maintain them at its cost except for damage thereto caused by Company, its agents or employees or users. City will read and bill the Company for water used therethrough at the rate of eighteen percent (18%) of the then current City rate for water service to a city resident. In addition to the above designated points of diversion, Company may divert water hereunder for snowmaking from the following four (4) points of diversion in Little Cottonwood Creek and Gad Valley Gulch Stream:

Point of Diversion #1.

A snowmaking water point of diversion located in Little Cottonwood Creek, east of the Snowbird Plaza building, that is South 50°39'00" West, 7,210 feet more or less from the South 1/4 Corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian. RE 4-8-94

Point of Diversion #2.

A snowmaking water point of diversion located in Little Cottonwood Creek, west of the Confluence of the Gad Valley Gulch Stream and Little Cottonwood Creek, that is South 56°42'10" West, 10,592 feet more or less from the South 1/4 Corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian. RE 4-8-94

Point of Diversion #3.

A snowmaking water point of diversion located in the upper Gad Valley Gulch Stream, adjacent to the base of Little Cloud Chair Lift, that is South 28°33'30" West, 12,644 feet more or less from the South 1/4 Corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian. RE 4-8-94

Point of Diversion #4.

A snowmaking water point of diversion located in the lower Gad Valley Gulch Stream, adjacent to the base of the Gad Two Chair Lift, that is South 44°9'20" West, 11,728 feet more or less from the South 1/4 Corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian. RE 4-8-94

EXCEPT as modified hereby, said agreement between the parties dated December 28, 1972, amended January 24, 1984, shall remain in full force and effect.

IN WITNESS WHEREOF the parties have executed this Agreement Amendment to be effective as of the day and year first above written.

SALT LAKE CITY CORPORATION

By_____
LEROY W. HOOTON, JR., Director
Department of Public Utilites

ATTEST:

_____
Chief Deputy City Recorder

SALT LAKE COUNTY SERVICE AREA
NO. 3 - SNOWBIRD

By_____
Title:

ATTEST:

_____
Clerk of the Salt Lake County
Service Area No. 3 - Snowbird

STATE OF UTAH)
: ss.
County of Salt Lake)

On the _____ day of _____, 1994, personally appeared before me _____ and _____, who being by me duly sworn, did say that they are the Chairman of the Board of Trustees and Clerk of Salt Lake County Service Area No. 3 - Snowbird, and that as such, they executed the foregoing instrument on behalf of said Service Area by authority of a Resolution of its Board of Trustees, and said persons acknowledged to me that said Service Area executed the same.

_____
NOTARY PUBLIC, residing in
Salt Lake County, Utah

My Commission Expires:

_____

AMENDMENT OF
WATER SUPPLY AGREEMENT

SALT LAKE COUNTY SERVICE AREA NO. 3 - SNOWBIRD

THIS AGREEMENT AMENDMENT is made and entered into as of _____, by and between SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah, hereinafter "City", and SALT LAKE COUNTY SERVICE AREA NO. 3 - SNOWBIRD, hereinafter "Company", whereby the parties desire to and do hereby amend that certain Water Supply Agreement between them dated December 28, 1972, by amending paragraph 4 thereof, effective on the date first above written, as follows:

4. Company will install at its sole cost, to City specifications, all necessary shut-off valves and meters so that City can control and measure the amount of water used by Company. Company shall convey said valves and meters to City and shall pay for City's maintenance and/or replacement thereof. City will at all times be provided with complete access to said valves and meters by Company, and City will from time to time, read the same and compute the amount of water used by the Company, which will be billed to Company at the same City rate as is set forth in Section 17.16.680.A, *Salt Lake City Code*, or its successors. Company agrees to pay said charges within fifteen (15) days after a statement is forwarded by City. City reserves the right to change the water rates at any time.

EXCEPT as modified hereby, said Agreement between the parties dated December 28, 1972, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement the day and year first above written.

SALT LAKE CITY CORPORATION

By_____
LEROY W. HOOTON, JR.
Director, Department of
Public Utilities

ATTEST:

_____
Chief Deputy City Recorder

SALT LAKE COUNTY SERVICE AREA
NO. 3 - SNOWBIRD

By_____
Chairman of the Board of
Trustees

ATTEST:

_____
Clerk

STATE OF UTAH)
: ss.
County of Salt Lake)

On this the _____ day of _____, 1994, personally appeared before me _____ and _____, who, being by me duly sworn, did say that they are the Chairman of the Board of Trustees and Clerk of Salt Lake County Service Area

No. 3 - Snowbird, and that as such, they signed the foregoing instrument for and in behalf of said Service Area by authority of a motion duly passed by its Board of Trustees and said persons acknowledged to me that said Service Area executed the same.

_____
NOTARY PUBLIC, residing in
Salt Lake County, Utah

My Commission Expires:

_____

RLM.rc

From: Dan Schenck
Date: 11/22/93 3:23 PM
Priority: Normal
Receipt Requested
TO: Karryn Greenleaf
CC: Cathy Hartshorn
Subject: snowbird snowmaking
---------- Message Contents ----------

As you are aware Snowbird does not have a signed agreement with SLC for snowmaking. I met with Doug Evans today to discuss the problems with the past contracts and to inspect the meter installations that have been making snow for a month already this year.

The problems involved with the contract are many in which I feel a meeting with Doug, Tim and Ray Montgomery needs to be set up. I will hand deliver the changes to the amendment that Doug would like to have and would sign today if we would approve it. I feel legal counsel is neccessary on his changes.

Just for your information the meter readings for these 2 snowmaking facilities are:

#1
3" rockwell ser # 16899400
11/6/93 - 16899400 gallons
11/22/93 - 17641600 gallons

#2
neptune ser # 31950855
11/6/93 - 0 gallons
11/22/93 - 270700 gallons

Corrected 9-22-92

APPLICATION FOR PERMANENT CHANGE OF WATER

MAILED

Rec. by _____

Fee Paid $ _____

Receipt # _____

Microfilmed _____

Roll # _____

STATE OF UTAH

SEP 22 1992

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

***WATER RIGHT NO.** _____-_____ ***APPLICATION NO. a** _____

Changes are proposed in (check those applicable)

X point of diversion. X place of use. X nature of use. _____ period of use.

1. **OWNER INFORMATION**

Name: Salt Lake City (Department of Public Utilities) *Interest: ____%

Address: 1530 South West Temple, Salt Lake City, Utah 84115

City: Salt Lake City State: Utah Zip Code: 84115

2. ***PRIORITY OF CHANGE:** _____ ***FILING DATE:** _____

*Is this change amendatory? (Yes/No): _____

3. **RIGHT EVIDENCED BY:** See Paragraph #3, Attachment #1

Prior Approved Change Applications for this right: _____

************************************ **HERETOFORE** ************************************

4. **QUANTITY OF WATER:** 114.375 cfs and/or See Paragraph #4, Attachment #1 ac-ft.
5. **SOURCE:** Little Cottonwood Creek
6. **COUNTY:** Salt Lake
7. **POINT(S) OF DIVERSION:** See Paragraph #7 on Attachment #1

Description of Diverting Works: _____

8. **POINT(S) OF REDIVERSION**

The water has been rediverted from _____ at a point: _____

Description of Diverting Works: _____

9. **POINT(S) OF RETURN**

The amount of water consumed is _____ cfs or _____ ac-ft.

The amount of water returned is _____ cfs or _____ ac-ft.

The water has been returned to the natural stream/source at a point(s): _____

***These items are to be completed by the Division of Water Rights.**

10. **NATURE AND PERIOD OF USE**

Irrigation: From 1 April to 15 October
Stockwatering: From _____ to _____
Domestic: From 1 January to 31 December
Municipal: From 1 January to 31 December
Mining: From _____ to _____
Power: From _____ to _____
Other: From _____ to _____

11. **PURPOSE AND EXTENT OF USE**

Irrigation: _____ acres. Sole supply of _____ acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City & its Service Area in Salt Lake County-See Attachment #2
Mining: _____ Mining District in the _____ Mine.
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

12. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): Not Defined in the Decree--Within Salt Lake City and its Service Areas Within Salt Lake County - See Attachment #3

13. **STORAGE**

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 tract(s): _____

************************ **THE FOLLOWING CHANGES ARE PROPOSED** ************************

14. **QUANTITY OF WATER:** _____ cfs and/or 2000.0 ac-ft.
15. **SOURCE:** Little Cottonwood Creek
Balance of the water will be abandoned: None, or will be used as heretofore: Yes
16. **COUNTY:** Salt Lake
17. **POINT(S) OF DIVERSION:** Same as Heretofore - See Attachment #4

Description of Diverting Works: Tunnels, Springs and Little Cottonwood Creek
*COMMON DESCRIPTION: _____

18. **POINT(S) OF REDIVERSION**

The water will be rediverted from _____ at a point: _____

Description of Diverting Works: _____

19. **POINT(S) OF RETURN**

The amount of water to be consumed is All cfs or 2000.0 ac-ft.
The amount of water to be returned is _____ cfs or _____ ac-ft.
The water will be returned to the natural stream/source at a point(s): _____

20. **NATURE AND PERIOD OF USE**

Irrigation: From 1 April to 15 October
Stockwatering: From ______ to ______
Domestic: From 1 January to 31 December
Municipal: From 1 January to 31 December
Mining: From ______ to ______
Power: From ______ to ______
Other: From 1 January to 31 December

21. **PURPOSE AND EXTENT OF USE** Same as Heretofore (Not Defined in the Decree) See Attachment and Attachment

Irrigation: ______ acres. Sole supply of ______ acres.
Stockwatering (number and kind): ______
Domestic: ______ Families and/or ______ Persons.
Municipal (name): Salt Lake City & its Service Areas in Salt Lake County
Mining: ______ Mining District at the ______ Mine.
Ores mined: ______
Power: Plant name: ______ Type: ______ Capacity: ______
Other (describe): Resort Use in Little Cottonwood Canyon including Snow Making

22. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): Same as Heretofore and Salt Lake County Service Area #3 - See Attachment #5

23. **STORAGE**

Reservoir Name: ______ Storage Period: from ______ to ______
Capacity: ______ ac-ft. Inundated Area: ______ acres.
Height of dam: ______ feet.
Legal description of inundated area by 40 tract(s): ______

24. **EXPLANATORY**

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): ______

See Attachment #6 and #7

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

LeRoy W. Hooton

Signature of Applicant(s)

Attachment # 1

APPLICATION FOR PERMANENT
CHANGE OF WATER

to Salt Lake County Service Area #3
(Snowbird)

Paragraph #3 (Continued):

Right Evidenced By:
C. W. Morse Decree #4802 dated June 16, 1910, Applications for Exchange of Water for the 4 Ditch Company's listed in Paragraph #7. See Exchange Applications E2919 through E2922.

Paragraph #4 (Continued):

Quantity of Water:

The Little Cottonwood Tanner Ditch Company	29.50	CFS
Cahoon & Maxfield Irrigation Company	53.035	CFS
The Walker Ditch Company	15.92	CFS
The Richards Irrigation Company	15.92	CFS

2,000.0 Acre Feet out of the total claim of **114.375 CFS** use and points of diversion to be changed.

Paragraph #7 (Continued):

Points of Diversion:
Diversion to the following irrigation ditches:

The Little Cottonwood Tanner Ditch Company: From Little Cottonwood Creek, South 233.7 Feet, East 102.0 Feet from the E. 1/4 Corner of Sec. 29, T2S, R1E, SLB & M.

Cahoon & Maxfield Irrigation Company: From Little Cottonwood Creek, N. 77. Ft., W. 663. Ft. of the W 1/4 corner Sec. 28, T2S, R1E, SLB & M.

Walker Ditch Company: From Little Cottonwood Creek N. 1363. Ft., W. 1142.8 Ft. from the E 1/4 Corner Sec. 29, T2S, R1E, SLB & M.

The Richards Irrigation Company: From Little Cottonwood Creek S. 1800 Ft., E. 707 Ft. from the N. 1/4 Corner of Sec. 34, T2S, R1E, SLB & M.

APPLICATION FOR PERMANENT CHANGE OF WATER

Rec. by NT
Fee Paid $ 120.00
Receipt # 624823
Microfilmed
Roll #

STATE OF UTAH

FILE

JUN 2 . 1992

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. 57-8973 *APPLICATION NO. a 16843

Changes are proposed in (check those applicable)

_____ point of diversion. _____ place of use. _____ nature of use. _____ period of use.

1. **OWNER INFORMATION**

Name: Salt Lake City Corporation (Department of Public Utilities) *Interest: ____%

Address: 1530 South West Temple

City: Salt Lake City State: Utah Zip Code: 84115

2. *PRIORITY OF CHANGE: _____ *FILING DATE: _____

*Is this change amendatory? (Yes/No): No

3. RIGHT EVIDENCED BY: C. W. Morse Decree for Little Cottonwood Creek, Third District Court, Civil #4802, Water Right No. 57-8973

Prior Approved Change Applications for this right: _____

********** HERETOFORE **********

4. QUANTITY OF WATER: _____ cfs and/or 1152 ac-ft.
5. SOURCE: Little Cottonwood Creek
6. COUNTY: Salt Lake
7. POINT(S) OF DIVERSION: See Attached Sheet

Description of Diverting Works: _____

8. POINT(S) OF REDIVERSION

The water has been rediverted from _____ at a point: _____

Description of Diverting Works: _____

9. POINT(S) OF RETURN

The amount of water consumed is _____ cfs or _____ ac-ft.

The amount of water returned is _____ cfs or _____ ac-ft.

The water has been returned to the natural stream/source at a point(s): _____

*These items are to be completed by the Division of Water Rights.

10. **NATURE AND PERIOD OF USE**

Irrigation: From _____ to _____
Stockwatering: From _____ to _____
Domestic: From _____ to _____
Municipal: From January 1 to December 31
Mining: From _____ to _____
Power: From _____ to _____
Other: From _____ to _____

11. **PURPOSE AND EXTENT OF USE**

Irrigation: _____ acres. Sole supply of _____ acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City
Mining: _____ Mining District in the _____ Mine.
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

12. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): _____

13. **STORAGE**

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 tract(s): _____

********** **THE FOLLOWING CHANGES ARE PROPOSED** **********

14. QUANTITY OF WATER: _____ cfs and/or 1153 ac-ft.
15. SOURCE: See Explanatory
Balance of the water will be abandoned: _____, or will be used as heretofore: _____
16. COUNTY: Salt Lake
17. POINT(S) OF DIVERSION: See Explanatory

Description of Diverting Works: _____
*COMMON DESCRIPTION: _____

18. **POINT(S) OF REDIVERSION**

The water will be rediverted from _____ at a point: _____

Description of Diverting Works: _____

19. **POINT(S) OF RETURN**

The amount of water to be consumed is _____ cfs or _____ ac-ft.
The amount of water to be returned is _____ cfs or _____ ac-ft.
The water will be returned to the natural stream/source at a point(s): _____

20. NATURE AND PERIOD OF USE

Irrigation: From _____ to _____
Stockwatering: From _____ to _____
Domestic: From _____ to _____
Municipal: From January 1 to December 31
Mining: From _____ to _____
Power: From _____ to _____
Other: From _____ to _____

21. PURPOSE AND EXTENT OF USE

Irrigation: _____ acres. Sole supply of _____ acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City
Mining: _____ Mining District at the _____ Mine.
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

22. PLACE OF USE

Legal description of place of use by 40 acre tract(s): Salt Lake County Service Area No. 3 - Snowbird

23. STORAGE

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 tract(s): _____

24. EXPLANATORY

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): See Attachments

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

H. Roy W. Hoots Jr.
Signature of Applicant(s)

SERVICE AREA #3 - SNOWBIRD

ITEM 7, POINTS OF DIVERSION:

Attachment #1

1. Little Cottonwood Tanner Ditch Company: S 234 ft and E 102 ft from the W 1/4 Corner Section 28, Township 2 South, Range 1 E, Salt Lake Base and Meridian.

2. Cahoon and Maxfield Irrigation Company: N 77 ft and W 663 ft from the E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

3. Walker Ditch Company: N 1363 ft and W 1143 ft from E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

4. Richards Irrigation Company: S 1800 ft and E 707 ft from N 1/4 Corner Section 34, Township 2 South Range 1 East, Salt Lake Base and Meridian.

5. Murray City Power Plant Diversion: S 838 ft and E 4512 from W 1/4 Corner Section 7, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

6. Little Cottonwood Creek Diversion Dam: N 2309 ft and W 743 ft from E 1/4 Corner Section 11, Township 3 S, Range 1 East, Salt Lake Base and Meridian.

ITEM 15, SOURCES:

1. Tunnel on J. P. Lode Mining Claim
2. Wasatch Drain Tunnel
3. Fredrick (Hellgate) Tunnel
4. Gad Valley Spring

ITEM 17, POINTS OF DIVERSION:

1. S 7107 ft and W 2991 ft from S 1/4 Corner Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

2. S 3567 Ft and W 1309 ft from NE Corner Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

3. N 2037 ft and E 390 ft from S 1/4 Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

4. S 9507 ft and W 3497 ft from NE Corner Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

ITEM 24, EXPLANATORY:

This change application is based on rights in Little Cottonwood Tanner Ditch company, Cahoon and Maxfield Irrigation Company, Walker Ditch Company and Richards Irrigation Company. The rights are shown in the C.W. Morse Decree on Little Cottonwood Creek, Civil No. 4802, Dated June 16, 1910. The use of these rights is defined further by a statement of Water Users Claim No. 57-8973 entered in the proposed determination of water rights.

The balance of the rights will continue to be used for municipal purposes by Salt Lake City.

A contract has been made between Salt Lake City Corporation and Salt Lake County Service Area-No. 3 - Snowbird for the service area to divert up to 1152 acre-feet of water annually for domestic, commercial and incidental requirements within the service area.

APPLICATION FOR TEMPORARY CHANGE OF WATER

15

RECEIVED
MAR 30 1992
WATER RIGHTS
SALT LAKE

Rec. by JD
Fee Paid $ 135.00
Receipt # 954
Microfilmed
Roll #

FILE
Snowbird

STATE OF UTAH

For the purpose of obtaining permission to make a temporary change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. 57 - Area *APPLICATION NO. t 92 - 57 - 20

Changes are proposed in (check those applicable)

_____ point of diversion. _____ place of use. _____ nature of use. _____ period of use.

1. OWNER INFORMATION

Name: Salt Lake City (Department of Public Utilities) *Interest: ____%

Address: 1530 South West Temple, Salt Lake City, Utah 84115

City: Salt Lake City State: Utah Zip Code: 84115

2. *PRIORITY OF CHANGE: _____ *FILING DATE: _____

*Is this change amendatory? (Yes/No): _____

3. RIGHT EVIDENCED BY: See Paragraph #3, Attachment #1

Prior Approved Temporary Change Applications for this right: _____

********** HERETOFORE **********

4. QUANTITY OF WATER: 114.375 cfs and/or See Paragraph #4, Attachment #1 ac-ft.

5. SOURCE: Little Cottonwood Creek

6. COUNTY: Salt Lake

7. POINT(S) OF DIVERSION: See Paragraph #7 on Attachment #1

Description of Diverting Works: _____

8. POINT(S) OF REDIVERSION

The water has been rediverted from _____ at a point: _____

Description of Diverting Works: _____

9. POINT(S) OF RETURN

The amount of water consumed is _____ cfs or _____ ac-ft.

The amount of water returned is _____ cfs or _____ ac-ft.

The water has been returned to the natural stream/source at a point(s): _____

*These items are to be completed by the Division of Water Rights.

APPLICATION FOR TEMPORARY CHANGE OF WATER

STATE OF UTAH

MAILED

MAR 30 1992

Rec. by _____
Fee Paid $ _____
Receipt # _____
Microfilmed _____
Roll # _____

For the purpose of obtaining permission to make a temporary change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. ____-_____ *APPLICATION NO. t ____-____-____

Changes are proposed in (check those applicable)

_____ point of diversion. _____ place of use. _____ nature of use. _____ period of use.

1. **OWNER INFORMATION**

Name: Salt Lake City (Department of Public Utilities) *Interest: ____%

Address: 1530 South West Temple, Salt Lake City, Utah 84115

City: Salt Lake City State: Utah Zip Code: 84115

2. ***PRIORITY OF CHANGE:** _____ ***FILING DATE:** _____

*Is this change amendatory? (Yes/No): _____

3. **RIGHT EVIDENCED BY:** See Paragraph #3, Attachment #1

Prior Approved Temporary Change Applications for this right: _____

************************************ **HERETOFORE** ************************************

4. **QUANTITY OF WATER:** 114.375 cfs and/or See Paragraph #4, Attachment #1 ac-ft.
5. **SOURCE:** Little Cottonwood Creek
6. **COUNTY:** Salt Lake
7. **POINT(S) OF DIVERSION:** See Paragraph #7 on Attachment #1

Description of Diverting Works: _____

8. **POINT(S) OF REDIVERSION**

The water has been rediverted from _____ at a point: _____

Description of Diverting Works: _____

9. **POINT(S) OF RETURN**

The amount of water consumed is _____ cfs or _____ ac-ft.

The amount of water returned is _____ cfs or _____ ac-ft.

The water has been returned to the natural stream/source at a point(s): _____

***These items are to be completed by the Division of Water Rights.**

10. **NATURE AND PERIOD OF USE**

Irrigation:	From	1 April	to	15 October
Stockwatering:	From		to	
Domestic:	From	1 January	to	31 December
Municipal:	From	1 January	to	31 December
Mining:	From		to	
Power:	From		to	
Other:	From		to	

11. **PURPOSE AND EXTENT OF USE** /Not Defined in the Decree

Irrigation: _____ acres. Sole supply of _____ acres.

Stockwatering (number and kind): _____

Domestic: _____ Families and/or _____ Persons.

Municipal (name): Salt Lake City & its Service Area in Salt Lake County - See Attachment #

Mining: _____ Mining District in the _____ Mine.

Ores mined: _____

Power: Plant name: _____ Type: _____ Capacity: _____

Other (describe): _____

12. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): Not Defined in the Decree---Within Salt Lake City and its Service Areas Within Salt Lake County - See Attachment #3

13. **STORAGE**

Reservoir Name: _____ Storage Period: from _____ to _____

Capacity: _____ ac-ft. Inundated Area: _____ acres.

Height of dam: _____ feet.

Legal description of inundated area by 40 tract(s): _____

**************************** **THE FOLLOWING CHANGES ARE PROPOSED** ****************************

14. **QUANTITY OF WATER:** _____ cfs and/or 2000.0 ac-ft.

15. **SOURCE:** Little Cottonwood Creek

Balance of the water will be abandoned: None, or will be used as heretofore: Yes

16. **COUNTY:** Salt Lake

17. **POINT(S) OF DIVERSION:** Same as Heretofore - See Attachment #4

Description of Diverting Works: Tunnels, Springs and Little Cottonwood Creek

*COMMON DESCRIPTION: _____

18. **POINT(S) OF REDIVERSION**

The water will be rediverted from _____ at a point: _____

Description of Diverting Works: _____

19. **POINT(S) OF RETURN**

The amount of water to be consumed is All cfs or 2000 ac-ft.

The amount of water to be returned is _____ cfs or _____ ac-ft.

The water will be returned to the natural stream/source at a point(s): _____

20. **NATURE AND PERIOD OF USE**

Irrigation:	From 4 / 1 /92 to 10 /15 /92
Stockwatering:	From __/__/__ to __/__/__
Domestic:	From 4 / 1 /92 to 4 / 1 /93
Municipal:	From 4 / 1 /92 to 4 / 1 /93
Mining:	From __/__/__ to __/__/__
Power:	From __/__/__ to __/__/__
Other:	From 4 / 1 /92 to 4 / 1 /93

21. **PURPOSE AND EXTENT OF USE** Same as Heretofore (Not Defined in the Decree) See Attachment #2 and Attachment #3

Irrigation: ______ acres. Sole supply of ______ acres.

Stockwatering (number and kind): ______

Domestic: ______ Families and/or ______ Persons.

Municipal (name): Salt Lake City & its Service Areas in Salt Lake County

Mining: ______ Mining District at the ______ Mine.

Ores mined: ______

Power: Plant name: ______ Type: ______ Capacity: ______

Other (describe): Resort Use in Little Cottonwood Canyon including Snow Making

22. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): Same as Heretofore and Salt Lake County Service Area #3 - See Attachment #5

23. **STORAGE**

Reservoir Name: ______ Storage Period: from ______ to ______

Capacity: ______ ac-ft. Inundated Area: ______ acres.

Height of dam: ______ feet.

Legal description of inundated area by 40 tract(s): ______

24. **EXPLANATORY**

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary):

See Attachment #6

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

H. Doyle Hacker Jr

Signature of Applicant(s)

Department of Natural Resources Bldg.
Division of Water Rights
1636 West North Temple Rm. 220
Salt Lake City, Utah 84116

15

Receipt #954
STATEMENT

Ed Higbee for
Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City UT 84115

PLEASE RETURN THIS STUB WITH YOUR REMITTANCE. YOUR CANCELLED CHECK IS YOUR RECEIPT.

$ _____

DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE
3/30/92	t92-57-19 (57-Area)	90.00		
3/30/92	t92-57-20 (57-Area)	135.00		
	Temporary Changes			
	TOTAL	225.00		

PAY LAST AMOUNT IN BALANCE COLUMN ▲

Paid by check 7398

REDIFORM® 8S872
POLY PAK (50 SETS) 8P872

carbonless

Attachment # 1

APPLICATION FOR TEMPORARY
CHANGE OF WATER
to Salt Lake County Service Area #3
(Snowbird)

Paragraph #3 (Continued):

Right Evidenced By:
C. W. Morse Decree #4802 dated June 16, 1910, Applications for Exchange of Water for the 4 Ditch Company's listed in Paragraph #7.

Paragraph #4 (Continued):

Quantity of Water:

The Little Cottonwood Tanner Ditch Company	29.50	CFS
Cahoon & Maxfield Irrigation Company	53.035	CFS
The Walker Ditch Company	15.92	CFS
The Richards Irrigation Company	15.92	CFS

2,000.0 Acre Feet out of the total claim of **114.375 CFS** use and points of diversion to be changed.

Paragraph #7:

Points of Diversion:
Diversion to the following irrigation ditches:

The Little Cottonwood Tanner Ditch Company: From Little Cottonwood Creek, South 233.7 Feet, East 102.0 Feet from the E. 1/4 Corner of Sec. 29, T2S, R1E, SLB & M.

Cahoon & Maxfield Irrigation Company: From Little Cottonwood Creek, N. 77. Ft., W. 663. Ft. of the E 1/4 corner Sec. 29, T2S, R1E, SLB & M.

Walker Ditch Company: From Little Cottonwood Creek N. 1363. Ft., W. 1142.8 Ft. from the E 1/4 Corner Sec. 29, T2S, R1E, SLB & M.

The Richards Irrigation Company: From Little Cottonwood Creek N. 839.5 Ft., E. 707 Ft. from the S.E. Corner of the N.W. 1/4 of Sec. 34, T2S, R1E, SLB & M.

Diversions to Salt Lake City through the treatment plant to Salt Lake City and its service areas within Salt Lake County:

1. Murray City power plant penstock diversion located South 837.65 Feet, East 4512.21 Feet from the W 1/4 Corner of Section 7, T3S, R2E, SLB&M.

2. Little Cottonwood Creek Diversion dam located North 2309.0 Feet, West 743.8 Feet from the East 1/4 Corner of Section 11 T3S, R1E SLB & M.

Attachment # 1

APPLICATION FOR TEMPORARY
CHANGE OF WATER
to Salt Lake County Service Area #3
(Snowbird)

Paragraph #3 (Continued):

Right Evidenced By:
C. W. Morse Decree #4802 dated June 16, 1910, Applications for Exchange of Water for the 4 Ditch Company's listed in Paragraph #7.

Paragraph #4 (Continued):

Quantity of Water:

The Little Cottonwood Tanner Ditch Company	29.50	CFS
Cahoon & Maxfield Irrigation Company	53.035	CFS
The Walker Ditch Company	15.92	CFS
The Richards Irrigation Company	15.92	CFS

2,000.0 Acre Feet out of the total claim of **114.375 CFS** use and points of diversion to be changed.

Paragraph #7:

Points of Diversion:
Diversion to the following irrigation ditches:

The Little Cottonwood Tanner Ditch Company: From Little Cottonwood Creek, South 233.7 Feet, East 102.0 Feet from the E. 1/4 Corner of Sec. 29, T2S, R1E, SLB & M.

Cahoon & Maxfield Irrigation Company: From Little Cottonwood Creek, N. 77. Ft., W. 663. Ft. of the E 1/4 corner Sec. 29, T2S, R1E, SLB & M.

Walker Ditch Company: From Little Cottonwood Creek N. 1363. Ft., W. 1142.8 Ft. from the E 1/4 Corner Sec. 29, T2S, R1E, SLB & M.

The Richards Irrigation Company: From Little Cottonwood Creek N. 839.5 Ft., E. 707 Ft. from the S.E. Corner of the N.W. 1/4 of Sec. 34, T2S, R1E, SLB & M.

Diversions to Salt Lake City through the treatment plant to Salt Lake City and its service areas within Salt Lake County:

1. Murray City power plant penstock diversion located South 837.65 Feet, East 4512.21 Feet from the W 1/4 Corner of Section 7, T3S, R2E, SLB&M.

2. Little Cottonwood Creek Diversion dam located North 2309.0 Feet, West 743.8 Feet from the East 1/4 Corner of Section 11 T3S, R1E SLB & M.

Attachment # 4

APPLICATION FOR TEMPORARY
CHANGE OF WATER

to Salt Lake County Service Area #3
(Snowbird)

Paragraph # 17 (Continued):

Points of Diversion:

For delivery to Salt Lake County Service Area #3 in Little Cottonwood Canyon.

A. A tunnel on the J. P. Lode Mining claim located:

South 7107.28 Feet, West 2991.64 Feet, from the South Quarter Corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

B. The Wasatch Drain Tunnel located:

South 3567 Feet, West 1309 Feet from the Northeast Corner of Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

C. The Fredrick, (Hellgate) Tunnel located:

North 2037.43 Feet, East 3906.84 Feet from the South Quarter Corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

D. Gad Valley Spring located:

Being South 2° 11' 36" West 10,129.52 Feet from the Northeast Corner of Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian

revised 5/92

Attachment # 4

APPLICATION FOR TEMPORARY
CHANGE OF WATER

to Salt Lake County Service Area #3
(Snowbird)

Paragraph # 17 (Continued):

Points of Diversion:

For delivery to Salt Lake County Service Area #3 in Little Cottonwood Canyon.

A. A tunnel on the J. P. Lode Mining claim located:

South 7107.28 Feet, West 2991.64 Feet, from the South Quarter Corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

B. The Wasatch Drain Tunnel located:

South 3567 Feet, West 1309 Feet from the Northeast Corner of Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

C. The Fredrick, (Hellgate) Tunnel located:

North 2037.43 Feet, East 3906.84 Feet from the South Quarter Corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

D. Gad Valley Spring located:

Being South 2° 11' 36" West 10,129.52 Feet from the Northeast Corner of Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian

Historical Water Use Figures for Snowbird facilities in Gad Valley - (Outside of the Service Area Boundaries)

4/20/97 *Salt Lake County Service Area #3*

1. GAD RESTROOMS Water Flow Analysis:

GIVEN:

a. Quantity of fixtures are obtained from inspection.
b. Heaviest usage as recorded is Winter (Jan 1990)
c. Ave Ski Day assumed is 375 minutes or 6.25 hrs
d. By obs. Average 2 restroom patrons per minute or 750 users per day
e. All fixtures are early 1970 design and are of a non-water saving type.
f. Usage times are by observation and measured
g. Fixture flow rates are derived from tables as referenced below *.
h. Sink usage is estimated at 40 percent of total usage
i. Drinking Fountain usage is estimated at 70 percent of total usage
j. Urinal usage is estimated at 40 percent of total usage
k. Actual 1 month flow is given at bottom for Jan. 1990 for comparison(see note below **).

TYPE OF FIXTURES	FIXTURE Qty.	TOTAL USES	FIXTURE Ave. Flow Rate * (gpm)	FIXTURE Average Use Duration Minutes	TOTAL Gals. per use	# of Times one fixture in group is used per Day	TOTAL Consumption (gal)
Sinks	6	300	2	0.25	0.5	50.00	150
Flush Valve Toilets	9	450	25	0.17	4.25	50.00	1912.5
Flushometer Urinals	3	300	15	0.12	1.8	100.00	540
Drinking Fountain	1	525	0.75	0.1	0.075	525.00	39.375
Mop Sink	1	3	4.5	4	18	3.00	54
TOTALS	**20**	**1578**	**47.25**		**24.63**		**2695.88 Gal per Day**

Peak Instantaneous Flow Rate: 47.25 GPM

Calculated Ave. Flow Rate per Day: 1.87 GPM

* Fixture Flow Data from; AWWA Design and Construction of Small Water Systems - A Guide for Managers, 1984 AWWA publication, Table 1-4
** An electronic meter was only installed in this building during the winter of 1990 for testing purposes, The highest and most reliable reading was for January 1990.

Calculated Volume per Month: 80876 Gallons

Actual Jan 1990 metered flow: ** 76600 Gallons

2. MAINTENANCE SHOP Water Flow Analysis: (based on actual meter readings)

Metered Maintenance Shop Water Usage

Month	Gallons	Month	Gallons	Month	Gallons
Dec-95	20000	May-96	46900	Oct-96	9900
Jan-96	15350	Jun-96	10100	Nov-96	19400
Feb-96	23750	Jul-96	15040	Dec-96	22300
Mar-96	25500	Aug-96	20060	Jan-97	14910
Apr-96	28100	Sep-96	11800	Feb-97	21890
				Mar-97	21100

SUMMARY	GALLONS
Total Gallons	326100
Ave	20381
Min	9900
Max	**46900**

Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
Robert L. Morgan
State Engineer

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

1636 West North Temple, Suite 220
Salt Lake City, Utah 84116-3156
801-538-7240

JUN 1 1992

May 29, 1992

SALT LAKE CITY DEPARTMENT OF PUBLIC UTILITIES
1530 SOUTH WEST TEMPLE
SALT LAKE CITY UT 84115

FILE

RE: Appl. Nos.
t92-57-20 Shoreline

Dear Applicant:

Please find enclosed the following document relating to the above numbered application:

Correspondence
filed by: Walker Ditch Company
c/o A. Glen Humpherys, President
274 East 6790 South
Midvale, UT 84047

If you desire to answer the issues raised in the correspondence, submit same in duplicate on or before June 18, 1992.

If the correspondence indicates a protest and requests a hearing, a hearing may be scheduled at a later date. If a hearing is not requested, the holding of a hearing will be at the discretion of the State Engineer. All documents concerning your application will become a permanent part of your file and used in the decision making process.

If a hearing is held on this application, notice of this hearing will be sent at a later date to you and all interested parties.

Sincerely,

Robert L. Morgan, P.E.
State Engineer

RLM:dd
Enclosure

an equal opportunity employer

Norman H. Bangerter
Governor
Dee C. Hansen
Executive Director
Robert L. Morgan
State Engineer

State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

1636 West North Temple, Suite 220
Salt Lake City, Utah 84116-3156
801-538-7240

JUN 1 1992

Copy:
LeRoy
Joe N.
Ray M.
Ed H - ~~original~~
file - original

May 29, 1992

SALT LAKE CITY DEPARTMENT OF PUBLIC UTILITIES
1530 SOUTH WEST TEMPLE
SALT LAKE CITY UT 84115

FILE

RE: Appl. Nos.
t92-57-20 — Snowbird

Dear Applicant:

Please find enclosed the following document relating to the above numbered application:

Correspondence
filed by: Little Cottonwood Tanner Ditch Company
c/o Arion Erekson, Vice President
5419 South Ninth East
Salt Lake City, UT 84117

If you desire to answer the issues raised in the correspondence, submit same in duplicate on or before June 18, 1992.

If the correspondence indicates a protest and requests a hearing, a hearing may be scheduled at a later date. If a hearing is not requested, the holding of a hearing will be at the discretion of the State Engineer. All documents concerning your application will become a permanent part of your file and used in the decision making process.

If a hearing is held on this application, notice of this hearing will be sent at a later date to you and all interested parties.

Sincerely,

Robert L. Morgan, P.E.
State Engineer

RLM:dd
Enclosure

an equal opportunity employer

Snowbird
& Town of Alta

LEROY W. HOOTON, JR.
DIRECTOR

WENDELL E. EVENSEN, P.E.
SUPERINTENDENT
WATER SUPPLY & WATERWORKS

E. TIM DOXEY
SUPERINTENDENT
WATER RECLAMATION

JAMES M. LEWIS, C.P.A.
CHIEF FINANCE &
ACCOUNTING OFFICER

GEORGE JORGENSEN, P.E.
CHIEF ENGINEER

SALT LAKE CITY CORPORATION
DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY & WATERWORKS
WATER RECLAMATION
1530 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

PALMER DePAULIS
MAYOR

October 17, 1988

TO: Ray Montgomery
Assistant City Attorney

FROM: LeRoy W. Hooton, Jr. LWH
Director

RE: INTERLOCAL AGREEMENT BETWEEN THE TOWN OF ALTA AND SALT LAKE COUNTY SERVICE AREA NO. 3

Attached is a draft Interlocal Agreement between the Town of Alta and Salt Lake County Service Area No. 3 (Snowbird) for the purpose of snowmaking. As you know, we do not have a problem with water for snowmaking. Several months ago I met with the Town of Alta and the ski lift companies, and indicated that we would not allow a new source to be developed for the purpose of snowmaking and that it would be better to use an established source for snowmaking for this year. This Interlocal Agreement is their method of accomplishing this.

Also, attached are our Water Sales Agreements with the Town of Alta and Snowbird. Will you please review the Interlocal Agreement to see if it is in conflict with our existing agreements.

Thank you for your assistance.

LWH/co

Enclosures

APPLICATION FOR PERMANENT CHANGE OF WATER

STATE OF UTAH

RECEIVED
SEP 28 1992
WATER RIGHTS
SALT LAKE

Rec. by _____
Fee Paid $ _____
Receipt # _____
Microfilmed _____
Roll # _____

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. 57 - 10013 *APPLICATION NO. a 16844

Changes are proposed in (check those applicable)

X point of diversion. X place of use. X nature of use. ____ period of use.

1. **OWNER INFORMATION**

Name: Salt Lake City (Department of Public Utilities) *Interest: ____%

Address: 1530 South West Temple, Salt Lake City, Utah 84115

City: Salt Lake City State: Utah Zip Code: 84115

2. ***PRIORITY OF CHANGE:** _____ ***FILING DATE:** _____

*Is this change amendatory? (Yes/No): _____

3. **RIGHT EVIDENCED BY:** See Paragraph #3, Attachment #1

Prior Approved Change Applications for this right: _____

********** **HERETOFORE** **********

4. **QUANTITY OF WATER:** 114.375 cfs and/or See Paragraph #4, Attachment #1 ac-ft.
5. **SOURCE:** Little Cottonwood Creek
6. **COUNTY:** Salt Lake
7. **POINT(S) OF DIVERSION:** See Paragraph #7 on Attachment #1

Description of Diverting Works: _____

8. **POINT(S) OF REDIVERSION**

The water has been rediverted from _____ at a point: _____

Description of Diverting Works: _____

9. **POINT(S) OF RETURN**

The amount of water consumed is ____ cfs or ____ ac-ft.

The amount of water returned is ____ cfs or ____ ac-ft.

The water has been returned to the natural stream/source at a point(s): _____

***These items are to be completed by the Division of Water Rights.**

10. **NATURE AND PERIOD OF USE**

Irrigation: From 1 April to 15 October
Stockwatering: From _____ to _____
Domestic: From 1 January to 31 December
Municipal: From 1 January to 31 December
Mining: From _____ to _____
Power: From _____ to _____
Other: From _____ to _____

11. **PURPOSE AND EXTENT OF USE**

Irrigation: _____ acres. Sole supply of _____ acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City & its Service Area in Salt Lake County-See Attachment # 2
Mining: _____ Mining District in the _____ Mine.
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

12. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): Not Defined in the Decree--Within Salt Lake City and its Service Areas Within Salt Lake County - See Attachment #3

13. **STORAGE**

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 tract(s): _____

********** **THE FOLLOWING CHANGES ARE PROPOSED** **********

14. **QUANTITY OF WATER:** _____ cfs and/or 500 ac-ft.
15. **SOURCE:** Little Cottonwood Creek
Balance of the water will be abandoned: None, or will be used as heretofore: Yes
16. **COUNTY:** Salt Lake
17. **POINT(S) OF DIVERSION:** Same as Heretofore & See Attachment #4

Description of Diverting Works: Tunnel and Little Cottonwood Creek
*COMMON DESCRIPTION: _____

18. **POINT(S) OF REDIVERSION**

The water will be rediverted from _____ at a point: _____

Description of Diverting Works: _____

19. **POINT(S) OF RETURN**

The amount of water to be consumed is All cfs or 500 ac-ft.
The amount of water to be returned is _____ cfs or _____ ac-ft.
The water will be returned to the natural stream/source at a point(s): _____

20. **NATURE AND PERIOD OF USE**

Irrigation: From 1 April to 15 October
Stockwatering: From ______ to ______
Domestic: From 1 January to 31 December
Municipal: From 1 January to 31 December
Mining: From ______ to ______
Power: From ______ to ______
Other: From 1 January to 31 December

See Attachment #2

21. **PURPOSE AND EXTENT OF USE** Same as Heretofore (Not Defined in the Decree) See Attachment #3

Irrigation: ______ acres. Sole supply of ______ acres.
Stockwatering (number and kind): ______
Domestic: ______ Families and/or ______ Persons.
Municipal (name): Salt Lake City & its Service Areas in Salt Lake County; Also Alta City
Mining: ______ Mining District at the ______ Mine.
Ores mined: ______
Power: Plant name: ______ Type: ______ Capacity: ______
Other (describe): Snow Making

22. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): Same as Heretofore and Alta City 1976 Corporate Limits - See Attachment #7.

23. **STORAGE**

Reservoir Name: ______ Storage Period: from ______ to ______
Capacity: ______ ac-ft. Inundated Area: ______ acres.
Height of dam: ______ feet.
Legal description of inundated area by 40 tract(s): ______

24. **EXPLANATORY**

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): See Attachment #5 and #6

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

LeRoy W. Hooton

Signature of Applicant(s)

Attachment # 1

APPLICATION FOR PERMANENT
CHANGE OF WATER

To Alta City

Paragraph #3 (Continued):

Right Evidenced By:
C. W. Morse Decree #4802 dated June 16, 1910, Applications for Exchange of Water for the 4 Ditch Company's listed in Paragraph #7. See Exchange Applications E2919 through E2922.

Paragraph #4 (Continued):

Quantity of Water:

The Little Cottonwood Tanner Ditch Company	29.50	CFS
Cahoon & Maxfield Irrigation Company	53.035	CFS
The Walker Ditch Company	15.92	CFS
The Richards Irrigation Company	15.92	CFS

500.0 Acre Feet out of the total claim of 114.375 CFS use and points of diversion to be changed.

Paragraph #7 (Continued):

Points of Diversion:
Diversion to the following irrigation ditches:

The Little Cottonwood Tanner Ditch Company: From Little Cottonwood Creek, South 233.7 Feet, East 102.0 Feet from the E. 1/4 Corner of Sec. 29, T2S, R1E, SLB & M.

Cahoon & Maxfield Irrigation Company: From Little Cottonwood Creek, N. 77. Ft., W. 663. Ft. of the E 1/4 corner Sec. 29, T2S, R1E, SLB & M.

Walker Ditch Company: From Little Cottonwood Creek N. 1363. Ft., W. 1142.8 Ft. from the E 1/4 Corner Sec. 29, T2S, R1E, SLB & M.

The Richards Irrigation Company: From Little Cottonwood Creek S. 1800 Ft., E. 707 Ft. from the N. 1/4 Corner of Sec. 34, T2S, R1E, SLB & M.

Post Hearing Comments
of August 28, 1996 Proceedings

RECEIVED
DEC 18 1996
WATER RIGHTS
SALT LAKE

Submitted by
Dan Crow

Robert E. Morgan, P.E.
STATE ENGINEER
2nd Floor
1636 West North Temple
Salt Lake City, Utah 84166

Re: CHANGE APPLICATIONS filed by Salt Lake City Corporation: 57-10016 - 571042 20 in Big Cottonwood Canyon: 57-10016 (a16811), 57-10017 (a16812), 57-10018 (a16813), 57-10019 (a16814), 57-10020 (a16815), 57-10021 (a16816), 57-1022 (a16817), 57-10023 (a16818), 57-10024 (a16819), 57-10025 (a16820), 57-10026 (a16821), 57-10027 (a16822), 57-10028 (a16823), 57-10029 (a16824), 57-10030 (a16825), 57-10031 (a16826), 57-10032 (a16827), 10033 (a16828), 57-10034 (a16829), 57-10035 (a16840), 7 in Little Cottonwood Canyon: 57-10009 (a16839), 57-10010 (a16841), 57-10011 (a16842), 57-10012 (a16843), 57-10013 (a16844), 57-10014 (a16845), 57-10015 (a16846), 3 in Mill Creek Canyon; 57-10040 (a10040), 57-10041 (a16837), 57-10042 (a16838); 4 in Parley's Canyon: 57-10036 (a16786), 57-10037 (a16787), 57-10039 (a16789), and 57-10038 (a16788)

GROUNDS FOR CONCERN

The Salt Lake City Change Orders are detrimental to the public welfare for several reasons.

1. It takes culinary water that would otherwise be available to the inhabitants of the canyons, which are the original beneficial users, and changes its character to "surplus" which is a lesser use.

2. The change, if allowed, eventually results in a contract between Salt Lake City and the historical beneficial users of a purely local water source wherein the historical beneficial water users exchange a heretofore dependable source of water for one that can be canceled upon thirty (30) days notice. If this latter fact becomes widely known, it could destabilize the future growth, and even continued existence of the communities

dependent on such a revocable water contract. Lending institutions will have to decide whether loans in such communities violate the federal regulations under which they operate. The County will be faced with a similar dilemma in issuing a building permit to property which does not comply with the rules of the Utah Drinking Water Board, which mandates that 800 gallons a day of water must be available.

3. Although each change order is individually filed, a pattern of change orders filed by Salt Lake City has emerged. This pattern makes Salt Lake City the dominant purveyor of water in Salt Lake County and effectively usurps a prime governmental function of Salt Lake County, which is the primary elected governmental body responsible for the well being of non-city residents living in Salt Lake County. This situation is contra-indicated on two counts. First, it amounts to the sale of water rights by Salt Lake City which is prohibited by Article XI, Section 6 of the Utah Constitution. Make no mistake, this is the sale of a water right, not the sale of water services. The City provides absolutely nothing except permission. Their contract specifies that Salt Lake City will provide no pipes, no reservoirs, no maintenance, no diversion facilities, and shall be held harmless of the operations of the water service. This is an obvious constitutionally prohibited sale of a municipality's water rights, and I submit to you that Section 10-8-14 of the Utah Codes will not save it. Second, there is something fundamentally wrong with any scheme that removes the public servant from accountability to those it serves. It is even more grievous when an essential of life is administered by a power that the citizen's vote cannot reach. This is exactly the tyranny that will burden the 100,000 or more people who live in the unincorporated areas of Salt Lake County if the Salt Lake City scheme of change applications is approved. Leaving aside for a moment the constitutional issue, fairness alone would dictate that Salt Lake City should not be able to sell water outside its limits without being under the jurisdiction of the Public Service Commission which it is not; because "customers who are non-residents of the municipalities would be left at the mercy of officials over whom they have no control at the ballot box". The quote is from the case of CP National Corporation v. Public Service Commission.

4. The change application is part of a scheme that is prohibited by Utah Code §73-3-8, sub-section 1(e), because the application was not filed in good faith and is for the purpose of speculation and monopoly.

Speculation under the contracts, which relate to the various change applications, Salt Lake City provides absolutely no services. The sole purpose of the scheme of change orders from the viewpoint of the applicant, is to produce revenue, a business speculation. It is indeed speculation in the true sense of the word because Salt Lake City's revenue opportunity is offset by a considerable potential liability if the scheme collapses. For if it collapses the City may be required to respond in punitive damages, actual damages and refunds with interest. As further evidence that this if for the purpose of financial speculation and monopoly, the City extracts from its county customers one and one-half times (1½ x's) the City rate, and this without providing them any services at all.

Monopoly: The pattern of filing of change applications by the City clearly suggests a monopoly is developing. The County government is at best passive, and at times seems to be under the spell of Salt Lake City when it advises applicants for building permits that their water requirements can be solved by a contract with Salt Lake City. After the contract is signed, the people go on using the same water in the same facilities they were using before. The only difference is now, these facilities belong to the City and they have given up their vested rights in exchange for a water source acceptable to the County. The net effect is like having to have a guarantor on a Note so that the bank will give you a loan. The City, like a guarantor, provides nothing but its good offices, and in exchange for providing a guarantee : receives the conveyance of the applicant's vested water rights. These are clearly monopolistic and speculative practices and the arrangement violates the heart and soul of Utah Water Law, beneficial use. Salt Lake City is operating solely for profit motive and is using its power to come between water users and their source.

NOT IN GOOD FAITH: It is not in good faith because either the City was selling water, not their own, or the City was not accounting for the water they sold (i.e. a change order presupposes that the new diversion point is not one in which the applicant has vested rights). Therefore, the water is either tributary to a stream that is fully appropriated or the water is developed water belonging to the community which it serves.

The City's change application does not give the details required by the Utah Code and it seems to be in furtherance of a scheme to defeat an accounting of water in a canyon. If the water is unappropriated and unappropriatable because it is a stream source, then Salt Lake City is selling water that rightfully belongs to other downstream vested right holders, and having superior and experienced legal counsel should know better. Thus it appears not to be in good faith.

5. Perhaps, merely coincidental, but nevertheless, casting a shadow on the City's entire scheme of selling water in Big Cottonwood Canyon is the conflict of interest obvious on its face of having a City employee acting as an arm of the Court to account for the water used in the canyon and not being forthcoming with the official records in his keeping that would aid the State Engineer in accounting for the water sold by Salt Lake City in the canyon.

Alta 57-10013 8-24-93

Hearing Officer: Karl Jones

change 500 af

Joseph Novak represents applicant, SLC.

Supported by Morse Decree & Booth Decree

Temporary change appl. & hearings held earlier.
- testimony that no existing uses would be impaired.
- agreements btwn SLC — Alta Town
— SLCo Svc District #3 (Snowbird)

Novak submitted 6/22/93 transcript from temporary change hearing.

Mr Vise atty for Alta Town, Snowbird, & SLCo Svc Area # 3.
(Parsons, Bailey, + Latimer) - They support the two change applications.

This is not an East Jordan Irrigation Company

EJ Skeen atty for Cahoon & Maxfield Irrigation Co.
See Wangsgard letter "Paragraph 7 ...."
Novak cited Morse Decree & a Utah Co decree.
See Wangsgard letter para 2. "SLC owns the water rights ..."
Novak also cites 3 supreme ct decisions in loose leaf binder
(but not in copies given to FO).
— Are there any deeds?
Novak: No. Exchange agreements vest ownership
supported by 3 super ct decisions.
Agreements are a form of deed by virtue of "grants of right

Mr Rizzio of Cahoon & Maxfield: Claim SLC falsified records
and does not measure their water use as reqd in Morse Decree.
SLC only reports acres - not af. Also, Morse decree requires
SLC to use water for municipal purposes - not snowmaking.

Novak: measurement issues are internal water company problems - not State's

Robt Murdock: These applications are based on 4 Exchange appl's
filed a year ago. These are not yet final. Novak agreed.
Murdock claims this whole matter is untimely and too short notice.

APPLICATION FOR PERMANENT CHANGE OF WATER

Rec. by NT
Fee Paid $ 90.00
Receipt # 624923
Microfilmed
Roll #

JUN 24 1992
57-10013

STATE OF UTAH

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. 57-8973 *APPLICATION NO. a 16894

Changes are proposed in (check those applicable)

____ point of diversion. ____ place of use. ____ nature of use. ____ period of use.

1. **OWNER INFORMATION**
   Name: Salt Lake City Corporation (Department of Public Utilities) *Interest: ____%
   Address: 1530 South West Temple
   City: Salt Lake City State: Utah Zip Code: 84115

2. ***PRIORITY OF CHANGE:** ____ ***FILING DATE:** ____
   *Is this change amendatory? (Yes/No): No

3. **RIGHT EVIDENCED BY:** C. W. Morse Decree for Little Cottonwood Creek, Third District Court, Civil #4802, Water Right No. 57-8973
   Prior Approved Change Applications for this right: ____

********** HERETOFORE **********

4. **QUANTITY OF WATER:** ____ cfs and/or 296.8 ac-ft.
5. **SOURCE:** Little Cottonwood Creek
6. **COUNTY:** Salt Lake
7. **POINT(S) OF DIVERSION:** See Attached Sheet

   Description of Diverting Works: ____

8. **POINT(S) OF REDIVERSION**
   The water has been rediverted from ____ at a point: ____

   Description of Diverting Works: ____

9. **POINT(S) OF RETURN**
   The amount of water consumed is ____ cfs or ____ ac-ft.
   The amount of water returned is ____ cfs or ____ ac-ft.
   The water has been returned to the natural stream/source at a point(s): ____

*These items are to be completed by the Division of Water Rights.

20. **NATURE AND PERIOD OF USE**

Irrigation: From _____ to _____
Stockwatering: From _____ to _____
Domestic: From _____ to _____
Municipal: From January 1 to December 31
Mining: From _____ to _____
Power: From _____ to _____
Other: From _____ to _____

21. **PURPOSE AND EXTENT OF USE**

Irrigation: _____ acres. Sole supply of _____ acres.
Stockwatering (number and kind): _____
Domestic: _____ Families and/or _____ Persons.
Municipal (name): Salt Lake City
Mining: _____ Mining District at the _____ Mine.
Ores mined: _____
Power: Plant name: _____ Type: _____ Capacity: _____
Other (describe): _____

22. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): Within the limits of the Town of Alta

23. **STORAGE**

Reservoir Name: _____ Storage Period: from _____ to _____
Capacity: _____ ac-ft. Inundated Area: _____ acres.
Height of dam: _____ feet.
Legal description of inundated area by 40 tract(s): _____

24. **EXPLANATORY**

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): See Attachment

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

H Roy W. Hooton Jr
Signature of Applicant(s)

Attachment #1

ITEM 7, POINTS OF DIVERSION:

1. Little Cottonwood Tanner Ditch Company: S 234 ft and E 102 ft from the W 1/4 Corner Section 28, Township 2 South, Range 1 E, Salt Lake Base and Meridian.

2. Cahoon and Maxfield Irrigation Company: N 77 ft and W 663 ft from the E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

3. Walker Ditch Company: N 1363 ft and W 1143 ft from E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

4. Richards Irrigation Company: S 1800 ft and E 707 ft from N 1/4 Corner Section 34, Township 2 South Range 1 East, Salt Lake Base and Meridian.

5. Murray City Power Plant Diversion: S 838 ft and E 4512 from W 1/4 Corner Section 7, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

6. Little Cottonwood Creek Diversion Dam: N 2309 ft and W 743 ft from E 1/4 Corner Section 11, Township 3 S, Range 1 East, Salt Lake Base and Meridian.

ITEM 24, EXPLANATORY:

This change application is based on rights in Little Cottonwood Tanner Ditch company, Cahoon and Maxfield Irrigation Company, Walker Ditch Company and Richards Irrigation Company. The rights are shown in the C.W. Morse Decree on Little Cottonwood Creek, Civil No. 4802, Dated June 16, 1910. The use of these rights is defined further by a statement of Water Users Claim No. 57-8973 entered in the proposed determination of water rights.

The balance of the rights will continue to be used for municipal purposes by Salt Lake City.

An Intergovernmental agreement has been made between Salt Lake City Corporation and the Town of Alta for Alta to divert up to 296.8 acre-feet of water annually for municipal requirements within the town and its service area.

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION	)	
	)	MEMORANDUM DECISION
NUMBER 57-10013 (a16844)	)	

Change Application Number 57-10013 (a16844), in the name of Salt Lake City Corporation, was filed on September 28, 1992, and approved July 12, 1994, to change 500.0 acre-feet of water from Little Cottonwood Creek at points located: (1) South 234 feet and East 102 feet from the W1/4 Corner of Section 28, T2S, R1E, SLB&M; (2) North 77 feet and West 663 feet from the E1/4 Corner of Section 29, T2S, R1E, SLB&M; (3) North 1363 feet and West 1143 feet from the E1/4 Corner of Section 29, T2S, R1E, SLB&M; (4) South 1800 feet and East 707 feet from the N1/4 Corner of Section 34, T2S, R1E, SLB&M; (5) North 2309 feet and West 744 feet from the E1/4 Corner of Section 11, T3S, R1E, SLB&M; and (6) South 838 feet and East 4512 feet from the W1/4 Corner of Section 7, T3S, R2E, SLB&M; the Bay City Mine Tunnel at a point located South 400 feet and West 1500 feet from the SE Corner of Section 32, T2S, R3E, SLB&M, and from Little Cottonwood Creek at a point located South 2950 feet and East 200 feet from the SE Corner of Section 32, T2S, R3E, SLB&M. The water was to be used for the municipal use in Salt Lake City, Town of Alta and snow making. Proof was last due on April 30, 1998.

The applicant has filed a request for extension of time within which to submit proof with the State Engineer stating that the construction of the diversion works and snow making facilities are completed, but additional time is needed to put the water to full beneficial use and file proof.

Approximately four years have passed since the change application was approved. The applicant's affidavit in support of the change application may justify reasonable cause for delay.

The applicant is placed on notice that future extension requests must comply with the provisions of Section 73-3-12, Utah Code Annotated 1953. The State Engineer may grant extensions of time for a public agency if the application "meets the reasonable future requirements of the public". The applicant in future extension requests must satisfy Section 73-3-12 by providing detailed efforts of due diligence or reasonable future requirements of the public, or the requests may be denied.

It is, therefore, **ORDERED** and an extension of time within which to submit proof is **GRANTED** on Change Application Number 57-10013 (a16844) to and including **April 30, 2003**.

This extension is granted in accordance with the law which states: "The construction of the works and the application of water to beneficial use shall be diligently prosecuted to completion within the time fixed by the State Engineer. Extensions of time ... may be granted by the State Engineer on proper showing of diligence or reasonable cause for delay ... In the consideration of an application to extend the time in which to place the water to beneficial use under an approved application, ... the State Engineer shall deny such extension and declare the application lapsed, unless the applicant affirmatively shows that

he has exercised or is exercising reasonable and due diligence in working toward completion of the appropriation."

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Your contact with this office, should you need it, is with the Utah Lake/Jordan River Regional Office. The telephone number is (801) 538-7421.

Dated this 23rd day of June, 1998.

Robert L. Morgan, P.E., State Engineer
BY: Kent L. Jones, P.E. Assistant State Engineer for Appropriation

RLM:JER:dd

Mailed a copy of the foregoing Memorandum Decision this 23rd day of June, 1998, to:

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, UT 84115

BY: Dana Dredge, Extension Secretary

NOTICE TO WATER USERS

The State Engineer received the following Application to Appropriate Water in Salt Lake County (Locations in SLB&M).

Persons objecting to an application must file a Protest stating the reasons for the protest. To have a hearing before the State Engineer, persons must request a hearing in the Protest. Protest must be filed in duplicate with the State Engineer, 1636 West North Temple, Salt Lake City, Utah 84116, (801-538-7240) on or before May 21, 1992. (PROTESTS MUST BE LEGIBLE WITH A RETURN ADDRESS). These are informal proceedings as per Rule R655-6-2 of the Division of Water Rights.

57-AREA (t92-57-19): Department of Public Utilities Salt Lake City propose(s) to change the POD, POU, & USE of water as evidenced by C.W. Morse Decree #4802, date June 16, 1910.

HERETOFORE: QUANTITY: 114.375 cfs. SOURCE: Little Cottonwood Creek. POD: (1) N 77 W 663 (2) S 234 E 102 (3) N 1363 W 1143 from E1/4 Cor, Sec 29 (4) N 840 E 707 from SE Cor, Sec 34, T2S, (5) N 2309 W 744 from E1/4 Cor, Sec 11, T3S, R1E, (6) S 838 E 4512 from W1/4 Cor, Sec 7, T3S, R2E. USE: Irrigation: from Apr 1 to Oct 15, total acreage 1487.33 acs. POU within the service area of Little Cottonwood Tanner Ditch Company, Cahoon & Maxfield Irrigation Company, Walker Ditch Company, and the Richards Irrigation Company.

HEREAFTER: QUANTITY: 2000.0 ac-ft. SOURCE: Tunnels and Springs, POD: Same as Heretofore, but adding the following: (1) N 2037 E 3907 from S1/4 Cor, Sec 32, T2S, SOURCE: Fredrick (Hellgate) Tunnel (2) S 3567 W 1309 from NE Cor, Sec 6, Source: Wasatch Drain Tunnel (3) S 4842 W 388 from NE Cor, Sec 7, Source: Gad Valley Spring (4) S 1827 W 2992 from N1/4 Cor, Sec 8, T3S, R3E, Source: Tunnel on J.P. Lode Mining Claim. (Snowbird) USE: Same as Heretofore, but adding the following: Municipal: in Salt Lake City from Apr 1 to Apr 1; In Salt Lake County Service Area #3 from Apr 1 to Apr 1; Recreation: from Apr 1 to Apr 1, Resort use in Little Cottonwood Canyon including snowmaking. POU: Same as Heretofore, but additing the Service areas of Salt Lake City and Salt Lake County Service Area #3 (Snowbird).

57-AREA (t92-57-20): Department of Public Utilities Salt Lake City propose(s) to change the POD, POU, & USE of water as evidenced by C.W. Morse Decree #4802, date June 16, 1910.

HERETOFORE: QUANTITY: 114.375 cfs. SOURCE: Little Cottonwood Creek. POD: (1) N 77 W 663 (2) S 234 E 102 (3) N 1363 W 1143 from E1/4 Cor, Sec 29 (4) N 840 E 707 from SE Cor, Sec 34, T2S, (5) N 2309 W 744 from E1/4 Cor, Sec 11, T3S, R1E, (6) S 838 E 4512 from W1/4 Cor, Sec 7, T3S, R2E. USE: Irrigation: from Apr 1 to Oct 15, total acreage 1487.33 acs. POU within the service area of Little Cottonwood Tanner Ditch Company, Cahoon & Maxfield Irrigation Company, Walker Ditch Company, and the Richards Irrigation Company.

HEREAFTER: QUANTITY: 500.0 ac-ft. SOURCE: Little Cottonwood Cr & Bay City Tunl. POD: Same as Heretofore, but adding the following: (1) S 2950 E 200 from NW Cor, Sec 4, SOURCE: Little Cottonwood Cr above Snake Pit (2) S 400 W 1500 from NE Cor, Sec 5, Source: Bay City Mine Tunnel. (Alta) USE: Same as Heretofore, but adding the following: Municipal: in Salt Lake City from Apr 1 to Apr 1; In Alta City from Apr 1 to Apr 1; Recreation: Resort use in Little Cottonwood Canyon including snowmaking. POU: Same as Heretofore, but additing the service areas of Salt Lake City and Alta City.

Robert L. Morgan, P.E.
STATE ENGINEER

Published in Deseret News on May 14, 1992.
56820080

NOTICE TO WATER USERS

applications requesting an EXTENSION OF

APPLICATION FOR PERMANENT CHANGE OF WATER

Rec. by NT
Fee Paid $ 30.00
Receipt # 624923
Microfilmed
Roll #

RECEIVED
JUN 24 1992
WATER RIGHTS
SALT LAKE

STATE OF UTAH

10015

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. 57-~~8973~~ 10015 *APPLICATION NO. a a16846

Changes are proposed in (check those applicable)

____ point of diversion. ____ place of use. ____ nature of use. ____ period of use.

1. OWNER INFORMATION
   Name: Salt Lake City Corporation (Department of Public Utilities) *Interest: ____%
   Address: 1530 South West Temple
   City: Salt Lake City State: Utah Zip Code: 84115
2. *PRIORITY OF CHANGE: ____ *FILING DATE: ____
   *Is this change amendatory? (Yes/No): No
3. RIGHT EVIDENCED BY: C. W. Morse Decree for Little Cottonwood Creek, Third District Court, Civil #4802, Water Right No. 57-8973
   Prior Approved Change Applications for this right: ____

********** HERETOFORE **********

4. QUANTITY OF WATER: ____ cfs and/or 15.75 ac-ft.
5. SOURCE: Little Cottonwood Creek
6. COUNTY: Salt Lake
7. POINT(S) OF DIVERSION: See Attached Sheet
   Description of Diverting Works: ____
8. POINT(S) OF REDIVERSION
   The water has been rediverted from ____ at a point: ____
   Description of Diverting Works: ____
9. POINT(S) OF RETURN
   The amount of water consumed is ____ cfs or ____ ac-ft.
   The amount of water returned is ____ cfs or ____ ac-ft.
   The water has been returned to the natural stream/source at a point(s): ____

*These items are to be completed by the Division of Water Rights.

20. **NATURE AND PERIOD OF USE**

Irrigation: From _____ to _____

Stockwatering: From _____ to _____

Domestic: From _____ to _____

Municipal: From January 1 to December 31

Mining: From _____ to _____

Power: From _____ to _____

Other: From _____ to _____

21. **PURPOSE AND EXTENT OF USE**

Irrigation: _____ acres. Sole supply of _____ acres.

Stockwatering (number and kind): _____

Domestic: _____ Families and/or _____ Persons.

Municipal (name): Salt Lake City

Mining: _____ Mining District at the _____ Mine.

Ores mined: _____

Power: Plant name: _____ Type: _____ Capacity: _____

Other (describe): _____

22. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): NW1/4 NE1/4, NE1/4 NE1/4, SE1/4 NE1/4, Section 9, T3S, R3E, SLB&M

23. **STORAGE**

Reservoir Name: _____ Storage Period: from _____ to _____

Capacity: _____ ac-ft. Inundated Area: _____ acres.

Height of dam: _____ feet.

Legal description of inundated area by 40 tract(s): _____

24. **EXPLANATORY**

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): See Attached Sheet

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

Signature of Applicant(s)

LITTLE COTTONWOOD - CANYONLANDS, INC.

Attachment #1

ITEM 7, POINTS OF DIVERSION:

1. Little Cottonwood Tanner Ditch Company: S 234 ft and E 102 ft from the W 1/4 Corner Section 28, Township 2 South, Range 1 E, Salt Lake Base and Meridian.

2. Cahoon and Maxfield Irrigation Company: N 77 ft and W 663 ft from the E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

3. Walker Ditch Company: N 1363 ft and W 1143 ft from E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

4. Richards Irrigation Company: S 1800 ft and E 707 ft from N 1/4 Corner Section 34, Township 2 South Range 1 East, Salt Lake Base and Meridian.

5. Murray City Power Plant Diversion: S 838 ft and E 4512 from W 1/4 Corner Section 7, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

6. Little Cottonwood Creek Diversion Dam: N 2309 ft and W 743 ft from E 1/4 Corner Section 11, Township 3 S, Range 1 East, Salt Lake Base and Meridian.

ITEM 24, EXPLANATORY:

This change application is based on rights in Little Cottonwood Tanner Ditch company, Cahoon and Maxfield Irrigation Company, Walker Ditch Company and Richards Irrigation Company. The rights are shown in the C.W. Morse Decree on Little Cottonwood Creek, Civil No. 4802, Dated June 16, 1910. The use of these rights is defined further by a statement of Water Users Claim No. 57-8973 entered in the proposed determination of water rights.

The balance of the rights will continue to be used for municipal purposes by Salt Lake City.

A contract has been made between the Little Cottonwood Water Company and Canyonlands Inc., for Canyonlands to divert up to 15.75 Acre-feet of water annually for domestic requirement, only, for 35 homes in the Albion Basin Subdivision.

DwR

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION	)	
	)	MEMORANDUM DECISION
NUMBER 57-10015 (a16846)	)	

Change Application Number 57-10015 (a16846), in the name of Salt Lake City Corporation, was filed on June 24, 1992, to change the point of diversion and place of use of 15.75 acre-feet of water. Heretofore, the water has been diverted from Little Cottonwood Creek at the following locations: Tanner Ditch at South 234 feet and East 102 feet from the W¼ Corner of Section 28, T2S, R1E, SLB&M; Cahoon and Maxfield Ditch at North 77 feet and West 663 feet from the E1/4 Corner of Section 29, T2S, R1E, SLB&M; Walker Ditch at North 1363 feet and West 1143 feet from the E¼ Corner of Section 29, T2S, R1E, SLB&M; Richards Ditch at South 1800 feet and East 707 feet from the N¼ Corner of Section 34, T2S, R1E, SLB&M; Little Cottonwood Creek Diversion Dam at North 2309 feet and West 743 feet from the E¼ Corner of Section 11, T3S, R1E, SLB&M; and Murray City Power Plant Diversion Dam at South 838 feet and East 4512 feet from the W¼ Corner of Section 7, T3S, R2E, SLB&M. The water has been used for municipal purposes in Salt Lake City.

Hereafter, it is proposed to divert 15.75 acre-feet of water from a spring and Mine Tunnel, located: (1) South 230 feet and West 900 feet; and (2) North 412 feet and West 833 feet both from the NE Corner of Section 9, T3S, R3E, SLB&M. It is proposed to use the water for same purposes as heretofore in the N½NE¼, and the SE¼NE¼ of Section 9, T3S, R3E, SLB&M. It is further stated in the application that a contract has been made between the Little Cottonwood Water Company and Canyonlands Inc., for the Canyonlands to divert up to 15.75 acre-feet of water annually for only domestic requirement for 35 homes in the Albion Basin Subdivision.

The application was advertised in the Deseret News from April 15, 1993, to April 29, 1993, and was protested by Cahoon and Maxfield Irrigation Company, Robert J. Murdock et al, Salt Lake County, and Harvey Stauffer. In the protests it is stated that the approval of the change application will impair the rights of the protestants and a surplus sales contract does not guarantee that water will be available for the people who are using the water.

A hearing was held on August 28, 1996, in Salt Lake City, Utah. At the hearing the applicant explained the history of the underlying water rights and the nature of the contracts by which the change is based. The protestants in attendance reiterated their protests.

The State Engineer has reviewed the change application, the underlying water rights, the protests, the information submitted at the hearing, and other associated water rights and has noted and the following:

A. It appears that the applicant, by virtue of the exchange agreements, is entitled to the use of water and has the right to file the change application.

B. The question of water contracts with county residents is not within the purview of the State Engineer. Should those residents or entities deem that those contracts are not substantial to satisfy their needs, they can obtain other water rights and file the appropriate change applications for

the proposed uses.

C. The State Engineer is of the opinion that certain conditions will have to be imposed to ensure that the rights of the others are not impaired by this change application. The exchange agreements between the irrigation companies and Salt Lake City for replacement water from Utah Lake will lessen the likelihood of any such impairment. The total flow of all change applications filed by the applicant in Little Cottonwood Canyon and the diversions by Salt Lake City at the mouth of the canyon cannot exceed the total of the water rights owned by the city.

D. The applicant has stated in the application that the historic uses are municipal. It appears that the underlying water rights held by the irrigation companies and utilized by exchange agreement by the applicant are for irrigation. This change application converts the nature of use from irrigation to municipal for 15.75 acre-feet only as addressed in this change.

In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, **ORDERED** and Application Number 57-10015 (a16846) is hereby **APPROVED** subject to prior rights and the following conditions:

1. The applicant shall install permanent measuring devices to measure both the instantaneous flow rate and the total volume of water diverted. Records shall be kept at least monthly of all water diverted. These measuring devices and the records shall be made available to the State Engineer at all reasonable times to regulate this change.

2. The applicant shall submit on an annual basis by January 31 of each year for the prior calendar year a summary of all water diverted from each source in Little Cottonwood Canyon.

3. Upon submittal of proof of change, the applicant shall provide information on how much water by use has been diverted from each source along with evidence that the total of all water rights in Little Cottonwood Canyon under the applicants control have not been exceeded.

4. The historic water diversion would have irrigated 3.15 acres. About 50% of the wter would have been consumed and 50% would have returned to the system. To prevent enlargement, depletion under this change cannot exceed 7.875 acre-feet of water.

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for

Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 15th day of January, 1997.

Robert L. Morgan, P.E., State Engineer

RLM:JER:et

Mailed a copy of the foregoing Memorandum Decision this 15th day of January, 1997, to:

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, UT 84115

Cahoon and Maxfield Irrigation Company
c/o Anton P. Rezac
5668 South Bullion
Murray, UT 84123

Murdock, Robert J., et al
2964 East 3135 South
Salt Lake City, UT 84109

Salt Lake County
c/o David E. Yocom
2001 South State Street, #S3600
Salt Lake City, UT 84190-1200

Harvey Stauffer
#8 Stauffer Lane
Murray, UT 84107

BY: Eileen Tooke
Eileen Tooke, Secretary

APPLICATION FOR PERMANENT CHANGE OF WATER

Rec. by NT
Fee Paid $ 30.00
Receipt # 624123
Microfilmed
Roll #

JUN 2 1992

STATE OF UTAH

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

*WATER RIGHT NO. 57- ~~8973~~ 10215 *APPLICATION NO. a a16846

Changes are proposed in (check those applicable)

____ point of diversion. ____ place of use. ____ nature of use. ____ period of use.

1. **OWNER INFORMATION**

Name: Salt Lake City Corporation (Department of Public Utilities) *Interest: ____%

Address: 1530 South West Temple

City: Salt Lake City State: Utah Zip Code: 84115

2. ***PRIORITY OF CHANGE:** ____ ***FILING DATE:** ____

*Is this change amendatory? (Yes/No): No

3. **RIGHT EVIDENCED BY:** C. W. Morse Decree for Little Cottonwood Creek, Third District Court, Civil #4802, Water Right No. 57-8973

Prior Approved Change Applications for this right: ____

********************************** **HERETOFORE** **********************************

4. **QUANTITY OF WATER:** ____ cfs and/or 15.75 ac-ft.
5. **SOURCE:** Little Cottonwood Creek
6. **COUNTY:** Salt Lake
7. **POINT(S) OF DIVERSION:** See Attached Sheet

Description of Diverting Works: ____

8. **POINT(S) OF REDIVERSION**

The water has been rediverted from ____ at a point: ____

Description of Diverting Works: ____

9. **POINT(S) OF RETURN**

The amount of water consumed is ____ cfs or ____ ac-ft.

The amount of water returned is ____ cfs or ____ ac-ft.

The water has been returned to the natural stream/source at a point(s): ____

***These items are to be completed by the Division of Water Rights.**

20. **NATURE AND PERIOD OF USE**

Irrigation: From ____________ to ____________

Stockwatering: From ____________ to ____________

Domestic: From ____________ to ____________

Municipal: From January 1 to December 31

Mining: From ____________ to ____________

Power: From ____________ to ____________

Other: From ____________ to ____________

21. **PURPOSE AND EXTENT OF USE**

Irrigation: ____________ acres. Sole supply of ____________ acres.

Stockwatering (number and kind): ____________

Domestic: ________ Families and/or ________ Persons.

Municipal (name): Salt Lake City

Mining: ____________ Mining District at the ____________ Mine.

Ores mined: ____________

Power: Plant name: ____________ Type: ________ Capacity: ________

Other (describe): ____________

22. **PLACE OF USE**

Legal description of place of use by 40 acre tract(s): NW1/4 NE1/4, NE1/4 NE1/4, SE1/4 NE1/4, Section 9, T3S, R3E, SLB&M

23. **STORAGE**

Reservoir Name: ____________ Storage Period: from ________ to ________

Capacity: ____________ ac-ft. Inundated Area: ________ acres.

Height of dam: ________ feet.

Legal description of inundated area by 40 tract(s): ____________

24. **EXPLANATORY**

The following is set forth to define more clearly the full purpose of this application. Include any supplemental water rights used for the same purpose. (Use additional pages of same size if necessary): ____________

See Attached Sheet

****

The undersigned hereby acknowledges that even though he/she/they may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the Division of Water Rights, all responsibility for the accuracy of the information contained herein, at the time of filing, rests with the applicant(s).

[signature]
Signature of Applicant(s)

LITTLE COTTONWOOD - CANYONLANDS, INC.

ITEM 7, POINTS OF DIVERSION: **Attachment #1**

1. Little Cottonwood Tanner Ditch Company: S 234 ft and E 102 ft from the W 1/4 Corner Section 28, Township 2 South, Range 1 E, Salt Lake Base and Meridian.

2. Cahoon and Maxfield Irrigation Company: N 77 ft and W 663 ft from the E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

3. Walker Ditch Company: N 1363 ft and W 1143 ft from E 1/4 Corner Section 29, Township 2 South, Range 1 East, Salt Lake Base and Meridian.

4. Richards Irrigation Company: S 1800 ft and E 707 ft from N 1/4 Corner Section 34, Township 2 South Range 1 East, Salt Lake Base and Meridian.

5. Murray City Power Plant Diversion: S 838 ft and E 4512 from W 1/4 Corner Section 7, Township 3 South, Range 2 East, Salt Lake Base and Meridian.

6. Little Cottonwood Creek Diversion Dam: N 2309 ft and W 743 ft from E 1/4 Corner Section 11, Township 3 S, Range 1 East, Salt Lake Base and Meridian.

ITEM 24, EXPLANATORY:

This change application is based on rights in Little Cottonwood Tanner Ditch company, Cahoon and Maxfield Irrigation Company, Walker Ditch Company and Richards Irrigation Company. The rights are shown in the C.W. Morse Decree on Little Cottonwood Creek, Civil No. 4802, Dated June 16, 1910. The use of these rights is defined further by a statement of Water Users Claim No. 57-8973 entered in the proposed determination of water rights.

The balance of the rights will continue to be used for municipal purposes by Salt Lake City.

A contract has been made between the Little Cottonwood Water Company and Canyonlands Inc., for Canyonlands to divert up to 15.75 Acre-feet of water annually for domestic requirement, only, for 35 homes in the Albion Basin Subdivision.

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION	)	
	)	MEMORANDUM DECISION
NUMBER 57-10015 (a16846)	)	

Change Application Number 57-10015 (a16846), in the name of Salt Lake City Corporation, was filed on June 24, 1992, to change the point of diversion and place of use of 15.75 acre-feet of water. Heretofore, the water has been diverted from Little Cottonwood Creek at the following locations: Tanner Ditch at South 234 feet and East 102 feet from the W¼ Corner of Section 28, T2S, R1E, SLB&M; Cahoon and Maxfield Ditch at North 77 feet and West 663 feet from the E1/4 Corner of Section 29, T2S, R1E, SLB&M; Walker Ditch at North 1363 feet and West 1143 feet from the E¼ Corner of Section 29, T2S, R1E, SLB&M; Richards Ditch at South 1800 feet and East 707 feet from the N¼ Corner of Section 34, T2S, R1E, SLB&M; Little Cottonwood Creek Diversion Dam at North 2309 feet and West 743 feet from the E¼ Corner of Section 11, T3S, R1E, SLB&M; and Murray City Power Plant Diversion Dam at South 838 feet and East 4512 feet from the W¼ Corner of Section 7, T3S, R2E, SLB&M. The water has been used for municipal purposes in Salt Lake City.

Hereafter, it is proposed to divert 15.75 acre-feet of water from a spring and Mine Tunnel, located: (1) South 230 feet and West 900 feet; and (2) North 412 feet and West 833 feet both from the NE Corner of Section 9, T3S, R3E, SLB&M. It is proposed to use the water for same purposes as heretofore in the N½NE¼, and the SE¼NE¼ of Section 9, T3S, R3E, SLB&M. It is further stated in the application that a contract has been made between the Little Cottonwood Water Company and Canyonlands Inc., for the Canyonlands to divert up to 15.75 acre-feet of water annually for only domestic requirement for 35 homes in the Albion Basin Subdivision.

The application was advertised in the Deseret News from April 15, 1993, to April 29, 1993, and was protested by Cahoon and Maxfield Irrigation Company, Robert J. Murdock et al, Salt Lake County, and Harvey Stauffer. In the protests it is stated that the approval of the change application will impair the rights of the protestants and a surplus sales contract does not guarantee that water will be available for the people who are using the water.

A hearing was held on August 28, 1996, in Salt Lake City, Utah. At the hearing the applicant explained the history of the underlying water rights and the nature of the contracts by which the change is based. The protestants in attendance reiterated their protests.

The State Engineer has reviewed the change application, the underlying water rights, the protests, the information submitted at the hearing, and other associated water rights and has noted and the following:

A. It appears that the applicant, by virtue of the exchange agreements, is entitled to the use of water and has the right to file the change application.

B. The question of water contracts with county residents is not within the purview of the State Engineer. Should those residents or entities deem that those contracts are not substantial to satisfy their needs, they can obtain other water rights and file the appropriate change applications for

the proposed uses.

C. The State Engineer is of the opinion that certain conditions will have to be imposed to ensure that the rights of the others are not impaired by this change application. The exchange agreements between the irrigation companies and Salt Lake City for replacement water from Utah Lake will lessen the likelihood of any such impairment. The total flow of all change applications filed by the applicant in Little Cottonwood Canyon and the diversions by Salt Lake City at the mouth of the canyon cannot exceed the total of the water rights owned by the city.

D. The applicant has stated in the application that the historic uses are municipal. It appears that the underlying water rights held by the irrigation companies and utilized by exchange agreement by the applicant are for irrigation. This change application converts the nature of use from irrigation to municipal for 15.75 acre-feet only as addressed in this change.

In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, **ORDERED** and Application Number 57-10015 (a16846) is hereby **APPROVED** subject to prior rights and the following conditions:

1. The applicant shall install permanent measuring devices to measure both the instantaneous flow rate and the total volume of water diverted. Records shall be kept at least monthly of all water diverted. These measuring devices and the records shall be made available to the State Engineer at all reasonable times to regulate this change.

2. The applicant shall submit on an annual basis by January 31 of each year for the prior calendar year a summary of all water diverted from each source in Little Cottonwood Canyon.

3. Upon submittal of proof of change, the applicant shall provide information on how much water by use has been diverted from each source along with evidence that the total of all water rights in Little Cottonwood Canyon under the applicants control have not been exceeded.

4. The historic water diversion would have irrigated 3.15 acres. About 50% of the wter would have been consumed and 50% would have returned to the system. To prevent enlargement, depletion under this change cannot exceed 7.875 acre-feet of water.

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for

Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 15th day of January, 1997.

Robert L. Morgan

Robert L. Morgan, P.E., State Engineer

RLM:JER:et

Mailed a copy of the foregoing Memorandum Decision this 15th day of January, 1997, to:

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, UT 84115

Cahoon and Maxfield Irrigation Company
c/o Anton P. Rezac
5668 South Bullion
Murray, UT 84123

Murdock, Robert J., et al
2964 East 3135 South
Salt Lake City, UT 84109

Salt Lake County
c/o David E. Yocom
2001 South State Street, #S3600
Salt Lake City, UT 84190-1200

Harvey Stauffer
#8 Stauffer Lane
Murray, UT 84107

BY: Eileen Tooke

Eileen Tooke, Secretary

STATEMENT OF OWNERSHIP SEGREGATION

Perfected Water Right

STATE OF UTAH

*Prepared by*_____
*Date Prepared*_____
*Microfilmed*_____
*Roll #*_____

For the purpose of informing the State Engineer of the acquisition of a portion of a perfected water right, this statement is hereby made, based upon the following showing of facts.

WATER RIGHT #: 57-10023 APPLICATION #: Priority Date:

WATER RIGHT SEPARATED FROM: 57-8966 (Diligence Claim)
(Contract)

****

1. OWNERSHIP INFORMATION:

   A. NAME: Salt Lake City Corp
   Department of Public Utilities
   ADDRESS: 1530 South West Temple, Salt Lake City, UT 84115

2. SOURCE INFORMATION:

   A. QUANTITY OF WATER: 10.35 acre-feet

   B. DIRECT SOURCE: Big Cottonwood Creek COUNTY: Salt Lake

   C. DRAINAGE AREA: Lower Jordan River-East

   D. COMMON DESCRIPTION:

   E. POINTS OF DIVERSION -- SURFACE:

   (1) S 1900 feet W 1450 feet from NE corner, Section 25, T 2S, R 1E, SLBM

   (2) N 800 feet E 1400 feet from SW corner, Section 20, T 2S, R 2E, SLBM

3. WATER USE INFORMATION:

   MUNICIPAL: from Jan 1 to Dec 31. Salt Lake City.

IANGE: a16818 WATER RIGHT: 57-10023 CERT. NO.:

GHT ENCED BY: C.W. Morse Decree for Big Cottonwood Creek, Third
Dist., Civil #8921, Butler Ditch, W.R. No.57-10023

IANGES: Point of Diversion [X], Place of Use [X], Nature of Use [X], Reservoir Storage [ ].

