PROTEST

PROTEST FEE PAID
$15.00 21-03522
Fee Rec'd BY: ONLINE

June 22, 2021

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JUN 22 2021
WATER RIGHTS
ONLINE

Protestant: Pineview West Water Company
c/o Jonathan Clyde
201 South Main Street, Suite 2200
Salt Lake City, UT 84111

RE: Protest of Exchange Application E6192

A hearing is requested.

Please see attached correspondence.

Jonathan Clyde

Enclosure

SCANNED

ClydeSnow
ATTORNEYS AT LAW
CLYDE SNOW & SESSIONS
A PROFESSIONAL CORPORATION
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201 SOUTH MAIN STREET, SUITE 1300
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June 22, 2021

Ms. Teresa Wilhelmsen
State Engineer
Utah Division of Water Rights
1594 West North Temple, Suite 220
P. O. Box 146300
Salt Lake City, UT 84114

Re: Protest to Exchange Application E6192 (35-13915)

Dear Ms. Wilhelmsen:

This letter of protest is submitted on behalf of Pineview West Water Company ("Protestant") the owner of a number of water rights located in the vicinity of the proposed place of use and point of diversion the exchange application filed by Crimson Ridge Water Company ("Applicant"). Protestant owns groundwater rights in the immediate area identified as E4625, 35-1875, and 35-7263 (a27794). These water rights all draw water from underground wells that are located in close proximity to the proposed point of diversion. Therefore, Protestant has standing to protest the above referenced change application, filed by Applicant.

The requested exchange (E6192) involves a portion of a Bureau of Reclamation water right, contracted to the Weber Basin Water Conservancy District. The proposed exchange would allow the diversion of 30 acre-feet from an underground well(s), with a corresponding amount of water released from Pineview Reservoir. This Exchange Application must be rejected for the following reasons:

1. The Proposed Exchange Will Not Result in a Release That Compensates for the Diversion at the Proposed Place of Diversion:

The proposed exchange seeks to move both the point of diversion and place of use from Pineview Reservoir to a well located to the West of the reservoir. The point of diversion would change from a surface source to an underground well. This area is already fully appropriated and there is no unappropriated water available in the source to accommodate a change such as this. The Division of Water Rights Policy for Area 35 indicates that:

> "Exchange applications will continue to be considered on their own merit. New water diversions, based on exchange applications, will be permitted for projects where there is water available in the proposed source that can be diverted without impairing the existing rights on the source, and where water can be released under the exchange to replace water for downstream rights." *See* Policy for Area 35.

Additionally, pursuant to Utah Code 73-3-20(1), an exchange application allows:

> "[A]ny appropriated water may … be turned from the channel of any stream or any lake or other body of water, into the channel of any natural stream or natural body of water or into a reservoir constructed across the bed of any natural stream, and commingled with its waters, and a <u>like quantity less the quantity lost by evaporation and seepage may be taken out, either above or below the point where emptied into the stream, body of water or reservoir</u>" (emphasis added).

In order to be approved, the exchange must allow a like quantity of water to be released to the same source of water as the new diversion. A change in the point of diversion to a location upstream from the point of exchange cannot satisfy these requirements.

In this case, the proposed withdrawal is located at a point (or points) above the point of release from Pineview Reservoir, some 700 to 800 feet above the reservoir's high-water mark. As such, a release from Pineview Reservoir would not result in a successful exchange of water. Rather, the planned exchange would simply increase the amount of water in the Ogden River below the dam. Protestant's water rights impacted by the proposed diversion would not be made whole by the exchange, nor would the exchange offset the new diversion from the aquifer. This exchange should be denied, as it will not accomplish the requirements for the exchange.

2. The Proposed Change Would Impair Protestant's Water Rights: The proposed exchange seeks to establish a point of diversion that is approximately 850 feet from the point of diversion for the Protestant's senior water rights.[1] Additionally, Protestant has a surface diversion that is located only 420 feet away from the proposed well. The well that that is the

1 The exchange contemplates 3 additional points of diversion that would potentially be drilled and utilized if the existing POD (#1) does not provide sufficient water. These points of diversion are all located in close proximity to the Protestant's wells and, given the proximity, are also likely to impair the Protestant's water rights.

proposed diversion point was drilled to a depth of 1005 feet and, during testing, exhibited significant drawdowns (See attached well log 2035005M00). The Protestant's well is only 504 feet in depth and is very likely to be impacted by diversions from Applicant's new well (See attached well log for 97-35-005-R-01).

