



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

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7 July 2003

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WATER RIGHTS
SALT LAKE

Corporation the Presiding Bishop
Church of Jesus Christ of Latter-day Saints
Attn: Elliott Christensen, Manager / Land Portfolio
50 East North Temple Street
SALT LAKE CITY UT 84150

RE: REQUEST FOR DOCUMENTATION / NEW HARMONY AREA

Mr. Christensen:

On 03 July 2003, at his request, I met with Mr. Bruce Whited to review conditions in the New Harmony area related to certain water rights currently held in the name of "Sawyers Spring Irrigation Company." Mr. Whited's general concern was his inability to get sufficient water from the several sources of water (principally Sawyer Springs and Ash Creek) to satisfy the subject rights, most of which are described in the Virgin River Decree (Awards 117 - 125). His more specific contention is that his rights in Sawyer Spring Creek (Water Right Number 81-17) has been substantially impaired by the operation of two wells owned by the Corporation of the Presiding Bishop ("CPB"), specifically the so-called "Sawyer Well" and "Death Valley Well."

While we have insufficient information before us at present to evaluate Mr. Whited's claims of impairment, the field investigation and subsequent file review have brought to my attention two areas in which we will require the provision of information and documentation related to the CPB's water rights and operations in the New Harmony area.

"Death Valley Well"

The subject well was originally authorized as a provisional well ("test well") in 1994 under Provisional Well Number 94-81-009-P-01. This authorization described both the "Sawyer Well" site¹ and the "Death Valley Well" site². Although the Sawyer Well was evidently drilled, tested and documented, it appears that the Death Valley site was not drilled. The provisional drilling authorization was limited to a six-month period and expired on 14 April 1995.

¹The "Sawyer Well" site was described as being located South 281 feet and East 987 feet from the South Quarter Corner of Section 35, T38S, R13W, SLB&M. A "Well Driller's Report" (Well Log) on the Sawyer Well was filed with the State Engineer on 17 January 1995, along with a "Test Pump Data Sheet" (6 pages) describing the test pumping of "Well #8," presumably the same well.

²The "Death Valley Well" site was described as being located South 1397 feet and East 117 feet from the NW Corner of Section 35, T38S, R13W, SLB&M. This location appears to have been taken from a survey conducted by Grimshaw Surveying as depicted on a survey map dated 11 October 1994.

The Death Valley well was later described in CPB's Application for Permanent Change of Water number 81-192 (a20468) as "Well I; proposed new well under this application," to be in 8-inch well, 100 to 700 feet deep, located North 1240 feet and East 52 feet from the West Quarter Corner of Section 35, T38S, R13W, SLB&M.

On the date first mentioned, I visited this well site in the company of Mr. Whited and verified that there is, in fact, an operating well at or near the site. However, I am unable to locate any information to document the construction of the well. Please research your records and provide at your earliest opportunity an accounting of the construction of this well, specifically detailing the name of the Utah-licensed driller who constructed the well, the dates of construction and completion of the well, and as far as such information may be available, the lithology and construction data (casing size/type, borehole depth, perforations/screens, surface seal, gravel pack, test pump data or other development details) pertaining to this well. We would also like to know the disposition of the "Driller Start Card" and "Applicant Card" issued with the approval of the referenced change application.

"Sawyer Spring Dam/Pond"

Below the upper part of Sawyer Springs area (150-200 yards, approximately), evidently on property owned by the CPB and on the Sawyer Spring Creek channel, Mr. Whited showed me a somewhat recently constructed dam and reservoir.³ The pond appears to be fed by a natural spring/pond area west of the larger pool from which an earthen channel has been constructed. Although there was no flow at the time of the visit, Mr. Whited had photographs taken earlier in the spring which did show a significant flow into the pond. The dam has a PVC overflow set near the left (north) abutment and a 6-inch diameter PVC low-level outlet with vertical air vent, but no evidence of an outlet control works was evident.⁴ Mr. Whited asserted that this reservoir was effectively depriving him of water that would have flowed to his point of diversion on Sawyer Spring Creek.

³Mr. Whited had NRCS aerial photos of the area taken in 1997 and the dam/pond do not appear to be shown on those photos.

⁴The "air vent" consisted of a vertical 6-inch PVC standpipe and may actually have been a valve access box for a control valve set just below the downstream edge of the dam crest. However, the top of this structure stands at about 8-9 feet and is not readily accessible for such a use. For this reason, I suspect that it is an air vent and not part of a control works.

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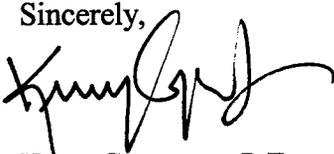
I have reviewed the State Engineer's records for this area and find no evidence to indicate that the construction of this dam was authorized by Stream Alteration Permit, by our Dam Safety section which administers dam construction, nor by a proper water rights application to address the required storage and consumptive losses associated with the facility. You are requested to provide this office with the following information as soon as possible:

1. The authorization (preferably by State Engineer application/file number) under which the dam was constructed;
2. The names of the party or parties who performed and/or supervised the construction of the dam and appurtenant facilities;
3. The approximate dates upon which the construction was initiated and completed;
4. All available technical information regarding the design and construction of the dam and appurtenant facilities, including data related to geotechnical studies and design, outlet and control works design, overflow design, and general design capacity and surface area.