AME: Salt Lake City Corporation OWNER MISC: Department of Public Utilities
DDR: 1530 South West Temple
TY: Salt Lake City STATE: UT ZIP: 84115 INTEREST:

---

iling: 06/22/1992 Priority: 06/22/1992 Advertise Paper: Date: / / Protested? Appr/Rej: / /
oof Due: / / Ext Filed: / / Elec/Proof: Filed: / / Cert. or WUC Issued: / /
, Etc.: / /

tus: UNAP Date Verified: / / Initials:

H E R E T O F O R E

W: 10.35 acre-feet
RCE: Big Cottonwood Creek TRIBUTARY:
Source will be Unnamed Spring or Stream in Mill "D" North Fork.
NTY: Salt Lake

NTS OF DIVERSION -- SURFACE:
S 1900 ft. W 1450 ft. from NE corner, Section 25, T 2S, R 1E, SLBM
Diverting Works: Dam and Inlet Structures Source:
2) N 800 ft. E 1400 ft. from SW corner, Section 20, T 2S, R 2E, SLBM
Diverting Works: Dam and Inlet Structures Source:

ACE USE OF WATER RIGHT:

RE OF USE:

MUNICIPAL: Salt Lake City PERIOD OF USE: 01/01 TO 12/31

H E R E A F T E R

W: 10.35 acre-feet REMAINING WATER:
URCE: Unnamed Spring or Stream in Mill "D" TRIBUTARY:
NTY: Salt Lake COMMON DESCRIPTION: Big Cottonwood Canyon

INT-OF-DIVERSION: Changed as follows:

INT OF DIVERSION -- SURFACE:
1) S 1100 ft. W 850 ft. from NE corner, Section 8, T 2S, R 3E, SLBM
Diverting Works: Source:

ACE OF USE OF WATER RIGHT: Changed as follows:

	NORTH-EAST4	NORTH-WEST4	SOUTH-WEST4	SOUTH-EAST4
	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE
ec 17 T 2S R 3E SLBM	* : X: : *	* X: X: X: X*	* : : : *	* : : : *

ATURE USE: Changed as follows:

###PAL: Salt Lake City PERIOD OF USE: 01/01 TO 12/31

:NERAL COMMENTS:

This change application is based on a portion of the rights of the Butler ditch as shown in the Morse Decree on Big Cottonwood Creek, Civil No. 8921, Third District Court, dated April 13, 1914. The right is now owned by Salt Lake City Corporation and is used for municipal purposes. The irrigation company has been dissolved, and the stock retired. The use of this right and other is defined further by a statement of Water User's Claim No. 57-8966 entered in the proposed determination of water rights.

The Balance of the Butler Ditch rights will continue to be used for municipal purposes by Salt Lake City.

A contract has been made between Salt Lake City Corporation and the owners of Wasatch National Forest Special Use Permits within the Mill "D" Homes Association area for the owners to divert up to 10.35 acre-feet of water annually for domestic requirements, only, for 23 homes.

E N D O F D A T A

F.S. R-4
RECEIVED
JAN 16 1997
RL

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)
) MEMORANDUM DECISION
NUMBER 57-10023 (a16818))

Change Application Number 57-10023 (a16818), in the name of Salt Lake City Corporation, was filed on June 22, 1992, to change the point of diversion, place of use, and nature of use of 10.35 acre-feet of water. Heretofore, the water has been diverted from Big Cottonwood Creek at two points located: (1) South 1900 feet and West 1450 feet from the NE Corner of Section 25, T2S, R1E, SLB&M; and (2) North 800 feet and East 1400 feet from the SW Corner of Section 20, T2S, R2E, SLB&M, and used for municipal purposes in Salt Lake City.

Hereafter, it is proposed to divert 10.35 acre-feet of water from Unnamed Spring or Stream in Mill "D", located South 1100 feet and West 850 feet from the NE Corner of Section 8, T2S, R3E, SLB&M, to be used for same purpose as heretofore in the NW¼NE¼, and the NW¼ of Section 17, T2S, R3E, SLB&M. In the application it is stated that a contract has been made between Salt Lake City and the owners of Wasatch National Forest Special Use Permits within the Mill "D" Homes Association area for the owners to divert up to 10.35 acre-feet of water annually for only the domestic requirements for 23 homes.

The application was advertised in the Deseret News from April 15, 1993, to April 29, 1993, and was protested by Wayne Crawford, Robert J. Murdock et al, Salt Lake County, and the US Forest Service. In the protests it is stated that the approval of the change application will impair the rights of the protestants, a surplus sales contract does not guarantee that water will be available for the people who are using the water, the water from the sources has already been placed to beneficial use by the Forest Service, and the Forest Service requires that all uses by special use permittees be in the name of the United States; thus, the applicant does not have authority to file such a change application.

A hearing was held on August 28, 1996, in Salt Lake City, Utah. At the hearing the applicant explained the history of the underlying water rights and the nature of the contracts by which the change is based. The protestants in attendance reiterated their protests.

The State Engineer has reviewed the change application, the underlying water rights, the protests, the information submitted at the hearing, and other associated water rights and has noted:

A. This change application is filed on the decreed Butler Ditch water right. The Butler Ditch Irrigation Company was dissolved on December 20, 1974. It appears that all of the shares of stock had been transferred to Salt Lake City; hence, all of the assets of the company passed to Salt Lake City, including the Butler Ditch water right. The applicant has indicated that all of the water of Butler Ditch has been diverted for municipal use since the time that the company was dissolved, thus maintaining the right and providing an underlying right for the change application.

B. The question of surplus water contracts with county residents is not within the purview of the State Engineer. Should those residents or entities deem that those contracts are not sufficient for their needs, they can obtain other water rights and file the appropriate change

applications for the proposed uses.

C. The Forest Service filed a letter dated October 22, 1993, wherein they informed the State Engineer that they no longer object to the change application.

D. Conditions are necessary to ensure that other rights are not impaired by this change application. The exchange agreements between the irrigation companies and Salt Lake City for replacement water from Utah Lake will lessen the likelihood of impairment. The total flow of all change applications filed by the applicant in Big Cottonwood Canyon and the diversions by Salt Lake City at the mouth of the canyon cannot exceed the total of the city's water rights in the canyon.

E. The underlying decreed Butler Ditch water rights now owned by Salt Lake City Corporation are for irrigation purposes and some domestic and stockwatering uses. This change application converts the nature of use to municipal use for 10.35 acre-foot. The balance of Salt Lake City's water right under this decreed award would remain under the historical purposes. Should the city wish to convert these uses to municipal, submission of other change applications is necessary.

In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, **ORDERED** and Change Application Number 57-10023 (a16818) is hereby **APPROVED** subject to prior rights and the following conditions:

1. The applicant shall install permanent measuring devices to measure both the instantaneous flow rate and the total volume of water diverted. Records shall be kept at least monthly of all water diverted under this change. These measuring devices and the records shall be made available to the State Engineer at all reasonable times to regulate this change.

2. The applicant shall submit on an annual basis by January 31 of each year for the prior calendar year evidence that the diversions of water under this change and under the balance of the applicant's Butler Ditch right do not exceed the historical amount. Such measurements and information shall also be required as part of the submittal of proof of beneficial use.

3. The historic water diversion would have irrigated 2.07 acres. About 50% of the water would have been consumed and 50% would have returned to the system. To prevent enlargement, depletion under this change cannot exceed 5.175 acre-feet of water.

This Decision is subject to the provisions of Rule R655-6-17 (1992 Utah Administrative Code--formerly R625) of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide

for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 15th day of January, 1997.

EG

P.E., State Engineer

RLM:JER:et

Mailed a copy of the foregoing Memorandum Decision this 15th day of January, 1997, to:

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, UT 84115

EG

EG

Salt Lake County
c/o EG
2001 South State Street, #S3600
Salt Lake City, UT 84190-1200

US Forest Service
Intermountain Region
324 25th Street
Ogden, UT 84401

BY: EG

Secretary

F.S. R-4
RECEIVED
JAN 16 1997
RL

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION)
) MEMORANDUM DECISION
NUMBER 57-10040 (a16836))

Change Application Number 57-10040 (a16836), in the name of Salt Lake City Corporation, was filed on June 24, 1992, to change the point of diversion and place of use of 7.75 acre-feet of water. Heretofore, the water has been diverted from Mill Creek at a point located South 315 feet and East 500 feet from the NW Corner of Section 34, T1S, R1E, SLB&M, and used for municipal purposes in Salt Lake City. The historic water right has been a portion of the Hoagland and Murphay Ditch owned by Salt Lake City Corporation.

Hereafter, it is proposed to divert 7.75 acre-feet of water from a spring area, located North 450 feet and East 300 feet from the S¼ Corner of Section 34, T1S, R2E, SLB&M, to be used for the same as purpose as heretofore in the SW¼SW¼ of Section 27; the N½NW¼, the SE¼NW¼, the NE¼SW¼, and the W½SE¼ of Section 34, T1S, R2E, SLB&M. In the application it is stated that this change application is filed for the Porter Fork Summer Home Association for the association to divert 7.75 acre-feet of water annually for only the domestic requirements for not more than 31 summer homes.

The application was advertised in the Deseret News from April 15, 1993, to April 29, 1993, and was protested by Robert J. Murdock et al, Salt Lake County, US Forest Service. In the written protests it is stated this change application would be detrimental to the public welfare because the proposed place of use is not within the city's boundary and concerns a surplus sales contract which could be terminated at any time. The US Forest Service is already putting the sources to beneficial use; hence, there is no additional water available for appropriation.

A hearing was held on August 28, 1996, in Salt Lake City, Utah. At the hearing the applicant submitted substantial additional information and further explained the change application. The protestants that were in attendance reiterated their protests.

The State Engineer has reviewed the change application, the protests, the information submitted at the hearing and has noted that the applicant has entered into a contract with the Lower Mill Creek Irrigation Company for all but 11.65 percent of the water decreed to the Hoagland and Murphay Ditch. The users of the Hoagland and Murphay ditch were awarded specific flow rates in the Mill Creek Decree, dated August 1, 1913; however, no uses were specified. Generally uses at that time were irrigation, stockwatering, and possibly domestic. The State Engineer is not aware of any change application that has changed the use from irrigation to municipal as required by statute on this right. This change application on the Hoagland and Murphay Ditch right would change the use from irrigation to municipal for only 7.75 acre-feet. The remaining Hoagland and Murphay Ditch water right would need to be addressed under other change filings.

With regard to issues relating to being detrimental to the public welfare, this change application is filed to provide a water right for the diversion and use of water for a group of people with whom the applicant has contracted for surplus water owned by the applicant. It is not within the purview of the State Engineer to determine the suitability of a surplus sales contract. The contracting

parties can acquire other water rights and file a change application or resolve that issue in some other manner if they are not satisfied. The US Forest Service has filed a letter wherein they informed the State Engineer that it no longer objects to the change application.

It is the opinion of the State Engineer that the change application can be approved. In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, **ORDERED** and Change Application Number 57-10040 (a16836) is hereby **APPROVED** subject to prior rights and the following conditions:

1. The applicant shall install a permanent totalizing meter on the springs and measure all water diverted from the springs. The applicant shall keep at least monthly records of all water diverted. The meter and the records shall be made available to the State Engineer at all reasonable times as may be required to regulate this change application.

2. Upon submittal of proof of change, the applicant shall submit evidence of all water diverted by this change application and all other Hoagland and Murphay Ditch waters and provide evidence that the Hoagland and Murphay Ditch water right has not been exceeded.

3. The historic water diversion would have irrigated 1.55 acres. About 50% of the water would have been consumed, and 50% would have returned to the system. To prevent enlargement, depletion under this change cannot exceed 3.875 acre-feet.

This Decision is subject to the provisions of Rule R655-6-17 of the Division of Water Rights and to Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 15th day of January, 1997.

E4

P.E., State Engineer

RLM:JER:et

Mailed a copy of the foregoing Memorandum Decision this 15th day of January, 1997, to:

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, UT 84115

EG

Salt Lake County
c/o EG
2001 South State Street, #S3600
Salt Lake City, UT 84190-1200

US Forest Service
Intermountain Region
324 25th Street
Ogden, UT 84401

BY: EG

ecretary

Salt Lake City Water Monopoly's Magic Headgate: 0 acre-feet + cement plug + ? = 539.95 acre-feet

Utah water law 101: The Butler Ditch water right is limited to its historical use of 70 acres or 350 acre-feet of water, yet supports 20 SLC change applications for 539.95 acre-feet.

On April 13, 1914 Judge C. W. Morse awarded the Butler Ditch the water required to irrigate 70 acres.[1] In 1973, Salt Lake City purchased the Butler Ditch. By December 20, 1974 the Butler Ditch had been dissolved by Salt Lake City.[2]

By December 17, 1976, the Butler Headgate had permanently been plugged according to Charles W. Wilson, Director of SLC Public Utility, "so that it should not be possible to divert water into this ditch in the future."[3]

On or about November 24, 1987 Salt Lake City filed 20 change applications 57-10016 through 57-10035 based on the shares of Butler Ditch owned by the City.

During the course of litigation in SLC v. Crawford Civil No. 950906811AA, Crawford photographed the Butler Headgate in August of 1996 showing the Butler Headgate with an old cement plug.[4]

On February 4, 1997, Engineer Robert J. Murdock, sent a letter to the State Engineer's Office seeking reconsideration of the memo approving the 20 changes 57-10016 through 57-10035 claiming the City presented no flow data at the August 28, 1996 hearing, the Butler Ditch water was forfeited, and "6. At the August 28, 1996 hearing Salt Lake City indicated a long history of non-compliance."[5]

On March 19, 1997, former Mayor of Salt Lake City, Jake Garn, acting as President of the Butler Ditch Irrigation Company, and Grantor, executed a water deed conveying Butler Ditch's water to Salt Lake City, the Grantee.

On August 25, 1997, Director of SLC Public Utility, LeRoy Hooton Jr., sent a letter to the State Engineer's Office stating: "This analysis indicates that 50 percent of the area [224 acres] is still under irrigation as yards"[6] which would be 112 acres of yards irrigated through the Butler Ditch Headgate.

Crawford's defense against SLCDOPU included challenging the validity of the Butler Ditch water right. On or about September 9, 1997 SLCDOPU settled with Crawford for $40,000 in cash and water for 4 lots under a surplus sales agreement. Crawford executed a water deed to the City dated September 9, 1997.[7]

Did Crawford's August 1996 photo force SLC water monopoly to deal costing the City $40,000 on top of legal fees, department time, money, and energy? Crawford had the water for 4 lots anyway.

SLCDOPU 20 change applications 57-10016 though 57-10035 require 539.95 acre-feet of water.[8] The irrigation requirements of 70 acres of is only 350 acre-feet. In the 1997 SLCDOPU letter, no claim to domestic use, or stock water was made. Magically, not only did the Butler Headgate still flow water through an old concrete plug in 1997, but also magically increased the Decree award from 70 acres to 107.99 acres, or 350 acre-feet to 539.95 acre-feet of historical use.

---

1 Progress v. SLC page 333 of abstract, Utahwater.net page 30 Exhibit 3.
2 Office of the Secretary of State Certificate of Dissolution of the Butler Ditch Irrigation Company, Utahwater.net page 30 Exhibit 3.

3 December 17, 1976 letter from Charles W. Wilson, SLCDOPU Director to Basil B. McGlocklin-Dirctor of Highways and Flood Control, Utahwater.ent page 30 Exhibit-3.
4 Crawford Photos of Butler Headgate August, 1996, Utahwater.net page 30 Exhibit-3.
5 Request for Reconsideration from Engineer Murdock February 4, 1997, Utahwater.net page 30, Exhibit-3.
6 August 25, 1997 letter from Mr. Hooton to Mr. Riley, Utahwater.net page 30 Exhibit-3.
7 May 29, 2008 Wayne Crawford affidavit refuting disavowed Hooton letter on the title difference of water rights and exchange contract water under a Bates stamp, Utahwater.net page 31 Exhibit-77.
8 SLCDOPU "surplus" sales contract summary for Big Cottonwood Canyon, Utahwater.net page 30 Exhibit-17.

BIG COTTONWOOD EXHIBIT "C"

On August 25, 1997 Salt Lake City Public Utilities stated: "This analysis [of the Butler Ditch irrigated acreage] indicates that 50 percent of the area is still under irrigation as yards."

Mailed 12-17-76.

December 17, 1976

Again, on September 11, 1992 Salt Lake City Department of Public Utilities stated: "Salt Lake City has acquired the Butler Ditch Irrigation Company and the Company is no longer in existence."

Mr. Basil B. McGlochlin, Director
Highways and Flood Control
160 East 830 North
Midvale, Utah 84047

Dear Mr. McGlochlin:

Salt Lake City purchased the water rights of the Butler Ditch Company from the stockholders with the understanding that the old ditch right of way would be abandoned.

The intake in Big Cottonwood Canyon has been permanently blocked so that it should not be possible to divert water into this ditch in the future.

It appears to have been filled with cement by Salt Lake City prior to December 17, 1976 according to Charles W. Wilson.

Wayne Crawford 1997 photo's of Butler Ditch's headgate show old cement in headgate.

Sincerely,

CHARLES W. WILSON
General Superintendent

CWW/ms
cc: Paul Hurst of
Caldwell Richards and Sorensen, Inc.

Exhibit B

Certificate of Dissolution

AMENDMENTS

Clyde L.
Secretary

251 4413 11/31/7

251 4413 11/31/74

251 4413 11/31/74

4413 608 11/

STATE

Executive Department

Office of Secretary of State

CERTIFICATE OF DISSOLUTION

OF

BUTLER DITCH IRRIGATION COMPANY

I, CLYDE L. MILLER, as Secretary of State of the State of Utah, hereby certify that duplicate originals of Articles of Dissolution of

BUTLER DITCH IRRIGATION COMPANY

duly signed and verified pursuant to the provisions of the Utah Non-Profit Corporation and Cooperative Association Act, have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Dissolution of

BUTLER DITCH IRRIGATION COMPANY

and attaches hereto a duplicate original of the Articles of Dissolution.

File No. 11102

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 20th day of December A.D. 19 74.

Clyde L. Miller
SECRETARY OF STATE

By Harvard R. Hinton
DEPUTY

Exhibit C

Charles Wilson Intent to Abandon Correspondence

Mailed 12-17-76.

December 17, 1976

Mr. Basil B. McGlochlin, Director
Highways and Flood Control
160 East 830 North
Midvale, Utah 84047

Dear Mr. McGlochlin:

Salt Lake City purchased the water rights of the Butler Ditch Company from the stockholders with the understanding that the old ditch right of way would be abandoned.

The intake in Big Cottonwood Canyon has been permanently blocked so that it should not be possible to divert water into this ditch in the future.

Sincerely,

CHARLES W. WILSON
General Superintendent

CWW/ms
cc; Paul Hurst of
Caldwell Richards and Sorensen, Inc.

Exhibit D

Head Gate Plug Photographs

Butler Ditch Point of Diversion
N 990' E 490' from the S 1/4
Section 19 2S 2E, SLBM.
(Photo 8-96)

Permanent Concrete Plug
Butler Ditch Headgate.
(Photo 8-96)

Exhibit E

Glenn F. Mills Statement

Glenn F. Mills
3218 South Green Street
South Salt Lake, Utah 84106
(801)484-7585

April 1997

To whom it may concern:

I was the manager of Mountain View Memorial Estates Cemetery located at 3115 East 7800 South, County of Salt Lake, State of Utah from about 1967 to 1973. During the initial period of my employment I purchased 21.5 shares of stock in the Butler Ditch Irrigation Company.

Mountain View Memorial Estates Cemetery also had shares of stock in Big Willow Irrigation Company during my employment. Mountain View Memorial Estates Cemetery did not take nor use water from Butler Ditch Irrigation Company during the time of my employment. Mountain View Memorial Estates Cemetery did utilize water from alternate sources for irrigation during my employment.

GFM was ~~I~~ sold all shares of stock owned in the Butler Ditch Irrigation Company to Salt Lake City in 1973.

The above facts are correct to the best of my knowledge;

Glenn F. Mills

Glenn F. Mills

Wayne H. Crawford
Witness

Pauline D. Crawford
Witness

TEVETEN (eprosartan mesylate)

21.5 / 168 shares total = 12.79%

Exhibit F

Deed: Butler Ditch Irrigation Company to SLC Quit Claim

6606646

WHEN RECORDED PLEASE RETURN TO:
Leroy W. Hooton, Jr.
Director, Department of Public Utilities
Salt Lake City Corporation
1530 South West Temple
Salt Lake City, UT 84115

6606646
03/31/97 1:27 PM**NO FEE**
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
SL CITY-PUBLIC UTILITIES
REC BY:Z JOHANSON ,DEPUTY - WI

RECEIVED
APR 11 1997
PUBLIC UTIL

WATER RIGHTS QUIT CLAIM DEED

BUTLER DITCH IRRIGATION COMPANY, a corporation organized and existing under the laws of the State of Utah (the "Company"), has been dissolved, as evidenced by a Certificate of Dissolution issued by the Office of the Secretary of State of the State of Utah on December 20, 1974, which dissolution has been authorized by a resolution adopted by the governing body of Salt Lake City Corporation, the sole shareholder of the Company, on January 16, 1974, and as a matter of law, all water rights owned by the Company automatically reverted to Salt Lake City Corporation as the sole shareholder of the Company upon such dissolution. As part of the winding up of the affairs of the Company, and to make Salt Lake City Corporation's ownership of these water rights a matter of public record, the Company, as GRANTOR, by and through Mr. E.J. Garn, President of the Company, hereby quit claims to SALT LAKE CITY CORPORATION, a municipal corporation organized and existing under the laws of the State of Utah, whose principal place of business is 451 South State Street, Salt Lake City, Utah 84111, as GRANTEE, for the sum of ten dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, all right, title and interest of the Company in and to the following described water rights:

BK7631PG0919

1. Any and all rights to which the Company is entitled in and to the flow of Big Cottonwood Creek and its tributaries as described in, and confirmed in and awarded to the Company pursuant to, the final decree in The Progress Company v. Salt Lake City, in the Third Judicial District Court, County of Salt Lake, State of Utah, Decree No. 8921, dated April 13, 1914 (commonly referred to as the "Big Cottonwood Morse Decree"). The terms of the Big Cottonwood Morse Decree are hereby incorporated by reference as if restated herein.

2. Any and all rights which may accrue to the Company, or its successors and assigns, by virtue of its proportionate ownership interest in the flows of Big Cottonwood Creek and its tributaries described in the Big Cottonwood Morse Decree.

3. Any and all other water rights of every nature and description to which the Company is or may in the future be entitled.

GRANTOR makes no warranty whatsoever regarding the title to the above-described water rights, any quiet enjoinment of those rights, the priority of such rights, or the quantity or quality of the water, if any, available for use pursuant to those rights.

BK7631PG0920

IN WITNESS WHEREOF, the GRANTOR has caused its corporate name to be affixed by its duly authorized officers this 19 day of MARCH, 1997.

BUTLER DITCH IRRIGATION COMPANY

By _____
E.J. Garn
President

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 19 day of March, 1997, by E.J. Garn, as President of Butler Ditch Irrigation Company, a Utah corporation authorized to do business in the State of Utah.

Sharen R. Bennett
NOTARY PUBLIC, residing in
Salt Lake County, Utah

My Commission Expires:
9/22/99

NOTARY PUBLIC
STATE OF UTAH
My Commission Expires
September 22, 1999
SHAREN R. BENNETT
1530 South West Temple
Salt Lake City, Utah 84115

G:\bc675 [illegible] February 18, 1997

BK7631PG0921

Exhibit G

Memorandum Decision

BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF CHANGE APPLICATION	)	
	)	MEMORANDUM DECISION
NUMBER 57-10033 (a16828)	)	

Change Application Number 57-10033 (a16828), in the name of Salt Lake City Corporation, was filed on June 22, 1992, to change the point of diversion, place of use, and nature of use of 144.0 acre-feet of water. Heretofore, the water has been diverted from Big Cottonwood Creek at two points located: (1) South 1900 feet and West 1450 feet from the NE Corner of Section 25, T2S, R1E, SLB&M; and (2) North 800 feet and East 1400 feet from the SW Corner of Section 20, T2S, R2E, SLB&M, and used for municipal purposes in Salt Lake City.

Hereafter, it is proposed to divert 0.45 cfs or 144.0 acre-feet of water from Alta Mine Tunnel, located North 1700 feet and West 3500 feet from the SE Corner of Section 28, T2S, R3E, SLB&M, to be used for the same purposes as heretofore in the NE¼ of Section 27, T2S, R3E, SLB&M. In the application it is stated that a contract has been made between Salt Lake City and Bravo Ski Corporation (Solitude Ski Resort Company) for the Resort Company to divert up to 144 acre-feet annually for the domestic requirements of 320 rental units and for fire protection.

The application was advertised in the Deseret News from April 15, 1993, to April 29, 1993, and was protested by Robert J. Murdock et al and United States Forest Service. Late protests were filed by Salt Lake County and Wayne Crawford. In the protests it is stated that the approval of the change application will impair the rights of the protestants, a surplus sales contract does not guarantee that water will be available for the people who are using the water, the water from the sources has already been placed to beneficial use by the Forest Service, and the Forest Service requires that all uses by special use permittees be in the name of the United States; thus, the applicant does not have authority to file such a change application.

A hearing was held on August 28, 1996, in Salt Lake City, Utah. At the hearing the applicant explained the history of the underlying water rights and the nature of the contracts by which the change is based. The protestants in attendance reiterated their protests.

The State Engineer has reviewed the change application, the underlying water rights, the protests, the information submitted at the hearing, and other associated water rights and has noted:

A. This change application is filed on the decreed Butler Ditch water right. The Butler Ditch Irrigation Company was dissolved on December 20, 1974. It appears that all of the shares of stock had been transferred to Salt Lake City; hence, all of the assets of the company passed to Salt Lake City, including the Butler Ditch water right. The applicant has indicated that all of the water of Butler Ditch has been diverted for municipal use since the time that the company was dissolved, thus maintaining the right and providing an underlying right for the change application.

B. The question of surplus water contracts with county residents is not within the purview of the State Engineer. Should those residents or entities deem that those contracts are not sufficient for their needs,

they can obtain other water rights and file the appropriate change applications for the proposed uses.

C. The Forest Service filed a letter dated October 22, 1993, wherein they informed the State Engineer that they no longer object to the change application.

D. Conditions are necessary to ensure that other rights are not impaired by this change application. The exchange agreements between the irrigation companies and Salt Lake City for replacement water from Utah Lake will lessen the likelihood of impairment. The total flow of all change applications filed by the applicant in Big Cottonwood Canyon and the diversions by Salt Lake City at the mouth of the canyon cannot exceed the total of the city's water rights in the canyon.

E. The underlying decreed Butler Ditch water rights now owned by Salt Lake City Corporation are for irrigation purposes and some domestic and stockwatering uses. This change application converts the nature of use to municipal use for 144.0 acre-foot. The balance of Salt Lake City's water right under this decreed award would remain under the historical purposes. Should the city wish to convert these uses to municipal, submission of other change applications is necessary.

In evaluating the various elements of the underlying rights, it is not the intention of the State Engineer to adjudicate the extent of these rights, rather to provide sufficient definition of the rights to assure that other vested rights are not impaired by the change and no enlargement occurs. If, in a subsequent action, the court adjudicates that this right is entitled to either more or less water, the State Engineer will adjust the figures accordingly.

It is, therefore, ORDERED and Change Application Number 57-10033 (a16828) is hereby APPROVED subject to prior rights and the following conditions:

1. The applicant shall install permanent measuring devices to measure both the instantaneous flow rate and the total volume of water diverted. Records shall be kept at least monthly of all water diverted under this change. These measuring devices and the records shall be made available to the State Engineer at all reasonable times to regulate this change.

2. The applicant shall submit on an annual basis by January 31 of each year for the prior calendar year evidence that the diversions of water under this change and under the balance of the applicant's Butler Ditch right do not exceed the historical amount. Such measurements and information shall also be required as part of the submittal of proof of beneficial use.

3. The historic water use would have irrigated 28.8 acres. About 50% would have been consumedand 50% would have returned to the system. To prevent enlargement, depletion under this change cannot exceed 72 acre-feet of water.

This Decision is subject to the provisions of Rule R655-6-17 (1992 Utah Administrative Code--formerly R625) of the Division of Water Rights and to

Sections 63-46b-13 and 73-3-14 of the Utah Code Annotated, 1953, which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Decision. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Decision, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 15th day of January, 1997.

Robert L. Morgan, P.E., State Engineer

RLM:JER:et

Mailed a copy of the foregoing Memorandum Decision this 15th day of January, 1997, to:

Salt Lake City Corporation
Department of Public Utilities
1530 South West Temple
Salt Lake City, UT 84115

Wayne Crawford
9503 Hunts End Drive
Sandy, UT 84092

Robert J. Murdock et al
2964 East 3135 South
Salt Lake City, UT 84109

Salt Lake County
c/o David E. Yocom
2001 South State Street, #S3600
Salt Lake City, UT 84190-1200

US Forest Service
Intermountain Region
324 25th Street
Ogden, UT 84401

BY: Eileen Tooke, Secretary

Exhibit H

Riley Deposition

In the Third District Court
Wayne G. Crawford v. State of Utah Division of Water Rights
Civil No. 010905379
Judge Hanson
Deposition of James Edward Riley

77:6-15

Page 77

6 Q. Let's go back to Exhibit 5, which was
7 the request for reconsideration. Now, you've
8 expressed an opinion that Mr. Crawford has not
9 provided evidence of title. I guess what I'm
10 asking you is, there is a complete chain of title
11 document attached there as Exhibit Roman
12 numeral I; Where in that chain of title is there
13 a break that justifies your opinion that he has not proven title?
15 A. I don't know.

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

DEEDEE CORRADINI
MAYOR

August 25,1997

Jim Riley
State Engineer Office
1636 No. Temple
Salt Lake City, UT 84116

Dear Mr. Riley:

Enclosed for your consideration is the information you requested concerning Butler Ditch irrigation boundaries.

We have attached a copy of the Supreme Court of the State of Utah Appellant's Abstract of Record dated February 1916, page 318, paragraph 585 which discusses the area irrigated by Butler Ditch as 200 acres. We have also enclosed a map of the area irrigated by Butler Ditch. The boundary of the area irrigated by Butler Ditch was taken from a map prepared in 1974 by Jack Bollwinkle of our staff. We have transferred that boundary and area to a GIS coverage we have for this portion of our service area. The area as defined on our GIS system that was serviced by the Butler Ditch actually measures at 224 acres. To determine the amount of land still under irrigation, we measured a test area of approximately 22 acres using aerial photographs. This analysis indicates that 50 percent of the area is still under irrigation as yards. We believe that a credit for return flows should be available for at least 50 percent of the area irrigated by Butler Ditch water.

If you need any additional information, please call Jeff Niermeyer at 483-6785.

Sincerely,

LeRoy W. Hooton

LeRoy W. Hooton, Jr.
Director

1530 SOUTH WEST TEMPLE, SALT LAKE CITY, UTAH 84115
TELEPHONE: 801-483-6768 FAX: 801-483-6818

RECYCLED PAPER

WHEN RECORDED PLEASE RETURN TO:
Leroy W. Hooton, Jr.
Director, Department of Public Utilities
Salt Lake City Corporation
1530 South West Temple
Salt Lake City, UT 84115

RECEIVED
APR 10 1997
WATER RIGHTS
SALT LAKE

6606646
03/31/97 1:27 PM**NO FEE**
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
SL CITY-PUBLIC UTILITIES
REC BY:Z JOHANSON ,DEPUTY - WI

6606646

WATER RIGHTS QUIT CLAIM DEED

BUTLER DITCH IRRIGATION COMPANY, a corporation organized and existing under the laws of the State of Utah (the "Company"), has been dissolved, as evidenced by a Certificate of Dissolution issued by the Office of the Secretary of State of the State of Utah on December 20, 1974, which dissolution has been authorized by a resolution adopted by the governing body of Salt Lake City Corporation, the sole shareholder of the Company, on January 16, 1974, and as a matter of law, all water rights owned by the Company automatically reverted to Salt Lake City Corporation as the sole shareholder of the Company upon such dissolution. As part of the winding up of the affairs of the Company, and to make Salt Lake City Corporation's ownership of these water rights a matter of public record, the Company, as GRANTOR, by and through Mr E.J. Garn, President of the Company, hereby quit claims to SALT LAKE CITY CORPORATION, a municipal corporation organized and existing under the laws of the State of Utah, whose principal place of business is 451 South State Street, Salt Lake City, Utah 84111, as GRANTEE, for the sum of ten dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, all right, title and interest of the Company in and to the following described water rights.

BK7631PG0919

1. Any and all rights to which the Company is entitled in and to the flow of Big Cottonwood Creek and its tributaries as described in, and confirmed in and awarded to the Company pursuant to, the final decree in The Progress Company v. Salt Lake City, in the Third Judicial District Court, County of Salt Lake, State of Utah, Decree No. 8921, dated April 13, 1914 (commonly referred to as the "Big Cottonwood Morse Decree"). The terms of the Big Cottonwood Morse Decree are hereby incorporated by reference as if restated herein.

2. Any and all rights which may accrue to the Company, or its successors and assigns, by virtue of its proportionate ownership interest in the flows of Big Cottonwood Creek and its tributaries described in the Big Cottonwood Morse Decree.

3. Any and all other water rights of every nature and description to which the Company is or may in the future be entitled.

GRANTOR makes no warranty whatsoever regarding the title to the above-described water rights, any quiet enjoinment of those rights, the priority of such rights, or the quantity or quality of the water, if any, available for use pursuant to those rights

BK7631PG0920

IN WITNESS WHEREOF, the GRANTOR has caused its corporate name to be affixed by its duly authorized officers this 19 day of March, 1997.

BUTLER DITCH IRRIGATION COMPANY

By _____
E.J. Garn
President

1992-2000 Deedee Corradini SLC Mayor--1971-1974 SLC Mayor Jake Garn

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 19 day of March, 1997, by E.J. Garn, as President of Butler Ditch Irrigation Company, a Utah corporation authorized to do business in the State of Utah.

Sharen R. Bennett
NOTARY PUBLIC, residing in
Salt Lake County, Utah

My Commission Expires:
9/22/99

NOTARY PUBLIC
STATE OF UTAH
My Commission Expires
September 22, 1999
SHAREN R. BENNETT
1530 South West Temple
Salt Lake City, Utah 84115

G:\bc675\[illegible] - February 18, 1997

BK7631PG0921

AMENDMENTS

Clyde L.
Secretary

Executive Department

Office of Secretary of State

CERTIFICATE OF DISSOLUTION

OF

BUTLER DITCH IRRIGATION COMPANY

I, CLYDE L. MILLER, as Secretary of State of the State of Utah, hereby certify that duplicate originals of Articles of Dissolution of

BUTLER DITCH IRRIGATION COMPANY

duly signed and verified pursuant to the provisions of the Utah Non-Profit Corporation and Cooperative Association Act, have been received in this office and are found to conform to law.

ACCORDINGLY, the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Dissolution of

BUTLER DITCH IRRIGATION COMPANY

and attaches hereto a duplicate original of the Articles of Dissolution.

File No. 11102

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 20th day of December A.D. 19 74

Clyde L. Miller
SECRETARY OF STATE

By Harvard R. Hinton
DEPUTY

RESIGNATION OF OFFICERS OF

BUTLER DITCH IRRIGATION COMPANY

The undersigned being all of the officers of the Butler Ditch Irrigation Company hereby resign from their position as such officers effective Aug 27, 1973. These resignations are made pursuant to the provisions of that certain agreement for the sale of the stock of Butler Ditch Irrigation Company to Salt Lake City Corporation dated _____, 1973.

Dated this 27th day of August, 1973.

A. Willis Beckstead

A. Willis Beckstead, President

Roland R. Wright

Roland R. Wright, Vice President

Grant S. Winn

Grant S. Winn, Secretary

STATE OF UTAH -- DIVISION OF WATER RIGHTS -- DATA PRINT OUT for 55-12322

(WARNING: Water Rights makes NO claims as to the accuracy of this data.) RUN DATE: 01/30/2013

WATER RIGHT: 55-12322 APPLICATION/CLAIM NO.: CERT. NO.: SHARES OF STOCK: 365.5

CHANGES: a37410 Approved, a34209 Amended by Subsequent Change

STOCK COMPANY ASSOCIATED WITH THIS WATER RIGHT:
(This right has a share ownership in the Water Company listed below. To view Information regarding the Water Company for which this application is a Share Statement, click on the water company name.)

East Jordan Irrigation Company -- SHARES OF STOCK: 365.5

OWNERSHIP

NAME: East Jordan Irrigation Company
ADDR: 863 East 12300 South Suite 101
Draper, UT 84020
INTEREST: 100%

NAME: PacifiCorp (Shareholder)
ADDR: c/o Claudia Conder
1407 West North Temple #110
Salt Lake City, UT 84116
INTEREST: 0%
REMARKS: 365.5 shares

DATES, ETC.

LAND OWNED BY APPLICANT? COUNTY TAX ID#:

FILED:	PRIORITY: / /1877	PUB BEGAN:	PUB ENDED:	NEWSPAPER:
ProtestEnd:	PROTESTED: [No]	HEARNG HLD:	SE ACTION: [ ]	ActionDate: / PROOF DUE:
EXTENSION:	ELEC/PROOF: [ ]	ELEC/PROOF:	CERT/WUC: 06/16/1969	LAP, ETC: / LAPS LETTER:
RUSH LETTR:	RENOVATE:	RECON REQ:	TYPE: [ ]	

PD BOOK: [55-] MAP: [ ] PUB DATE:

Type of Right: Water Company Shares Source of Info: Share Statement Status:

LOCATION OF WATER RIGHT

FLOW: 1769.02 acre-feet SOURCE: Utah Lake and Jordan River

COUNTY: Utah COMMON DESCRIPTION: Jordan Narrows

POINTS OF DIVERSION -- SURFACE:
(1) N 180 ft E 1880 ft from W4 cor, Sec 26, T 4S, R 1W, SLBM
Diverting Works: Turner Dam Source: Jordan River
(2) S 1000 ft W 40 ft from N4 cor, Sec 25, T 5S, R 1W, SLBM
Diverting Works: Utah Lake Pumping Plant Source: Utah Lake

Stream Alt Required?: No

USES OF WATER RIGHT******** ELU -- Equivalent Livestock Unit (cow, horse, etc.) ******** EDU -- Equivalent Domestic Unit or 1 Family

SUPPLEMENTAL GROUP NO. 417130. Water Rights Appurtenant to the following use(s):
51-8235(SHAR),8239(SHAR),8268(SHAR),53-1612(SHAR),1639(SHAR),54-1212(SHAR),55-12240(SHAR),12322(SHAR),12423(SHAR),57-7637(DEC)
10366(SHAR),10375(SHAR),10383(SHAR),10393(SHAR),10400(SHAR),10403(SHAR)

IRRIGATION: Sole Supply: 353.804 acres of the Group Total of 2539.667 Div Limit: 0.0 acft. PERIOD OF USE: 04/01 TO 10/31

###PLACE OF USE:	NORTH WEST QUARTER NW	NW NE	NW SW	NW SE	NORTH EAST QUARTER NW	NE NE	NE SW	NE SE	SOUTH WEST QUARTER NW	SW NE	SW SW	SW SE	SOUTH EAST QUARTER NW	SE NE	SE SW	SE SE	Section Totals
Sec 07 T 2S R 1E SLBM											X						0.0000
Sec 18 T 2S R 1E SLBM	X	X	X	X			X	X	X	X	X	X	X	X	X	X	0.0000
Sec 19 T 2S R 1E SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 20 T 2S R 1E SLBM			X						X	X	X	X			X		0.0000
Sec 29 T 2S R 1E SLBM	X	X	X		X	X			X		X						0.0000
Sec 30 T 2S R 1E SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 31 T 2S R 1E SLBM	X	X	X	X	X	X	X		X	X	X	X					0.0000
Sec 11 T 2S R 1W SLBM							X	X	X	X		X	X	X	X	X	0.0000
Sec 12 T 2S R 1W SLBM	X	X	X	X			X		X	X	X	X	X		X	X	0.0000
Sec 13 T 2S R 1W SLBM	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	0.0000
Sec 14 T 2S R 1W SLBM	X	X	X	X	X	X	X	X		X		X	X	X	X	X	0.0000
Sec 23 T 2S R 1W SLBM		X		X	X	X	X	X		X			X	X			0.0000
Sec 24 T 2S R 1W SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 25 T 2S R 1W SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 36 T 2S R 1W SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 06 T 3S R 1E SLBM	X	X	X						X		X						0.0000
Sec 07 T 3S R 1E SLBM			X						X	X	X						0.0000
Sec 18 T 3S R 1E SLBM	X	X	X	X					X	X	X	X					0.0000
Sec 19 T 3S R 1E SLBM	X		X						X		X	X					0.0000
Sec 29 T 3S R 1E SLBM									X								0.0000
Sec 30 T 3S R 1E SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 31 T 3S R 1E SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 32 T 3S R 1E SLBM									X		X						0.0000
Sec 01 T 3S R 1W SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 02 T 3S R 1W SLBM															X		0.0000
Sec 11 T 3S R 1W SLBM					X	X	X	X					X				0.0000
Sec 12 T 3S R 1W SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 13 T 3S R 1W SLBM	X	X	X	X	X	X	X	X		X		X	X	X	X	X	0.0000
Sec 24 T 3S R 1W SLBM		X		X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 25 T 3S R 1W SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 26 T 3S R 1W SLBM				X			X	X		X			X	X			0.0000
Sec 35 T 3S R 1W SLBM						X								X		X	0.0000
Sec 36 T 3S R 1W SLBM	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	0.0000
Sec 05 T 4S R 1E SLBM	X																0.0000
Sec 06 T 4S R 1E SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X				0.0000
Sec 01 T 4S R 1W SLBM	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0.0000
Sec 02 T 4S R 1W SLBM						X		X	X				X	X	X	X	0.0000
Sec 11 T 4S R 1W SLBM		X		X	X	X	X	X	X	X	X		X	X			0.0000
Sec 12 T 4S R 1W SLBM	X	X		X	X	X	X										0.0000
Sec 14 T 4S R 1W SLBM	X	X	X	X					X	X							0.0000
																GROUP ACREAGE TOTAL:	0.0000

DIVERSION & DEPLETION ESTIMATES

(All values in acre-feet, Growing Season in days)

	IRRIGATION	STOCK	DOMESTIC	MUNICIPAL	MINING	POWER	OTHER	MANUALLY EVALUATED	ACRE-FEET EXPORTED	DIVERSION DUTY	DEPLETION DUTY	GROWING SEASON	WATER-USE REPORTING
DIV:				1769.020				Yes		5.00	1.86	161	
DEP:				799.600									

OTHER COMMENTS

DIV/DEP as per OSE on a34209.

SEGREGATION HISTORY

This Right was Segregated from 57-7637, with Appl#: , Approval Date: / / under which Proof is to be submitted.

This Right as originally filed:

FLOW IN CFS	QUANTITY IN ACRE-FEET	IRRIGATED ACREAGE	STOCK (ELUs)	WATER USES: DOMESTIC (FAMILIES)	MUNICIPAL (ACRE-FEET)	MINING (ACRE-FEET)	POWER (ACRE-FEET)	OTHER (ACRE-FEET)
	1720.62	344.1240						

END OF DATA

STATE OF UTAH -- DIVISION OF WATER RIGHTS -- DATA PRINT OUT for a24147(51-7400)

(WARNING: Water Rights makes NO claims as to the accuracy of this data.) RUN DATE: 01/30/2013 Page 1

CHANGE: a24147 WATER RIGHT: 51-7400 CERT. NO.: AMENDATORY? No COUNTY TAX ID:

BASE WATER RIGHTS: 51-7400

RIGHT EVIDENCED BY: 51-7400, a portion of 55-11009 and 55-11012, 4 shares of Fort Field-Little Dry Creek Water Users Associaiton (7.87 acre-feet per share)

CHANGES: Point of Diversion [X], Place of Use [X], Nature of Use [X], Reservoir Storage [ ].

NAME: Fort Field Little Dry Creek Water Users Association
ADDR: 1107 South Orem Boulevard
Orem UT 84058
INTEREST: 100% REMARKS:

NAME: Payson City (Public Water Supplier)
ADDR: 439 West Utah Avenue
Payson UT 84651
REMARKS:

FILED: 02/03/2000|PRIORITY: 11/07/2003|ADV BEGAN: 02/16/2000|ADV ENDED: 02/23/2000|NEWSPAPER: The Payson Chronicle
ProtestEnd:03/14/2000|PROTESTED: [No Heari]|HEARNG HLD: |SE ACTION: [Approved]|ActionDate:10/12/2000|PROOF DUE: 10/31/2014
EXTENSION: |ELEC/PROOF:[ ]|ELEC/PROOF: |CERT/WUC: |LAP, ETC: |LAPS LETTER:
RUSH LETTR: |RENOVATE: |RECON REQ: |TYPE: [ ]

Status: Approved

**********H E R E T O F O R E**********

FLOW: 15.61 cfs OR 31.48 acre-feet

SOURCE: Provo River

COUNTY: Utah

LITTLE DRY CREEK

Provo River Decree, Civil No. 2888,
Paragraph 8
Class "A" water right - Provo River Decree

From May 10 to June 20, duty 60, 8.43 cfs

From June 20 to July 20, duty 66, 7.67 cfs

From July 20 to May 10, duty 70, 6.75 cfs

FORT FIELD IRRIGATION COMPANY

Provo River Decree, Page 14, Par. 11
Wentz No. 8, Assessment No. 7
(Assessment in name of Fort Field -
Little Dry Creek)
Class "A" water right - Provo River Decree

From May 10 to June 20, duty 80, 7.18 cfs

From June 20 to July 20, duty 90, 6.38 cfs

**********H E R E A F T E R**********

FLOW: 27.545 acre-feet

SOURCE: Underground Water Wells (4 existing)

COUNTY: Utah COM DESC: Payson

From July 20 to Sept. 1, duty 100,
5.74 cfs
From Sept. 1 to May 10, duty 125, 4.59 cfs

POINT(S) OF DIVERSION ------>

Point Surface:
(1) N 1846 ft E 1676 ft from SW cor, Sec 36, T 6S, R 2E, SLBM
Dvrting Wks: Diversion dam,canal & pipeline
Source:
(2) N 1750 ft E 800 ft from SW cor, Sec 02, T 7S, R 2E, SLBM
Dvrting Wks: Fort Field Headgate
Source: Provo River

Point Underground:

CHANGED AS FOLLOWS: (Click Location link for WRPLAT)

Point Underground:
(1) S 189 ft E 17 ft from NW cor, Sec 16, T 9S, R 2E, SLBM
Diameter: 16 ins. Depth: 195 to ft. WELL ID#: 003692
(2) N 2304 ft E 99 ft from SW cor, Sec 16, T 9S, R 2E, SLBM
Diameter: 12 ins. Depth: 500 to ft. WELL ID#: 003729
(3) N 1700 ft E 100 ft from SW cor, Sec 17, T 9S, R 2E, SLBM
Diameter: 16 ins. Depth: 600 to ft. WELL ID#: 000000
(4) N 2237 ft W 525 ft from SE cor, Sec 17, T 9S, R 2E, SLBM
Diameter: 12 ins. Depth: 225 to ft. WELL ID#: 000000

PLACE OF USE ------>

	NW	NE	SW	SE
	N N S S / W E W E	N N S S / W E W E	N N S S / W E W E	N N S S / W E W E
Sec 02 T 7S R 2E SLBM	* : :X:X**X:X:X:X**X:X:X:X**X:X:X:X*			
Sec 10 T 7S R 2E SLBM	* : : : ** :X: :X** : : : ** :X: :X*			
Sec 11 T 7S R 2E SLBM	*X:X:X:X**X:X: : **X: : : ** : : : *			

CHANGED as follows:

	NW	NE	SW	SE
	N N S S / W E W E	N N S S / W E W E	N N S S / W E W E	N N S S / W E W E

NATURE OF USE ------>

IRR = values are in acres.
STK = values are in ELUs meaning Cattle or Equivalent.
DOM = values are in EDUs meaning Equivalent Domestic Units (or Families).

SUPPLEMENTAL to Other Water Rights: No

IRR: 6.8863 acres. USED 05/10 - 05/10

CHANGED as follows:

SUPPLEMENTAL to Other Water Rights: No

MUN: Payson USED 01/01 - 12/31

PROTESTANTS

NAME: Central Utah Water Conservancy District
ADDR: (late)
355 West University Parkway
Orem UT 84058-7303

NAME: USA Bureau of Reclamation
ADDR: ATTN: Jonathan Jones
302 East 1860 South
Provo UT 84606-7317

EXTENSIONS OF TIME WITHIN WHICH TO FILE PROOF

FILED: 08/18/2010 | PUB BEGAN: | PUB ENDED: | NEWSPAPER: No Adv Required
ProtestEnd: | PROTESTED: [Yes] | HEARNG HLD: | SE ACTION: [Approved] | ActionDate:10/12/2010 | PROOF DUE: 10/31/2014

END OF DATA

JEFFRY T. NIERMEYER
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

RALPH BECKER
MAYOR

November 10, 2009

Paul H. Ashton
Boyack Ashton LC
1237 E. Lorraine Drive
Salt Lake City, Utah 84106

Re: Johnson, Garside & JLC Change Request

Dear Paul:

This is in response to your October 26, 2009 letter in which you have requested Salt Lake City (the "City") to respond to questions related to a demand made by Evan Johnson, Jim Garside, JLC and others (the "Johnson Group") to allow shareholders of Holliday Water Company (the "Company) to file a change application to transfer water outside of the historical service area of the Company. The City has an interest in this matter, as you indicated, because the City is a party to a 1921 Exchange Agreement with Upper Canal Irrigation Company, whose interests were subsequently transferred to the Company. In addition, the City is a shareholder of the Company and holds 80 shares of Class C stock.

The City has had an excellent working relationship with the Company over several decades and has no interest in becoming an adversary of the Company concerning this matter. The City, however, cannot support the request to move water through a change application as you have described in your letter. The proposal is contrary to the interests and rights of the City under the 1921 Agreement and as a shareholder of the Company.

The City has successfully litigated similar issues with the Johnson Group in the Big Ditch and Lower Canal cases. In those cases, and other instances in which the City has had dealings with the Johnson Group, they have promoted untenable legal theories that have proved to be without merit. Furthermore, through the Big Ditch Company, they have demonstrated their willingness to expend company resources to pursue their legal theories at the expense of the shareholders. Recently, individual Big Ditch shareholders have been assessed thousands of dollars to pursue legal theories that were resoundly rejected by the District Court.

If necessary, the City will initiate an action similar to the Big Ditch case to protect its interests under the 1921 Agreement. The City will certainly assert all relevant legal theories that it successfully prosecuted in the Big Ditch case, in addition to any other legal theories that may be appropriate.

1530 SOUTH WEST TEMPLE, SALT LAKE CITY, UTAH 84115
TELEPHONE: 801-483-6900 FAX: 801-483-6819
WWW.SLCGOV.COM

The Company also knows that the City has legal interests in the waters of Big Cottonwood Creek and an obligation to protect the water rights that are subject to the 1921 Agreement. If change applications were filed related to Big Cottonwood Creek water rights, the City will intervene in the proceedings before the State Engineer and object to the approval of any such applications. Furthermore, if any judicial review were to occur, the City will also assert its rights in District Court.

Finally, as a shareholder of the Company, the City believes that the proposal is contrary to the best interests of the Company. As you noted, the Johnson Group's demands are in direct conflict with provisions of the Company's Articles of Incorporation and By-Laws that require water delivery be limited to the historical service area of the Company. The City supports these provisions and believes that the majority of shareholders also believe that the Company's waters should stay within its historical boundaries. As a shareholder, the City requests that the Company respect the requirements of its Articles of Incorporation and By-Laws and reject proposed actions that would be in violation of any provisions of the its Articles of Incorporation and By-Laws.

It is unfortunate that the members of the Johnson Group are attempting to put the City and the Company at odds over the 1921 Agreement. We are confident that we can continue to have a good working relationship in the future. We are equally confident in our ability to prevail if we are forced to take legal action to protect our interest under the1921 Agreement and as a shareholder of the Company.

If you have any questions concerning these matters, please feel free to contact me.

Sincerely,

Jeffry Niermeyer, P.E.
Director, Department of Public Utilities

Cc: Rusty Vetter

JEFFRY T. NIERMEYER
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY AND WATERWORKS
WATER RECLAMATION AND STORMWATER

RALPH BECKER
MAYOR

Jan. 21, 2010

Paul H. Ashton
Boyack Ashton LC
1237 E. Lorraine Drive
Salt Lake City, Utah 84106

Re: Second Johnson, Garside & JLC Change Request

Dear Paul:

This is in response to your November 19, 2009 letter in which you have requested Salt Lake City (the "City") to respond to a second demand made by Evan Johnson, Jim Garside, JLC and others (the "Johnson Group") to allow shareholders of Holliday Water Company (the "Company) to file a change application to transfer water outside of the historical service area of the Company into Big Cottonwood Canyon. As you are aware, this second demand is broader in scope than the first demand in that it includes water in springs and well water of the Company (in addition to the reserved water under the Exchange Agreement with the City).

The City's view concerning this matter in general, as set forth in our November 10, 2009 letter, has not changed. The City's concerns are heightened, however, by the inclusion of additional water interests in the second proposed change application. By including springs and well water, the Johnson Group is creating a direct interference with the City's existing water rights. As a result, the City will be additionally motivated to assure that the change application is not submitted and, if it were submitted, will strive to stop the approval of the change application by the State Engineer.

We believe the Company should also consider the discussions surrounding the State Engineer's new rule related to sole supply determinations. In light of the new rule, the Company should be particularly circumspect concerning this change application. Assuming that the filing of this change application would trigger a sole supply review by the State Engineer, the Company will be opening itself up to unnecessary work in addressing the sole supply process and could possibly put some of the Company's water rights at jeopardy.

If you have any questions concerning these matters, please feel free to contact me.

Sincerely,

Jeff Niermeyer

Jeffry Niermeyer, P.E.
Director, Department of Public Utilities

1530 SOUTH WEST TEMPLE, SALT LAKE CITY, UTAH 84115
TELEPHONE: 801-483-6900 FAX: 801-483-6818
WWW.SLCGOV.COM

RECYCLED PAPER

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL

RECEIVED
SEP 26 1997
WATER RIGHTS
SALT LAKE

JAN GRAHAM
ATTORNEY GENERAL

CAROL CLAWSON
Solicitor General

REED RICHARDS
Chief Deputy Attorney General

PALMER DEPAULIS
Chief of Staff

MEMORANDUM

TO: BOB MORGAN, State Engineer
KENT JONES, Assistant State Engineer
JIM RILEY, Regional Engineer, Utah Lake/Jordan River

FROM: JOHN H. MABEY, JR.
Assistant Attorney General

DATE: September 26, 1997

RE: Salt Lake City Corp. v. State Engineer and Wayne G. Crawford, Salt Lake County Civil No. 950906811AA; Approved Change Application Number 57-9301 (a18075)

Attached is a copy of the Order of Dismissal dated September 18, 1997 which dismisses the above case. The Order and Stipulation have the effect of affirming the Memorandum Decision dated July 21, 1995 which approved Change Application Number 57-9301 (a18075), with the following modifications:

1. Mr. Crawford has conveyed all water rights evidenced by the Change and assigned the Change to Salt Lake City Corporation, reserving a right to the use of water as set forth in the Quit Claim Deed and Assignment, each dated September 9, 1997.

2. Salt Lake City will likely amend the Change Application to delete the underground well point of diversion.

1594 WEST NORTH TEMPLE #300, BOX 140855 · SALT LAKE CITY, UTAH 84114-0855 · TEL : 801- 538-7227 · FAX : 538-7440

3. Mr. Crawford and his heirs, successors and assigns reserved the right to divert and use water, free of charge, in amounts sufficient under the approved Change for four single family residences for 75 years beginning September 9, 1997. The nature and place of use is as described in the Change Application. The four residences may be located anywhere within or adjacent to the Pine Tree Subdivision area of Big Cottonwood Canyon, as described in the Change. The point of diversion shall be the surface point of diversion described in the Change Application, unless Crawford identifies in writing an alternative spring source in the general area of the Pine Tree Subdivision within three years of September 9, 1997. If Crawford so identifies an alternative spring source, Salt Lake City will undertake to gain the State Engineer's approval for the use and diversion from the alternative spring source.

Please endorse your records accordingly and remove the red litigation tag from the water right file.

Please contact me should you have any questions regarding this matter.

Attachment: Order of Dismissal

Butler Ditch Headgate photo August 1996 appears to have a cement plug put in by Salt Lake City prior to 1974 according to Charles W. Wilson--Director SLCDOPU

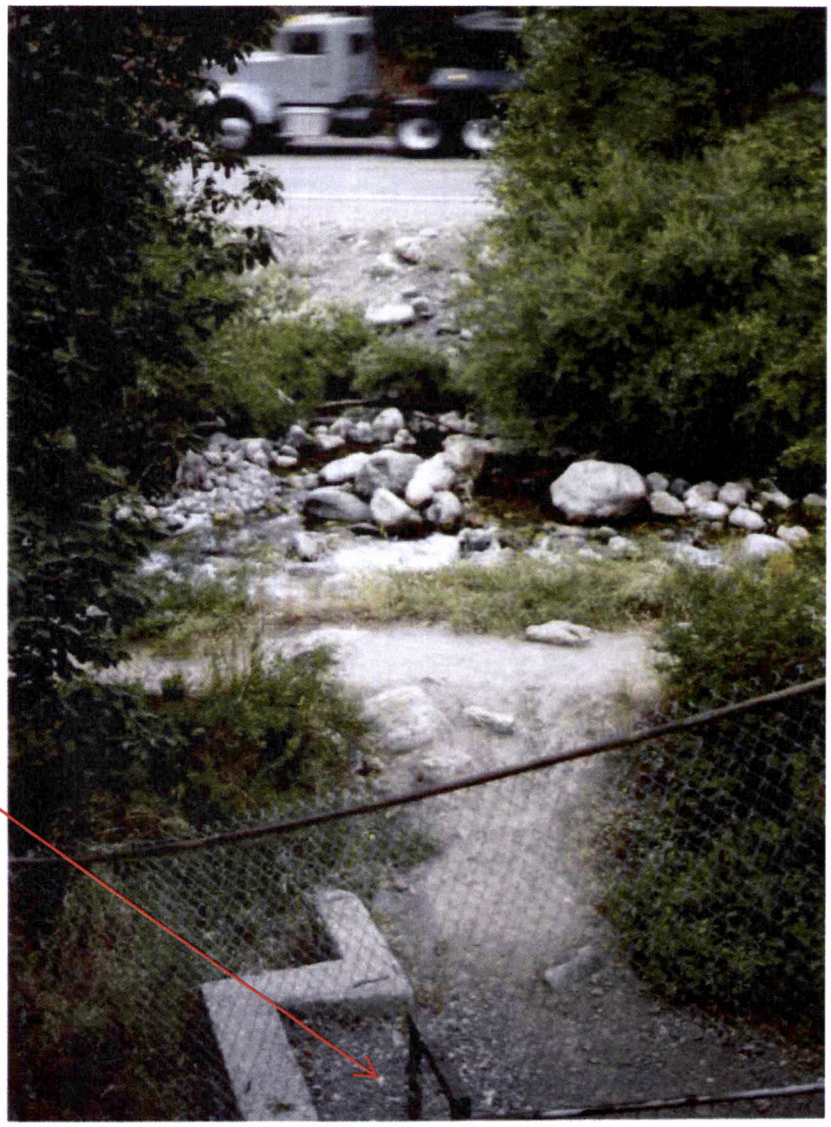
How could enough water flow out of this headgate to irrigate 70 or 112 acres in 1997?

What is historic use? In 1914, the irrigation of 70 acres, some stockwatering, and a little domestic use?

70 acres x Salt Lake County irrigation duty is 350 acre-feet, yet this water right supports over 500 acre-feet of surplus sales contracts.

Generally the State Engineer allows the lessor of the CFS (the flow) or the amount of water required for for the irrigated acreage which would be 350 acre-feet for Butler Ditch. Yet, magically, SLC gets the greater figure.

Looks like a cement plug. Butler filed no non-use applications, had no use for over 7 years, yet there appears to be no field inspection for the changes 57-1006 through 57-10042



73-1-3. Beneficial use basis of right to use. Beneficial use shall be the basis, the measure and the limit of all rights to the use of water in this state.

This letter is written after the August 1996 Crawford photo's of a cement plugged Butler Ditch Headgate.

RECEIVED
FEB 04 1997
WATER RIGHTS
SALT LAKE

REQUEST FOR RECONSIDERATION
FEBRUARY 4, 1997

Robert L. Morgan, P.E.
STATE ENGINEER
1594 West North Temple, Suite 200
Box 146300
Salt Lake City, Utah 84114-6300

Re: CHANGE APPLICATIONS filed by Salt Lake City Corporation: 16 in Big Cottonwood Canyon; 57-10016 (a16811), 57-10017 (a16812), 57-10018 (a16813), 57-10019 (a16814), 57-10020 (a16815), 57-10021 (a16816), 57-10022 (a16817), 57-10023 (a16818), 57-10026 (a16821), 57-10028 (a16823), 57-10029 (a16824), 57-10030 (a16825), 57-10031 (a16826) 57-10032 (a16827), 57-10033 (a16828), 57-10035 (a16840); 7 in Little Cottonwood Canyon; 57-10009 (a16839), 57-10010 (a16841), 57-10011 (a16842), 57-10012 (a16843), 57-10013 (a16844), 57-10014 (a16845), 57-10015 (a16846); 3 in Mill Creek Canyon; 57-10040 (a16836), 57-10041 (a16837), 57-10042 (a16838); 4 in Parley's Canyon 57-10036 (a16786), 57-10037 (a16787), 57-10039 (a16789), and 57-10038 (a16788).

Reasons For Request For Reconsideration

1. Salt Lake City presented no flow data at the August 28, 1996 hearing nor at any other time from which the State Engineer could ascertain whether or not Salt Lake City ;had in fact been using the Butler Ditch water at its point of diversion at the mouth of Big Cottonwood Canyon. Thus the Butler Ditch water is presumed forfeited and cannot form the bases of some of these change applications.

2. State Engineer was not furnised flow data in the possession of applicant, Salt Lake City, that was needed to quantify the extent of applicant's water right.

3. State Engineer is now in possession of flow data not available at the time of the hearing.

4. Adequate safeguards to insure that Salt Lake City foregoes diverting equal amounts of water at its diversion point as it was granted in the change application is not in place.

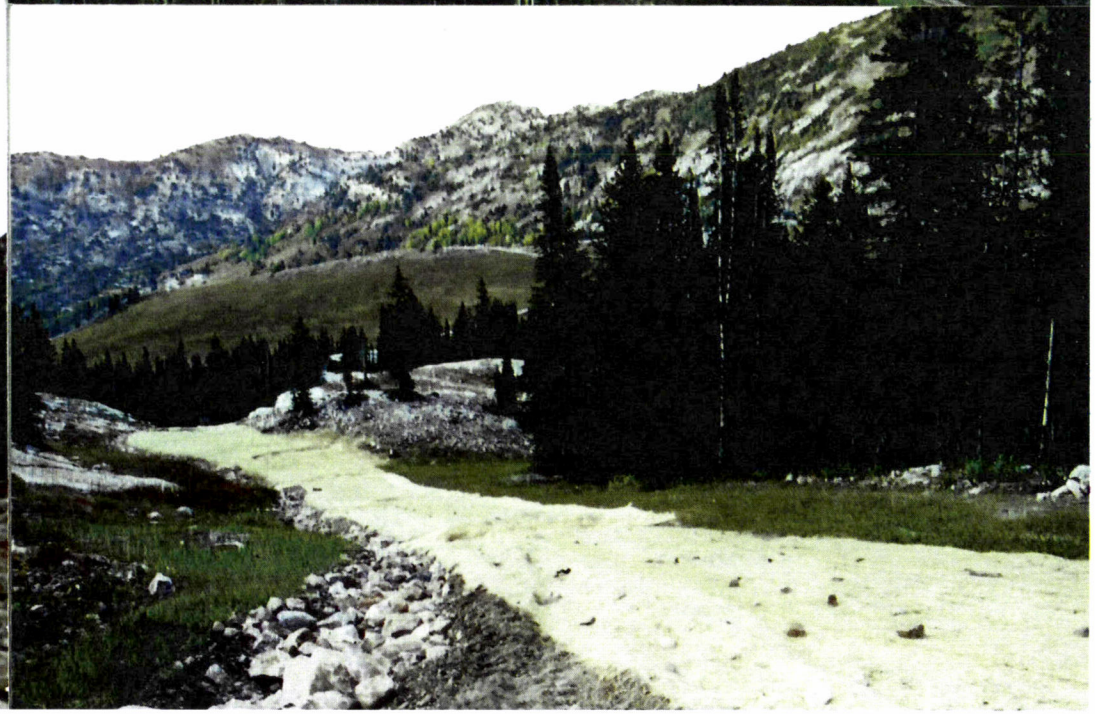
5. The State Engineer does not have adequate personnel to supervise compliance with this change application.

6. At the August 28, 1996 hearing Salt Lake City indicated a long history of non-compliance.

7. Approval of these applications is contrary to the public interest in that they will continue a practice that places at risk many thousands of people, their public schools, their businesses and other public facilities of not having a culinary water supply, of not having water for fire protection and of not having water for other community and municipal types of uses

6

SALT LAKE CITY ALBION BASIN PIPELINE TO SECRET LAKE.



BEFORE THE UTAH DIVISION OF WATER RIGHTS

In Re: Temporary Permit Nos. 92-57-19 and 92-57-20

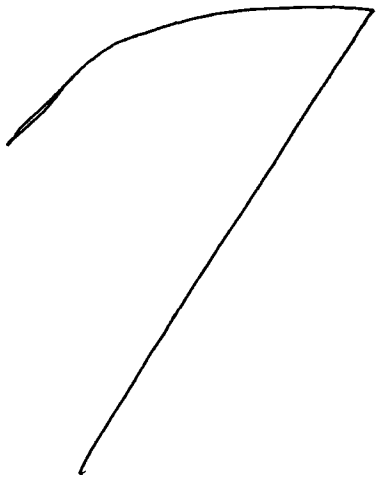
Before Hearing Officer Bob Morgan

June 22, 1992

A. Okay. Little Cottonwood Water Company has a contract and has a claim to water that is saved by running water through this cutoff savings. I can't remember the exact amount. It is about 3 point something second feet is saved by keeping this stream dry and running the water through here.

So when I am giving water to these ditch companies and we are using the cutoff savings and drying up the creek, then I am able to add a little bit to each one of these ditches according to the stock ownership in the Little Cottonwood Water Company. They also have rights to Red Pine up the canyon. They use water from Cecret Lake, and that's used also by the Little Cottonwood Water Company.

Those are the three areas where they have saved water, and to do that all of these ditch companies that joined the Little Cottonwood Water Company had to divest themselves and give their third surplus right to the ditch company. That's the only way they could get water to do these things with. And that's where the water comes from that's stored in Cecret Lake and Red Pine, and also the -- and then that water in the cutoff savings. So I have to count that in. It's only fair if I do. I would be cheating somebody, and that's not right, and I will not do it.



SOLE SUPPLY TOTALS FOR EACH WATER RIGHT IN GROUP: 411780

#	WRNUM	Irrigation	Stockwatering	Domestic	Municipal	Mining	Power	Other
		acres	stock units	families	acft	acft	cfs	acft
(1)	15-390				Unevaluated			
(2)	15-576				Unevaluated			
(3)	15-997				Unevaluated			
(4)	35-8087				Unevaluated			
(5)	55-1676				Unevaluated			
(6)	55-1677				Unevaluated			
(7)	55-1678				Unevaluated			
(8)	55-1680				Unevaluated			
(9)	55-1681				Unevaluated			
(10)	55-1682				Unevaluated			
(11)	55-1683				Unevaluated			
(12)	55-1684				Unevaluated			
(13)	55-1685				Unevaluated			
(14)	55-1686				Unevaluated			
(15)	55-1687				Unevaluated			
(16)	55-1688				Unevaluated			
(17)	55-1689				Unevaluated			
(18)	55-1690				Unevaluated			
(19)	55-1691				Unevaluated			
(20)	55-1692				Unevaluated			
(21)	55-1693				Unevaluated			
(22)	55-1694				Unevaluated			
(23)	55-1695				Unevaluated			
(24)	55-1696				Unevaluated			
(25)	55-1697				Unevaluated			
(26)	55-1698				Unevaluated			
(27)	55-1699				Unevaluated			
(28)	55-1700				Unevaluated			
(29)	55-1701				Unevaluated			
(30)	55-1702				Unevaluated			
(31)	55-1703				Unevaluated			
(32)	55-1704				Unevaluated			
(33)	55-1705				Unevaluated			
(34)	55-1706				Unevaluated			
(35)	55-1707				Unevaluated			
(36)	55-1708				Unevaluated			
(37)	55-1709				Unevaluated			
(38)	55-1710				Unevaluated			
(39)	55-1711				Unevaluated			
(40)	55-1712				Unevaluated			

57-10015 (a16846) part of Salt Lake City Supplemental Group: 411780 indicating 245,882.17457 acre-feet of sole source municipal water rights owned by salt Lake City. This excludes 16,000 water shares, CUP water contracts, and 61,000 acre-feet of Deer Creek water available though Metro Salt Lake & Sandy.

.

CUP estimates Salt Lake City to hold 500,000 acre-feet of water. SLC in-city water demand is less than 50,000 acre-feet. SLC's "surplus" water business is about 23,000 acre-feet for a total of SLC and County connections of about 90,000 serving 180,000 SLC residents and 50,000 County "surplus" customers.

(41)	55-1713	Unevaluated
(42)	55-1714	Unevaluated
(43)	55-1715	Unevaluated
(44)	55-1779	Unevaluated
(45)	55-9695	7900
(46)	57-7	Unevaluated
(47)	57-26	Unevaluated
(48)	57-29	Unevaluated
(49)	57-30	Unevaluated
(50)	57-31	Unevaluated
(51)	57-32	Unevaluated
(52)	57-75	Unevaluated
(53)	57-89	Unevaluated
(54)	57-90	Unevaluated
(55)	57-94	Unevaluated
(56)	57-95	Unevaluated
(57)	57-98	Unevaluated
(58)	57-100	Unevaluated
(59)	57-101	Unevaluated
(60)	57-102	Unevaluated
(61)	57-103	Unevaluated
(62)	57-106	Unevaluated
(63)	57-107	Unevaluated
(64)	57-116	Unevaluated
(65)	57-149	12066.33301
(66)	57-150	2000
(67)	57-183	Unevaluated
(68)	57-785	Unevaluated
(69)	57-1003	Unevaluated
(70)	57-1337	Unevaluated
(71)	57-1603	Unevaluated
(72)	57-1719	Unevaluated
(73)	57-1883	Unevaluated
(74)	57-1894	Unevaluated
(75)	57-1895	Unevaluated
(76)	57-2116	Unevaluated
(77)	57-2168	Unevaluated
(78)	57-2227	Unevaluated
(79)	57-2229	Unevaluated
(80)	57-2234	Unevaluated
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(82)	57-2328	Unevaluated
(83)	57-2387	Unevaluated
(84)	57-2389	Unevaluated
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(88)	57-2502	Unevaluated
(89)	57-2536	Unevaluated
(90)	57-2543	272.44
(91)	57-2560	Unevaluated
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(94)	57-2617	Unevaluated
(95)	57-2618	Unevaluated
(96)	57-2624	Unevaluated
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(98)	57-2626	Unevaluated
(99)	57-2627	Unevaluated
(100)	57-2697	Unevaluated
(101)	57-3115	Unevaluated
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(103)	57-3452	Unevaluated
(104)	57-3453	Unevaluated
(105)	57-3454	Unevaluated
(106)	57-3455	Unevaluated
(107)	57-3456	Unevaluated
(108)	57-3457	Unevaluated
(109)	57-3458	Unevaluated
(110)	57-3459	Unevaluated
(111)	57-3460	Unevaluated
(112)	57-3461	Unevaluated
(113)	57-3462	Unevaluated
(114)	57-3463	Unevaluated
(115)	57-3464	Unevaluated
(116)	57-3465	Unevaluated
(117)	57-3466	Unevaluated
(118)	57-3467	Unevaluated
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(120)	57-3469	Unevaluated
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(145)	57-3509	Unevaluated
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(153)	57-3517	Unevaluated
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(183)	57-3547	Unevaluated
(184)	57-3548	Unevaluated
(185)	57-3549	Unevaluated
(186)	57-3550	Unevaluated
(187)	57-3551	Unevaluated
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(189)	57-3553	Unevaluated
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(215)	57-4050	Unevaluated
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(269)	57-5531	Unevaluated
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(272)	57-5534	Unevaluated
(273)	57-5535	Unevaluated
(274)	57-5536	Unevaluated
(275)	57-5537	Unevaluated
(276)	57-5538	Unevaluated
(277)	57-5539	Unevaluated
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(303)	57-8747	Unevaluated
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(305)	57-8750	Unevaluated
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(315)	57-10009	Unevaluated
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(338)	57-10032	Unevaluated
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(340)	57-10034	Unevaluated
(341)	57-10035	Unevaluated
(342)	57-10036	Unevaluated
(343)	57-10037	Unevaluated
(344)	57-10039	Unevaluated
(345)	57-10040	Unevaluated
(346)	57-10041	Unevaluated
(347)	57-10042	Unevaluated
(348)	57-10086	Unevaluated
(349)	57-10291	Unevaluated
(350)	57-10293	Unevaluated
(351)	59-163	Unevaluated
(352)	59-174	Unevaluated
(353)	59-179	Unevaluated
(354)	59-1090	Unevaluated
(355)	59-1206	Unevaluated

(356)	59-1217			Unevaluated			
(357)	59-1549			Unevaluated			
(358)	59-1678			Unevaluated			
(359)	59-3662			Unevaluated			
(360)	59-3663			Unevaluated			
(361)	59-3664			Unevaluated			
(362)	59-3665			Unevaluated			
(363)	59-3673			Unevaluated			
(364)	59-3749			Unevaluated			
(365)	59-4513			36173.76662			
(366)	E21			558.18856			
(367)	E2919			21049.53942			
(368)	E2920			37920.28826			
(369)	E2921			11275.52129			
(370)	E2922			11072.53129			
(371)	E3728			41946.67609			
(372)	E82			904.97498			
(373)	E9			43438.79883			
SOLE SUPPLY TOTALS:	**0**	**0**	**0**	**245882.17457**	**0**	**0**	**0**
GROUP TOTALS:							

SALT LAKE CITY WATER MONOPOLY PARTIAL INVENTORY DEC 7, 2009

500,000 ACRE-FEET OF WATER IS A REASONABLE ESTIMATE

This did not happen by chance.

How did this happen? Who did it?

Why did they do it? What did they gain?

What did Utah lose? What is to be done?

How did SLC, 1 of 243 Utah's municipalities, skirt Utah Water Law, and Utah State Water Policies against hoarding Utah's water resources?

SLC has 600+ water right numbers and 100+ change applications
Orem City has about 40 water right numbers and change applications

Salt Lake City Population 180,000 Orem City Population 90,000

SLC is claiming their neighbors' future water demand, hoarding their neighbors' water, and selling it as "surplus" for profit and extra-territorial control of land outside SLC.