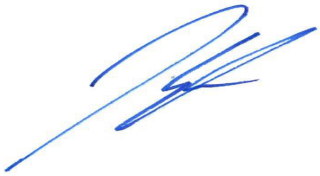
In recent years, Protestant has been involved in lengthy litigation regarding claims of well interference in the area. The proliferation of wells in this area has generated (and encouraged) interference claims independent from the impacts of the significant drought. Approval of this application would further complicate an already confusing situation. At full operation, the drawdown from the proposed well has a very high likelihood of impairing Protestant's water rights. As shown on the well log for the proposed point of diversion, a brief 6-hour pump test resulted in 424.5 feet of drawdown. The Protestant has senior water rights with nearby points of diversion, and those rights are likely to be impaired by this new diversion. It is the Applicant's burden to show that impairment will not occur, a burden that has not been met here.

3. Applicant Cannot Mitigate Any Impairment: Based upon a quick review of the files of the Division of Water Rights, Applicant owns no other water rights in the area that could be used to off-set the adverse impacts to Protestant's, or others, vested water rights. Likewise, the proposed exchange would not replace any withdrawn water. Accordingly, the application fails to meet the statutory criteria for approval under Utah Code Ann. §73-3-3 and §73-3-8, and the State Engineer must reject the exchange application.

Protestant requests a hearing on its Protest.

Very truly yours,

CLYDE SNOW & SESSION P.C.



Jonathan S. Clyde

WELL DRILLER'S REPORT
State of Utah
Division of Water Rights

For additional space, use "Additional Well Data Form" and attach

Well Identification

Non-Production Well: 2035005M00 WIN: 444101

Owner *Note any changes*

B & H Investment Properties, LLC
110 West 1700 North
Centerville, Utah 84014

Contact Person/Engineer: Neil Burk, Loughlin Water Assoc., 801-541-4426

Well Location *Note any changes*

N 92 W 1019 from the S4 corner of section 03, Township 6N, Range 1E, SL B&M

Location Description: (address, proximity to buildings, landmarks, ground elevation,local well #)

Drillers Activity Start Date: July 9, 2020 Completion Date: September 21, 2020

Check all that apply: ☒ New ☐ Repair ☐ Deepen ☐ Clean ☐ Replace ☐ Public Nature of Use: Public Water System

If a replacement well, provide location of new well. _____ feet north/south and _____ feet east/west of the existing well.

DEPTH (feet) FROM	TO	BOREHOLE DIAMETER (in)	DRILLING METHOD	DRILLING FLUID
0	159	22	Conventional mud-rotary	
159	1005	14.75	Flooded reverse circulation	Water, bentonite and polymer

Well Log

DEPTH (feet) FROM	TO	WATER	PERMEABLE High	PERMEABLE Low	UNCONSOLIDATED CLAY	SILT	SAND	GRAVEL	COBBLES	BOULDER	OTHER	CONSOLIDATED ROCK TYPE	COLOR	DESCRIPTION AND REMARKS (e.g., relative %, grain size, sorting, angularity, bedding, grain composition density, plasticity, shape, cementation, consistancy, water bearing, odor, fracturing, minerology, texture,degree of weathering, hardness, water quality, etc.)
														SEE ATTACHED LITHOLOGIC LOG

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SEP 28 2020
WATER RIGHTS
SALT LAKE
LP

Static Water Level

SCANNED LP

Date August 27, 2020 Water Level 2.77 feet Flowing? ☐ Yes ☒ No
Method of Water Level Measurement sounder If Flowing, Capped Pressure _____ PSI
Point to Which Water Level Measurement was Referenced ground surface Elevation 5160
Height of Water Level reference point above ground surface 2 feet Temperature 66 degrees ☐ C ☒ F

Construction Information

DEPTH (feet) FROM	DEPTH (feet) TO	CASING: CASING TYPE AND MATERIAL/GRADE	CASING: WALL THICK (in)	CASING: NOMINAL DIAM. (in)	DEPTH (feet) FROM	DEPTH (feet) TO	☒SCREEN ☐PERFORATIONS ☐OPEN BOTTOM: SCREEN SLOT SIZE OR PERF SIZE (in)	SCREEN DIAM. OR PERF LENGTH (in)	SCREEN TYPE OR NUMBER PERF (per round/interval)
0	159	Steel surface casing	0.250	18	690	991	0.100	8	Ful Flo Louvered
+2	690	Steel production casing	0.250	8					

Well Head Configuration: 150 lb. flange and blind flange with 2" pipe plug Access Port Provided? ☒Yes ☐No