If you are unable to locate and provide documentation of proper authorization for this structure, you are advised that the pool should be drained as quickly as is safely possible and the outlet works left open to prevent any further storage of water until proper authorization has been acquired.

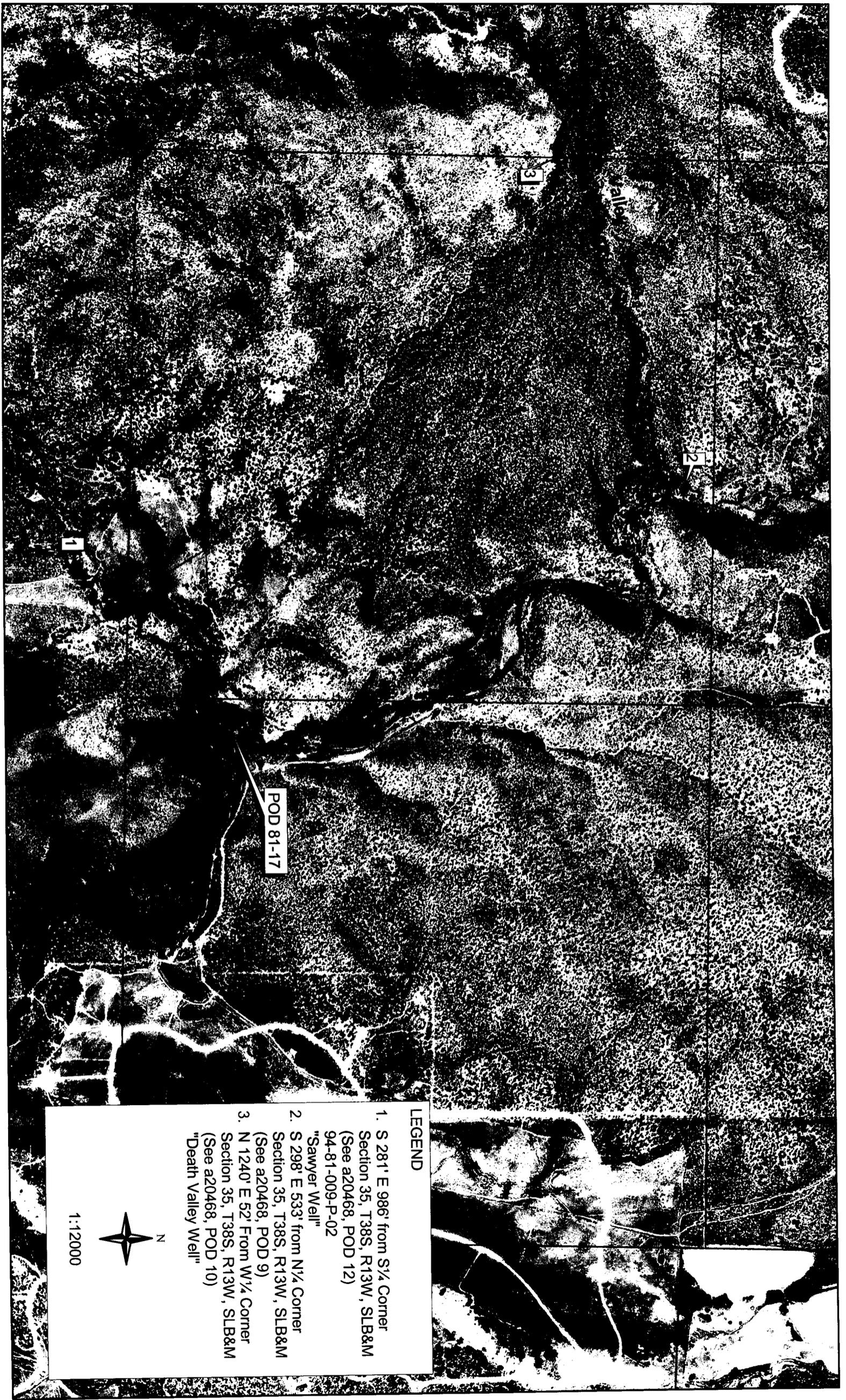
Your cooperation and prompt responses to these requests will be appreciated and will enable us to more efficiently perform our duties in this area. I am enclosing a copy of a map of the subject area based on the currently available USGS photoquad . The photo is believed to be circa 1993 and does not appear to show the pond in question.

Sincerely,



Kerry Carpenter, P.E.
Region Engineer

pc: Richard Hall, P.E. / Assistant State Engineer - Dam Safety / Stream Alterations
✓ Lee Sim, P.E. / Assistant State Engineer - Distribution / Well Drilling
Kent Jones, P.E. / Assistant State Engineer - Appropriations
Water Right Files 81-16, 81-17, 81-192



Valley

3

2

1

POD 81-17

LEGEND

1. S 281' E 986' from S $\frac{1}{4}$ Corner Section 35, T38S, R13W, SLB&M (See a20468, POD 12) 94-81-009-P-02 "Sawyer Well"
2. S 298' E 533' from N $\frac{1}{4}$ Corner Section 35, T38S, R13W, SLB&M (See a20468, POD 9)
3. N 1240' E 52' From W $\frac{1}{4}$ Corner Section 35, T38S, R13W, SLB&M (See a20468, POD 10) "Death Valley Well"



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