20 HYDRO-ELCTRICT DAMS PROPOSED 0 BUILT
2 DAMS IN BIG AND LITTLE COTTONWOOD CANYON IMPOUNDNG 110,000 ACRE-FEET FLOODING 850 ACRES
54755 water share water available (cahoon 1430.74 excluded)
24+ well 61,000 AF capacity with 300,000 AF well right
75,000 to 90,000 water available from METROPOLITAN WATER DISTRICT OF SALT LAKE
35000 AF of Sewer re-use effluent available
53000 AF of Big Cottonwood Creek available
36809 AF of Little Cottonwood Creek available
18995.8 AF of Parley's Creek available
11730 AF of City Creek available
4424 AF of Emigration Creek available
11137 AF of Millcreek available
14600 AF of Utah Lake available
2000+ AF of Ontario Drain water available
150,000+ AF Pending available to City

2005 inside Salt Lake City Water Demand/Used 48,000 AF
2005 temporary "surplus" sales outside SLC limits 24,000 AF

Demand reduction 25% for Conservation
12,000+ less connections so far from wall to wall cities

Water Right	APP#	Type	Status	CFS	AF Approved	Filing Date	# PODs	Pending	Lp/Tm/R j/Wd
15-1004	U12791	UGWC		0.07	0.96	1961/05/07	1		
15-1862	A27082	APPL	WUC	0.25	0	1955/06/15	1		
15-390	A25686	Application	Certificated	0.16	89.35	12/04/54	1		
15-4142	U12784	UGWC		0	1	1961/05/07	1		
15-4553	A27865	Application	Certificated		64.3	09/02/56	1		
15-4554	U6924		UGWC		12.5	09/03/36	1		
15-576	A35443	APPL	WUC	0.02	0	1963/07/22	1		
15-997								well in Tooele	

56	1960 SLC Inventory		24+ Wells	Pre-1961	438.39	317304.49	Pre-1961	spiro Civil #148,376	
57	35-10497	U8654	DIL		7.2	17086.73	1936/03/19	1	
58	35-10497	Spiro Tunnel					01/15/36		
59	35-1412	A34893	APPL	REJ	13		1963/02/01	1	
60	35-8087	A10747	APPL	WD	300		1937	1	Weber River 217344
61	35-8087								
62	35-8088	A10748	APPL	WD	65		/ /	1	
63	54-1	A510	APPL	DIS	40		1905/09/15	1	
64	54-139	U16567	UGWC		0.06		1938/02/08	1	
65	55-1179	A34894	APPL	REJ	10		1963/02/01	1	
66	55-1180	A34895	APPL	REJ	10		1963/02/01	1	
67	55-1181	A34896	APPL	REJ	6		1963/02/01	1	
68	55-1676	U1718	UGWC	DIS	12		1936/01/15	1	
69	55-1677	U1719	UGWC	TERM	0		/ /	1	
70	55-1678	U1720	UGWC	TERM	0		/ /	1	
71	55-1679	U1721	UGWC	TERM	0		/ /	1	
72	55-1680	U1722	UGWC	TERM	0		/ /	1	
73	55-1681	U1723	UGWC	TERM	0		/ /	1	
74	55-1682	U1724	UGWC	TERM	0		/ /	1	
75	55-1683	U1725	UGWC	TERM	0		/ /	1	
76	55-1684	U1726	UGWC	TERM	0		/ /	1	
77	55-1685	U1727	UGWC	TERM	0		/ /	1	
78	55-1686	U1728	UGWC	TERM	0		/ /	1	
79	55-1687	U1729	UGWC	TERM	0		/ /	1	
80	55-1688	U1730	UGWC	TERM	0		/ /	1	
81	55-1689	U1731	UGWC	TERM	0		/ /	1	
82	55-1690	U1732	UGWC	TERM	0		/ /	1	
83	55-1691	U1733	UGWC	TERM	0		/ /	1	
84	55-1692	U1734	UGWC	TERM	0		/ /	1	
85	55-1693	U1735	UGWC	TERM	0		/ /	1	
86	55-1694	U1736	UGWC	TERM	0		/ /	1	
87	55-1695	U1737	UGWC	TERM	0		/ /	1	
88	55-1696	U1738	UGWC	TERM	0		/ /	1	
89	55-1697	U1739	UGWC	TERM	0		/ /	1	
90	55-1698	U1740	UGWC	TERM	0		/ /	1	

91	55-1699	U1741	UGWC	TERM	0	/ /	1
92	55-1700	U1742	UGWC	TERM	0	1936/01/15	1
93	55-1701	U1743	UGWC	TERM	0	1836/01/15	1
94	55-1702	U1744	UGWC	TERM	0	1936/01/15	1
95	55-1703	U1745	UGWC	TERM	0	1936/01/15	1
96	55-1704	U1746	UGWC	TERM	0	1936/01/15	1
97	55-1705	U1747	UGWC	TERM	0	1936/01/15	1
98	55-1706	U1748	UGWC	TERM	0	/ /	1
99	55-1707	U1749	UGWC	TERM	0	1936/01/15	1
100	55-1708	U1750	UGWC	TERM	0	1936/01/15	1
101	55-1709	U1751	UGWC	TERM	0	1936/01/15	1
102	55-1710	U1752	UGWC	TERM	0	1936/01/15	1
103	55-1711	U1753	UGWC	TERM	0	1936/01/15	1
104	55-1712	U1754	UGWC	TERM	0	1936/01/15	1
105	55-1713	U1755	UGWC	TERM	0	1936/01/15	1
106	55-1714	U1756	UGWC	TERM	0	1936/01/15	1
107	55-1715	U1757	UGWC	TERM	0	1936/01/15	1
108	55-1716	U1758	UGWC	TERM	0.02	1936/01/15	1
109	55-1717	U1759	UGWC	DIS	12	1936/01/15	1
110	55-1718	U1760	UGWC	TERM	0	1936/01/15	1
111	55-1719	U1761	UGWC	TERM	0	1936/01/15	1
112	55-1720	U1762	UGWC	TERM	0	1936/01/15	1
113	55-1721	U1763	UGWC	TERM	0	1936/01/15	1
114	55-1722	U1764	UGWC	TERM	0	1936/01/15	1
115	55-1723	U1765	UGWC	TERM	0	1936/01/15	1
116	55-1724	U1766	UGWC	TERM	0	1936/01/15	1
117	55-1725	U1767	UGWC	TERM	0	1936/01/15	1
118	55-1726	U1768	UGWC	TERM	0	1936/01/15	1
119	55-1727	U1769	UGWC	TERM	0	1936/01/15	1
120	55-1728	U1770	UGWC	DIS	12	1936/01/15	1
121	55-1729	U1771	UGWC	TERM	0	1936/01/15	1
122	55-1730	U1772	UGWC	TERM	0	1936/01/15	1
123	55-1731	U1773	UGWC	TERM	0	1936/01/15	1
124	55-1732	U1774	UGWC	TERM	0	1936/01/15	1
125	55-1733	U1775	UGWC	TERM	0	1936/01/15	1

126	55-1734	U1776	UGWC	TERM	0	1936/01/15	1
127	55-1735	U1777	UGWC	TERM	0	1936/01/15	1
128	55-1736	U1778	UGWC	TERM	0	1936/01/15	1
129	55-1737	U1779	UGWC	TERM	0	1936/01/15	1
130	55-1738	U1780	UGWC	TERM	0	1936/01/15	1
131	55-1739	U1781	UGWC	TERM	0	1892/01/15	1
132	55-1740	U1782	UGWC	TERM	0	1936/01/15	1
133	55-1741	U1783	UGWC	TERM	0	1936/01/15	1
134	55-1742	U1784	UGWC	TERM	0	1936/01/15	1
135	55-1743	U1785	UGWC	TERM	0	1936/01/15	1
136	55-1744	U1786	UGWC	TERM	0	1936/01/15	1
137	55-1745	U1787	UGWC	TERM	0	1936/01/15	1
138	55-1746	U1788	UGWC	DIS	12	1936/01/15	1
139	55-1747	U1789	UGWC	TERM	12	1936/01/15	1
140	55-1748	U1790	UGWC	DIS	12	1936/01/15	1
141	55-1749	U1791	UGWC	DIS	12	1936/01/15	1
142	55-1750	U1792	UGWC	TERM	0	1936/01/15	1
143	55-1751	U1793	UGWC	TERM	0	1936/01/15	1
144	55-1752	U1794	UGWC	TERM	0	1936/01/15	1
145	55-1753	U1795	UGWC	TERM	0	1936/01/15	1
146	55-1754	U1796	UGWC	TERM	0	1936/01/15	1
147	55-1755	U1797	UGWC	TERM	0	1936/01/15	1
148	55-1756	U1798	UGWC	TERM	0	1936/01/15	1
149	55-1757	U1799	UGWC	TERM	0	1936/01/15	1
150	55-1758	U1800	UGWC	TERM	0	1936/01/15	1
151	55-1759	U1801	UGWC	TERM	0	1936/01/15	1
152	55-1760	U1802	UGWC	TERM	0	1936/01/15	1
153	55-1761	U1803	UGWC	TERM	0	1936/01/15	1
154	55-1762	U1804	UGWC	TERM	0	1936/01/15	1
155	55-1763	U1805	UGWC	TERM	0	1936/01/15	1
156	55-1764	U1806	UGWC	TERM	0	1936/01/15	1
157	55-1765	U1807	UGWC	TERM	0	1936/01/15	1
158	55-1766	U1808	UGWC	TERM	0	1936/01/15	1
159	55-1767	U1809	UGWC	TERM	0	1936/01/15	1
160	55-1768	U1810	UGWC	TERM	0	1936/01/15	1

161	55-1769	U1811	UGWC	TERM	0		1936/01/15	1		
162	55-1770	U1812	UGWC	TERM	0		1936/01/15	1		
163	55-1771	U1813	UGWC	TERM	0		1936/01/15	1		
164	55-1772	U1814	UGWC	TERM	0		1936/01/15	1		
165	55-1773	U1815	UGWC	TERM	0		1936/01/15	1		
166	55-1774	U1816	UGWC	TERM	0		1936/01/15	1		
167	55-1775	U1817	UGWC	TERM	0		1936/01/15	1		
168	55-1776	U1818	UGWC	TERM	0		1936/01/15	1		
169	55-1777	U1819	UGWC	TERM	0		1936/01/15	1		
170	55-1778	U1820	UGWC	TERM	0		1936/01/15	1		
171	55-1779	U1821	UGWC	TERM	0		1936/01/15	1		
172	55-1780	U1822	UGWC	TERM	0		1936/01/15	1		
173	55-2602	U9409	UGWC		0		1936/03/23	1		
174	55-3437	U16566	UGWC		0.11		1938/02/18	1		
175	55-8901	U15409	UGWC		4.68	1888	1936/03/21	1	)k JSD 338	###
176	55-919	A30491	APPL	REJ	120		1958/12/23	2		
177	57-100	A11577	APPL	CERT	10		1934/05/28	1		
178	57-10009		DEC		0	1.33	/ /	6		
179	57-10010		DECREE			167.9		6		
180	57-10011		DEC		0	0.44	/ /	6		
181	57-10012		DECREE			2000		6		
182	57-10013		DECREE			500		6		
183	57-10014		DEC		0	0.22	/ /	6		
184	57-10015		DECREE			15.75		6	Alta Albion lots	
185	57-10016		DIL		0	0.52	1987/11/24	2		
186	57-10017		Diligence			15.9	24/11/1987	2		
187	57-10018		Diligence			18	24/11/1987	2		
188	57-10019		DIL		0	6.75	1987/11/24	2		
189	57-10019		Diligence			7.65	24/11/1924	2		
190	57-10020		Diligence			6.75	24/11/1924	1		
191	57-10020		DIL		0	7.65	1987/11/24	1		
192	57-10020		Diligence			7.65	24/11/1987	1		
193	57-10021		DIL		0	5.3	1987/11/24	2		
194	57-10022		DIL		0	4.05	1987/11/27	2		
195	57-10023		Diligence			10.35	27/11/1987	2		

196	57-10024		Diligence			11.7	Pre-1903	2	
197	57-10025		DIL		0	4.5	/ /	2	
198	57-10026		DIL		0	2.21	1987/11/27	2	
199	57-10027		Diligence			13.95	Pre-1903	2	
200	57-10028		DIL		0	1.77	1987/11/27	2	
201	57-10029		Diligence			18	Pre-1903	2	
202	57-10030		Diligence			29.17	27/11/1987	2	
203	57-10031		Diligence			54.9	27/11/1987	2	
204	57-10032		Diligence			41.4	27/11/1987	2	
205	57-10033		Diligence			144	27/11/1987	2	
206	57-10034		Diligence			148.5	Pre-1903	2	
207	57-10035		DIL		0	1.33	1987/11/27	2	
208	57-10036		DECREE			29	27/11/1987	1	
209	57-10037		DEC		0	4.3	1987/11/27	1	
210	57-10038		DECREE			50.87	27/11/1987		
211	57-10039		DEC		0	6.74	1987/11/27	1	
212	57-10040		DECREE			7.75	24/11/1987	1	
213	57-10041		DEC		0	5.3	1987/11/24	1	
214	57-10042		DEC		0	1.77	1987/11/24	1	
215	57-1005						1903		Millcreek
216	57-10086		DIL		0	1.35	1913	2	Millcreek
217	57-101	A11580	APPL	CERT	1.2		1934/06/02	1	
218	57-10100		DEC		1		/ /	0	
219	57-10149		Diligence		10.02	275.94	Pre-1903	3	
220	57-10186		DECREE		41.29	11755.15		2	
221	57-102	A11582	APPL	CERT	3.45		1934/06/02	1	
222	57-10261		DECREE		0.7	200.08		2	
223	57-10283				3.05				2211.11
224	57-10291		DECREE			133.8	05/11/87	6	
225	57-10293		DECREE			60		1	
226	57-103	A11587	APPL	CERT	5		1934/06/14	1	
227	57-10304		DEC		0.77		1966/08/11	1	
228	57-10325		DEC		30		1914/04/13	2	
229	57-10329		Diligence			122.76	Pre-1903	3	
230	57-10338	A4597aa	Application	Certificated		76	21/06/1991	1	

231	57-10349		DECREE		60	9884.15		1	
232	57-10376	A34877b	Application	Approved		2628	18/10/2007	2	
233	57-10394	D7142	DIL	UNAP	0.33		2009/10/01	1	
234	57-106	A11593	APPL	CERT	2.59		1934/06/22	1	
235	57-107	A11596	APPL	APP	6		1934/07/03	1	
236	57-116	A11816	APPL	CERT	7		1935/08/26	1	
237	57-1337	A18920	APPL	CERT	2		1947/07/11	1	
238	57-149	A11722	APPL	LAP	50		1935/04/18	1	
239	57-150	A11382	Application	LAP			01/06/33	2	12000
240	57-1555	A20486	APPL	LAP	15		1949/02/25	0	
241	57-1603	A20736	APPL	CERT	0.03		1949/05/31	2	
242	57-1719	A21408	APPL	CERT	0.28		1950/03/03	1	
243	57-183	A12557	APPL	CERT	1.37		1937/11/12	2	
244	57-1883	A22342	APPL	CERT	0.9		1950/11/02	1	
245	57-1894	A22444	APPL	CERT	1		1950/12/16	1	
246	57-1895	A22445	APPL	CERT	0.67		1950/12/16	1	
247	57-2116	A23772	APPL	CERT	1		1952/03/03	1	
248	57-2168	A24022	APPL	CERT	0.62		1952/07/26	1	
249	57-2227	A24345	APPL	CERT	0.59		1952/11/12	1	
250	57-2229	A24395	APPL	CERT	2.47		1952/12/03	2	
251	57-2234	A24431	APPL	CERT	0.7		1952/12/19	1	
252	57-2240	A24457	APPL	CERT	0.99		1953/01/12	1	
253	57-2328	A25099	APPL	WD	1.19		1953/07/22	1	
254	57-2387	A25442	APPL	CERT	0.78		1953/12/29	1	
255	57-2389	A25444	APPL	CERT	1.8		1953/12/29	1	
256	57-2401	A25558	APPL	REJ	24		1954/02/16	6	
257	57-2403	A25558b	Application	Approved	3.24	2343.8	07/071955	2	
258	57-2404	A25558c	APPL	CERT	5.91		1954/02/16	1	
259	57-2405	A25558d	APPL	APP	4		1961/01/28	1	
260	57-2405	A25558d	APPL	APP	4		1961/01/28	1	
261	57-2474	A26021	APPL	CERT	4		1954/07/16	1	
262	57-2502	A26289	APPL	APP	7.01	5073.78	1954/09/25	1	well non-us
263	57-2535	A26648	APPL	LAP	10		1955/02/01	1	
264	57-2536	A26649	APPL	APP	10		1955/02/01	1	
265	57-2543	A26724	APPL	APP	1		1955/03/02	1	

266	57-2560	A26917	APPL	APP	4.71		1955/04/30	1
267	57-26	A2515	APPL	CERT	2.45		1909/06/17	3
268	57-2614	A27350	APPL	LAP	5		1955/08/23	1
269	57-2615	A27354	APPL	CERT	8.51		1955/08/23	1
270	57-2616	A27355	APPL	APP	10		1955/08/23	1
271	57-2617	A27356	APPL	APP	10		1955/04/23	1
272	57-2618	A27357	APPL	APP	10		1955/08/23	1
273	57-2623	A27365	APPL	LAP	10		1955/08/24	1
274	57-2624	A27366	APPL	CERT	8.94		1955/08/24	1
275	57-2625	A27367	APPL	CERT	4.6		1955/08/24	1
276	57-2626	A27368	APPL	CERT	3.72		1955/08/24	1
277	57-2627	A27369	APPL	CERT	6.92		1955/08/24	1
278	57-2697	A28133	APPL	CERT	4.6		1956/05/04	1
279	57-2750	A28629	APPL	CERT	0.18		1956/10/16	1
280	57-29	A2878	Application	Certificated		510	01/22/10	2
281	57-30	A2880	Application	Certificated		150	15/12/1909	2
282	57-31	A2895	Application	Certificated		897.88	01/22/10	2
283	57-3115	A32529	APPL	CERT	1.73		1960/12/09	1
284	57-32	A2896	Application	Certificated		200	28/12/1909	2
285	57-3225	A34029	APPL	CERT	0.05		1962/01/13	1
286	57-3282	Parley's Crk		18995.8		25700	02/01/63	
287	57-3307	A35130	APPL	CERT	0.03	5.75	1963/04/04	3
288	57-3452	U116	UGWC		0.15		1935/09/12	1
289	57-3453	U117	UGWC		0.14		1935/09/12	1
290	57-3454	U118	UGWC		0.03		1935/09/12	1
291	57-3455	U119	UGWC		0.05		1935/09/12	1
292	57-3456	U120	UGWC		0.26		1935/09/12	1
293	57-3457	U121	UGWC		0.1		1935/09/12	1
294	57-3458	U122	UGWC		0.24		1935/09/12	1
295	57-3459	U123	UGWC		0.29		1935/09/12	1
296	57-3460	U124	UGWC	CERT	2.05		1935/09/12	1
297	57-3464	U128	UGWC		0		/ /	0
298	57-3467	U131	UGWC		0.03		1935/09/12	1
299	57-3468	U132	UGWC		0.23		1935/09/12	1
300	57-3469	U133	UGWC	CERT	0.18		1935/09/12	1

301	57-3470	U134	UGWC		0.38	1935/09/12	1
302	57-3471	U135	UGWC		0.35	1935/09/12	1
303	57-3472	U136	UGWC		0.27	1935/09/12	1
304	57-3473	U137	UGWC		0.13	1935/09/12	1
305	57-3474	U138	UGWC	CERT	1.97	1935/09/12	1
306	57-3475	U139	UGWC		0.26	1935/09/12	1
307	57-3476	U140	UGWC		0.19	1935/09/12	1
308	57-3477	U141	UGWC		0.09	1935/09/12	1
309	57-3478	U142	UGWC	CERT	0.12	1935/09/12	1
310	57-3479	U143	UGWC		0.26	1935/09/12	1
311	57-3480	U144	UGWC		0.33	1935/09/12	1
312	57-3481	U145	UGWC		0.13	1935/09/12	1
313	57-3497	U811	UGWC		0.26	1935/11/13	1
314	57-3498	U812	UGWC		0.37	1935/11/13	1
315	57-3499	U813	UGWC		0.17	1935/11/13	1
316	57-3500	U814	UGWC		0.24	1935/11/13	1
317	57-3501	U815	UGWC		0.23	1935/11/13	1
318	57-3503	U817	UGWC		0.19	1935/11/13	1
319	57-3504	U818	UGWC		0.25	1935/11/13	1
320	57-3505	U819	UGWC		0.19	1935/11/13	1
321	57-3506	U820	UGWC		0.2	1935/11/13	1
322	57-3507	U821	UGWC		0.21	1935/11/13	1
323	57-3508	U822	UGWC		0.36	1935/11/13	1
324	57-3509	U823	UGWC		0.37	1935/11/13	1
325	57-3513	U827	UGWC		0.17	1935/11/13	1
326	57-3515	U829	UGWC		0.35	1935/11/13	1
327	57-3516	U830	UGWC		1.45	1935/11/13	1
328	57-3517	U831	UGWC		1.28	1935/11/13	1
329	57-3518	U832	UGWC		0.87	1935/11/13	1
330	57-3519	U833	UGWC		0.34	1935/11/13	1
331	57-3520	U834	UGWC		0.72	1935/11/13	1
332	57-3521	U835	UGWC		1.15	1935/11/13	1
333	57-3522	U836	UGWC		0.81	1935/11/13	1
334	57-3523	U837	UGWC		0.28	1935/11/13	1
335	57-3524	U838	UGWC		0.21	1935/11/13	1

336	57-3525	U839	UGWC		0.16	1935/11/13	1
337	57-3526	U840	UGWC	CERT	0.15	1935/11/13	1
338	57-3527	U841	UGWC		0.58	1935/11/13	1
339	57-3528	U842	UGWC		0.21	1935/11/13	1
340	57-3529	U843	UGWC		0.23	1935/11/13	1
341	57-3530	U844	UGWC		0.25	1935/11/13	1
342	57-3531	U845	UGWC		0.26	1935/11/13	1
343	57-3532	U846	UGWC		0.1	1935/11/13	1
344	57-3533	U847	UGWC		0.21	1935/11/13	1
345	57-3534	U848	UGWC		0.23	1935/11/13	1
346	57-3535	U849	UGWC		0.16	1935/11/13	1
347	57-3536	U850	UGWC		0.35	1935/11/13	1
348	57-3537	U851	UGWC		0.12	1935/11/13	1
349	57-3538	U852	UGWC		0.22	1935/11/13	1
350	57-3539	U853	UGWC		0.21	1935/11/13	1
351	57-3540	U854	UGWC		0.22	1935/11/13	1
352	57-3541	U855	UGWC		0.4	1935/11/13	1
353	57-3542	U856	UGWC		0.23	1935/11/13	1
354	57-3543	U857	UGWC		0.16	1935/11/13	1
355	57-3544	U858	UGWC		0.12	1935/11/13	1
356	57-3545	U859	UGWC		0.11	1935/11/13	1
357	57-3546	U860	UGWC		0.21	1935/11/12	1
358	57-3547	U861	UGWC		0.13	1935/11/13	1
359	57-3548	U862	UGWC		0.1	1935/11/13	1
360	57-3549	U863	UGWC		0.33	1935/11/13	1
361	57-3550	U864	UGWC		0.16	1935/11/13	1
362	57-3551	U865	UGWC		0.27	1935/11/13	1
363	57-3552	U866	UGWC		0.12	1935/11/13	1
364	57-3553	U867	UGWC		0.15	1935/11/13	1
365	57-3554	U868	UGWC		0.07	1935/11/13	1
366	57-3555	U869	UGWC		0.42	1935/11/13	1
367	57-3556	U870	UGWC		0.46	1935/11/13	1
368	57-3557	U871	UGWC		0.34	1935/11/13	1
369	57-3558	U872	UGWC		0.35	1935/11/13	1
370	57-3559	U873	UGWC		0.13	1935/11/13	1

371	57-3568	U1041	UGWC	4.38	1935/12/02	1
372	57-3569	U1042	UGWC	3	1935/12/02	1
373	57-3735	U2284	UGWC	1.34	1936/01/25	1
374	57-4032	U3904	UGWC	0.13	1936/02/20	1
375	57-4033	U3905	UGWC	0.04	1936/02/20	1
376	57-4034	U3906	UGWC	0.05	1936/02/20	1
377	57-4035	U3907	UGWC	0.05	1936/02/20	1
378	57-4036	U3908	UGWC	0.07	1936/02/20	1
379	57-4037	U3909	UGWC	0.09	1936/02/20	1
380	57-4038	U3910	UGWC	0.09	1936/02/20	1
381	57-4039	U3911	UGWC	0.09	1936/02/20	1
382	57-4040	U3912	UGWC	0.07	1936/02/20	1
383	57-4041	U3913	UGWC	0.14	1936/02/20	1
384	57-4042	U3914	UGWC	0.11	1936/02/20	1
385	57-4043	U3915	UGWC	0.1	1936/02/20	1
386	57-4044	U3916	UGWC	0.11	1936/02/20	1
387	57-4045	U3917	UGWC	0.16	1936/02/20	1
388	57-4046	U3918	UGWC	0.12	1936/02/20	1
389	57-4047	U3919	UGWC	0.13	1936/02/20	1
390	57-4048	U3920	UGWC	0.03	1936/02/20	1
391	57-4049	U3921	UGWC	0.17	1936/02/20	1
392	57-4050	U3922	UGWC	0.09	1936/02/20	1
393	57-4051	U3923	UGWC	0.11	1936/02/20	1
394	57-4052	U3924	UGWC	0.15	1936/02/20	1
395	57-4053	U3925	UGWC	0.14	1936/02/20	1
396	57-4054	U3926	UGWC	0.14	1936/02/20	1
397	57-4055	U3927	UGWC	0.14	1936/02/20	1
398	57-4056	U3928	UGWC	0.1	1936/02/20	1
399	57-4057	U3929	UGWC	0.04	1936/02/20	1
400	57-4058	U3930	UGWC	0.01	1936/02/20	1
401	57-4059	U3931	UGWC	0.03	1936/02/20	1
402	57-4060	U3932	UGWC	0.17	1936/02/20	1
403	57-4061	U3933	UGWC	0.14	1936/02/20	1
404	57-4062	U3934	UGWC	0.09	1936/02/20	1
405	57-4063	U3935	UGWC	0.11	1936/02/20	1

406	57-41	A3721	Application	Certificated		85.41	02/03/12	2
407	57-42	A37722	Application			125	02/03/12	1
408	57-4407	U4833	UGWC		3.31		/ /	1
409	57-4408	U4834	UGWC		2.5		/ /	1
410	57-4409	U4835	UGWC		0.48		/ /	1
411	57-4410	U4836	UGWC		1.16		/ /	1
412	57-4411	U4837	UGWC	WD	2.4		/ /	1
413	57-4412	U4838	UGWC		0.24		/ /	1
414	57-4413	U4839	UGWC		1.19		/ /	1
415	57-4414	U4840	UGWC	WD	10		/ /	1
416	57-4415	U4841	UGWC		2.38		/ /	1
417	57-4416	U4842	UGWC		4.6		/ /	1
418	57-4417	U4843	UGWC	WD	2.7		1936/02/29	1
419	57-4418	U4844	UGWC		2.34		1936/02/29	1
420	57-4419	U4845	UGWC		0.35		1936/02/29	1
421	57-4420	U4846	UGWC		10		1936/02/29	1
422	57-4421	U4847	UGWC		3.02		1936/02/29	1
423	57-4946	U7211	UGWC		0.36		1936/03/14	1
424	57-4947	U7212	UGWC		0.02		1936/03/14	1
425	57-4948	U7213	UGWC		0.31		1936/03/14	1
426	57-4949	U7214	UGWC		0.28		1936/03/14	1
427	57-4950	U7215	UGWC		0.07		1936/03/14	1
428	57-4951	U7216	UGWC		0.05		1936/03/14	1
429	57-4952	U7217	UGWC		0.02		1936/03/14	1
430	57-4953	U7218	UGWC		0.07		1936/03/14	1
431	57-4954	U7219	UGWC		0.07		1936/03/14	1
432	57-4955	U7220	UGWC		0.09		1936/03/14	1
433	57-4956	U7221	UGWC		0.09		1936/03/14	1
434	57-4957	U7222	UGWC		0.09		1936/03/14	1
435	57-4958	U7223	UGWC		0.05		1936/03/14	1
436	57-4959	U7224	UGWC		0.09		1936/03/14	1
437	57-4960	U7225	UGWC		0.05		1936/03/14	1
438	57-4961	U7226	UGWC		0.09		1936/03/14	1
439	57-4962	U7227	UGWC		0.09		1936/03/14	1
440	57-4963	U7228	UGWC		0.11		1936/03/14	1

441	57-4964	U7229	UGWC		0.07		1936/03/14	1
442	57-5437	U8869	UGWC		0.02		1936/03/20	1
443	57-5438	U8870	UGWC		0.1		1936/03/20	1
444	57-5527	U9067	UGWC		0.03		1936/03/21	1
445	57-5528	U9068	UGWC		0.11		1936/03/21	1
446	57-5529	U9069	UGWC		0.21		1936/03/21	1
447	57-5530	U9070	UGWC		0.16		1936/03/21	1
448	57-5531	U9071	UGWC		0.09		1936/03/21	1
449	57-5532	U9072	UGWC		0.14		1936/03/21	1
450	57-5533	U9073	UGWC		0.13		1936/03/21	1
451	57-5534	U9074	UGWC		0.15		1936/03/21	1
452	57-5535	U9075	UGWC		0.2		1936/03/21	1
453	57-5536	U9076	UGWC		0.17		1936/03/21	1
454	57-5537	U9077	UGWC		0.11		1936/03/21	1
455	57-5538	U9078	UGWC		0.07		1936/03/21	1
456	57-5539	U9079	UGWC		0.25		1936/03/21	1
457	57-5540	U9080	UGWC		0.09		1936/03/21	1
458	57-5541	U9081	UGWC		0.17		1936/03/21	1
459	57-5542	U9082	UGWC		0.05		1936/03/21	1
460	57-5543	U9083	UGWC		0.04		1936/03/21	1
461	57-5544	U9084	UGWC		0.04		1936/03/21	1
462	57-5976	U10177	UGWC		0.28		1936/03/23	1
463	57-6668		APPL	NPR	4		1913/03/12	1
464	57-6694	U16780	UGWC		0.02		1938/03/10	1
465	57-6695	U16781	UGWC		0.02		1938/03/10	1
466	57-6793		DEC		65.93		/ /	1
467	57-6794		DEC		26.37		/ /	1
468	57-6824	A214	Application	Certificated		140	05/11/04	4
469	57-6824	U17898	UGWC		0.12		1939/10/13	1
470	57-6825	U17899	UGWC		0.11		1939/10/13	1
471	57-7	A223	APPL	CERT	48.8	35354.62	1904/11/23	1
472	57-7095		DEC		60		/ /	1
473	57-75	A9961	APPL	CERT	6		1926/05/10	1
474	57-7520	A27369a	APPL	CERT	2.55		1966/08/04	1
475	57-7559	A27368a	APPL	APP	6		1967/12/07	1

476	57-7624		DECREE	Utah Lake		14600	1879	3
477	57-7689		APPL	APP	5		1962/03/29	6
478	57-7738		APPL	LAP	1.01		1953/01/12	0
479	57-7741		APPL	LAP	3.53		1952/12/03	0
480	57-7776	A25442a	APPL	WD	1.22		1953/12/29	1
481	57-7848	D2639	DIL		0.05		1972/08/18	1
482	57-785	A15398	APPL	CERT	2.5		1943/08/07	1
483	57-8074	A45683	APPL	REJ	4		1975/11/13	1
484	57-8090	A45968	APPL	REJ	5		1976/02/11	1
485	57-8096	A45974	APPL	REJ	5		1976/02/11	1
486	57-8097	A45975	APPL	REJ	5		1976/02/11	1
487	57-8098	A45976	APPL	REJ	5		1976/02/11	1
488	57-8099	A45977	APPL	APP	5		1976/02/11	18
489	57-8099	A45977	APPL	APP	5		1976/02/11	18
490	57-8276	U22846	UGWC		1.58		1977/05/11	1
491	57-8496		DEC		102.39		/ /	1
492	57-8497		DEC		0.21		/ /	1
493	57-8521	A54457	Non-u ap	APP	6	4342.77	1980/04/04	1
494	57-8625	A57378	APPL	APP	20		1982/02/26	1
495	57-8626	A57379	APPL	APP	20	n14489.6	1982/02/26	1
496	57-8627	A57380	APPL	APP	10	n14489.6	1982/02/24	1
497	57-8628	A57381	APPL	APP	240	7244.8	1982/02/26	1
498	57-8629	A57382	Application	Approved		n76000	02/26/82	15
499	57-8630	A57383	APPL	APP	10	n76000	1982/02/26	1
500	57-8631	A57384	APPL	APP	10	n7244.8	1982/02/26	1
501	57-8632	A57385	APPL	APP	20	n7244.8	1982/02/26	1
502	57-8633	A57386	APPL	APP	10	n14489.6	1982/02/26	1
503	57-8634	A57387	APPL	APP	20	n7244.8	1982/02/26	1
504	57-8635	A57388	APPL	APP	40	n14489.6	1982/02/26	1
505	57-8636	A57389	APPL	APP	130	n28979.2	1982/02/26	2
506	57-8638	A57391	APPL	APP	40	n94182.4	1982/02/26	2
507	57-8639	A57392	APPL	APP	40	n28979.2	1982/02/26	2
508	57-8668	A57848	APPL	UNAP	3	n28979.2	1982/06/14	2
509	57-8670	A58565	APPL	UNAP	130	2173.44	1983/02/28	2
510	57-8671	A58566	APPL	APP	20	n94182.4	1983/02/28	1

511	57-8672	A58567	APPL	UNAP	130	n14489.6	1983/02/28	2
512	57-8675	A58613	APPL	APP	100	n94182	1983/03/09	2
513	57-8677	A58636	APPL	APP	200	n72379	1983/03/17	2
514	57-8678	A58637	APPL	APP	200	n144758.2	1983/03/17	2
515	57-8688	A58847	APPL	APP	20	n144758.2	1983/04/20	2
516	57-8692	A59018	APPL	APP	0.62	n14489	1983/06/24	2
517	57-8722		DEC		9		1914/04/13	1
518	57-8738		DEC		0.65		/ /	1
519	57-8744		DEC		9.36		/ /	1
520	57-8745		DEC		2.75		/ /	1
521	57-8746		DEC		3.12		/ /	1
522	57-8747		DEC		3.69		/ /	1
523	57-8748		DEC		14.78		/ /	1
524	57-8750		DEC		19.94		/ /	1
525	57-8818	A45971a	APPL	APP	1.37		1986/05/02	18
526	57-8840	D5298	DIL		163	11730	1987/06/30	3
527	57-8841	D5299	DIL		95		1987/06/30	2
528	57-8855	A9207	Application	Certificated	0.14	40	11/12/22	1
529	57-8874	A26289a	APPL	CERT non-ua	2.99	2164	1988/09/20	1
530	57-8878	A26917a	APPL	APP	5.29		1989/01/05	2
531	57-89	A11052	APPL	CERT	6		1931/03/25	2
532	57-8904	A34877a	Application	Approved		2000	22/01/1922	2
533	57-8938	A2878	Application	Certificated		100	22/1/1901	2
534	57-8965		DEC		0		/ /	0
535	57-8966		DECREE	WUC		58.7		3
536	57-8967		DEC		0		/ /	0
537	57-8973		DECREE		481.64	32180.56	11/05/87	5
538	57-90	A11109	APPL	CERT	1.39		1931/07/02	1
539	57-9001		DECREE		0.24	116.01		
540	57-9010		DEC		37.32		/ /	3
541	57-9022				31.16	27309	ittle Cottonwod	
542	57-9039		DECREE			125		1
543	57-9040		DECREE			125		1
544	57-9041		DECREE			125		1
545	57-9042		DECREE			125		1

546	57-9043		DECREE			500		1
547	57-9044		DECREE			500		1
548	57-9045		DECREE			500		1
549	57-9046		DECREE			500		1
550	57-9140		DEC		1.32		/ /	4
551	57-9301		DEC		0	5	/ /	1
552	57-9302		DEC		49.91		/ /	1
553	57-94	A11360	APPL	LAP	0		1933/04/03	2
554	57-9400		DECREE		0.12	80.68		1
555	57-95	A11370	APPL	CERT	5		1933/04/27	1
556	57-98	A11487	APPL	CERT	3		1933/12/15	1
557	59-1015	A23756	APPL	DIS	0.02		/ /	1
558	59-1029	A23966	APPL	DIS	0.02		1952/07/10	1
559	59-1030	A23967	APPL	DIS	0.02		1952/07/10	1
560	59-1090	A24091	APPL	DIS	0.02		/ /	1
561	59-1090	A24754	APPL	CERT	0.08		1953/03/30	1
562	59-1206	A26683	APPL	NPR	0.02		1955/02/16	1
563	59-1217	A27026	APPL	NPR	0.02		1955/06/03	1
564	59-1353	A29677	APPL	CERT	0.1		1958/01/28	2
565	59-1353							
566	59-1549	A31643	APPL	CERT	0.22		1960/01/16	3
567	59-163	A13546	APPL	NPR	0.02		1940/04/16	1
568	59-1678	A34742	APPL	CERT	0.02		1962/11/28	1
569	59-174	A13678	APPL	CERT	0.01		1940/06/20	1
570	59-179	A13730	APPL	CERT	0.01		1940/07/18	1
571	59-1975	U3053	UGWC	DIS	0.02		1936/02/10	1
572	59-2024	U3401	UGWC	DIS	0.01		1936/02/14	1
573	59-2275	U6526	UGWC	DIS	0.06		1936/03/11	1
574	59-2487	U8867	UGWC	DIS	0.04		1936/03/20	1
575	59-2488	U8868	UGWC	DIS	0.02		1936/03/20	1
576	59-249	A14345	APPL	TERM	0.02		1941/06/19	1
577	59-2596	U9455	UGWC	DIS	0.01		1936/03/23	1
578	59-2601	U9483	UGWC	DIS	0.01		1936/03/23	1
579	59-2661	U10078	UGWC	DIS	0.01		1936/03/25	1
580	59-2668	U10988	UGWC	DIS	0.02		1936/03/31	1

581	59-2761	U15812	UGWC	DIS	0.02		1937/06/11	1
582	59-2762	U15813	UGWC	DIS	0.05		1937/06/11	1
583	59-2905	U17965	UGWC	DIS	0.05		1940/01/18	1
584	59-2906	U17966	UGWC	DIS	0.01		1940/01/18	1
585	59-2951	U18328	UGWC	DIS	0.01		1940/03/13	1
586	59-2969	U18498	UGWC	DIS	0.02		1940/03/16	1
587	59-3121	U19412	UGWC	DIS	0.22		1940/03/22	1
588	59-3138	U20103	UGWC	DIS	0.11		1940/04/10	1
589	59-3183	U20772	UGWC	DIS	0		1947/07/21	1
590	59-3184	U20773	UGWC	DIS	0		1947/07/21	1
591	59-3271	A37437	APPL	REJ	0.02		1966/01/25	1
592	59-3662	U18182	UGWC		0.13		1940/03/07	1
593	59-3663	U18181	UGWC		0.13		1940/03/07	1
594	59-3664	U18183	UGWC		0.12		1940/03/07	1
595	59-3665	U18174	UGWC		0.13		1940/03/07	1
596	59-3673	U18178	UGWC		0.02		1940/03/07	1
597	59-3749	U18178	UGWC		0.02		1940/03/07	1
598	59-3857	A41433	APPL	APP	2		1972/05/31	1
599	59-3857	A41433	APPL	APP	2		1972/05/31	1
600	59-426	A16159	APPL	DIS	0.02		1944/10/16	1
601	59-4513	A49381	APPL	UNAP	100	48246.65	1977/06/24	2
602	59-463	A16892	APPL	DIS	0.02		1945/09/04	1
603	59-4930	A58614	APPL	APP	100		1983/03/09	2
604	59-502	A17561	APPL	DIS	0.02		1946/04/24	1
605	59-5079	A60615	APPL	CERT	0.8		1985/01/21	1
606	59-55	A10721	APPL	TERM	16.33		1929/07/31	2
607	59-644	A19837	APPL	DIS	0.02		1948/06/21	1
608	59-694	A20457	APPL	LAP	10		1949/02/23	1
609	59-819	A21856	APPL	DIS	0.02		1950/06/28	1
610	A10360	Duchesne Riv						
611	A10361	Duchesne Riv						
612	a1174						/ /	2
613	a1176						/ /	2
614	a1177						/ /	1
615	a11817						/ /	1

616	a1239	/ /	1
617	a14474	/ /	6
618	a14474	/ /	6
619	a14800	/ /	1
620	a14956	/ /	2
621	a15888	/ /	2
622	a16138	/ /	1
623	a16325	/ /	2
624	a16469	/ /	1
625	a16786	/ /	2
626	a16787	/ /	8
627	a16788	/ /	2
628	a16789	/ /	2
629	a16789	/ /	2
630	a16811	/ /	1
631	a16812	/ /	1
632	a16813	/ /	1
633	a16814	/ /	1
634	a16815	/ /	1
635	a16816	/ /	9
636	a16817	/ /	1
637	a16818	/ /	1
638	a16819	/ /	2
639	a16820	/ /	1
640	a16821	/ /	1
641	a16822	/ /	1
642	a16823	/ /	1
643	a16824	/ /	1
644	a16825	/ /	1
645	a16826	/ /	2
646	a16827	/ /	1
647	a16828	/ /	1
648	a16829	/ /	1
649	a16836	/ /	1
650	a16837	/ /	1

651	a16838	/ /	4
652	a16839	/ /	3
653	a16840	/ /	4
654	a16841	/ /	1
655	a16842	/ /	1
656	a16843	/ /	4
657	a16844	/ /	2
658	a16845	/ /	1
659	a16846	/ /	2
660	a17326	/ /	3
661	a17820	/ /	1
662	a18075	/ /	1
663	a18335	/ /	2
664	a18808	/ /	8
665	a19448	/ /	3
666	a20218	/ /	6
667	a21279	/ /	3
668	a21279a	/ /	3
669	a21383	/ /	9
670	a23963	/ /	1
671	a24006	/ /	0
672	a25645	/ /	3
673	a26764	/ /	8
674	a26769	/ /	1
675	a28615	/ /	8
676	a2915	/ /	2
677	a2916	/ /	2
678	a2917	/ /	2
679	a2918	/ /	2
680	a2919	/ /	2
681	a29386	/ /	7
682	a29429	/ /	0
683	a30658	/ /	1
684	a3125	/ /	1
685	a3192	/ /	0

686	a32240	/ /	2
687	a3508	/ /	1
688	a35454	/ /	1
689	a35610	/ /	1
690	a35618	/ /	2
691	a3621	/ /	0
692	a3853	/ /	1
693	a4024	/ /	3
694	a4029	/ /	0
695	a534	/ /	1
696	a535	/ /	1
697	a6765	/ /	1
698	a746	/ /	1
699	a7751	/ /	1
700	a7879	/ /	1
701	a9188	/ /	1
702	a9189	/ /	1
703	a9275	/ /	1
704	a930	/ /	1
705	a9842	/ /	0
706	a9843	/ /	0
707	a9844	/ /	0
708	a9845	/ /	0
709	a9846	/ /	0
710	a9847	/ /	0
711	a9848	/ /	0
712	a9849	/ /	0
713	a9850	/ /	0
714	a9851	/ /	0
715	a9852	/ /	0
716	a9852	/ /	0
717	a9853	/ /	0
718	E21	/ /	1
719	E26	/ /	1
720	E2919	/ /	6

721	E2919	/ /	6
722	E2919	/ /	6
723	E2920	/ /	7
724	E2920	/ /	7
725	E2920	/ /	7
726	E2921	/ /	7
727	E2921	/ /	7
728	E2921	/ /	7
729	E2922	/ /	9
730	E2922	/ /	9
731	E2922	/ /	9
732	E32	/ /	0
733	E35	/ /	0
734	E3728	/ /	11
735	E3728	/ /	11
736	E45	/ /	0
737	E5113	/ /	0
738	E83	/ /	1
739			
740			
741	Waste Water Re-use	35000 AF Available	
742	City Creek	11700 AF	
743	Emigration Creek	4424 AF	
744	Parley's Creek	18995.8 AF	
745	Spring Creek		
746	Big Cottonwood Cree	53000 AF	
747	ttle Cottonwood Cree	36,809AF	onMaxfield 9500 57-90022 27309
748			
749			

WATER SHARES ACQUIRED BY SALT LAKE CITY WATER DEPT

	Est. AF	#Shares
Big Cottonwood Lower Canal	145	29
Big Cottonwood Tanner Ditch	1685	337
Big Ditch Irrigation Company	1004.5	143.5
Boundary Springs Water Users	57.7	57.7

756	Brighton and North Point Irrigation Company	86.8	31
757	Burrows Spring Water	5220	5220
758	Cahoon and Maxfield Irrigation Company	9500	1430.75
759	East Jordan Irrigation Company	12045.55	2488.75
760	East Millcreek Water Company-Primary (A)	6.2	13.92
761	East Millcreek Water Company-Secondary (B)	34.52	34.52
762	Forest Dale Water Company	1000	39241
763	G.W.R.H. Irrigation Company	2	12
764	Green Ditch Water Company	787.5	157.5
765	Hill Ditch Company	652	1304
766	Holiday Water Company-Culinary	160	80
767	Holiday Water Company-Irrigation	20	20
768	Kennedy Ditch Irrigation Company	1000	1072.45
769	Little Cottonwood Brown Ditch	4	4
770	Little Cottonwood Tanner Ditch	462.65	92.53
771	Lower Millcreek Irrigation Company-A	6	13.35
772	Lower Millcreek Irrigation Company-B	316	316
773	McGhie Irrigation Company	76	76
774	Richards Ditch	17.5	3.5
775	Silver Lake Company	1	1
776	Union and Jordan Irrigation Company	10	2
777	Upper Canal Irrigation Company	2569.04	3778
778	Walker Ditch	135	18
779	Wasatch Resort Water Company	67.5	150
780	White Ditch Irrigation Company	295	59
781			
782			
783	**Total Number of Water Shares Acquired:**		**56186.47**
784			
785			
786			
787	**METROPOLITAN WATER DISTRICT OF SALT LAKE & SANDY WATER HOLDINGS**		
788			
789	*Contract		8600
790	*Contract		20000

791	55-11103		DECREE			476		
792	55-9568					?		
793	57-3282	A34877	Application	Approved		23072	01/31/63	4
794	57-3283	A34878	Application	Approved	100	7500	01/31/63	6
795	57-3284	A34879	Application	Approved	100	3500	01/31/63	2
796	57-3287	A34941	Application	Un-approved			02/19/63	2
797	57-3288	A34942	Application	Un-approved			02/19/63	2
798	E11						/ /	1
799	E12						/ /	0
800	E13						/ /	0
801	E14						/ /	0
802	E15						/ /	0
803	E16						/ /	0
804	E17						/ /	1
805	E18						/ /	1
806	E19						/ /	1
807	E20						/ /	1
808	E36						/ /	0
809	E37						/ /	0
810	E38						/ /	0
811	E40						/ /	0
812	E41						/ /	0
813	E42						/ /	0
814	E43						/ /	0
815	E44						/ /	0
816	E46						/ /	0
817	E8						/ /	1
818	E9						/ /	1
819	t26772						/ /	3
820	t28144						/ /	3
821	t29234						/ /	3
822								
823	**WATER SHARES ACQUIRED BY MWD SALT LAKE**							
824								
825	Big Cottonwood Lower Canal				20.64	103.2		

826	Big Ditch Irrigation Company	192.6	1348.2
827	Sandy Irrigation Company	2	2.8
828	Provo River Water Users Association	61700	61700
829			
830	Total Number of Water Shares Acquired:	###	
831			
832	GRAND TOTAL OF WATER SHARES ACQUIRED		
833	FOR SALT LAKE CITY WATER	###	63154.2
834			
835			

836 **PROVO RIVER WATER USERS ASSOCIATION WATER HOLDINGS**

837

838	55-1127 9000AF	A34056	Application	Pending	Jtah Lake	01/30/62	
839	E126					/ /	1
840	E143					/ /	1
841	E3792					/ /	3
842	E3972					/ /	2
843	E3972					/ /	2

844

845 Total Number of Water Shares owned by Salt Lake City and
846 Its subsidiary MWD Salt Lake & Sandy FY 2003 **118,101.71**
847
848
849
850 Total Number of Water Shares owned by Salt Lake City and
851 Its subsidiary MWD Salt Lake & Sandy
852
853
854
855 Note: 39241 shares of Forest Dale Water Company assumed converted from
856 Shares to water rights by deed in lieu.
857
858 Note: 1,430 shares Cahoon and Maxfield Irrigation Company assumed converted
859 From shares to water rights by deed in lieu.
860

Note: 5220 shares of Burrows Spring Water assumed converted from shares to
Water rights by deed in lieu.

:ity traded MWD Salt Lake with only one member city itself
57-7624 for 1,626 Acre-feet of Utah Lake water and 2,722
et of Dell Reservoir 57-3282

ity became the second member city of the MWD Salt Lake
ɔ Purchase up to 7940 Acre-feet of water from the District's
ıneville Unit Project CUP, and 3,100 AF of Dell Reservoir.

e City entered into a long term water lease with Jordanelle
385.53 Acre-feet of Ontario Drain Water 55-8901.

; about 23,722.95 Acre-feet of water outside its city limits
ly under an un-precedented "Temporary & Incidental" claim.

:er comes with some representation that the city's water
5% by 2050 based on year 2000 per capital consumption.

. for actual average flow numbers versus approved water.
ımber is 3,100 acre-feet of water versus the 23,500 approve
ɜ approved applications to appropriate.

14489.6 Hydro-electric Highland Drive and 3900 South
14489.6 ic Highland Drive and 3900 South
Approved Non-use
A57381
Non-consumptive

896	3300 South Highland Drive	
897	Hydro electric	
898	7400 South 2700 East	Hydro electric
899	6400 South 3010 East	Hydro electric
900	6200 South Holladay Blvd	Hydro electric
901	2200 South 700 East	Hydro electric
902	Little Cottonwood Creek	Hydro electric
903	Mouth of Mill Creek Canyon	Hydro electric
904	Mill Creek Canyon near Terrace Campground	
905	Unapproved	
906	1 mile NE of Mt. Dell Res	Hydro electric
907	Guardsman Way & 500 South	Hydro electric
908	Big Cottonwood Canyon	Hydro electric
909	East Jordan Canal 1 Mile SE of Bluffdale	Hydro electric
910	Jordan Narrows	Hydro electric
911	Jordan Narrows	Hydro electric
912	Mouth of Parley's Canyon	Hydro electric

SLC PUBLIC UTILITIES DEPARTMENT
WATER STOCK INFORMATION
JULY 1, 2002 - JUNE 30, 2003

WATER STOCK LEDGER AS OF JUNE 30, 2003

WATER STOCK COMPANY	July 1, 2003 PUBLIC UTILITIES OWNED SHARES
Big Cottonwood Lower Canal	29.00
Big Cottonwood Tanner Ditch	337.00
Big Ditch Irrigation Company	143.50
Boundry Springs Water Users	57.705
Brighton and North Point Irrigation Company	31.00
Burrows Spring Water	5,220.00
Cahoon and Maxfield Irrigation Company	1,430.75
East Jordan Irrigation Company	2,488.75
East Millcreek Water Company - Primary (A)	13.92
East Millcreek Water Company - Secondary (B)	34.52
Forest Dale Water Company	39,241.00
G. W. R. H. Irrigation Company	12.00
Green Ditch Water Company	157.50
Hill Ditch Company	746.00
Holiday Water Company - Culinary	80.00
Holiday Water Company - Irrigation	20.00
Kennedy Ditch Irrigation Company	1,072.45
Little Cottonwood Brown Ditch	4.00
Little Cottonwood Tanner Ditch	92.528
Lower Millcreek Irrigation Company - A	13.35
Lower Millcreek Irrigation Company - B	277.00
McGhie Irrigation Company	76.00
Richards Ditch	3.50
Silver Lake Company	1.00
Union and Jordan Irrigation Company	2.00
Upper Canal Irrigation Company	3,768.00
Walker Ditch	18.00
Wasatch Resort Water Company	150.00
White Ditch Irrigation Company	47.00
	55,567.473

SLC PUBLIC UTILITIES DEPARTMENT
WATER STOCK INFORMATION
JULY 1, 2005 - JUNE 30, 2006

WATER STOCK COMPANY	SHARES
Big Cottonwood Lower Canal	29.00
Big Cottonwood Tanner Ditch	337.00
Big Ditch Irrigation Company	143.50
Boundry Springs Water Users	57.705
Brighton and North Point Irrigation Company	31.00
Burrows Spring Water	5,220.00
East Jordan Irrigation Company	2,488.75
East Millcreek Water Company - Primary (A)	13.92
East Millcreek Water Company - Secondary (B)	34.52
G. W. R. H. Irrigation Company	12.00
Green Ditch Water Company	157.50
Hill Ditch Company	1,304.00
Holiday Water Company - Culinary	80.00
Holiday Water Company - Irrigation	20.00
Kennedy Ditch Irrigation Company	1,072.45
Little Cottonwood Brown Ditch	4.00
Little Cottonwood Tanner Ditch	92.528
Lower Millcreek Irrigation Company - A	13.35
Lower Millcreek Irrigation Company - B	316.00
McGhie Irrigation Company	76.00
Richards Ditch	3.50
Silver Lake Company	1.00
Union and Jordan Irrigation Company	2.00
Upper Canal Irrigation Company	3,778.00
Walker Ditch	18.00
Wasatch Resort Water Company	150.00
White Ditch Irrigation Company - A	0.00
White Ditch Irrigation Company - B	59.00
	15,514.723

SLC Water Dept. claims **500,000+** acre-feet of water rights, and **419,020** acre-feet of Water Treatment Capacity, **168,994 acre-feet of 2010 water production page 3-5 Bowen & Collins 2007 (Draft Dec. 7, 2009 partial inventory)

1-*11,730 acre-feet average yield **City Creek**–163 CFS-City Creek-Pleasant Valley Reservoir

2-*4,424 acre-feet average yield **Emigration Creek**

3-*18,996 acre-feet average yield **Parleys Creek** (7,940 acre-feet of Little Dell less 2,722 AF exchanged to SLC 1992 but which SLC has a preferred right to use)
4-10 CFS to .05 CFS **Spring Creek**

5-*54,140 acre-feet average yield **Big Cottonwood Creek** of which SLC claims to own/control 99%

6-*11,137 AF **Mill Creek** "unused" –SLC 1999 Watershed Plan

7-*43,898 acre-feet average yield **Little Cottonwood Creek**

8-**73,760 acre-feet preferred right from **MWD Salt Lake & Sandy.** SLC has 5 of 7 board seats on MWD SLS which owns:
a) 61,700 acre-feet of **Deer Creek Reservoir**
b) 28,600 acre-feet of **CUP Bonneville Unit and ULS Water?**
c) 2/7th interest in Jordan Valley Water Treatment Plant
d) 2004 3,500-4,000 more acre-feet available from Little Cottonwood Creek "With the new structure, the District can utilize approximately 3,500-4,000 acre-feet of Little Cottonwood Creek water that would otherwise have gone unused. Page 24 2004 Annual Report MWD Salt Lake & Sandy
e) Shares 192.6-Big Ditch, 20.64-Lower Canal, 2-Sandy Irrigation (1,200 acre-feet)
f) MWD SLC & Sandy own an additional 100 CFS/7,500 acre-feet in Mill Creek 57-3283; 25,700 acre-feet in Parleys Creek 57-3282;100 CFS/3,500 acre-feet in Emigration Creek 57-3288
g) 3,000 acre-feet **Ontario Drain Mine Tunnel water**
h) 50,000 acre-feet unapproved 1983 application 57-3288 Little Cottonwood Creek for **410' Dam**
i) 60,000 acre-feet unapproved 1963 application 57-3287 Big Cottonwood Creek for **370' Dam**
j) Right to contract for 25,000 AF under August 16, 1988 CUP deed

9-The July 1, 2003/June 30 2003 SLC Water Stock Ledger indicated 55,567.473 water shares owned. June 30, 2006 shows 15,514.723 water shares by excluding 39,241 shares of Forest Dale Water Company

2005-SLC's in-city use was 47,574 acre-feet on 57,646 City Connections--

2005-23,723 acre-feet on 31,231 non-city connections collected $16 Million in outside City limit surplus water sales. 2008–$20.4 Million in "surplus" sales.

SLC has 336,363 acre-feet of pending water filings.

SLC 1st largest City w/pop. 181,000–Efficiency:
–a water district tax 8 times Orem's (6th largest City w/pop. 91,000)
–water rates up to 6 times Orem's
–1 SLC employee per 346 water connections v. Orem's 1 employee per 833 water connections.
–8% County profit margin + high water rates

–14,527 lost water connections in FY 2005/2006 from wall to wall cities (SLC CAFR)

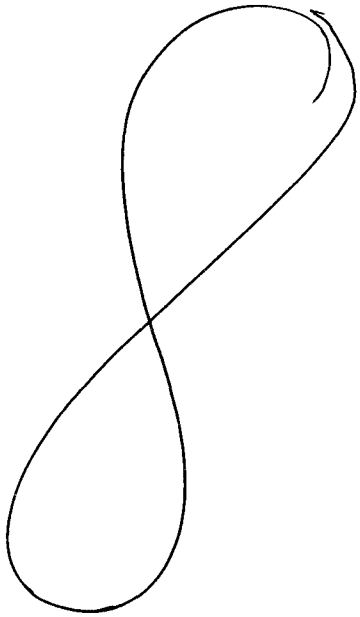
–286,057 acre-feet **Withdrawn** (Weber River to Duchesne River)
–105,700 acre-feet **Lapsed**
–11,819 acre-feet **Terminated**
Retired Exchange Obligations:
–11,400 acre-feet exchange obligation to Cahoon and Maxfield buy out in 2000
–5,000 acre-feet exchange obligation to Brown and Sanford buy out of all 3007 BS shares in 2002
–10,000 acre-feet obligation to Big Tanner Ditch buy out in 2008
–2,569 acre-feet obligation to Upper Canal

5 2/7th Treatment Plants w/374 MGD (million gallons per day), or 1,148 acre-feet per day = 419,020 acre-feet/year capacity

–City Creek Treatment Plant	20 MGD
–Parley's Treatment Plant	42 MGD
–Big Cottonwood TP	42 MGD
–Little Cottonwood TP	150 MGD
–Point of Mountain TP	70 MGD
–JVWTP 2/7th 180 MGD	50 MGD

2005-SLC in-City use 47,574 AF(42.5 MGD)

10-(January 20, 1960 SLC's Analysis showed 438.39 CFS or **317,304.49** acre-feet of SLC Well Rights/Filings) excluding all filings since 1960-**26 Deep Wells**-East Jordan Extension Canal 66 cfs (23,950 AF) capacity delivers below gauge #340 on BCC at Ctn Ln w/61,000 acre-feet pumping capacity (SLC may pump 10%) –Plus post 1960 filings **–Sold 9,237.95 AF well water**
–14,600 acre-feet of **Utah Lake** –Plus water filings for **20 Hydro-electric dams** –20,652 AF "exchanged" MWD
–493.85 acre-feet of spring water –Plus SLC's **35,000 acre-feet of Sewer Effluent (5,000 AF proposed for re-use)**
–SLC's 2050 estimated population is 225,000 with SLC being 2nd largest city in Utah –Utah Lake Pump Plant 150 of 700 cfs?
–Cash multiplying penalty for non-compliance of conservation on Federal/CUP water EJIC 170 cfs
–Subtract 25% for State Water Conservation Legislation –Jordan and Salt Lake City Canal 150 cfs



BEFORE THE UTAH DIVISION OF WATER RIGHTS

In Re: Temporary Permit Nos. 92-57-19 and 92-57-20

Before Hearing Officer Bob Morgan

June 22, 1992

P R O C E E D I N G S

THE HEARING OFFICER: We are on record. It is a hearing before the State Engineer concerning two temporary change applications. They are numbered and are both in the 57 area, applications 92-57-19 and 92-57-20. The first one is, both of them have been filed by Salt Lake Department of Public Utilities. The first application heretofore 114.375 cubic feet per second, or, and given the reference to paragraph 4, it looks like 2,000 acre feet.

Source water heretofore has been Little Cottonwood Creek in Salt Lake County. It is now proposed, well it has been used within Salt Lake City and its service areas in Salt Lake County, and the place of use is also within the City and within its service area in Salt Lake County.

The following changes are proposed: 500 acre feet from Little Cottonwood Creek --

UNIDENTIFIED SPEAKER: One is 500 and one is 2,000.

THE HEARING OFFICER: Okay. This one is 2,000. Let the record stand that 92-57-19 is for 2,000 acre feet. Will be diverted the same as heretofore from the tunnel in Little Cottonwood Creek, and it will all

1 be consumed, will generally be used in, for irrigation
2 4-1 through 10-15, domestic and municipal purposes
3 year-round, and other uses year-round, mainly confined
4 in Little Cottonwood Canyon through the Snowbird area.
5 Have I sufficiently confused everyone on that one?
6 The second application is for 114.375 cfs,
7 that is the total demand, and that has been used within
8 Salt Lake City and its service area that they are
9 seeking to change of that total flow 500 acre feet from
10 Little Cottonwood Creek, to be diverted from Tunnel
11 Springs in Little Cottonwood Creek, and the years at
12 Alta. The application was advertised?
13 **UNIDENTIFIED SPEAKER:** Yes.
14 **THE HEARING OFFICER:** Advertised and was
15 protested by Cahoon & Maxfield Irrigation Company,
16 Richards Irrigation Company, Little Cottonwood Tanner
17 Ditch Company, Walker Ditch Company. And, Mr. Skeen,
18 you represent all four of those irrigation companies?
19 **MR. SKEEN:** That's right.
20 **THE HEARING OFFICER:** We have here today Salt
21 Lake City represented by Mr. Hooten and counsel,
22 Mr. Novak?
23 **UNIDENTIFIED SPEAKER:** That's correct.
24 **THE HEARING OFFICER:** We would first turn to
25 the -- any questions on the applications, first? First

1 turn to Salt Lake City to explain the merits of the
2 temporary change applications, and then we would turn to
3 the applicant for their statement, or if they have any
4 questions of the applicant first, and then we will have
5 a statement from the protestants.
6 **MR. NOVAK:** Thank you, Mr. Morgan. It is Salt
7 Lake City's position that the water rights sought to be
8 changed under the two temporary change applications are
9 evidenced by four exchange agreements, one with each of
10 the protesting companies, and copies of those exchange
11 agreements are a matter of record on file in the State
12 Engineer's Office, and a part of the four exchange
13 applications, E29192021, 22 and the 57 area that were
14 filed in the State Engineer's Office on March 30, 1992.
15 It is the basic position of Salt Lake City
16 that Salt Lake City has absolute ownership and title to
17 the water rights awarded to the Cahoon & Maxfield
18 Irrigation Company, Little Cottonwood Tanner Ditch
19 Company, Richards Irrigation Company and Walker Ditch or
20 Irrigation Company under the Morse decree, and Salt Lake
21 City's ownership is vested in Salt Lake City by virtue
22 of the four exchange agreements.
23 There are basically three Utah Supreme Court
24 cases that I want to call the engineer's attention to,
25 and I have made copies of those cases and have

1 highlighted the portions of the cases that I want to
2 refer to. Let the record show that I am handing
3 Mr. Skeen a copy of the three cases, and one for the
4 State Engineer and one for the Attorney General's
5 Office.
6 The first case is a 1905 case, and it is State
7 ex rel. Ellerbeck v. Salt Lake City. There, the Supreme
8 Court was concerned with the ownership that would be
9 conferred on Salt Lake City under some options that were
10 being -- that had been acquired and were about to be
11 exercised by Salt Lake City to determine whether that
12 ownership interest by virtue of those proposed exchange
13 applications was sufficient to meet the Constitutional
14 requirements of ownership for the City to incur debt in
15 addition to that fixed by the Constitution and to
16 exchange water, water rights, under Article VI,
17 Section XI of the Constitution of Utah.
18 I would like to read, if I may, into the
19 record and call the engineer's attention to page 274 of
20 the blue-lined or highlighted portion that reads as
21 follows. Again, we were talking about, or the Supreme
22 Court was looking at practically identical exchange
23 applications as are the exchange applications that are
24 the subject matter of this hearing.
25 The Supreme Court said, "The compliance or

1 noncompliance with the conditions of the sale and
2 transfer of the water in question will be exclusively
3 within the control of the City, and so long as the City
4 does that which it will -- which it will be its legal
5 duty to do, and which the farmers in case of default
6 could by judicial proceedings compel it to do if there
7 were no forfeiture clause in the contract of exchange
8 there can be no forfeiture of the water thus acquired by
9 the City and its title to the same will be as clear and
10 indefeasible as though the exchange were absolute and
11 unconditional.
12 "We are of the opinion that when sales and
13 exchange of the rights of the respective parties are
14 made in and to the use of the waters the forfeiture
15 clause being a condition subsequent is not obnoxious to
16 the vesting of title and ownership in the City to the
17 mountain water, which it has received in exchange for
18 lake water, and it is settled by the great weight of
19 authority that when real estate is sold upon a condition
20 subsequent, as the farmers proposed to do in this case,
21 the fee is transferred to and remains in the grantee
22 until a breach of the condition and a reentry by the
23 grantor. That is, such a sale carries with it all the
24 attributes and incidents of absolute ownership until the
25 condition is broken."

1 And down at the bottom, "Applying the
2 foregoing principles of law to the admitted facts in
3 this case we have no hesitancy in saying that the right
4 and title of the City to the water it will receive from
5 the farmers by the exchange when made as contemplated
6 will constitute ownership and will come clearly within
7 the foregoing provisions of the State Constitution."
8 The next case I would call the engineer's
9 attention to and would like to read just a short excerpt
10 into the record is Salt Lake City v. McFarland, and that
11 was decided in 1954. That case involved almost
12 identical exchange applications -- or exchange contracts
13 as are involved here except -- except that there the
14 exchange application provided for a reservation by the
15 stockholders of that company of 900 gallons per day
16 during the summer and 500 gallons per day during the
17 winter months. We have a similar provision in the
18 Richards Irrigation Company exchange agreement that is a
19 part of the subject matter of this hearing.
20 Turning over to page 629 --
21 **UNIDENTIFIED SPEAKER:** Excuse me. Where is
22 that similar agreement for the Richards?
23 **MR. NOVAK:** Well, the Richards Irrigation
24 agreement provides for the delivery by Salt Lake City of
25 culinary water to the stockholders of the Richards

1 Irrigation Company, and it is similar to the exchange
2 agreements that is the subject matter of this case.
3 **UNIDENTIFIED SPEAKER:** That's not entirely
4 true. Could I --
5 **THE HEARING OFFICER:** I think you will have
6 the opportunity after Mr. Novak is through.
7 **MR. NOVAK:** Did you want to correct me?
8 **UNIDENTIFIED SPEAKER:** All I was going to say
9 is the difference is the Richards ditch contract does
10 not give them free water, but they get it at City rates.
11 That's the difference I think in the contract, this
12 court case and the one on behalf of Richards.
13 **MR. NOVAK:** Thanks. That hopefully clarifies
14 it in my mind. But over on page 629 of Salt Lake City
15 v. McFarland the court said, "When the creek water to
16 which the appellant's stock ownership entitle them was
17 turned into the City's mains title to such water vested
18 in the City. The City was thereafter free to sell its
19 water to whomever it pleased, including the stockholders
20 from whom they have purchased it."
21 The third case is a 1964 case, Green Ditch
22 Water Company v. Salt Lake City, and it was sort of a
23 follow-up to the McFarland case, whereas the McFarland
24 involved just a stockholder of the company this involved
25 the whole company, and one of the issues raised was

1 whether that exchange agreement was enforceable.
2 I call the engineer's attention to the
3 highlighted portion on page 588, where our Supreme Court
4 said, "Since there was a specific charge for any excess
5 used by the signers, and since the contract did not
6 provide a credit for unused water incident to any given
7 month, it seems inescapable to conclude that the
8 other" -- let's see -- "conclude that the outright
9 unconditional grant to the City of all of the signers'
10 right, title and interest should vest in the City
11 absolute ownership and title to the unused water."
12 That seems to have been the conclusion in the
13 McFarland case we just referred to, either express or by
14 necessary implication when it was said, that when the
15 creek water to which public stock ownership entitled
16 them was turned into the City's mains title to such
17 water vested in the City, and that the City was
18 thereafter free to sell its water to whomever it
19 pleased, including the stockholders from whom they had
20 purchased it.
21 Then that next quote, "Under the pleadings and
22 affidavits and the specific provisions of the exchange
23 agreement we believe and hold that the agreement was not
24 only valid, but that title to any unused water to which
25 the signatories otherwise would have been entitled by

1 virtue of their shareholders' interests vested in the
2 City.
3 The three cases that we have cited and the
4 language taken from those three cases establishes that
5 question as applied to almost identical exchange
6 agreements where the company or the stockholders sold
7 and granted to the City the right to the use of the
8 creek water in exchange for irrigation water, and in
9 some cases the domestic water, vested title and absolute
10 ownership in Salt Lake City subject only to a condition
11 subsequent that if the City failed to comply with the
12 terms and covenants of the exchange agreements then
13 there would be a defeasance of the title of the City.
14 It should be noted that in the four exchange agreements
15 there is no limitation on where or for what purposes
16 Salt Lake City can use the water which it acquired under
17 the exchange.
18 I suggest that it is immaterial here whether
19 Salt Lake City has technical legal title, which is what
20 is raised by the protestant. What is material here is
21 that Salt Lake City is entitled to the use of the Little
22 Cottonwood Creek waters to satisfy the requirements of
23 73-3-3. You will recall that subparagraph 2 of that
24 title provides that any person entitled to the use of
25 water may make (i) permanent or temporary changes by

1 diversion, by (ii) permanent or temporary changes of
2 place of use, and (iii) permanent or temporary changes
3 in the purpose of use for which the water was originally
4 appropriated. We are not here talking about stock
5 ownership in an irrigation company. We are here talking
6 about a grant under the specific provisions of the
7 exchange agreements.
8 We should call the engineer's attention to the
9 Cahoon & Maxfield exchange agreement under paragraph 1
10 that provides that subject to the reservations, the
11 restrictions and strict performance by the City the
12 Company gives and grants to the City the right to have,
13 take and use perpetually all of the waters that were
14 awarded to the Cahoon & Maxfield Irrigation Company with
15 some qualifications as to the Little Cottonwood Water
16 Company and some reservations as to some prior
17 conveyances.
18 The other three exchange agreements, again,
19 subject to the reservations, restrictions and strict
20 performance by the City of those companies in each of
21 the exchange agreements gives and grants to the City the
22 right to have, take and use water and water rights under
23 those awards in the Morse decree.
24 In addition, paragraph 4 of the Cahoon &
25 Maxfield exchange agreement specifically provides that

1 the City may, it's permissive, the City may file change
2 applications, etc., to accomplish, if needed to
3 accomplish the objectives of the exchanges by using the
4 name of the company on any such changes. And, likewise,
5 under the other three, under paragraph 2, it provides
6 that the City may, if it so desires, use the name of the
7 company to file change applications, etc. Here the
8 City, with its absolute ownership, as we see it, and
9 title, has elected to file those temporary change
10 applications in the City's own name.
11 The next point I want to make is that we think
12 it's ironic that one of the bases of the lawsuit that
13 has been filed against Salt Lake City by these four
14 companies, which I'm sure the engineer is aware of,
15 complains under paragraph 10 that Salt Lake City sold
16 water to Alta and Snowbird without filing change
17 applications as required by law. No prior notice of
18 default or notice to cure had been filed by any of these
19 companies with the City.
20 What I am saying is that those exchange
21 agreements provide that if the company claims any
22 default or failure to comply with the covenants of those
23 exchange agreements then under the Cahoon & Maxfield
24 exchange agreement Salt Lake City has six months within
25 which to cure the defect before there can be a

1 forfeiture, and under the three other exchange
2 agreements Salt Lake City has one month -- or one year,
3 excuse me, after notice, to cure any of the claimed
4 defaults before there can be a forfeiture.
5 So here Salt Lake City files the temporary
6 change applications, and these four companies who claim
7 some sort of default by selling the water and having it
8 diverted without having filed change applications now
9 come in and filed protests against the granting of those
10 temporary change applications, and we -- we think it's
11 ironic that they would do that. The four companies
12 urged that since the ownership of the water rights is
13 the subject matter of pending litigation, the State
14 Engineer should withhold action until those rights are
15 adjudicated. We suggest that that basis is simply a
16 delaying tactic to further frustrate the process and in
17 some way prevent Salt Lake City from curing the claimed
18 defect within the -- within the time provided.
19 And, again, as I indicated before, it -- it
20 makes no difference here where the technical legal title
21 to these water rights vests. We, by virtue of the four
22 exchange agreements and in the pleadings that have been
23 or at least the memos that have been filed, the
24 companies have urged or stated that they are not seeking
25 to terminate those four exchange agreements, and we

1 think it's clear that under those agreements Salt Lake
2 City is entitled to the use of water to meet the
3 requirement of 73-3-3.
4 The other issue that I want to just mention is
5 the impairment issue, and we will have Mr. Higbee, the
6 Little Cottonwood Creek Water Commissioner, and
7 Mr. Hooten, the Director of Public Utilities of Salt
8 Lake City, testify as to some matters relating to that,
9 but I simply want to point out that there will be no
10 impairment of any of the rights of any of these
11 companies nor any owners of rights, other rights on
12 Little Cottonwood Creek.
13 The fact is that for the last at least 19
14 years Mr. Higbee, as the Little Cottonwood Creek Water
15 Commissioner, has made available to each of these
16 companies at their diversion points all of the water
17 that they wanted and could beneficially use, either from
18 Little Cottonwood Creek or from Utah Lake through the
19 East Jordan canal and its extension and the Jordan and
20 Salt Lake City canal.
21 Mr. Higbee does not and has not regulated
22 those headgates. The companies have regulated those
23 headgates and turned whatever water they felt they
24 needed into their systems, and if they have ever had a
25 problem, and Mr. Higbee will tell us about it, they have

1 contacted him, he has made additional water available,
2 which can be done by releases through the Little
3 Cottonwood water treatment plant into the farmer's
4 headgate. Another thing that's important and the record
5 will show that the -- the irrigated acreages of each of
6 these four companies have substantially reduced and the
7 demand for irrigation water by these companies has
8 substantially reduced.
9 In the exchange applications, as documented,
10 that based on a study by Hansen, Allen and Luce in 1992,
11 using 1938 aerial photographs and 1991, 1938 Cahoon &
12 Maxfield Irrigation Company was irrigating 3,284 acres.
13 In 1991 they were irrigating 476 acres, or a reduction
14 of about 86 percent.
15 Walker, 1938, irrigating 568 acres, '91,
16 250 acres, or about a 66 percent reduction.
17 Richards, the records reflect that in 1979 --
18 or, excuse me, 19 -- 1950 John A. Ward had made a
19 compilation that they were irrigating 538 acres, and in
20 '79 were irrigating 483 acres, and 1991 irrigating
21 453 acres, or from a 16 percent to a 6 percent
22 reduction.
23 Little Cottonwood Tanner Ditch Company, 1938,
24 irrigating 1,278 acres, 1991 308 acres, or a 76 percent
25 reduction.

1 And I should point out that the reductions in
2 irrigated acreages are from the sole volition of the
3 shareholders of each of these companies that has
4 resulted from urbanization, where those shareholder
5 landowners have sold their irrigated lands for
6 residential and commercial development, which, of
7 course, commands substantially higher prices for those
8 lands. It has been nothing that Salt Lake City has done
9 that has resulted in any of those reductions. It's
10 solely the voluntary reductions by those stockholder
11 landowners of those companies.
12 I would like, with your permission, to have
13 Mr. Higbee, the Little Cottonwood Creek Water
14 Commissioner, to explain briefly the distribution of
15 water from Little Cottonwood Creek and the
16 nonimpairment -- get into the impairment or
17 nonimpairment issues of these temporary changes; and
18 then would ask LeRoy Hooten, the Director of Public
19 Utilities, to provide some information relating to the
20 usage, total usage by these companies during the past
21 ten years, and the pattern of usage at Alta and
22 Snowbird, and as to the latter the records will show
23 that the -- that the majority of the use by Alta and
24 Snowbird is during the winter months, during the
25 nonirrigation season, and during the irrigation season

1 their combined use is approximately a quarter of a
2 second foot, which is very difficult to even measure
3 when that water is in the stream.
4 So with your permission I would like to call
5 Mr. Higbee.
6 **THE HEARING OFFICER:** Okay, Mr. Higbee.
7 **MR. HIGBEE:** Give me a second to pin this up
8 on the board here. Maybe you can see what we have got.
9 Here at the top --
10 **ED HIGBEE,**
11 called as a witness, having been duly sworn, was
12 examined and testified as follows:
13 **EXAMINATION**
14 **BY MR. NOVAK:**
15 **Q.** First, Mr. Higbee, for the record, state your
16 name and what your position is relative to distribution
17 of waters in Little Cottonwood Creek.
18 **A.** I have been appointed as the Court
19 Commissioner on Little Cottonwood Creek in regards to
20 the irrigation court decree, Union and East Jordan
21 Irrigation Company vs. Richards Ditch Irrigation
22 Company, et al., case No. 4802, and it was dated in
23 1910.
24 **Q.** How long have you served as commissioner on
25 Little Cottonwood Creek?

1 **A.** I was made commissioner on the 26th day of
2 June, 1979.
3 **Q.** And I take it that you administer and
4 distribute the waters of Little Cottonwood Creek under
5 the supervision of the court in accordance with the 1910
6 Morse decrees?
7 **A.** That's correct, that's the way the decree
8 works under the supervision of the court.
9 **Q.** Who pays your salary or wages?
10 **A.** The court decree orders that the users should
11 pay for it. At present Salt Lake City, because of the
12 exchange agreements, the ditch companies reverted that
13 responsibility to Salt Lake City, on these four ditch
14 companies, that Salt Lake City now pays the court fees
15 for these four ditch companies. The others, I collect
16 from other entities. Sandy City is the same kind of
17 situation with Union and Jordan, and the others are
18 smaller ditch users and so on. But those -- between
19 Sandy City and Salt Lake City all the secondary primary
20 ditches are tied up under contract.
21 **Q.** And so you administer those contracts or those
22 exchange agreements along with the provision of the
23 decree; is that correct?
24 **A.** That's correct. I try to follow the decree's
25 instructions and any subsequent contracts and agreements

1 that have gone into effect since the decree was in
2 effect.
3 **Q.** Is there any provision in the decree that
4 directs you to provide the, whatever distribution is
5 required consistent with the decree to provide for
6 greater efficiency or beneficial use of water?
7 **A.** There is a paragraph in the decree that does
8 indicate that very specifically, and it's part of the --
9 I think it is the 39th paragraph in the court decree
10 under conclusions of law, and I will read it in full.
11 It is only a short one. "The commissioner provided for
12 herein may divide and distribute the water by hours or
13 days or by constant streams or in any other manner as in
14 his judgment seems best so as to secure the greatest
15 efficiency for the water. All of the above, however, is
16 subject to the supervision and control of this court."
17 That's the entire paragraph 39.
18 **Q.** Okay, Mr. Higbee, if you will just move that
19 chair off to the side so that back doesn't block, would
20 you explain to the engineer just very briefly and very
21 generally how the waters of Little Cottonwood Creek are
22 distributed pursuant to the decree and the exchange
23 agreements?
24 **A.** In operating the decree at present, to try to
25 come up with spot readings, later on I get a more

1 efficient method of measuring, I have to come up with
2 the total flow of the creek. If I were doing it the way
3 the decree originally said it would be measured at each
4 ditch, all the ditches would be totaled up, and that
5 would be the stream.
6 But since there is cutoff savings rights of
7 the Little Cottonwood Water Company taking into effect
8 here that saves some water. The City's savings of
9 rights in here, because of the -- going up the stream in
10 here and the stop line, because of those I have to take
11 into account a little differently. So now the way I
12 figure the total flow of the creek, if I take a flow, an
13 estimated flow for the sewer, each month we get that and
14 get an exact, correct amount of how much they were using
15 through the sewer line.
16 **Q.** The sewer goes where?
17 **A.** It goes right on up the canyon and feeds clear
18 from Alta City on down and picks up water from Alta,
19 Snowbird and other users of water. I count that as part
20 of total stream flow. Nobody gets to use it but the
21 sewer plant, and I wouldn't let anybody use it if I
22 could help it.
23 Okay, Murray City takes out water here. I
24 measure the water as it comes through the power plant.
25 So here is two parts of the total to come up with the

total flow, I have the sewer flow and the power plant flow.

Then I pick up the 15-foot Parshall, which is right here on Wasatch Boulevard, right close to Wasatch Boulevard, and I have got three ditches up above here that use water. So I have to add them. I have to add the South DeSpain, the South DeSpain extension, and the North DeSpain.

So to get my total flow of the creek I take these ditches, the sewer plant, the power plant flow and the stream flow at Wasatch Boulevard. The users of them now, Alta and Snowbird, through their contracts, are using water, and the only way I can account for the water they use in my figures is by what the sewer outflow is. This is water that would if all of this in Little Cottonwood were gone, all the businesses, all the users would close, no skiing, no nothing, that water would come down the stream, so I figure it is part of the stream flow.

Okay, I add these into it. I also add in two wells, Sandy ditch -- or Sandy City has two wells drilled right near where the South DeSpain, South DeSpain extension are. They are above the Wasatch Boulevard. They are above, and the water that they take is counted as part of the water of the canyon. So I add

1 that in. So here is the waters that I use to come up
2 with the total flow of the creek. I use those totals,
3 that total to come up with the amount that the ditches
4 are entitled to.
5 Now in the case of the four ditch companies
6 that are involved here, the Cahoon & Maxfield in their
7 schedule with Salt Lake City have 7 (inaudible), and
8 that's all, I don't have to figure their percentage of
9 the stream, because they have a set amount that they are
10 entitled to if they can use it.
11 The Richards ditch, the Tanner ditch and the
12 Walker ditch are all based on stream flow. For the
13 first three months of the year or first three months of
14 the water season, April, May and June, they are entitled
15 to the creek share of water, with no addeds or anything.
16 If you get into the July, August and September, and that
17 half a month of October, those three ditches are
18 entitled to the amount that they are -- that the
19 decree -- the decree gives them plus 1 second foot for
20 the Walker and the Richards, 2 second feet for the
21 Tanner, if that amounts being -- if Salt Lake City is
22 taking that amount of water through the treatment plant,
23 if they are taking all the water these ditch companies
24 are entitled to then they would have to give that
25 additional 1 second foot and 2 second feet to these

1 titches. But I can use the -- in coming up with these
2 figures I know exactly what each of the ditches are
3 entitled to.
4 **Q.** Mr. Higbee, you show the East Jordan canal, an
5 extension canal, Jordan/Salt Lake City canal in red near
6 the bottom?
7 **A.** Can you see this down here or is it too low?
8 It's low for the rest of you. I am going to raise it.
9 Alta and Snowbird, do you know where they are? They
10 haven't changed. Go up a bit, and we will be able to
11 see those.
12 Okay, the East Jordan canal comes in on 9th
13 East just south of Ft. Union. I think Ft. Union
14 Boulevard or Drive is right in there. But it comes in
15 there, crosses over and heads over towards 13th East.
16 It crosses 13th East right about in this area here.
17 That's where 13th East is.
18 But as water comes down here we can deliver
19 water, there is a section of the Tanner ditch here that
20 they cannot get canal water with gravity flow. That
21 section of water, we deliver, I always keep enough water
22 in there, right at present there is no way to provide
23 water, canal water, to the Richards ditch, so they get
24 their entire amount from the creek. That means I don't
25 have to add that extra second foot to their amount,

because there is no exchange taking place. They are getting the water right out of the creek through this cutoff savings and through their pipeline system.

The Tanner ditch has a short section here that has users. They have to have water from the creek. After it gets beyond the East Jordan canal they have two delivery points that come into the Tanner ditch system that feeds their water.

Okay, the Union and Jordan, that's the one that's owned by Sandy City, they bought out that ditch entirely, they have to have a small amount for their ditch until it crosses the East Jordan canal. Now, they cross at below 9th East, so they are not on the East Jordan extension. This is not to scale, as anybody can guess.

But the Cahoon & Maxfield has a section through here that they used to have one or two users on. They now have no users between the creek and the East Jordan canal that are actively consuming any water in the Cahoon & Maxfield ditch. Then it goes down and crosses the Jordan and Salt Lake City canal. We have, the City has diversions for both of those stations, the Cahoon & Maxfield and the East Jordan canal, extension canal, and the Jordan/Salt Lake City canal.

The Walker ditch has a diversion from the

1 creek, and they are out underneath, almost underneath
2 office buildings and everything else now, and it is all
3 piped through here, and they have a connection off the
4 canal, and they have the choice of taking it from either
5 source when there is water in the creek. Most of the
6 year they take it off the canal and they deliver their
7 water through the Walker ditch that way. That's the way
8 I am delivering water to these ditch companies.
9 **Q.** Okay, Mr. Higbee, since you have been
10 commissioner, will you tell the engineer whether you
11 have made available at the diversions points of all four
12 companies of all of the water that they requested and
13 could use?
14 **A.** As far as I have been able to, yes, and I have
15 done it pretty well. I don't think there have been
16 times that -- if they have let me know they have had
17 problems I've gone and found out what's wrong and tried
18 to get things going. If I can't get it from sources
19 like canals, which is the Utah Lake water, if I can't
20 get it from there I take those from the treatment plant
21 and send it downstream.
22 **Q.** Which does, I take it, or could include water
23 coming in through the Salt Lake aqueduct?
24 **A.** Yes. There has been one or two times I think
25 they used water from the aqueduct into the stream to

take care of these few users up in here. And one time we used water out of the Little Cottonwood well to take care of these users down here into the stream. So we have had different sources, we have had ways of getting water to them.

Q. Do you regulate the headgates of these four companies?

A. I do not. If I get a -- if I get the message that they want water, I ask them how much will you be able to use, and I try to get that much to their diversion points; and then as the season gets on, gets moving, I watch to see how much water is going on downstream that would end up in Utah Lake or in the Great Salt Lake or the Jordan River. I try to get that water consumed somewhere in the system.

Q. Do the companies, representatives of the companies then (The audio ceased on side A. We are now hearing audio from side B of the tape.) canals and ditches?

A. Yes. I was not there unless I was told by the presidents of the company or the water masters, I would not dare open one of their headgates for any purpose. I don't want to be responsible for water going through their systems. If they should have some contractor in the middle of a project underneath the ditch, and I

1 **A.** Yes, sir.
2 **Q.** Is a part of your duty as water commissioner
3 to measure water in the creek, available in the creek,
4 and also to measure the water from Jordan River, Utah
5 Lake, into the systems of these various companies?
6 **A.** Some of the time I do that, but there is water
7 masters, there is men that work for Salt Lake City who
8 are on a constant call to measure those.
9 **Q.** Do you have any records of those measurements?
10 **A.** Yes, sir.
11 **Q.** And where are they?
12 **A.** They are in the files of Salt Lake City. We
13 have --
14 **Q.** And will you tell me what they consist of?
15 **A.** Okay. We take field notes and recorder
16 sheets. From those we develop our data of how much
17 water is actually being consumed, how much is being
18 used, how much is going through each ditch. We then
19 take those and put them on summary sheets, and we
20 summarize the whole year for each of the ditches, and we
21 come up with total amounts those ditches have received
22 through the year.
23 **Q.** Now, do you have any recording devices on the
24 measuring devices?
25 **A.** Yes, we do now. We have had some in almost

all --

Q. How long have you had those?

A. Well, on the East Jordan canal we have had it ever since they built the canal. We have had a measuring device on the East Jordan canal almost continuously. We have had measuring devices on the Cahoon & Maxfield 1, 2 and 3 for most of the time I have been involved with irrigation measurements. One got discontinued for a period of time because there was no users there, and the Parshall flume had deteriorated to where it was no longer a good measurement. It was replaced in 1988, wasn't it? Do you know, Tony?

TONY: They replaced the three Parshall flumes in 1990.

A. '90. Okay. Those have been replaced.

Q. Where is the measuring device on the East Jordan canal?

A. It is on 9th East where the East Jordan canal and the East Jordan extension starts. So 9th East or just east of 9th East.

Q. Are they Parshall flumes?

A. That's a rated flume. That's not a Parshall flume.

Q. Are they constant measurements or periodic?

A. It is constant recorded measurements. Plus

they have also in the last few years they have added a sonic water level measuring device that's also sending that same information on up to the 62nd South pump station, so they know what's going on.

Q. What measurements do you have on the Little Cottonwood Creek?

A. Little Cottonwood Creek? Probably about the same period of time. But we have got a recorder on the --

Q. Where are your recording devices on Little Cottonwood Creek?

A. On the 15-foot Parshall.

Q. That doesn't mean anything in the record.

A. Okay, the 15-foot Parshall at Wasatch Boulevard has a recorder.

Q. Well, would you mark on that measuring device so we know where you are pointing on the record.

A. Okay. That area, and it's a 15-foot Parshall.

Q. And is that a -- is there a recording device on that?

A. Yes. There is a -- I think it's a Leaks, Leaks Port Stevens A30.

Q. How long has that measuring device been there?

A. Ever since I have worked with the water department there has been a measuring device except when

1 somebody blew up the recorder house for six months.
2 **Q.** Do you have records in your office or in the
3 City office of those measurements?
4 **A.** That's correct.
5 **Q.** From 1979?
6 **A.** Prior to that.
7 **Q.** I notice on the map that's on the black part
8 of the -- which I assume is on the creek?
9 **A.** The creek, I have got the ditches also in
10 black in many cases here.
11 **Q.** And is all the water in the creek measured at
12 that point?
13 **A.** All the water that arises in the creek between
14 here and here that does not go into the South DeSpain
15 ditch, South DeSpain extension or the north DeSpain is
16 measured or if somebody steals.
17 **Q.** It doesn't relate anything to Alta or
18 Snowbird?
19 **A.** If Alta and Snowbird had taken the water it
20 has gone down to the sewer system. Any water that they
21 let through their system eventually is there.
22 **Q.** No consumption of it at all?
23 **A.** I have not added the consumption up there. I
24 added it as part of the sewer flow. The sewer flow, by
25 the way --

1 **Q.** Do you know what the consumption is?

2 **A.** Yes, we get that. Each month we get that from

3 records of the sanitary sewer district No. 3. Ross

4 Scott I think is the one I talk to all the time on that.

5 **Q.** Do you have records showing the consumptive

6 use?

7 **A.** We show the amount of water going through the

8 sewer system, yes, and we add that as part of the total

9 flow.

10 **THE HEARING OFFICER:** He means Alta and

11 Snowbird.

12 **THE WITNESS:** I don't have them right now with

13 me, but the City has them, because they are paying for

14 the water.

15 **UNIDENTIFIED SPEAKER:** You assume there is no

16 consumptive use, then?

17 **THE WITNESS:** What do you mean I assume there

18 is no consumptive use?

19 **UNIDENTIFIED SPEAKER:** You assume that the --

20 you add only the measured sewer flow and increase that

21 by nothing for actual consumptive use in the use area.

22 **THE WITNESS:** Let's look at the sewer flow.

23 If you have a sewer flow during the summer of a half a

24 second foot -- now, possibly, this could go up to as

25 high as 6/10 of a second foot and down to as much as

about 2/10 of a second foot. That's the range this might run right now on the use of water coming through the sewer plant. Okay. I think during the same period of time the water taken out by Alta City and Snowbird is probably less than a quarter of a second foot. I'm picking up more water here and showing more water right here than what those two places are using.

Q. Is that also true of Snowbird?

A. I said Snowbird and Alta. Those are both -- whatever is going through their sewer system is what I am measuring here plus whoever else is putting water in there. That's the people Little Cottonwood Water Company has agreements with.

MR. SKEEN: I would like, if I may, have permission to have Bob Murdock ask any questions he would like to ask on that.

THE HEARING OFFICER: Go right ahead. I'm easy to get along with.

EXAMINATION

BY MR. MURDOCK:

Q. Do you regard approved rights in the State Engineer's Office in any way in your administration of the creek?

A. I have to. Shall I explain?

Q. Well, I would like -- yeah.

1 **A.** Okay. Little Cottonwood Water Company has a
2 contract and has a claim to water that is saved by
3 running water through this cutoff savings. I can't
4 remember the exact amount. It is about 3 point
5 something second feet is saved by keeping this stream
6 dry and running the water through here.
7 So when I am giving water to these ditch
8 companies and we are using the cutoff savings and drying
9 up the creek, then I am able to add a little bit to each
10 one of these ditches according to the stock ownership in
11 the Little Cottonwood Water Company. They also have
12 rights to Red Pine up the canyon. They use water from
13 Cecret Lake, and that's used also by the Little
14 Cottonwood Water Company.
15 Those are the three areas where they have
16 saved water, and to do that all of these ditch companies
17 that joined the Little Cottonwood Water Company had to
18 divest themselves and give their third surplus right to
19 the ditch company. That's the only way they could get
20 water to do these things with. And that's where the
21 water comes from that's stored in Cecret Lake and Red
22 Pine, and also the -- and then that water in the cutoff
23 savings. So I have to count that in. It's only fair if
24 I do. I would be cheating somebody, and that's not
25 right, and I will not do it.

1 **Q.** Does all of the water -- well, let's go back.
2 Are you diverting any water to Salt Lake City, for Salt
3 Lake City's use?
4 **A.** Right now Salt Lake City is using through
5 Metropolitan Treatment Plant. Now, maybe we ought to
6 look at this. I will clear off this board here and show
7 the tail race off the power plant. I measured the water
8 at the power plant, and at the tail race we have an open
9 area like this. We have a concrete wall here. We have
10 a short concrete wall, not as high, there. The water
11 comes into the plant, from the power plant, this way and
12 this way through the two generators. It comes into
13 here.
14 Now, as the water is going through the power
15 plant, now Murray City, again, you are talking about
16 rights that the State Engineer has given, Murray City
17 has established a right for 185 cubic feet a second for
18 hydropower use. That's what they have got from previous
19 rights and from additional rights they have picked up.
20 That water is brought down through here, and
21 it is taken out right up here at the Murray dam, at
22 Whitmore resort area, right at the tail race of the
23 Whitmore power plants. They pick up that water, bring
24 it down here.
25 Now, because they took so much water out -- I

1 will sidetrack just a second -- because they took so
2 much water out the stream that precluded getting water
3 to South DeSpain in the amount they were entitled to.
4 The North DeSpain seems to have enough through the
5 spring that is there. The South DeSpain extension,
6 there wasn't enough water there.
7 So when Murray City filed that application I,
8 as court commissioner, protested it and said you have
9 got to have quote "accurate measuring devices in this
10 device right here so I know how much water is going, and
11 we have got to have a way to provide water to these
12 ditch companies." We went through that with the State
13 Engineer and with Murray City and everybody. We all
14 talked about it, worked on it, and they got the
15 equipment in there.
16 Now, okay, let's go down to the penstock here,
17 I mean the tail race of the power plant. We have three
18 diversions here. There is a big hydraulic gate right
19 there operated by Metropolitan Treatment Plant. Now,
20 for water to even get in that headgate it has to go over
21 this wall. So that keeps the water to certain heights.
22 Now, over here we have two 30-inch wheel
23 gates. They come through and are fixed with a, what,
24 meter gate measuring device? Anyway, it is where they
25 take the area and you have to have it submerged and so

on. It is a standard irrigation measuring device. We have that on these two, a couple (inaudible) wells, we have the wheels here. I control these.