Casing Joint Type: welded Perforator Used: no

Was a Surface Seal Installed? ☒Yes ☐No Depth of Surface Seal: 446 feet Drive Shoe? ☐Yes ☒No

Surface Seal Material Placement Method: Tremie pipe and grout pump

Was a temporary surface casing used? ☐Yes ☒No If yes, depth of casing: _____ feet diameter: _____ inches

DEPTH (feet) FROM	DEPTH (feet) TO	SURFACE SEAL / INTERVAL SEAL / FILTER PACK / PACKER INFORMATION: SEAL MATERIAL, FILTER PACK and PACKER TYPE and DESCRIPTION	Quantity of Material Used (if applicable)	GROUT DENSITY (lbs./gal., # bag mix, gal./sack etc.)
0	159	Neat cement grout around surface casing	195 cubic feet	15.3 lbs/gal
0	436	Neat cement grout around production casing	418 cubic feet	15.3 lbs/gal
436	446	Bentonite plug around production casing on top of gravel pack	8 cubic feet	

Well Development and Well Yield Test Information

DATE	METHOD	YIELD	Units Check One: GPM	Units Check One: CFS	DRAWDOWN (ft)	TIME PUMPED (hrs & min)
8/10/20	Step-rate pumping test	46 to 87	X		424.5	6 hrs
8/27-28/20	Constant-rate pumping test	70	X		610.33	31 hrs

Pump (Permanent)

Pump Description: N/A Horsepower: _____ Pump Intake Depth: _____ feet

Approximate Maximum Pumping Rate: _____ Well Disinfected upon Completion? ☐Yes ☐No

Comments

Description of construction activity, additional materials used, problems encountered, extraordinary Circumstances, abandonment procedures. *Use additional well data form for more space.*

Well Driller Statement

This well was drilled and constructed under my supervision, according to applicable rules and regulations, and this report is complete and correct to the best of my knowledge and belief.

Name LANG, ALAN License No. 568

Signature Alan Lang (Licensed Well Driller) Date 9/23/20

DETAILED LITHOLOGIC LOG
CRIMSON RIDGE WELL

Depth		Geologic	Description
From	To	Unit	
0	5	Quaternary mass-movement deposits (Qms)	Alluvium - 70% brown-dark brown clay and 30% gray gravel
5	10		Moderate brown clay with trace angular tan quartzite gravel
10	15		Light brown clay with trace angular gravel up to 10mm in diameter
15	20		90% Light brown to light gray clay with 10% trace angular coarse sand and fine gravel
20	25		65% Light brown to light gray clay with 35% trace angular coarse sand and fine gravel
25	30		50% Light brown to light gray clay with 50% trace angular coarse sand and fine gravel
30	40		40% Light brown clay and 60% gravel
40	45		60% Light brown clay with course sand and 60% fine gravel
45	50		60% Light greenish-gray to light brown clay and 40% gravel
50	60		30% Light brown with trace greenish-gray clay and 70% gravel
60	70		20% Light brown with trace greenish-gray silty clay and 80% gravel
70	75		10% Light brown with trace greenish-gray silty clay and 90% gravel
75	80		Volcanic coarse sand to gravel sized clasts with trace light brown silty clay
80	95		80% volcanic coarse sand to fine gravel with 20% light brown silt
95	100		75% coarse gravel (dark red to light tan) with 25% brown silty clay
100	105	Norwood Formation (Tn)	80% coarse gravel (dark red to light tan) with 20% brown silty clay
105	110		50% gravel and sand with light greenish-gray to light brown clay
110	125		85% coarse gravel and sand with 15% brown silty clay
125	130		70% coarse gravel and sand with 30% brown silty clay
130	135		80% light greenish-gray clay with 20% cobble clasts
135	140		90% light greenish-gray clay with 10% cobble clasts
140	150		80% light greenish-gray clay with 20% cobble clasts
150	155		70% light gray silty tuff with 30% light greenish-gray clay and trace moderate brown gravel
155	160		75% light gray silty tuff and 25% light gray-green clay
160	170		60% light gray tuff and 40% light tan sandy tuff
170	175		90% light gray tuff and 10% light tan sandy tuff
175	185		Light gray silty tuff
185	195		70% greenish-gray sandy tuff with 30% light gray silty tuff
195	200		70% greenish-gray sandy tuff with 30% light gray-tan silty tuff
200	210		80% light gray sandy tuff and 20% sticky gray clay
210	220		80% light greenish-gray to light tan sandy tuff with 20% sticky gray clay