Now, these two, this one here is the Sandy siphon. It goes right across the creek and over into the Sandy ditch. That's right here. It kicks over here into the Sandy ditch right there. Then this one is the farmers' gate. It comes out here, does a fast turn, goes down along the bank until it gets beyond the Metro treatment plant and then right into the tail race out of the Metro treatment plant and then from there right straight into the creek. That's where the water goes on this one.

Q. And you control that one?

A. And I control that. So what I have done in the last week or two I have watched to see how much water Metropolitan is treating. I have to measure it from them all the time.

Q. Who controls the Metropolitan gate?

A. They control it there, because if there is a storm and they can't use the water, they have to shut it. They can't use the water if something goes haywire. They have got to have safety for them. We can't have polluted water.

Q. (Inaudible.)

1 **A.** Okay, now, if that happens, if this closes,
2 these things, this section right in here raises about
3 2.5 feet or 3 feet higher, and then it overflows into
4 this. This is an overflow drain that goes right down
5 into the creek, and I can't remember the size of this
6 pipe. I think it's about a probably 3-foot diameter.
7 It is a big one. But in case any time that they have to
8 shut down then it kicks into here.
9 Well, it is in the creek then plus you have
10 got what's coming through here. So I don't have to
11 change this headgate at all, I don't have to change this
12 headgate at all, but both of these increase because
13 there is additional pressure on them.
14 **Q.** Does Metropolitan take water at your approval?
15 **A.** Yeah, I tell them how much they can take. The
16 key that I use to how much they can take is how much
17 water we have got down in here. Have I got enough for
18 the Union and Jordan? Have I got enough for the Tanner
19 ditch? Have I got enough for the Richards ditch?
20 **Q.** What do you base the approval upon for
21 Metropolitan taking any water?
22 **A.** Their contracts with Salt Lake City and with
23 others. The ditch companies, the ditch companies that
24 sold the rights.
25 **Q.** What water right structure backs that up?

1 **A.** Okay, the four contracts of the four companies
2 that are involved right here.
3 **Q.** Has the State Engineer been a party to those?
4 **A.** No, that's Salt Lake City, and the court
5 decree has got that one.
6 **Q.** But has the State Engineer granted any
7 approval for those diversions?
8 **MR. HIGBEE:** I am going to object to that.
9 The record will show what the State Engineer has done.
10 I think it is argumentative.
11 **MR. MURDOCK:** It is not argumentative. I am
12 simply pointing out that there were for many years in
13 place change applications for that purpose. They lapsed
14 in 1983, and since 1983 there has been no approval
15 granted by the State Engineer for any diversion of that
16 sort.
17 **MR. NOVAK:** Just a minute, Mr. Higbee. If
18 this is a legal matter, Mr. Murdock, and it has been our
19 position, as I have explained to Mr. Skeen, that those
20 four change applications were in fact exchange
21 applications. They lapsed because the 50-year period
22 expired when proof was not submitted, and our position
23 has been that those were in fact exchange applications
24 that should not require proof of change and were
25 improperly lapsed, and plus the fact that the decrees on

1 Utah Lake award Salt Lake City the right to utilize that
2 water for exchange of the waters of the canyon streams.
3 But be that as it may, we have filed four
4 exchange applications to conform the State Engineer's
5 records to what the facts are. It just seems to me that
6 to argue with Mr. Higbee as to whether we have the
7 approval or not is a matter that's not going to get us
8 anywhere. We think we have the right to do what we are
9 doing and what we have done in the past.
10 **MR. MURDOCK:** I'm just pointing out that since
11 1983 Mr. Higbee has administered the creek in a manner
12 that is not in accordance with State rights.
13 **MR. NOVAK:** We disagree with that, because we
14 believe our rights to be otherwise.
15 **MR. WITTERBERG:** Mr. Morgan, if -- Marv
16 Witterberg from Richards Irrigation Company. If the
17 issue here is the change applications, why are we
18 arguing and talking about a diversion down on 9th East?
19 It has nothing to do with the change applications. I
20 think we are wasting our time talking about it,
21 Mr. Higbee's time, everybody's time, talking about all
22 this garbage down below when the issue is the change
23 applications up at Alta and this area.
24 **THE HEARING OFFICER:** I think your point is
25 well taken. Any other questions of Mr. Higbee

concerning the operation?

MR. SKEEN: I think that's all.

MR. NOVAK: I would next like to call LeRoy Hooten.

LEROY HOOTEN,

called as a witness, having been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. NOVAK:

Q. Tell the engineer what your position is and how long you have occupied that position.

A. I am Director of Public Utilities for Salt Lake City since 1980.

Q. Prior to that time did you, were you employed?

A. Deputy director since 1972 to '80, and worked for the City since 1958.

Q. Are you in charge of the record keeping of water measurements as it relates to the diversions by Alta and Snowbird?

A. Yes, within the various divisions of my department I have that responsibility.

Q. Do your department records compile or include total diversions into the four company ditches that are protestants to this proceeding?

A. Yes.

1 **Q.** Mr. Hooten, I'm going to show you a, and I
2 believe you have one of your own, or you can use mine,
3 but I would like the engineer to look at the document
4 and ask whether or not you have prepared this that shows
5 Little Cottonwood Tanner-Richards, Little
6 Cottonwood-Walker, Cahoon & Maxfield, different colors
7 exchange ditches. For the record, I have handed a copy
8 to Mr. Skeen, Mr. Morgan and the Attorney General's
9 Office, and ask you, Mr. Hooten, whether you -- whether
10 that document was prepared under your direction?
11 **A.** Yes, I requested information from our
12 irrigation division to provide me the diversion records
13 for the four subject irrigation ditch companies from
14 1980 to 1991. Those four volumes of water were recorded
15 on this chart.
16 The blue indicates the major diversions of the
17 Little Cottonwood Tanner ditch, the brownish-red color
18 Little Cottonwood-Walker, green the Richards ditch, and
19 the orange and brownish color the Cahoon & Maxfield
20 Ditch Company, and as the chart indicates the diversions
21 over the last 11 years have been about 10,000 plus or
22 minus acre feet a year and are substantially below the
23 amount of water that they would have been entitled to,
24 and that reduction is attributed to the urbanization of
25 the lands that were originally irrigated by the

1 properties and are typical of the water deliveries that
2 we are experiencing in all of our exchange areas where
3 the amount of water has been greatly reduced over the
4 years, although it has been somewhat stable over this
5 period of time.
6 **Q.** Now, Mr. Hooten, as your position of Director
7 of Public Utilities, have you had complaints from
8 representatives of these four companies as to whether
9 they were receiving sufficient water over the years?
10 **A.** Primarily with the Cahoon-Maxfield Irrigation
11 Company a number of years ago, about three or four years
12 ago, and there was a dispute over the measuring devices,
13 and so subsequently we installed new measuring devices.
14 I believe that was about '88 or '89.
15 **Q.** The quantities of water shown on this
16 document, to the best of your knowledge, are those the
17 quantities of water that have been requested,
18 collectively and individually, by these four companies
19 during the past ten years?
20 **A.** It is my understanding that the companies have
21 available to them all the water they need, and that they
22 control the headgates to regulate the flows within their
23 system. Within these numbers also include the total
24 diversions including the creek diversions and the Utah
25 Lake water diversions.

1 **Q.** Mr. Hooten, are you familiar with the
2 diversions by Alta and Snowbird?
3 **A.** Yes.
4 **Q.** And those were pursuant to contracts that were
5 entered into between those two entities?
6 **A.** That's correct.
7 **Q.** Or at least the county service area Snowbird
8 and Salt Lake City. Are those, the waters that are
9 delivered to each, Alta and Snowbird, metered?
10 **A.** Yes.
11 **Q.** And do you keep a record of those meter
12 readings?
13 **A.** Yes.
14 **Q.** Did you prepare a chart designating Little
15 Cottonwood usage or water usage Little Cottonwood Creek
16 Alta and Snowbird for the year 1989?
17 **A.** Yes.
18 **Q.** The figures shown or plotted on the chart to
19 the left you show cfs and to the right you show billing
20 units. Is there a conversion from billing units to cfs?
21 **A.** Not directly. The flows, the cubic feet per
22 second, were calculated dividing the monthly billing
23 reading by 30 days, and then breaking that down to a
24 flow of cubic feet per second. It is a calculated
25 figure. The billing units are actually measured through

1 a water, culinary water meter with the accuracies of
2 that kind of a meter. It was very accurate.
3 **Q.** For the record, I am handing to the State
4 Engineer, Mr. Skeen and the Attorney General's Office
5 the chart that I have shown. Explain, if you will, to
6 the engineer, Mr. Hooten, what that chart is.
7 **A.** These figures are derived from my billing
8 department, who has the record of all of the meter
9 readings and the billings to these two entities, and
10 this chart here represents 1989, which I believe is
11 typical of the water deliveries to Alta and Snowbird.
12 As you can see, inasmuch as both of these entities are
13 winter sports oriented that the volumes of water
14 delivered to them are much greater during the winter
15 months and then subside in the summer months to a much
16 lower value.
17 Approximately, in this particular year, in
18 April, the combined flow of Alta and Snowbird equaled
19 20,000 billing units. A billing unit under our system
20 represents 748 gallons. So we bill on 100 cubic feet.
21 And, again, the number on the left is some number, just
22 to try to make some reference to what an average flow
23 that would represent, because we don't have a natural
24 flow measurement, and that's calculated, but, again, you
25 can see that the flows or the usage are substantially

lower in the summer months versus the winter months, somewhere averaging around a quarter of a second foot if it was averaged.

Q. And that's the combined usage of both Alta and Snowbird?

A. Yes, the top line represents the total. The shaded area is the volume used by Snowbird, and the dark area is the area used by Alta.

Q. Did you also prepare a similar bar chart for three years to reflect what the conditions have been during the past three years?

A. Yes.

Q. Let the record show that I am handing a copy of water usage Little Cottonwood Creek bar chart to Mr. Skeen, the State Engineer for his record, and the Attorney General's Office. Just quickly, Mr. Hooten, will you explain --

A. Yes, this chart just attempts to give a little more dimension to the timeframe. We have records going back to the -- to the date of the agreements, but this gives you a three-year period, and it's the same principle as the earlier chart that does show that there is a substantial amount of use during the winter months when the ski season is on, and a corresponding reduction during the summer months during the irrigation season.

1 I guess the only comment I would have on this
2 is in the court commissioner's calculation of total
3 stream flow he uses the sewer reading, which is a higher
4 reading than the actual amounts diverted into Alta and
5 Snowbird, because it takes some infiltration and other
6 flows that are coming out of the canyon. So this is an
7 actual measurement of the amount consumed by Alta and
8 Snowbird as measured through a culinary quality meter.
9 **MR. NOVAK:** Thank you, Mr. Hooten. I have no
10 further questions.
11 **THE HEARING OFFICER:** Mr. Skeen, do you have
12 questions of Mr. Hooten?
13 **EXAMINATION**
14 **BY MR. SKEEN:**
15 **Q.** You have here at the head of on each chart, on
16 the right-hand side, 1,000 times billing unit, what did
17 you say is a billing unit?
18 **A.** One billing unit is 748 cubic feet -- gallons.
19 I'm sorry.
20 **Q.** 748 gallons?
21 **A.** Uh-huh (affirmative).
22 **UNIDENTIFIED SPEAKER:** That's 100 cubic feet,
23 Ed.
24 **Q.** The same on both the charts?
25 **A.** Uh-huh (affirmative). Except I think on the

one chart it printed out the thousand on the scale, where the other was a multiplier.

Q. Referring to the first chart you identified entitled "Little Cottonwood Exchange Ditches," on the left-hand side you have acre feet, and then at the top 20,000, and then 15,000, 10,000, 5,000, and zero. What records did you use to make these computations?

A. These are records that were provided to me by the irrigation division through the -- through our hydrologist department.

Q. Do you have a copy of those records with you?

A. No.

Q. Where are they?

A. They are at our office at 1530 South West Temple.

Q. Did you know that for a period of many years there were no operating measuring devices on the Cahoon & Maxfield ditch system?

A. No.

Q. You didn't know that? All you know is that you were furnished certain records?

A. Yes.

Q. That was from the Department of Natural Resources?

A. No, from the Department of Public Utilities.

1 **UNIDENTIFIED SPEAKER:** May I explain something
2 here?
3 **MR. SKEEN:** Not right now.
4 **Q.** Who did the actual work in computing these
5 charts?
6 **A.** The raw data comes through -- through our
7 hydraulics statistician and is compiled basically from
8 Ed Skeen -- not Ed Skeen -- Doug Skene. I'm sorry.
9 **Q.** Who?
10 **A.** Doug Skene.
11 **Q.** That's S-k-e-n-e?
12 **A.** E-n-e, uh-huh (affirmative).
13 **Q.** Are you willing to make those records
14 available to us?
15 **A.** Yes.
16 **Q.** To see just how these computations were made?
17 **A.** Yes.
18 **Q.** We will have someone telephone and make --
19 **UNIDENTIFIED SPEAKER:** Could we take it one
20 step further? Could we obtain copies of the actual
21 field records upon which the measurements at this
22 supposed (inaudible) were recorded?
23 **Q.** When will they be made available?
24 **A.** Upon request.
25 **Q.** Do you know whether the chart that the, that

1 the first chart that you furnished is based on
2 measurements in second feet?
3 **A.** Yes.
4 **Q.** And computed to acre feet? Do you know
5 whether those measurements were made on Little
6 Cottonwood Creek as well as on the ditch systems of
7 these four irrigation companies?
8 **A.** The measurements Mr. Higbee would make?
9 **Q.** Yes.
10 **A.** I don't see his records.
11 **Q.** You don't know?
12 **A.** No.
13 **MR. SKEEN:** I think that's all. Do you have
14 anything else?
15 **MR. MURDOCK:** Yes. Mr. Higbee, is Salt Lake
16 City a regulated public utility?
17 **THE WITNESS:** No.
18 **MR. MURDOCK:** Is Salt Lake City incorporated
19 to be in the business of a public utility in marketing
20 water?
21 **THE WITNESS:** No.
22 **MR. NOVAK:** Salt Lake City is a municipal
23 corporation, and it is not subject to the regulation by
24 the Public Service Commission in the sale of its water
25 either to its inhabitants or its surplus waters outside

1 of its corporate boundaries.

2 **MR. MURDOCK:** Is it incorporated to be in the

3 business of water utilities?

4 **MR. NOVAK:** The statute authorizes Salt Lake

5 City to provide water to its inhabitants and to sell its

6 surplus waters beyond its corporate limits. It has

7 statutory authorization by the legislature to all

8 municipal corporations, including Salt Lake City.

9 **MR. MURDOCK:** The water that it sells outside

10 its corporate limits, is it only surplus water?

11 **MR. NOVAK:** That's correct. Surplus as to the

12 needs of the inhabitants of Salt Lake City.

13 **MR. MURDOCK:** Is it the intent of these sales

14 to comply with the State Division of Drinking Water's

15 regulations in such sales?

16 **MR. NOVAK:** Well, I would assume that Alta and

17 Snowbird must comply with those requirements.

18 **MR. MURDOCK:** Are you acquainted that those

19 regulations require that the service must supply

20 800 gallons per day per residential connection, and it

21 would not seem to me that surplus water is able to meet

22 that requirement, regulation.

23 **MR. NOVAK:** Excuse me. That is Alta and

24 Snowbird's concern. We have Mr. Kapaloski and

25 Mr. Veasy, counsel for both of those entities here, if

1 you -- if it's material here. I suppose they can answer
2 your question.
3 **MR. MURDOCK:** I think it is irrelative. We
4 are providing a supply for some place that is not able
5 to meet other State regulations. I think it is germane.
6 **MR. KAPALOSKI:** I can just answer this. This
7 is Lee Kapaloski, for the record. I can answer that
8 question quite simply. Both County Service Area
9 3-Snowbird and Alta Town are certified by the Bureau of
10 Public Water Supplies and approved systems.
11 **MR. MURDOCK:** That may be, but there is no
12 reference in their records of adequate water rights. I
13 have researched it.
14 **MR. KAPALOSKI:** I will state for the record,
15 the question was are they approved systems (inaudible)
16 the answer to that is affirmative.
17 **MR. MURDOCK:** This exchange, for the record, I
18 would like to simply point out, this exchange or this
19 sale or this continuance of it still does not meet the
20 regulations and requirements of the State Division of
21 Drinking Water in supplying Alta or Snowbird. I have
22 regulations here.
23 **MR. NOVAK:** I don't see your point,
24 Mr. Murdock, because as Mr. Kapaloski says both have the
25 necessary approval certification from the --

1 **MR. MURDOCK:** I am aware that they do. I am
2 also aware that it was a revelation to their director
3 very recently that there was no rights, water rights to
4 back it up.
5 **MR. NOVAK:** It seems to me we have these two
6 contracts that are the subject matter of this temporary,
7 these temporary change applications.
8 That's all that we have, if you are through
9 with Mr. Hooten. Unless, did you want to explain
10 something?
11 **UNIDENTIFIED SPEAKER:** One thing that Ed Skeen
12 mentioned here, and I disagree with, he said no
13 measuring devices. That, I disagree with. There are
14 measuring devices monitored on spot readings. There was
15 not recorders, but there were measuring devices. And
16 there is a big difference. There used to be a line when
17 we were on Cahoon & Maxfield No. 3, and it was a
18 measuring device and a satisfactory one. You guys
19 disagreed. They replaced it with another one.
20 **UNIDENTIFIED SPEAKER:** Let's disregard --
21 **UNIDENTIFIED SPEAKER:** There are measuring
22 devices, were measuring devices in all three of those.
23 **UNIDENTIFIED SPEAKER:** But by your argument
24 any place in any ditch or any creek is a measuring
25 device.

1 **UNIDENTIFIED SPEAKER:** It can be.

2 **UNIDENTIFIED SPEAKER:** It can be if you want

3 to use the appropriate equipment, but not in the normal

4 vernacular of a measuring device.

5 **MR. NOVAK:** Okay, you have made your

6 explanation, Mr. Higbee, and we will just let the

7 engineer sort it out.

8 **THE HEARING OFFICER:** Mr. Skeen, your

9 comments.

10 **MR. SKEEN:** Very well. I will ask Mr. Murdock

11 a few questions, and then I would like to make a

12 statement.

13 **BOB MURDOCK,**

14 called as a witness, having been duly sworn, was

15 examined and testified as follows:

16 **EXAMINATION**

17 **BY MR. SKEEN:**

18 **Q.** Mr. Murdock, were you employed by the water

19 irrigation company to make a study of the records of the

20 State Engineer to see what water rights records were in

21 the name of Salt Lake City?

22 **A.** I was.

23 **Q.** And what did you do in response to that

24 employment?

25 **A.** Particularly in reference to water rights on

1 and about Little Cottonwood Creek?

2 **Q.** Yes.

3 **A.** In response to that I made a very detailed

4 study of the records of the State Division of Water

5 Rights, the State Engineer's Office, and to try to

6 determine what rights were of record, if any, for Salt

7 Lake City in that drainage. We looked in all of the

8 logs and the files of the State Engineer's office for

9 source information, the computer base and the logs of

10 filings and change applications.

11 The thing that we found was, number one, a

12 change application A746 that was filed March 28th, 1921,

13 by Salt Lake City, related to the Cahoon & Maxfield

14 Irrigation Company. The change application was for 60

15 second feet. It listed a point of diversion that was to

16 be the proposed Little Cottonwood conduit point of

17 diversion. That point of diversion was later moved some

18 1,000 feet and no further change was made. The change

19 was at a time that no proof was required. However, the

20 change was subsequently superseded by change application

21 A1175, and by memorandum in the State Engineer's files

22 it states that A746 is considered modified and

23 superseded by A1177.

24 On May 29th, 1931, other water rights

25 agreements were signed with the other three companies

1 involved here, and on September 4th, 1931, Salt Lake
2 City Corporation listed itself as agent for each of the
3 four irrigation companies and filed change application
4 numbers A1174 through A1177. These were based on the
5 agreements with the companies. The quantities listed
6 were 30 cfs under 1174, 55 cfs under 1175, 16 cfs each
7 under 1176 and 1177. The four change applications
8 listed, two new points of diversion, which were the
9 Murray City power diversion and the Little Cottonwood
10 conduit diversion point.
11 In explanation on each of the changes it was
12 said that the City seeks to change the right of the
13 primary rights only. However, the quantity listed for
14 the four changes was 117 second feet, which exceeds the
15 94.79 cfs of total primary right as listed in the
16 decree.
17 The explanatory on each line also allows for
18 the change to be suspended at times and the waters to be
19 diverted and used as heretofore by the irrigation
20 companies. Waters were diverted under these changes for
21 many years. Proof was never filed on these changes,
22 even though the conduit was built and the diversions
23 were made and water was conveyed, and all four filings
24 lapsed on March 28th, 1983, and there are no approved
25 changes in force for Salt Lake City to use the water

1 associated with the four agreements.
2 There was change application A1239 on
3 June 1st, 1933, Salt Lake City Corporation filed a
4 change, change of point of diversion place and nature of
5 use .65 cfs awarded in the Morse decree to the Brady
6 ditch No. 2. (The audio ceased on side B of tape No. 1.
7 We are now hearing audio from side A of tape No. 2.)
8 The change involved .10 cfs at primary right
9 and .55 cfs at secondary right and in effect enlarged
10 the right to .65 cfs of year-round use for municipal,
11 domestic and stock water.
12 A certificate was issued on that, certificate
13 No. 37, on June 27th, 1935. Salt Lake City filed
14 applications A11370 and A11487. These were filed on
15 May 27th, 1933 and December 15th, 1933. One was for 5
16 cfs. The other was for 3 cfs. These were filed based
17 upon to appropriate the savings of seepage and
18 evaporation by the exchanges upstream of the -- that was
19 to be realized by the change applications, the four
20 change applications of the irrigation companies, water
21 companies. In other words, these two applications are
22 based upon the four change applications that have
23 lapsed.
24 Certificates were issued for these two
25 applications. They are numbers 4219 and 5870. They

were issued on March 29th, 1960. Also, application A34942 was filed by the Metropolitan Water District of Salt Lake on February 19th, 1963. It is for a dam about 410 feet high, to store about 500,000 acre feet near the mouth of Little Cottonwood Canyon. The application is unapproved.

MR. NOVAK: It was 500,000?

THE WITNESS: 400,000 acre feet.

MR. NOVAK: My memory is that I filed it, and it was for 60,000.

THE WITNESS: Well, somebody made a typo error and listed 500,000 acre feet, Joe.

MR. NOVAK: That would be the mother of all dams.

THE WITNESS: 410-foot high is a very high dam and a very short reservoir at that location, and built on moraine I don't think it would give it much chance of being successful. Anyway, it's unapproved.

That's the summary of what is of record in the State Engineer's office of water rights and changes relating to Salt Lake City and Little Cottonwood Canyon. Nothing for diversions for Alta or Snowbird are of record.

Q. Do you have copies in your file of the four change applications?

1 **A.** I do have.

2 **Q.** I wonder if you would produce them?

3 **THE HEARING OFFICER:** Off the record while he

4 is finding those.

5 (An off-the-record discussion was held.)

6 **MR. SKEEN:** Bob, can you read from the

7 applications the rights, description of the rights

8 sought to be changed?

9 **THE HEARING OFFICER:** The description of the

10 right to be changed, well, the name of the applicant is

11 listed here as Salt Lake City Corporation agent, and it

12 lists an address of Salt Lake City, Utah. The flow is

13 30 second foot, and the Utah Lake/Jordan River drainage.

14 The direct source of supply is Little Cottonwood Creek

15 in Salt Lake County. The point of diversion, do you

16 need the detail of the point of diversion?

17 **MR. SKEEN:** No, that won't be necessary.

18 **THE HEARING OFFICER:** The water involved has

19 been used for the following purposes: Culinary and

20 irrigation on lands in sections, with several sections.

21 This is change application A1174.

22 **MR. SKEEN:** Do you find anywhere a description

23 of the water rights sought to be changed? I have a copy

24 here.

25 **THE HEARING OFFICER:** It simply lists the

1 decree, the one word "decree" is listed there, and that
2 doesn't state what decree, it simply says "decree" on
3 all four change applications.
4 **MR. SKEEN:** And on the bottom of the third
5 page do the words appear "City Engineer for Salt Lake
6 City Corporation agent for Richards Irrigation Company"
7 or the others?
8 **THE HEARING OFFICER:** "City Engineer for Salt
9 Lake City Corporation agent for Richards Irrigation
10 Company" is what that one reads.
11 **MR. SKEEN:** And does the same writing appear
12 on the other three?
13 **THE HEARING OFFICER:** It does on that one and
14 that one. It does on at least three of them. My copies
15 are not very good. It could say that here. The copies
16 are not very good. It does on at least three of them.
17 **Q.** When you made your search of the records in
18 the State Engineer's Office did you examine a deed file
19 showing recorded deeds conveying water rights?
20 **A.** We examined every file that we knew to be
21 possible in the State Engineer's Office. We had the
22 assistance of Dorothy Bolton in finding what places
23 there were records. I don't -- I think there was one
24 that was called a deed file. I know we examined a log
25 of applications and change applications, and there was

1 another file, and it very well could have been a deed
2 file, but I don't know positive for sure.
3 **Q.** Do you know whether the State Engineer, as
4 required by law, maintains a file for water deeds?
5 **A.** I know that the State Engineer is the office
6 of record of water rights in this state, yes, and that
7 he does. I do know that copies of deeds are often in
8 the files, the various files of projects, or of water
9 rights, showing transfer of title from one owner to
10 another.
11 **Q.** Did you find any reference in anything you
12 examined that showed any deeded water rights to Salt
13 Lake City?
14 **A.** No, I didn't, not in Little Cottonwood Canyon,
15 no. There were many, many other filings elsewhere in
16 the valley that we investigated each one until we found
17 either its location or it was an underground source or
18 something that would eliminate it from applicability to
19 the questions involved.
20 **Q.** You found no deeds?
21 **A.** No deeds.
22 **Q.** From the four irrigation companies to Salt
23 Lake City?
24 **A.** That's correct.
25 **Q.** We have been in this hearing for from 3:00

1 until seven minutes to five, and we have had 15 minutes.
2 I would like permission to review the records that they
3 indicated will be made available to us, and we would
4 like to have another, a further hearing on the other
5 problems involved.
6 **MR. NOVAK:** I would object to that,
7 Mr. Morgan. These are temporary change applications.
8 What Mr. Skeen is requesting I think is simply delay.
9 The action by the State Engineer, this is the time set
10 for the hearing, and I am prepared to go until midnight
11 if we have to, but I think we ought to finish the
12 hearing. If Mr. Skeen wanted to look at our records he
13 could have made his request earlier. So I would resist
14 a continuance of the hearing. I think we ought to take
15 it through to its conclusion and the State Engineer make
16 his decision.
17 **MR. SKEEN:** It is a little amusing to me
18 sitting here to hear Counsel make that statement about
19 delay when these contracts were made one in 1921, 70
20 years, 71 years ago. The others were made in 1930. No
21 change application has been filed on any of them since,
22 until after this litigation was commenced, and that was
23 on May 30th of 1992. He is complaining about delay. I
24 say it is amusing to me.
25 **THE HEARING OFFICER:** How long would it take

1 you to review the record?
2 **MR. SKEEN:** Well, I would like to have a
3 couple of weeks.
4 **UNIDENTIFIED SPEAKER:** May I ask a question?
5 **UNIDENTIFIED SPEAKER:** No, just a minute.
6 **THE HEARING OFFICER:** I think in the essence
7 of the temporary change applications that's a little
8 long. How long would it take you to produce the records
9 for Mr. Skeen?
10 **MR. HIGBEE:** Probably take more than a week to
11 do that, to get them all together. If I may make this
12 statement, as long as I have been with the Salt Lake
13 City Water Department, and I have been 30 some odd
14 years --
15 **UNIDENTIFIED SPEAKER:** I thought you were the
16 river commissioner.
17 **MR. HIGBEE:** I was the court commissioner
18 since 1979. I have also worked for Salt Lake City, as a
19 water rights specialist now, and I used to be involved
20 with irrigation. But as long as I have worked with Salt
21 Lake City the ditch companies controlled the amount of
22 water they received. I don't see what the amount has to
23 do anything with it. They don't control how much they
24 put in their system. They have taken what they can use
25 or more. I don't know. But they have taken through

1 their system what they could use, and what difference is
2 that going to make?
3 **MR. NOVAK:** I take it, Mr. Skeen, you wanted
4 to review the records to verify the accuracy of this
5 chart?
6 **MR. SKEEN:** That and for other reasons. And
7 as far as the law is concerned, I would like to make a
8 statement on the law, and I have hurriedly reviewed
9 these cases you have cited. None of them are in point.
10 And I would like to go back to the law as it was when
11 these contracts were made and the change applications
12 should have been filed, and that, I don't want to be put
13 in a position of trying to be forced to make a legal
14 statement in five minutes or three minutes. I think it
15 is unfair to me personally. I think I should have full
16 opportunity to review the hour and a half submission
17 that was made by the applicant.
18 Further, I would like to add one statement
19 that I don't think the State Engineer has any authority
20 to pass on legal questions as to whether Salt Lake City
21 acquired a water right or merely acquired the right to
22 supply water as separate from the water right. I have
23 been in the business for something like 60 years, and I
24 have heard many arguments like the one Mr. Novak made,
25 confusing water and water rights. You can't file a

1 change application on water itself. It has to be on
2 water rights. And that's a legal question that the
3 State Engineer I think should look at. He has no
4 authority under the law to pass on it.
5 **THE HEARING OFFICER:** Would you gentlemen give
6 me a couple minutes with counsel? Conferring with
7 counsel, at least it's my opinion that, first of all,
8 the State Engineer is holding this hearing really just
9 as a courtesy. We are really not required to hold
10 hearings considering temporary change applications. I
11 think it would be my decision that we should continue
12 with the hearing tonight. We would ask that Salt Lake
13 City make available to Mr. Skeen all of the records so
14 he can make an examination, and if you wish submit to
15 our office in writing a statement to supplement the
16 record no later than the 1st of July. And I would
17 extend the same courtesy to Mr. Novak and Salt Lake City
18 if you wish. So we will continue with the hearing.
19 **MR. SKEEN:** Will those records be furnished to
20 me --
21 **MR. NOVAK:** You will have to send someone down
22 to review them. They are too extensive. Aren't they,
23 LeRoy?
24 **MR. HOOTEN:** I would imagine. (Inaudible.)
25 **UNIDENTIFIED SPEAKER:** I will have to make

1 time.

2 **THE HEARING OFFICER:** I would ask Salt Lake

3 City, you know, I realize you are under certain

4 constraints, too, but I think there is a time element

5 here, and if it requires that your consultant and the

6 City extend the hours just a little bit that I would ask

7 your indulgence in doing that.

8 **UNIDENTIFIED SPEAKER:** Would they contact you,

9 LeRoy?

10 **MR. HOOTEN:** Yes, please, and I will make the

11 arrangements. 483-6768.

12 **MR. NOVAK:** Mr. Morgan, you are concluding the

13 hearing subject only to submission of statements by

14 Mr. Skeen or even us based on the review of the records?

15 **THE HEARING OFFICER:** No, I am not concluding

16 the hearing. If there are other things that you want to

17 talk about, we can keep on going. What I am saying is

18 as far as Mr. Skeen's request to be able to examine the

19 record and then, or continue the hearing until a later

20 date, come in and let him examine the record and then

21 reconvene the hearing, I don't think, I am not going to

22 allow that. What I am saying is we will keep going with

23 the hearing right now. He can supplement the record and

24 would have until the 1st of July to do that.

25 **MR. NOVAK:** Very good.

1 **THE HEARING OFFICER:** For the record, the 1st
2 of July is Tuesday, and you would have until 5:00,
3 closing hour. Does anyone need to stretch their legs?
4 Do we need to take five minutes or do you want to keep
5 going?
6 **MR. SKEEN:** Well, I think I would like to make
7 a brief statement on the law, and then reserve anything
8 on the facts until after I hear from Bob.
9 **THE HEARING OFFICER:** Okay.
10 **MR. SKEEN:** The law in effect in 1921 and
11 1931, '33 is regarding the transfer of water rights in
12 Section 16 of Chapter 67, Laws of Utah, 1919, it
13 provides, water rights shall be transferred by deeds in
14 substantially the same manner as real estate except when
15 they are represented by shares of stock in a
16 corporation, and such deeds shall be recorded in books
17 kept for that purpose in the office of the recorder of
18 the county where the place of the diversion of water
19 from its natural channel is situated and in the county
20 where the water is applied. Every deed of water right
21 so recorded shall from the time of filing the same with
22 the recorder for record impart notice to all persons of
23 the contents thereof and subsequent purchasers,
24 mortgagees and lienholders shall be deemed to purchase
25 and take with notice.

1 That section was later changed to require a
2 copy to be filed in the office of the State Engineer of
3 the State of Utah. At the same time Section -- let's
4 see -- permitted the exchange of water, that's Section 9
5 of Chapter 67, Laws of Utah, 1919, application in
6 writing and approval of the State Engineer any
7 appropriated water may be returned into the channel of
8 any natural stream or natural body of water or into a
9 reservoir constructed across the bed of any natural
10 stream and (inaudible) with this water and then be taken
11 out either above or below the point where emptied into
12 the stream, body of water or reservoir, but in so doing
13 the original water and such stream, body of water or
14 reservoir must not be deteriorated in quality or
15 diminished in quantity and the additional water turn
16 shall bear its share of lots by evaporation and seepage
17 and of said maintenance of said reservoirs and equitable
18 proportion of the cost of the reservoir site and the
19 construction.
20 For the first time Salt Lake City has a record
21 claiming title to the water rights by these exchange
22 agreements. I think a fair reading of all four
23 contracts makes it clear that they were for exchange of
24 water only and not water rights. In fact, provision
25 after provision would support that statement.

1 The Supreme Court has held that the transfer
2 by -- of a water right must be by deed. It says
3 "shall," and it's a mandatory provision of the law, and
4 after filing a change application in 1931 and making
5 numerous requests for extensions of time, naming
6 themselves as agent only, they now come up and say that
7 they owned the water rights. Even if they owned the
8 water rights there is no change application filed on the
9 water for use in Snowbird and Alta, and no change of the
10 water rights for use outside of Salt Lake City.
11 The section or the application Bob mentioned a
12 few minutes ago, A746, which was filed as I remember
13 somewhere around 1921 or '22, that states in the
14 application itself that the use of the water shall be in
15 Salt Lake City. And the City has, by signing all these
16 documents, plainly indicated the intent to treat that as
17 merely an exchange of water and not the transfer of
18 water rights themselves. That legal question is being
19 litigated at present. The City must take it fairly
20 seriously, because this is -- this is one of the
21 pleadings filed by Salt Lake City in the case.
22 **MR. NOVAK:** I will stipulate that Salt Lake
23 City takes this case very seriously, Mr. Skeen.
24 **MR. SKEEN:** I am sure they take it seriously.
25 I am just showing how serious they take it to file a

1 pleading this thick.

2 Anyway, I feel very strongly that we are right

3 on the question of law, and I have got a case before the

4 Supreme Court right now involving the question as to

5 whether the State Engineer can for any purpose determine

6 ownership of water rights. That's pending right now. I

7 think there is a lot of support for our position on

8 that, and I intend to pursue it.

9 I think if we handle it in an orderly way we

10 ought to await the decision of the court in this case to

11 determine the meaning of that contract and not start

12 making temporary, a temporary change in three cases

13 about 60 years after the proposed -- or the change they

14 relied on was made and the other 70 years.

15 I know and you no doubt are aware they also

16 filed four exchange applications, and they were filed 60

17 and 70 years late, and for some reason they have done

18 all of this to cover up for what they didn't do 60 or 70

19 years ago. I am personally convinced that Salt Lake

20 City does not own any of these water rights, and that it

21 is subterfuge to argue the contrary.

22 With the State's Engineer's permission I will

23 submit a brief statement distinguishing these cases

24 Counsel has cited.

25 **THE HEARING OFFICER:** Okay.

1 **MR. SKEEN:** I think in one of the memoranda
2 that Salt Lake City has contended that those change
3 applications were really exchanges. They were filed in
4 1921 and 1931. And I happen to recall, I have looked it
5 up to verify it, that there was no blank change
6 application form in the State Engineer's Office until
7 1937 or 1938, and I prepared the form while I was
8 counsel for the State Engineer. And that is stated in
9 the State Engineer's biannual report for the years '36
10 to '38. I think I have got the page number. They
11 weren't exchanges and wouldn't be proper exchanges, they
12 were simply change applications.
13 In the State Engineer's biannual report for
14 1936 to '38, page 41, it states, quote, "Not until the
15 current biennium, however, were blanks prepared and made
16 available for specific use in making exchange
17 applications."
18 We will, subject to our right to review the
19 records and make a further statement in writing, we will
20 submit the matter.
21 **THE HEARING OFFICER:** Okay. Anyone else of
22 your group want to make a statement?
23 **MR. WITTERBERG:** I would like to make a
24 couple, please.
25 **THE HEARING OFFICER:** Okay, identify yourself,

1 please.

2 **MR. WITTERBERG:** Marv Witterberg, Richards

3 Irrigation. In reference to Mr. Novak stating cases and

4 where there had been no default with Salt Lake City I

5 would say that the fact that they have taken a portion

6 of that water that Alta and Snowbird is in fact to

7 default. They have taken that which is a tributary to

8 the creek and sold it to Alta and Snowbird, then at the

9 bottom of the canyon measure that sewage and add it back

10 in to the total flow of the stream. That portion that

11 they have already taken up there should have been a

12 portion of the stream usable. So I submit, Mr. Novak,

13 that you have defaulted in the fact that you have taken

14 that water.

15 Then I would argue with you also, I find no

16 place in my agreement that gives you one year to correct

17 the situation. It says 48 hours, not one year. I have

18 reviewed this several times, gone through it just now,

19 and it is not one year.

20 I think in the matter of as far as wasting

21 more time I will conclude with that. But I would just

22 like to put that point in, the fact that they have

23 defaulted where they have taken our water, and our

24 agreement states that they should protect our water

25 rights at all times, and they have not done that by

taking that water up there.

UNIDENTIFIED SPEAKER: I would like to make one additional comment. The temporary change application lists currently the places of use, and it refers to an attachment 3, which is a map that shows all of Salt Lake City and other areas within Salt Lake County. As of right now the exchange application is simply an advertisement to make that legal. They are by this change application asking a change on something that is not yet legally approved by the State Engineer's Office, and I think on -- I don't know a point of law, but on a technicality it seems like getting the cart before the horse.

THE HEARING OFFICER: Questions of the protestants?

MR. NOVAK: No questions. I just want to make a very, very short response to what has been presented.

THE HEARING OFFICER: Okay. Do we want to go into summation?

MR. SKEEN: I think we will submit it. Do you have any questions? Do you, Tony?

THE HEARING OFFICER: Go ahead, Mr. Novak.

MR. NOVAK: Mr. Witterberg, if you look at paragraph 4 of your exchange agreement that covers the default provision.

1 I just want to comment, Mr. Morgan, that the
2 Salt Lake City has demonstrated that it is entitled to
3 the use of water to meet the requirement of 73-3-3 for
4 the purpose of making this change. There has been
5 absolutely no evidence to show that making the exchange
6 will impair any existing rights, either the rights of
7 the protestants or anyone else on the system. In fact,
8 the evidence conclusively shows that there will be no
9 impairment.
10 Under the law, and I am sure Mr. Quinney
11 advised you on it, all the State Engineer is required to
12 do is to find reason to believe that the temporary
13 change can be approved without impairing existing
14 rights. And I think the record is replete with that
15 sort of evidence, and we think after Mr. Skeen responds
16 that the temporary changes must be approved.
17 **THE HEARING OFFICER:** Okay. Change of heart,
18 Mr. Skeen?
19 **MR. SKEEN:** I will submit the matter.
20 **THE HEARING OFFICER:** Okay. Thank you. No
21 other statements, we will conclude the hearing at this
22 time, again reminding you that the record will stay open
23 for written comments until 5:00 p.m. 1st of July, 1992.
24 Thank you, gentlemen.
25 (End of side A of tape 2.)

C E R T I F I C A T E

I, BRAD J. YOUNG, hereby certify that I personally appeared at the Utah Division of Water Rights, Department of Natural Resources, in their office, on December 23, 2011, and there transcribed the electronic recording from tapes on file in their office of the proceedings dated June 22, 1992, in the above-entitled and numbered matter, and that the foregoing is a true and correct transcription, except where it is indicated that the recording was inaudible, to the best of my understanding, skill and ability on said date.

Dated at Salt Lake City, Utah, this 9th day of January, 2012.

BRAD YOUNG
COURT REPORTER

1 BEFORE THE STATE ENGINEER OF THE STATE OF UTAH

2

3 IN THE MATTER OF PERMANENT CHANGE:

4 APPLICATION NUMBER 57-10012 (a16843)
APPLICATION NUMBER 57-10013 (a16844)

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9 HELD ON AUGUST 24, 1993

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18 TRANSCRIBED OFF OF TAPE RECORDING BY:

19 Angela D. Sauro, RPR, Court Reporter

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25

1 MR. JONES: This is a hearing before
2 the State Engineer on two applications for permanent
3 change of water. They are under 57-10012, change
4 a16843, and 57-10013, change number a16844. These
5 applications are both in the name of Salt Lake City
6 Corporation, Department of Public Utilities.
7 The rights under the change in the case are
8 evidenced by portions of the C.W. Morse Decree,
9 Number 4802, 1910 date. These applications are for
10 exchange of water for the four ditch companies listed
11 in Paragraph Number 7, and then it refers to exchange
12 applications involving e2919 through e2922 and makes
13 reference to Little Cottonwood Tanner Ditch Company,
14 Cahoon and Maxfield Irrigation Company, Walker Ditch
15 Company, and Richards Irrigation Company rights.
16 It indicates on the heretofore the total
17 quantity of water under these rights is 114.375 cubic
18 feet per second, and refers to these company rights,
19 these four companies that I read into the record to
20 total up to that amount of water.
21 It indicates that historically the water has
22 been used for irrigation purposes, for domestic
23 purposes, and municipal purposes. Municipal has been
24 within Salt Lake City and its service area in Salt
25 Lake County.

1 Under change a16843 under 57-10012 it's
2 requesting to change 2,000 acre feet from that water.
3 The change proposes to take the water, listing the
4 source of Little Cottonwood Creek. Points of
5 diversion are indicated that they are the same as
6 heretofore, and refers to Attachment 4, and it lists
7 points of diversion referring to a tunnel on the
8 J.P. Load Mining Claim in Section 32 of 2 South,
9 3 East; the Wassets Drain Tunnel in Section 6 of 3
10 south, 3 east; the Frederick or Hellgait Tunnel in
11 Section 32 of 2 south, 3 east; and the Gadvalley
12 Spring located in Section 6 of 3 south and 3 east.
13 It indicates that the water is to be used for
14 municipal purposes on a year-round basis, and it
15 indicates that the water will be used in the Salt Lake
16 County Service Area Number 3, Snowbird.
17 There is some explanatory, but we'll let the
18 applicant bring as much of that out as they would like
19 to bring.
20 Under 57-10013, Change a16844, it's proposing
21 to change 500 acre feet of water. It indicates the
22 point of diversion would be the same as heretofore and
23 also on Attachment 4, and Attachment 4 is not where
24 Attachment 4 usually is. If I can see -- Attachment 4
25 appears to not be located on the file. Let me refer

1 to what was advertised. It's indicating the Bay City
2 Mine as a point of diversion. The Little Cottonwood
3 Creek is also referred to, okay, and it lists the
4 points both in Section 32 of 2 south and 3 east where
5 that water is to be taken. Is this the first one or
6 second? Okay.
7 The water is to be used for, it indicates,
8 irrigation, domestic, municipal and other purposes.
9 Indicating under the purpose and extent of use it says
10 that the uses would be the same as heretofore, not
11 defined in the Decree, and there are some attachments
12 further defining that as far as the irrigation is
13 concerned it looks like.
14 Municipal purposes will be by Sale Lake City
15 and its service areas in Salt Lake County, also Alta
16 City, and other uses would be for snowmaking purposes.
17 The place of use would be the same as
18 heretofore and Alta City. There is also some
19 explanatory with that.
20 That is the information we have before us on
21 these change applications. We will turn to the
22 applicant to speak in support of the applications.
23 MR. NOVAK: Thank you, Mr. Jones.
24 My name is Joseph Novak. I have with me Marc
25 Wangsgard, of the firm of Snow, Christensen &

1 Martineau, and we are here representing the applicant,
2 Salt Lake City.
3 With your permission, the way we would like
4 to proceed, Mr. Jones, is calling your attention back
5 to the hearing, the extent -- the extended hearing
6 that was held on two temporary change applications
7 that are basically the same as the two permanent
8 change applications that are before you today.
9 At that hearing Salt Lake City presented
10 evidence in support of its position with respect to
11 the approval of both of those temporary change
12 applications. We there had Edward Higbee, the Little
13 Cottonwood Water Commissioner, testify extensively as
14 to the fact that there will be no impairment of the
15 rights of any of the four irrigation companies or any
16 other water user out of the Little Cottonwood Creek
17 drainage by reason of approving the temporary change
18 applications.
19 We also had Leroy Hooten, Director of the
20 Department of Public Utilities, testify with respect
21 to the usages that had been made at Snowbird and Alta.
22 Attached to both the permanent change
23 applications are water supply agreements that have
24 been entered into between Salt Lake City and Alta City
25 on the one hand and the Salt Lake County Service Area

1 Number 3, Snowbird, on the other hand. Those
2 agreements are on file and made a part of the
3 application.
4 And the purpose of both the temporary change
5 applications and these permanent change applications
6 is to confirm the uses of the water that is provided
7 to Alta and Snowbird under those water supply
8 agreements for uses at Alta and Snowbird basically for
9 domestic, commercial, incidental irrigation and
10 snowmaking.
11 The position of Salt Lake City with respect
12 to the ownership of the water rights was extensively
13 addressed at the hearing on the temporary change
14 applications, and the evidence in support of the
15 proposition that there would be no impairment was
16 extensively presented.
17 So with your permission, what I would like to
18 do is to submit for the record a transcript of the
19 hearing on the two temporary change applications. I
20 probably should identify those for the record. The
21 Alta temporary change application was t92-57-20, and
22 the Snowbird temporary change application was
23 identified as t92-57-19.
24 The hearing was conducted on June 22, 1992,
25 and both temporary change applications were approved.

1 So with your permission, I would like to
2 submit as a part of the record on the permanent change
3 applications a copy of the transcript of the hearing
4 that was prepared from the tape that was provided to
5 our office by the Office of the State Engineer.
6 Included in the document we have excerpt --
7 we have Utah Supreme Court opinions, there are three
8 of them, Ellerbeck v. Salt Lake City, Salt Lake City
9 v. McFarland, Green Ditch Water Company v. Salt Lake
10 City, and the important parts of those opinions that
11 were presented at the hearing on the temporary change
12 applications are included in this packet and have been
13 highlighted.
14 Then there are three exhibits that Mr. Hooten
15 testified to at the temporary hearing relating to
16 quantities of water diverted under the Little
17 Cottonwood Exchange Ditches, 1980 to 1991; and the
18 1989 water usage, Little Cottonwood Creek at Alta and
19 Snowbird; and the 1989, 1990, and 1991 water usage,
20 Little Cottonwood Creek, Alta and Snowbird.
21 So I would like to submit at this time the
22 documents that I have just recited in a loose-leaf
23 form, and for the record, the record should show that
24 I am giving the documents in the file binder to
25 Mr. Skeen, and I have one here that is for

1 Mr. Murdock. We didn't make sufficient copies and put
2 them in the ring binder, but we did make two extra
3 copies, and I would like to give one to the Forest
4 Service, and let's see, yes, I guess we have got all
5 of the protesting parties.
6 MR. JONES: Mr. Stauffer.
7 MR. NOVAK: Pardon me, Mr. Stauffer.
8 Let the record show that I have given a copy to
9 Mr. Stauffer.
10 MR. JONES: And we will accept that
11 information for the record and consider that as part
12 of these proceedings.
13 MR. NOVAK: Thank you, Mr. Jones.
14 Essentially there has been no change in either the
15 conditions or the position of Salt Lake City since the
16 hearing on the temporary change applications, so we do
17 not propose at this time to offer any additional
18 evidence with respect to the permanent changes, but
19 we'll rely on the record that we just submitted as
20 part of the temporary changes.
21 However, we do have today Mr. Veasy, attorney
22 from the firm of Parsons, Behle & Latimer, which
23 represents both Alta City and Snowbird, and I will be
24 calling on Mr. Veasy and representatives of those
25 cities to make a statement with respect to these two

1 permanent changes applications.
2 So with your permission, Mr. Jones, I will
3 submit what we submitted and now call on Mr. Veasy,
4 attorney for Alta and Snowbird.
5 MR. JONES: Okay.
6 MR. VEASY: Thank you, Mr. Novak.
7 As Mr. Novak indicated, my name is Paul Veasy, and Lee
8 Kapaloski and myself represent the Town of Alta. I
9 attend today's hearing on behalf of the Town of Alta
10 with Mr. John Guldner, who is the Town Manager. We
11 also represent Salt Lake County Service Area Number 3,
12 Snowbird.
13 MR. SKEEN: Can you hear that? Can
14 we have him speak up?
15 MR. VEASY: Should I sit over here?
16 Let me start over. Lee Kapaloski and myself are from
17 the Law Firm of Parson, Behle & Latimer, we represent
18 two interested parties here, the Town of Alta and the
19 Salt Lake County Service Area Number 3, Snowbird.
20 Today on behalf of the Town of Alta we have over in
21 the far corner Mr. John Guldner, who is the Town
22 Manager.
23 Mr. Novak has indicated that we have two
24 water supply agreements, an agreement on behalf of
25 Alta and an agreement on behalf of the service area,

1 with Salt Lake City under which water is supplied by
2 Salt Lake City to the Town of Alta and the Service
3 Area.
4 For the record, we would like to state that
5 we do support these applications, and we want it clear
6 on the record that we think we are in support of the
7 existing water supply agreements, and in the
8 applications that we believe is that approval of the
9 two change applications is in the best interest of not
10 only Alta and Snowbird, but also on behalf of public,
11 and on that basis we would like to state, which we
12 have, that we are in support of applications.
13 MR. NOVAK: Thank you, Mr. Veasy. I
14 would call the State Engineer's attention to the fact
15 that at the -- or with respect to the two temporary
16 change applications that I mentioned before is that
17 protests were filed by the Cahoon and Maxfield
18 Irrigation Company, Little Cottonwood Tanner Ditch
19 Company, Walker Ditch Company and Richards Irrigation
20 Company. However, neither Little Cottonwood Tanner
21 Ditch Company nor Walker Ditch Company nor Richards
22 Irrigation Company have protested the permanent change
23 applications, and only the Cahoon and Maxfield
24 Irrigation Company has submitted a protest.
25 I want the record to be clear, and I did

1 state it as a part of the proceedings on the temporary
2 change applications, that we're here dealing with
3 exchange agreements that, from our position, vest
4 title absolute in Salt Lake City; that the four
5 exchange agreements authorize Salt Lake City to file
6 whatever applications might be necessary with respect
7 to those water rights; that this is not an East Jordan
8 Irrigation Company case that you're familiar with
9 where the opinion just came down. We're not talking
10 about a change application filed by a stockholder in
11 an irrigation company, so to make the record clear we
12 want to make sure that you understand that East Jordan
13 Irrigation Company has no application to the instance
14 case.
15 And with that, Mr. Jones, Salt Lake City will
16 submit the matter.
17 MR. JONES: Are there questions of
18 the applicant?
19 MR. SKEEN: My name is E.J. Skeen, I
20 am the attorney for Cahoon and Maxfield Irrigation
21 Company. I have with me here today Mr. Tony Rezac,
22 president of the company, and others.
23 I have a copy of the change application,
24 Change Application 57-10013, Application Number
25 a16844. There is attached to it a letter signed by

1 Marc T. Wangsgard addressed to Dorothy Baldwin. There
2 is a copy of the letter going to Leroy W. Hooten,
3 Junior and Lee Kapaloski, esquire.
4 On the second page of that letter appears the
5 following: "Paragraph 7 of the computer-generated
6 change applications incorrectly states that Salt Lake
7 City is requesting a change to municipal use within
8 the corporate limits of Salt Lake City. Such a change
9 is not requested. Prior court decrees confirm the
10 City's right to make these changes and to utilize the
11 canyon stream waters to meet the City's needs. The
12 uses heretofore include municipal use."
13 I would like to have someone representing the
14 City give me a reference to the prior court decrees
15 that confirm the City's right to make exchanges.
16 MR. NOVAK: You want me to respond?
17 MR. JONES: That would be a question
18 to you, yes.
19 MR. NOVAK: Mr. Skeen, it's been our
20 position that both the Morse Decree, and I am looking
21 for the cite to that decree, and the Booth Decree.
22 The Morse Decree was dated July 15, 1901, and it's in
23 Salt Lake County Civil Number 2821.
24 MR. SKEEN: 28 what?
25 MR. NOVAK: 2821, and under

1 Paragraph 12 of the findings of fact in that decree it
2 confirms the right of Salt Lake City to use waters
3 under the various exchange agreements for the canyon
4 stream water for municipal use in Salt Lake City.
5 MR. SKEEN: Is that decree on Little
6 Cottonwood Creek?
7 MR. NOVAK: Yes, it's the Morse
8 Decree on Little Cottonwood Creek.
9 MR. SKEEN: Okay. Any other?
10 MR. NOVAK: Yes, and the other,
11 Mr. Skeen, is the Booth Decree out of Utah County,
12 and --
13 MR. SKEEN: That's what year?
14 MR. NOVAK: It was June 5, 1909, and
15 it does not have a civil number, as I remember it. We
16 submitted copies of those provisions in the Mores
17 Decree and the Booth Decree at the hearing that was
18 held approximately a year ago on the four exchange
19 applications, the ones that Mr. Jones referred to
20 e2920 through e2922.
21 Mr. Skeen, may I look at a -- at the letter
22 that you were referring to, it's Mr. Wangsgard's
23 letter, he wanted to just take a look at it. Thank
24 you.
25 MR. JONES: Other questions?

1 MR. SKEEN: Yes. It states on the
2 first page of this letter, "Salt Lake City is the
3 owner of the water rights." I wanted to find out from
4 Mr. Wangsgard or Mr. Novak the basis for the claim
5 that Salt Lake owns the water rights?
6 MR. NOVAK: I think I can respond to
7 that, Mr. Skeen, and referring back to my earlier
8 statement in the hearing on the temporary change
9 applications.
10 MR. SKEEN: Would that be in the
11 loose-leaf book?
12 MR. NOVAK: Yes, there are three
13 Supreme Court opinions, the copies are in the
14 loose-leaf book, and the provisions in those opinions
15 are highlighted in the loose-leaf book that clearly
16 hold that under exchange agreements Salt Lake City has
17 ownership of the water rights.
18 MR. WANGSGARD: Mr. Jones, I just
19 want to point out that the copies of the transcript
20 that were made that are not in the loose-leaf binders,
21 and there are two of these here, don't have copies of
22 the Supreme Court opinions in them, so don't look too
23 hard for those, but we can certainly make those
24 available if it would be more convenient for you.
25 MR. SKEEN: Are the ones that were

1 handed out incomplete?
2 MR. WANGSGARD: No, Mr. Skeen. The
3 copies of the transcript and exhibits that are bound
4 in these three-ring binders are complete. I was just
5 mentioning that the additional copies of the
6 transcript that are not bound in the three-ring
7 binders don't have copies of the Supreme Court
8 opinions --
9 MR. SKEEN: I see.
10 MR. WANGSGARD: -- with them.
11 MR. SKEEN: I see. I would like to
12 ask Mr. Novak if he's aware of any deed covering the
13 water rights here involved?
14 MR. NOVAK: I am not, Mr. Skeen.
15 MR. SKEEN: You're not aware of any
16 deed?
17 MR. NOVAK: That is correct, and the
18 reason for that is that the exchange agreements vest
19 title to those water rights in Salt Lake City, and
20 under the cases that we talked about absolute
21 ownership subject only to the defeasance in the event
22 that these exchange agreements are terminated. But I
23 am unaware of any deeds in deed form from the
24 irrigation companies to Salt Lake City.
25 MR. SKEEN: In other words, it's the

1 interpretation of the exchange agreements by Salt Lake
2 City that they have passed title to the water rights?
3 MR. NOVAK: As supported by the
4 opinions -- opinion of the Utah Supreme Court in the
5 three cases that I referred to.
6 MR. SKEEN: In what case?
7 MR. NOVAK: The three cases that I
8 have referred to, copies of which are in
9 the three-ring binder.
10 MR. SKEEN: They are in the
11 loose-leaf binder?
12 MR. NOVAK: Yes, the important
13 provisions are highlighted in those cases.
14 MR. SKEEN: I notice that reference
15 is made in --
16 MR. NOVAK: Mr. Skeen, may I just
17 amplify what I said before? Mr. Montgomery points it
18 out. As we see it, the agreements themselves are a
19 form of deed in the sense that the language in the
20 agreements grants the rights to Salt Lake City.
21 MR. SKEEN: I notice there is a
22 reference made in one of the change applications to a
23 Statement of Water Users' Claim Code Number 57-89-73,
24 which was filed in 1987, and which contains all the
25 court decrees dated 1910 and copies of all of the

1 exchanges agreements and other agreements which the
2 City relies on to show its water right. I notice
3 that -- and I found upon inquiry that there has been
4 no proposed determination prepared on Little
5 Cottonwood Creek water rights, that this was filed
6 with the State Engineer's Office, and I would like to
7 ask you whether that Statement of Water Users' Claim
8 contains all of the support that the City claims to
9 have to show its title to the water rights in
10 question?
11 MR. NOVAK: I cannot answer that
12 question, Mr. Skeen, because I have not reviewed the
13 Water Users' claim for a number of years. I was aware
14 of it when it was filed, but to say that the Water
15 Users' claim contains all of the information, all of
16 the evidence that Salt Lake City relies on in support
17 of its claim of ownership of those water rights, I
18 cannot answer that.
19 I can simply reiterate what I have stated two
20 or three times before with respect to our position.
21 MR. SKEEN: With respect to that
22 Statement of Water Users' Claim, I notice that the
23 Richards Irrigation Company Contract was made in 1931.
24 Richards Irrigation company was paid $51,250.
25 The Little Cottonwood Tanner Ditch Company

1 contract was made in 1931, and that recites that the
2 Little Cottonwood Tanner Ditch Company was paid
3 132,500.
4 The Walker Ditch Company contract was made in
5 1931, and that recites that the Walker Ditch Company
6 was paid $66,250.
7 Do you know whether these amounts were
8 actually paid by the City for the various ditch
9 companies?
10 MR. NOVAK: I do not, Mr. Skeen. In
11 1931 I was five years old, so I don't know what
12 happened back then.
13 But I would assume that those moneys were
14 paid; and if records are available, I suppose Salt
15 Lake City can produce those records to show payment.
16 But I can -- I do not know.
17 MR. SKEEN: I also noticed that the
18 Cahoon and Maxfield Irrigation Company contract was
19 made in 1921, 72 years ago. It recites that -- it
20 does not recite that any money at all was paid to
21 Little Cotton -- to Cahoon and Maxfield, although
22 Cahoon and Maxfield has far the largest right, water
23 right involved, and I was wondering if you have any
24 documentary evidence in your possession that would
25 indicate why no money was paid to Cahoon and Maxfield

1 Company.

2 MR. NOVAK: Whether Salt Lake City

3 has documentary evidence to support that, Mr. Skeen, I

4 do not know; but I can say that it's my understanding

5 that the Cahoon and Maxfield Irrigation Company

6 exchange agreement was executed in 1921, and that

7 agreement specified quantities of water that would be

8 delivered to the Cahoon and Maxfield Irrigation

9 Company whatever those quantities were, specified

10 those quantities.

11 Whereas the Little Cottonwood Tanner,

12 Richards, Walker did not specify quantities of water

13 to be delivered. That those exchange agreements

14 provided that Little Cottonwood Tanner, Richards and

15 Walker would receive through the exchange quantities

16 of water that equal to the rights that were awarded to

17 those companies in the Mores Decree.

18 Plus the fact that the Richards Irrigation

19 Company exchange, Salt Lake City agreed to supply,

20 build a water system, a domestic water system in the

21 areas served by -- to the Richards Irrigation Company

22 stockholders, and supplied those stockholders with

23 domestic culinary water at City rates. And it's my

24 understanding --

25 MR. SKEEN: That appears --

1 MR. NOVAK: -- that is the reason
2 for the difference?
3 MR. SKEEN: That provision appears
4 in which contracts?
5 MR. NOVAK: The Richards Irrigation
6 Company exchange agreement.
7 MR. SKEEN: But there is no such
8 provision in the Cahoon and Maxfield?
9 MR. NOVAK: No, there is not. It
10 was strictly an exchange for stated quantities of
11 water that under Cahoon and Maxfield during the
12 irrigation season regardless of what the flow or
13 proportion of Little Cottonwood Creek, that Cahoon and
14 Maxfield would be entitled to under the rights
15 conferred by the decree.
16 MR. SKEEN: I would like to have you
17 state what your records show regarding any change
18 applications filed in 1921 and subsequently thereto
19 with relation to Cahoon and Maxfield Water.
20 MR. NOVAK: I don't recall the
21 sequence, Mr. Skeen, but I do remember that there was
22 I think it was change a746, if I remember the number,
23 that was filed I thought in 1921 or thereabouts, and
24 then there were four change applications that were
25 filed in 1931 and 1932. The a746, if that is the

1 number, was superseded by one of the four change
2 applications. My memory is they were a1174, 75, 76,
3 77, something like that.
4 Those four change applications lapsed or I
5 suppose were permitted to lapse in 1983 because the
6 50-year period had expired authorized by the statute
7 that expired in 1983 beyond which the State Engineer
8 could extend the time.
9 The position basically of Salt Lake City then
10 was, and now is, that those change applications were,
11 in fact, exchange applications and should have been
12 treated as such by the State Engineer's Office, and
13 the exchange applications would not be subject to the
14 50-year limitation and would not require proof of
15 change.
16 Be that as it may, Salt Lake City, in spite
17 of its prior position that it had the right to make
18 the exchanges as confirmed by both the Morse Decree
19 and the Booth Decree, to make a matter of record in
20 the State Engineer's Office filed the correct form
21 this time, the four exchange applications that I
22 referred to earlier, the e2920 and 2922, that notice
23 had been published and they were protested, and a
24 hearing was held approximately a year ago on those
25 four exchange applications, and the State Engineer has

1 not yet decided those exchanges. Chronologically,
2 that is my understanding of what happened.
3 I should say that the Water Users' claim that
4 you referred to earlier, Mr. Skeen, was filed on a
5 premise that Salt Lake City had the right as confirmed
6 by the Morse Decree and Booth Decree to make the
7 exchange, and the Water Users' claims were filed in
8 the pending general adjudication suit to confirm those
9 exchanges.
10 But subsequently we did file the four
11 exchange applications that I referred to.
12 MR. SKEEN: Do you have the numbers
13 of the four change applications?
14 MR. NOVAK: They are exchange
15 applications.
16 MR. SKEEN: Pardon me.
17 MR. NOVAK: They are exchange
18 applications, and they are numbers e2920, e2919, and
19 they are all 57 area, Mr. Skeen, e2921, and e2922.
20 MR. SKEEN: Were they filed in the
21 name of the Cahoon and Maxfield or in the name of Salt
22 Lake City?
23 MR. NOVAK: They are in the name of
24 Salt Lake City. Incidentally, I see a note here,
25 Mr. Skeen, that the old change applications filed in

1 the 1930s were a1174, 75, 76 and 77.
2 MR. SKEEN: Would you repeat those,
3 please.
4 MR. NOVAK: A1174, a -- that is
5 small A, a1175, a1176, and a1177.
6 MR. SKEEN: Thank you. Tony, do you
7 have any questions you would like to ask?
8 MR. REZAC: Yes, my name is Tony
9 Rezac with the Cahoon and Maxfield Irrigation Company.
10 The Supreme Court cases that Mr. Novak shows in this
11 ledger here shows where water that was not used that
12 was turned into the mains which then Salt Lake -- the
13 Salt Lake City took ownership of the water, then sold
14 it and used it as it saw fit. The Cahoon and Maxfield
15 Irrigation Company supposedly they --
16 (At this time the tape ended.)
17 MR. REZAC: -- entitled to we use
18 every month accordingly to what we're supposed to take
19 by the measurements. Salt Lake City did not have the
20 measuring devices installed for ten years in the
21 system. When I took over in office I could not find
22 any measurements. They falsified the records as far
23 as the measurements went. Until 1991 they did put in
24 some three new measuring devices, and those devices
25 showed in 1991, they took the readings, we had good

1 readings, we used our water accordingly to what we
2 would have been entitled.
3 1992 during the portion of the drought year
4 we worked with Salt Lake City, we were cut back on our
5 water that we were allocated and that. Several of the
6 water users suffered their damages in the systems and
7 that.
8 1992 we were still using the same amount of
9 waters that we were allocated according to the Morse
10 Decree.
11 But in this application they show acreage by
12 the company of Hanson, Allen & Luce, Incorporated,
13 aerial photos. As I stated before in the last
14 hearing, that these people knew nothing about the
15 boundaries of any of the irrigation companies, so I
16 would like to have that stricken completely from the
17 record because they show no -- they are talking of
18 acreage. All of our water agreements are in second
19 feet of water with the Morse Decree, and that's what
20 we're allocated to use, and that's what we use.
21 MR. JONES: Okay. Is there
22 something that you wanted Salt Lake City to respond to
23 on that?
24 MR. REZAC: I would like to have
25 them respond to why do they take -- one other question

1 that I do have: The Little Cottonwood Water Board is
2 the one that is entitled to supposedly make up the
3 contracts with people outside of the municipal area of
4 Salt Lake City. We have started to negotiate a
5 contract with Snowbird for the snowmaking system.
6 Because supposedly Salt Lake City is to use the water
7 as culinary purposes, how can they enter into an
8 agreement with Snowbird for snowmaking systems and
9 other areas of selling water to Alta and Snowbird when
10 they are to maintain their water system in a municipal
11 area? That is according to the Morse Decree.
12 MR. JONES: You have the question.
13 MR. NOVAK: Let me say, Mr. Rezac,
14 that the issue with respect to the Little Cottonwood
15 Water Company that you just raised are internal
16 matters within that company; and, as I understand it,
17 there is no prohibition against Salt Lake City
18 entering into a water supply agreement to supply water
19 to Town of Alta, Snowbird and the like.
20 But those matters that you raised, as I
21 understand it, are internal matters within the Little
22 Cottonwood Water Company for its board to decide and
23 are not matters for the State Engineer to decide.
24 And I should say and reiterate that the
25 record, the transcript of the hearing under the two

1 temporary change applications and testimony of
2 Mr. Higbee clearly states that the four irrigation
3 companies have received all of the water that they
4 have asked for.
5 Mr. Higbee as Little Cottonwood Creek Water
6 Commissioner does not regulate the headgates of those
7 four companies. He makes the water available either
8 in the canal or in the creek to those companies, and
9 it's those companies that regulate their own
10 headgates.
11 I believe the record is clear that they
12 receive all of the water that they have requested.
13 MR. JONES: Other questions?
14 UNIDENTIFIED WOMAN: Excuse me,
15 Mr. Leroy Hooten, you have a call in the office that
16 they would like to talk with you.
17 MR. NOVAK: I think we can continue
18 in the absence of Mr. Hooten. Apparently he has an
19 emergency call.
20 MR. JONES: Questions, Mr. Murdock.
21 MR. MURDOCK: My name is Robert
22 Murdock, I am a private engineer, I have a question
23 for Mr. Novak. These change applications are based
24 upon the water that is the subject of the four
25 exchange applications that were filed a little over a

1 year ago, is this not correct?
2 MR. NOVAK: That is correct.
3 MR. MURDOCK: And do I understand
4 correct that your testimony is that those --
5 MR. NOVAK: I'm not testifying.
6 MR. MURDOCK: Well, your comments
7 then --
8 MR. NOVAK: Okay.
9 MR. MURDOCK: -- that those exchange
10 applications have not yet been approved by the State
11 Engineer?
12 MR. NOVAK: That is correct.
13 MR. MURDOCK: That is correct. I
14 also simply want to state that as I understand the
15 State Engineer's procedures in all of these matters,
16 that when protest letters are filed on changes, they
17 are filed in duplicate. The purpose of the copy is
18 sent to the applicant. At that time the applicant is
19 requested that if he has a response to it, that he
20 submit it at that time or as soon therefore that it
21 can be forward to the protestants.
22 I object to the untimely filing and
23 transmittal to all of this written data that pertains
24 to this and evidently contains the bulk of Salt Lake
25 City's testimony today and is tied -- is transmitted

1 to us in a very untimely fashion. It was apparently
2 prepared not in a completely open advertised hearing
3 on the matter. I just don't think it's proper, and I
4 think it should be considered as such.
5 I just don't think it has had the opportunity
6 for review and for proper discussion to date.
7 MR. NOVAK: Let me just say,
8 Mr. Jones.
9 MR. MURDOCK: Murdock.
10 MR. NOVAK: I was directing my
11 comment to the Hearing Officer. In response to
12 Mr. Murdock's complaint or objection, let the record
13 show that Mr. Murdock was in attendance at the hearing
14 on the two temporary change applications and
15 participated in those hearings and heard firsthand the
16 testimony, the evidence that was presented at those
17 hearings; and the document that I have furnished this
18 morning is simply a transcript of the testimony and
19 the evidence presented at those hearings.
20 So Mr. Murdock his comment that we're
21 presenting something new at this late date is
22 unfounded. He was there, he heard what was said.
23 MR. MURDOCK: Definitely I was at
24 the exchange hearings. I am not sure I was at the
25 temporary hearing.

1 MR. NOVAK: Well, you read the
2 transcript --
3 MR. MURDOCK: I see my name listed
4 in here.
5 MR. NOVAK: That's right, you were
6 there, Mr. Murdock. Now, that is something I can
7 testify to.
8 MR. MURDOCK: Okay.
9 MR. JONES: Mr. Murdock, anything
10 additional question-wise.
11 MR. MURDOCK: Well, in the way of
12 questions, no, that is all.
13 MR. JONES: Are there other
14 questions of the applicant?
15 These two change applications have been
16 protested by the U.S. Forest Service. We would like
17 to turn to them for a statement of their protest.
18 MR. GARDNER: My name is Dean
19 Gardner, and I am (inaudible) counsel, Ogden, Utah. I
20 apologize for not having been in on any of the
21 previous hearings, and I am quite unfamiliar with the
22 specifics.
23 But there is a major interest of the U.S.
24 Forest Service certainly in Little Cottonwood Canyon.
25 It represents national and international possibilities

1 for impacts on some of the uses of the water that are
2 involved here, and I take it as a matter of great
3 seriousness, and I would say that I did not know about
4 this hearing until yesterday. Notice somehow in
5 (inaudible) of my office.
6 But I do know of the growth and development
7 of the ski resorts in the area and complications
8 involved in the water in Salt Lake City. And although
9 I can't put my finger on it, I do know that there are
10 four lawsuits. I could go look them up, but I would
11 ask you that you send them to me. That I appreciate
12 that this whole subject of establishing the title of
13 Salt Lake City is important to all you, but it isn't
14 important to me whatever the title of the water is.
15 All we're interested in is what the impact of
16 these changes would have on the special use permits
17 which are issued by the Forest Service and which
18 really some claim to an interest. It's particularly
19 in the snowmaking operation. There is a provision in
20 the permit dealing with snowmaking, and I haven't
21 really had time to look at the permits to find out if
22 the proposed change of use to make it a matter of
23 right that water will be supplied from Salt Lake City
24 to the resort operators could probably have any
25 adverse effect on our permits. I doubt it. As I

1 said, that probably is the most important thing I can
2 say.
3 I have one other comment is that there are
4 quite a considerable number of relationships between
5 the Forest Service and Salt Lake City for which it
6 will be affected by re-confirming the use here as
7 beyond what would be agreement type things between the
8 Forest Service and Salt Lake city, and to that
9 probably is the main interest would be to look at the
10 proposition that -- I do have Rick Patent here with me
11 who has been working with Salt Lake City government,
12 and I think there is a good working relationship, as
13 far as I know, for these matters, and our protest here
14 is more a matter of trying to keep our foot in the
15 door rather than taking any aggressive position. I
16 don't want to attempt to say that we have any
17 objection to both.
18 Rick, do you have anything to add?
19 MR. PATENT: No.
20 MR. JONES: Okay. Any questions of
21 this protestant?
22 MR. NOVAK: No, but Mr. Gardner,
23 we've talked on the phone years ago, and I am now glad
24 to meet you face-to-face.
25 I guess the change applications are inherent

1 in those change application that the uses that are
2 provided for to the Snowbird and Alta are consistent
3 with the special use permits that have been issued by
4 the Forest Service to Alta and Snowbird, and so I see
5 no conflict there or no attempt to usurp the authority
6 of the Forest Service. We assume that it's covered by
7 special use permit and the uses will be in accordance
8 with that.
9 MR. GARDNER: Well, I appreciate
10 that. If this were Day 1 in establishing what the
11 relationship is, which it is far from, we might have
12 to assert some point that the Forest Service would be
13 the party who would have control over the snowmaking
14 provision and would be the recipient of the water from
15 Salt Lake City. I'm not asserting that, but that is
16 the current policy of the Forest Service.
17 I am letting you know how much the impact of
18 the history of this makes it a peaceful relationship.
19 Because I'm not going to go into something to try to
20 propose a war over this like there has been in
21 Colorado. That is probably you understand what I
22 mean.
23 MR. NOVAK: Yes.
24 MR. JONES: Anything further from
25 the Forest Service?

1 MR. GARDNER: That is all I have.
2 MR. JONES: Thank you. The
3 application was also protested by Robert J. Murdock.
4 MR. MURDOCK: I have some comments.
5 First of all, I would like to say that in looking at
6 Section A of the material that was handed out, this is
7 the testimony from the hearing on the four exchange
8 applications, not the temporary two change
9 applications.
10 MR. NOVAK: You're incorrect,
11 Mr. Murdock. Those are the two temporary --
12 MR. MURDOCK: I don't think so.
13 MR. NOVAK: -- changes applications.
14 MR. MURDOCK: I don't think so. I
15 think I am correct.
16 MR. NOVAK: Let me just say,
17 Mr. Murdock, that we requested the tape from the State
18 Engineer's Office of the hearing on the two temporary
19 change applications, and that tape was supplied to us
20 and was transcribed, and the substance --
21 MR. MURDOCK: It's the wrong tape
22 then.
23 MR. NOVAK: -- of it clearly covers
24 the two temporary change applications. If you go to
25 Page 1, we talk about the 2,000 acre feet of Snowbird

1 and 500 acre feet of Alta. So you're mistaken.
2 MR. MURDOCK: I'll need to go into
3 it. (Inaudible).
4 I object to these changes because these
5 changes -- I stated my reasons primarily in a letter
6 addressed to the State Engineer on May 28, 1993, a
7 copy of which I am sure was forwarded to the
8 applicant.
9 I primarily object to these because under
10 these change applications they provide only surplus
11 water for the culinary use of full-time residents, in
12 this case it's Alta, and of a prime industry in this
13 County of Snowbird.
14 I have reviewed the agreements between Salt
15 Lake City and both Alta and the District of Snowbird,
16 and they clearly state that it is surplus water that
17 is made available for their use.
18 I also have reviewed the Canyon Water Sales
19 Ordinance, a Salt Lake City ordinance, and it very
20 much points out that all they have available for sale
21 in the canyons or elsewhere in the County outside the
22 City limits is water that is surplus to Salt Lake City
23 and is subject to termination solely at the will of
24 Salt Lake City if they have any other use for it or
25 determine that it is no longer available.

1 I would like to read to you from the State of
2 Utah Public Drinking Water Rules, Part II, Design And
3 Construction Standards, where it describes sources for
4 culinary water, it says, "Sources must," and I
5 emphasize that word must, "be capable of providing 800
6 gallons per day for residential connection for indoor
7 use."
8 And I am reading from the same State of Utah
9 Public Drinking Water Rules, Part I, Administrative
10 Rules under the section of definitions, it defines the
11 word must. It says, "Means that a particular action
12 is obliged and has to be accomplished."
13 I submit that surplus sales of water subject
14 to termination do not comply with the Utah State
15 Public Drinking Water Rules, and that as such for the
16 State Engineer to approve actions that do not comply
17 with such a basic primary -- primary function is
18 detrimental to the public welfare, and these should
19 not be approved certainly as permanent changes.
20 All water is available, it could be approved
21 as temporary changes, but I have pleaded before the
22 State Engineer before that something be done in this
23 county to alter the situation so that a permanent
24 water supply can be made available and is available
25 for upwards of 150,000 people in this county that are

similarly situated as Alta and Snowbird, and that is that they rely only on surplus water of Salt Lake City for their basic water needs.

I petition you to reject these changes on account that they are detrimental, could prove detrimental to the public welfare because they violate other State regulations as stated.

I also want to point out that these permanent changes are based upon exchanges that are not yet approved, and as such they should not be approved until there is a basis and a foundation for their approval.

Last year in the third point in the hearings regarding the exchange applications of the water from the four companies on Little Cottonwood Canyon Mr. Higbee went to some length in describing how he measured water at the mouth of the canyon. He needed to make a measurement and determination of the quantity of water available at the mouth of the canyon so others could be granted their fair share of the water of that stream.

I asked Mr. Higbee, and it should be in this testimony, if not it's wrong, I asked him how he accounted for irrigation, and he looked at me like I was not thinking right. He added the sewer flow from

1 the Little Cottonwood Canyon, and that is after the
2 flow is measured at the mouth of the canyon, but he
3 evidently, as he explained, as he described, made no
4 accounting for irrigation that takes place in the Alta
5 and Snowbird area.
6 I subsequently went up the canyon just to
7 verify what my memory had told me, and I find them
8 irrigating roofs of buildings at Snowbird with grass
9 on there, I find them irrigating lawns all over the
10 area of Snowbird and Alta, I find them irrigating
11 natural native vegetations so they are more lush, and
12 I think it's a beautiful thing up there, and I think
13 it's needed, but I think it needs to be properly
14 accounted for so that those that have rights further
15 down the canyon are properly compensated and properly
16 granted their fair share of the water.
17 The River Commissioner who operates under the
18 State Engineer's direction should be directed to alter
19 and approve this process to account for irrigation in
20 those areas.
21 I have no further questions or comments.
22 MR. NOVAK: May I respond,
23 Mr. Jones?
24 MR. JONES: Yes.
25 MR. NOVAK: First, it seems to me

1 that it's not for Mr. Murdock to decide whether Alta
2 and Snowbird should rely on surplus water supply
3 agreements. That is for Alta and Snowbird to decide.
4 Mr. Veasy and Mr. Kapaloski are both very competent
5 water lawyers, and they fully understand the
6 consequences of a surplus water supply agreement.
7 Mr. Veasy stated unequivocally that Alta and
8 Snowbird fully support the approval of these two
9 change applications, and he stated unequivocally that
10 it's in the best public interest of Alta and Snowbird
11 to proceed, and it's in the best public welfare.
12 The two change applications, Mr. Murdock, are
13 not based on the four exchange applications. The two
14 change applications are based on the water rights that
15 were acquired by Salt Lake City under the four
16 change -- exchange agreements. These are not
17 predicated on the four exchange applications. There
18 is a reference in the change applications back to the
19 four exchange applications.
20 The point is that these change applications
21 are based on the water rights that were acquired by
22 Salt Lake City under the four exchange agreements, and
23 those four exchange applications simply conform the
24 uses of the waters in accordance with those four
25 exchange agreements.

1 With respect to the --
2 MR. MURDOCK: Until those --
3 MR. NOVAK: Well, just a minute, let
4 me finish. With respect to the irrigation water, all
5 of the water, including the water that is used by Alta
6 and Snowbird for irrigation, is metered, and a record
7 is kept of the water and it's accounted for. So I
8 think you're mistaken, Mr. Murdock, when you say that
9 water used for irrigation purposes is unaccounted for.
10 That's my response.
11 MR. MURDOCK: That may be his
12 response, but that is not how Mr. Higbee described it
13 a year ago. And until those exchanges are approved
14 and only approved on the use for the decreed rights,
15 this is what they were decreed for, and that was
16 irrigation and culinary out of the ditch.
17 MR. NOVAK: Well, you've missed the
18 point, Mr. Murdock.
19 MR. MURDOCK: No.
20 MR. NOVAK: Our position is --
21 MR. MURDOCK: I know what your
22 position is.
23 MR. NOVAK: -- that we have a right
24 to do that, and these exchange applications simply
25 conform the records of the State Engineer's Office to

1 what Salt Lake City has the right to do.
2 MR. MURDOCK: Well, on the surface
3 situation I live in Salt Lake County, I am dependent
4 upon surplus Salt Lake City water for my family's
5 culinary water supply, and in that regard I protest
6 the surplus use because I think we all deserve
7 something better.
8 MR. NOVAK: Well, we -- this hearing
9 does not involve your use of surplus water in the
10 canyons.
11 MR. MURDOCK: This situation --
12 MR. NOVAK: This hearing involves
13 the use of water by Snowbird and Alta.
14 MR. MURDOCK: That is fine.
15 MR. JONES: Anything additional,
16 Mr. Murdock?
17 MR. MURDOCK: No, I think I have
18 said what I need.
19 MR. JONES: We have the application
20 protested by Harry Stauffer.
21 MR. STAUFFER: I am just here to
22 make sure that my rights are looked out for. The
23 gentleman consultant of the City says that this will
24 have no influence on the water coming down the Cahoon
25 Maxfield main lines. If that is true, sobeit.

1 But if it does affect that water in any way,
2 then, yes, I do object strenuously. We need that
3 water to dilute that canal water that is killing
4 gardens in our irrigation company.
5 That water has changed so drastically over
6 the past 30 years you can't believe it. When I was
7 younger the canal water that was supplied by Salt Lake
8 City supported all kinds of life water, fresh water,
9 hellgramite, pretty near every little kind of fish you
10 can think of, even the fireflies; and the May Fly that
11 hatched every year was a wonder to be hold.
12 Now the canal water we're getting something
13 has gone wrong somewhere. As soon as our water master
14 turns in the canal water and takes the mountain water
15 out, carp come to the surface and die; and when water
16 kills carp, something is wrong with it.
17 I just want to make sure that our mountain
18 water is protected because we need that to dilute the
19 canal water, this I call it poison, because if it
20 killed the carp it's not healthy.
21 And that's my reason for being here.
22 MR. JONES: Mr. Stauffer, thank you.
23 Any response from the City?
24 MR. NOVAK: No response.
25 MR. JONES: Okay. The application

1 was protested by the Cahoon and Maxfield Irrigation
2 Company. You can speak for your protest, Mr. Skeen.
3 MR. SKEEN: Do you have anything to
4 say? We take the position in our protest and here
5 that Salt Lake City does not own the water rights
6 sought to be changed. I am fully aware of the fact
7 that the State Engineer can't make a decision on that,
8 and it will have to go to court, but we strongly
9 believe that the exchange agreements were agreements
10 for the exchange of water only as distinguished from
11 water rights, and that the record will support it.
12 Here we are on a hearing 72 years after our
13 exchange agreement was made to have that determined,
14 and for 72 years the City has ignored the State Water
15 Law and has proceeded as though they owned the water
16 and were not subject to the requirements for the State
17 statute.
18 I would like to have a period of 30 days to
19 review the transcripts of the previous hearing and to
20 consider some of the information presented today. The
21 reason for the length of time, I've got two cases in
22 the Supreme Court of Utah where briefs are due within
23 the next 20 days, and I just can't get everything done
24 in less than 30 days.
25 I make that a formal request for time to

respond to the statements made today on behalf of applicants.

MR. JONES: And the information that has been submitted today is a hearing that has already been held at which you were in attendance. I don't mind leaving the record open for 30 days to have comments come back in on that information that was submitted.

MR. SKEEN: Thank you.

MR. JONES: I would propose that that be done.

MR. NOVAK: So it's clear, you're just going to leave the record open. We are not continuing this hearing?

MR. JONES: We are not continuing the hearing. We will leave the record open for comments on information submitted at this hearing proceeding.

MR. SKEEN: Thank you.

MR. JONES: Anything additional from Cahoon and Maxfield then?

MR. SKEEN: No.

MR. JONES: Is Salt Lake County represented?

MR. ANDERSON: Yes, Greg Anderson

1 appearing on behalf of Salt Lake County, I'm from the
2 Salt Lake County Attorney's Office. We have not filed
3 a formal protest. We have only entered an appearance
4 of record for purposes of monitoring the proceeding,
5 and the County's interest was primarily when directed
6 toward the use of surplus water in Salt Lake County
7 and any court authority there is, and we are here
8 primarily just to monitor the proceeding.
9 MR. JONES: Okay. Thank you for
10 being here.
11 I guess we would like to turn back to the
12 applicant for any concluding statements that need to
13 be made.
14 MR. NOVAK: We have nother further
15 to add. Thank you.
16 MR. JONES: Okay. Anything
17 additional we need to have come before us for the
18 record? Mr. Murdock?
19 MR. MURDOCK: Are the tapes of the
20 temporary hearing and of the hearing on the exchanges
21 available that they can be reviewed by any of us?
22 MR. JONES: The tapes are here and I
23 believe available in our office, yes.
24 A copy of the tape on the temporary hearings
25 was requested for this transcript to be made. We made

1 a copy of that tape and sent those to Mr. Wangsgard I
2 believe to have that made, but that copy or the
3 original should still be here in the office. Okay.
4 Anything additional? We appreciate you being
5 here. We will concluded the hearing.
6 (At this time the tape recording ended.)
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1 STATE OF MINNESOTA)
)
2 COUNTY OF HENNEPIN)
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4
5 REPORTER'S CERTIFICATE
6
7 I, Angela D. Sauro, do hereby certify that
8 the above and foregoing transcript, consisting of the
9 preceding 45 pages is a correct transcript of my
10 stenograph notes, and is a full, true and complete
11 transcript of the proceedings to the best of my
12 ability.
13
14 Dated January 23, 2012
15
16
17
18 _____
Angela D. Sauro, RPR
19 Court Reporter
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BEFORE THE UTAH DIVISION OF WATER RIGHTS
In Re: Temporary Permit Nos. 92-57-19 and 92-57-20

Before Hearing Officer Bob Morgan
June 22, 1992

PROCEEDINGS

THE HEARING OFFICER: We are on record. It is a hearing before the State Engineer concerning two temporary change applications. They are numbered and are both in the 57 area, applications 92-57-19 and 92-57-20. The first one is, both of them have been filed by Salt Lake Department of Public Utilities. The first application heretofore 114.375 cubic feet per second, or, and given the reference to paragraph 4, it looks like 2,000 acre feet.

Source water heretofore has been Little Cottonwood Creek in Salt Lake County. It is now proposed, well it has been used within Salt Lake City and its service areas in Salt Lake County, and the place of use is also within the City and within its service area in Salt Lake County.

The following changes are proposed: 500 acre feet from Little Cottonwood Creek --

UNIDENTIFIED SPEAKER: One is 500 and one is 2,000.

THE HEARING OFFICER: Okay. This one is 2,000. Let the record stand that 92-57-19 is for 2,000 acre feet. Will be diverted the same as heretofore from the tunnel in Little Cottonwood Creek, and it will all

be consumed, will generally be used in, for irrigation 4-1 through 10-15, domestic and municipal purposes year-round, and other uses year-round, mainly confined in Little Cottonwood Canyon through the Snowbird area. Have I sufficiently confused everyone on that one?

The second application is for 114.375 cfs, that is the total demand, and that has been used within Salt Lake City and its service area that they are seeking to change of that total flow 500 acre feet from Little Cottonwood Creek, to be diverted from Tunnel Springs in Little Cottonwood Creek, and the years at Alta. The application was advertised?

UNIDENTIFIED SPEAKER: Yes.

THE HEARING OFFICER: Advertised and was protested by Cahoon & Maxfield Irrigation Company, Richards Irrigation Company, Little Cottonwood Tanner Ditch Company, Walker Ditch Company. And, Mr. Skeen, you represent all four of those irrigation companies?

MR. SKEEN: That's right.

THE HEARING OFFICER: We have here today Salt Lake City represented by Mr. Hooten and counsel, Mr. Novak?

UNIDENTIFIED SPEAKER: That's correct.

THE HEARING OFFICER: We would first turn to the -- any questions on the applications, first? First

turn to Salt Lake City to explain the merits of the temporary change applications, and then we would turn to the applicant for their statement, or if they have any questions of the applicant first, and then we will have a statement from the protestants.

MR. NOVAK: Thank you, Mr. Morgan. It is Salt Lake City's position that the water rights sought to be changed under the two temporary change applications are evidenced by four exchange agreements, one with each of the protesting companies, and copies of those exchange agreements are a matter of record on file in the State Engineer's Office, and a part of the four exchange applications, E29192021, 22 and the 57 area that were filed in the State Engineer's Office on March 30, 1992.

It is the basic position of Salt Lake City that Salt Lake City has absolute ownership and title to the water rights awarded to the Cahoon & Maxfield Irrigation Company, Little Cottonwood Tanner Ditch Company, Richards Irrigation Company and Walker Ditch or Irrigation Company under the Morse decree, and Salt Lake City's ownership is vested in Salt Lake City by virtue of the four exchange agreements.

There are basically three Utah Supreme Court cases that I want to call the engineer's attention to, and I have made copies of those cases and have

1 highlighted the portions of the cases that I want to
2 refer to. Let the record show that I am handing
3 Mr. Skeen a copy of the three cases, and one for the
4 State Engineer and one for the Attorney General's
5 Office.
6 The first case is a 1905 case, and it is State
7 ex rel. Ellerbeck v. Salt Lake City. There, the Supreme
8 Court was concerned with the ownership that would be
9 conferred on Salt Lake City under some options that were
10 being -- that had been acquired and were about to be
11 exercised by Salt Lake City to determine whether that
12 ownership interest by virtue of those proposed exchange
13 applications was sufficient to meet the Constitutional
14 requirements of ownership for the City to incur debt in
15 addition to that fixed by the Constitution and to
16 exchange water, water rights, under Article VI,
17 Section XI of the Constitution of Utah.
18 I would like to read, if I may, into the
19 record and call the engineer's attention to page 274 of
20 the blue-lined or highlighted portion that reads as
21 follows. Again, we were talking about, or the Supreme
22 Court was looking at practically identical exchange
23 applications as are the exchange applications that are
24 the subject matter of this hearing.
25 The Supreme Court said, "The compliance or

1 noncompliance with the conditions of the sale and
2 transfer of the water in question will be exclusively
3 within the control of the City, and so long as the City
4 does that which it will -- which it will be its legal
5 duty to do, and which the farmers in case of default
6 could by judicial proceedings compel it to do if there
7 were no forfeiture clause in the contract of exchange
8 there can be no forfeiture of the water thus acquired by
9 the City and its title to the same will be as clear and
10 indefeasible as though the exchange were absolute and
11 unconditional.
12 "We are of the opinion that when sales and
13 exchange of the rights of the respective parties are
14 made in and to the use of the waters the forfeiture
15 clause being a condition subsequent is not obnoxious to
16 the vesting of title and ownership in the City to the
17 mountain water, which it has received in exchange for
18 lake water, and it is settled by the great weight of
19 authority that when real estate is sold upon a condition
20 subsequent, as the farmers proposed to do in this case,
21 the fee is transferred to and remains in the grantee
22 until a breach of the condition and a reentry by the
23 grantor. That is, such a sale carries with it all the
24 attributes and incidents of absolute ownership until the
25 condition is broken."

1 And down at the bottom, "Applying the
2 foregoing principles of law to the admitted facts in
3 this case we have no hesitancy in saying that the right
4 and title of the City to the water it will receive from
5 the farmers by the exchange when made as contemplated
6 will constitute ownership and will come clearly within
7 the foregoing provisions of the State Constitution."
8 The next case I would call the engineer's
9 attention to and would like to read just a short excerpt
10 into the record is Salt Lake City v. McFarland, and that
11 was decided in 1954. That case involved almost
12 identical exchange applications -- or exchange contracts
13 as are involved here except -- except that there the
14 exchange application provided for a reservation by the
15 stockholders of that company of 900 gallons per day
16 during the summer and 500 gallons per day during the
17 winter months. We have a similar provision in the
18 Richards Irrigation Company exchange agreement that is a
19 part of the subject matter of this hearing.
20 Turning over to page 629 --
21 **UNIDENTIFIED SPEAKER:** Excuse me. Where is
22 that similar agreement for the Richards?
23 **MR. NOVAK:** Well, the Richards Irrigation
24 agreement provides for the delivery by Salt Lake City of
25 culinary water to the stockholders of the Richards

1 Irrigation Company, and it is similar to the exchange
2 agreements that is the subject matter of this case.
3 **UNIDENTIFIED SPEAKER:** That's not entirely
4 true. Could I --
5 **THE HEARING OFFICER:** I think you will have
6 the opportunity after Mr. Novak is through.
7 **MR. NOVAK:** Did you want to correct me?
8 **UNIDENTIFIED SPEAKER:** All I was going to say
9 is the difference is the Richards ditch contract does
10 not give them free water, but they get it at City rates.
11 That's the difference I think in the contract, this
12 court case and the one on behalf of Richards.
13 **MR. NOVAK:** Thanks. That hopefully clarifies
14 it in my mind. But over on page 629 of Salt Lake City
15 v. McFarland the court said, "When the creek water to
16 which the appellant's stock ownership entitle them was
17 turned into the City's mains title to such water vested
18 in the City. The City was thereafter free to sell its
19 water to whomever it pleased, including the stockholders
20 from whom they have purchased it."
21 The third case is a 1964 case, Green Ditch
22 Water Company v. Salt Lake City, and it was sort of a
23 follow-up to the McFarland case, whereas the McFarland
24 involved just a stockholder of the company this involved
25 the whole company, and one of the issues raised was

1 whether that exchange agreement was enforceable.
2 I call the engineer's attention to the
3 highlighted portion on page 588, where our Supreme Court
4 said, "Since there was a specific charge for any excess
5 used by the signers, and since the contract did not
6 provide a credit for unused water incident to any given
7 month, it seems inescapable to conclude that the
8 other" -- let's see -- "conclude that the outright
9 unconditional grant to the City of all of the signers'
10 right, title and interest should vest in the City
11 absolute ownership and title to the unused water."
12 That seems to have been the conclusion in the
13 McFarland case we just referred to, either express or by
14 necessary implication when it was said, that when the
15 creek water to which public stock ownership entitled
16 them was turned into the City's mains title to such
17 water vested in the City, and that the City was
18 thereafter free to sell its water to whomever it
19 pleased, including the stockholders from whom they had
20 purchased it.
21 Then that next quote, "Under the pleadings and
22 affidavits and the specific provisions of the exchange
23 agreement we believe and hold that the agreement was not
24 only valid, but that title to any unused water to which
25 the signatories otherwise would have been entitled by

1 virtue of their shareholders' interests vested in the
2 City.
3 The three cases that we have cited and the
4 language taken from those three cases establishes that
5 question as applied to almost identical exchange
6 agreements where the company or the stockholders sold
7 and granted to the City the right to the use of the
8 creek water in exchange for irrigation water, and in
9 some cases the domestic water, vested title and absolute
10 ownership in Salt Lake City subject only to a condition
11 subsequent that if the City failed to comply with the
12 terms and covenants of the exchange agreements then
13 there would be a defeasance of the title of the City.
14 It should be noted that in the four exchange agreements
15 there is no limitation on where or for what purposes
16 Salt Lake City can use the water which it acquired under
17 the exchange.
18 I suggest that it is immaterial here whether
19 Salt Lake City has technical legal title, which is what
20 is raised by the protestant. What is material here is
21 that Salt Lake City is entitled to the use of the Little
22 Cottonwood Creek waters to satisfy the requirements of
23 73-3-3. You will recall that subparagraph 2 of that
24 title provides that any person entitled to the use of
25 water may make (i) permanent or temporary changes by

1 diversion, by (ii) permanent or temporary changes of
2 place of use, and (iii) permanent or temporary changes
3 in the purpose of use for which the water was originally
4 appropriated. We are not here talking about stock
5 ownership in an irrigation company. We are here talking
6 about a grant under the specific provisions of the
7 exchange agreements.
8 We should call the engineer's attention to the
9 Cahoon & Maxfield exchange agreement under paragraph 1
10 that provides that subject to the reservations, the
11 restrictions and strict performance by the City the
12 Company gives and grants to the City the right to have,
13 take and use perpetually all of the waters that were
14 awarded to the Cahoon & Maxfield Irrigation Company with
15 some qualifications as to the Little Cottonwood Water
16 Company and some reservations as to some prior
17 conveyances.
18 The other three exchange agreements, again,
19 subject to the reservations, restrictions and strict
20 performance by the City of those companies in each of
21 the exchange agreements gives and grants to the City the
22 right to have, take and use water and water rights under
23 those awards in the Morse decree.
24 In addition, paragraph 4 of the Cahoon &
25 Maxfield exchange agreement specifically provides that

1 the City may, it's permissive, the City may file change
2 applications, etc., to accomplish, if needed to
3 accomplish the objectives of the exchanges by using the
4 name of the company on any such changes. And, likewise,
5 under the other three, under paragraph 2, it provides
6 that the City may, if it so desires, use the name of the
7 company to file change applications, etc. Here the
8 City, with its absolute ownership, as we see it, and
9 title, has elected to file those temporary change
10 applications in the City's own name.
11 The next point I want to make is that we think
12 it's ironic that one of the bases of the lawsuit that
13 has been filed against Salt Lake City by these four
14 companies, which I'm sure the engineer is aware of,
15 complains under paragraph 10 that Salt Lake City sold
16 water to Alta and Snowbird without filing change
17 applications as required by law. No prior notice of
18 default or notice to cure had been filed by any of these
19 companies with the City.
20 What I am saying is that those exchange
21 agreements provide that if the company claims any
22 default or failure to comply with the covenants of those
23 exchange agreements then under the Cahoon & Maxfield
24 exchange agreement Salt Lake City has six months within
25 which to cure the defect before there can be a

1 forfeiture, and under the three other exchange
2 agreements Salt Lake City has one month -- or one year,
3 excuse me, after notice, to cure any of the claimed
4 defaults before there can be a forfeiture.
5 So here Salt Lake City files the temporary
6 change applications, and these four companies who claim
7 some sort of default by selling the water and having it
8 diverted without having filed change applications now
9 come in and filed protests against the granting of those
10 temporary change applications, and we -- we think it's
11 ironic that they would do that. The four companies
12 urged that since the ownership of the water rights is
13 the subject matter of pending litigation, the State
14 Engineer should withhold action until those rights are
15 adjudicated. We suggest that that basis is simply a
16 delaying tactic to further frustrate the process and in
17 some way prevent Salt Lake City from curing the claimed
18 defect within the -- within the time provided.
19 And, again, as I indicated before, it -- it
20 makes no difference here where the technical legal title
21 to these water rights vests. We, by virtue of the four
22 exchange agreements and in the pleadings that have been
23 or at least the memos that have been filed, the
24 companies have urged or stated that they are not seeking
25 to terminate those four exchange agreements, and we

1 think it's clear that under those agreements Salt Lake
2 City is entitled to the use of water to meet the
3 requirement of 73-3-3.
4 The other issue that I want to just mention is
5 the impairment issue, and we will have Mr. Higbee, the
6 Little Cottonwood Creek Water Commissioner, and
7 Mr. Hooten, the Director of Public Utilities of Salt
8 Lake City, testify as to some matters relating to that,
9 but I simply want to point out that there will be no
10 impairment of any of the rights of any of these
11 companies nor any owners of rights, other rights on
12 Little Cottonwood Creek.
13 The fact is that for the last at least 19
14 years Mr. Higbee, as the Little Cottonwood Creek Water
15 Commissioner, has made available to each of these
16 companies at their diversion points all of the water
17 that they wanted and could beneficially use, either from
18 Little Cottonwood Creek or from Utah Lake through the
19 East Jordan canal and its extension and the Jordan and
20 Salt Lake City canal.
21 Mr. Higbee does not and has not regulated
22 those headgates. The companies have regulated those
23 headgates and turned whatever water they felt they
24 needed into their systems, and if they have ever had a
25 problem, and Mr. Higbee will tell us about it, they have

1 contacted him, he has made additional water available,
2 which can be done by releases through the Little
3 Cottonwood water treatment plant into the farmer's
4 headgate. Another thing that's important and the record
5 will show that the -- the irrigated acreages of each of
6 these four companies have substantially reduced and the
7 demand for irrigation water by these companies has
8 substantially reduced.
9 In the exchange applications, as documented,
10 that based on a study by Hansen, Allen and Luce in 1992,
11 using 1938 aerial photographs and 1991, 1938 Cahoon &
12 Maxfield Irrigation Company was irrigating 3,284 acres.
13 In 1991 they were irrigating 476 acres, or a reduction
14 of about 86 percent.
15 Walker, 1938, irrigating 568 acres, '91,
16 250 acres, or about a 66 percent reduction.
17 Richards, the records reflect that in 1979 --
18 or, excuse me, 19 -- 1950 John A. Ward had made a
19 compilation that they were irrigating 538 acres, and in
20 '79 were irrigating 483 acres, and 1991 irrigating
21 453 acres, or from a 16 percent to a 6 percent
22 reduction.
23 Little Cottonwood Tanner Ditch Company, 1938,
24 irrigating 1,278 acres, 1991 308 acres, or a 76 percent
25 reduction.

1 And I should point out that the reductions in
2 irrigated acreages are from the sole volition of the
3 shareholders of each of these companies that has
4 resulted from urbanization, where those shareholder
5 landowners have sold their irrigated lands for
6 residential and commercial development, which, of
7 course, commands substantially higher prices for those
8 lands. It has been nothing that Salt Lake City has done
9 that has resulted in any of those reductions. It's
10 solely the voluntary reductions by those stockholder
11 landowners of those companies.
12 I would like, with your permission, to have
13 Mr. Higbee, the Little Cottonwood Creek Water
14 Commissioner, to explain briefly the distribution of
15 water from Little Cottonwood Creek and the
16 nonimpairment -- get into the impairment or
17 nonimpairment issues of these temporary changes; and
18 then would ask LeRoy Hooten, the Director of Public
19 Utilities, to provide some information relating to the
20 usage, total usage by these companies during the past
21 ten years, and the pattern of usage at Alta and
22 Snowbird, and as to the latter the records will show
23 that the -- that the majority of the use by Alta and
24 Snowbird is during the winter months, during the
25 nonirrigation season, and during the irrigation season

1 their combined use is approximately a quarter of a
2 second foot, which is very difficult to even measure
3 when that water is in the stream.
4 So with your permission I would like to call
5 Mr. Higbee.
6 **THE HEARING OFFICER:** Okay, Mr. Higbee.
7 **MR. HIGBEE:** Give me a second to pin this up
8 on the board here. Maybe you can see what we have got.
9 Here at the top --
10 ED HIGBEE,
called as a witness, having been duly sworn, was
12 examined and testified as follows:
13 EXAMINATION
14 **BY MR. NOVAK:**
15 Q. First, Mr. Higbee, for the record, state your
16 name and what your position is relative to distribution
17 of waters in Little Cottonwood Creek.
18 **A. I have been appointed as the Court**
19 **Commissioner on Little Cottonwood Creek in regards to**
20 **the irrigation court decree, Union and East Jordan**
21 **Irrigation Company vs. Richards Ditch Irrigation**
22 **Company, et al., case No. 4802, and it was dated in**
23 **1910.**
24 Q. How long have you served as commissioner on
25 Little Cottonwood Creek?

1 **A. I was made commissioner on the 26th day of**
2 **June, 1979.**
3 Q. And I take it that you administer and
4 distribute the waters of Little Cottonwood Creek under
5 the supervision of the court in accordance with the 1910
6 Morse decrees?
7 **A. That's correct, that's the way the decree**
8 **works under the supervision of the court.**
9 Q. Who pays your salary or wages?
10 **A. The court decree orders that the users should**
11 **pay for it. At present Salt Lake City, because of the**
12 **exchange agreements, the ditch companies reverted that**
13 **responsibility to Salt Lake City, on these four ditch**
14 **companies, that Salt Lake City now pays the court fees**
15 **for these four ditch companies. The others, I collect**
16 **from other entities. Sandy City is the same kind of**
17 **situation with Union and Jordan, and the others are**
18 **smaller ditch users and so on. But those -- between**
19 **Sandy City and Salt Lake City all the secondary primary**
20 **ditches are tied up under contract.**
21 Q. And so you administer those contracts or those
22 exchange agreements along with the provision of the
23 decree; is that correct?
24 **A. That's correct. I try to follow the decree's**
25 **instructions and any subsequent contracts and agreements**

1 **that have gone into effect since the decree was in**
2 **effect.**
3 Q. Is there any provision in the decree that
4 directs you to provide the, whatever distribution is
5 required consistent with the decree to provide for
6 greater efficiency or beneficial use of water?
7 **A. There is a paragraph in the decree that does**
8 **indicate that very specifically, and it's part of the --**
9 **I think it is the 39th paragraph in the court decree**
10 **under conclusions of law, and I will read it in full.**
11 **It is only a short one. "The commissioner provided for**
12 **herein may divide and distribute the water by hours or**
13 **days or by constant streams or in any other manner as in**
14 **his judgment seems best so as to secure the greatest**
15 **efficiency for the water. All of the above, however, is**
16 **subject to the supervision and control of this court."**
17 **That's the entire paragraph 39.**
18 Q. Okay, Mr. Higbee, if you will just move that
19 chair off to the side so that back doesn't block, would
20 you explain to the engineer just very briefly and very
21 generally how the waters of Little Cottonwood Creek are
22 distributed pursuant to the decree and the exchange
23 agreements?
24 **A. In operating the decree at present, to try to**
25 **come up with spot readings, later on I get a more**

1 **efficient method of measuring, I have to come up with**
2 **the total flow of the creek. If I were doing it the way**
3 **the decree originally said it would be measured at each**
4 **ditch, all the ditches would be totaled up, and that**
5 **would be the stream.**
6 **But since there is cutoff savings rights of**
7 **the Little Cottonwood Water Company taking into effect**
8 **here that saves some water. The City's savings of**
9 **rights in here, because of the -- going up the stream in**
10 **here and the stop line, because of those I have to take**
11 **into account a little differently. So now the way I**
12 **figure the total flow of the creek, if I take a flow, an**
13 **estimated flow for the sewer, each month we get that and**
14 **get an exact, correct amount of how much they were using**
15 **through the sewer line.**
16 Q. The sewer goes where?
17 **A. It goes right on up the canyon and feeds clear**
18 **from Alta City on down and picks up water from Alta,**
19 **Snowbird and other users of water. I count that as part**
20 **of total stream flow. Nobody gets to use it but the**
21 **sewer plant, and I wouldn't let anybody use it if I**
22 **could help it.**
23 **Okay, Murray City takes out water here. I**
24 **measure the water as it comes through the power plant.**
25 **So here is two parts of the total to come up with the**

1 total flow, I have the sewer flow and the power plant
2 flow.
3 Then I pick up the 15-foot Parshall, which is
4 right here on Wasatch Boulevard, right close to Wasatch
5 Boulevard, and I have got three ditches up above here
6 that use water. So I have to add them. I have to add
7 the South DeSpain, the South DeSpain extension, and the
8 North DeSpain.
9 So to get my total flow of the creek I take
10 these ditches, the sewer plant, the power plant flow and
11 the stream flow at Wasatch Boulevard. The users of them
12 now, Alta and Snowbird, through their contracts, are
13 using water, and the only way I can account for the
14 water they use in my figures is by what the sewer
15 outflow is. This is water that would if all of this in
16 Little Cottonwood were gone, all the businesses, all the
17 users would close, no skiing, no nothing, that water
18 would come down the stream, so I figure it is part of
19 the stream flow.
20 Okay, I add these into it. I also add in two
21 wells, Sandy ditch -- or Sandy City has two wells
22 drilled right near where the South DeSpain, South
23 DeSpain extension are. They are above the Wasatch
24 Boulevard. They are above, and the water that they take
25 is counted as part of the water of the canyon. So I add

1 that in. So here is the waters that I use to come up
2 with the total flow of the creek. I use those totals,
3 that total to come up with the amount that the ditches
4 are entitled to.
5 Now in the case of the four ditch companies
6 that are involved here, the Cahoon & Maxfield in their
7 schedule with Salt Lake City have 7 (inaudible), and
8 that's all, I don't have to figure their percentage of
9 the stream, because they have a set amount that they are
10 entitled to if they can use it.
11 The Richards ditch, the Tanner ditch and the
12 Walker ditch are all based on stream flow. For the
13 first three months of the year or first three months of
14 the water season, April, May and June, they are entitled
15 to the creek share of water, with no addeds or anything.
16 If you get into the July, August and September, and that
17 half a month of October, those three ditches are
18 entitled to the amount that they are -- that the
19 decree -- the decree gives them plus 1 second foot for
20 the Walker and the Richards, 2 second feet for the
21 Tanner, if that amounts being -- if Salt Lake City is
22 taking that amount of water through the treatment plant,
23 if they are taking all the water these ditch companies
24 are entitled to then they would have to give that
25 additional 1 second foot and 2 second feet to these

1 titches. But I can use the -- in coming up with these
2 figures I know exactly what each of the ditches are
3 entitled to.
4 Q. Mr. Higbee, you show the East Jordan canal, an
5 extension canal, Jordan/Salt Lake City canal in red near
6 the bottom?
7 A. Can you see this down here or is it too low?
8 It's low for the rest of you. I am going to raise it.
9 Alta and Snowbird, do you know where they are? They
10 haven't changed. Go up a bit, and we will be able to
11 see those.
12 Okay, the East Jordan canal comes in on 9th
13 East just south of Ft. Union. I think Ft. Union
14 Boulevard or Drive is right in there. But it comes in
15 there, crosses over and heads over towards 13th East.
16 It crosses 13th East right about in this area here.
17 That's where 13th East is.
18 But as water comes down here we can deliver
19 water, there is a section of the Tanner ditch here that
20 they cannot get canal water with gravity flow. That
21 section of water, we deliver, I always keep enough water
22 in there, right at present there is no way to provide
23 water, canal water, to the Richards ditch, so they get
24 their entire amount from the creek. That means I don't
25 have to add that extra second foot to their amount,

1 because there is no exchange taking place. They are
2 getting the water right out of the creek through this
3 cutoff savings and through their pipeline system.
4 The Tanner ditch has a short section here that
5 has users. They have to have water from the creek.
6 After it gets beyond the East Jordan canal they have two
7 delivery points that come into the Tanner ditch system
8 that feeds their water.
9 Okay, the Union and Jordan, that's the one
10 that's owned by Sandy City, they bought out that ditch
11 entirely, they have to have a small amount for their
12 ditch until it crosses the East Jordan canal. Now, they
13 cross at below 9th East, so they are not on the East
14 Jordan extension. This is not to scale, as anybody can
15 guess.
16 But the Cahoon & Maxfield has a section
17 through here that they used to have one or two users on.
18 They now have no users between the creek and the East
19 Jordan canal that are actively consuming any water in
20 the Cahoon & Maxfield ditch. Then it goes down and
21 crosses the Jordan and Salt Lake City canal. We have,
22 the City has diversions for both of those stations, the
23 Cahoon & Maxfield and the East Jordan canal, extension
24 canal, and the Jordan/Salt Lake City canal.
25 The Walker ditch has a diversion from the

1 **creek, and they are out underneath, almost underneath**
2 **office buildings and everything else now, and it is all**
3 **piped through here, and they have a connection off the**
4 **canal, and they have the choice of taking it from either**
5 **source when there is water in the creek. Most of the**
6 **year they take it off the canal and they deliver their**
7 **water through the Walker ditch that way. That's the way**
8 **I am delivering water to these ditch companies.**
9 Q. Okay, Mr. Higbee, since you have been
10 commissioner, will you tell the engineer whether you
11 have made available at the diversions points of all four
12 companies of all of the water that they requested and
13 could use?
14 **A. As far as I have been able to, yes, and I have**
15 **done it pretty well. I don't think there have been**
16 **times that -- if they have let me know they have had**
17 **problems I've gone and found out what's wrong and tried**
18 **to get things going. If I can't get it from sources**
19 **like canals, which is the Utah Lake water, if I can't**
20 **get it from there I take those from the treatment plant**
21 **and send it downstream.**
22 Q. Which does, I take it, or could include water
23 coming in through the Salt Lake aqueduct?
24 **A. Yes. There has been one or two times I think**
25 **they used water from the aqueduct into the stream to**

1 **take care of these few users up in here. And one time**
2 **we used water out of the Little Cottonwood well to take**
3 **care of these users down here into the stream. So we**
4 **have had different sources, we have had ways of getting**
5 **water to them.**
6 Q. Do you regulate the headgates of these four
7 companies?
8 **A. I do not. If I get a -- if I get the message**
9 **that they want water, I ask them how much will you be**
10 **able to use, and I try to get that much to their**
11 **diversion points; and then as the season gets on, gets**
12 **moving, I watch to see how much water is going on**
13 **downstream that would end up in Utah Lake or in the**
14 **Great Salt Lake or the Jordan River. I try to get that**
15 **water consumed somewhere in the system.**
16 Q. Do the companies, representatives of the
17 companies then (The audio ceased on side A. We are now
18 hearing audio from side B of the tape.) canals and
19 ditches?
20 **A. Yes. I was not there unless I was told by the**
21 **presidents of the company or the water masters, I would**
22 **not dare open one of their headgates for any purpose. I**
23 **don't want to be responsible for water going through**
24 **their systems. If they should have some contractor in**
25 **the middle of a project underneath the ditch, and I**

1 **didn't know about it, and I turned the water in, I would**
2 **be responsible. I won't. I refuse to. It is the**
3 **responsibility of the ditch companies to decide when**
4 **they can handle it, when they can use it, how much they**
5 **can use. It depends on the capacity of their systems.**
6 Q. Mr. Higbee, you are familiar with these two
7 temporary change applications, are you not?
8 **A. Yes, I am.**
9 Q. Based on your experience and the manner in
10 which the water is distributed, can you tell the State
11 Engineer whether these two, either or both these
12 temporary change applications would in any way impair
13 the rights of the four companies that have protested?
14 **A. I can think of no way in the world that it**
15 **could impair those or any other users.**
16 Q. So as far as four companies and other users,
17 it is your view that the temporary changes can be
18 effectuated without impairing any of their rights?
19 **A. That's correct.**
20 **MR. NOVAK:** Those are all the questions I have
21 of Mr. Higbee. Mr. Skeen wanted to ask some questions.
22 It might be a good time to do it.
23 EXAMINATION
24 **BY MR. SKEEN:**
25 Q. I have a few questions, Mr. Higbee.

1 **A. Yes, sir.**
2 Q. Is a part of your duty as water commissioner
3 to measure water in the creek, available in the creek,
4 and also to measure the water from Jordan River, Utah
5 Lake, into the systems of these various companies?
6 **A. Some of the time I do that, but there is water**
7 **masters, there is men that work for Salt Lake City who**
8 **are on a constant call to measure those.**
9 Q. Do you have any records of those measurements?
10 **A. Yes, sir.**
11 Q. And where are they?
12 **A. They are in the files of Salt Lake City. We**
13 **have --**
14 Q. And will you tell me what they consist of?
15 **A. Okay. We take field notes and recorder**
16 **sheets. From those we develop our data of how much**
17 **water is actually being consumed, how much is being**
18 **used, how much is going through each ditch. We then**
19 **take those and put them on summary sheets, and we**
20 **summarize the whole year for each of the ditches, and we**
21 **come up with total amounts those ditches have received**
22 **through the year.**
23 Q. Now, do you have any recording devices on the
24 measuring devices?
25 **A. Yes, we do now. We have had some in almost**

1 **all --**
2 Q. How long have you had those?
3 **A. Well, on the East Jordan canal we have had it**
4 **ever since they built the canal. We have had a**
5 **measuring device on the East Jordan canal almost**
6 **continuously. We have had measuring devices on the**
7 **Cahoon & Maxfield 1, 2 and 3 for most of the time I have**
8 **been involved with irrigation measurements. One got**
9 **discontinued for a period of time because there was no**
10 **users there, and the Parshall flume had deteriorated to**
11 **where it was no longer a good measurement. It was**
12 **replaced in 1988, wasn't it? Do you know, Tony?**
13 **TONY: They replaced the three Parshall flumes**
14 **in 1990.**
15 **A. '90. Okay. Those have been replaced.**
16 Q. Where is the measuring device on the East
17 Jordan canal?
18 **A. It is on 9th East where the East Jordan canal**
19 **and the East Jordan extension starts. So 9th East or**
20 **just east of 9th East.**
21 Q. Are they Parshall flumes?
22 **A. That's a rated flume. That's not a Parshall**
23 **flume.**
24 Q. Are they constant measurements or periodic?
25 **A. It is constant recorded measurements. Plus**

1 **they have also in the last few years they have added a**
2 **sonic water level measuring device that's also sending**
3 **that same information on up to the 62nd South pump**
4 **station, so they know what's going on.**
5 Q. What measurements do you have on the Little
6 Cottonwood Creek?
7 **A. Little Cottonwood Creek? Probably about the**
8 **same period of time. But we have got a recorder on**
9 **the --**
10 Q. Where are your recording devices on Little
11 Cottonwood Creek?
12 **A. On the 15-foot Parshall.**
13 Q. That doesn't mean anything in the record.
14 **A. Okay, the 15-foot Parshall at Wasatch**
15 **Boulevard has a recorder.**
16 Q. Well, would you mark on that measuring device
17 so we know where you are pointing on the record.
18 **A. Okay. That area, and it's a 15-foot Parshall.**
19 Q. And is that a -- is there a recording device
20 on that?
21 **A. Yes. There is a -- I think it's a Leaks,**
22 **Leaks Port Stevens A30.**
23 Q. How long has that measuring device been there?
24 **A. Ever since I have worked with the water**
25 **department there has been a measuring device except when**

1 **somebody blew up the recorder house for six months.**
2 Q. Do you have records in your office or in the
3 City office of those measurements?
4 **A. That's correct.**
5 Q. From 1979?
6 **A. Prior to that.**
7 Q. I notice on the map that's on the black part
8 of the -- which I assume is on the creek?
9 **A. The creek, I have got the ditches also in**
10 **black in many cases here.**
11 Q. And is all the water in the creek measured at
12 that point?
13 **A. All the water that arises in the creek between**
14 **here and here that does not go into the South DeSpain**
15 **ditch, South DeSpain extension or the north DeSpain is**
16 **measured or if somebody steals.**
17 Q. It doesn't relate anything to Alta or
18 Snowbird?
19 **A. If Alta and Snowbird had taken the water it**
20 **has gone down to the sewer system. Any water that they**
21 **let through their system eventually is there.**
22 Q. No consumption of it at all?
23 **A. I have not added the consumption up there. I**
24 **added it as part of the sewer flow. The sewer flow, by**
25 **the way --**

1 Q. Do you know what the consumption is?
2 **A. Yes, we get that. Each month we get that from**
3 **records of the sanitary sewer district No. 3. Ross**
4 **Scott I think is the one I talk to all the time on that.**
5 Q. Do you have records showing the consumptive
6 use?
7 **A. We show the amount of water going through the**
8 **sewer system, yes, and we add that as part of the total**
9 **flow.**
10 **THE HEARING OFFICER:** He means Alta and
11 Snowbird.
12 **THE WITNESS:** I don't have them right now with
13 me, but the City has them, because they are paying for
14 the water.
15 **UNIDENTIFIED SPEAKER:** You assume there is no
16 consumptive use, then?
17 **THE WITNESS:** What do you mean I assume there
18 is no consumptive use?
19 **UNIDENTIFIED SPEAKER:** You assume that the --
20 you add only the measured sewer flow and increase that
21 by nothing for actual consumptive use in the use area.
22 **THE WITNESS:** Let's look at the sewer flow.
23 If you have a sewer flow during the summer of a half a
24 second foot -- now, possibly, this could go up to as
25 high as 6/10 of a second foot and down to as much as

1 about 2/10 of a second foot. That's the range this
2 might run right now on the use of water coming through
3 the sewer plant. Okay. I think during the same period
4 of time the water taken out by Alta City and Snowbird is
5 probably less than a quarter of a second foot. I'm
6 picking up more water here and showing more water right
7 here than what those two places are using.
8 Q. Is that also true of Snowbird?
9 **A. I said Snowbird and Alta. Those are both --**
10 **whatever is going through their sewer system is what I**
11 **am measuring here plus whoever else is putting water in**
12 **there. That's the people Little Cottonwood Water**
13 **Company has agreements with.**
14 **MR. SKEEN:** I would like, if I may, have
15 permission to have Bob Murdock ask any questions he
16 would like to ask on that.
17 **THE HEARING OFFICER:** Go right ahead. I'm
18 easy to get along with.
19 EXAMINATION
20 **BY MR. MURDOCK:**
21 Q. Do you regard approved rights in the State
22 Engineer's Office in any way in your administration of
23 the creek?
24 **A. I have to. Shall I explain?**
25 Q. Well, I would like -- yeah.

1 **A. Okay. Little Cottonwood Water Company has a**
2 **contract and has a claim to water that is saved by**
3 **running water through this cutoff savings. I can't**
4 **remember the exact amount. It is about 3 point**
5 **something second feet is saved by keeping this stream**
6 **dry and running the water through here.**
7 **So when I am giving water to these ditch**
8 **companies and we are using the cutoff savings and drying**
9 **up the creek, then I am able to add a little bit to each**
10 **one of these ditches according to the stock ownership in**
11 **the Little Cottonwood Water Company. They also have**
12 **rights to Red Pine up the canyon. They use water from**
13 **Cecret Lake, and that's used also by the Little**
14 **Cottonwood Water Company.**
15 **Those are the three areas where they have**
16 **saved water, and to do that all of these ditch companies**
17 **that joined the Little Cottonwood Water Company had to**
18 **divest themselves and give their third surplus right to**
19 **the ditch company. That's the only way they could get**
20 **water to do these things with. And that's where the**
21 **water comes from that's stored in Cecret Lake and Red**
22 **Pine, and also the -- and then that water in the cutoff**
23 **savings. So I have to count that in. It's only fair if**
24 **I do. I would be cheating somebody, and that's not**
25 **right, and I will not do it.**

1 Q. Does all of the water -- well, let's go back.
2 Are you diverting any water to Salt Lake City, for Salt
3 Lake City's use?
4 **A. Right now Salt Lake City is using through**
5 **Metropolitan Treatment Plant. Now, maybe we ought to**
6 **look at this. I will clear off this board here and show**
7 **the tail race off the power plant. I measured the water**
8 **at the power plant, and at the tail race we have an open**
9 **area like this. We have a concrete wall here. We have**
10 **a short concrete wall, not as high, there. The water**
11 **comes into the plant, from the power plant, this way and**
12 **this way through the two generators. It comes into**
13 **here.**
14 **Now, as the water is going through the power**
15 **plant, now Murray City, again, you are talking about**
16 **rights that the State Engineer has given, Murray City**
17 **has established a right for 185 cubic feet a second for**
18 **hydropower use. That's what they have got from previous**
19 **rights and from additional rights they have picked up.**
20 **That water is brought down through here, and**
21 **it is taken out right up here at the Murray dam, at**
22 **Whitmore resort area, right at the tail race of the**
23 **Whitmore power plants. They pick up that water, bring**
24 **it down here.**
25 **Now, because they took so much water out -- I**

1 **will sidetrack just a second -- because they took so**
2 **much water out the stream that precluded getting water**
3 **to South DeSpain in the amount they were entitled to.**
4 **The North DeSpain seems to have enough through the**
5 **spring that is there. The South DeSpain extension,**
6 **there wasn't enough water there.**
7 **So when Murray City filed that application I,**
8 **as court commissioner, protested it and said you have**
9 **got to have quote "accurate measuring devices in this**
10 **device right here so I know how much water is going, and**
11 **we have got to have a way to provide water to these**
12 **ditch companies." We went through that with the State**
13 **Engineer and with Murray City and everybody. We all**
14 **talked about it, worked on it, and they got the**
15 **equipment in there.**
16 **Now, okay, let's go down to the penstock here,**
17 **I mean the tail race of the power plant. We have three**
18 **diversions here. There is a big hydraulic gate right**
19 **there operated by Metropolitan Treatment Plant. Now,**
20 **for water to even get in that headgate it has to go over**
21 **this wall. So that keeps the water to certain heights.**
22 **Now, over here we have two 30-inch wheel**
23 **gates. They come through and are fixed with a, what,**
24 **meter gate measuring device? Anyway, it is where they**
25 **take the area and you have to have it submerged and so**

1 **on. It is a standard irrigation measuring device. We**
2 **have that on these two, a couple (inaudible) wells, we**
3 **have the wheels here. I control these.**
4 **Now, these two, this one here is the Sandy**
5 **siphon. It goes right across the creek and over into**
6 **the Sandy ditch. That's right here. It kicks over here**
7 **into the Sandy ditch right there. Then this one is the**
8 **farmers' gate. It comes out here, does a fast turn,**
9 **goes down along the bank until it gets beyond the Metro**
10 **treatment plant and then right into the tail race out of**
11 **the Metro treatment plant and then from there right**
12 **straight into the creek. That's where the water goes on**
13 **this one.**
14 Q. And you control that one?
15 **A. And I control that. So what I have done in**
16 **the last week or two I have watched to see how much**
17 **water Metropolitan is treating. I have to measure it**
18 **from them all the time.**
19 Q. Who controls the Metropolitan gate?
20 **A. They control it there, because if there is a**
21 **storm and they can't use the water, they have to shut**
22 **it. They can't use the water if something goes haywire.**
23 **They have got to have safety for them. We can't have**
24 **polluted water.**
25 Q. (Inaudible.)

1 **A. Okay, now, if that happens, if this closes,**
2 **these things, this section right in here raises about**
3 **2.5 feet or 3 feet higher, and then it overflows into**
4 **this. This is an overflow drain that goes right down**
5 **into the creek, and I can't remember the size of this**
6 **pipe. I think it's about a probably 3-foot diameter.**
7 **It is a big one. But in case any time that they have to**
8 **shut down then it kicks into here.**
9 **Well, it is in the creek then plus you have**
10 **got what's coming through here. So I don't have to**
11 **change this headgate at all, I don't have to change this**
12 **headgate at all, but both of these increase because**
13 **there is additional pressure on them.**
14 Q. Does Metropolitan take water at your approval?
15 **A. Yeah, I tell them how much they can take. The**
16 **key that I use to how much they can take is how much**
17 **water we have got down in here. Have I got enough for**
18 **the Union and Jordan? Have I got enough for the Tanner**
19 **ditch? Have I got enough for the Richards ditch?**
20 Q. What do you base the approval upon for
21 Metropolitan taking any water?
22 **A. Their contracts with Salt Lake City and with**
23 **others. The ditch companies, the ditch companies that**
24 **sold the rights.**
25 Q. What water right structure backs that up?

1 **A. Okay, the four contracts of the four companies**
2 **that are involved right here.**
3 Q. Has the State Engineer been a party to those?
4 **A. No, that's Salt Lake City, and the court**
5 **decree has got that one.**
6 Q. But has the State Engineer granted any
7 approval for those diversions?
8 **MR. HIGBEE:** I am going to object to that.
9 The record will show what the State Engineer has done.
10 I think it is argumentative.
11 **MR. MURDOCK:** It is not argumentative. I am
12 simply pointing out that there were for many years in
13 place change applications for that purpose. They lapsed
14 in 1983, and since 1983 there has been no approval
15 granted by the State Engineer for any diversion of that
16 sort.
17 **MR. NOVAK:** Just a minute, Mr. Higbee. If
18 this is a legal matter, Mr. Murdock, and it has been our
19 position, as I have explained to Mr. Skeen, that those
20 four change applications were in fact exchange
21 applications. They lapsed because the 50-year period
22 expired when proof was not submitted, and our position
23 has been that those were in fact exchange applications
24 that should not require proof of change and were
25 improperly lapsed, and plus the fact that the decrees on

1 Utah Lake award Salt Lake City the right to utilize that
2 water for exchange of the waters of the canyon streams.
3 But be that as it may, we have filed four
4 exchange applications to conform the State Engineer's
5 records to what the facts are. It just seems to me that
6 to argue with Mr. Higbee as to whether we have the
7 approval or not is a matter that's not going to get us
8 anywhere. We think we have the right to do what we are
9 doing and what we have done in the past.
10 **MR. MURDOCK:** I'm just pointing out that since
11 1983 Mr. Higbee has administered the creek in a manner
12 that is not in accordance with State rights.
13 **MR. NOVAK:** We disagree with that, because we
14 believe our rights to be otherwise.
15 **MR. WITTERBERG:** Mr. Morgan, if -- Marv
16 Witterberg from Richards Irrigation Company. If the
17 issue here is the change applications, why are we
18 arguing and talking about a diversion down on 9th East?
19 It has nothing to do with the change applications. I
20 think we are wasting our time talking about it,
21 Mr. Higbee's time, everybody's time, talking about all
22 this garbage down below when the issue is the change
23 applications up at Alta and this area.
24 **THE HEARING OFFICER:** I think your point is
25 well taken. Any other questions of Mr. Higbee

1 concerning the operation?
2 **MR. SKEEN:** I think that's all.
3 **MR. NOVAK:** I would next like to call LeRoy
4 Hooten.
5 LEROY HOOTEN,
called as a witness, having been duly sworn, was
7 examined and testified as follows:
8 EXAMINATION
9 **BY MR. NOVAK:**
10 Q. Tell the engineer what your position is and
11 how long you have occupied that position.
12 **A. I am Director of Public Utilities for Salt**
13 **Lake City since 1980.**
14 Q. Prior to that time did you, were you employed?
15 **A. Deputy director since 1972 to '80, and worked**
16 **for the City since 1958.**
17 Q. Are you in charge of the record keeping of
18 water measurements as it relates to the diversions by
19 Alta and Snowbird?
20 **A. Yes, within the various divisions of my**
21 **department I have that responsibility.**
22 Q. Do your department records compile or include
23 total diversions into the four company ditches that are
24 protestants to this proceeding?
25 **A. Yes.**

1 Q. Mr. Hooten, I'm going to show you a, and I
2 believe you have one of your own, or you can use mine,
3 but I would like the engineer to look at the document
4 and ask whether or not you have prepared this that shows
5 Little Cottonwood Tanner-Richards, Little
6 Cottonwood-Walker, Cahoon & Maxfield, different colors
7 exchange ditches. For the record, I have handed a copy
8 to Mr. Skeen, Mr. Morgan and the Attorney General's
9 Office, and ask you, Mr. Hooten, whether you -- whether
10 that document was prepared under your direction?
11 **A. Yes, I requested information from our**
12 **irrigation division to provide me the diversion records**
13 **for the four subject irrigation ditch companies from**
14 **1980 to 1991. Those four volumes of water were recorded**
15 **on this chart.**
16 **The blue indicates the major diversions of the**
17 **Little Cottonwood Tanner ditch, the brownish-red color**
18 **Little Cottonwood-Walker, green the Richards ditch, and**
19 **the orange and brownish color the Cahoon & Maxfield**
20 **Ditch Company, and as the chart indicates the diversions**
21 **over the last 11 years have been about 10,000 plus or**
22 **minus acre feet a year and are substantially below the**
23 **amount of water that they would have been entitled to,**
24 **and that reduction is attributed to the urbanization of**
25 **the lands that were originally irrigated by the**

1 **properties and are typical of the water deliveries that**
2 **we are experiencing in all of our exchange areas where**
3 **the amount of water has been greatly reduced over the**
4 **years, although it has been somewhat stable over this**
5 **period of time.**
6 Q. Now, Mr. Hooten, as your position of Director
7 of Public Utilities, have you had complaints from
8 representatives of these four companies as to whether
9 they were receiving sufficient water over the years?
10 **A. Primarily with the Cahoon-Maxfield Irrigation**
11 **Company a number of years ago, about three or four years**
12 **ago, and there was a dispute over the measuring devices,**
13 **and so subsequently we installed new measuring devices.**
14 **I believe that was about '88 or '89.**
15 Q. The quantities of water shown on this
16 document, to the best of your knowledge, are those the
17 quantities of water that have been requested,
18 collectively and individually, by these four companies
19 during the past ten years?
20 **A. It is my understanding that the companies have**
21 **available to them all the water they need, and that they**
22 **control the headgates to regulate the flows within their**
23 **system. Within these numbers also include the total**
24 **diversions including the creek diversions and the Utah**
25 **Lake water diversions.**

1 Q. Mr. Hooten, are you familiar with the
2 diversions by Alta and Snowbird?
3 **A. Yes.**
4 Q. And those were pursuant to contracts that were
5 entered into between those two entities?
6 **A. That's correct.**
7 Q. Or at least the county service area Snowbird
8 and Salt Lake City. Are those, the waters that are
9 delivered to each, Alta and Snowbird, metered?
10 **A. Yes.**
11 Q. And do you keep a record of those meter
12 readings?
13 **A. Yes.**
14 Q. Did you prepare a chart designating Little
15 Cottonwood usage or water usage Little Cottonwood Creek
16 Alta and Snowbird for the year 1989?
17 **A. Yes.**
18 Q. The figures shown or plotted on the chart to
19 the left you show cfs and to the right you show billing
20 units. Is there a conversion from billing units to cfs?
21 **A. Not directly. The flows, the cubic feet per**
22 **second, were calculated dividing the monthly billing**
23 **reading by 30 days, and then breaking that down to a**
24 **flow of cubic feet per second. It is a calculated**
25 **figure. The billing units are actually measured through**

1 **a water, culinary water meter with the accuracies of**
2 **that kind of a meter. It was very accurate.**
3 Q. For the record, I am handing to the State
4 Engineer, Mr. Skeen and the Attorney General's Office
5 the chart that I have shown. Explain, if you will, to
6 the engineer, Mr. Hooten, what that chart is.
7 **A. These figures are derived from my billing**
8 **department, who has the record of all of the meter**
9 **readings and the billings to these two entities, and**
10 **this chart here represents 1989, which I believe is**
11 **typical of the water deliveries to Alta and Snowbird.**
12 **As you can see, inasmuch as both of these entities are**
13 **winter sports oriented that the volumes of water**
14 **delivered to them are much greater during the winter**
15 **months and then subside in the summer months to a much**
16 **lower value.**
17 **Approximately, in this particular year, in**
18 **April, the combined flow of Alta and Snowbird equaled**
19 **20,000 billing units. A billing unit under our system**
20 **represents 748 gallons. So we bill on 100 cubic feet.**
21 **And, again, the number on the left is some number, just**
22 **to try to make some reference to what an average flow**
23 **that would represent, because we don't have a natural**
24 **flow measurement, and that's calculated, but, again, you**
25 **can see that the flows or the usage are substantially**

1 **lower in the summer months versus the winter months,**
2 **somewhere averaging around a quarter of a second foot if**
3 **it was averaged.**
4 Q. And that's the combined usage of both Alta and
5 Snowbird?
6 **A. Yes, the top line represents the total. The**
7 **shaded area is the volume used by Snowbird, and the dark**
8 **area is the area used by Alta.**
9 Q. Did you also prepare a similar bar chart for
10 three years to reflect what the conditions have been
11 during the past three years?
12 **A. Yes.**
13 Q. Let the record show that I am handing a copy
14 of water usage Little Cottonwood Creek bar chart to
15 Mr. Skeen, the State Engineer for his record, and the
16 Attorney General's Office. Just quickly, Mr. Hooten,
17 will you explain --
18 **A. Yes, this chart just attempts to give a little**
19 **more dimension to the timeframe. We have records going**
20 **back to the -- to the date of the agreements, but this**
21 **gives you a three-year period, and it's the same**
22 **principle as the earlier chart that does show that there**
23 **is a substantial amount of use during the winter months**
24 **when the ski season is on, and a corresponding reduction**
25 **during the summer months during the irrigation season.**

1 **I guess the only comment I would have on this**
2 **is in the court commissioner's calculation of total**
3 **stream flow he uses the sewer reading, which is a higher**
4 **reading than the actual amounts diverted into Alta and**
5 **Snowbird, because it takes some infiltration and other**
6 **flows that are coming out of the canyon. So this is an**
7 **actual measurement of the amount consumed by Alta and**
8 **Snowbird as measured through a culinary quality meter.**
9 **MR. NOVAK:** Thank you, Mr. Hooten. I have no
10 further questions.
11 **THE HEARING OFFICER:** Mr. Skeen, do you have
12 questions of Mr. Hooten?
13 EXAMINATION
14 **BY MR. SKEEN:**
15 Q. You have here at the head of on each chart, on
16 the right-hand side, 1,000 times billing unit, what did
17 you say is a billing unit?
18 **A. One billing unit is 748 cubic feet -- gallons.**
19 **I'm sorry.**
20 Q. 748 gallons?
21 **A. Uh-huh (affirmative).**
22 **UNIDENTIFIED SPEAKER:** That's 100 cubic feet,
23 Ed.
24 Q. The same on both the charts?
25 **A. Uh-huh (affirmative). Except I think on the**

1 **one chart it printed out the thousand on the scale,**
2 **where the other was a multiplier.**
3 Q. Referring to the first chart you identified
4 entitled "Little Cottonwood Exchange Ditches," on the
5 left-hand side you have acre feet, and then at the top
6 20,000, and then 15,000, 10,000, 5,000, and zero. What
7 records did you use to make these computations?
8 **A. These are records that were provided to me by**
9 **the irrigation division through the -- through our**
10 **hydrologist department.**
11 Q. Do you have a copy of those records with you?
12 **A. No.**
13 Q. Where are they?
14 **A. They are at our office at 1530 South West**
15 **Temple.**
16 Q. Did you know that for a period of many years
17 there were no operating measuring devices on the
18 Cahoon & Maxfield ditch system?
19 **A. No.**
20 Q. You didn't know that? All you know is that
21 you were furnished certain records?
22 **A. Yes.**
23 Q. That was from the Department of Natural
24 Resources?
25 **A. No, from the Department of Public Utilities.**

1 **UNIDENTIFIED SPEAKER:** May I explain something
2 here?
3 **MR. SKEEN:** Not right now.
4 Q. Who did the actual work in computing these
5 charts?
6 **A. The raw data comes through -- through our**
7 **hydraulics statistician and is compiled basically from**
8 **Ed Skeen -- not Ed Skeen -- Doug Skene. I'm sorry.**
9 Q. Who?
10 **A. Doug Skene.**
11 Q. That's S-k-e-n-e?
12 **A. E-n-e, uh-huh (affirmative).**
13 Q. Are you willing to make those records
14 available to us?
15 **A. Yes.**
16 Q. To see just how these computations were made?
17 **A. Yes.**
18 Q. We will have someone telephone and make --
19 **UNIDENTIFIED SPEAKER:** Could we take it one
20 step further? Could we obtain copies of the actual
21 field records upon which the measurements at this
22 supposed (inaudible) were recorded?
23 Q. When will they be made available?
24 **A. Upon request.**
25 Q. Do you know whether the chart that the, that

1 the first chart that you furnished is based on
2 measurements in second feet?
3 **A. Yes.**
4 Q. And computed to acre feet? Do you know
5 whether those measurements were made on Little
6 Cottonwood Creek as well as on the ditch systems of
7 these four irrigation companies?
8 **A. The measurements Mr. Higbee would make?**
9 Q. Yes.
10 **A. I don't see his records.**
11 Q. You don't know?
12 **A. No.**
13 **MR. SKEEN:** I think that's all. Do you have
14 anything else?
15 **MR. MURDOCK:** Yes. Mr. Higbee, is Salt Lake
16 City a regulated public utility?
17 THE WITNESS: No.
18 **MR. MURDOCK:** Is Salt Lake City incorporated
19 to be in the business of a public utility in marketing
20 water?
21 THE WITNESS: No.
22 **MR. NOVAK:** Salt Lake City is a municipal
23 corporation, and it is not subject to the regulation by
24 the Public Service Commission in the sale of its water
25 either to its inhabitants or its surplus waters outside

1 of its corporate boundaries.
2 **MR. MURDOCK:** Is it incorporated to be in the
3 business of water utilities?
4 **MR. NOVAK:** The statute authorizes Salt Lake
5 City to provide water to its inhabitants and to sell its
6 surplus waters beyond its corporate limits. It has
7 statutory authorization by the legislature to all
8 municipal corporations, including Salt Lake City.
9 **MR. MURDOCK:** The water that it sells outside
10 its corporate limits, is it only surplus water?
11 **MR. NOVAK:** That's correct. Surplus as to the
12 needs of the inhabitants of Salt Lake City.
13 **MR. MURDOCK:** Is it the intent of these sales
14 to comply with the State Division of Drinking Water's
15 regulations in such sales?
16 **MR. NOVAK:** Well, I would assume that Alta and
17 Snowbird must comply with those requirements.
18 **MR. MURDOCK:** Are you acquainted that those
19 regulations require that the service must supply
20 800 gallons per day per residential connection, and it
21 would not seem to me that surplus water is able to meet
22 that requirement, regulation.
23 **MR. NOVAK:** Excuse me. That is Alta and
24 Snowbird's concern. We have Mr. Kapaloski and
25 Mr. Veasy, counsel for both of those entities here, if

1 you -- if it's material here. I suppose they can answer
2 your question.
3 **MR. MURDOCK:** I think it is irrelative. We
4 are providing a supply for some place that is not able
5 to meet other State regulations. I think it is germane.
6 **MR. KAPALOSKI:** I can just answer this. This
7 is Lee Kapaloski, for the record. I can answer that
8 question quite simply. Both County Service Area
9 3-Snowbird and Alta Town are certified by the Bureau of
10 Public Water Supplies and approved systems.
11 **MR. MURDOCK:** That may be, but there is no
12 reference in their records of adequate water rights. I
13 have researched it.
14 **MR. KAPALOSKI:** I will state for the record,
15 the question was are they approved systems (inaudible)
16 the answer to that is affirmative.
17 **MR. MURDOCK:** This exchange, for the record, I
18 would like to simply point out, this exchange or this
19 sale or this continuance of it still does not meet the
20 regulations and requirements of the State Division of
21 Drinking Water in supplying Alta or Snowbird. I have
22 regulations here.
23 **MR. NOVAK:** I don't see your point,
24 Mr. Murdock, because as Mr. Kapaloski says both have the
25 necessary approval certification from the --

1 **MR. MURDOCK:** I am aware that they do. I am
2 also aware that it was a revelation to their director
3 very recently that there was no rights, water rights to
4 back it up.
5 **MR. NOVAK:** It seems to me we have these two
6 contracts that are the subject matter of this temporary,
7 these temporary change applications.
8 That's all that we have, if you are through
9 with Mr. Hooten. Unless, did you want to explain
10 something?
11 **UNIDENTIFIED SPEAKER:** One thing that Ed Skeen
12 mentioned here, and I disagree with, he said no
13 measuring devices. That, I disagree with. There are
14 measuring devices monitored on spot readings. There was
15 not recorders, but there were measuring devices. And
16 there is a big difference. There used to be a line when
17 we were on Cahoon & Maxfield No. 3, and it was a
18 measuring device and a satisfactory one. You guys
19 disagreed. They replaced it with another one.
20 **UNIDENTIFIED SPEAKER:** Let's disregard --
21 **UNIDENTIFIED SPEAKER:** There are measuring
22 devices, were measuring devices in all three of those.
23 **UNIDENTIFIED SPEAKER:** But by your argument
24 any place in any ditch or any creek is a measuring
25 device.

1 **UNIDENTIFIED SPEAKER:** It can be.
2 **UNIDENTIFIED SPEAKER:** It can be if you want
3 to use the appropriate equipment, but not in the normal
4 vernacular of a measuring device.
5 **MR. NOVAK:** Okay, you have made your
6 explanation, Mr. Higbee, and we will just let the
7 engineer sort it out.
8 **THE HEARING OFFICER:** Mr. Skeen, your
9 comments.
10 **MR. SKEEN:** Very well. I will ask Mr. Murdock
11 a few questions, and then I would like to make a
12 statement.
13 BOB MURDOCK,
called as a witness, having been duly sworn, was
15 examined and testified as follows:
16 EXAMINATION
17 **BY MR. SKEEN:**
18 Q. Mr. Murdock, were you employed by the water
19 irrigation company to make a study of the records of the
20 State Engineer to see what water rights records were in
21 the name of Salt Lake City?
22 **A. I was.**
23 Q. And what did you do in response to that
24 employment?
25 **A. Particularly in reference to water rights on**

1 **and about Little Cottonwood Creek?**
2 Q. Yes.
3 **A. In response to that I made a very detailed**
4 **study of the records of the State Division of Water**
5 **Rights, the State Engineer's Office, and to try to**
6 **determine what rights were of record, if any, for Salt**
7 **Lake City in that drainage. We looked in all of the**
8 **logs and the files of the State Engineer's office for**
9 **source information, the computer base and the logs of**
10 **filings and change applications.**
11 **The thing that we found was, number one, a**
12 **change application A746 that was filed March 28th, 1921,**
13 **by Salt Lake City, related to the Cahoon & Maxfield**
14 **Irrigation Company. The change application was for 60**
15 **second feet. It listed a point of diversion that was to**
16 **be the proposed Little Cottonwood conduit point of**
17 **diversion. That point of diversion was later moved some**
18 **1,000 feet and no further change was made. The change**
19 **was at a time that no proof was required. However, the**
20 **change was subsequently superseded by change application**
21 **A1175, and by memorandum in the State Engineer's files**
22 **it states that A746 is considered modified and**
23 **superseded by A1177.**
24 **On May 29th, 1931, other water rights**
25 **agreements were signed with the other three companies**

1 **involved here, and on September 4th, 1931, Salt Lake**
2 **City Corporation listed itself as agent for each of the**
3 **four irrigation companies and filed change application**
4 **numbers A1174 through A1177. These were based on the**
5 **agreements with the companies. The quantities listed**
6 **were 30 cfs under 1174, 55 cfs under 1175, 16 cfs each**
7 **under 1176 and 1177. The four change applications**
8 **listed, two new points of diversion, which were the**
9 **Murray City power diversion and the Little Cottonwood**
10 **conduit diversion point.**
11 **In explanation on each of the changes it was**
12 **said that the City seeks to change the right of the**
13 **primary rights only. However, the quantity listed for**
14 **the four changes was 117 second feet, which exceeds the**
15 **94.79 cfs of total primary right as listed in the**
16 **decree.**
17 **The explanatory on each line also allows for**
18 **the change to be suspended at times and the waters to be**
19 **diverted and used as heretofore by the irrigation**
20 **companies. Waters were diverted under these changes for**
21 **many years. Proof was never filed on these changes,**
22 **even though the conduit was built and the diversions**
23 **were made and water was conveyed, and all four filings**
24 **lapsed on March 28th, 1983, and there are no approved**
25 **changes in force for Salt Lake City to use the water**

associated with the four agreements.

There was change application A1239 on June 1st, 1933, Salt Lake City Corporation filed a change, change of point of diversion place and nature of use .65 cfs awarded in the Morse decree to the Brady ditch No. 2. (The audio ceased on side B of tape No. 1. We are now hearing audio from side A of tape No. 2.)

The change involved .10 cfs at primary right and .55 cfs at secondary right and in effect enlarged the right to .65 cfs of year-round use for municipal, domestic and stock water.

A certificate was issued on that, certificate No. 37, on June 27th, 1935. Salt Lake City filed applications A11370 and A11487. These were filed on May 27th, 1933 and December 15th, 1933. One was for 5 cfs. The other was for 3 cfs. These were filed based upon to appropriate the savings of seepage and evaporation by the exchanges upstream of the -- that was to be realized by the change applications, the four change applications of the irrigation companies, water companies. In other words, these two applications are based upon the four change applications that have lapsed.

Certificates were issued for these two applications. They are numbers 4219 and 5870. They

were issued on March 29th, 1960. Also, application A34942 was filed by the Metropolitan Water District of Salt Lake on February 19th, 1963. It is for a dam about 410 feet high, to store about 500,000 acre feet near the mouth of Little Cottonwood Canyon. The application is unapproved.

MR. NOVAK: It was 500,000?

THE WITNESS: 400,000 acre feet.

MR. NOVAK: My memory is that I filed it, and it was for 60,000.

THE WITNESS: Well, somebody made a typo error and listed 500,000 acre feet, Joe.

MR. NOVAK: That would be the mother of all dams.

THE WITNESS: 410-foot high is a very high dam and a very short reservoir at that location, and built on moraine I don't think it would give it much chance of being successful. Anyway, it's unapproved.

That's the summary of what is of record in the State Engineer's office of water rights and changes relating to Salt Lake City and Little Cottonwood Canyon. Nothing for diversions for Alta or Snowbird are of record.

Q. Do you have copies in your file of the four change applications?

A. I do have.

Q. I wonder if you would produce them?

THE HEARING OFFICER: Off the record while he is finding those.

(An off-the-record discussion was held.)

MR. SKEEN: Bob, can you read from the applications the rights, description of the rights sought to be changed?

THE HEARING OFFICER: The description of the right to be changed, well, the name of the applicant is listed here as Salt Lake City Corporation agent, and it lists an address of Salt Lake City, Utah. The flow is 30 second foot, and the Utah Lake/Jordan River drainage. The direct source of supply is Little Cottonwood Creek in Salt Lake County. The point of diversion, do you need the detail of the point of diversion?

MR. SKEEN: No, that won't be necessary.

THE HEARING OFFICER: The water involved has been used for the following purposes: Culinary and irrigation on lands in sections, with several sections. This is change application A1174.

MR. SKEEN: Do you find anywhere a description of the water rights sought to be changed? I have a copy here.

THE HEARING OFFICER: It simply lists the

decree, the one word "decree" is listed there, and that doesn't state what decree, it simply says "decree" on all four change applications.

MR. SKEEN: And on the bottom of the third page do the words appear "City Engineer for Salt Lake City Corporation agent for Richards Irrigation Company" or the others?

THE HEARING OFFICER: "City Engineer for Salt Lake City Corporation agent for Richards Irrigation Company" is what that one reads.

MR. SKEEN: And does the same writing appear on the other three?

THE HEARING OFFICER: It does on that one and that one. It does on at least three of them. My copies are not very good. It could say that here. The copies are not very good. It does on at least three of them.

Q. When you made your search of the records in the State Engineer's Office did you examine a deed file showing recorded deeds conveying water rights?

A. We examined every file that we knew to be possible in the State Engineer's Office. We had the assistance of Dorothy Bolton in finding what places there were records. I don't -- I think there was one that was called a deed file. I know we examined a log of applications and change applications, and there was

another file, and it very well could have been a deed file, but I don't know positive for sure.

Q. Do you know whether the State Engineer, as required by law, maintains a file for water deeds?

A. I know that the State Engineer is the office of record of water rights in this state, yes, and that he does. I do know that copies of deeds are often in the files, the various files of projects, or of water rights, showing transfer of title from one owner to another.

Q. Did you find any reference in anything you examined that showed any deeded water rights to Salt Lake City?

A. No, I didn't, not in Little Cottonwood Canyon, no. There were many, many other filings elsewhere in the valley that we investigated each one until we found either its location or it was an underground source or something that would eliminate it from applicability to the questions involved.

Q. You found no deeds?

A. No deeds.

Q. From the four irrigation companies to Salt Lake City?

A. That's correct.

Q. We have been in this hearing for from 3:00

until seven minutes to five, and we have had 15 minutes. I would like permission to review the records that they indicated will be made available to us, and we would like to have another, a further hearing on the other problems involved.

MR. NOVAK: I would object to that, Mr. Morgan. These are temporary change applications. What Mr. Skeen is requesting I think is simply delay. The action by the State Engineer, this is the time set for the hearing, and I am prepared to go until midnight if we have to, but I think we ought to finish the hearing. If Mr. Skeen wanted to look at our records he could have made his request earlier. So I would resist a continuance of the hearing. I think we ought to take it through to its conclusion and the State Engineer make his decision.

MR. SKEEN: It is a little amusing to me sitting here to hear Counsel make that statement about delay when these contracts were made one in 1921, 70 years, 71 years ago. The others were made in 1930. No change application has been filed on any of them since, until after this litigation was commenced, and that was on May 30th of 1992. He is complaining about delay. I say it is amusing to me.

THE HEARING OFFICER: How long would it take

you to review the record?

MR. SKEEN: Well, I would like to have a couple of weeks.

UNIDENTIFIED SPEAKER: May I ask a question?

UNIDENTIFIED SPEAKER: No, just a minute.

THE HEARING OFFICER: I think in the essence of the temporary change applications that's a little long. How long would it take you to produce the records for Mr. Skeen?

MR. HIGBEE: Probably take more than a week to do that, to get them all together. If I may make this statement, as long as I have been with the Salt Lake City Water Department, and I have been 30 some odd years --

UNIDENTIFIED SPEAKER: I thought you were the river commissioner.

MR. HIGBEE: I was the court commissioner since 1979. I have also worked for Salt Lake City, as a water rights specialist now, and I used to be involved with irrigation. But as long as I have worked with Salt Lake City the ditch companies controlled the amount of water they received. I don't see what the amount has to do anything with it. They don't control how much they put in their system. They have taken what they can use or more. I don't know. But they have taken through

their system what they could use, and what difference is that going to make?

MR. NOVAK: I take it, Mr. Skeen, you wanted to review the records to verify the accuracy of this chart?

MR. SKEEN: That and for other reasons. And as far as the law is concerned, I would like to make a statement on the law, and I have hurriedly reviewed these cases you have cited. None of them are in point. And I would like to go back to the law as it was when these contracts were made and the change applications should have been filed, and that, I don't want to be put in a position of trying to be forced to make a legal statement in five minutes or three minutes. I think it is unfair to me personally. I think I should have full opportunity to review the hour and a half submission that was made by the applicant.

Further, I would like to add one statement that I don't think the State Engineer has any authority to pass on legal questions as to whether Salt Lake City acquired a water right or merely acquired the right to supply water as separate from the water right. I have been in the business for something like 60 years, and I have heard many arguments like the one Mr. Novak made, confusing water and water rights. You can't file a

1 change application on water itself. It has to be on
2 water rights. And that's a legal question that the
3 State Engineer I think should look at. He has no
4 authority under the law to pass on it.
5 **THE HEARING OFFICER:** Would you gentlemen give
6 me a couple minutes with counsel? Conferring with
7 counsel, at least it's my opinion that, first of all,
8 the State Engineer is holding this hearing really just
9 as a courtesy. We are really not required to hold
10 hearings considering temporary change applications. I
11 think it would be my decision that we should continue
12 with the hearing tonight. We would ask that Salt Lake
13 City make available to Mr. Skeen all of the records so
14 he can make an examination, and if you wish submit to
15 our office in writing a statement to supplement the
16 record no later than the 1st of July. And I would
17 extend the same courtesy to Mr. Novak and Salt Lake City
18 if you wish. So we will continue with the hearing.
19 **MR. SKEEN:** Will those records be furnished to
20 me --
21 **MR. NOVAK:** You will have to send someone down
22 to review them. They are too extensive. Aren't they,
23 LeRoy?
24 **MR. HOOTEN:** I would imagine. (Inaudible.)
25 **UNIDENTIFIED SPEAKER:** I will have to make

1 time.
2 **THE HEARING OFFICER:** I would ask Salt Lake
3 City, you know, I realize you are under certain
4 constraints, too, but I think there is a time element
5 here, and if it requires that your consultant and the
6 City extend the hours just a little bit that I would ask
7 your indulgence in doing that.
8 **UNIDENTIFIED SPEAKER:** Would they contact you,
9 LeRoy?
10 **MR. HOOTEN:** Yes, please, and I will make the
11 arrangements. 483-6768.
12 **MR. NOVAK:** Mr. Morgan, you are concluding the
13 hearing subject only to submission of statements by
14 Mr. Skeen or even us based on the review of the records?
15 **THE HEARING OFFICER:** No, I am not concluding
16 the hearing. If there are other things that you want to
17 talk about, we can keep on going. What I am saying is
18 as far as Mr. Skeen's request to be able to examine the
19 record and then, or continue the hearing until a later
20 date, come in and let him examine the record and then
21 reconvene the hearing, I don't think, I am not going to
22 allow that. What I am saying is we will keep going with
23 the hearing right now. He can supplement the record and
24 would have until the 1st of July to do that.
25 **MR. NOVAK:** Very good.

1 **THE HEARING OFFICER:** For the record, the 1st
2 of July is Tuesday, and you would have until 5:00,
3 closing hour. Does anyone need to stretch their legs?
4 Do we need to take five minutes or do you want to keep
5 going?
6 **MR. SKEEN:** Well, I think I would like to make
7 a brief statement on the law, and then reserve anything
8 on the facts until after I hear from Bob.
9 **THE HEARING OFFICER:** Okay.
10 **MR. SKEEN:** The law in effect in 1921 and
11 1931, '33 is regarding the transfer of water rights in
12 Section 16 of Chapter 67, Laws of Utah, 1919, it
13 provides, water rights shall be transferred by deeds in
14 substantially the same manner as real estate except when
15 they are represented by shares of stock in a
16 corporation, and such deeds shall be recorded in books
17 kept for that purpose in the office of the recorder of
18 the county where the place of the diversion of water
19 from its natural channel is situated and in the county
20 where the water is applied. Every deed of water right
21 so recorded shall from the time of filing the same with
22 the recorder for record impart notice to all persons of
23 the contents thereof and subsequent purchasers,
24 mortgagees and lienholders shall be deemed to purchase
25 and take with notice.

1 That section was later changed to require a
2 copy to be filed in the office of the State Engineer of
3 the State of Utah. At the same time Section -- let's
4 see -- permitted the exchange of water, that's Section 9
5 of Chapter 67, Laws of Utah, 1919, application in
6 writing and approval of the State Engineer any
7 appropriated water may be returned into the channel of
8 any natural stream or natural body of water or into a
9 reservoir constructed across the bed of any natural
10 stream and (inaudible) with this water and then be taken
11 out either above or below the point where emptied into
12 the stream, body of water or reservoir, but in so doing
13 the original water and such stream, body of water or
14 reservoir must not be deteriorated in quality or
15 diminished in quantity and the additional water turn
16 shall bear its share of lots by evaporation and seepage
17 and of said maintenance of said reservoirs and equitable
18 proportion of the cost of the reservoir site and the
19 construction.
20 For the first time Salt Lake City has a record
21 claiming title to the water rights by these exchange
22 agreements. I think a fair reading of all four
23 contracts makes it clear that they were for exchange of
24 water only and not water rights. In fact, provision
25 after provision would support that statement.

1 The Supreme Court has held that the transfer
2 by -- of a water right must be by deed. It says
3 "shall," and it's a mandatory provision of the law, and
4 after filing a change application in 1931 and making
5 numerous requests for extensions of time, naming
6 themselves as agent only, they now come up and say that
7 they owned the water rights. Even if they owned the
8 water rights there is no change application filed on the
9 water for use in Snowbird and Alta, and no change of the
10 water rights for use outside of Salt Lake City.
11 The section or the application Bob mentioned a
12 few minutes ago, A746, which was filed as I remember
13 somewhere around 1921 or '22, that states in the
14 application itself that the use of the water shall be in
15 Salt Lake City. And the City has, by signing all these
16 documents, plainly indicated the intent to treat that as
17 merely an exchange of water and not the transfer of
18 water rights themselves. That legal question is being
19 litigated at present. The City must take it fairly
20 seriously, because this is -- this is one of the
21 pleadings filed by Salt Lake City in the case.
22 **MR. NOVAK:** I will stipulate that Salt Lake
23 City takes this case very seriously, Mr. Skeen.
24 **MR. SKEEN:** I am sure they take it seriously.
25 I am just showing how serious they take it to file a

1 pleading this thick.
2 Anyway, I feel very strongly that we are right
3 on the question of law, and I have got a case before the
4 Supreme Court right now involving the question as to
5 whether the State Engineer can for any purpose determine
6 ownership of water rights. That's pending right now. I
7 think there is a lot of support for our position on
8 that, and I intend to pursue it.
9 I think if we handle it in an orderly way we
10 ought to await the decision of the court in this case to
11 determine the meaning of that contract and not start
12 making temporary, a temporary change in three cases
13 about 60 years after the proposed -- or the change they
14 relied on was made and the other 70 years.
15 I know and you no doubt are aware they also
16 filed four exchange applications, and they were filed 60
17 and 70 years late, and for some reason they have done
18 all of this to cover up for what they didn't do 60 or 70
19 years ago. I am personally convinced that Salt Lake
20 City does not own any of these water rights, and that it
21 is subterfuge to argue the contrary.
22 With the State's Engineer's permission I will
23 submit a brief statement distinguishing these cases
24 Counsel has cited.
25 **THE HEARING OFFICER:** Okay.

1 **MR. SKEEN:** I think in one of the memoranda
2 that Salt Lake City has contended that those change
3 applications were really exchanges. They were filed in
4 1921 and 1931. And I happen to recall, I have looked it
5 up to verify it, that there was no blank change
6 application form in the State Engineer's Office until
7 1937 or 1938, and I prepared the form while I was
8 counsel for the State Engineer. And that is stated in
9 the State Engineer's biannual report for the years '36
10 to '38. I think I have got the page number. They
11 weren't exchanges and wouldn't be proper exchanges, they
12 were simply change applications.
13 In the State Engineer's biannual report for
14 1936 to '38, page 41, it states, quote, "Not until the
15 current biennium, however, were blanks prepared and made
16 available for specific use in making exchange
17 applications."
18 We will, subject to our right to review the
19 records and make a further statement in writing, we will
20 submit the matter.
21 **THE HEARING OFFICER:** Okay. Anyone else of
22 your group want to make a statement?
23 **MR. WITTERBERG:** I would like to make a
24 couple, please.
25 **THE HEARING OFFICER:** Okay, identify yourself,

1 please.
2 **MR. WITTERBERG:** Marv Witterberg, Richards
3 Irrigation. In reference to Mr. Novak stating cases and
4 where there had been no default with Salt Lake City I
5 would say that the fact that they have taken a portion
6 of that water that Alta and Snowbird is in fact to
7 default. They have taken that which is a tributary to
8 the creek and sold it to Alta and Snowbird, then at the
9 bottom of the canyon measure that sewage and add it back
10 in to the total flow of the stream. That portion that
11 they have already taken up there should have been a
12 portion of the stream usable. So I submit, Mr. Novak,
13 that you have defaulted in the fact that you have taken
14 that water.
15 Then I would argue with you also, I find no
16 place in my agreement that gives you one year to correct
17 the situation. It says 48 hours, not one year. I have
18 reviewed this several times, gone through it just now,
19 and it is not one year.
20 I think in the matter of as far as wasting
21 more time I will conclude with that. But I would just
22 like to put that point in, the fact that they have
23 defaulted where they have taken our water, and our
24 agreement states that they should protect our water
25 rights at all times, and they have not done that by

1 taking that water up there.
2 **UNIDENTIFIED SPEAKER:** I would like to make
3 one additional comment. The temporary change
4 application lists currently the places of use, and it
5 refers to an attachment 3, which is a map that shows all
6 of Salt Lake City and other areas within Salt Lake
7 County. As of right now the exchange application is
8 simply an advertisement to make that legal. They are by
9 this change application asking a change on something
10 that is not yet legally approved by the State Engineer's
11 Office, and I think on -- I don't know a point of law,
12 but on a technicality it seems like getting the cart
13 before the horse.
14 **THE HEARING OFFICER:** Questions of the
15 protestants?
16 **MR. NOVAK:** No questions. I just want to make
17 a very, very short response to what has been presented.
18 **THE HEARING OFFICER:** Okay. Do we want to go
19 into summation?
20 **MR. SKEEN:** I think we will submit it. Do you
21 have any questions? Do you, Tony?
22 **THE HEARING OFFICER:** Go ahead, Mr. Novak.
23 **MR. NOVAK:** Mr. Witterberg, if you look at
24 paragraph 4 of your exchange agreement that covers the
25 default provision.

1 I just want to comment, Mr. Morgan, that the
2 Salt Lake City has demonstrated that it is entitled to
3 the use of water to meet the requirement of 73-3-3 for
4 the purpose of making this change. There has been
5 absolutely no evidence to show that making the exchange
6 will impair any existing rights, either the rights of
7 the protestants or anyone else on the system. In fact,
8 the evidence conclusively shows that there will be no
9 impairment.
10 Under the law, and I am sure Mr. Quinney
11 advised you on it, all the State Engineer is required to
12 do is to find reason to believe that the temporary
13 change can be approved without impairing existing
14 rights. And I think the record is replete with that
15 sort of evidence, and we think after Mr. Skeen responds
16 that the temporary changes must be approved.
17 **THE HEARING OFFICER:** Okay. Change of heart,
18 Mr. Skeen?
19 **MR. SKEEN:** I will submit the matter.
20 **THE HEARING OFFICER:** Okay. Thank you. No
21 other statements, we will conclude the hearing at this
22 time, again reminding you that the record will stay open
23 for written comments until 5:00 p.m. 1st of July, 1992.
24 Thank you, gentlemen.
25 (End of side A of tape 2.)

C E R T I F I C A T E

I, BRAD J. YOUNG, hereby certify that I personally appeared at the Utah Division of Water Rights, Department of Natural Resources, in their office, on December 23, 2011, and there transcribed the electronic recording from tapes on file in their office of the proceedings dated June 22, 1992, in the above-entitled and numbered matter, and that the foregoing is a true and correct transcription, except where it is indicated that the recording was inaudible, to the best of my understanding, skill and ability on said date.

Dated at Salt Lake City, Utah, this 9th day of January, 2012.

BRAD YOUNG
COURT REPORTER

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LEROY W. HOOTON, JR.
DIRECTOR

JOSEPH S. FENTON
SUPERINTENDENT, WATER RECLAMATION

WENDELL E. EVENSEN, P.E.
SUPERINTENDENT
WATER SUPPLY & WATERWORKS

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY & WATERWORKS
WATER RECLAMATION
1530 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

PALMER DEPAULIS
MAYOR

November 19, 1987

Mayor Palmer DePaulis
5th Floor, City Hall
324 South State
Salt Lake City, UT 84111

Dear Mayor DePaulis:

At your PAC meeting, held Tuesday, October 6, 1987, Wendell Evensen presented the concept of using water, which the Salt Lake County Service Area No. 3 - Snowbird receives under its water supply agreement with Salt Lake City Corporation, for snowmaking on their ski slopes. Since this snow would ultimately return to the creek to form a part of Salt Lake City's water supply and since Snowbird would use portable above-ground piping in their snowmaking project you felt at that time that snowmaking could be permitted.

Since that time both Snowbird and the Town of Alta have requested permission to use their water supplies for the purpose of making snow on their ski slopes. In accordance with your decision at the PAC meeting we are giving both Snowbird and the Town of Alta permission to proceed with their snowmaking activity, under the provisions of the existing water supply agreements.

Since a study developed for the Colorado Ski Country in 1986 indicates that there will be a consumptive loss of six percent in the snowmaking operation we will require that percentage of the water used in the snowmaking process to be paid for by those entities.

If you have any questions please contact me, phone 483-6768.

Sincerely,

LeRoy W. Hooton

LEROY W. HOOTON, JR.
Director

WEE:dt

17:31

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Recorded at Request of Robert D. Maack DEC 21 1976

at 10 55 A.M. Fee Paid $3.60 Katie L. Dixon, Salt Lake County Recorder

by Cheryl Warrington Dep. Book ..... Page ..... Ref.: .....

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WARRANTY DEED

(Special)

PAUL R. PEDERSEN and DOROTHEA G. PEDERSEN, his wife, grantors of Salt Lake City, Salt Lake County, State of Utah hereby CONVEY AND WARRANT against all claiming by, through or under said Grantors or any others in their record chain of title to ROBERT D. MAACK and JUDITH D. MAACK, his wife, grantees of Salt Lake City, Salt Lake County, State of Utah for the sum of TEN DOLLARS ($10.00) and other good and valuable --------- DOLLARS, consideration the following described tract of land in Alta, Salt Lake County, State of Utah all of their right, title and interest presently existing or hereinafter acquired to that certain real property located in Alta, Utah, to said Grantees, and more particularly described as follows, to wit:

A portion of Cecret No. 1 Lode Mining Claim designated by the surveyor general as Survey No. 5803 embracing a portion of Township 3 South, Range 3 East of the Salt Lake Meridian and in the Little Cottonwood Mining District, Salt Lake County, Utah:
Commencing at a point which is 529.71 feet South and 197.23 feet East from corner No. 1 of said Cecret No. 1 Lode Mining Claim (which corner bears South 5°12' West 64.5 feet from a pine tree which was blazed and scribed B.T. 1-5803 in 1905 at the time of location of said claim); and running thence South 2°10' West 234.50 feet, more or less, to the side line of said claim; thence North 37°26' East 157.60 feet along the side line of said claim; thence North 38°32' West 139.60 feet to the point of beginning. Subject to and together with a right of way over existing roadways, and rights of way for all future roadways,

(Please see over)

WITNESS, the hands of said grantors, this ..... day of ....., A. D. 19 76.

Signed in the Presence of

Paul R. Pedersen
Paul R. Pedersen

Dorothea G. Pedersen
Dorothea G. Pedersen

STATE OF UTAH, } ss.
County of Salt Lake

On the ..... day of ....., A. D. 19 76 personally appeared before me PAUL R. PEDERSEN and DOROTHEA G. PEDERSEN the signers of the within instrument, who duly acknowledged to me that they executed the same.

Luella Fred
Notary Public.

My commission expires March 30, 1979 Residing in Salt Lake City, Utah

BLANK No. 104 — © GEM PTG. CO. — 3219 SO 2600 EAST — SALT LAKE CITY

BOOK 4428 PAGE 1398

(Continued from other side)

Water lines, power lines and all utilities as the same may be constructed for the complete development of said mining claim.

Together with a perpetual easement and right of way over Cecret Nos. 2, 3, 4 and Cole Lode Mining Claims for the purpose of exercising all littoral, riparian and shore rights in any way belonging to or pertaining to Cecret Lake (also known as Lake Flora) located on said mining claims for the purpose of exercising the full, free and uninterrupted right of fishing, boating, skating, swimming, skiing and all other rights connected with said lake, such rights to be exercised in common with other grantees of said grantors.

4428 1399

12/18/98 FRI 09:15 FAX 801 467 4108

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File Setup Font Size Help

VTDI 30-09-176-019-0000 DIST 40D

MAACK, ROBERT D & JUDITH D

PRINT P UPDATE

LEGAL

TAX CLASS NE

EDIT 1 FACTOR BYPASS

TOTAL ACRES	0.23
REAL ESTATE	20000
BUILDINGS	0
MOTOR VEHIC	0
TOTAL VALUE	20000

4326 E WHITE WY

SALT LAKE CITY UT 84124343026

EDIT 1 BOOK 4428 PAGE 1398 DATE 00/00/0000

LOC: 11060 E SECRET RD

TYPE UNKN PLAT

SUB:

12/17/1998 PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY

COM 529.71 FT S & 197.23 FT E FR COR NO 1 OF CECRET NO. 1 LODE MINING CLAIM, S 2¬10' W 234.5 FT; N 37¬26' E 157.6 FT; N 38¬32' W 139.6 FT TO BEG. 0.23 AC

PFKEYS: 1=VTNH 2=VTOP 4=VTAU 6=NEXT 7=RTRN VTAS 8=RXMU 10=RXBK 11=RXPN 12=PREV

01/007

TN 297

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10

This document contains limited information regarding the property described herein and is delivered solely as an accommodation to the recipient.

Landmark Title Company assumes no liability for the variance, if any, between this limited information and any information disclosed by a title report or policy of title insurance.

9210951
10/29/2004 11:37 AM $12.00
Book - 9054 Pg - 6792-6793
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
RICHARD BRADLEY
4925 S WASATCH BLVD STE 250
SLC UT 84121
BY: ZJM, DEPUTY - WI 2 P.

WHEN RECORDED MAIL TO:
Kevin Tolton
1454 Skyline Drive
Bountiful, Utah 84010

QUIT CLAIM DEED

FOR VALUABLE CONSIDERATION, receipt of which is acknowledged, We, Kevin Tolton and Emily Tolton, QUIT CLAIM to: Albion Basin Properties, LLC, the following described real property in the County of Salt Lake, State of Utah.

SEE EXHIBIT "A"

Executed on 21st day of October, 2004, at Salt Lake City, Utah.

Kevin Tolton

Emily Tolton

} STATE OF UTAH
ss. }
} COUNTY OF SALT LAKE

On this 21st day of October, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Kevin Tolton and Emily Tolton personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed it.

WITNESS my hand and official seal.

Notary Public in and for said State

EXHIBIT "A"

A Portion of Cecret No 1 Lode Mining Claim designated by the Surveyor General as Survey No. 5803 embracing a portion of Township 3 South, Range 3 East of the Salt Lake Meridian, and in the Little Cottonwood Mining District, Salt Lake County, Utah.

Commencing at the corner No. 1 of said Cecret No. 1 Lode Mining Claim (which corner bears South 5 degrees 12' West 64.5 feet from a pine tree which was blazed and scribed B.T. 1 – 5803 in 1905 at the time of location of said claim); and running thence South 52 degrees 34' East 233 feet along the end line of said claim; thence South 71 degrees 08' West 222.26 feet to the middle of Little Cottonwood Creek; thence North 6 degrees 46' East 215 feet to the point of beginning.

Subject to and together with a right of way over existing roadways, and rights of way for all future roadways, water lines, power lines and all utilities as the same may be constructed for the complete development of said mining claim. Together with a right of way from existing right of way to described property, sufficient for travel and access.

Parcel No. 30-19-176-009

WHEN RECORDED MAIL TO:

KEVIN AND EMILY TOLTON

4326 WHITE WAY

SALT LAKE CITY, UTAH 84124

8445829
12/05/2002 09:10 AM 12.00
Book - 8697 Pg - 4303-4304
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
LANDMARK TITLE
BY: ZJM, DEPUTY - WI 2 p.

8445829

Quit-Claim Deed

LINDA G. LAWYER

grantor

of Phoenix, County of, State of ~~Utah~~ Arizona, hereby QUIT-CLAIM to

KEVIN TOLTON AND EMILY TOLTON, HUSBAND AND WIFE AS JOINT TENANTS

grantee

of SALT LAKE CITY, UTAH for the sum of

TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION DOLLARS,

the following described tract of land in SALT LAKE County, State of Utah:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

TAX PARCEL # 30-09-176-009

COURTESY RECORDING

This document is being recorded solely as a courtesy and an accommodation to the parties named therein. LANDMARK TITLE COMPANY hereby expressly disclaims any responsibility or liability for the accuracy or the content thereof.

NOTARY SEAL NOT LEGIBLE
• CO RECORDER •

WITNESS the hand of said grantor, this day of, A.D. one thousand nine hundred and

Signed in the presence of

Linda G. Lawyer

STATE OF ~~UTAH~~ Arizona
County of Maricopa } ss.

On the 29th day of November, 2002 A.D. ~~one thousand nine hundred and~~ personally appeared before me

Linda G. Lawyer

the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

CHRISTINA MONTENEGRINO
Notary Public - Arizona
Maricopa County
My Commission Expires
December 7, 2005

Notary Public.

My commission expires Dec. 7, 2005

Address:

BK8697PG4303

EXHIBIT "A"

A Portion of Cecret No 1 Lode Mining Claim designated by the Surveyor General as Survey No. 5803 embracing a portion of Township 3 South, Range 3 East of the Salt Lake Meridian, and in the Little Cottonwood Mining District, Salt Lake County, Utah.

Commencing at the corner No. 1 of said Cecret No. 1 Lode Mining Claim (which corner bears South 5 degrees 12' West 64.5 feet from a pine tree which was blazed and scribed B.T. 1 – 5803 in 1905 at the time of location of said claim); and running thence South 52 degrees 34' East 233 feet along the end line of said claim; thence South 71 degrees 08' West 222.26 feet to the middle of Little Cottonwood Creek; thence North 6 degrees 46' East 215 feet to the point of beginning.

Subject to and together with a right of way over existing roadways, and rights of way for all future roadways, water lines, power lines and all utilities as the same may be constructed for the complete development of said mining claim. Together with a right of way from existing right of way to described property, sufficient for travel and access.

BK8697PG4304

VTDI 30-09-176-009-0000 DIST 40D TOTAL ACRES 0.49

TOLTON, KEVIN & TAX CLASS UPDATE REAL ESTATE 20000

EMILY; JT LEGAL BUILDINGS 0

PRINT P TOTAL VALUE 20000

** PROTECTED ADDRESS **

EDIT 1 FACTOR BYPASS

LOC: EDIT 1 BOOK 8697 PAGE 4303 DATE 12/06/2002

SUB: TYPE UNKN PLAT

10/29/2003 PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY

BEG AT COR NO. 1 OF CECRET NO. 1 LODE MINING CLAIM, S 6¬46' W 215 FT; N 71¬08' E 222.26 FT; N 52¬34' W 219 FT M OR L TO BEG. 0.49 AC. 4956-0090 5991-0164 6499-0776

PFKEYS: 1=VTNH 2=VTOP 4=VTAU 6=NEXT 7=RTRN VTAS 8=RXMU 10=RXBK 11=RXPN 12=PREV

EXHIBIT 1
(Warranty Deed Properties)

The following mining claims located in the Big Cottonwood Mining District and the Snake Creek Mining Districts in Salt Lake County, State of Utah and Wasatch County, Utah.

KIMBALL NO. 1, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 2, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 3, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 4, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 5, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 6, U.S. MINERAL SURVEY NO. 5744

EXCEPTING THEREFROM its conflict with Mineral Survey 3709, 3713, 3721 and 3725.

DAWN, U.S. MINERAL SURVEY NO. 3709
FULL MOON, U.S. MINERAL SURVEY NO. 3717
MY O MY, U.S. MINERAL SURVEY NO. 3718
VALPARAISO, U.S. MINERAL SURVEY NO. 3720
SURE THING, U.S. MINERAL SURVEY NO. 3721
W.S. HANCOCK NO. 2, U.S. MINERAL SURVEY NO. 3725

EXCEPTING THEREFROM its conflict with Mineral Survey 37, 116 and 123.

AMAZON, U.S. MINERAL SURVEY NO. 27

LEGGETT, U.S. MINERAL SURVEY NO. 116

RELIEF, U.S. MINERAL SURVEY NO. 123

EXCEPTING THEREFROM its conflict with Mineral Survey No. 116.

JACK MINE, U.S. MINERAL SURVEY NO. 3788

EXCEPTING THEREFROM its conflict with Mineral Survey No. 3786.

ALL RIGHT, MINERAL SURVEY NO. 3719
W.S. HANCOCK, MINERAL SURVEY NO. 3724

and YELLOW JACKET, MINERAL SURVEY NO. 3712, lying West of a straight line extending South 27E45' East from corner No. 4 of Emperior lode mining claim Lot No. 53 to a point on the West end of the Valderbilt lode mining claim Lot No. 3453, a distance of about 1100 feet.

EXCEPTING THEREFROM its conflict with Mineral Survey No. 53, 3708, 3709, 3710 and 3717.

That portion of Magnet Mineral Survey No. 3787 lying Southwesterly of the following described line:

Beginning at corner No. 2 of the Legget - 116, thence North 37E36' West 414.2 feet to a point on the Magnet line between Magnet corner No. 1 and No. 4.

* * *

EXHIBIT A

Patented mining claims, located in Sections 35 and 36, Township 2 South, Range 3 East, Sections 1,2, 3, 9, 10, 11,12, 14, 15, and 16 Township 3 South, Range 3 East, and Sections 6 and 7, Township 3 South, Range 4 East, Salt Lake Meridian of the Big Cottonwood, American Fork and Snake Creek Mining Districts in the Salt Lake, Utah and Wasatch Counties, Utah, to-wit:

ACUSHNETT, Mineral Survey No. 3711
AGATHOS No. 15, Mineral Survey No. 6230
AGATHOS No. 16, Mineral Survey No. 6230
AGATHOS No. 18, Mineral Survey No. 6230
AGATHOS No. 19, Mineral Survey No. 6230
AGATHOS No. 20, Mineral Survey No. 6352
AGATHOS No. 21, Mineral Survey No. 6230
ALLEN, Mineral Survey No. 4612
ALPINE, Mineral Survey No. 3790
ALTA, Mineral Survey No. 4597
ANGLER, Mineral Survey No. 5607
BERNALD, Mineral Survey No. 5804
BERRY, Mineral Survey No. 3716
BIG BAN, Mineral Survey No. 5745
BIG DAN, Mineral Survey No. 5745
BOLLIVER NO.2(6591)
BRIGHTON, Mineral Survey No. 147
BROOKLING Mineral Survey No. 6133
BROOKLYN Mineral Survey No.2,6133
CARNEGIE, Mineral Survey No. 5595
CATHERINE, Mineral Survey No. 148
CENTURY COPPER, Mineral Survey Numbers 2 and 3, Mineral Survey No. 4902
CLARK, Mineral Survey No. 4715
CLIMAX, Mineral Survey No. 4597
COPPER BOTTOM Mineral Survey No. 6261
COPPER BOTTOM No. 1, Mineral Survey No. 6261
DAYLIGHT, Mineral Survey No. 3710
DECATUR, Mineral Survey No. 4612
DEFENDER, Mineral Survey No. 3686 (AM)
EDWARDS, Mineral Survey No. 6195
ELLEN, Mineral Survey No. 5745
EMPEROR, Mineral Survey No. 4592
EMPEROR No. 2, Mineral Survey No. 4592
EMPEROR No. 3, Mineral Survey No. 4592
EMPEROR No.53
EMPEROR LODE, Lot 53
EPPERSON, Mineral Survey No. 3685
GATES, Mineral Survey No. 4204,
GITSCH, Mineral Survey No. 3714
GLASEW Mineral Survey No. 3785
GOOD HOPE No. 1, Mineral Survey No. 5804

GOOD HOPE No. 2, Mineral Survey No. 5804
GRAND CENTRAL No. 1, Mineral Survey No. 3799
GRAND CENTRAL No. 2, Mineral Survey No. 3800
GREEN, Mineral Survey No. 4204
HALE, Mineral Survey No. 4625
HARD COIN, Mineral Survey No. 5909
HOMESTEAD, Mineral Survey No. 5804
IDA MAY, Mineral Survey No. 5595
ILLIUM, Mineral Survey No. 5782
INEZ, Mineral Survey No. 6022
INEZ No. 1, Mineral Survey No. 6022
INEZ No. 2, Mineral Survey No. 6022
INEZ No. 3, Mineral Survey No. 6022
INEZ No. 4, Mineral Survey No. 6022
INEZ No. 5, Mineral Survey No. 6022
IONA, Mineral Survey No. 5744
IONA NO. 1, Mineral Survey No. 5744
IONA NO. 2, Mineral Survey No. 5744
IONA NO. 3, Mineral Survey No. 5909
IOWA, Mineral Survey No. 5744
IOWA No. 1, Mineral Survey No. 5744
IOWA No. 2, Mineral Survey No. 5744
IOWA No. 3, Mineral Survey No. 5909
JENNIE K, Mineral Survey No. 5607
JOE, Mineral Survey No. 5595
JUNE BUG, Mineral Survey No. 5745
JUNE, Mineral Survey No. 6195
KENNET, Mineral Survey No. 6281
KIMBALL NO.7, Mineral Survey No.5744
KNOX, Mineral Survey No. 4216
LACKWAXEN 43
LAFAYETTE, Mineral Survey No. 4597
LEE, Mineral Survey No. 4597
LEVIATHAN, Mineral Survey No. 3715
LOT 99, Mineral Survey No. 5595
MAGNET, Mineral Survey No. 3787
MAJESTIC, Mineral Survey No. 4597
MAMMOTH CONSOLIDATED, Mineral Survey No. 3611
MARBLE HEART, Mineral Survey No. 6136
MARION, Mineral Survey No. 4204
MARTHA, Mineral Survey No. 5595 & 139
MAYFLOWER, Mineral Survey No. 3786
MOULTRIE, Mineral Survey No. 4597
MOUNTAIN VIEW, Mineral Survey No.5793
MOUNTAIN PINE, Mineral Survey No. 5909
P.R.K., Mineral Survey No. 5745
PAUL JONES, Mineral Survey No. 4612
PUTNAM, Mineral Survey No. 4597
R.A.B., Mineral Survey No. 5595

RILEY, Mineral Survey No, 3713
ROCCO, Mineral Survey No. 5745
SCOTT, Mineral Survey No. 4597
SNOW DRIFT, Mineral Survey No. 3784
SNOW BIRD, Mineral Survey No. 6136, 3813
ST. CLAIR., Mineral Survey No. 4597
STANDARD No. 1, Mineral Survey No. 5804
STANDARD No. 2, Mineral Survey No. 5804
STANDARD No. 3, Mineral Survey No. 5804
STANDARD No. 4, Mineral Survey No. 5804
STANDARD No. 5, Mineral Survey No. 5804
STANDARD No. 6, Mineral Survey No. 5804
STANDARD No. 8, Mineral Survey No. 5804
STANDARD No. 9, Mineral Survey No. 5804
STANDARD No. 10, Mineral Survey No. 5804
STEAMBOAT, Mineral Survey No 3727
SUNBEAM, Mineral Survey No. 3789
THOR No. 1, Mineral Survey No. 6195, 6218
THOR No. 2, Mineral Survey No. 6195
THOR No. 3, Mineral Survey No. 6196, 6195
THOR No. 4, Mineral Survey No. 6195
THOR No. 5, Mineral Survey No. 6195
THOR No. 6, Mineral Survey No. 6195
THOR No. 7, Mineral Survey No. 6195
THOR No. 8, Mineral Survey No. 6195
VANDERBILT, Mineral Survey No. 3453
WEDGE, Mineral Survey No. 5607
WEDGE 1, Mineral Survey No. 5607
WEDGE No.1, Mineral Survey No. 5804
WHITE SQUAW, Mineral Survey No. 5804
WHITE SQUAW No. 1, Mineral Survey No. 5768
WHITE SQUAW No. 2, Mineral Survey No. 5768
WHITE SQUAW No. 3, Mineral Survey No. 5768
WHITE SQUAW No. 4, Mineral Survey No. 5768
XMAS, Mineral Survey No. 4746
ZEUS No. 1 and 6 Amended Mineral Survey No. 6195
ZEUS No. 3, Mineral Survey No. 6218,
ZEUS No. 7, Mineral Survey No. 6195
ZUES No. 5 AM, Mineral Survey No. 6218

together with all rights, title and interest to the reservations enumerated and described in a Warranty Deed dated September 18, 1970 between Great Western Mines Company and the United States of America, including, but not exclusive of, all roads, rights of way, easements, minerals, oil and gas,

but less and except and excluding therefrom (notwithstanding anything contained herein or seeming described herein to the contrary) any and all interest in and to the Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company. The Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company are reserved unto the Seller/Grantor and shall not form a part of the property being conveyed under the quitclaim deed.

The patented mining claims described above shall also include the interest, if any, (but not the warranties of title contained in any such instruments) held by grantor in the above described patented mining claims under the following instruments:

A) Warranty Deed dated November 16, 1989 between Bates-Great Western Energy, Inc. and TriCounties Land Co., entry # 4853761 Book 6179 Page 2681;
B) Quit Claim Deed dated November 16, 1989 between Bates-Great Western Energy, Inc. and TriCounties Land Co. Entry NO. 4853760 Book 6179 Page 2676
C) Warranty Deed dated September 18, 1970 between Great Western Mines Company and the United States of America Entry No. 2352903 Book 1185 Pages 209, 210, 211, 212 and Book 2904 Pages 449 and 449, 450, 451, and 452
D) Warranty Deed dated October 30, 1969 between Great Western Mines Company and the United States of America Entry No. 2309838 Book 2505 Page 45, 46, 47
E) Warranty Deed dated February 20, 1970 between Great Western Mines Company and the United States of America Entry No. 2322098 Book 2833 Page 26, 27, 28, 29
F) Right of Way Deed dated June 2, 1955 between Great Western Mines Company and Salt Lake County Entry No. 1433407 Book 1211 Page 312
G) Quit Claim Deed dated November 9, 1909 between Great Western Gold and Copper Mining Company and Snake Creek Mining and Tunnel Company Entry No. 265197; and
H) Quit Claim Deed dated February 21, 1957 between Great Western Mines Company and West Park Mining Company Entry No. 76710 Book 11 Pages 10-22

but less and except and excluding therefrom (notwithstanding anything contained herein or seeming described herein to the contrary) any and all interest in and to the Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company. The Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company are reserved unto the Seller/Grantor and shall not form a part of the property being conveyed under the quitclaim deed.

EXHIBIT 1
(Warranty Deed Properties)

The following mining claims located in the Big Cottonwood Mining District and the Snake Creek Mining Districts in Salt Lake County, State of Utah and Wasatch County, Utah.

KIMBALL NO. 1, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 2, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 3, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 4, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 5, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 6, U.S. MINERAL SURVEY NO. 5744

EXCEPTING THEREFROM its conflict with Mineral Survey 3709, 3713, 3721 and 3725.

DAWN, U.S. MINERAL SURVEY NO. 3709
FULL MOON, U.S. MINERAL SURVEY NO. 3717
MY O MY, U.S. MINERAL SURVEY NO. 3718
VALPARAISO, U.S. MINERAL SURVEY NO. 3720
SURE THING, U.S. MINERAL SURVEY NO. 3721
W.S. HANCOCK NO. 2, U.S. MINERAL SURVEY NO. 3725

EXCEPTING THEREFROM its conflict with Mineral Survey 37, 116 and 123.

AMAZON, U.S. MINERAL SURVEY NO. 27

LEGGETT, U.S. MINERAL SURVEY NO. 116

RELIEF, U.S. MINERAL SURVEY NO. 123

EXCEPTING THEREFROM its conflict with Mineral Survey No. 116.

JACK MINE, U.S. MINERAL SURVEY NO. 3788

EXCEPTING THEREFROM its conflict with Mineral Survey No. 3786.

ALL RIGHT, MINERAL SURVEY NO. 3719
W.S. HANCOCK, MINERAL SURVEY NO. 3724

and YELLOW JACKET, MINERAL SURVEY NO. 3712, lying West of a straight line extending South 27E45' East from corner No. 4 of Emperior lode mining claim Lot No. 53 to a point on the West end of the Valderbilt lode mining claim Lot No. 3453, a distance of about 1100 feet.

EXCEPTING THEREFROM its conflict with Mineral Survey No. 53, 3708, 3709, 3710 and 3717.

That portion of Magnet Mineral Survey No. 3787 lying Southwesterly of the following described line:

Beginning at corner No. 2 of the Legget - 116, thence North 37E36' West 414.2 feet to a point on the Magnet line between Magnet corner No. 1 and No. 4.

* * *

EXHIBIT 2
(Quit Claim Interests)

Patented mining claims, located in Sections 35 and 36, Township 2 South, Range 3 East, Sections 1,2, 3, 9, 10, 11,12, 14, 15, and 16 Township 3 South, Range 3 East, and Sections 6 and 7, Township 3 South, Range 4 East, Salt Lake Meridian of the Big Cottonwood, American Fork and Snake Creek Mining Districts in the Salt Lake, Utah and Wasatch Counties, Utah, to-wit:

ACUSHNETT, Mineral Survey No. 3711
AGATHOS No. 15, Mineral Survey No. 6230
AGATHOS No. 16, Mineral Survey No. 6230
AGATHOS No. 18, Mineral Survey No. 6230
AGATHOS No. 19, Mineral Survey No. 6230
AGATHOS No. 20, Mineral Survey No. 6352
AGATHOS No. 21, Mineral Survey No. 6230
ALLEN, Mineral Survey No. 4612
ALPINE, Mineral Survey No. 3790
ALTA, Mineral Survey No. 4597
ANGLER, Mineral Survey No. 5607
BERNALD, Mineral Survey No. 5804
BERRY, Mineral Survey No. 3716
BIG BAN, Mineral Survey No. 5745
BIG DAN, Mineral Survey No. 5745
BOLLIVER NO.2(6591)
BRIGHTON, Mineral Survey No. 147
BROOKLING Mineral Survey No. 6133
BROOKLYN Mineral Survey No.2,6133
CARNEGIE, Mineral Survey No. 5595
CATHERINE, Mineral Survey No. 148
CENTURY COPPER, Mineral Survey Numbers 2 and 3, Mineral Survey No. 4902
CLARK, Mineral Survey No. 4715
CLIMAX, Mineral Survey No. 4597
COPPER BOTTOM Mineral Survey No. 6261
COPPER BOTTOM No. 1, Mineral Survey No. 6261
DAYLIGHT, Mineral Survey No. 3710
DECATUR, Mineral Survey No. 4612
DEFENDER, Mineral Survey No. 3686 (AM)
EDWARDS, Mineral Survey No. 6195
ELLEN, Mineral Survey No. 5745
EMPEROR, Mineral Survey No. 4592

EMPEROR No. 2, Mineral Survey No. 4592
EMPEROR No. 3, Mineral Survey No. 4592
EMPEROR No.53
EMPEROR LODE, Lot 53
EPPERSON, Mineral Survey No. 3685
GATES, Mineral Survey No. 4204,
GITSCH, Mineral Survey No. 3714
GLASEW Mineral Survey No. 3785
GOOD HOPE No. 1, Mineral Survey No. 5804
GOOD HOPE No. 2, Mineral Survey No. 5804
GRAND CENTRAL No. 1, Mineral Survey No. 3799
GRAND CENTRAL No. 2, Mineral Survey No. 3800
GREEN, Mineral Survey No. 4204
HALE, Mineral Survey No. 4625
HARD COIN, Mineral Survey No. 5909
HOMESTEAD, Mineral Survey No. 5804
IDA MAY, Mineral Survey No. 5595
ILLIUM, Mineral Survey No. 5782
INEZ, Mineral Survey No. 6022
INEZ No. 1, Mineral Survey No. 6022
INEZ No. 2, Mineral Survey No. 6022
INEZ No. 3, Mineral Survey No. 6022
INEZ No. 4, Mineral Survey No. 6022
INEZ No. 5, Mineral Survey No. 6022
IONA, Mineral Survey No. 5744
IONA NO. 1, Mineral Survey No. 5744
IONA NO. 2, Mineral Survey No. 5744
IONA NO. 3, Mineral Survey No. 5909
IOWA, Mineral Survey No. 5744
IOWA No. 1, Mineral Survey No. 5744
IOWA No. 2, Mineral Survey No. 5744
IOWA No. 3, Mineral Survey No. 5909
JENNIE K, Mineral Survey No. 5607
JOE, Mineral Survey No. 5595
JUNE BUG, Mineral Survey No. 5745
JUNE, Mineral Survey No. 6195
KENNET, Mineral Survey No. 6281
KIMBALL NO.7, Mineral Survey No.5744
KNOX, Mineral Survey No. 4216
LACKWAXEN 43
LAFAYETTE, Mineral Survey No. 4597
LEE, Mineral Survey No. 4597
LEVIATHAN, Mineral Survey No. 3715
LOT 99, Mineral Survey No. 5595
MAGNET, Mineral Survey No. 3787

MAJESTIC, Mineral Survey No. 4597
MAMMOTH CONSOLIDATED, Mineral Survey No. 3611
MARBLE HEART, Mineral Survey No. 6136
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SUNBEAM, Mineral Survey No. 3789
THOR No. 1, Mineral Survey No. 6195, 6218
THOR No. 2, Mineral Survey No. 6195
THOR No. 3, Mineral Survey No. 6196, 6195
THOR No. 4, Mineral Survey No. 6195
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VANDERBILT, Mineral Survey No. 3453
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XMAS, Mineral Survey No. 4746
ZEUS No. 1 and 6 Amended Mineral Survey No. 6195
ZEUS No. 3, Mineral Survey No. 6218,
ZEUS No. 7, Mineral Survey No. 6195
ZUES No. 5 AM, Mineral Survey No. 6218

together with all rights, title and interest to the reservations enumerated and described in a Warranty Deed dated September 18, 1970 between Great Western Mines Company and the United States of America, including, but not exclusive of, all roads, rights of way, easements, minerals, oil and gas,

but less and except and excluding therefrom (notwithstanding anything contained herein or seeming described herein to the contrary) any and all interest in and to the Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company. The Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company are reserved unto the Seller/Grantor and shall not form a part of the property being conveyed under the quitclaim deed.

The patented mining claims described above shall also include the interest, if any, (but not the warranties of title contained in any such instruments) held by grantor in the above described patented mining claims under the following instruments:

A) Warranty Deed dated November 16, 1989 between Bates-Great Western Energy, Inc. and TriCounties Land Co., entry # 4853761 Book 6179 Page 2681;
B) Quit Claim Deed dated November 16, 1989 between Bates-Great Western Energy, Inc. and TriCounties Land Co. Entry NO. 4853760 Book 6179 Page 2676
C) Warranty Deed dated September 18, 1970 between Great Western Mines Company and the United States of America Entry No. 2352903 Book 1185 Pages 209, 210, 211, 212 and Book 2904 Pages 449 and 449, 450, 451, and 452
D) Warranty Deed dated October 30, 1969 between Great Western Mines Company and the United States of America Entry No. 2309838 Book 2505 Page 45, 46, 47
E) Warranty Deed dated February 20, 1970 between Great Western Mines Company and the United States of America Entry No. 2322098 Book 2833 Page 26, 27, 28, 29
F) Right of Way Deed dated June 2, 1955 between Great Western Mines Company and Salt Lake County Entry No. 1433407 Book 1211 Page 312
G) Quit Claim Deed dated November 9, 1909 between Great Western Gold and Copper Mining Company and Snake Creek Mining and Tunnel Company Entry No. 265197; and
H) Quit Claim Deed dated February 21, 1957 between Great Western Mines Company and West Park

but less and except and excluding therefrom (notwithstanding anything contained herein or seeming described herein to the contrary) any and all interest in and to the Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company. The Dickinson mining claim idenified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company are reserved unto the Seller/Grantor and shall not form a part of the property being conveyed under the quitclaim deed.

EXHIBIT 1
(Warranty Deed Properties)

The following mining claims located in the Big Cottonwood Mining District and the Snake Creek Mining Districts in Salt Lake County, State of Utah and Wasatch County, Utah.

KIMBALL NO. 1, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 2, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 3, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 4, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 5, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 6, U.S. MINERAL SURVEY NO. 5744

EXCEPTING THEREFROM its conflict with Mineral Survey 3709, 3713, 3721 and 3725.

DAWN, U.S. MINERAL SURVEY NO. 3709
FULL MOON, U.S. MINERAL SURVEY NO. 3717
MY O MY, U.S. MINERAL SURVEY NO. 3718
VALPARAISO, U.S. MINERAL SURVEY NO. 3720
SURE THING, U.S. MINERAL SURVEY NO. 3721
W.S. HANCOCK NO. 2, U.S. MINERAL SURVEY NO. 3725

EXCEPTING THEREFROM its conflict with Mineral Survey 37, 116 and 123.

AMAZON, U.S. MINERAL SURVEY NO. 27

LEGGETT, U.S. MINERAL SURVEY NO. 116

RELIEF, U.S. MINERAL SURVEY NO. 123

EXCEPTING THEREFROM its conflict with Mineral Survey No. 116.

JACK MINE, U.S. MINERAL SURVEY NO. 3788

EXCEPTING THEREFROM its conflict with Mineral Survey No. 3786.

ALL RIGHT, MINERAL SURVEY NO. 3719
W.S. HANCOCK, MINERAL SURVEY NO. 3724

and YELLOW JACKET, MINERAL SURVEY NO. 3712, lying West of a straight line extending South 27E45' East from corner No. 4 of Emperior lode mining claim Lot No. 53 to a point on the West end of the Valderbilt lode mining claim Lot No. 3453, a distance of about 1100 feet.

EXCEPTING THEREFROM its conflict with Mineral Survey No. 53, 3708, 3709, 3710 and 3717.

That portion of Magnet Mineral Survey No. 3787 lying Southwesterly of the following described line:

Beginning at corner No. 2 of the Legget - 116, thence North 37E36' West 414.2 feet to a point on the Magnet line between Magnet corner No. 1 and No. 4.

* * *

EXHIBIT A

Patented mining claims, located in Sections 35 and 36, Township 2 South, Range 3 East, Sections 1,2, 3, 9, 10, 11,12, 14, 15, and 16 Township 3 South, Range 3 East, and Sections 6 and 7, Township 3 South, Range 4 East, Salt Lake Meridian of the Big Cottonwood, American Fork and Snake Creek Mining Districts in the Salt Lake, Utah and Wasatch Counties, Utah, to-wit:

ACUSHNETT, Mineral Survey No. 3711
AGATHOS No. 15, Mineral Survey No. 6230
AGATHOS No. 16, Mineral Survey No. 6230
AGATHOS No. 18, Mineral Survey No. 6230
AGATHOS No. 19, Mineral Survey No. 6230
AGATHOS No. 20, Mineral Survey No. 6352
AGATHOS No. 21, Mineral Survey No. 6230
ALLEN, Mineral Survey No. 4612
ALPINE, Mineral Survey No. 3790
ALTA, Mineral Survey No. 4597
ANGLER, Mineral Survey No. 5607
BERNALD, Mineral Survey No. 5804
BERRY, Mineral Survey No. 3716
BIG BAN, Mineral Survey No. 5745
BIG DAN, Mineral Survey No. 5745
BOLLIVER NO.2(6591)
BRIGHTON, Mineral Survey No. 147
BROOKLING Mineral Survey No. 6133
BROOKLYN Mineral Survey No.2,6133
CARNEGIE, Mineral Survey No. 5595
CATHERINE, Mineral Survey No. 148
CENTURY COPPER, Mineral Survey Numbers 2 and 3, Mineral Survey No. 4902
CLARK, Mineral Survey No. 4715
CLIMAX, Mineral Survey No. 4597
COPPER BOTTOM Mineral Survey No. 6261
COPPER BOTTOM No. 1, Mineral Survey No. 6261
DAYLIGHT, Mineral Survey No. 3710
DECATUR, Mineral Survey No. 4612
DEFENDER, Mineral Survey No. 3686 (AM)
EDWARDS, Mineral Survey No. 6195
ELLEN, Mineral Survey No. 5745
EMPEROR, Mineral Survey No. 4592
EMPEROR No. 2, Mineral Survey No. 4592
EMPEROR No. 3, Mineral Survey No. 4592
EMPEROR No.53
EMPEROR LODE, Lot 53
EPPERSON, Mineral Survey No. 3685
GATES, Mineral Survey No. 4204,
GITSCH, Mineral Survey No. 3714
GLASEW Mineral Survey No. 3785
GOOD HOPE No. 1, Mineral Survey No. 5804

GOOD HOPE No. 2, Mineral Survey No. 5804
GRAND CENTRAL No. 1, Mineral Survey No. 3799
GRAND CENTRAL No. 2, Mineral Survey No. 3800
GREEN, Mineral Survey No. 4204
HALE, Mineral Survey No. 4625
HARD COIN, Mineral Survey No. 5909
HOMESTEAD, Mineral Survey No. 5804
IDA MAY, Mineral Survey No. 5595
ILLIUM, Mineral Survey No. 5782
INEZ, Mineral Survey No. 6022
INEZ No. 1, Mineral Survey No. 6022
INEZ No. 2, Mineral Survey No. 6022
INEZ No. 3, Mineral Survey No. 6022
INEZ No. 4, Mineral Survey No. 6022
INEZ No. 5, Mineral Survey No. 6022
IONA, Mineral Survey No. 5744
IONA NO. 1, Mineral Survey No. 5744
IONA NO. 2, Mineral Survey No. 5744
IONA NO. 3, Mineral Survey No. 5909
IOWA, Mineral Survey No. 5744
IOWA No. 1, Mineral Survey No. 5744
IOWA No. 2, Mineral Survey No. 5744
IOWA No. 3, Mineral Survey No. 5909
JENNIE K, Mineral Survey No. 5607
JOE, Mineral Survey No. 5595
JUNE BUG, Mineral Survey No. 5745
JUNE, Mineral Survey No. 6195
KENNET, Mineral Survey No. 6281
KIMBALL NO.7, Mineral Survey No.5744
KNOX, Mineral Survey No. 4216
LACKWAXEN 43
LAFAYETTE, Mineral Survey No. 4597
LEE, Mineral Survey No. 4597
LEVIATHAN, Mineral Survey No. 3715
LOT 99, Mineral Survey No. 5595
MAGNET, Mineral Survey No. 3787
MAJESTIC, Mineral Survey No. 4597
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E) Warranty Deed dated February 20, 1970 between Great Western Mines Company and the United States of America Entry No. 2322098 Book 2833 Page 26, 27, 28, 29
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G) Quit Claim Deed dated November 9, 1909 between Great Western Gold and Copper Mining Company and Snake Creek Mining and Tunnel Company Entry No. 265197; and
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KIMBALL NO. 2, U.S. MINERAL SURVEY NO. 5744
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KIMBALL NO. 4, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 5, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 6, U.S. MINERAL SURVEY NO. 5744

EXCEPTING THEREFROM its conflict with Mineral Survey 3709, 3713, 3721 and 3725.

DAWN, U.S. MINERAL SURVEY NO. 3709
FULL MOON, U.S. MINERAL SURVEY NO. 3717
MY O MY, U.S. MINERAL SURVEY NO. 3718
VALPARAISO, U.S. MINERAL SURVEY NO. 3720
SURE THING, U.S. MINERAL SURVEY NO. 3721
W.S. HANCOCK NO. 2, U.S. MINERAL SURVEY NO. 3725

EXCEPTING THEREFROM its conflict with Mineral Survey 37, 116 and 123.

AMAZON, U.S. MINERAL SURVEY NO. 27

LEGGETT, U.S. MINERAL SURVEY NO. 116

RELIEF, U.S. MINERAL SURVEY NO. 123

EXCEPTING THEREFROM its conflict with Mineral Survey No. 116.

JACK MINE, U.S. MINERAL SURVEY NO. 3788

EXCEPTING THEREFROM its conflict with Mineral Survey No. 3786.

ALL RIGHT, MINERAL SURVEY NO. 3719
W.S. HANCOCK, MINERAL SURVEY NO. 3724

and YELLOW JACKET, MINERAL SURVEY NO. 3712, lying West of a straight line extending South 27E45' East from corner No. 4 of Emperior lode mining claim Lot No. 53 to a point on the West end of the Valderbilt lode mining claim Lot No. 3453, a distance of about 1100 feet.

EXCEPTING THEREFROM its conflict with Mineral Survey No. 53, 3708, 3709, 3710 and 3717.

That portion of Magnet Mineral Survey No. 3787 lying Southwesterly of the following described line:

Beginning at corner No. 2 of the Legget - 116, thence North 37E36' West 414.2 feet to a point on the Magnet line between Magnet corner No. 1 and No. 4.

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EXHIBIT A

Patented mining claims, located in Sections 35 and 36, Township 2 South, Range 3 East, Sections 1,2, 3, 9, 10, 11,12, 14, 15, and 16 Township 3 South, Range 3 East, and Sections 6 and 7, Township 3 South, Range 4 East, Salt Lake Meridian of the Big Cottonwood, American Fork and Snake Creek Mining Districts in the Salt Lake, Utah and Wasatch Counties, Utah, to-wit:

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KIMBALL NO.7, Mineral Survey No.5744
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F) Right of Way Deed dated June 2, 1955 between Great Western Mines Company and Salt Lake County Entry No. 1433407 Book 1211 Page 312
G) Quit Claim Deed dated November 9, 1909 between Great Western Gold and Copper Mining Company and Snake Creek Mining and Tunnel Company Entry No. 265197; and
H) Quit Claim Deed dated February 21, 1957 between Great Western Mines Company and West Park Mining Company Entry No. 76710 Book 11 Pages 10-22

but less and except and excluding therefrom (notwithstanding anything contained herein or seeming described herein to the contrary) any and all interest in and to the Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company. The Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company are reserved unto the Seller/Grantor and shall not form a part of the property being conveyed under the quitclaim deed.

EXHIBIT 2
(Quit Claim Interests)

Patented mining claims, located in Sections 35 and 36, Township 2 South, Range 3 East, Sections 1,2, 3, 9, 10, 11,12, 14, 15, and 16 Township 3 South, Range 3 East, and Sections 6 and 7, Township 3 South, Range 4 East, Salt Lake Meridian of the Big Cottonwood, American Fork and Snake Creek Mining Districts in the Salt Lake, Utah and Wasatch Counties, Utah, to-wit:

ACUSHNETT, Mineral Survey No. 3711
AGATHOS No. 15, Mineral Survey No. 6230
AGATHOS No. 16, Mineral Survey No. 6230
AGATHOS No. 18, Mineral Survey No. 6230
AGATHOS No. 19, Mineral Survey No. 6230
AGATHOS No. 20, Mineral Survey No. 6352
AGATHOS No. 21, Mineral Survey No. 6230
ALLEN, Mineral Survey No. 4612
ALPINE, Mineral Survey No. 3790
ALTA, Mineral Survey No. 4597
ANGLER, Mineral Survey No. 5607
BERNALD, Mineral Survey No. 5804
BERRY, Mineral Survey No. 3716
BIG BAN, Mineral Survey No. 5745
BIG DAN, Mineral Survey No. 5745
BOLLIVER NO.2(6591)
BRIGHTON, Mineral Survey No. 147
BROOKLING Mineral Survey No. 6133
BROOKLYN Mineral Survey No.2,6133
CARNEGIE, Mineral Survey No. 5595
CATHERINE, Mineral Survey No. 148
CENTURY COPPER, Mineral Survey Numbers 2 and 3, Mineral Survey No. 4902
CLARK, Mineral Survey No. 4715
CLIMAX, Mineral Survey No. 4597
COPPER BOTTOM Mineral Survey No. 6261
COPPER BOTTOM No. 1, Mineral Survey No. 6261
DAYLIGHT, Mineral Survey No. 3710
DECATUR, Mineral Survey No. 4612
DEFENDER, Mineral Survey No. 3686 (AM)
EDWARDS, Mineral Survey No. 6195
ELLEN, Mineral Survey No. 5745
EMPEROR, Mineral Survey No. 4592

EMPEROR No. 2, Mineral Survey No. 4592
EMPEROR No. 3, Mineral Survey No. 4592
EMPEROR No.53
EMPEROR LODE, Lot 53
EPPERSON, Mineral Survey No. 3685
GATES, Mineral Survey No. 4204,
GITSCH, Mineral Survey No. 3714
GLASEW Mineral Survey No. 3785
GOOD HOPE No. 1, Mineral Survey No. 5804
GOOD HOPE No. 2, Mineral Survey No. 5804
GRAND CENTRAL No. 1, Mineral Survey No. 3799
GRAND CENTRAL No. 2, Mineral Survey No. 3800
GREEN, Mineral Survey No. 4204
HALE, Mineral Survey No. 4625
HARD COIN, Mineral Survey No. 5909
HOMESTEAD, Mineral Survey No. 5804
IDA MAY, Mineral Survey No. 5595
ILLIUM, Mineral Survey No. 5782
INEZ, Mineral Survey No. 6022
INEZ No. 1, Mineral Survey No. 6022
INEZ No. 2, Mineral Survey No. 6022
INEZ No. 3, Mineral Survey No. 6022
INEZ No. 4, Mineral Survey No. 6022
INEZ No. 5, Mineral Survey No. 6022
IONA, Mineral Survey No. 5744
IONA NO. 1, Mineral Survey No. 5744
IONA NO. 2, Mineral Survey No. 5744
IONA NO. 3, Mineral Survey No. 5909
IOWA, Mineral Survey No. 5744
IOWA No. 1, Mineral Survey No. 5744
IOWA No. 2, Mineral Survey No. 5744
IOWA No. 3, Mineral Survey No. 5909
JENNIE K, Mineral Survey No. 5607
JOE, Mineral Survey No. 5595
JUNE BUG, Mineral Survey No. 5745
JUNE, Mineral Survey No. 6195
KENNET, Mineral Survey No. 6281
KIMBALL NO.7, Mineral Survey No.5744
KNOX, Mineral Survey No. 4216
LACKWAXEN 43
LAFAYETTE, Mineral Survey No. 4597
LEE, Mineral Survey No. 4597
LEVIATHAN, Mineral Survey No. 3715
LOT 99, Mineral Survey No. 5595
MAGNET, Mineral Survey No. 3787

MAJESTIC, Mineral Survey No. 4597
MAMMOTH CONSOLIDATED, Mineral Survey No. 3611
MARBLE HEART, Mineral Survey No. 6136
MARION, Mineral Survey No. 4204
MARTHA, Mineral Survey No. 5595 & 139
MAYFLOWER, Mineral Survey No. 3786
MOULTRIE, Mineral Survey No. 4597
MOUNTAIN VIEW, Mineral Survey No.5793
MOUNTAIN PINE, Mineral Survey No. 5909
P.R.K., Mineral Survey No. 5745
PAUL JONES, Mineral Survey No. 4612
PUTNAM, Mineral Survey No. 4597
R.A.B., Mineral Survey No. 5595
RILEY, Mineral Survey No, 3713
ROCCO, Mineral Survey No. 5745
SCOTT, Mineral Survey No. 4597
SNOW DRIFT, Mineral Survey No. 3784
SNOW BIRD, Mineral Survey No. 6136, 3813
ST. CLAIR., Mineral Survey No. 4597
STANDARD No. 1, Mineral Survey No. 5804
STANDARD No. 2, Mineral Survey No. 5804
STANDARD No. 3, Mineral Survey No. 5804
STANDARD No. 4, Mineral Survey No. 5804
STANDARD No. 5, Mineral Survey No. 5804
STANDARD No. 6, Mineral Survey No. 5804
STANDARD No. 8, Mineral Survey No. 5804
STANDARD No. 9, Mineral Survey No. 5804
STANDARD No. 10, Mineral Survey No. 5804
STEAMBOAT, Mineral Survey No 3727
SUNBEAM, Mineral Survey No. 3789
THOR No. 1, Mineral Survey No. 6195, 6218
THOR No. 2, Mineral Survey No. 6195
THOR No. 3, Mineral Survey No. 6196, 6195
THOR No. 4, Mineral Survey No. 6195
THOR No. 5, Mineral Survey No. 6195
THOR No. 6, Mineral Survey No. 6195
THOR No. 7, Mineral Survey No. 6195
THOR No. 8, Mineral Survey No. 6195
VANDERBILT, Mineral Survey No. 3453
WEDGE, Mineral Survey No. 5607
WEDGE 1, Mineral Survey No. 5607
WEDGE No.1, Mineral Survey No. 5804
WHITE SQUAW, Mineral Survey No. 5804
WHITE SQUAW No. 1, Mineral Survey No. 5768

WHITE SQUAW No. 2, Mineral Survey No. 5768
WHITE SQUAW No. 3, Mineral Survey No. 5768
WHITE SQUAW No. 4, Mineral Survey No. 5768
XMAS, Mineral Survey No. 4746
ZEUS No. 1 and 6 Amended Mineral Survey No. 6195
ZEUS No. 3, Mineral Survey No. 6218,
ZEUS No. 7, Mineral Survey No. 6195
ZUES No. 5 AM, Mineral Survey No. 6218

together with all rights, title and interest to the reservations enumerated and described in a Warranty Deed dated September 18, 1970 between Great Western Mines Company and the United States of America, including, but not exclusive of, all roads, rights of way, easements, minerals, oil and gas,

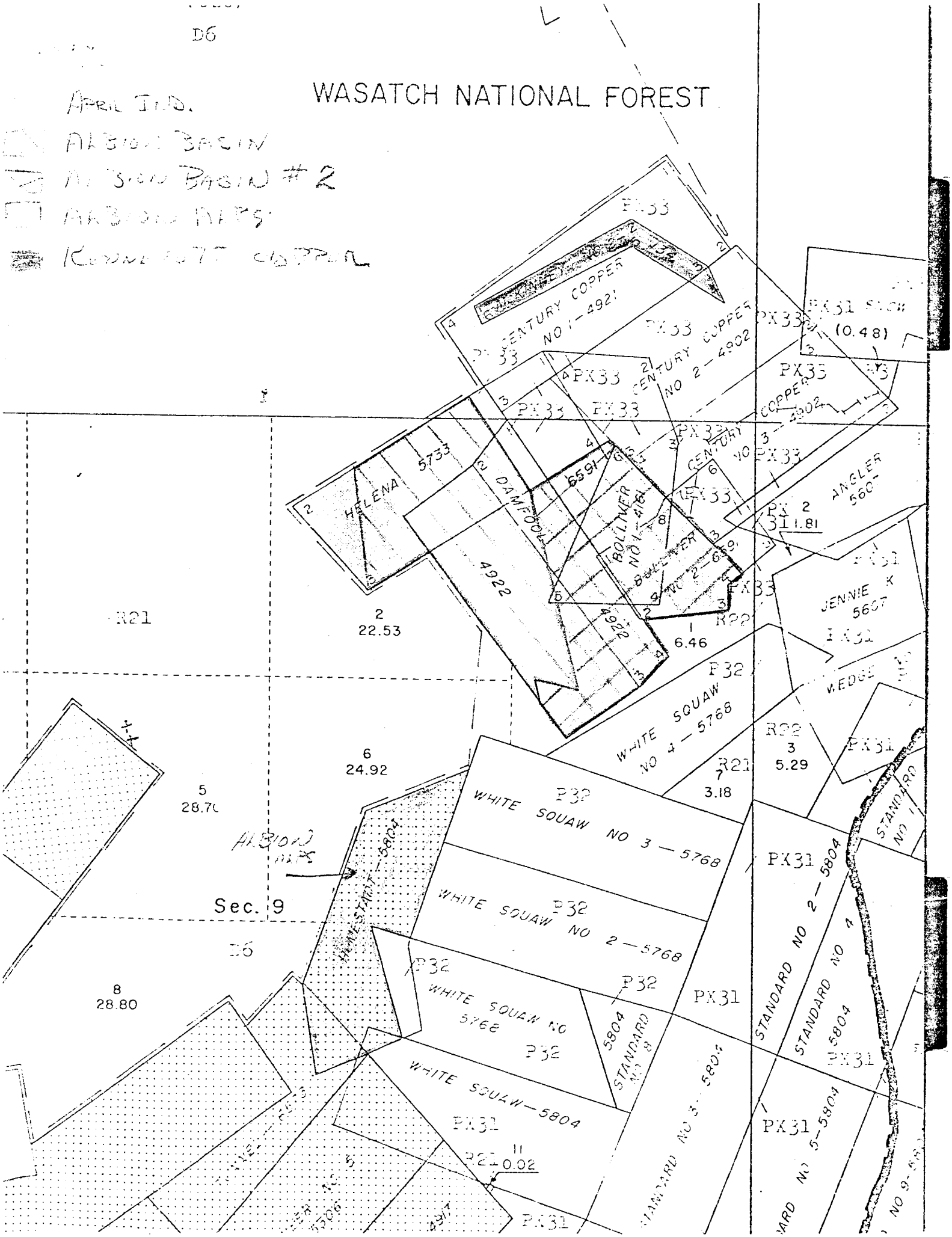
but less and except and excluding therefrom (notwithstanding anything contained herein or seeming described herein to the contrary) any and all interest in and to the Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company. The Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company are reserved unto the Seller/Grantor and shall not form a part of the property being conveyed under the quitclaim deed.

The patented mining claims described above shall also include the interest, if any, (but not the warranties of title contained in any such instruments) held by grantor in the above described patented mining claims under the following instruments:

A) Warranty Deed dated November 16, 1989 between Bates-Great Western Energy, Inc. and TriCounties Land Co., entry # 4853761 Book 6179 Page 2681;
B) Quit Claim Deed dated November 16, 1989 between Bates-Great Western Energy, Inc. and TriCounties Land Co. Entry NO. 4853760 Book 6179 Page 2676
C) Warranty Deed dated September 18, 1970 between Great Western Mines Company and the United States of America Entry No. 2352903 Book 1185 Pages 209, 210, 211, 212 and Book 2904 Pages 449 and 449, 450, 451, and 452
D) Warranty Deed dated October 30, 1969 between Great Western Mines Company and the United States of America Entry No. 2309838 Book 2505 Page 45, 46, 47
E) Warranty Deed dated February 20, 1970 between Great Western Mines Company and the United States of America Entry No. 2322098 Book 2833 Page 26, 27, 28, 29
F) Right of Way Deed dated June 2, 1955 between Great Western Mines Company and Salt Lake County Entry No. 1433407 Book 1211 Page 312
G) Quit Claim Deed dated November 9, 1909 between Great Western Gold and Copper Mining Company and Snake Creek Mining and Tunnel Company Entry No. 265197; and
H) Quit Claim Deed dated February 21, 1957 between Great Western Mines Company and West Park

Mining Company Entry No. 76710 Book 11 Pages 10-22

but less and except and excluding therefrom (notwithstanding anything contained herein or seeming described herein to the contrary) any and all interest in and to the Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company. The Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company are reserved unto the Seller/Grantor and shall not form a part of the property being conveyed under the quitclaim deed.



D6
WASATCH NATIONAL FOREST
APRIL IND.
ALBION BASIN
ALBION BASIN #2
ALBION ALPS
KENNECOTT COPPER
CENTURY COPPER NO 1 - 4921
CENTURY COPPER NO 2 - 4902
CENTURY COPPER NO 3 - 4902
PX33
PX31
(0.48)
HELENA 5733
DAMFOOL 4922
6591
BOLLIVER NO 1 - 4161
BOLLIVER NO 2 - 6591
ANGLER 5607
JENNIE K 5607
WEDGE
WHITE SQUAW NO 4 - 5768
WHITE SQUAW NO 3 - 5768
WHITE SQUAW NO 2 - 5768
WHITE SQUAW NO 5768
WHITE SQUAW - 5804
STANDARD NO 8 5804
STANDARD NO 3 - 5804
STANDARD NO 2 - 5804
STANDARD NO 4 5804
STANDARD NO 5 - 5804
STANDARD NO 1
HOMESTAKE - 5804
ALBION ALPS
Sec. 9
R21
R22
P32
2
22.53
6
24.92
5
28.70
8
28.80
1
6.46
2
1.81
3
5.29
7
3.18
11
0.02

5-128

10278146
11/16/2007 04:54 PM $146.00
Book - 9538 Pg - 4244-4248
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
RICHARD H BRADLEY PC
4525 S WASATCH BLVD, STE 250
SALT LAKE CITY UT 84124
BY: ZJM, DEPUTY - MA 5 P.

WHEN RECORDED MAIL TO:
Great Western Mining Company, LLC
c/o Kevin D. Tolton
1454 Skyline Drive
Bountiful, Utah 84010

QUIT CLAIM DEED

FOR VALUABLE CONSIDERATION, receipt of which is acknowledged, Zarahemla Properties, L.L.C., a Utah Limited Liability Company, QUIT CLAIMS to: Great Western Mining Company, LLC, a Utah Limited Liability Company the following described real property situated in the Counties of Wasatch, Utah and Salt Lake, State of Utah.

THE PROPERTY IS MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

Subject to easements, covenants, restrictions, rights of way and reservations appearing of record.

Salt Lake County Parcel No. 92-60-838-000-0050, Wasatch County Parcel No. 116-0-000-000

Executed on the 28th day of ~~July~~ August, 2007, at Salt Lake City, Utah.

Zarahemla Properties, L.L.C.
a Utah Limited Liability Company

Its: Member Manager

STATE OF UTAH }
}SS.
COUNTY OF ~~UTAH~~ Davis }

On this 28 day of ~~July~~ Aug, 2007, before me, personally appeared before me Emily C. Tolton, who being duly sworn, says that she is the Member Manager of Zarahemla Properties, L.L.C., a Utah Limited Liability Company that Emily C. Tolton the person that executed the above and foregoing instrument and that said instrument was signed on behalf of said Zarahemla Properties, L.L.C. by proper authority and said Emily C. Tolton acknowledged that said entity executed the same.

WITNESS my hand and official seal.

Notary Public in and for said State

NOTARY PUBLIC
GARY L GATHERUM
5 North Main Street
Bountiful, UT 84010
My Commission Expires
June 15, 2011
STATE OF UTAH

Patented mining claims, located in Sections 35 and 36, Township 2 South, Range 3 East, Sections 1,2, 3, 9, 10, 11,12, 14, 15, and 16 Township 3 South, Range 3 East, and Sections 6 and 7, Township 3 South, Range 4 East, Salt Lake Meridian of the Big Cottonwood, American Fork and Snake Creek Mining Districts in the Salt Lake, Utah and Wasatch Counties, Utah, to-wit:

ACUSHNETT, Mineral Survey No. 3711
AGATHOS No. 15, Mineral Survey No. 6230
AGATHOS No. 16, Mineral Survey No. 6230
AGATHOS No. 18, Mineral Survey No. 6230
AGATHOS No. 19, Mineral Survey No. 6230
AGATHOS No. 20, Mineral Survey No. 6352
AGATHOS No. 21, Mineral Survey No. 6230
ALLEN, Mineral Survey No. 4612
ALPINE, Mineral Survey No. 3790
ALTA, Mineral Survey No. 4597
ANGLER, Mineral Survey No. 5607
BERNALD, Mineral Survey No. 5804
BERRY, Mineral Survey No. 3716
BIG BAN, Mineral Survey No. 5745
BIG DAN, Mineral Survey No. 5745
BOLLIVER NO.2(6591)
BRIGHTON, Mineral Survey No. 147
BROOKLING Mineral Survey No. 6133
BROOKLYN Mineral Survey No.2,6133
CARNEGIE, Mineral Survey No. 5595
CATHERINE, Mineral Survey No. 148
CENTURY COPPER, Mineral Survey Numbers 2 and 3, Mineral Survey No. 4902
CLARK, Mineral Survey No. 4715
CLIMAX, Mineral Survey No. 4597
COPPER BOTTOM Mineral Survey No. 6261
COPPER BOTTOM No. 1, Mineral Survey No. 6261
DAYLIGHT, Mineral Survey No. 3710
DECATUR, Mineral Survey No. 4612
DEFENDER, Mineral Survey No. 3686 (AM)
EDWARDS, Mineral Survey No. 6195
ELLEN, Mineral Survey No. 5745
EMPEROR, Mineral Survey No. 4592
EMPEROR No. 2, Mineral Survey No. 4592
EMPEROR No. 3, Mineral Survey No. 4592
EMPEROR No.53
EMPEROR LODE, Lot 53
EPPERSON, Mineral Survey No. 3685
GATES, Mineral Survey No. 4204,
GITSCH, Mineral Survey No. 3714
GLASEW Mineral Survey No. 3785
GOOD HOPE No. 1, Mineral Survey No. 5804

GOOD HOPE No. 2, Mineral Survey No. 5804
GRAND CENTRAL No. 1, Mineral Survey No. 3799
GRAND CENTRAL No. 2, Mineral Survey No. 3800
GREEN, Mineral Survey No. 4204
HALE, Mineral Survey No. 4625
HARD COIN, Mineral Survey No. 5909
HOMESTEAD, Mineral Survey No. 5804
IDA MAY, Mineral Survey No. 5595
ILLIUM, Mineral Survey No. 5782
INEZ, Mineral Survey No. 6022
INEZ No. 1, Mineral Survey No. 6022
INEZ No. 2, Mineral Survey No. 6022
INEZ No. 3, Mineral Survey No. 6022
INEZ No. 4, Mineral Survey No. 6022
INEZ No. 5, Mineral Survey No. 6022
IONA, Mineral Survey No. 5744
IONA NO. 1, Mineral Survey No. 5744
IONA NO. 2, Mineral Survey No. 5744
IONA NO. 3, Mineral Survey No. 5909
IOWA, Mineral Survey No. 5744
IOWA No. 1, Mineral Survey No. 5744
IOWA No. 2, Mineral Survey No. 5744
IOWA No. 3, Mineral Survey No. 5909
JENNIE K, Mineral Survey No. 5607
JOE, Mineral Survey No. 5595
JUNE BUG, Mineral Survey No. 5745
JUNE, Mineral Survey No. 6195
KENNET, Mineral Survey No. 6281
KIMBALL NO.7, Mineral Survey No.5744
KNOX, Mineral Survey No. 4216
LACKWAXEN 43
LAFAYETTE, Mineral Survey No. 4597
LEE, Mineral Survey No. 4597
LEVIATHAN, Mineral Survey No. 3715
LOT 99, Mineral Survey No. 5595
MAGNET, Mineral Survey No. 3787
MAJESTIC, Mineral Survey No. 4597
MAMMOTH CONSOLIDATED, Mineral Survey No. 3611
MARBLE HEART, Mineral Survey No. 6136
MARION, Mineral Survey No. 4204
MARTHA, Mineral Survey No. 5595 & 139
MAYFLOWER, Mineral Survey No. 3786
MOULTRIE, Mineral Survey No. 4597
MOUNTAIN VIEW, Mineral Survey No.5793
MOUNTAIN PINE, Mineral Survey No. 5909
P.R.K., Mineral Survey No. 5745
PAUL JONES, Mineral Survey No. 4612
PUTNAM, Mineral Survey No. 4597
R.A.B., Mineral Survey No. 5595

RILEY, Mineral Survey No, 3713
ROCCO, Mineral Survey No. 5745
SCOTT, Mineral Survey No. 4597
SNOW DRIFT, Mineral Survey No. 3784
SNOW BIRD, Mineral Survey No. 6136, 3813
ST. CLAIR., Mineral Survey No. 4597
STANDARD No. 1, Mineral Survey No. 5804
STANDARD No. 2, Mineral Survey No. 5804
STANDARD No. 3, Mineral Survey No. 5804
STANDARD No. 4, Mineral Survey No. 5804
STANDARD No. 5, Mineral Survey No. 5804
STANDARD No. 6, Mineral Survey No. 5804
STANDARD No. 8, Mineral Survey No. 5804
STANDARD No. 9, Mineral Survey No. 5804
STANDARD No. 10, Mineral Survey No. 5804
STEAMBOAT, Mineral Survey No 3727
SUNBEAM, Mineral Survey No. 3789
THOR No. 1, Mineral Survey No. 6195, 6218
THOR No. 2, Mineral Survey No. 6195
THOR No. 3, Mineral Survey No. 6196, 6195
THOR No. 4, Mineral Survey No. 6195
THOR No. 5, Mineral Survey No. 6195
THOR No. 6, Mineral Survey No. 6195
THOR No. 7, Mineral Survey No. 6195
THOR No. 8, Mineral Survey No. 6195
VANDERBILT, Mineral Survey No. 3453
WEDGE, Mineral Survey No. 5607
WEDGE 1, Mineral Survey No. 5607
WEDGE No.1, Mineral Survey No. 5804
WHITE SQUAW, Mineral Survey No. 5804
WHITE SQUAW No. 1, Mineral Survey No. 5768
WHITE SQUAW No. 2, Mineral Survey No. 5768
WHITE SQUAW No. 3, Mineral Survey No. 5768
WHITE SQUAW No. 4, Mineral Survey No. 5768
XMAS, Mineral Survey No. 4746
ZEUS No. 1 and 6 Amended Mineral Survey No. 6195
ZEUS No. 3, Mineral Survey No. 6218,
ZEUS No. 7, Mineral Survey No. 6195
ZUES No. 5 AM, Mineral Survey No. 6218

United States of America, including, ...
minerals, oil and gas,

but less and except and excluding therefrom (notwithstanding anything contained herein or seeming described herein to the contrary) any and all interest in and to the Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company. The Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company are reserved unto the Seller/Grantor and shall not form a part of the property being conveyed under the quitclaim deed.

The patented mining claims described above shall also include the interest, if any, (but not the warranties of title contained in any such instruments) held by grantor in the above described patented mining claims under the following instruments:

A) Warranty Deed dated November 16, 1989 between Bates-Great Western Energy, Inc. and TriCounties Land Co., entry # 4853761 Book 6179 Page 2681;
B) Quit Claim Deed dated November 16, 1989 between Bates-Great Western Energy, Inc. and TriCounties Land Co. Entry NO. 4853760 Book 6179 Page 2676
C) Warranty Deed dated September 18, 1970 between Great Western Mines Company and the United States of America Entry No. 2352903 Book 1185 Pages 209, 210, 211, 212 and Book 2904 Pages 449 and 449, 450, 451, and 452
D) Warranty Deed dated October 30, 1969 between Great Western Mines Company and the United States of America Entry No. 2309838 Book 2505 Page 45, 46, 47
E) Warranty Deed dated February 20, 1970 between Great Western Mines Company and the United States of America Entry No. 2322098 Book 2833 Page 26, 27, 28, 29
F) Right of Way Deed dated June 2, 1955 between Great Western Mines Company and Salt Lake County Entry No. 1433407 Book 1211 Page 312
G) Quit Claim Deed dated November 9, 1909 between Great Western Gold and Copper Mining Company and Snake Creek Mining and Tunnel Company Entry No. 265197; and
H) Quit Claim Deed dated February 21, 1957 between Great Western Mines Company and West Park Mining Company Entry No. 76710 Book 11 Pages 10-22

but less and except and excluding therefrom (notwithstanding anything contained herein or seeming described herein to the contrary) any and all interest in and to the Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company. The Dickinson mining claim identified as the Dickinson Mineral Survey, No. 4715, located in Big Cottonwood Mining District, Salt Lake County, Utah, and shares or interests in the Silver Lake Company are reserved unto the Seller/Grantor and shall not form a part of the property being conveyed under the quitclaim deed.

10278147
11/16/2007 04:54 PM $49.00
Book - 9538 Pg - 4249-4252
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
RICHARD H BRADLEY PC
4525 S WASATCH BLVD, STE 250
SALT LAKE CITY UT 84124
BY: ZJM, DEPUTY - MA 4 P.

WHEN RECORDED MAIL TO:
Great Western Mining Company, LLC
c/o Kevin D. Tolton
1454 Skyline Drive
Bountiful, Utah 84010

QUIT CLAIM DEED

FOR VALUABLE CONSIDERATION, receipt of which is acknowledged, Zarahemla Properties, L.L.C., a Utah Limited Liability Company, QUIT CLAIMS to: Great Western Mining Company, LLC, a Utah Limited Liability Company the following described real property situated in the Counties of Wasatch, Utah and Salt Lake, State of Utah.

THE PROPERTY IS MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

SUBJECT TO EASEMENTS, COVENANTS, RESTRICTIONS, RIGHTS OF WAY AND RESERVATIONS APPEARING OF RECORD AND THOSE MATTERS APPEARING ON EXHIBIT "B" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

Salt Lake County Parcel No. 92-60-838-000-0050, Wasatch County Parcel No. 116-0-000-000

Executed on the 28th day of ~~July~~ August, 2007, at Salt Lake City, Utah.

Zarahemla Properties, L.L.C.
a Utah Limited Liability Company

Emily C. Tolton
Its: Member Manager

STATE OF UTAH }
}SS.
COUNTY OF ~~UTAH~~ Davis }

On this 28 day of ~~July~~ Aug, 2007, before me, personally appeared before me Emily C. Tolton, who being duly sworn, says that she is the Member Manager of Zarahemla Properties, L.L.C., a Utah Limited Liability Company that Emily C. Tolton the person that executed the above and foregoing instrument and that said instrument was signed on behalf of said Zarahemla Properties, L.L.C. by proper authority and said Emily C. Tolton acknowledged that said entity executed the same.

WITNESS my hand and official seal.

Gary L Gatherum
Notary Public in and for said State

NOTARY PUBLIC
GARY L GATHERUM
5 North Main Street
Bountiful, UT 84010
My Commission Expires
June 15, 2011
STATE OF UTAH

EXHIBIT"A"

The following mining claims located in the Big Cottonwood Mining District and the Snake Creek Mining Districts in Salt Lake County, State of Utah and Wasatch County, Utah.

KIMBALL NO. 1, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 2, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 3, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 4, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 5, U.S. MINERAL SURVEY NO. 5744
KIMBALL NO. 6, U.S. MINERAL SURVEY NO. 5744

EXCEPTING THEREFROM its conflict with Mineral Survey 3709, 3713, 3721 and 3725.

DAWN, U.S. MINERAL SURVEY NO. 3709
FULL MOON, U.S. MINERAL SURVEY NO. 3717
MY O MY, U.S. MINERAL SURVEY NO. 3718
VALPARAISO, U.S. MINERAL SURVEY NO. 3720
SURE THING, U.S. MINERAL SURVEY NO. 3721
W.S. HANCOCK NO. 2, U.S. MINERAL SURVEY NO. 3725

EXCEPTING THEREFROM its conflict with Mineral Survey 37, 116 and 123.

AMAZON, U.S. MINERAL SURVEY NO. 27

LEGGETT, U.S. MINERAL SURVEY NO. 116

RELIEF, U.S. MINERAL SURVEY NO. 123

EXCEPTING THEREFROM its conflict with Mineral Survey No. 116.

JACK MINE, U.S. MINERAL SURVEY NO. 3788

EXCEPTING THEREFROM its conflict with Mineral Survey No. 3786.

ALL RIGHT, MINERAL SURVEY NO. 3719
W.S. HANCOCK, MINERAL SURVEY NO. 3724

and YELLOW JACKET, MINERAL SURVEY NO. 3712, lying West of a straight line extending South 27E45' East from corner No. 4 of Emperior lode mining claim Lot No. 53 to a point on the West end of the Valderbilt lode mining claim Lot No. 3453, a distance of about 1100 feet.

EXCEPTING THEREFROM its conflict with Mineral Survey No. 53, 3708, 3709, 3710 and 3717.

That portion of Magnet Mineral Survey No. 3787 lying Southwesterly of the following described line:

Beginning at corner No. 2 of the Legget - 116, thence North 37E36' West 414.2 feet to a point on the Magnet line between Magnet corner No. 1 and No. 4.

* * *

1. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.

2. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.

3. Said properties shown herein are subject to the Right of the State of Utah, Salt Lake County and Wasatch County to reassess properties not previously assessed for property taxes.

4. Any future Special Assessments that may be levied against said property by Wasatch County Resolution establishing Wasatch County Fire Protection District, which assessment is disclosed by that certain Notice recorded March 29, 1988 as Entry No. 145229 in Book 198 at Page 523 of Official Records.

5. The provisions and effect of the Act of Congress relating to the utilization of said land for mining activities, as shown by instrument recorded November 1, 1954, and as Entry No. 1396771 in Book 1138 at Page 557 of Official Records.

6. Mineral reservations as contained in that certain deed from The Mountain Lake Mining Company grantor, to Salt Lake City, a municipal corporation grantee, recorded January 28, 1909 as Entry No. 245238 in Book "W" of Mining Deeds, Page 266.

7. Unpaid real property taxes, if any, for years prior to 2003 shall only be recoverable against any title policy insuring grantee.

8. Grant of Easement wherein Great Western Mines Company party of First Part and Heber Light and Power Company, party of Second Part. Grants right of way and easement over, upon and across the Valparaiso Mining Claim, Survey No. 3720. Said Easement was recorded April 8, 1948 as Entry No. 66683 in Book 5-489 of Official Records.

9. Reservations as set forth in that certain Quit Claim Deed dated February 21, 1957, wherein Great Western Mines Company first part and West Park Mining Company second part. Said Deed was recorded March 19, 1957 as Entry No. 76710 in Book 11 at Page 210 of Official Records, and recites in part as follows:

   Reserving unto the party of the first part the following perpetual rights (1) the free right to drain water from first party's adjoining ground through and out of the tunnels of the party of the second part; (2) the free right of way for ingress and egress to and from said adjoining ground for officers, agents, servants, and employees of the party of the first part through said tunnels; (3) the free right to use of trackage and ground for dumpage at or near the mouths of said tunnels; (4) the free right to transport and transmit to and from first party's adjoining property

of ten cents per mine carload; (6) the free right to extend said tunnels to and into lessors' adjoining property and to construct and maintain laterals therefrom when within said adjoining property.

10. Oil and gas lease dated June 29, 1976 from June 29, 1977 for a term of ten years and so long thereafter as oil and gas are produced in paying quantities upon the terms, conditions and covenants therein provided, recorded August 30, 1976 as Entry No. 2850353 in Book 4317 at Page 332 of the Official Records of the Salt Lake County Recorder, and recorded July 27, 1976 as Entry No. 107390 in Book 106 at Page 303 Wasatch County Recorder.

2309838

BOOK 2805 PAGE 45

ORDER NUMBER 128826

Recorded NOV 7 1969 at 11:30 a.m.
Request of SECURITY TITLE COMPANY
Fee Paid, HAZEL TAGGART CHASE
Recorder, Salt Lake County, Utah
$17.00 By [signature] Deputy
Book ____ Page ____ Ref. ____

RETURN: Wasatch National Forest
125 South State Street
Salt Lake City, Utah

WARRANTY DEED

GREAT WESTERN MINES COMPANY, a Utah Corporation, GRANTOR, of Ogden, Weber County, State of Utah, hereby CONVEYS and WARRANTS to the UNITED STATES OF AMERICA, and its assigns, GRANTEE, for the sum of Two hundred fifty two thousand nine hundred and no/100 dollars ($252,900.00), the following described tracts of land, the same being patented mining claims, located in Sections 35 and 36, T. 2S., R. 3E.; Sections 1, 2 and 12, T. 3S., R. 3E. and Sections 6 and 7, T. 3S., R. 4E., Salt Lake Meridian of the Big Cottonwood and Snake Creek Mining Districts in Salt Lake and Wasatch Counties, Utah, to-wit:

DECATUR, Mineral Survey No. 4612;
PAUL JONES, Mineral Survey No. 4612;
MOULTRIE, Mineral Survey No. 4597;
ALTA, Mineral Survey No. 4597;
INEZ, Mineral Survey No. 6022;
INEZ NO. 1, Mineral Survey No. 6022, excluding the overlap with Defender 3686 (A.M.);
MAJESTIC, Mineral Survey No. 4597, lying southwesterly of the following described compromise boundary line, to-wit: Commencing at Post No. 1 of the Lafayette lode mining claim, Lot or Survey No. 4597, as officially surveyed for U.S. Patent, and running thence South 59°51' East on a straight line across the Gates, Lot No. 4204, the Knox, Lot No. 4216, the Lee, Lot No. 4597, the St. Clair, Lot No. 4597 and the Majestic, Lot No. 4597, to a point on the easterly side line of said Majestic, Lot No. 4597, and from said point of beginning above described also running North 59°51' West on a straight line across the Marion, Lot No. 4204, the Scott, Lot No. 4597, the Green, Lot No. 4204, and the Hale, Lot No. 4625, to a point on the northwesterly end line of said Hale, Lot No. 4625, all said lots being lode mining claims in Big Cottonwood Mining District, Salt Lake County, Utah; said vertical, compromise boundary line existing in a straight line, from said point of commencement on a course South 59°51' East and North 59°51' West across said mining claims respectively to the respective points above described.
INEZ NO. 2, Mineral Survey No. 6022;
INEZ NO. 3, Mineral Survey No. 6022;
INEZ NO. 4, Mineral Survey No. 6022;
INEZ NO. 5, Mineral Survey No. 6022, including the overlap with Brookling No. 6133, Brooklyn No. 2, 6133 and Zeus No. 3, 6218;
THOR NO. 1, Mineral Survey No. 6195, excluding the overlap with Lackwaxen 43;
THOR NO. 2, Mineral Survey No. 6195, excluding the overlap with Bell of Alton 44;
THOR NO. 3, Mineral Survey No. 6195;
THOR NO. 4, Mineral Survey No. 6195, excluding the overlap with Inez No. 2, 6022;
THOR NO. 5, Mineral Survey No. 6195, excluding the overlap with Inez No. 2, 6022;
THOR NO. 6, Mineral Survey 6195, excluding the overlap with Salle Murphy 45 and Lackwaxen 43;
THOR NO. 8, Mineral Survey No. 6195, excluding the overlap with Agathos No. 21, 6230;

Checked as to price, acreage, description, and conditions of purchase, and found correct.

THOR NO. 7, Mineral Survey No. 6195, excluding the overlap with Agathos No. 18, 6230 and Agathos No. 21, 6230 and Salle Murphy 45;
ZEUS NO. 6 AMENDED, Mineral Survey No. 6195, excluding the overlap with Inez No. 4, 6022, Inez No. 5, 6022, but including the overlap with Brooklyn No. 2, 6133;
EDWARD, Mineral Survey No. 6195, excluding the overlap with Salle Murphy 45 and Agathos No. 16, 6230;
JUNE, Mineral Survey No.6195, excluding the overlap with Agathos No. 13, 6230, Agathos No. 15, 6230 and Agathos No. 16, 6230;
MARBLE HEART, Mineral Survey No. 6136, including the overlap with Zeus No. 1 Amended 6195, Copper Bottom, 6261, Copper Bottom No. 1, 6261 and Agathos No. 20, 6352;
SNOW BIRD, Mineral Survey No. 6136, excluding the overlap with Jennie 5906 and Enid 5906, but including the overlap with Agathos No. 20, 6352 and Agathos No. 19, 6230;
ZEUS NO. 1 AMENDED, Mineral Survey 6195, excluding the overlap of Agathos No. 18, 6230, Agathos No. 21, 2230 and Marble Heart 6136.

containing 425.681 acres, more or less.

RESERVING unto grantor all minerals and mineral substances of every kind, character and description, including natural gas and oil now known to exist or hereafter found to exist on or in said lands and also reserving the right to enter upon the lands and to prospect for, mine and remove said minerals and mineral substances therefrom, subject to the rights of other owners of adjoining mining claims to pursue extra laterally and within the property in question any lode or vein apexing within said other claim, subject to "Conditions, Rules and Regulations to Govern Exercise of Mineral Rights Reserved in Conveyances to the United States," a copy of which is attached and made a part hereof.

SUBJECT to existing rights-of-way for roads.

The acquiring agency is the Department of Agriculture, U.S. Forest Service.

WITNESS the hand and seal of the Grantor this 30th day of October, 1969.

GREAT WESTERN MINES COMPANY

By [signature]

Title President

ATTEST:

[signature]

Sec. Treas.

Title

ACKNOWLEDGEMENT

STATE OF UTAH)
) ss.
County of Weber)

On the 30th day of October, 1969, personally appeared before me J. Clyde Buehler and John A. Lindquist, who being by me duly sworn did say that they are President and Secretary respectively of the GREAT WESTERN MINES COMPANY and that said instrument was signed in behalf of said GREAT WESTERN MINES COMPANY by authority of a resolution of its Board of Directors and stockholders and said J. Clyde Buehler and John A. Lindquist ~~and said xxxxxxxxxxxxxxxxxxxxxxxxxx and xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ acknowledged to me that said GREAT WESTERN MINES COMPANY executed the same.

(SEAL)

George C. Clifton
Notary Public for the State of Utah
Residing in Ogden, Utah
My commission expires: March 7th 1972

2352903

ORDER NUMBER 128826

After recording, return to:
Wasatch National Forest
125 South State Street
Salt Lake City, Utah 84111
Attention: Julian Thomas

10124

BOOK 1185 209

BOOK 2904 PAGE 449

WARRANTY DEED

GREAT WESTERN MINES COMPANY, a Utah Corporation, GRANTOR, of Ogden, Weber County, State of Utah, hereby CONVEYS and WARRANTS to the UNITED STATES OF AMERICA, and its assigns, GRANTEE, for the sum of Two hundred ninety seven thousand one hundred and no/100 dollars ($297,100.00), the following described tracts of land, the same being patented mining claims, located in Sections 2, 3, 9, 10, 11, 14, 15, and 16, of T. 3S., R 3E., Salt Lake Meridian, of the Big Cottonwood, American Fork, and Snake Creek Mining Districts in Salt Lake, Utah, and Wasatch Counties, Utah, to-wit:

Recorder OCT 5 1970 at 2:33 P.M.
Request of SECURITY TITLE COMPANY
Fee Paid, HAZEL TAGGART CHASE
Recorder, Salt Lake County, Utah
$ 76.50 By [signature] Deputy
Book ..... Page ..... Ref. .....

PUTNAM, Mineral Survey No. 4597, EXCEPTING therefrom the following described property: Beginning at a point South 25° 08' 50" East 6,860.25 feet from the Northwest corner of Section 35, Township 2 South, Range 3 East, Salt Lake Base and Meridian, said point of beginning being on the West line of the Putnam Claim 4597 at a point North 4° 25' East along said West line of said Claim 200.0 feet; thence South 85° 35' East 200.0 feet; thence South 4° 25' West 200.0 feet; thence North 85° 36' West 200.0 feet to the point of beginning.
ALLEN, Mineral Survey No. 4612;
CLIMAX, Mineral Survey No. 4597;
MAGNET, Mineral Survey No. 3787, excluding the portion lying Southwesterly of the following described line: Beginning at corner No. 2 of the Legget - 116, thence North 37° 36' West 414.2 feet to a point on the Magnet line between Magnet corner No. 1 and No. 4;
MAY FLOWER, Mineral Survey No. 3786;
BRIGHTON, Mineral Survey No. 147;
CATHERIN, Mineral Survey No. 148;
XMAS, Mineral Survey No. 4746, excluding the overlap of Legget 116, Jack Mine 3787 and Acushnett 3711;
ACUSHNETT, Mineral Survey No. 3711;
JOE, Mineral Survey No. 5595, excluding the overlap with Snow Drift 3784, Sun Beam 3787, May Flower 3787, Lot 99, 5595;
LOT 99, Mineral Survey No. 5595, excluding the overlap with Sun Beam 3787, Glaser 3785, May Flower 3786, Brighton 147, and Catherin 148;
GLASER, Mineral Survey No. 3785, excluding the overlap with Brighton 147, Catherin 148, Xmas 4746, and Acushnett 3711;
SUN BEAM, Mineral Survey 3789;
ALPINE, Mineral Survey No. 3790;
WEDGE, Mineral Survey No. 5607, excluding the overlap with Alpine 3790 and Glaser 3785;
GITSCH, Mineral Survey No. 3714, excluding the overlap with Glaser 3785;
SNOW DRIFT, Mineral Survey No. 3784, excluding the overlap with Sun Beam 3789, but including the overlap of Century Copper Numbers 2 and 3, Mineral Survey No. 4902;
ANGLER, Mineral Survey No. 5607, excluding the overlap with Snow Drift 3784, Sun Beam 3789, Alpine 3790, Jennie K. 5607, and Century Copper No. 3 (4902), but including the overlap of Bolliver No. 2 (6591);
JENNIE K., Mineral Survey No. 5607, including the overlap of White Squaw No. 4 (5768);
WEDGE NO. 1, Mineral Survey No. 5607, excluding the overlap with Alpine 3790;

Checked as to price, acreage, description, and conditions of purchase, and found correct

94155
Entry No. ..... Recorded at request of Wasatch National Forest - Fee $6.60
Date SEP 28 1970 at 1 P. M. Wayne C. Whiting Wasatch County Recorder
By Mary S. Chipman Deputy. Book 70 Page 291-294

ELLEN, Mineral Survey No. 5745, excluding the overlap with Wedge 5607;
STANDARD NO. 1, Mineral Survey No. 5804, excluding the overlap with Wedge No. 1, 5607; and Ellen 5745;
STANDARD NO. 2, Mineral Survey No. 5804;
STANDARD NO. 3, Mineral Survey No. 5804;
STANDARD NO. 4, Mineral Survey No. 5804;
STANDARD NO. 5, Mineral Survey No. 5804;
STANDARD NO. 6, Mineral Survey No. 5804, excluding the overlap with P.R.K. 5745 and Rocco 5745;
STANDARD NO. 8, Mineral Survey No. 5804;
STANDARD NO. 9, Mineral Survey No. 5804;
STANDARD NO. 10, Mineral Survey No. 5804;
BERNALD, Mineral Survey No. 5804;
GOOD HOPE NO. 1, Mineral Survey No. 5804, excluding the overlap of Getting There Ext. No. 2 (5422);
GOOD HOPE NO. 2, Mineral Survey No. 5804, excluding the overlap of Getting There Ext. No. 2 (5422);
WHITE SQUAW, Mineral Survey No. 5804, excluding the overlap of Homestadt 5804, Tunnel 6573, Pioneer No. 5 (5306) and Pioneer No. 4 (4917);

containing 506.035 acres, more or less.

RESERVING unto Grantor all minerals and mineral substances of every kind, character and description, including natural gas and oil now known to exist or hereafter found to exist on or in said lands and also reserving the right to enter upon the lands and to prospect for, mine, and remove said minerals and mineral substances therefrom, subject to the rights of other owners of adjoining mining claims to pursue extra laterally and within the property in question any lode or vein apexing within said other claim, subject to "Conditions, Rules and Regulations to Govern Exercise of Mineral Rights Reserved in Conveyances to the United States," a copy of which is attached and made a part hereof.

SUBJECT to existing rights-of-way for roads.

The acquiring agency is the Department of Agriculture, U.S. Forest Service.

WITNESS the hand and seal of the Grantor this 18 day of September, 1970.

GREAT WESTERN MINES COMPANY

ATTEST:

Secretary
Title

By

Title President

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

CONDITIONS, RULES AND REGULATIONS TO GOVERN EXERCISE OF MINERAL RIGHTS RESERVED IN CONVEYANCES TO THE UNITED STATES

Code of Federal Regulations - Title 36 - Chapter II - Section 251.15

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, in conveyances of lands to the United States under authorized programs of the Forest Service, where owners reserve the right to enter upon the conveyed lands and to prospect for, mine and remove minerals, oil, gas, or other inorganic substances, said reservations shall be subject to the following conditions, rules and regulations which shall be expressed in and made a part of the deed of conveyance to the United States and such reservations shall be exercised thereunder and in obedience thereto:

(1) Whoever undertakes to exercise the reserved rights shall give prior written notice to the Forest Service and shall submit satisfactory evidence of authority to exercise such rights. Only so much of the surface of the lands shall be occupied, used, or disturbed as is necessary in bona fide prospecting for, drilling, mining (including the milling or concentration of ores), and removal of the reserved minerals, oil, gas, or other inorganic substances.

(2)(i) None of the lands in which minerals are reserved shall be so used, occupied, or disturbed as to preclude their full use for authorized programs of the Forest Service until the record owner of the reserved rights, or the successors, assigns, or lessees thereof, shall have applied for and received a permit authorizing such use, occupancy, or disturbance of those specifically described parts of the lands as may reasonably be necessary to exercise of the reserved rights.

(ii) Said permit shall be issued upon agreement as to conditions necessary to protect the interest of the United States including such conditions deemed necessary to provide for the safety of the public and other users of the land, and upon initial payment of the annual fee which shall be at the rate of $2 per acre or fraction of acre included in the permit.

(iii) The permit shall also provide that the record owner of the reserved right or the successors, assigns, or lessees thereof, will repair or replace any improvements damaged or destroyed by the mining operations and restore the land to a condition safe and reasonably serviceable for authorized programs of the Forest Service, and shall provide for a bond in sufficient amount as determined necessary by the Forest Service to guarantee such repair, replacement or restoration.

(iv) Failure to comply with the terms and conditions of the aforesaid permit shall be cause for termination of all rights to use, occupy, or disturb the surface of the lands covered thereby, but in event of such termination a new permit shall be issued upon application when the causes for termination of the preceding permit have been satisfactorily remedied and the United States reimbursed for any resultant damage to it.

(3) All structures, other improvements, and materials shall be removed from the lands within one year after date of termination of the aforementioned permit. Should the holder of the permit fail to do so within the specified time, the Forest Service may remove, destroy or otherwise dispose of said structures, other improvements, and materials at the permittee's expense, or in lieu thereof, may upon written notice to the permittee, assume title thereto in the name of the United States.

(4) Timber and/or young growth cut or destroyed in connection with exercise of the reserved right shall be paid for at rates determined by the Forest Service to be fair and equitable for comparable timber and/or young growth in the locality. All slash resulting from cutting or destruction of timber or young growth shall be disposed of as required by the Forest Service.

(5) In the prospecting for, mining, and removal of reserved minerals, oil, gas, or other inorganic substances all reasonable provisions shall be made for the disposal of tailings, dumpage, and other deleterious materials or substances in such manner as to prevent obstruction, pollution, or deterioration of water resources.

(6) Nothing herein contained shall be construed to exempt operators or the mining operations from any requirements of applicable State laws nor from compliance with or conformity to any requirements of any law which later may be enacted and which otherwise would be applicable.

(7) While any activities and/or operations incident to the exercise of the reserved rights are in progress, the operators, contractors, subcontractors, and any employees thereof shall use due diligence in the prevention and suppression of fires, and shall comply with all rules and regulations applicable to the land.

(b) The conditions, rules and regulations set forth in subparagraphs (1) through (7) of paragraph (a) of this section shall not apply to reservations contained in conveyances of lands to the United States under the Act of March 3, 1925, as amended (43 Stat. 1133, 64 Stat. 82; 16 U.S.C. 553).

(c) In cases where a State, or an agency, or a political subdivision thereof, reserves minerals, oil, gas, or other inorganic substances, in the conveyance of land to the United States under authorized programs of the Forest Service and there are provisions in the laws of such State or in conditions, rules and regulations promulgated by such State, agency or political subdivision thereof, which the Chief, Forest Service, determines are adequate to protect the interest of the United States in the event of the exercise of such reservation, the Chief, Forest Service, is hereby authorized, in his discretion, to subject the exercise of the reservation to such statutory provisions or such conditions, rules and regulations in lieu of the conditions, rules and regulations set forth in subparagraphs (1) through (7) of paragraph (a) of this section. In that event, such statutory provisions or such conditions, rules and regulations shall be expressed in and made a part of the deed of conveyance to the United States and the reservation shall be exercised thereunder and in obedience thereto.

All regulations heretofore issued by the Secretary of Agriculture to govern the exercise of mineral rights reserved in conveyances of lands to the United States under authorized programs of the Forest Service shall continue to be effective in the cases to which they are applicable, but are hereby superseded as to mineral rights hereafter reserved in conveyances under such programs.

(30 Stat. 35, as amended, 16 U.S.C. 551. Interprets or applies 36 Stat. 961, as amended, 16 U.S.C. 513-519, 42 Stat. 465, as amended, 16 U.S.C. 485, 486, and 50 Stat. 525, as amended, 7 U.S.C. 1011)

Signed at Washington, D.C., on April 30, 1963.

(S) ORVILLE L. FREEMAN,
Secretary.

BOOK 2904 PAGE 452

3

BOOK 1185 212

ACKNOWLEDGMENT

STATE OF UTAH)
)ss.
County of)

On the 18th day of September, 1970, personally appeared before me J. Clyde Buehler and ~~John A. Lindquist~~, who being by me duly sworn did say that they are President and Secretary respectively of the GREAT WESTERN MINES COMPANY and that said instrument was signed in behalf of said GREAT WESTERN MINES COMPANY by authority of a resolution of the Board of Directors and said J. Clyde Buehler and John A. Lindquist acknowledged to me that said GREAT WESTERN [illegible]OMPANY executed the same.

George C. Clifton
Notary Public for the State of Utah
Residing in Ogden
My commission expires MARCH 7, 1972
MY COMMISSION EXPIRES MARCH 7, 1972

10124

RECORDED AT THE REQUEST OF
United States of America
BOOK 1185 PAGE 209-12
1970 SEP 28 PM 2:58
[illegible]
UTAH COUNTY RECORDER
FEE 1 ARS 1 MD 17 Mofee

Security Title Co.
330 East 400 So.
Salt Lake City, Ut.
84111
Attn: Charles Miller

2322098

[redacted] PAGE 26

ORDER NUMBER 128826

SECURITY TITLE COMPANY

Recorded FEB 25 1970 10 54 A.M.
Request of SECURITY TITLE COMPANY
Fee Paid, MAZEL TAGGART CHAS.
Recorder, Salt Lake County, Utah
L. T. M. By [illegible] Deputy
Book ___ Page ___ Ref ___

WARRANTY DEED

GREAT WESTERN MINES COMPANY, a Utah Corporation, GRANTOR, of Ogden, Weber County, State of Utah, hereby CONVEYS and WARRANTS to the UNITED STATES OF AMERICA, and its assigns, GRANTEE, for the sum of Two hundred eight thousand nine hundred and no/100 dollars ($208,900.00), the following described tracts of land, the same being patented mining claims, located in Sections 35 and 36, T. 2S., R. 3E., and in Sections 1, 2, 10, 11, 14 and 15, T. 3S., R. 3E., Salt Lake Meridian of the Big Cottonwood, American Fork and Snake Creek Mining Districts in Salt Lake, Utah and Wasatch Counties, Utah, to-wit:

CLARK, Mineral Survey No. 4715, EXCEPT what is in conflict with the following description, to-wit:

Checked as to proper description and found correct. Purchaser

Commencing South 11° 45' West 402 feet from Corner No. 1 of Dickinson Lode Mining Claim designated by United States Surveyor General as Lot No. 4715 in Section 35, Township 2 South, Range 3 East, Salt Lake Base and Meridian, and running thence South 11° 45' West 1,089.9 feet to Corner No. 4 of said mining claim; thence South 65° 19' East 991.9 feet; thence North 24° 38' West 1,629.63 feet to beginning.

LAFAYETTE, Mineral Survey No. 4597, excluding therefrom the overlap of Gates 4204;

The parts and portions of the GATES, Mineral Survey No. 4204, KNOX, Mineral Survey No. 4216, LEE, Mineral Survey No. 4597, ST. CLAIR, Mineral Survey No. 4597, MARION, Mineral Survey No. 4204, SCOTT, Mineral Survey No. 4597, HALE, Mineral Survey No. 4625, GREEN, Mineral Survey No. 4204, lying southwesterly of the following vertical, compromise boundary line, to-wit:

Commencing at Post No. 1 of the Lafayette lode mining claim, Lot or Survey No. 4597, as officially surveyed for U.S. Patent, and running thence South 59° 51' East on a straight line across the Gates, Lot No. 4204, the Knox, Lot No. 4216, the Lee, Lot No. 4597, the St. Clair, Lot No. 4597 and the Majestic, Lot No. 4597, to a point on the easterly side line of said Majestic, Lot No. 4597, and from said point of beginning above described also running North 59° 51' West on a straight line across the Marion, Lot No. 4204, the Scott, Lot No. 4597, the Green, Lot No. 4204, and the Hale, Lot No. 4625, to a point on the northwesterly end line of said Hale, Lot No. 4625, all said lots being lode mining claims in Big Cottonwood Mining District, Salt Lake County, Utah; said vertical, compromise boundary line extending in a straight line, from said point of commencement on a course South 59° 51' East and North 59° 51' West across said mining claims respectively to the respective points above described.

With the exceptions excluding from the HALE 4625 the areas in conflict with the following two described parcels of land, to-wit:

Parcel 1

Beginning at a point which is North 80° 47' West 20 feet from the center of the portal of the Great Western Tunnel, from which latter point corner No. 8 of the Hale Lode Mining Claim, U.S. Survey No. 4625 as described in the plat and field notes thereof now on file in the United States Public Survey Office at Salt Lake City, Utah bears North 63° 42' East 303.7 feet and running thence South 9° 13' West 20 feet; thence South 80° 47' East 40 feet; thence North 9° 13' East 40 feet; thence North 80° 47' West 40 feet; thence South 9° 13' West 20 feet to the point of beginning.

Parcel 2

Beginning at a point which is 107 feet West and 732 feet South from the center of Section 35, Township 2 South, Range 3 East, Salt Lake Base and Meridian and running thence South 88° 44' West 190 feet; thence South 21° East 176.41 feet; thence South 7° East 104.47 feet; thence North 88° 44' East 120 feet; thence North 1° 16' West 270 feet to the point of beginning.

STEAMBOAT, Mineral Survey No. 3727;
DAYLIGHT, Mineral Survey No. 3710, excluding the overlap with W. S. Hancock 3724;
LEVIATHAN, Mineral Survey No. 3715;
BERRY, Mineral Survey No. 3716;
RILEY, Mineral Survey No. 3713; including the overlap with Kimball No. 7, 5744;
KIMBALL No. 7, Mineral Survey No. 5744, excluding the overlap with Riley 3713, but including the overlap with Rocco 5745 and Mountain Pine 5909;
BIG DAN, Mineral Survey No. 5745;
ILLIUM, Mineral Survey No. 5782, excluding the overlap with June Bug 5745;
JUNE BUG, Mineral Survey No. 5745, excluding the overlap with Big Dan 5745, but including the overlap with Illium 5782;
P.R.K., Mineral Survey No. 5745, excluding the overlap with Kimball No. 7, 5744;
ROCCO, Mineral Survey No. 5745, excluding the overlap with Kimball No. 7, 5744;
MOUNTAIN PINE, Mineral Survey No. 5909, excluding the overlap with Kimball No. 7, 5744, and Hard Coin 5909;
HARD COIN, Mineral Survey No. 5909;
IONA No. 3, Mineral Survey No. 5909;
IONA No. 2, Mineral Survey No. 5744;
IONA No. 1, Mineral Survey No. 5744;
IONA, Mineral Survey No. 5744.

containing 396.579 acres, more or less.

RESERVING unto grantor all minerals and mineral substances of every kind, character and description, including natural gas and oil now known to exist or hereafter found to exist on or in said lands and also reserving the right to enter upon the lands and to prospect for, mine, and remove said minerals and mineral substances therefrom, subject to the rights of other owners of adjoining mining claims to pursue extra laterally and within the property in question any lode or vein apexing within said other claim, subject to "Conditions, Rules and Regulations to Govern Exercise of Mineral Rights Reserved in Conveyances to the United States," a copy of which is attached and made a part hereof.

SUBJECT to existing rights-of-way for roads.

The acquiring agency is the Department of Agriculture, U.S. Forest Service.

WITNESS the hand and seal of the Grantor this 20 day of February, 1970.

GREAT WESTERN MINES COMPANY

J. Clyde Buehler

Title President

ATTEST:

John Lindquist

Secretary

Title

ACKNOWLEDGEMENT

STATE OF UTAH)
) ss.
County of Weber)

On the 20th day of February, 1970, personally appeared before me J. Clyde Buehler and John Lindquist, who being by me duly sworn did say that they are President and Secretary respectively of the GREAT WESTERN MINES COMPANY and that said instrument was signed in behalf of said GREAT WESTERN MINES COMPANY by authority of a resolution of stockholders and directors and said J. Clyde Buehler and John Lindquist acknowledged to me that said GREAT WESTERN MINES COMPANY executed the same.

(SEAL)

George C. Clifton

Notary Public for the State of Utah
Residing in Ogden, Utah
My commission expires MY COMMISSION EXPIRES MARCH 7, 1972

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

CONDITIONS, RULES AND REGULATIONS TO GOVERN EXERCISE OF MINERAL RIGHTS RESERVED IN CONVEYANCES TO THE UNITED STATES

Code of Federal Regulations - Title 36 - Chapter II - Section 251.15

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, in conveyances of lands to the United States under authorized programs of the Forest Service, where owners reserve the right to enter upon the conveyed lands and to prospect for, mine and remove minerals, oil, gas, or other inorganic substances, said reservations shall be subject to the following conditions, rules and regulations which shall be expressed in and made a part of the deed of conveyance to the United States and such reservations shall be exercised thereunder and in obedience thereto:

(1) Whoever undertakes to exercise the reserved rights shall give prior written notice to the Forest Service and shall submit satisfactory evidence of authority to exercise such rights. Only so much of the surface of the lands shall be occupied, used, or disturbed as is necessary in bona fide prospecting for, drilling, mining (including the milling or concentration of ores), and removal of the reserved minerals, oil, gas, or other inorganic substances.

(2)(i) None of the lands in which minerals are reserved shall be so used, occupied, or disturbed as to preclude their full use for authorized programs of the Forest Service until the record owner of the reserved rights, or the successors, assigns, or lessees thereof, shall have applied for and received a permit authorizing such use, occupancy, or disturbance of those specifically described parts of the lands as may reasonably be necessary to exercise of the reserved rights.

(ii) Said permit shall be issued upon agreement as to conditions necessary to protect the interest of the United States including such conditions deemed necessary to provide for the safety of the public and other users of the land, and upon initial payment of the annual fee, which shall be at the rate of $2 per acre or fraction of acre included in the permit.

(iii) The permit shall also provide that the record owner of the reserved right or the successors, assigns, or lessees thereof, will repair or replace any improvements damaged or destroyed by the mining operations and restore the land to a condition safe and reasonably serviceable for authorized programs of the Forest Service, and shall provide for a bond in sufficient amount as determined necessary by the Forest Service to guarantee such repair, replacement or restoration.

(iv) Failure to comply with the terms and conditions of the aforesaid permit shall be cause for termination of all rights to use, occupy, or disturb the surface of the lands covered thereby, but in event of such termination a new permit shall be issued upon application when the causes for termination of the preceding permit have been satisfactorily remedied and the United States reimbursed for any resultant damage to it.

(3) All structures, other improvements, and materials shall be removed from the lands within one year after date of termination of the aforementioned permit. Should the holder of the permit fail to do so within the specified time, the Forest Service may remove, destroy or otherwise dispose of said structures, other improvements, and materials at the permittee's expense, or in lieu thereof, may upon written notice to the permittee, assume title thereto in the name of the United States.

(4) Timber and/or young growth cut or destroyed in connection with exercise of the reserved right shall be paid for at rates determined by the Forest Service to be fair and equitable for comparable timber and/or young growth in the locality. All slash resulting from cutting or destruction of timber or young growth shall be disposed of as required by the Forest Service.

(5) In the prospecting for, mining, and removal of reserved minerals, oil, gas, or other inorganic substances all reasonable provisions shall be made for the disposal of tailings, dumpage, and other deleterious materials or substances in such manner as to prevent obstruction, pollution, or deterioration of water resources.

(6) Nothing herein contained shall be construed to exempt operators or the mining operations from any requirements of applicable State laws nor from compliance with or conformity to any requirements of any law which later may be enacted and which otherwise would be applicable.

(7) While any activities and/or operations incident to the exercise of the reserved rights are in progress, the operators, contractors, subcontractors, and any employees thereof shall use due diligence in the prevention and suppression of fires, and shall comply with all rules and regulations applicable to the land.

(b) The conditions, rules and regulations set forth in subparagraphs (1) through (7) of paragraph (a) of this section shall not apply to reservations contained in conveyances of lands to the United States under the Act of March 3, 1925, as amended (43 Stat. 1133, 64 Stat. 82; 16 U.S.C. 555).

(c) In cases where a State, or an agency, or a political subdivision thereof, reserves minerals, oil, gas, or other inorganic substances, in the conveyance of land to the United States under authorized programs of the Forest Service and there are provisions in the laws of such State or in conditions, rules and regulations promulgated by such State, agency or political subdivision thereof, which the Chief, Forest Service, determines are adequate to protect the interest of the United States in the event of the exercise of such reservation, the Chief, Forest Service, is hereby authorized, in his discretion, to subject the exercise of the reservation to such statutory provisions or such conditions, rules and regulations in lieu of the conditions, rules and regulations set forth in subparagraphs (1) through (7) of paragraph (a) of this section. In that event, such statutory provisions or such conditions, rules and regulations shall be expressed in and made a part of the deed of conveyance to the United States and the reservation shall be exercised thereunder and in obedience thereto.

All regulations heretofore issued by the Secretary of Agriculture to govern the exercise of mineral rights reserved in conveyances of lands to the United States under authorized programs of the Forest Service shall continue to be effective in the cases to which they are applicable, but are hereby superseded as to mineral rights hereafter reserved in conveyances under such programs.

(30 Stat. 35, as amended, 16 U.S.C. 551. Interprets or applies 36 Stat. 961, as amended, 16 U.S.C. 513-519, 42 Stat. 465, as amended, 16 U.S.C. 485, 486, and 50 Stat. 525, as amended, 7 U.S.C. 1011)

Signed at Washington, D.C., on April 30, 1963.

(S) ORVILLE L. FREEMAN,
Secretary.

STATE OF UTAH)
) S.S.
COUNTY OF SALT LAKE)

I Mark C. Haik being of legal age swear the following is true:

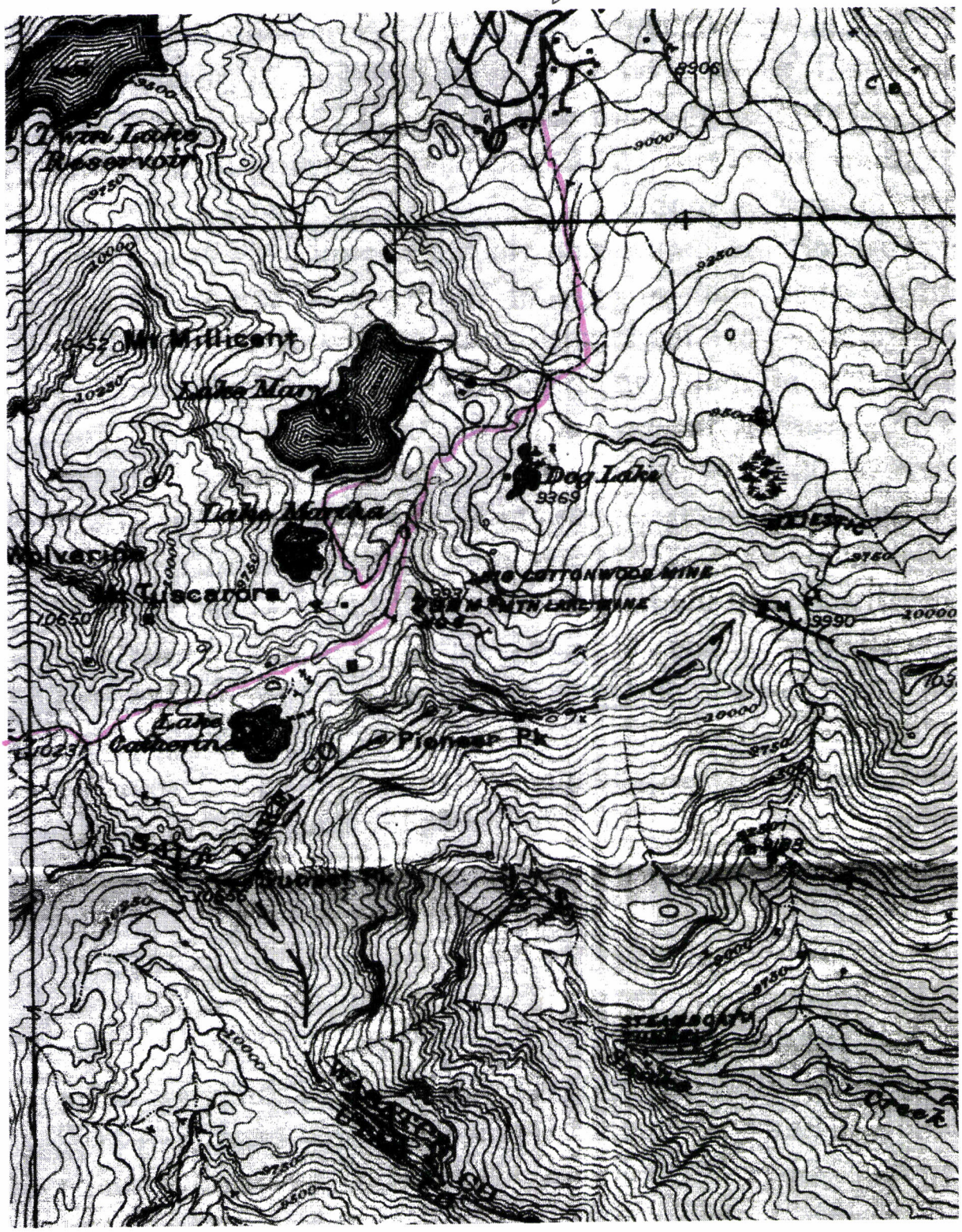
I have personally examined the title of hundreds of patented mining claims and mill-sites as well as other patented properties and un-patented properties in the American Fork, Snake Creek, Big Cottonwood, Little Cottonwood, Uintah and Blue Ledge Mining Districts, including but not limited to the majority of those contained in Section 35, T2S R3E and the un-surveyed public domain in T3S R3E SLB&M situated to the south of Section 35, T2S R3E, situated in Salt Lake, Wasatch Counties.

There are two primary roadways, both of which have numerous connections to other roadways, accessing the South half of Section 35, T2S R3E and the un-surveyed public domain in T3S R3E SLB&M situated to the south of Section 35, T2S R3E, situated in Salt Lake, Wasatch Counties. The first is that identified in the Surveyor General's Map of Township 2 South Range 3 East, SLB&M- Map #443A, which having been examined, was approved by the Office of the Surveyor General September 17, 1903. The second is a road passing through the following patented mining claims: Florence-M.S. 6293, Dickinson, Clark, Scott, Putnam, Allen-M.S. 4597, which road thence continues through portions of the un-surveyed domain to intersect additional patented mining claims in Wasatch & Utah counties and properties situated in Little Cottonwood Canyon. This road continues into Wasatch & Utah Counties as shown on numerous USFS maps, USGS maps and others. Both of the roadways cited above are appurtenant to real property estates in Salt Lake, Wasatch & Utah counties and properties situated in both Big & Little Cottonwood Canyons. Both of the roadways cited above are included in real property estates not owned, nor held of record by the USA or any entity thereof, although the USA may have acquired the right to use said roadways, it is not exclusive. The roadway identified by the Surveyor General's Map of Township 2 South Range 3 East, SLB&M- Map #443A existed prior to the Forest Reserve Proclamation and is exempted by that proclamation. The road passing through the following patented mining claims: Florence-M.S. 6293, Dickinson, Clark, Scott, Putnam, Allen-M.S. 4597, along with numerous other roads intersecting that road, is a portion of a dominant real property estate held of record by parties other than the USA or any entity thereof; ***and the USA acquired and accepted title to the subservient estate with the full knowledge of the encumbrance of the roadways***

and also with the specific advice and recommendations of counsel acknowledging both roadways. The County of Salt Lake specifically acquired rights of way through the estate and the USA acquired and accepted title to the subservient estate with the full knowledge of the encumbrance of Salt Lake County's rights of way, also with the specific advice and recommendations of counsel acknowledging both roadways. The documents and records on file in USDA-USFS Region IV Office in Ogden Utah clearly and repeatedly show the following:

> "Title Document not in possession of
> US Forest Service. Outstanding Right;
> Salt Lake County (Road Right-of-Way)"

BRIGHTON LOOP



Road to ALTA (ie Catherines' PASS

The documents cited below and those included in the attached Exhibits, all of which were recovered from the following public records repositories; Salt Lake County Recorder's Office, Salt Lake County Surveyor's Office, Salt Lake County Archives, State of Utah Archives, USDA-USFS Region IV Office, Federal Deposit Archive-Marriott Library University of Utah, BLM Public Room-Salt Lake City, in addition to other documents not listed or cited herein, document the foregoing and following statements.

[1] I have personally examined the chain of title to the real property conveyed by the USA in that certain patent GLO#38949, being the property shown on M.S. 4204, #4216, #4597, #4602, #4612, #4625 & #4715. I have personally examined the chain of title to the real property conveyed by the USA in that certain patent recorded Book V page 353 in the Office of the Salt Lake County Recorder, being the Ida May, Martha, Carnegie-M.S. 5595-Big Cottonwood MD. [Exhibit-001]

[2] In April 1903 Great Western Gold and Copper Mining Company pays for the patented mining claims shown on the following Mineral Surveys: #4204, #4216, #4595, #4602, #4612, #4625, #4715, the GLO Patent for the foregoing claims is #38949. The patent contains the following grant from the United States of America:
"To have and to hold said mining premises, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging unto the said grantee ,above named and to its successors and assigns forever,"
The right of ingress, egress and regress over and across public lands was conveyed to the Grantee-Great Western Gold and Copper Mining Company. Pursuant to this language, all the rights the Grantee and their predecessors established, created, and maintained from the Notice of Locations forward to the issuance of the Patent are held by the successors in interest to Great Western Gold and Copper Mining Company. [Exhibit-002]

[3] The Surveyor General's Map of Township 2 South Range 3 East, SLB&M, which strictly conforms to the notes of the field survey work done by Gorlinski-1869, Dickers-1871, Freeman-1871, Gorlinsk-1894, Stewart Jr.-1897, Hansen-1902, clearly discloses a road proceeding directly to the Idamay, Carnegie, R.A.B. claims shown on Mineral Survey #5595 and other claims in the vicinity. Surveyor General's Map #443A, which having been examined, was approved by the Office of the Surveyor General September 17, 1903. This road is again clearly identified by the 1938 Field Notes from the Dependent Resurvey of Sections 14→ 18, 21→ 23, 26 & 35 T2S R3E SLB&M. [Exhibits-003]

[4] The Location Notices for the mining claims, located prior to May 26, 1904, contained in Section 35, T2S R3E and the un-surveyed public domain in T3S R3E SLB&M situated to the south of Section 35, T2S R3E, situated in Salt Lake, Wasatch Counties for which patents were subsequently issued clearly validate, and predate the exception from the forest reserve proclamation which reads as follows:

"Excepting from the force and effect of this proclamation all lands which may have been, prior to the date hereof, embraced in any legal entry or covered by any lawful filing duly of record in the proper United States Land Office, or upon which any valid settlement has been made pursuant to law, and the statutory period within which to make entry or filing of record has not expired".

Which exception was cited in the Proclamation of The Salt Lake Forest Reserve on May 26, 1904. *Entry* to the lands claimed over lands in the Reserve and under control of the USA to any of these properties was excluded from the force and effect of the Proclamation of The Salt Lake Forest Reserves. [Exhibit-004]

[5] An Agreement by & between Snake Creek Mining & Tunnel Company and Great Western Gold & Copper Mining Company creates real property rights which encumber and burden the subservient real property estate owned by the USA in the following claims:

Green, Gates, Marion-M.S. 4204
Knox-M.S. 4216
Lee, St. Claire, Majestic, Moultrie, Alta, Climax, Putnam, Scott, Layfayette_M.S. 4597
Decatur, Paul Jones, Allen-M.S. 4612
Hale-M.S. 4625
Clark, Dickinson-M.S. 4715
Grand Central No. 1-M.S. 3799
Grand Central No. 2-M.S. 3800
Snow Bird-M.S. 3813
Mammoth Con.-M.S. 3611
Epperson-M.S. 3685
Defender-M.S. 3686
Inez, Inez Nos. 1→ 5-M.S. 6022

The preamble of the agreement states the following:
"Wheras, the party of the first part contemplates the extension and further construction of said tunnel and to maintain and operate the same for drainage and transportation purposes, to facilitate the development and operation of mines and mineral lands situated on and in the mountain ranges and in the locality through which said tunnel now and in the future may extend"

Portions of the itemized grant of rights granted by the agreement reads in part as follows:
"Second: The free right-of-way for ingress and egress to and from said mines, for the officers, agents, servants and employees of second party."

Said Agreement is recorded in Book E-mng claims page 593, entry #355686 in the Office of the Salt Lake County Recorder and in B. 8 pg. 590- 594, #31720 in the Office of the Wasatch County Recorder. This Agreement was recorded in both Wasatch & Salt Lake Counties due to the real property estate which it burdens and encumbers being situated in both counties and several different canyons. The real property rights created by this document burden the estate conveyed to the United States of America in the following deeds: Book 2833 page 26, Entry #2322098, and Book 2904 page 449, Entry #2352903 in the Salt Lake County Recorder's Office. [Exhibit-005]

[6] The Leggett Lot 116 and Relief Lot 123, Big Cottonwood MD, patented mining claims are in the vicinity of Lake Mary, Lake Martha and Dog Lake. Said lakes are situated near or intersect the following patented mining claims: Ida May, Martha, Carnegie-M.S. 5595, Magnet-M.S. 3787. Leggett Lot 116 and Relief Lot 123 abutt the foregoing claims. Salt Lake County was the grantor in three conveyances dated June 2, 1937, recorded in the Office of the Salt Lake County Recorder's Office, B. 200 pg. 106, #81 1862, B. 200 pg. 106, #81 186, and B. 206 pg. 20-21, #81 1876. Each conveyance by Salt Lake County contains the following reservation: (Salt Lake County) *"Reserves from this conveyance all rights of way in, to and over the within described property"*. The rights of way reserved from the conveyances described above are shown repeatedly in various subsequent Salt Lake County maps. The maps were authorized and approved by the Salt Lake County Commissioners and prepared by the Salt Lake County Surveyor pursuant to orders of the Salt Lake County Commission.

[Exhibit-006]

[7] The USDA Soil and Water Conservation Service compiled an inventory of roads in the vicinity from aerial photography produced the 1930's, the map is Item #1273 on file in the State of Utah Archives, clearly shows the roadway directly to the claims shown on MS 5595, which road has been consistently documented and claimed by Salt Lake County subsequent to that time. [Exhibit-007]

[8] The Office of the Salt Lake County Surveyor & Engineer prepared a map in 1954, which was revised in 1957. This map clearly identifies roadways extending to and through the property shown on M.S 5595, M.S. 3788, and Lot 147, all the way to Lake Catherine. This road is shown proceeding south out of the NW quarter of Section 35 T2S R3E and being improved in the following manners:
1] Low grade bituminous.
2] Unimproved (bladed) road
3] Primitive road.
The Road Legend shown on the map indicates that the legend applies to "main roads-not subdivisions". The map also indicates that the map is "sheet 2 of 18 sheets", being part of a series of road maps.

[Exhibit-008]

[9] The United States of America is the Grantee and owner of the subservient estate conveyed by two Warranty Deeds, wherein Great Western Mines, a Utah Corporation is the Grantor and the party reserving the dominant estate. Said deeds were recorded in the Office of the Salt Lake County Recorder in Book 2833 page 26, Entry #2322098, and Book 2904 page 449, Entry #2352903. The deed recorded in the Salt Lake County Recorder at Book 2904 page 449, Entry #2352903 was also recorded in the Office of the Wasatch County Recorder due to portions of the property conveyed being situated in both counties. Both deeds were mailed to the Wasatch National Forest, 125 South State Street, Salt Lake City, Utah 84111 subsequent to recording. The acquiring agency was the Department of Agriculture, U.S. Forest Service. Great Western Mining Company, LLC, a Utah Limited Liability Company is the successor in interest to the dominant estate reserved by Great Western Mines, a Utah Corporation in the deeds recorded in the Office of the Salt Lake County Recorder in Book 2833 page 26, Entry #2322098, and Book 2904 page 449, Entry #2352903 and the deed recorded in the Office of the Wasatch County Recorder at Book 2904 page 449, Entry #2352903. The USA was the grantee in both of the aforementioned deeds. The USA and the acquiring agency, the Department of Agriculture, U.S. Forest Service acquired their interest *"SUBJECT to existing rights of way for roads."*. This language is used in real property conveyances to: a) burden and encumber the estate being conveyed, b) inform and give notice to the grantee that the estate being conveyed is so encumbered and burdened, c) give notice to the public at large, other property owners and third parties using said roads, that the estate being conveyed is encumbered by existing roads when said conveyance is recorded in the County Recorder's Office of the county in which the property is situated. Conveyances in which less than the entire fee simple estate is conveyed, the previously reserved portions of the estate are real property estates. The estate conveyed to USA and the acquiring agency, the Department of Agriculture, U.S. Forest Service is less than the whole fee simple estate. Portions of the fee simple estate are held by parties other than the USA and the acquiring agency, the Department of Agriculture, U.S. Forest Service.

The transaction documents for transactions wherein USFS acquires property in the un-surveyed public domain in T3S R3E SLB&M situated to the south of Section 35, T2S R3E disclose the following matters:

1] The purchase agreement for Tract GW-1-70 Exhibit B states:

"(vendor) Reserves the right to enter upon the lands and to prospect for, mine and remove said minerals and mineral substances in accordance with the Rules and regulations referred to in the Land Purchase Option and Contract"

2] The reservation to enter for purposes cited in #1 above is separate from the conveyed estate being "subject to" existing roadways cited in the conveyance deeds into the acquiring agency, the Department of Agriculture.

3] The acquisition of the property was approved by Rue-Director Forestry & Soil Conservation Div as noted in letter dated 12-18-1969 to Attorney General Mitchell and clearly cites that the property is subject to rights of way for roads.

4] United States Attorney General-Mitchell by letter to Sec. Hardin dated January 16, 1970 reports having made an examination of the title and reports as follows:

"According to the option and administrative approval of your Department the land is to be acquired subject to the rights and easements referred to in objections Nos. 4, 5, 7 and 9 above and the reservation by the vendor of all minerals and mineral substances, which are therefore waived.

When the above requirements and objections numbered 1, 2, 3, 6 and 10 have been met, and the enclosed draft of deed from the above-named owner to the United States, duly executed under proper corporate authority and properly stamped, has been recorded in all three countries, the purchase price has been paid, and a title insurance policy in approved form has been obtained showing the vesting of a valid title in the United States of America, the title will be approved subject to the easements referred to in objections Nos. 4, 5, 7 and 9, and the reservation contained in the option.".

Matters Nos. 4, 5, 7 & 9 are cited as follows:

"4 Rights of the United States and third persons, if any, under reservations contained in the patent.

5. Rights of way for any roads, ditches, canals, or transmission lines now existing over, under, or across said property, including those noted in item 3 of the Report.

7. Reservations by the grantors of all minerals and mineral rights as noted in draft of deed to the United States and in item 3 of the Report.

9. Burdens incident to inclusion of a portion of the land within the boundaries of the Salt Lake County Little Cottonwood Sanitary District."

5] The Certificate of Possession discloses the following:

"There is no evidence whatsoeverof either past or present actual use or occupancy of the instant land except the old mining diggings and dilapidated cabins, old mining roads and trails which have not been used for mining purposes for many years". The roads intersecting the acquired property are acknowledged in the Certificate of Possession signed March 28, 1969 by Julian R. Thomas-Forester.

6] The Certificate of Use and Consent dated August 8, 1969 signed by Carl W. Hickerson-Forest Supervisor-Acting certifies the following:

"I further certify that the possible outstanding mineral rights, water rights, rights-of-way for roads, ditches, canals, pipelines, telephone lines, etc., disclosed by the evidence of title, have been administratively considered and, in accordance with authority duly delegated, it has been determined that such outstanding rights will not interfere with the use of the lands for the purpose for which they are being acquired or materially diminish their value. Accordingly, it is recommended that the lands be acquired subject to such exceptions or easements.".

The transaction documents for Tract GW-3-71 also contain the same analysis. The acquiring agency, the Department of Agriculture, U.S. Forest Service was advised of these and numerous other encumbrances and exceptions to the title of the estate conveyed to them and the acquiring agency, the Department of Agriculture, U.S. Forest Service very specifically acknowledges that said encumbrances and exceptions exist and are not contrary to the Agency purposes. [Exhibit-009]

[10] I have reviewed the original GLO plats of both, T2S R3E and T3S R3E SLB&M and subsequent revisions as well as the Field Notes for portions of Section 35 T2S R3E. The original plat for T2S R3E clearly shows public roadways extending into Section 35 T2S R3E. [Exhibit-010]

[11] I have reviewed numerous mineral surveys and field notes, both for the claims cited above as well as some surrounding claims as well. The Field Notes for the Florence claim, M.S. 6293 clearly state the surveyor intersected the "road to Lake Mary", which road is shown on numerous plats. [Exhibit-011]

[12] I have reviewed numerous Salt Lake County Plats prepared by Order of the Salt Lake County Commission by the Salt Lake County Surveyor's Office and other plats which originated from the Salt Lake County Surveyor's Office in the course of conducting the duties of that office. These plats all disclose numerous public roadways intersecting Section 35 T2S R3E, as well as connecting to roadways over privately held patented mining claims, which roadways are used to access patented mining properties in Salt Lake and Wasatch Counties. [Exhibit-012]

[13] A right of way deed found in the chain of title recorded the Office of the Salt Lake County Recorder in Book 1211 page 312, entry #1433407, creates a right of

way over the following patented mining claims: Layfayette, Scott, Putnam-M.S. 4597, Ellen(Allen)-M.S. 4612, Idamay-M.S. 5595 and Magnet-M.S. 5787; in favor of Salt Lake County a political subdivision of the State of Utah. Great Western Mines Company, the grantor in the right of way deed, reserves additional real property rights and interests from the conveyance, among which is the right to establish access roads to tie in and be connected with the "public highway" being created by the right of way deed, to travel over the property, create new roads over the property, maintain existing roads over the property, create access to public roadways. Said conveyance reads in part as follows:

"And further reserving to grantor the perpetual right to establish access roads across the within granted land located as grantor may choose, said access roads to tie in and be connected with the said public highway being established by grantee pursuant to this instrument."

Great Western Mining Company, LLC, a Utah Limited Liability Company is the successor in interest to the estate reserved by Great Western Mines, a Utah Corporation in the deed Book 1211 page 312, entry #1433407. This document is shown stamped as received by Forest Service-Wasatch NF in June 1955. [Exhibit-013]

[14] Numerous Official Maps of the Wasatch Cache National Forest and their predecessors and successors show public roadways into the vicinity. [Exhibit-014]

[15] Numerous maps from the United States Geological Survey disclose numerous public roadways into the vicinity. [Exhibit-015]

[16] The Utah State Road Commission planned to build the "public highway" discussed in #12 above and cited the road in a PROPOSED CAPITAL IMPROVEMENT PROGRAM SUMMARY SCHEDULE dated May 5th, 1942. Said road also appears on State of Utah MAINTENANCE RESPONSIBILITY BY ROAD SECTION-1966 and numerous other maintenance schedules for other years.

The documents cited above are included herewith and provided on digital media storage.

I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed on May 18, 2010:

Acknowledged before me on May 18, 2010:

A notary public commissioned in Utah

(Seal, if any)

My commission expires: September 30, 2010

NOTARY PUBLIC
DEBRA M GRAVELEY
1344 West 4675 South
Riverdale, Utah 84405
My Commission Expires
SEPTEMBER30, 2010
STATE OF UTAH

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Wasatch National Forest
4311 Federal Bldg., 125 S. State
Salt Lake City, Utah 84138

2720
November 20, 1974

Mr. Richard H. Nebeker, President
Cecret Lake Subdivision Association
Kennecott Building
Salt Lake City, Utah 84111

Dear Mr. Nebeker:

Enclosed is the special use permit for the Cecret Lake Subdivision water collector pipe and right-of-way for the transmission line as requested in the application filed by Mr. M. Byron Fisher.

The permit is being issued subject to the following additional stipulations:

1. The permittee shall take all reasonable precautions to prevent pollution of soil and water by its operations. Tractors, trucks, or other equipment will not be serviced on National Forest land where pollution of the stream or spring is likely to occur. Refuse resulting from the permittee's use, servicing, or repair of equipment will be removed from the National Forest.

2. No equipment will be permitted in the wet meadow below the spring area.

3. Construction, including compaction of the trench on the lower side of the stream crossing, will be in accordance with plans approved by the State Division of Health.

4. No trees or other woody plants will be cut and/or removed from National Forest land without prior approval of the Forest Service.

If the permit is satisfactory, as supplemented above, please sign and date both copies and return the duplicate to us. The original is for the Association records.

Also enclosed is a bill for collection of the special use fee for the period December 1, 1974, through December 31, 1975. The permit is not valid until this fee is paid. Hereafter, the billings will be issued in mid-November with payment due on January 1 of each year.

If you have any questions about the permit or the fee, please let us know.

Sincerely,

United States Department of Agriculture
Forest Service

SPECIAL USE PERMIT

Act of June 4, 1897
This permit is revocable and nontransferable
(Ref. FSM 2710)

a. Record no. (1-2)	b. Region (3-4)	c. Forest (5-6)
70	04	19
d. District (7-8)	e. User number (9-12)	f. Kind of use (13-15)
01	4107	911
g. State (16-17)	h. County (18-20)	k. Card no. (21)
49	035	1

Permission is hereby granted to Cecret Lake Subdivision Association

c/o Richard H. Nebeker, President, Kennecott Building, Salt Lake City, Utah 84111 hereinafter called the permittee, to use subject to the conditions set out below, the following described lands or improvements:

A right-of-way 10 feet in width, five feet each side of centerline, and site for a collector line located in the SE¼NW¼, Section 9, T. 3 S., R. 3 E., SLB&M, more specifically shown on the plat designated "Cecret Lake Subdivision, Subdivision Water System Plan & Details" dated September 1973, which is attached and made a part of this permit.

This permit covers ~~xxxxxxxxxxxxxxxxxxxxxx~~ 0.1 miles and is issued for the purpose of:

Construction, operation, and maintenance of an underground collector and transmission line with appurtenant structures to convey water to private property. This permit also provides for the temporary use of a borrow area surrounding the collector line; such use to terminate upon completion of installation and reestablishment of vegetative cover.

1. Construction or occupancy and use under this permit shall begin within eight months, and construction, if any, shall be completed within twelve months, from the date of the permit. This use shall be actually exercised at least 90 days each year, unless otherwise authorized in writing.

2. In consideration for this use, the permittee shall pay to the Forest Service, U.S. Department of Agriculture, the sum of Ten and 83/100- - - - - Dollars ($ 10.83) for the period from December 1 1974, to December 31, 1975, and thereafter annually on January 1, Ten and no/100- - - - - - - - - Dollars ($ 10.00):
Provided, however, Charges for this use may be made or readjusted whenever necessary to place the charges on a basis commensurate with the value of use authorized by this permit.

3. This permit is accepted subject to the conditions set forth herein, and to conditions 18 to 24 attached hereto and made a part of this permit.

	NAME OF PERMITTEE	SIGNATURE OF AUTHORIZED OFFICER	DATE
PERMITTEE	CECRET LAKE SUBDIVISION ASSOCIATION	By: TITLE	
	NAME AND SIGNATURE	TITLE	DATE
ISSUING OFFICER	G. F. HORTON G F Horton	Acting Forest Supervisor	Nov. 19, 1974

(CONTINUED ON REVERSE)

2700-4 (7/71)

Alan Long 973 6835

Larry Gillham

Form Approved
OMB No. 40-R3495

United States Department of Agriculture
Forest Service

SPECIAL USE APPLICATION AND REPORT

Ref: FSM 2712

FOREST SERVICE USE ONLY		
a. Record no. (1-2) 72	b. Region (3-4) --	c. Forest (5-6) --
d. District (7-8) --	e. User number (9-12) ----	f. Kind of use (13-15) ---
g. State (16-17) --	h. County (18-20) ---	k. Card No. (21) 1

PART I - APPLICATION *(To be completed by applicant)*

Application is hereby made for a permit to use National Forest land as indicated below:

1. Description of land: *(Attach MAP or PLAT)*

SE¼NW¼, Sec. 9, T. 3 S., R. 3 E., SLB&Mer., Albion Basin, Little Cottonwood Canyon.

2. Purpose of use.

Culinary water system for Cecret Lake Subdivision, Albion Basin, Alta Canyon, Utah. This sytem will serve 19 lots, (private).

3. Land Area applied for *(For Rights-of-Way show length and width and convert to acres; for other uses show acres)*

Length in: 545 (Miles) or (Feet) × Width 10 (Feet) = .1 (Acres) = .3 acre

Spring Excavation 100 x 75' = .2 Acres

4. Improvements

a. Description

Install 85' of 6" perforated pipe in spring and 545 feet of 6" plastic pipe from the spring to the boundary of the Cecret Lake Subdivision.

SR29-001830

b. Plans attached ☐ Yes ☒ No. If "NO" show date plans will be furnished _____

c. Estimated cost	d. Construction will begin within	e. Construction will be completed within
$ 15,000.00	One (Months)	Two (Months)

Date of Application	Applicants name and signature	Applicant's address
July 28, 1974	Cecret Lake Subdivision Association X M. Byron Finley Agent	800 Continental Bank Building Salt Lake City, Utah 84101 (ZIP Code)

(OVER)

Chris Nelson

From: "Al Soucie/R4/USDAFS" <asoucie@fs.fed.us>
To: "Chris Nelson" <cnelson@rjacoby.com>; <jguldner@townofalta.com>
Cc: "Garry Oye/R5/USDAFS" <goye@fs.fed.us>; "Larry Gillham/R4/USDAFS" <lgillham@fs.fed.us>
Sent: Friday, November 16, 2001 9:08 AM
Subject: Re: Shrontz lodge at Alta

To Chris Nelson and John Guldner,

I discussed this topic with our Acting District Ranger, Garry Oye, and Larry Gillham, Special Uses Administrator on the District. As we see this, the Town of Alta needs to make a decision here, since the proposed lodge is located on private land within the Town. Since the proposed lodge will be a commercial building, housing lodge guests, and is not a single residence like most other buildings located on private land within Albion Basin, we assume that there are Town codes which address providing year round emergency access for fire and ambulance vehicles to that facility, if and when it would be built. If and when this lodge is built, the Forest Service will then have to concur with local code and provide year round access via the existing Albion Basin road and we would likely provide the owners some kind of a road use permit., because it is a Forest road. Yes, we would need to do some public scoping to get public imput into making a better decision on how to provide year round emergency access for the proposed lodge and still allow for winter over-the- snow access on the existing road. The historical recreational use of that road, which has been gated at the end of the State road, it has not been plowed but groomed by Alta Ski Lifts for their guests to ski back to the upper parking area located along the State road within the Town, it has also allowed for uphill public access over-the -snow for none motorized recreational use to public lands, and has provided snowcat access for residents of the town who live in Albion Basin to access their residences.

In past discussions I have informed both the Town and the Shrontz's, that the Forest Service will not start our process of scoping and permitting until there is a real need for it. The rezoning question and the building permit are both Town decisions and the Forest Service has no imput into that, since this is a project located totally on private land within the Town of Alta. So, I hope this answers everyone's questions.

Al Soucie
Natural Resource Recreation Manager
Salt Lake RD, Wasatch-Cache NF, R4
Phone (801)733-2688
Fax (801)733-2684
email (asoucie@fs.fed.us)

MARR, WILKINS & CANNON
ATTORNEYS AND COUNSELORS AT LAW
CONTINENTAL BANK BUILDING
SALT LAKE CITY 1, UTAH

G. A. MARR
C. W. WILKINS
P. B. CANNON
MARK K. BOYLE
RICHARD H. NEBEKER
JOHN W. HORSLEY
J. THOMAS GREENE

August 8, 1956

Mr. F. C. Koziol
Forest Supervisor
465 Federal Building
Salt Lake City, Utah

Re: Road at Alta

Dear Mr. Koziol:

I am enclosing a Special-Use Application to improve and slightly realign 600 yards of an existing road across Tillite mining claims No. 21 to 24 inclusive, in Albion Basin, Little Cottonwood Canyon. The road is to be used as a means of access to Cecret claim No. 1.

As I stated to you a year ago, the Cecret claims are a patented group of mining claims owned by Muryel A. Stuart of Sandy, Utah, as trustee for the Stuart family. It is my intention to build a cabin on a portion of Cecret No. 1 which I acquired from Mr. Stuart. In our discussion, I stated to you that it would be necessary to improve the old wagon road that leads from the picnic area up to Cecret Lake, in order to haul in building materials. I did not realize that a special written permit should first be obtained, and thus we proceeded without it and the road is now nearly completed, as you noticed yesterday.

In realigning the road, we avoided cutting down any trees on the forest, and it is our intention to rock up all the creek crossings to prevent washing. We will, naturally, keep the road in good repair in order to continue using it.

I am taking my vacation the next two weeks to build the cabin. I will be up at Alta most of the time and will be glad to show you our claim corners and boundary lines of Cecret No. 1.

Yours very truly,

Richard H. Nebeker

Richard H. Nebeker

RHN:pc
Encl.

AUG 9 - 1956
RE

Wasatch N.F., SLC

8/10/56

Regional Forester

F. C. Koziol, F.S.

U-USES, Wasatch, Nebeker, Richard, Albion Basin Road (Proposed)

Mr. Richard Nebeker, a local attorney, on behalf of himself and others has made application to improve and use an old mining wagon road in Albion Basin at the head of Little Cottonwood Canyon. The purpose of the road is for access to patented mining claim Cecret No. 1 which is being planned for development by the owners for summer home sites.

The Salt Lake City Water Department objects to this project and has requested informally that the Forest Service deny this permit and thus prevent further development which would contribute to the pollution of the water supply.

Mr. Nebeker contends that the Forest Service cannot deny them the right of access to their property.

The advice of the attorney in charge on this question will be appreciated.

cc Van Buren

FCK:vc

STANDARD FORM NO. 64 REGIONAL FORESTER, FOREST SERVICE, OGDEN, UTAH

Office Memorandum • UNITED STATES GOVERNMENT

DEC 28 1956
RECEIVED

TO : Wasatch

DATE: December 27, 1956

FROM : A. G. Nord, Assistant Regional Forester, By K

SUBJECT: U, USES, Wasatch, Nebeker, Richard, Albion Basin Road (Proposed)

Reference is made to your August 10, 1956 memorandum in the above designated case.

You can refuse a special use permit for access across national forest lands to patented lands as requested by the Salt Lake City Water Department. However, because of the statutory right in the enabling act which created the national forest, we cannot refuse a statutory right of ingress and egress to patented lands within the national forest. See the R-4 Supplement to the Manual in connection with roads concerning easements under the act of 1897.

In granting this road easement under the statutory right we can prescribe the grade and location and standard of construction for the access road as it crosses national forest lands.

It will be appreciated if you will send in the proposed easements for review should you decide to authorize ingress to the mining claim if you find it to be patented.

H. H. VanWinkle

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Forest Supervisor

DATE: June 20, 1960

~~2710~~ 2730
RECEIVED
WASATCH N. F.
JUN 2 . 1960
Copies Sent Rgrs.
Route To:
Sarcia
Virgin

FROM : Julian R. Thomas, D. F. R.

SUBJECT: Special Uses, Nebeker, Richard H. (Albion Basin Road - Proposed)

I contacted Wilbur Parkinson concerning the application for the Nebeker road in Albion Basin. Mr. Parkinson states that the City has no objection to the Forest Service issuing a permit for this.

The City's only concern is that they are taking proper care of their toilet and sanitary facilities. They have no objections at the present time to Mr. Nebeker having a structure here, providing he will comply with the sanitation regulations and ordinances.

At the time of Mr. Nebeker's application the city was taking a more restrictive view of summer home developments on private lands on city watersheds. However, since the installation of the water treatment plant in Little Cottonwood Canyon they have no further objections and will send their sanitary inspector to check on Mr. Nebeker's cabin to see that he is complying with the sanitary regulations.

I recommend that the application be approved and permit issued, and that the standard maintenance and drainage clauses be included in the permit.

Dictated by Julian R. Thomas

Signed in his absence

By C. Wendel

FORM 1000-4 (7/64)

UNITED STATES GOVERNMENT

Department of Agriculture — Forest Service

Memorandum

WASATCH NATIONAL FOREST
FEDERAL BLDG., 125 S. STATE
SALT LAKE CITY, UTAH 84111

TO : District Ranger, Salt Lake R. D.

File No. 5460

FROM : Robert M. Clark, Right-of-Ways

Date: November 16, 1967

SUBJECT: Road Rights-of-Way, Little Cottonwood Canyon Highway.

Your reference:

In reply to your memo of November 9, 1967, I can furnish the following data:

1. The old railroad right-of-way (D-R-G) was granted for a railroad easement from the mouth of the canyon to Alta by the Department of Interior (BLM). The easement was two hundred feet in width.

2. Some time after 1907, the railroad was little used and the location was quit claimed by the railroad company to the County of Salt Lake.

3. The County tried to maintain a road bed on the old railroad easement location for a period of time and found it an expensive project so turned it over to the State Road Commission by a quit claim action on June 9, 1936 as shown as entry 3430 deed records.

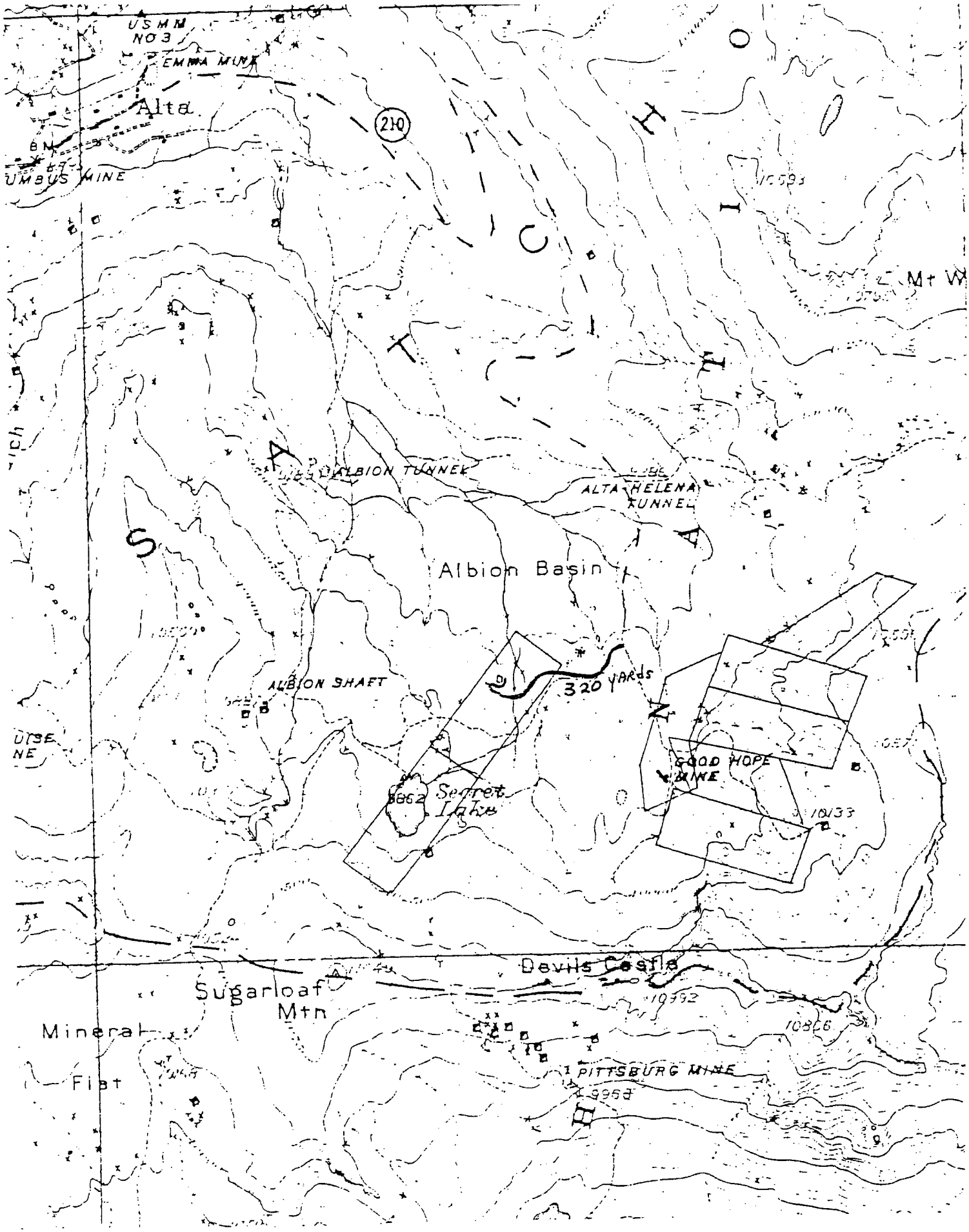
4. At a later date the location of the existing road and width as used by the State was contested in court. It appeared the State location had to detour from the old railroad location for road improvement due to slides, better alignment and grade. In places the location followed the old railroad location and used the 200 foot width. In other locations especially near the old temple quarries at the canyon mouth the easement width varies from 100 feet to 150 feet and then 200 feet. However, the judge of the court declared the location as legal by usage.

5. All dates and references are difficult to trace as to any recorded records. Mr. Ron Fernely with the Right-of-Way Department of the State Highway Department has searched their records and indicates little to nothing on file. Mr. Winston Neiman, Right-of-Way Department, State Highway has made a search of the State files and to date has not been able to produce any actual deeds or legal instruments effecting the easement. Their records are usually old maps showing location of the existing location. The search is still going on to provide some legal evidence of ownership of the easement backing the statements made in items 1 and 4.

6. Conclusion
Actually the State use appears legal as contested in court and declared legal by a judge.
One may doubt the legal sale of the easement to Salt Lake County since the original grant was to the railroad for a railroad easement. Even so any doubt of use appears justified by the court decision.

Robert M. Clark [illegible]

NOV 1 1 1967



* ROAD IS LOCATED IN N½ SEC. 9, T. 3 S., R. 3 E., S.L.M.

SCALE 4" = 1 MILE APPROX.

United States Department of Agriculture | Forest Service | Wasatch-Cache National Forest

Salt Lake Ranger District
6944 South 3000 East
Salt Lake City, Utah 84121
(801)733-2660

File Code: 1950
Date: March 16, 2006

Dear Reader:

In order to be more efficient in soliciting public input on project proposals on the Salt Lake Ranger District, we will at times transmit a group of what we feel are minor projects. Below is a list of project proposals currently undergoing environmental analysis.

1. **Mill Creek Guard Station Water Upgrade (Phase II):** Replace 800 feet of corroded pipe supplying the station with polypropylene pipe using the existing trench. Work would be completed using a mini-excavator and hand tools. Contact Jack Vanderberg: 733-2671

changes in the type and scope of activities and developments currently authorized and in place. Contact Larry Gillham: 733-2686

c) **Cecret Lake Homeowners Waterline:** The Cecret Lake homeowners association is requesting a new permit for the water line from the Cecret Lake dam to private property. The present permit was issued in 1991and has expired. The permit area is in Section 9, T3S, R3E. The new authorization would entail no changes in the type and scope of activities and developments currently authorized and in place. Contact Larry Gillham: 733-2686

d) **Jones Mine Clean Up:** The Jones mine is located in Section 11, T2S, R1E, in the Mt

and scope of activities and developments currently authorized and in place. Contact Larry Gillham: 733-2686

Please send any comments you might have on these projects to the address below (email is preferable). The deadline for us to receive your input is April 2, 2004. Additional information for some of these projects, including detailed proposals, maps, and photos, are available on the Wasatch-Cache National Forest's project and proposal website at www.fs.fed.us/wcnf/projects/proposed.shtml.

Our address is:

Salt Lake Ranger District
6944 South 3000 East
Salt Lake City, UT 84121

Post-it® Fax Note 7671	Date 3.22.04	# of pages ▶ 1
To Karryn	From Guldner	
Co./Dept. S.L.C. Water	Co. Alta Town	
Phone #	Phone # 363 5105	
Fax # 483 6855	Fax # 742 1006	

Or you can e-mail them to us at:

comments-intermtn-wasatch-cache-saltlake@fs.fed.us

Thank you for your interest in management of the Wasatch-Cache National Forest.

Sincerely,

Steve Schmal

SR29-001849

USDA - Forest Service

BILL FOR COLLECTION

(Ref. FSM 6530)

1. Place of Issue
WASATCH-CACHE NATIONAL FOREST

2. Date of Issue
DECEMBER 02, 1987

Please pay by money order, bank draft, or check payable to FOREST SERVICE, USDA.
Mail payment with this statement in the enclosed envelope to: UNIT COLLECTION OFFICER, FOREST SERVICE.

125 SOUTH STATE STREET
SALT LAKE CITY, UT 84138

RICHARD H. NEBEKER
SUITE 800
KENNECOTT BUILDING
SALT LAKE CITY UT 84133 0

Please Show Any Change Of Address Below:

DEC 1987 Paid Northern Utah Accounting Center

FOLD HERE

3. Date or Period	4. Description	5. Amount
01/01/88 TO 12/31/88	HOLDER: 5270-01 01/19/83 SALT LAKE RD 755 FLPMA PRIVATE ROAD PERMIT ROAD	$25.00

NOTE: Payments not received by the due date are subject to a LATE PAYMENT CHARGE at the rate currently published by the Department of the Treasury unless a different rate is prescribed by contract or agreement.

6. Date Payment Due: 01/10/88

7. Amount Due: $25.00

FOLD HERE

8. Bill Number: 000940

9. Unit Number: TP19

10. Sub-Unit Number:

11. Timber Sale Contract Number:

12. Remarks

NOTE:

PAYMENTS NOT RECEIVED BY THE DUE DATE ALSO MAY BE SUBJECT TO AN ADMINISTRATIVE CHARGE PURSUANT TO THE DEBT COLLECTION ACT OF 1982.

13. FOREST SERVICE ACCOUNTING DATA

TRANS. CODE	MANAGEMENT CODE	FY	OBJ CLASS MAJ.	OBJ CLASS SUB.	AMOUNT
A	8 98318				$25.00

14. TOTAL $25.00

Previous edition of this form is obsolete.

FS-6500-89a (10-81)

United States Department of Agriculture | Forest Service | Wasatch-Cache National Forest | 8230 Federal Building
125 South State Street
Salt Lake City, UT 84138
(801) 524-5030

Reply to: 2720

Date: January 24, 1990

RICHARD H. NEBEKER
SUITE 800
KENNECOTT BUILDING
SALT LAKE CITY, UT 84133

CERTIFIED-
RETURN RECEIPT REQUESTED

Dear Mr. Nebeker:

This is to advise you that the fee for your FLPMA Special Use permit was due on January 1, 1990. A service charge of Thirty-Five Dollars ($35.00) is added for late payment. Accordingly, a new billing which includes this service charge is enclosed for $60.00.

Failure to pay fees is a violation of the terms of your special use permit. Your continued occupancy and use of National Forest System land are dependent upon prompt fee payment. This letter is notification that your permit may be terminated for breach of conditions, and that failure to make prompt payment in full of your permit fee is a breach of conditions. I have no choice but to initiate action to suspend or terminate your permit if payment of both the permit fee and service charge are not received on or before February 14.

Please give this matter your immediate attention.

Sincerely,

for DALE N. BOSWORTH
Forest Supervisor

Enclosure

2710
July 22, 1960

Forest Supervisor

Julian R. Thomas, D. F. R.

Special Use Permits (Nebeker, Richard H. and Ann S.)

Richard H. and Ann S. Nebeker have .91 acres deeded in their names in the N½ of Section 9, T3S, R3E, Salt Lake Base and Mer.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
DISTRICT FOREST RANGER
WASATCH NATIONAL FOREST
3070 EAST 33rd SOUTH
SALT LAKE CITY, UTAH 84109

2560
August 2, 1974

Mr. Richard H. Nebeker
Suite 800 Kennecott Building
Salt Lake City, Utah 84133

Dear Mr. Nebeker:

Reference is made to your letter of July 8, 1974, regarding your proposed spring development in Albion Basin.

Tentatively, the Forest Service agrees, on National Forest land, to prevent housing or other developments which might result in concentrations of pollution substances of any kind within 1,500 feet at an elevation equal to or greater than your spring site or within 100 feet below the spring. We cannot give a final commitment on this agreement until an Environmental Analysis Report has been prepared and approved and a Special Use Permit has been issued for development of the spring.

This spring is located in the SW¼ of Section 9, T. 3 S., R. 3 E. SLB & Meridan and will furnish culinary water for the Cecret Lake Subdivision.

I hope this letter will help in securing approval of your plans from the State Board of Health.

Sincerely,

William L Thompson

for
G. LYNN SPRAGUE
District Forest Ranger

AUG 2 1974
State Div. of Health
Environmental Health

USDA - Forest Service

BILL FOR COLLECTION

(Ref. FSM 6530)

1. Place of Issue: WASATCH-CACHE NATIONAL FOREST

2. Date of Issue: DECEMBER 01, 1986

Please pay by money order, bank draft, or check payable to **FOREST SERVICE, USDA.**
Mail payment with this statement in the enclosed envelope to: **UNIT COLLECTION OFFICER, FOREST SERVICE.**

125 SOUTH STATE RM. 8230
SALT LAKE CITY, UT. 84138

RICHARD H. NEDEKER
SUITE 800
KENNECOTT BUILDING
SALT LAKE CITY UT 84133

FOREST SERVICE
WASATCH-CACHE NATIONAL FOREST
SALT LAKE CITY, UTAH

DEC 9 1986

PAID

Please Show Any Change Of Address Below:

FOLD HERE

3. Date or Period	4. Description	5. Amount
01/01/87 TO 12/31/87	HOLDER: 5270-01 01/19/83 SALT LAKE RD 755 FLPMA PRIVATE ROAD PERMIT ROAD	$25.00

NOTE: Payments not received by the due date are subject to a **LATE PAYMENT CHARGE** at the rate currently published by the Department of the Treasury unless a different rate is prescribed by contract or agreement.

6. Date Payment Due: 01/01/87

7. Amount Due: $25.00

FOLD HERE

8. Bill Number	9. Unit Number	10. Sub-Unit Number	11. Timber Sale Contract Number
[illegible]	TPIP		

12. Remarks

NOTE:

PAYMENTS NOT RECEIVED BY THE DUE DATE ALSO MAY BE SUBJECT TO AN ADMINISTRATIVE CHARGE PURSUANT TO THE DEBT COLLECTION ACT OF 1982.

13. FOREST SERVICE ACCOUNTING DATA

TRANS. CODE	MANAGEMENT CODE	FY	OBJ CLASS MAJ.	OBJ CLASS SUB.	AMOUNT
A	8 90318				$25.00

14. TOTAL $25.00

Previous edition of this form is obsolete.

FS-6500-89a (10-81)

USDA - Forest Service

BILL FOR COLLECTION

(Ref. FSM 6530)

1. Place of Issue
WASATCH
NATIONAL FOREST

2. Date of Issue
DECEMBER 1, 1985

Please pay by money order, bank draft, or check payable to **FOREST SERVICE, USDA.**
Mail payment with this statement in the enclosed envelope to: **UNIT COLLECTION OFFICER, FOREST SERVICE.**

8226 FEDERAL BUILDING
SALT LAKE CITY, UT 84138

FOREST SERVICE
WASATCH-CACHE NATIONAL FOREST
SALT LAKE CITY, UTAH

JAN 2 1986

PAID

RICHARD H NEBEKER
KENNECOTT BLDG
SUITE 800
SALT LAKE CITY, UT 84133

Please Show Any Change Of Address Below:

FOLD HERE

3. Date or Period	4. Description	5. Amount
1/ 1/86 TO 12/31/86	SPECIAL USE 70 04 39 5270 7/26/60 01 734 CLASS C ROAD PERMIT	$25.00

NOTE: Payments not received by the due date are subject to a **LATE PAYMENT CHARGE** at the rate currently published by the Department of the Treasury unless a different rate is prescribed by contract or agreement.

6. Date Payment Due	7. Amount Due
1/ 1/86	125.00

FOLD HERE

8. Bill Number	9. Unit Number	10. Sub-Unit Number	11. Timber Sale Contract Number
340	TP19		

12. Remarks

NOTE:

PAYMENTS NOT RECEIVED BY THE DUE DATE ARE ALSO SUBJECT TO AN ADMINISTRATIVE CHARGE PURSUANT TO THE DEBT COLLECTION ACT OF 1982.

13. FOREST SERVICE ACCOUNTING DATA

TRANS. CODE	MANAGEMENT CODE	FY	OBJ CLASS MAJ.	OBJ CLASS SUB.	AMOUNT
A	8 98310				$25.00

14. TOTAL → $25.00

Previous edition of this form is obsolete.

FS-6500-89a (10-83)

United States Department of Agriculture
Forest Service
Wasatch-Cache National Forest
8230 Federal Building
125 South State Street
Salt Lake City, UT 84138
(801) 524-5030

Reply to: 2730

Date: October 8, 1991

Richard H. Nebeker
Suite 800, Kennecott Building
Salt Lake City, UT 84133

Dear Mr. Nebeker:

Enclosed are three copies of a special-use permit for the access road across Tillite mining claims No. 21, 22, 23, and 24 in Albion Basin, Little Cottonwood Canyon in order to reach Cecret claim No. 1.

We are in the process of updating all right-of-way permits to include recent changes in law and to reflect the changes in minimum fee as referenced in the letter of June 9, 1990.

Please review the private road special use permits, sign and return all three copiess to our office. The special use permit will then be signed by the Forest Supervisor. One copy will be returned to you for your files, one copy will be sent to the Salt Lake Ranger District, and one copy will be retained in our files.

Your current permit is due to expire December 31, 1992. We have issued the new permit for a period of ten (10) years with an expiration date of December 31, 2002.

If you have any questions regarding the special use permit, please call the Salt Lake Ranger District at 524-5042 or Brian Power or Betty Reed at 524-5104.

Sincerely,

Larry C. Lucas

for SUSAN GIANNETTINO
Forest Supervisor

Enclosures

PRIVATE ROAD SPECIAL-USE PERMIT

Richard H. Nebeker OF Suite 800, Kennecott Building, Salt Lake City, UT 84133 (hereafter called the Permittee) is hereby authorized to use National Forest Lands for the construction, reconstruction, maintenance, and use of a road within the Wasatch-Cache National Forest for the following purposes:

To gain access across the Tillite mining claims No. 21, 22, 23, and 24 in Albion Basin, Little Cottonwood Canyon in order to reach Cecret Claim No. 1 on private property.

The lands covered by this permit are located in the County of Salt Lake, State of Utah and are described as follows:

T. 3 S., R. 3 E., SLB&M, Section 9, N1/2. (As shown on map dated 12/17/57, filed in special use permit file in the Supervisor's Office.

This permit covers a right-of-way .18 mile in length, 12 feet in width, containing approximately .26 acres, and is located upon the ground according to the survey line, figures, measurements, widths, and other references shown on the map or plat attached hereto and made a part hereof.

This permit is made subject to the following terms, provisions, and conditions:

1. This permit is subject to all existing easements and valid rights existing on this date.

2. The Permittee in exercising the privileges granted by this permit shall comply with all applicable State and Federal laws, Executive Orders, and Federal rules and regulations, and shall comply with all State standards for public health and safety, environmental protection, and siting construction, operation, maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards.

3. The Permittee shall cut no timber except as authorized by construction stipulations or maintenance agreements.

4. The Permittee shall provide maintenance so that no damage occurs on adjacent National Forest land. The Permittee shall construct and maintain lead-off drainage and water barriers as necessary to prevent erosion.

5. Permittee shall pay the United States for all injury, loss, or damage, including fire suppression costs, in accordance with Federal and State laws.

6. Permittee shall indemnify the United States for any and all injury, loss, or damage, including fire suppression costs the United States may suffer as a result of claims, demands, losses, or judgments caused by the Permittee's use or occupancy under this permit.

7. Permittee shall pay annually in advance a sum determined by the Forest Service to be the fair market value of the use authorized by this permit. The initial payment is set a (paid for 1991) for the remainder of the calendar year. Payments for each subsequent calendar year shall be the amount of $45.00 adjusted using the Implicit Price Deflator-Gross National Product index (IPD-GNP), or other factor selected by the Forest Service, to reflect more nearly the current fair market value of the use. At intervals to be determined by certain changes in the indexes used to establish the linear rights-of-way fee schedule, the fee shall be reviewed and adjusted as necessary to assure that it is commensurate with the value of the rights and privileges authorized. Failure of the Permittee to pay the annual payment, late charges, or other fees or charges shall cause the permit to terminate.

8. The Permittee shall pay an interest charge on any fee amount not paid by the payment due date.

Interest shall be assessed using the most current rate prescribed by the United States Department of Treasury Financial Manual (TFM-6-8020). Interest shall accrue from the date the fee payment was due. In addition, certain processing and handling administrative costs may be assessed in the event the account becomes delinquent and added to the amounts due.

A penalty of 6 percent per year shall be assessed on any fee amount overdue in excess of 90 days from the due date of the first billing.

Payments will be credited on the date received by the designated collection officer or deposit location. If the due date(s) for any of the above payments or fee calculation statements fall on a nonworkday, the charges shall not apply until the close of business of the next workday.

9. All construction or reconstruction of the road shall be in accordance with plans, specifications, and written stipulations approved by the Forest Service prior to beginning such construction or reconstruction.

10. The Permittee shall repair fully all damage to National Forest roads and trials caused by the exercise of the privileges granted by this permit.

11. The United States may use the roads without cost for all purposes deemed necessary or desirable in connection with the protection and administration of the lands or resources of the United States, provided that it will use the road for commercial hauling purposes, other than the removal of timber cut in construction or maintenance of the road or other occasional incidental use, only after arranging to pay or perform its pro rata share of road maintenance.

12. The Forest Service alone may extend rights and privileges for use of the road constructed on the premises to other non-Federal users provided that such users shall pay a fair share of the current replacement cost less depreciation of the road to the permittee, and reconstruct the road as necessary to accommodate their use.

13. The Forest Service retains the right to occupy and use the right-of-way and to issue or grant rights-of-way for land uses, for other than road purposes, upon, over, under, and through the permit area provided that the occupancy and use do not interfere unreasonably with the rights granted herein.

14. The Forest Service shall have the right to cross and recross the premises and road at any place by any reasonable means and for any purpose in such manner as does not interfere unreasonably with use of the road.

15. The Permittee shall maintain the right-of-way clearing by means of chemicals only after the Forest Supervisor has given specific written approval. Application for such approval must be in writing and must specify the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.

16. Unless sooner terminated or revoked by the Regional Forester, this permit shall expire and terminate on December 31, 2002. At that time, if the permittee still needs the road for the purposes for which this permit is granted, the permit will be reissued for a period of 2 years. At the time of reissuance, the terms and conditions may be modified and new conditions or stipulations added at the discretion of the Forest Service.

17. This permit may be terminated or suspended upon breach of any of the conditions herein, or revoked at the discretion of the Regional Forester.

18. Upon termination or revocation of this special-use authorization, the Permittee shall remove within a reasonable time the structures and improvements and shall restore the site to a condition satisfactory to the authorized officer, unless otherwise waived in writing or in the authorization. If the Permittee fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but this does not relieve the Permittee from liability for the removal and site restoration costs.

In Witness Whereof, the parties hereto have caused this permit to be duly executed on the 31 day of October . 1991 .

Permittee

by R. H. Nebeker
Richard H. Nebeber

USDA - Forest Service

Susan Giannettino
SUSAN GIANNETTINO
Forest Supervisor
Wasatch-Cache National Forest

United States Department of Agriculture Forest Service Act of Oct. 21, 1976 (P.L. 94-579) **SPECIAL USE PERMIT** **(Road)** *Ref. FSM 2733.*	a. RECORD NO. (1-2) 70	b. REGION (3-4) 04	c. FOREST (5-6) 19
	d. DISTRICT (7-8) 01	e. USER NO. (9-12) 5270	f. KIND OF USE (13-15) 734
	g. STATE (16-17) r9	h. COUNTY (18-20) 035	k. CARD NO. (21) 1

Richard H. Nebeker (Name) of Suite 800, Kennecott Building Salt Lake City, Utah 84133 (Address)

(hereafter called the permittee) is hereby authorized to use National Forest lands for the construction, reconstruction, maintenance, and use of a road within the Wasatch-Cache National Forest for the protection, administration, management and utilization of lands and the resources thereof now or hereafter owned or controlled by the permittee.

This permit is subject to the general provisions listed herein and to the special clauses and requirements, items 8 through 14, on page(s) 2 ~~through xxxxxxxx~~ attached hereto and made a part of this permit.

This permit covers a right of way 0.18 miles in length, 12 ft. in width and containing approximately 0.26 acres, and located upon the ground according to the survey line, figures, measurements, widths, and other references shown on the plat attached hereto and made a part hereof.

Permit class D.

GENERAL PROVISIONS

1. This permit is subject to all valid rights existing on this date.

2. The permittee in exercising the privileges granted by this permit shall comply with all applicable State and Federal laws, Executive Orders, and Federal rules and regulations.

3. The permittee shall cut only such timber as necessary in clearing for road construction, reconstruction, and maintenance. Timber so cut shall, unless otherwise agreed to, be cut into logs of lengths specified by the Forest Service and decked along the road for disposal by the Forest Service.

4. The permittee shall do everything reasonably within his power to prevent forest fires, and will not dispose of material by burning in open fires during the closed season established by law or regulation without a written permit from the Forest Service.

5. The permittee shall fully repair all damage, other than ordinary wear and tear, to National Forest roads and trails caused by the permittee in exercise of the privileges granted by this permit.

6. No member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

7. This permit may be terminated or suspended upon breach of any of the conditions herein or at the discretion of the Regional Forester or the Chief, Forest Service.

THIS PERMIT IS ACCEPTED SUBJECT TO ALL OF ITS TERMS AND CONDITIONS

	NAME OF PERMITTEE	SIGNATURE OF AUTHORIZED OFFICER	DATE
PERMITTEE	RICHARD H. NEBEKER	/s/ RICHARD H. NEBEKER TITLE	2/8/83
ISSUING OFFICER	NAME AND SIGNATURE /s/ ROBERT M. CRON ROBERT M. CRON	TITLE Acting Forest Supervisor	DATE 1/19/83

2700-15 (11/72)

GPO 938-677

8. (A-13) A late payment charge in addition to the regular fees shall be made for failure to meet the fee payment due date or any of the dates specified for submission of statements required for fee calculation. The late payment charge shall be $15, or an amount calculated by applying the current rate prescribed by Treasury Fiscal Requirements Manual Bulletins to the overdue amount for each 30-day period or fraction thereof that the payment is overdue, whichever is greater. If the due date falls on a nonworkday, the late payment charge will not apply until the end of the next workday. This permit may be terminated for non-payment of fees and assessed service charges.

9. (E-4) Unless sooner terminated or revoked by the Forest Supervisor in accordance with the provisions of the permit, this permit shall expire and become void on December 31, 1992, but a new permit to occupy and use the same National Forest land may be granted provided the permittee will comply with the then-existing laws and regulations governing the occupancy and use of National Forest lands and shall have notified the Regional Forester not less than 3 months prior to said date that such new permit is desired.

10. (G-2) In consideration for this use, the permittee shall pay the Forest Service, U.S. Department of Agriculture, the sum of twenty and 83/100 Dollars ($20.83), for the period from March 1, 1983, to December 31, 1983, and thereafter annually on January 1, Twenty-five and no/100 Dollars ($25.00): Provided, however, that charges for this use may be made or readjusted whenever necessary to place the charges on a basis commensurate with the value of use authorized by this permit.

11. (G-4) Construction of road shall be in accordance with specifications set forth in exhibit A, attached hereto, or as specified by the Forest Service.

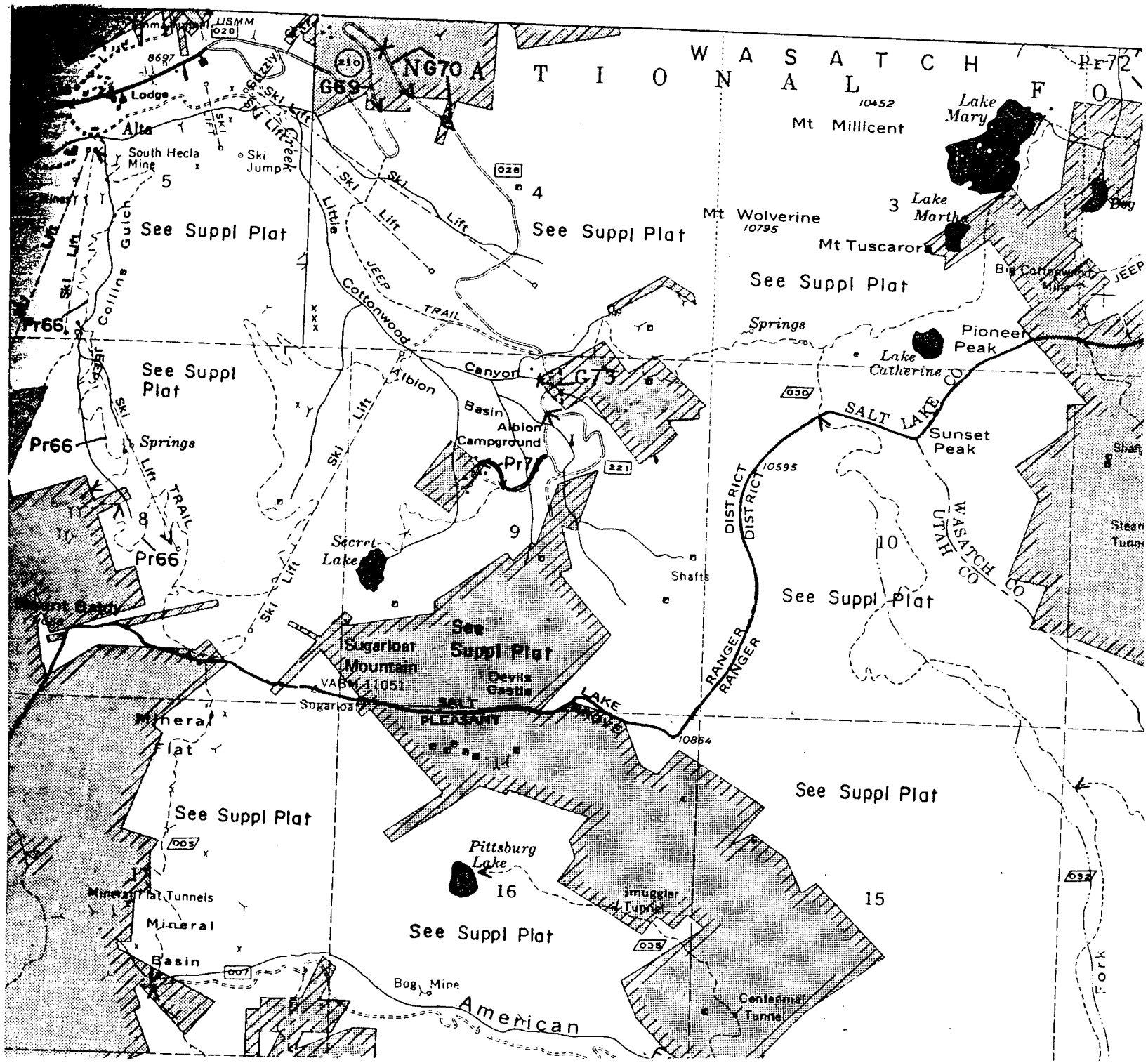
12. (G-8) The permittee shall provide maintenance so that at the termination of this permit, the road will be in a condition equal to that normally prevailing on roads of like standard, and unless otherwise agreed to, leadoff drainage and water barriers to prevent erosion will be constructed on the road as directed by the Forest Service.

13. (G-9) Roads constructed under authority of this permit shall be subject to control by the permittee except:

1. They shall at all times be open to use by Forest Service employees on official business.

2. The Forest Service may issue permits authorizing use of the roads to other parties who own resources or lands served by the road: Provided, that such use will not materially interfere with the use by the permittee; and Provided further, that such parties will be required to bear proportionate maintenance costs under a written agreement with the permittee herein, or in accordance with arrangements specified by the Forest Service.

14. (X-18) This permit supersedes a special-use permit designated: Nebeker, Richard H., Road, 7/26/60.



WASATCH
TIONAL FO
Pr72
Lake Mary
Mt Millicent
10452
Lake Martha
Mt Wolverine
10795
Mt Tuscarora
Big Cottonwood Mine
JEEP
Springs
Pioneer Peak
Lake Catherine
SALT LAKE CO
Sunset Peak
10595
WASATCH CO
UTAH CO
DISTRICT
RANGER
10864
Shafts
See Suppl Plat
Lodge
Alta
South Hecla Mine
Ski Jump
Ski Lift
Little Cottonwood Canyon
JEEP TRAIL
Collins Gulch
Pr66
Albion Basin
Albion Campground
Pr7
G73
G69
NG70
Secret Lake
Mount Baldy
Sugarloaf Mountain
VABM 11051
Sugarloaf
Devils Castle
SALT LAKE
PLEASANT GROVE
Mineral Flat
Mineral Flat Tunnels
Mineral Basin
Pittsburg Lake
Smuggler Tunnel
Centennial Tunnel
Bog Mine
American
Fork
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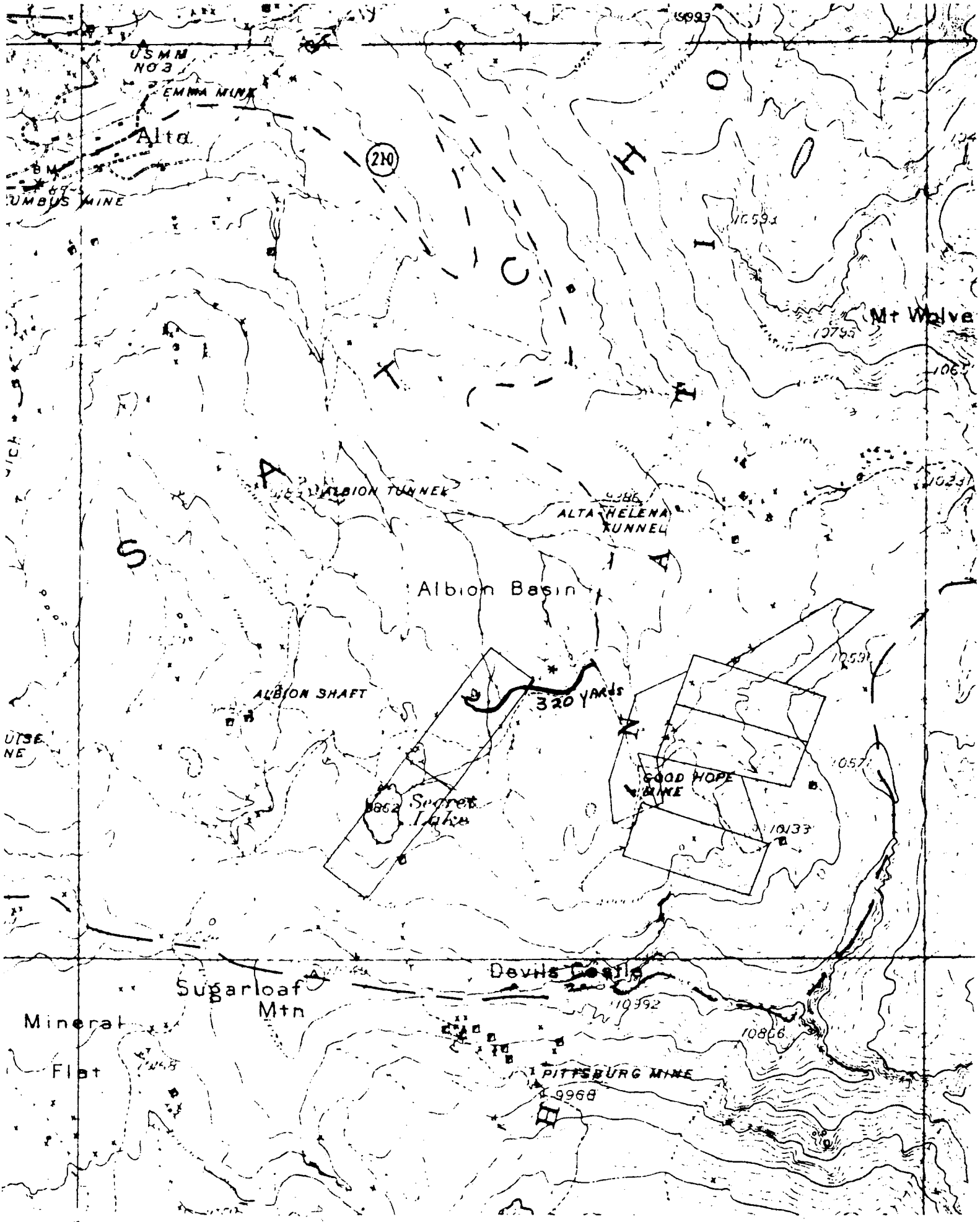


* ROAD IS LOCATED IN N½ SEC 9, T.3S., R.3E., S.L.M.

SCALE 4" = 1 MILE APPROX.

Case Designation:
2710
Nebeker, Richard H.
Road (Albion Basin)
7/26/60

FOREST SERVICE
Wasatch National Forest
SALT LAKE DISTRICT
AUG 1 1960
RECEIVED

SPECIAL USE PERMIT

Wasatch National Forest.

Permission is hereby granted to Richard H. Nebeker
of ~~920 Continental Bank Building~~ Suite 800 Kennecott Bldg, Salt Lake City, Utah 84133,

hereinafter called the permittee, to use, subject to the conditions set out below, the following-described lands or improvements:

A portion of the N½ of Section 9, T3S, R3E, SLM, as shown on the attached map which is made a part of this permit.

This permit covers ~~xxxxxxxxxxxxxxxxxxxxxxxxxx~~ 960 feet ~~xxxx~~ for the purpose of:

improvement and maintenance of an access road across National Forest land to provide ingress and egress to private land.

The exercise of any of the privileges granted in this permit constitutes acceptance of all the conditions of this permit.

~~In consideration for these rights the permittee shall deposit with the Regional Forest Agent, Forest Service,~~ Free use under Reg. U-14, ~~a check, draft or money order payable to the Treasurer of the United States in the amount of~~ ~~dollars ($xxxxxxxxxxxxxx) for the period from~~ ~~xxxxxxxxxx~~, ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~, ~~and thereafter annually xxxx~~, ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ ~~dollars ($xxxxxxxxxxxxxx). The charges for this use may be adjusted from time to time to bring the permit charge into consistency with the charge to other permittees for like privileges.~~

Form FS-832
(Revised 12-1-49)

cc: D-1

2. Construction or occupancy and use under this permit shall begin within 1 months, and construction, if any, shall be completed within 12 months, from the date of the permit. This use shall be actually exercised at least 365 days each year, unless otherwise authorized in writing.

3. Development plans; lay-out plans; construction, reconstruction, or alteration of improvements; or revision of lay-out or construction plans for this area must be approved in advance and in writing by the forest supervisor. Trees or shrubbery on the permitted area may be removed or destroyed only after the forest officer in charge has approved, and has marked or otherwise designated that which may be removed or destroyed. Merchantable timber cut must be paid for by the permittee. Trees, shrubs, and other plants may be planted in such manner and in such places about the premises as may be approved by the forest officer in charge.

4. The permittee shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the forest officer in charge.

5. This permit is subject to all valid claims.

6. The permittee, in exercising the privileges granted by this permit, shall comply with the regulations of the Department of Agriculture and all Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit.

7. The permittee shall take all reasonable precautions to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during the closed season established by law or regulation without a written permit from the forest officer in charge or his authorized agent.

8. The permittee shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit, and shall pay the United States for any damage resulting from negligence or from the violation of the terms of this permit or of any law or regulation applicable to the national forests by the permittee, or by any agents or employees of the permittee acting within the scope of their agency or employment.

9. The permittee shall fully repair all damage, other than ordinary wear and tear, to national forest roads and trails caused by the permittee in the exercise of the privilege granted by this permit.

10. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

~~11.~~ Upon abandonment, termination, revocation, or cancellation of this permit, the permittee ~~shall~~ remove within a reasonable time all structures and improvements except those owned by the United States, and shall restore the site, unless otherwise agreed upon in writing or in this permit. If the permittee fails to remove all such structures or improvements within a reasonable period, they shall become the property of the United States, but that will not relieve the permittee of liability for the cost of their removal and restoration of the site.

12. This permit is not transferable. If the permittee through voluntary sale or transfer, or through enforcement of contract, foreclosure, tax sale, or other valid legal proceeding shall cease to be the owner of the physical improvements situated on the land described in this permit and is unable to furnish adequate proof of ability to redeem or otherwise reestablish title to said improvements, this permit shall be subject to cancellation. But if the person to whom title to said improvements shall have been transferred in either manner above provided is qualified as a permittee, and is willing that his future occupancy of the premises shall be subject to such new conditions and stipulations as existing or prospective circumstances may warrant, his continued occupancy of the premises may be authorized by permit to him if, in the opinion of the forest supervisor, issuance of a permit is desirable and in the public interest.

13. In case of change of address, the permittee shall immediately notify the forest supervisor.

14. The temporary use and occupancy of the premises and improvements herein described may not be sublet by the permittee to third parties without the prior written approval of the forest supervisor and the permittee shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet.

15. This permit may be terminated upon breach of any of the conditions herein or at the discretion of the regional forester or the Chief, Forest Service.

16. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provision thereof, the preceding printed clauses will control.

17. This permit is subject to the conditions set forth above and to conditions 18 to 22 attached hereto and made a part of this permit.

Date xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
(Signature of issuing officer)

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
(Title)

18. The right-of-way will not exceed 20 feet in width.

19. Forest officers will have unrestricted use of the right-of-way in connection with the administration and protection of the national forest.

20. The standards of construction and the improvements installed will be such as to meet the needs for preventing erosion in accordance with conditions existing on the right-of-way as determined by the Forest Officer in charge.

21. The road is to be sown to grass seed as directed by the Forest Officer in charge.

22. The road shall at all times be open to the public.

7/26/60	/S/ F. C. Koziol
Date	Signature of Issuing Officer
	Forest Supervisor
	Title

2710
June 20, 1960

Forest Supervisor

Julian R. Thomas, D. F. R.

Special Uses, Nebeker, Richard H. (Albion Basin Road - Proposed)

I contacted Wilbur Parkinson concerning the application for the Nebeker road in Albion Basin. Mr. Parkinson states that the City has no objection to the Forest Service issuing a permit for this.

The City's only concern is that they are taking proper care of their toilet and sanitary facilities. They have no objections at the present time to Mr. Nebeker having a structure here, providing he will comply with the sanitation regulations and ordinances.

At the time of Mr. Nebeker's application the city was taking a more restrictive view of summer home developments on private lands on city watersheds. However, since the installation of the water treatment plant in Little Cottonwood Canyon they have no further objections and will send their sanitary inspector to check on Mr. Nebeker's cabin to see that he is complying with the sanitary regulations.

I recommend that the application be approved and permit issued, and that the standard maintenance and drainage clauses be included in the permit.

Dictated by Julian R. Thomas
Signed in his absence
By E. Werdit

2710

July 29, 1960

Mr. Richard H. Nebeker
920 Continental Bank Building
Salt Lake City, Utah

Dear Mr. Nebeker:

Enclosed is your special use permit for improvement and maintenance of the access road which crosses Forest land in Albion Basin.

If you have any questions concerning the permit, please feel free to contact Ranger Julian Thomas at 432 South 4th East, Salt Lake City.

Very truly yours,

F. C. KOZIOL
Forest Supervisor

By R. W. Hentherne

Enclosure

vd

cc: D-1 ✓

Case Designation:

2710
Nebeker, Richard H.
Road (Albion Basin)
7/26/60

SPECIAL USE PERMIT

Wasatch National Forest.

Permission is hereby granted to Richard H. Nebeker

of 920 Continental Bank Building, Salt Lake City, Utah,

hereinafter called the permittee, to use, subject to the conditions set out below, the following-described lands or improvements:

A portion of the N½ of Section 9, T3S, R3E, SLM, as shown on the attached map which is made a part of this permit.

This permit covers ~~xxxxxxxxxxxxxxxx~~ ~~xxx~~ 960 feet ~~miles~~ for the purpose of:

improvement and maintenance of an access road across National Forest land to provide ingress and egress to private land.

The exercise of any of the privileges granted in this permit constitutes acceptance of all the conditions of this permit.

~~1. In consideration for this use the permittee shall deposit with the Regional Fiscal Agent Forest~~

~~Service~~ Free use under Reg. U-14, ~~a check, draft, or money order made payable~~

~~to the Treasurer of the United States in the sum of~~ ~~dollars~~

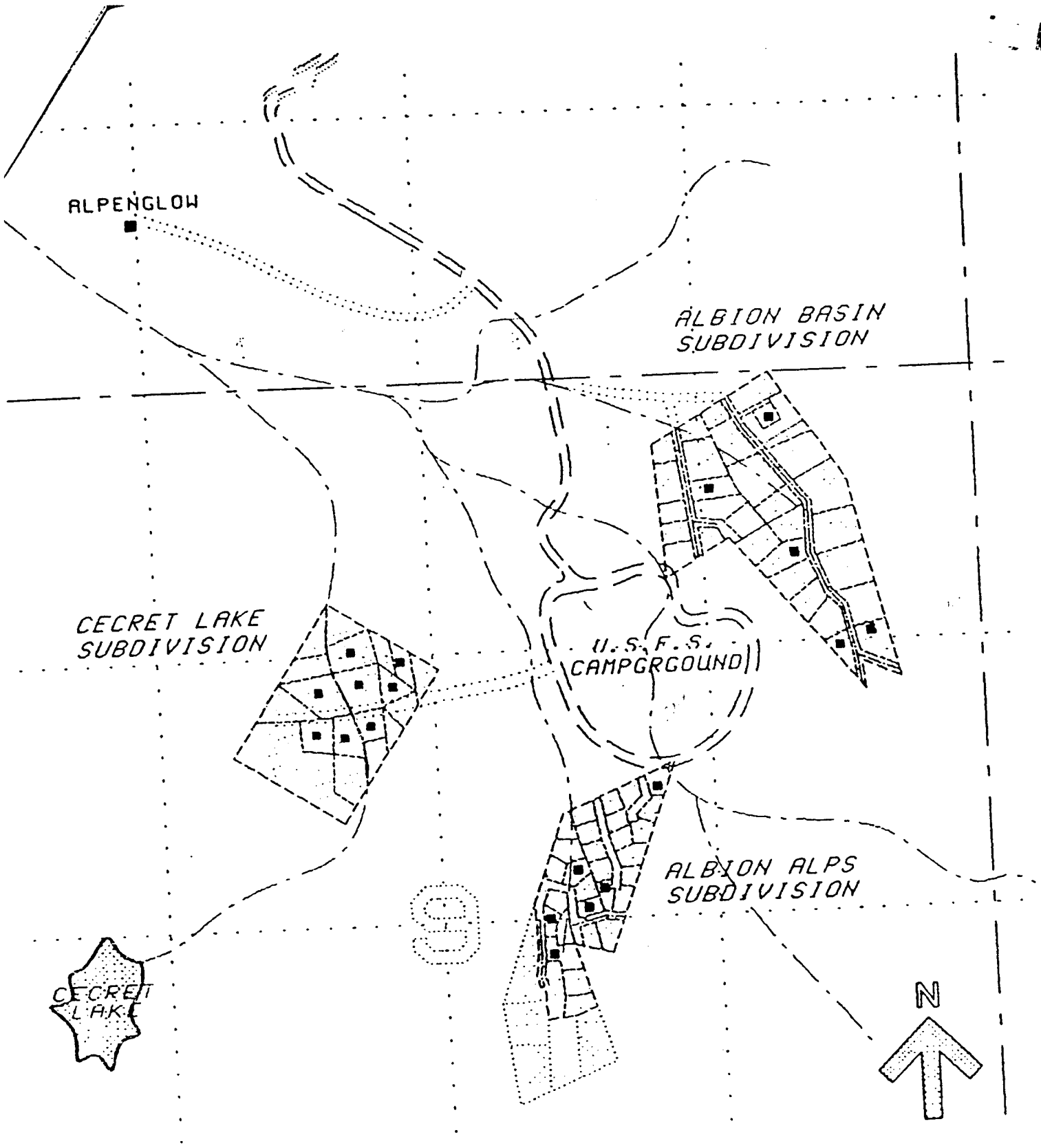
~~($xxxxxxxxxxxxxxxx) for the period from~~ ~~xxxxxxxxxx~~,

~~19xxxxxxxxxxxxxxxx~~,

~~dollars ($xxxxxxxxxxxxxxxx). The charges for this use may be readjusted from time to time to place this permit on a basis consistent with the charge to other permittees for like privileges.~~

Form FS-832
(Revised 12-1-49)

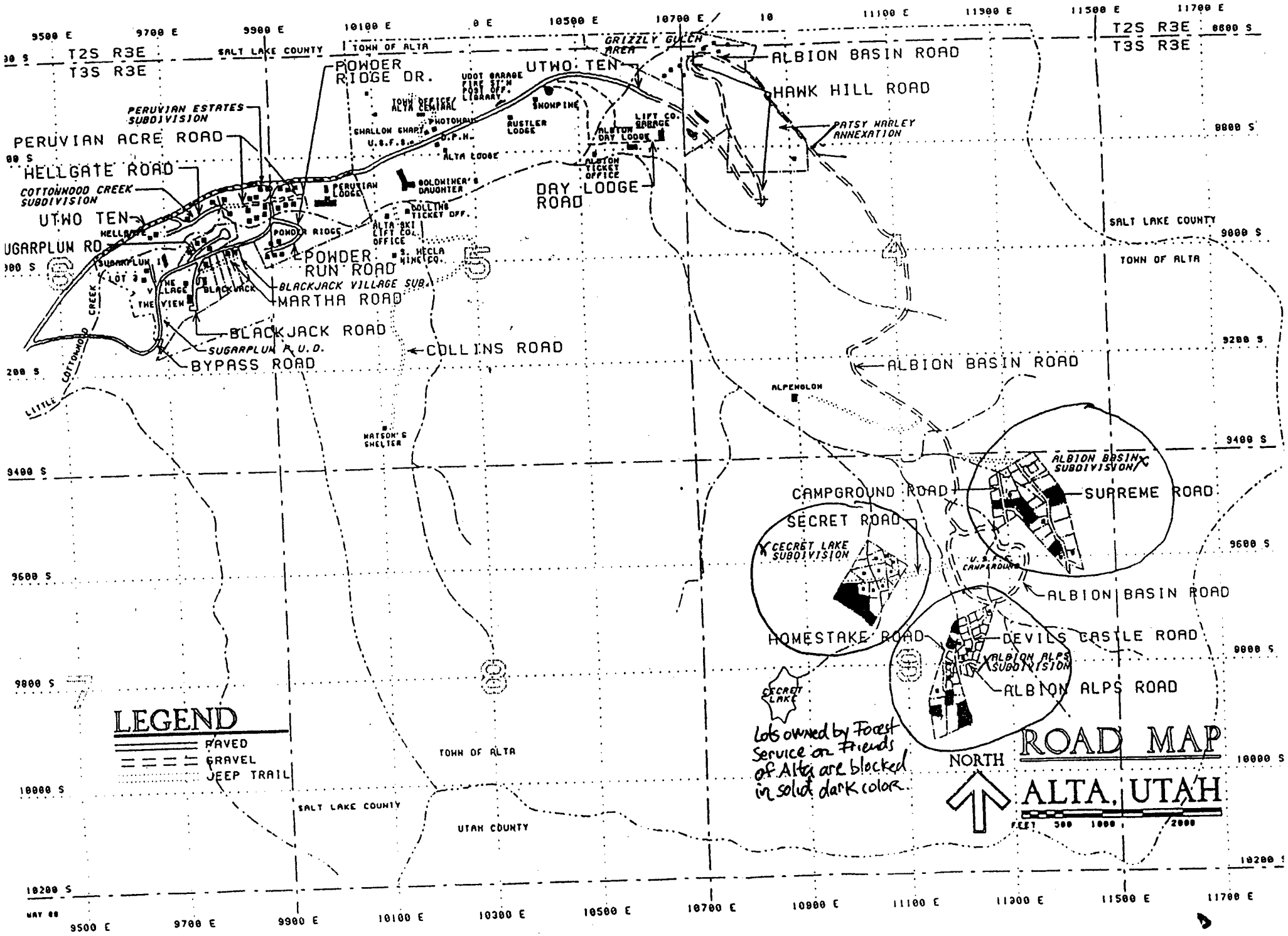
cc: D-1



UPPER ALBION BASIN

0 500 1000 1500
FEET

FEB 88


ROAD MAP
ALTA, UTAH
NORTH
LEGEND
PAVED
GRAVEL
JEEP TRAIL
T2S R3E
T3S R3E
SALT LAKE COUNTY
TOWN OF ALTA
UTAH COUNTY
POWDER RIDGE DR.
PERUVIAN ESTATES SUBDIVISION
PERUVIAN ACRE ROAD
HELLGATE ROAD
COTTONWOOD CREEK SUBDIVISION
UTWO TEN
SUGARPLUM RD
POWDER RUN ROAD
BLACKJACK VILLAGE SUB.
MARTHA ROAD
BLACKJACK ROAD
SUGARPLUM P.U.D.
BYPASS ROAD
COLLINS ROAD
LITTLE COTTONWOOD CREEK
GRIZZLY GULCH AREA
ALBION BASIN ROAD
HAWK HILL ROAD
PATSY HARLEY ANNEXATION
DAY LODGE ROAD
ALPENGLOW
WATSON'S SHELTER
ALBION BASIN SUBDIVISION
SUPREME ROAD
CAMPGROUND ROAD
SECRET ROAD
SECRET LAKE SUBDIVISION
HOMESTAKE ROAD
DEVILS CASTLE ROAD
ALBION ALPS SUBDIVISION
ALBION ALPS ROAD
SECRET LAKE
Lots owned by Forest Service or Friends of Alta are blocked in solid dark color.

2730

October 13, 1982

Mr. Richard H. Nebeker
920 Continental Bank Bldg.
Salt Lake City, UT 84101

Dear Mr. Nebeker

Your Special Use Permit for your road near Cecret Lake in Little Cottonwood Canyon is being converted from free to charge. All Special Use Permits are being converted to charge if the roads are used almost exclusively by the permittee, which is the case with yours.

Due to the small amount of land covered by this new permit, your fee will be based on the minimum charge of $25 annually. You will note the enclosed bill is from now until the end of the year. After this, you will be billed annually on about November 15 with payment due by January 1.

Please sign both copies and return the one designated for the Forest Supervisor with your payment of the fee. If you have any questions, please call Jim Cook at this office.

Sincerely,

/s/ DOUGLAS K. BARBER

DOUGLAS K. BARBER
District Forest Ranger

Enclosure

JCook:so

USDA - FOREST SERVICE

COMPLIANCE REVIEW (Title VI)

INSTRUCTIONS Prepare one copy. Answer all questions. Explain all "no" answers. File in case folder. Report review on Form 1500-3. See FSM 1580.

RECIPIENT'S NAME: Richard H. Nebeker

ADDRESS: 920 Continental Bank Building, SLC., Utah

PROGRAM *(Check applicable boxes)* NFS [X] S&PF [ ] Revenue Sharing [ ] Research [ ]

DESCRIBE PROGRAM: Improvement & Maintenance of access road to improvements

EVALUATION OF RECIPIENTS PROGRAM

1. Did this review include all sub-unit offices or locations that the recipient maintains in operating this program? YES X NO ____

2. Who are the beneficiaries of this recipient's program?
   Cabin owners

3. Indicate the approximate percent of people by ethnic groups in the area affected by this recipient's program.
   ____ % Negro ____ % Sp. Amer. ____ % Amer. Indian ____ % Oriental 100 % All other

4. About how many beneficiaries receive program benefits under this recipient's program each year? 8 families
   How many of these are minorities? ~~none~~. Compare with #3 above and explain major differences.

5. Has minority participation increased since last compliance review? YES ____ NO X

6. Has the recipient explained Title VI requirements to his employees? YES ____ NO ____
   N/A

7. Are facilities *(toilets, waiting rooms, etc.)* for public integrated? YES ____ NO ____
   N/A

8. Are offices and employee facilities integrated? YES ____ NO ____
   N/A

9. Are requests for program benefits serviced on an as received basis? YES ____ NO ____
   N/A

10. Do minority people receive service under the same procedures and circumstances as others? YES ____ NO ____
    N/A

11. Has Title VI responsibilities been explained to the recipient? YES X NO ____

12. What has recipient done to inform minorities that the program benefits are available without discrimination?
    No program necessary.

Do you consider this adequate for minority awareness of program? YES X NO ____

13. Has the recipient sought advice from minorities on changes that should be made in the program to increase minority benefits?
YES _____ NO X . If yes, what changes made.

14. Has the compliance posture of the recipient's program been discussed with minority people? YES _____ NO X
What was their attitude and opinions?

N/A

15. Have the beneficiaries been informed where and how to file complaints? YES _____ NO _____ . Explain how informed.
This would be taken up in summer home meeting

16. Is the Forest Service the only Government agency administering a program of assistance to this recipient? YES X NO _____
If "no" list agencies.

17. Does this review cover all of the permits, contracts, agreements, etc. for assistance to this recipient for which you have review responsibility?
YES X NO _____ . If yes, list each program and case covered by this review.

18. Give name and title of recipient or his employees that furnished information for this review.
Mr. Richard H. Nebeker

19. Summarize your opinion of recipient's compliance status. Indicate actions to be taken by the recipient and the Forest Service to correct deficiencies or "No" answers.

Good. No action necessary.

REGION, STATION, AREA (and FOREST)	REVIEWER (Sign)	TITLE	DATE
R-4 Wasatch N. F.	[illegible]	District Ranger	12/5/77

UNI STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Wasatch NF

REPLY TO: 2720 Special Uses
2730 Right-of-Way Grants

May 9, 1975

SUBJECT: Conversion of Free Permits to Charge

TO: District Ranger, Salt Lake R.D.

We propose placing the following special use permits on a charge basis effective January 1, 1976. Before notifying the permittees of the proposal, we will appreciate having your recommendations on, and suggestions for an appropriate fee for, each use. If you feel that a permit should be continued without charge, please cite the qualifying conditions found under FSM 2710.12a or 2733.11, .12, .13, or .15.

2720 - Beartrap Water Company, Water Transmission, 7/27/66
Big Willow Irrigation Co., Water Transmission, 7/13/55
Silver Fork Pipeline Corp., Water Transmission, 11/9/65

2730 - Allington Holding Company, Road, 3/30/66
Crawley, S. W. & Thacker, J. G., Road, 3/5/64
Heuser, Richard G., Road, 9/11/61
Kellgreen Clinton, Road, 7/28/60
Malmborg, Charles H., Road, 11/4/60
Marvil Exploration Company, Road, 11/4/60
Metal Queen Mining Co., Road, 8/14/62

We also feel that consideration should be given to convert the following permits but do not have sufficient information on file regarding these uses to determine the applicability of a charge. We will appreciate your comments on these cases, as well as on any other free uses on your District that you believe are in conflict with the regulation.

2720 - Bountiful Water Subconservancy District, Water Transmission, 10/30/59
Grantsville-North Willow Irrigation Co., Water Transmission, 10/15/41
Grantsville-South Willow Irrigation Co., Water Transmission, 5/26/64
Silver Lake Company, Water Transmission, 1/30/67
Weber Basin Water Conservancy District, 2/1/56

2730 - Nebeker, Richard H., Road, 7/26/60 ✓
Siesta Villa Corp., Road, 10/9/62

G F Horton

G. F. HORTON
Chief, R&L Branch

USDA - FOREST SERVICE

COMPLIANCE REVIEW (Title VI)

INSTRUCTIONS - Prepare one copy. Answer all questions. Explain all "no" answers. File in case folder. Report review on Form 1500-3. See FSM 1563.

RECIPIENT'S NAME: Richard H. Nebeker

ADDRESS: 920 Continental Bank Building, SLC, Utah

PROGRAM *(Check applicable boxes)*: NFS [X] S&PF [ ] Revenue Sharing [ ] Research [ ]

DESCRIBE PROGRAM: Improvement & maintenance of access road to improvements

EVALUATION OF RECIPIENTS PROGRAM

1. Did this review include all sub-unit offices or locations that the recipient maintains in operating this program? YES X NO ____

2. Who are the beneficiaries of this recipient's program?

   Cabin owners

3. Indicate the approximate percent of people by ethnic groups in the area affected by this recipient's program.

   ____ % Negro ____ % Sp. Amer. ____ % Amer. Indian ____ % Oriental 100 % All other.

4. About how many beneficiaries receive program benefits under this recipient's program each year? 8 families
   How many of these are minorities? None . Compare with #3 above and explain major differences.

5. Has minority participation increased since last compliance review? YES ____ NO X

6. Has the recipient explained Title VI requirements to his employees? YES ____ NO ____

   No employees

7. Are facilities *(toilets, waiting rooms, etc.)* for public integrated? YES ____ NO ____

   No facilities

8. Are offices and employee facilities integrated? YES ____ NO ____

   No facilities

9. Are requests for program benefits serviced on an as received basis? YES ____ NO ____

   N/A

10. Do minority people receive service under the same procedures and circumstances as others? YES ____ NO ____

    N/A

11. Has Title VI responsibilities been explained to the recipient? YES ____ NO X

12. What has recipient done to inform minorities that the program benefits are available without discrimination?

    No program, no minorities in area

Do you consider this adequate for minority awareness of program? YES X NO ____

(OVER)

1500-5 (9/73)

13. Has the recipient sought advice from minorities on changes that should be made in the program to increase minority benefits?
YES _____ NO ___X___. If yes, what changes made.

14. Has the compliance posture of the recipient's program been discussed with minority people? YES _____ NO ___X___
What was their attitude and opinions?

None in area

15. Have the beneficiaries been informed where and how to file complaints? YES ___X___ NO _____. Explain how informed.

Would be taken up in summer home meetings

16. Is the Forest Service the only Government agency administering a program of assistance to this recipient? YES ___X___ NO _____
If "no" list agencies.

17. Does this review cover all of the permits, contracts, agreements, etc. for assistance to this recipient for which you have review responsibility?
YES ___X___ NO _____. If yes, list each program and case covered by this review.

18. Give name and title of recipient or his employees that furnished information for this review.

Richard H. Nebeker, cabin owner

19. Summarize your opinion of recipient's compliance status. Indicate actions to be taken by the recipient and the Forest Service to correct deficiencies or "No" answers.

Good. No action necessary

REGION, STATION, AREA (and FOREST)	REVIEWER (Sign)	TITLE	DATE
R-4 Wasatch N. F.	James A. Cook	Forester	11/28/75

866-271

USDA - FOREST SERVICE

COMPLIANCE REVIEW (Title VI)

INSTRUCTIONS - Prepare one copy. Answer all questions. Explain all "no" answers. File in case folder. Report review on Form 1500-3. See FSM 1564.

CIPIENT (Name & address)

Nebeker, Richard H. 920 Continental Bank Bldg., SLC., Utah

PROGRAM (Check applicable boxes)

NFS [X] Revenue Sharing [ ] Direct (Service to public) [ ]

S&PF [ ] Research [ ]

DESCRIBE PROGRAM:

Improvement & mainteance of access road to improvements

EVALUATION OF RECIPIENTS PROGRAM

1. Did this review include all sub-unit offices or locations that the recipient maintains in operating this program? YES X NO ____

2. Who are the beneficiaries of this recipient's programs?
General public and cabin owners

3. Indicate the approximate percent of people by ethnic groups in the area affected by this recipient's program.
____% Negro ____% Sp.Amer. ____% Amer. Indian ____% Oriental 100 % All other.

4. About how many beneficiaries receive program benefits under this recipient's program each year? 7 families
How many of these are minorities? None . Compare with #3 above and explain major differences.

5. Has minority participation increased since last compliance review? YES ____ NO X

6. Has the recipient explained Title VI requirements to his employees? YES ____ NO ____
No employees.

7. Are facilities (toilets, waiting rooms, etc.) for public integrated? YES ____ NO ____
No facilities.

8. Are offices and employee facilities integrated? YES ____ NO ____
No facilities.

9. Are requests for program benefits serviced on an as received basis? YES ____ NO ____
N/A

10. Do minority people receive service under the same procedures and circumstances as others? YES ____ NO ____
N/A

11. Has Title VI responsibilities been explained to the recipient? YES ____ NO X

12. What has recipient done to inform minorities that the program benefits are available without discrimination?
No program, no minorities in area.

Do you consider this adequate for minority awareness of program? YES X NO ____

13. What has the Forest Service done to inform minorities about program availability?
No action taken.

Do you consider this adequate for minority awareness of program? YES X NO ____

1500-5 (7/70)

(OVER)

YES _____ NO ___X___. If yes, list each contact.

15. Has the recipient sought advice from minorities on changes that should be made in the program to increase minority benefits?
YES _____ NO ___X___. If yes, what changes made.

16. Has the compliance posture of the recipient's program been discussed with minority people? YES _____ NO ___X___
What was their attitude and opinions?

None in area.

17. Have the beneficiaries been informed where and how to file complaints? YES ___X___ NO _____. Explain how informed.

Would be taken up in summer home meetings.

18. Is the Forest Service the only Government agency administering a program of assistance to this recipient? YES ___X___ NO _____.
If "no" list agencies.

19. Does this review cover all of the permits, contracts, agreements, etc. for assistance to this recipient for which you have review responsibility?
YES ___X___ NO _____. If yes, list each program and case covered by this review.

20. Give name and title of recipient or his employees that furnished information for this review.

Mr. Stewart, Cabin Owner, Lawyer

21. Summarize your opinion of recipient's compliance status. Indicate actions to be taken by the recipient and the Forest Service to correct deficiencies or "No" answers.

Good. No action necessary.

REGION, STATION, AREA (and FOREST)	REVIEWER *(Sign)*	TITLE	DATE
R-4 Wasatch N. F.		Forester	12/2/74

GPO 895-508

2730

USDA - FOREST SERVICE

COMPLIANCE REVIEW (Title VI)

INSTRUCTIONS - Prepare one copy. Answer all questions. Explain all "no" answers. File in case folder. Report review on Form 1500-3. See FSM 1564.

RE NT *(Name & address)*

Neeker, Richard K., 920 Continenta, Bank Bldg., SLC., Utah

PROGRAM *(Check applicable boxes)*

NFS [X] Revenue Sharing [ ] Direct *(Service to public)* [ ]

S&PF [ ] Research [ ]

DESCRIBE PROGRAM:

Improvement & maintenance of access road to improvements

EVALUATION OF RECIPIENTS PROGRAM

1. Did this review include all sub-unit offices or locations that the recipient maintains in operating this program? YES X NO ____

2. Who are the beneficiaries of this recipient's programs?

   General public and cabin owners

3. Indicate the approximate percent of people by ethnic groups in the area affected by this recipient's program.

   ____% Negro ____% Sp.Amer. ____% Amer. Indian ____% Oriental 100 % All other.

4. About how many beneficiaries receive program benefits under this recipient's program each year? 7 Families

   How many of these are minorities? None . Compare with #3 above and explain major differences.

5. Has minority participation increased since last compliance review? YES ____ NO X

6. Has the recipient explained Title VI requirements to his employees? YES ____ NO ____

   No employees.

7. Are facilities *(toilets, waiting rooms, etc.)* for public integrated? YES ____ NO ____

   No facilities.

8. Are offices and employee facilities integrated? YES ____ NO ____

   No facilities.

9. Are requests for program benefits serviced on an as received basis? YES ____ NO ____

   N/A

10. Do minority people receive service under the same procedures and circumstances as others? YES ____ NO ____

    N/A

11. Has Title VI responsibilities been explained to the recipient? YES ____ NO X

12. What has recipient done to inform minorities that the program benefits are available without discrimination?

    No program, no minorities in area.

    Do you consider this adequate for minority awareness of program? YES X NO ____

13. What has the Forest Service done to inform minorities about program availability?

    No action taken.

    Do you consider this adequate for minority awareness of program? YES X NO ____

1500-5 (7/70)

(OVER)

14. Has the Forest Service contac[illegible] local minority leaders to discuss ways of increasing p[illegible]n benefits to minority people?
YES _____ NO __X__. If yes, list each contact.

15. Has the recipient sought advice from minorities on changes that should be made in the program to increase minority benefits?
YES _____ NO __X__. If yes, what changes made.

16. Has the compliance posture of the recipient's program been discussed with minority people? YES _____ NO __X__
What was their attitude and opinions?

None in area.

17. Have the beneficiaries been informed where and how to file complaints? YES __X__ NO ____. Explain how informed.

Would take up any problems in summer home meeting.

18. Is the Forest Service the only Government agency administering a program of assistance to this recipient? YES __X__ NO _____.
If "no" list agencies.

19. Does this review cover all of the permits, contracts, agreements, etc. for assistance to this recipient for which you have review responsibility?
YES __X__ NO _____. If yes, list each program and case covered by this review.

20. Give name and title of recipient or his employees that furnished information for this review.

Mr. Stewart, Cabin Owner, Lawyer

21. Summarize your opinion of recipient's compliance status. Indicate actions to be taken by the recipient and the Forest Service to correct deficiencies or "No" answers.

Good. No action necessary.

REGION, STATION, AREA (and FOREST)	REVIEWER *(Sign)*	TITLE	DATE
R-4 Wasatch N. F.	William L. Thompson	Forester	11/30/73

FS-6500-89 (5/92)

USDA - FOREST SERVICE

BILL FOR COLLECTION

1. Date of Issue

DECEMBER 1, 1994

Please send money order, bank draft, or check payable to: USDA-FOREST SERVICE at the following address:
COLLECTION OFFICER, FS, Intermountain Region
P.O. BOX 60000, FILE NO. 61657
SAN FRANCISCO, CA 94160-1657
(A pre-addressed envelope is provided for your convenience)

2. Issuing office address

Wasatch-Cache N.F.
125 S. State Rm 8311
Salt Lake City UT 84138

RICHARD H. NEBEKER

SALT LAKE CITY UT 84103

FOR INFORMATION: Please call 801-524-5104 or write to the issuing office address.

DO NOT send correspondence or change of address with your payment.

----------> FOR PROPER CREDIT be sure to include a copy of this bill with your Payment <----------

----------fold here----------

3. Date or Period	4. Description	5. Amount.
01/01/95 to 12/31/95	2720 SPECIAL USES 5270-01 SALT LAKE RD FLPMA PERMIT Permit issued on 10/31/91 Description/Location: ROAD	$45.00

FOREST SERVICE
WASATCH-CACHE NATIONAL FOREST
SALT LAKE CITY, UTAH
DEC 5 1994
PAID

6. Bill Number	7. Unit Number	8. Subunit/Contract Number	9. Payment Due Date	10. Amount Due
590356	TP-19		01/01/95	$45.00

NOTE: Payments not received by the due date are subject to a LATE PAYMENT CHARGE at the rate published by the Department of the Treasury unless a different rate is prescribed by contract or agreement. Postmarks are not honored. ADMINISTRATIVE CHARGES may also be assessed. An additional 6% PENALTY will be charged for payments over 90 days past due. (Authority: Debt Collection Act of 1982.)

11. REMARKS

12. Forest Service Accounting Data

TRANS. CODE	MANAGEMENT CODE	OBJECT CLASS	AMOUNT
A	898318		$45.00
		TOTAL ---------->	$45.00

FS-6500-89 (5/92)

USDA - FOREST SERVICE

BILL FOR COLLECTION

1. Date of Issue

NOVEMBER 30, 1993

Please send money order, bank draft, or check payable to: USDA-FOREST SERVICE at the following address:
COLLECTION OFFICER, FS, INTERMOUNTAIN REGION
P.O. BOX 60000, FILE NO. 61657
SAN FRANCISCO, CA 94160-1657
(A pre-addressed envelope is provided for your convenience)

2. Issuing Office Address

WASATCH NATIONAL FOREST
125 S STATE, FED BLDG 8311
SALT LAKE CITY UT 84138

RICHARD H. NEBEKER

86

SALT LAKE CITY, UT 84103

DEC 1 1993

FOR INFORMATION: Please call 801-524-5104 or write to the issuing office address.

DO NOT send correspondence or change of address with your payment.

----------> FOR PROPER CREDIT be sure to include a copy of this Bill with your payment <----------

----------Fold Here----------

3. Date or Period	4. Description	5. Amount
01/01/94 to 12/31/94	2720 SPECIAL USES 5270-01 SALT LAKE RD FLPMA PERMIT Permit issued on 10/31/91 Description/Location: ROAD	$ 45.00

6. Bill Number	7. Unit Number	8. Subunit/Contract Number	9. Payment Due Date	10. Amount Due
490343	TP-19		JANUARY 1, 1994	$ 45.00

NOTE: Payments not recevied by the due date are subject to a LATE PAYMENT CHARGE at the rate published by the Department of the Treasury unless a different rate is prescribed by contract or agreement. Postmarks are not honored. ADMINISTRATIVE CHARGES may also be assessed. An additional 6% PENALTY will be charged for payments over 90 days past due. (Authority: Debt Collection Act of 1982.)

11. Remarks

12. Forest Service Accounting Data

TRANS. CODE	MANAGEMENT CODE/FY	OBJECT CLASS	AMOUNT
A	898318 / 94		$ 45.00
	TOTAL ---------->		$ 45.00

FS-6500-89 (5/92)

USDA - FOREST SERVICE

B I L L F O R C O L L E C T I O N

1. Date of Issue

NOVEMBER 30,1992

Please send money order, bank draft, or check payable to: USDA-FOREST SERVICE at the following address:
COLLECTION OFFICER, FS, INTERMOUNTAIN REGION
P.O. BOX 60000, FILE NO. 61657
SAN FRANCISCO, CA 94160-1657
(A pre-addressed envelope is provided for your convenience)

2. Issuing Office Address

WASATCH NATIONAL FOREST
125 S STATE, FED BLDG 8311
SALT LAKE CITY UT 84138

RICHARD H. NEBEKER

EG

SALT LAKE CITY, UT 84103

FOR INFORMATION: Please call 801-524-5104 or write to the issuing office address.

DO NOT send correspondence or change of address with your payment.

----------> FOR PROPER CREDIT be sure to include a copy of this Bill with your payment <----------

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3. Date or Period	4. Description	5. Amount
01/01/93 to 12/31/93	2720 SPECIAL USES 5270-01 SALT LAKE RD FLPMA PERMIT Permit issued on 10/31/91 Description/Location: ROAD PD 12/8/92	$ 45.00

6. Bill Number	7. Unit Number	8. Subunit/Contract Number	9. Payment Due Date	10. Amount Due
300350	TP-19		JANUARY 1, 1993	$ 45.00

NOTE: Payments not recevied by the due date are subject to a LATE PAYMENT CHARGE at the rate published by the Department of the Treasury unless a different rate is prescribed by contract or agreement. Postmarks are not honored. ADMINISTRATIVE CHARGES may also be assessed. An additional 6% PENALTY will be charged for payments over 90 days past due. (Authority: Debt Collection Act of 1982.)

11. Remarks

12. Forest Service Accounting Data

TRANS. CODE	MANAGEMENT CODE/FY	OBJECT CLASS	AMOUNT
A	898318 / 93		$ 45.00
		TOTAL ---------->	$ 45.00

USDA - FOREST SERVICE

B I L L F O R C O L L E C T I O N

(Reference FSM 6530)

Place of Issue

SALT LAKE CITY, UT
(LANDS)

Date of Issue

JUNE 22, 1992

Please pay by money order, bank draft, or check payable to FOREST SERVICE, USDA. Mail payment with a copy of this statement in the enclosed envelope to:
COLLECTION OFFICER, FS, INTERMOUNTAIN REGION
P.O. BOX 60000, FILE NO. 61657
SAN FRANCISCO, CA 94160-1657

RICHARD H. NEBEKER
86
SALT LAKE CITY, 84103

FOREST SERVICE
WASATCH-CACHE NATIONAL FOREST
SALT LAKE CITY, UTAH
JUL - 1 1992
PAID

----------Fold Here----------

Date or Period	Description	Amount
01/01/92 TO 12/31/92	2720 SPECIAL USES 5270.01 SALT LAKE RD FLPMA PERMIT Permit issued on 10/31/91 Description/location: ROAD	$ 45.00

Bill No.	Unit No.	Contract No.	Date Payment Due	Amount Due
1459	TP 19		July 6, 1992	$ 45.00

NOTE: Payments not received by the due date are subject to a LATE PAYMENT CHARGE at the rate currently published by the Department of Treasury unless a different rate is prescribed by contract or agreement; and in addition, may be subject to an administrative charge as prescribed by the Debt Collection Act of 1982.

REMARKS: RETAIN ONE COPY FOR YOUR RECORDS. NO RECEIPT WILL BE SENT.

Forest Service Accounting Data

T/C	MANAGEMENT CODE	OBJECT CLASS	AMOUNT
A	898318		$ 45.00

For assistance, contact
Lisa Marino 801-524-5104

TOTAL DUE > $ 45.00

USDA - FOREST SERVICE

B I L L F O R C O L L E C T I O N
(Reference FSM 6530)

Place of Issue

Salt Lake City, UT
LANDS

Please pay by money order, bank draft, or check payable to FOREST SERVICE, USDA. Mail payment with a copy of this statement in the enclosed envelope to:
COLLECTION OFFICER, FS, INTERMOUNTAIN REGION
P.O. BOX 60000, FILE NO. 61657
SAN FRANCISCO, CA 94160-1657

Date of Issue

November 29, 1990

RICHARD H. NEBEKER
SUITE 800
KENNECOTT BUILDING
SALT LAKE CITY , UT 000841330

PAID JAN - 7 1991

----------Fold Here----------

Date or Period	Description	Amount
1/ 1/91 to 12/31/91	2720 SPECIAL USES 19 01 5270 753 011983 SPECIAL USE - FLPMA PERMIT	$ 45.00

Bill No.	Unit No.	Contract No.	Date Payment Due	Amount Due
688	TP-19	011983	January 1, 1991	$ 45.00

NOTE: Payments not received by the due date are subject to a LATE PAYMENT CHARGE at the rate currently published by the Department of Treasury unless a different rate is prescribed by contract or agreement; and in addition, may be subject to an administrative charge as prescribed by the Debt Collection Act of 1982.

REMARKS:	Forest Service Accounting Data MANAGEMENT CODE	AMOUNT
	898318	$ 45.00
	TOTAL DUE >	$ 45.00

U. S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE

BILL FOR COLLECTION

PLACE OF ISSUE

Salt Lake City, Utah (Lands)

DATE OF ISSUE

April 17, 1990

Unit Collection Officer, Forest Service
Intermountain Region
File 61657
P.O. Box 60000
San Francisco, CA 94160-1657

RICHARD H. WEBEKER
SUITE 800
KENNECOTT BUILDING
SALT LAKE CITY, UT 84133

PAID MAY - 2 1990

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DATE OR PERIOD	DESCRIPTION	AMOUNT
1/1/90 to 12/31/90	2720 SPECIAL USES 19 01 5270 753 011983 SPECIAL USE - FLPMA Permit	$ 25.00
	Late Fee 1990	35.00
	Late Fee 1990	35.00

BILL NO.	UNIT NO.	CONTRACT NO.	DATE PAYMENT DUE	AMOUNT DUE →
1040	TP 19		May 17, 1990	$ 95.00

TRANS. CODE	APPRO-PRIATION (F.S.)	STATE	ACCOUNT OR ACTIVITY	FUNCTION MAJOR	FUNCTION SUB	SUB UNIT	PROJECT P	PROJECT MAJOR	PROJECT S	PROJECT SUFF	OBJ. CL. MAJ.	OBJ. CL. S	OBJ. CL. RT	AMOUNT
A							8	9 8 3 1	8					$ 25.00
A							8	9 9 0 1	3					70.00
									TOTAL →					$ 95.00

FS 6500-89 (8/80)

United States Department of Agriculture
orest Service
Wasatch-Cache National Forest
6 Federal Building
125 South State Street
Salt Lake City, UT 84138
(801) 524-5030

Reply to: 2720

Date: April 17, 1990

Richard H. Nebeker
Suite 800 , Kennecott Bldg.
Salt Lake City, UT 84133

CERTIFIED-RETURN
RECEIPT REQUESTED

Dear Mr. Nebeker:

This is to advise you that the fee for your road special use permit was due January 1, 1990.

On January 24, 1990, you were sent another bill with a $35.00 administrative late fee charge. On March 1, 1990, I was referred to the office of Steve Stewart. I talked to the Secretary who said that she would check on payment. As of date we still have not received payment from you.

Since payment has not been received we will have to charge you an additional $35.00 administrative late fee and initiate action to terminate your permit. If all payments due are not received or postmarked on or before May 17, 1990, your permit will be terminated.

We suggest that you review general provisions 7 and clause (A-13) in your special use permit which specifies your financial responsibility and the Forest Service right to terminate your permit for breach of any conditions of your permit.

Enclosed is a Bill for Collection for $95.00. Please submit payment in the enclosed envelope to the San Francisco, CA address.

If you have any questions, please call the Salt Lake Ranger District at 524-5042 or Dale Gerry or Betty Reed on 524-5104.

Sincerely,

Dale B. Gerry

for SUSAN GIANNETTINO
Acting Forest Supervisor

Enclosure

Forest Service

BILL FOR COLLECTION

(Ref. FSM 6530)

1. Place of Issue: WASATCH NATIONAL FOREST

2. Date of Issue: NOVEMBER 15, 1984

Please pay by money order, bank draft, or check payable to **FOREST SERVICE, USDA.**
Mail payment with this statement in the enclosed envelope to: **UNIT COLLECTION OFFICER, FOREST SERVICE,** 8226 FEDERAL BUILDING SALT LAKE CITY, UT 84138

RICHARD H NEBEKER
KENNECOTT BLDG
SUITE 800
SALT LAKE CITY, UT 84133

Please Show Any Change Of Address Below:

FOREST SERVICE
WASATCH NATIONAL FOREST
SALT LAKE CITY, UTAH
DEC 31 1984
PAID

FOLD HERE

3. Date or Period	4. Description	5. Amount
1Y 1/85 TO 12/31/85	SPECIAL USE 70 96-17 5270 7/26/60 01 734 CLASS D ROAD PERMIT	125.00

NOTE: Payments not received by the due date are subject to a **LATE PAYMENT CHARGE** at the rate currently published by the Department of the Treasury unless a different rate is prescribed by contract or agreement.

6. Date Payment Due	7. Amount Due
1/ 1/85	125.00

FOLD HERE

8. Bill Number	9. Unit Number	10. Sub-Unit Number	11. Timber Sale Contract Number
428	TP29		

12. Remarks

13. FOREST SERVICE ACCOUNTING DATA

TRANS. CODE	MANAGEMENT CODE	FY	OBJ CLASS MAJ.	OBJ CLASS SUB.	AMOUNT
A	8 96310				125.00

14. TOTAL 125.00

Previous edition of this form is obsolete.

FS-6500-89a (10-81)

2730

January 24, 1983

Mr. Richard H. Nebeker
Suite 800 Kennecott Bldg.
Salt Lake City, Utah 84113

Dear Mr. Nebeker:

Your Special Use Permit for your road near Cecret Lake in Little Cottonwood Canyon is being converted to charge. All Special Use Permits are being converted to charge if the roads are used almost exclusively by the permittees and not the public, which is the case with your permit.

Due to the small amount of National Forest land covered by this new permit, your fee will be based on the minimum charge of $25 annually. You will note the enclosed bill is from now until the end of the year. After this you will be billed annually on about November 15 with payment due by January 1.

Please sign both copies and return the one designated for the Forest Supervisor with your payment of the fee. If youhhave any questions, please call Jim Cook at this office.

Sincerely,

DOUGLAS K. BARBER
District Forest Ranger

United States Department of Agriculture | Forest Service | Wasatch-Cache N.F.

Reply to: 2730 Right-of-Way Grants

Date: January 19, 1983

Subject: Nebeker, Richard H., Road, 1/20/83

To: Salt Lake District Ranger Doug Barber

I have approved your recommendation to change Mr. Nebeker's road permit from a free use to a charge because the road is used exclusively by him. Please review the enclosed permit with Mr. Nebeker. Have him sign both copies and return the one designated for the Forest Supervisor with his payment.

A bill for the remainder of the 1983 fee is enclosed. Hereafter he will be billed for $25 approximately November 15 with payment due January 1.

ROBERT M. CRON
Acting Forest Supervisor

Enclosures

FILE
SALT LAKE RA
JAN 21 1983
DFR
BMA
Resource
Range
Summer Rec
Rec Asst
Maintenance
Admin Spec
Spec
Forest

Wasatch-Cache N.F. Salt Lake R.D.

January 13, 1983

2730 Right-of-Way Grants

Nebeker, Richard H. (7/26/60)

Forest Supervisor, Wasatch-Cache N.F.

Enclosed is the package that was sent to Richard H. Nebeker for payment for his road in Albion Basin. This was returned to us because of the wrong address as was your billing to him for 1983. Please cancel the enclosed Bill for Collection for 1982 and forward the permit, etc. with the new bill to his new address. Also change it on your records as we have done.

His new address is:

Richard H. Nebeker
Suite 800 Kennecott Bldg.
Salt Lake City, UT 84133

DOUGLAS K. BARBER
District Forest Ranger

Enclosures

Parsons
Behle &
Latimer

A Professional
Law Corporation

One Utah Center
201 South Main Street
Suite 1800
Post Office Box 45898
Salt Lake City, Utah
84145-0898
Telephone 801 532-1234
Facsimile 801 536-6111

James E. Karkut

Direct Dial
801 536-6766
E-Mail
JKarkut@pblutah.com

November 9, 1998

Gary DeSeelhorst
Solitude Ski Resort Company
P.O. Box 21350
Salt Lake City, UT 84121-0350

Re: Research on the authority of the Forest Service to grant permanent easements for right-of-ways across national forest lands

Dear Gary:

As per your request, I have researched whether the Wasatch-Cache National Forest has the authority to grant a permanent right-of-way to the Giles Flat property owners over the so-called Pioneer Road.

The National Forest Roads and Trails Act of October 13, 1964, and the federal regulations and those portions of the Forest Service Manual and Handbook which implement the Act plainly authorize the Forest Service to grant permanent easements for roads crossing National Forest land. These sources, and the legislative history of the Act indicate that its purpose is to empower the Forest Service to: (1) issue perpetual road easements across national forest lands to facilitate the development of a comprehensive system of Forest Service roads by allowing the agency to grant and receive reciprocal interests in public and private lands, respectively, and (2) allow private land owners to cross Forest Service land to reasonably use and develop their property. Thus, it appears that the Wasatch-Cache National Forest Service has the authority to grant a permanent right-of-way to the Giles Flat property owners over the so-called Pioneer Road.

The following briefly summarizes the pertinent language from the Act, its implementing regulations, legislative history, and relevant portions of the Forest Service Manual and the Forest Service Handbook that authorize the Forest Service to grant perpetual road easements across lands administered by the Service.

A. <u>The National Forest Roads and Trails Act of October 13, 1964 (Pub. L. 88-657)</u>. This Act is codified at 16 U.S.C.A. §§ 532 - 538 (1985). Section 532 states Congressional findings and a declaration of policy. Then, Section 533 ("Grant of easements

for road rights-of-way; authority of Secretary of Agriculture; regulations") makes the following broad grant of authority:

> The Secretary is authorized, under such regulations as he may prescribe, subject to the provisions of Sections 532 to 538 of this title, to grant permanent or temporary easements for specified periods of time or otherwise, for road rights-of-way (1) over national forest lands and other lands administered by the Forest Service, and (2) over any other related lands with respect to which the Department of Agriculture has rights under the terms of the grant to it.

(Emphasis added). Other sections of the Act follow-up this clear grant of authority by specifying (i) recording requirements for instruments granting permanent easements, (ii) substantive and procedural requirements for terminating such easements. For example, § 536 states the recording requirements as follows:

> Copies of all instruments affecting permanent interests in land executed pursuant to sections 532 to 538 of this title shall be recorded in each county where the lands are located. Copies of all instruments affecting interests in lands reserved from the public domain shall be furnished to the Secretary of Interior.

Further, § 534 provides that such easements may be terminated by consent of the owner, condemnation, or following a five-year period of nonuse by the owners. Specifically, § 534 provides:

> An easement under sections 532 to 538 of this title may be terminated by consent of the owner of the easement, by condemnation, or after a five-year period of nonuse the Secretary may, if he finds the owner has abandoned the easement, make a determination to cancel it. Before the Secretary may cancel an easement for nonuse the owner of such easement must be notified of the determination to cancel and be given, upon his request made within sixty days after receipt of the notice, a hearing in accordance with such rules and regulations as may be issued by the Secretary.

Other sections of the Act, such as §§ 535, 537, and 538, provide for cost-sharing and other financing arrangements in connection with construction and maintenance of such roads.

B. Federal regulations implementing the Act. The federal regulations implementing the Act are located at 36 C.F.R. Part 212 ("Administration of the Forest

Development Transportation System"). Section 212.10 ("Permission to cross lands and easements owned by the United States and administered by the Forest Service") provides in part:

> (d) *Easements for roads crossing lands or easements administered by the Forest Service.* (1) Applications for permanent or temporary easements for specified periods or otherwise to be granted under the Act of October 13, 1964 (78 Stat. 1039, 16 U.S.C. 533), over lands or easements administered by the Forest Service, or over roads thereon will be approved by the Chief for those applicants who have conveyed or provided appropriate easements over roads, assignable easements and lands owned or controlled by them to the United States of America and its assigns and who have already constructed, or will, as scheduled by agreement, construct their proportionate share of the road or road system of which the segments described in the applications are parts. The Chief, after approval of the application and the grant of the easement, will cause the same to be entered in the records of the forest service, and delivered to the applicant.
>
> (2) Notwithstanding, paragraph (d)(1) of this Section, the Chief may grant to the applicant a permanent or temporary easement for specified periods or otherwise upon such exchange of easements or share-cost arrangement or other reasonable consideration as he may deem appropriate.

(Emphasis added). In other words, § 212.10(d)(1) authorizes the Forest Service to grant a permanent or temporary easement for a right-of-way over national forest lands to an applicant who has or will convey an appropriate easement to the United States, and § 212.10(d)(2) gives the Forest Service discretion to also grant a permanent or temporary road easement to an applicant in return for an exchange of easements, cost-share arrangements, "or other reasonable consideration as he may deem appropriate." It appears that this regulatory authority plainly gives the Wasatch-Cache National Forest the right to grant a permanent easement to the Giles Flat property owners for a right-of-way across the Pioneer Road.

C. Legislative history of The National Forest Roads and Trails Act.

The legislative history of the Act, like its specific language and implementing regulations, makes clear the Congressional intent to empower the Forest Service to grant permanent road easements across Forest Service lands and other lands administered by the agency. This legislative history is found in the 1964 U.S. Code Congressional and

Administrative News (pages 3994 to 4004) and consists of the report of the Public Works Committee, and related correspondence, concerning the proposed bill that became the Act.

The legislative history makes clear that the main purpose of the Act was to give the Forest Service the tools to construct and maintain a comprehensive system of roads and trails for access to and use of the national forests. The principal tool to accomplish this was the authority to grant permanent easements for roads across national forest lands. As background, the Public Works Committee report indicates that approximately 38 million acres of privately owned land existed within the 186 million acres of land administered by the Forest Service at that time (1964). And, a great deal of this land ownership existed in checkerboard or similar patterns. Further, the national forests were currently served by approximately 186,241 miles of roads, but it was anticipated that, when complete, the forest service road system would consist of 542,250 miles of access roads. Because of the mixed ownership of public and private lands, and the agency's goal of developing a comprehensive road system to facilitate access to and use of the national forests, the use of voluntary exchanges, i.e., reciprocal easement grants across public and private lands, appeared to be a practical and necessary means to accomplish this goal.

However, a main problem to accomplishing this goal was the fact that, in the early 1960's, the Forest Service did not have the authority to grant easements across national forests. This lack of authority went back to 1905, when the Secretaries of Agriculture and Interior agreed by letter (See 33 L.D. 609-610) that the Secretary of Agriculture would not make grants that amounted to easements burdening the lands held in the ownership of the United States. Then, in 1962, the Attorney General of the United States issued an opinion stating that there was nothing in the Organic Act of June 4, 1897 preventing the Forest Service from conditioning the grant of a right-of-way to a private landowner to construct or use roads crossing a national forest on a grant by the private landowner of a reciprocal easement interest to the United States across the landowner's private land. Following this opinion, the Forest Service drafted proposed regulations to allow for such reciprocal grants. However, the agency was still plagued by the lack of a clear statutory directive authorizing it to grant permanent easements. As the Public Works Committee stated:

> the most significant barrier to the entering of voluntary exchanges of rights-of-way between private landowners and the Forest Service since February 1, 1962, has been the inability of the Forest Service, through the Secretary of Agriculture, to grant permanent easements.

See U.S. Code Cong. & Admin. News at 3996-97. Thus, the Committee report indicates that the Act was intended to authorize the Forest Service to issue permanent easements for roads across national forest lands to facilitate development of the system of national forest

roads. However, there is nothing in this legislative history stating or implying that Forest Service may not grant a permanent easement to an applicant who does not have a reciprocal easement to grant to the Forest Service. In other words, the legislative history is helpful to understanding but does not limit the broad grant of authority found in § 533 of the Act and 36 C.F.R. § 212.10(d)(2), discussed above.

D. Forest Service Manual Chapter 2730 ("Road and Trail Rights-of-Way Grants"). The portions of the Forest Service Manual concerning road and trail rights-of-way grants also provide for the issuance of permanent easements for right-of-way across national forest lands. As a starting point, the Manual recognizes the importance of accommodate the access needs of owners of private property within national forests. For example, FSM 2730.2 includes the following among a number of objectives for granting rights-of-way for roads and trail:

> 5. Provide access across National Forest System land to private land that is adequate to secure the owners thereof of reasonable use and enjoyment of their land without unnecessarily reducing the management options of the Forest Service or damaging National Forest System lands or resources.

Chapter 2732 ("National Forest Road and Trail Act Easements") sets forth Forest Service guidelines for delegating and implementing the authority granted in the Act and its regulations. Then, FSM identifies the types of easement arrangements that the agency may make. These include cost share easements (2732.1-1) non-cost share easements (2732.1-2), prior grants to cooperators (2732.1-3), and easement grants outside of a road right-of-way construction and use agreement (2732.2). The Manual indicates that non-cost share easements:

> are easement grants for construction of roads that serve only the land of the cooperator in an area covered by an agreement for cooperative development of a road system. The cooperator alone finances the road building and maintenance under such easements. For further direction see FSH 2709.12, section 32; FSH 5409.17, section 60; and FSM 5467.

See FSM 2732.1-2. In this research, I have not attempted to conclude which category of easement would cover the type of easement that the Forest Service would have authority to issue to the Giles Flat property owners. However, it appears that the above-described non-cost share easement might be appropriate. In such case, section 32 of FSH 2709.12, the agency's Road Rights-of-Way Grants Handbook, provides more details on the actual application and review process, and the terms and conditions of the easement that the

Forest Service could issue. Section 32.2 then sets forth a form of the easement agreement with examples of language that might be appropriate for a non-cost share easement. This language indicates that the easement grant is "perpetual."[1]

In summary, it appears that the Forest Service has the authority under the National Forest Roads and Trails Act, the federal regulations implementing the Act, and the agency's guidelines to grant permanent easements for rights-of-ways across national forest lands. Thus, it appears that the Wasatch-Cache National Forest Service has the authority to grant a permanent easement for a right-of-way over the so-called Pioneer Road to the Giles Flat property owners.

Please call me at your convenience if you have any questions or if there is additional research you would like me to undertake.

Sincerely,

PARSONS BEHLE & LATIMER

James E. Karkut

James E. Karkut

cc: Dan Jiron, Salt Lake District Ranger, Wasatch-Cache National Forest
Steve Scheid, Salt Lake District, Wasatch-Cache National Forest
Lee Kapaloski

---

[1] FSH 2709.12-13 ("Applications and Environmental Assessments") provides, among other things, that scoping is required on all proposed projects to determine the extent of the environmental analysis and documentation that may be necessary. Further, the "[d]ocumentation may vary from a categorical exclusion for use of existing roads to a full environmental impact statement (EIS) for major projects."

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Mark A. Glick
Of Counsel

Writer's Direct Dial Number:
(801) 536-6823

May 28, 1996

Michael Sieg, District Ranger
Salt Lake Ranger District
Forest Service
6944 South 3000 East
Salt Lake City, UT 84121

Dear Mr. Sieg:

Thank you for your letter of May 1, 1996 enclosing three copies of a "Special Use Permit" (SUP). I have not signed and returned the same for the following reasons:

1. The SUP applies only to my lot, not the neighbors with identical problems.

2. I can't determine from the legal description whether or not the right-of-way extends from the bridge crossing Cottonwood Creek above my cabin to the Solitude lower parking lot.

3. I am at a loss to know why we should pay a fee when no other member of the public presently using the roadway is charged a fee.

4. The permit expires on December 31, 2001.

When we met at Homer's cabin many months ago, I was pleased with your innovative solution to our access problem that would accommodate both our interests and those of Solitude so that Solitude could proceed with its present project. However, I must have misunderstood because I had assumed that your proposal contemplated a conditional use permit that would be perpetual unless and until Solitude was able to deed to us alternative rights-of-way and construct a bridge across Cottonwood Creek to assure us of enforceable access rights. It was my understanding that the language of the permit would read with

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respect to the duration of the SUP: "remain in full force and effect until Solitude deeds to the affected property owners recorded rights-of-way and constructs a vehicular bridge that will handle historic traffic across Cottonwood Creek, assuring continuing access to the affected owners. When and if Solitude is able so to perform, the SUP will automatically be extinguished."

I prepared this letter in draft form and circulated it among all Giles Flat owners, including Solitude, at the annual meeting which was conducted at my cabin on Saturday, May 25, 1996.

I would be happy to discuss this matter further with your at your convenience.

Very truly yours,

Keith E. Taylor

KET/cm

Sieg/52896

Al Sous...

file 2720
Solitude

Meeting arranged for
fri ~~Aug~~ Sep'l at 5:30

8-25-95
HC 1 Brighton
S.L.C., Ut., 84121

Dear Michael

I hope you've had the chance to read the letters I gave to Al Sousie concerning our right to access our homes in Giles Flat. Al approached me at Solitude's question-and-answer session at the Sandy Library two weeks ago and inquired as to how the development was impacting our area. I told Al that as a community we were very unhappy with their performance. We appear to be on a collision course to a law suit if Solitude doesn't start to live up to their end of the basic agreement we have with them over the issue of right-of-way. We feel that we've been lied to and we're rapidly approaching the point where we will either have to file in court to have the project halted or negotiate a compromise that will give us some legal protection for our access rights.

Because the road in question is on Forest Service property, we would like to meet with you this week to get your opinion and input concerning this matter. I'm positive you have a policy concerning property owners rights to access over public land and we need to know how it applies to our situation. Unfortunately we had a rather heated exchange with Gary DeSeelhorst yesterday, which exposed new information concerning our access road we knew nothing about. We would therefore like to meet with you as soon as possible, I will call you to make the arrangements. We would like the meeting to take place at my home either thursday or friday afternoon. The on-site meeting will give you a first hand look at the problems we are experiencing and enable more members of our community to attend. I'm positive we will communicate by phone before you receive this letter.

Sincerely

E.B. (Homer) Conder

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SALT LAKE RANGER DISTRICT
AUG 28 1995
Mike
Rob

Daniel J. Jiron

Solitude
Ski Resort

VIA FACSIMILE (801) 625-5359

June 28, 1999

Mr. Jack A. Blackwell
Reviewing Officer
Regional Forester
Forest Service Intermountain Region
324 25th Street
Ogden, Utah 84401-2310

Dear Jack:

RE: Solitude Resort Entry Road Appeal Decision
File Code #1570 (#97-040-00-002)

I last wrote on this issue November 30, 1998, and on December 2, 1998 you granted an extension of time for this appeal decision to June 30, 1999.

What at times seems like a never-ending saga, we have a potential end in sight. The parties have progressed.

Giles Flat property owners north of Big Cottonwood Creek have agreed in concept to accept their egress/ingress (right of way) on Solitude private property. Please see Exhibit A attached for new Solitude and Giles Flat entrance. Their request for forest service (federal land) prescriptive right of way on the north side of Giles Flat would be withdrawn WHEN (a) the U.S. Forest Service issues the permanent recordable right of way on the south road of Big Cottonwood Creek, and (b) formal agreement is entered into on the exchange of recordable and prescriptive easements/rights on Solitude property. I am well along on this process.

One of Giles Flat property owner's concerns was the ability of the U.S. Forest Service to issue a recordable permanent right of way (now only as to the south side). Solitude's legal research assures us that The National Forest Roads and Trails Act of October 13, 1964 does apply and your office has the authority to issue this right of way.

This is not entirely a ski resort issue. It is a community matter between it and the U.S. Forest Service. I ask all of you addressed and copied on this letter to proceed and issue this right of way without delay. The entire matter has been researched and analyzed under the Scoping Document dated August 4, 1995 and the current DEIS in process (46 months and not issued).

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Solitude Ski Resort Company
12000 Big Cottonwood Canyon
Solitude, Utah 84121

Giles Flat Water Users Association and its shareholders filed a Special-Use Application and Report on December 17, 1998 (copy attached), as required by the 1964 Act. Nothing, to my knowledge, has been done in six (6) months. Everyone has manpower and budgetary restraints, we're in tougher shape than the U.S. Forest Service.

The entry road, which is the subject of this appeal, is an integral part of this issue. If you wish to deal directly with Giles Flat property owners, I'll step aside. Please let me know how you wish to proceed. I am willing to continue with this project, but the U.S. Forest Service needs to, actively and earnestly, join the effort. I certainly hope it can be resolved quickly without legal action brought by any one of the parties.

In not such a short discussion, I'm hereby requesting an extension on this appeal decision to August 31, 1999 and a plea for action on the compromise which will bring closure through partnership resolution of the issue.

Very truly yours,

SOLITUDE SKI CORPORATION

Gary L. DeSeelhorst

Gary L. DeSeelhorst
President

GLD:mvs

Encl Exhibit A Map
Special-Use Application

cc: Marsha Fryer
Intermountain Region Appeal and Litigation Staff
VIA FACSIMILE (801) 625-5277

Bernie Weingardt
VIA FACSIMILE (801) 524-3172

Daniel J. Jiron
VIA FACSIMILE (801) 943-1897

Clark Taylor
Giles Flat Property Owner
924 E. Woodland Hills Circle
Bountiful, Utah 84010

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Aaron T. Bruce
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Angie Nelson
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Wesley L. Anston

Keith E. Taylor, Of Counsel
Mark A. Clark, Of Counsel
Michael W. Dunbar, Of Counsel

December 16, 1998

Daniel J. Jiron
District Ranger
United States Department of Agriculture
Salt Lake Ranger District
6944 South 3000 East
Salt Lake City, Utah 84121

Re: Giles Flat Waters Users Association

Dear Ranger Jiron:

I have received and reviewed on behalf of Giles Flat Water Users Association your letter of November 23, 1998. In response to that letter I am enclosing herewith for filing a "Special-Use Application and Report" which I have signed on behalf of the Giles Flat Water Users Association.

As you will note, that application seeks recordable permanent easements for road rights-of-way on both the north and the south sides of Cottonwood Creek to provide downstream access to Giles Flat Water Users Association and its members, including Solitude, over presently existing roadways for which we claim judicially enforceable rights as explained in my letter of November 16, 1998.

In this regard, it is the position of Giles Flat Water Users Association and its members that your statement in paragraph 2 of your letter to me of November 23, 1998 that there "appears to be a reasonable alternative" to access on the north (highway side) of Big Cottonwood Creek is not accurate at this time. If Solitude and other members of the Giles Flat Water Users Association are successful in agreeing to vacate certain recorded easements and rights-of-way and in granting others which would then give all

members of the Association an alternative access, the application for a permanent easement on the north side of Big Cottonwood Creek could be abandoned or rescinded.

Apparently, we all agree that there is no reasonable alternative to access on the south side of the creek and that portion of the application should be granted expeditiously and unconditionally without regard to the final solution of access on the north side of the stream.

We appreciate very much your willingness to entertain this application and hope that it can be processed at the earliest possible time.

Very truly yours,

GILES FLAT WATER USERS ASSOCIATION

Keith E. Taylor, President

KET/cm
Enclosure
cc: Gary DeSeelhorst, Solitude Resort (Via Facsimile 435/649-5276)
James E. Karkut, Parsons Behle & Latimer

Parsons Behle & Latimer

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Wesley L. Austin

Keith E. Taylor, Of Counsel
Mark A. Glick, Of Counsel
Michael W. Devine, Of Counsel

November 16, 1998

Via Facsimile to 801/943-1897 and U.S. Mail

Steve Scheid
Environmental Analyst
Salt Lake Ranger District
6494 Fourth South, 3000 East
Salt Lake City, UT 84121

Re: Access to Giles Flat Properties

Dear Mr. Scheid:

As you were advised verbally at a meeting of the Giles Flat Water Users Association members at this office on November 10, 1998, all of the members of Giles Flat Water Users Association desire to obtain permanent recordable rights-of-way affording downstream access to their various properties to permit Solitude to complete and execute its plan for improvements which would close off historical upstream access.

As you were advised earlier, it is the position of all of the members of Giles Flat Water Users Association that the downstream access on both sides of Big Cottonwood Creek which is being requested was in place before the United States of America gained title to the property and hence constitute enforceable rights.

The members of the Association join with Solitude in making this formal request for the granting of permanent recordable rights-of-way to Giles Flat Water Users Association and its members to provide access over the existing roadways that have been in existence for over 150 years.

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As we also advised at the November 10 meeting, the providing of such access to alleviate the otherwise necessary building of a large permanent bridge over Big Cottonwood Creek and the removing of pristine pine trees and other vegetation is the most environment friendly approach to the access problem.

Please feel free to make this letter available to any interested organization or group.

Very truly yours,

Giles Flat Water Users Association
by Keith E. Taylor, President

KET/cm
cc: Giles Flat Water Users Association members

United States Department of Agriculture
Forest Service
Wasatche-Cache National Forest
Salt Lake Ranger District
6944 South 3000 East
Salt Lake City, Utah 84121
(801) 943-1794

Reply to: 2720/1950

Date: November 23, 1998

Mr. Keith E. Taylor
President, Giles Flat Water Users Association
c/o Parsons, Behle & Latimer
One Utah Center
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, Utah 84145-0898

Reading File Copy

Dear Keith:

I received your letter dated November 16, 1998 and understand it serves as a formal request to the Forest Service to grant permanent recordable rights-of-way to Giles Flat Water Association and its members to provide access over two existing roadways on National Forest System lands: the "Old County Road" and the "Old Pioneer Road", which now serves as an internal resort road for Solitude Ski Resort.

Based upon discussions with Steve Scheid, who attended the November 10, 1998 meeting at your office, it is my understanding that the Giles Flat residents on the north side of Big Cottonwood Creek (highway side) proposed utilizing private land to provide access. This alternative, to provide access through Solitude's upper lot, would appear to be a more effective resolution to obtain easement through the Forest Service.. The Forest Service will only consider granting this type of easement in cases when there are no reasonable alternatives available on private land. In this case, there appears to be a reasonable alternative that would accomplish the same purpose and need.

There does not appear to be a reasonable alternative for the Giles Flat residents on the south side of Big Cottonwood Creek. Therefore, we would be willing to initiate environmental analysis for this proposal, as required by the National Environmental Policy Act (NEPA). In order to start this process, you will need to complete and return the enclosed Special Use Application and Report.

As also discussed at the November 10 meeting, this proposal has not been programmed into the Salt Lake Ranger District's fiscal year 1998-99 workload and budget. Our current workload and budget are very tight. Although this proposal is a priority for you and your association, it must take its place with all of the District's competing projects, and has not been through the budgeting priority process. This means that, with current high profile projects and other District project commitments, that your proposal would likely not be funded for this fiscal year.

An alternative to fund this would be for your association to enter into a collection agreement with the Forest Service to cover the costs of the analysis process. Even with cooperative funding, due to

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our time constraints based on existing workloads for District employees, completion of the analysis process would still have to compete with other District projects.

At this point in time, we are willing to work with you to resolve the access issues facing Giles Flat residents. Our analysis process will determine the feasibility of your proposal and our subsequent direction. Please discuss the opportunity to obtain an alternative easement resolution on private land with residents on the north side and get back with me or Steve Scheid. Please contact us if you have further questions or comments.

Sincerely,

Albert J Lowe Jr.

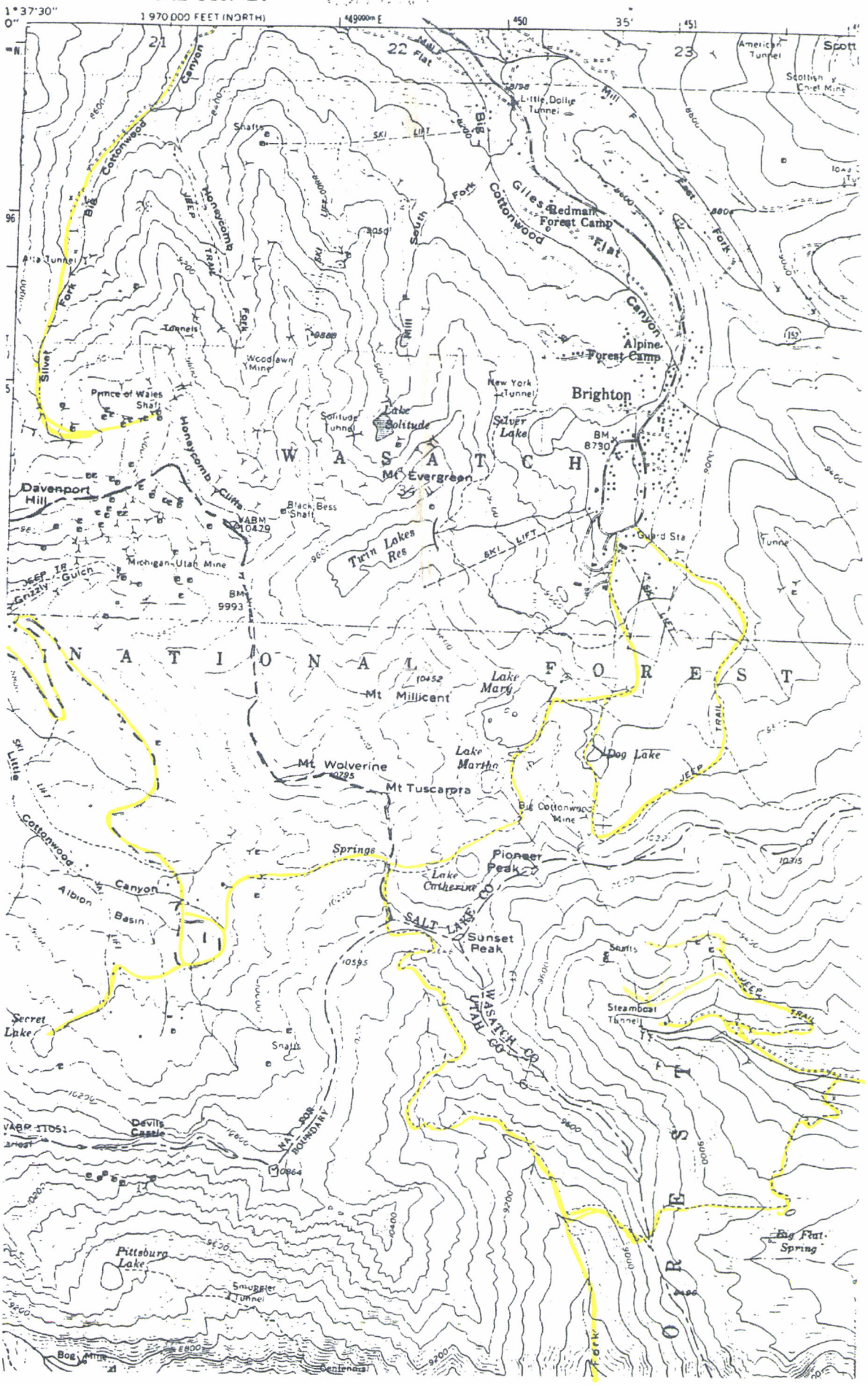
for DANIEL J. JIRON
District Ranger

Enclosures

DEPARTMENT OF THE INTE. OR
GEOLOGICAL SURVEY

Exhibit +

Scale 1" = 2000'



NF-028
Albion Basin Rd
NF-028
Albion Basin Rd
Campground Rd
Supreme Rd
NF-028
Secret Rd
Devil's Castle Rd
Albion Mine Rd
Secret Lake

12

Incorporated Under Laws
of Utah

№ 4624

SHARES 4

Big Ditch Irrigation Company

This Certifies That GREAT WESTERN MINING COMPANY LLC OR KEVIN FULTON PRESTON RICHARDS BRUCE MANNING, DAN CHRISTENSEN - EACH WITH A 25% is the owner of FOUR - SHARES (4) DIVIDED INTEREST Shares of Capital Stock of (1 SHARE EACH)

Big Ditch Irrigation Company

transferable only on the Books of the Company, in person or by Attorney on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the President and Secretary have hereunto suscribed their names and affixed the seal of sain Company at Salt Lake City, Salt Lake County, Utah this _____ day of _____ A.D. _____

Secretary

President

4

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FOR VALUE RECEIVED I/WE HEREBY SELL, ASSIGN AND TRANSFER UNTO _____ Shares of the Capital Stock represented by the within Certificate and do hereby irrevocably constitute and appoint _____ to transfer the said Stock on the books of the within named Corporation with full power of substitution in the premises.

Dated _____, 20 _____

In Presence of

_____ _____

Seal

_____

NOTICE - The signature to this assignment must correspond with the name written upon the face of this Certificate in every particular.

Notary or Medallion Signature _____

CERTIFICATE

FOR

-4-

Big Ditch Irrigation Company
Murray, Utah

19-AUG-2011

New Shareholder _____

Contact Information _____

Name _____

Address _____

Telephone _____

Email _____

Assement and Notices by US Mail ☐ Email ☐
(Please check)

INCORPORATED UNDER THE LAWS OF

NUMBER 538

SHARES -1-

Hill Di[illegible] Company

SHARE $100.00 EACH

This Certifies that J.L.C. — One (1) — is the owner of Shares of the Capital Stock of

HILL DITCH IRRIGATION COMPANY

transferable only on the Books of the Corporation on surrender of this Certificate properly endorsed

In Witness Whereof the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed

this 24th day of August A.D. 2011

HILL DITCH IRRIGATION COMPANY CORPORATE Seal UTAH

Mark Leeding — SECRETARY

Martin L. Mahill — PRESIDENT

CERTIFICATE

FOR — SHARES

OF THE Capital Stock

OF

JLC

ISSUED TO

DATED

AUG-24-2013

I

KEVIN TOLTON

Shares of the Capital Stock represented by the within Certificate and do hereby irrevocably constitute and appoint

to transfer the said Stock on the books of the within named Corporation with full power of substitution in the premises.

Dated 21-FEB-2013

JLC

NUMBER 3778

SHARES 1.5 Shares

MIDWAY IRRIGATION CO.

CAPITAL STOCK 10,000 SHARES

This Certifies that Great Western Mining Company is the owner of

Five Shares Shares of the Capital Stock of

MIDWAY IRRIGATION COMPANY

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed

IN WITNESS WHEREOF, *the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this* 24th *day of* June *A.D. 20*2007

2001 GOES 6136
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CERTIFICATE

FOR

1½

SHARES

of the

Capital Stock

MIDWAY IRRIGATION COMPANY

ISSUED TO

Great Western Kinney

DATE

June 24, 2007

INCORPORATED UNDER THE LAWS OF

No. _____ The State Of Utah

A 10.0
B 0 Shares
D 3.0

WASHINGTON IRRIGATION COMPANY

This Certifies that Kevin Tolton is the owner of

Class A Ten B zero D Three Shares of the Capital Stock of

WASHINGTON IRRIGATION COMPANY

transferable only on the Books of the Corporation by the holder hereof in person or by duly authorized Agent on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF the duly authorized officers of this Coorporation have hereunto subscribed their names and caused the corporate Seal to be hereto affixed at this 5th day of September A.D. 2007

Andrea McNeil
Secretary

David Ure
President

at 1887 East 4500 South, Salt Lake City, UT 84117

at 1887 East 4500 South, Salt Lake City, UT 84117

UTAH

NUMBER

SHARES

STOCK

Holliday Water Company

CAPITAL STOCK $100,000 — PAR VALUE $50.00 A SHARE

This Certifies that Kevin Tolton is the owner of ***ONE*** Shares of the Capital Stock of

HOLLIDAY WATER COMPANY

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 9th day of September A.D. 20 09

SECRETARY

PRESIDENT

© GOES 701

The share(s) stock represented by this certificate is appurtenant to the land located at Service area of Holliday Water Co. and may not be separately transferred, assigned, or devised unless authorized in writing by the board of directors of Holliday Water Company.

CERTIFICATE

SHARES

Capital Stock

HOLLIDAY WATER COMPANY

ISSUED TO

DATED

For Value Received, _____ hereby sell, assign and transfer unto _____

_____ Shares of the Capital Stock represented by the within Certificate, and do hereby irrevocably constitute and appoint _____ to transfer the said Stock on the books of the within named Corporation with full power of substitution in the premises.

Dated _____ 20 ____

In presence of

NOTICE THE SIGNATURE OF THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER

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SUMMER WATER RATES APR - OCT 12-13

Size	City	County
1	0.2888	0.3811
1.5	0.3410	0.4478
2	0.3703	0.4876
3	0.6213	0.8266
4	0.6653	0.8861
6	0.9603	1.2843
8	1.7265	2.3192
10	3.2020	4.3105

Days used in billing calculations:
Days in a year = 365.25
Days in a month = 30.4375

Consumption formula example:
Block 1: 10 / 30.4375 = .3285 x # of days in billing cycle
Block 2: 30 - 10 = 20 / 30.4375 x # of days in billing cycle
Block 3: 70 - 30 = 40 / 30.4375 x # of days in billing cycle
Block 4: Add cons. from block 1,2 & 3, subtract from total cons. to get Block 4

Residential	Block 1		Block 2		Block 3		Block 4	
	City	Cnty	City	County	City	County	City	County
	$0.97	$1.31	$1.49	$2.01	$2.06	$2.78	$2.16	$2.91
Single	1 thru 10		11 thru 30		31 thru 70		Over 71	
Duplex	1 thru 13		14 thru 30		31 thru 70		Over 71	
Triplex	1 thru 16		17 thru 30		31 thru 70		Over 71	
Fourplex	1 thru AWC		AWC thru 300% of AWC		Over 300% - 700% AWC		Over 700% of AWC	

Commercial
SAME AS Fourplex Residential

Lawn Meters

Block 2		Block 3		Block 4	
City	County	City	County	City	County
$1.49	$2.01	$2.06	$2.78	$2.16	$2.91
1 thru Target Budget		Over 300% Target Budget		Over Target Budget	

Lawn Meter Target Budget calculation:
Sq. Ft. x .8 x ET value / 1200 = Target Budget
Example:
43,560 x .8 = 34,848 x 4.64" / 1200 = 134.75 units

ET VALUES	
April	4.64"
May	6.34"
June	7.46"
July	8.57"
August	7.74"
September	5.14"
October	3.18"