DETAILED LITHOLOGIC LOG
CRIMSON RIDGE WELL

Depth		Geologic Unit	Description
From	To		
220	225	Norwood Formation (Tn)	Light greenish-gray sandy tuff with sticky gray-yellow clay
225	245		Sticky gray tuffaceous clay with trace light tan angular sand
245	250		80% sticky gray tuffaceous clay with 20% tan-brown-red coarse sand-gravel clasts
250	255		60% sticky gray tuffaceous clay with 40% tan-brown-red coarse sand-gravel clasts
255	265		Stiff sticky gray clay with trace fine gravel
265	280		Light gray sandy tuff with sticky gray clay and trace coarse sand
280	300		Light gray sandy/silty tuff with sticky gray clay
300	315		Light gray sandy tuff with sticky gray clay and trace coarse sand
315	320		Light gray sandy tuff with sticky gray clay and trace fine gravel
320	325		60% light gray sandy tuff with sticky gray clay and 40% gravel
325	330		50% angular quartzite gravel (black-brown) and 50% light gray sandy tuff
330	345		60% angular quartzite gravel (black-brown) and 40% light gray sandy tuff
345	350		75% angular quartzite gravel (black-brown) and 25% light gray sandy tuff
350	355		60% angular quartzite gravel (black-brown) and 40% light gray sandy tuff
355	385		50% angular quartzite gravel (black-brown) and 50% light gray sandy tuff
385	390		Gray-green plastic tuffaceous clay with trace gravel and silt
390	400		Gray-green plastic tuffaceous clay with trace tuff clasts and silt
400	405		Light gray with green-gray-brown sandy plastic clay
405	420		Green-gray-brown sandy stiff plastic clay
420	430		Green-gray silty stiff clay with trace light brown clay
430	440		Green-gray silty stiff clay with trace light brown clay and gravel
440	450		Gray-brown stuff silty clay with some soft plastic clay
450	465		Gray-brown-green stuff silty clay with some soft plastic clay
465	470		Gray-brown-green stuff silty clay with some soft plastic clay and trace gravel
470	475		Light gray-brown clay with some light gray-green sandy clay and trace gravel
475	500		Light gray-green sandy clay with trace gravel
500	525		Gray-green stiff sandy clay with some soft plastic clay and trace gravel
525	535		Green-gray silty plastic clay
535	545		Green-gray silty plastic clay with some light brown stiff clay
545	560		Light green-gray silty stiff clay
560	575		Light green-gray silty stiff clay with trace tuffaceous fragments

DETAILED LITHOLOGIC LOG
CRIMSON RIDGE WELL

Depth		Geologic Unit	Description
From	To		
575	580	Norwood Formation (Tn)	Light green-gray with some light brown silty stiff clay with trace tuffaceous fragments
580	600		Light brown-green-gray stiff silty clay
600	605		Light gray stiff sandy/silty clay with trace angular quartzite fine gravel
605	620		Light gray stiff silty clay
620	625		90% Light gray stiff silty clay and 10% quartzite fine gravel
625	655		Light gray stiff silty clay
655	660		Light gray stiff silty clay with trace quartzite clasts
660	665		Light gray-green sandy clay
665	670		Light gray sandy clayey tuff with trace quartzite clasts
670	680		Light gray-green sandy tuff with stuff clay and trace angular coarse sand
680	690		Light gray-green sandy tuff with stuff clay
690	700	Fault Zone	80% red sticky sandy clay and 20% quartzite gravel (1-2 cm diameter)
700	705		Orange-pink-yellow silty coarse sand with quartzite clasts
705	715		Orange-pink silty sand with fine quartzite gravels
715	720		Orange-pink sandy clay with trace fine quartzite gravel
720	730		Light pink stiff clay with some sand and trace quartzite coarse sand
730	735	Green Arkose Member of the Maple Canyon Formation (Zmcg)	75% white-tan-dark brown quartzite gravel with 25% pink-tan sandy clay
735	740		90% white-tan-dark brown quartzite gravel with 10% pink-tan sandy clay and trace argillite clasts
740	750		Light tan to brown quartzite with dark argillite clasts
750	755		90% tan to brown quartzite with 10% iron stained argillite
755	760		Glassy light tan to tan quartzite with some green-gray and trace dark gray argillite
760	765		Light gray to yellow clay with dark gray fine grained argillite with moderate gray quartzite
765	770		50% light gray quartzite and 40% tan to moderate brown quartzite and 10% gray-tan quartzite
770	780		Gray-tan-brown fine gravel quartzite
780	790		85% tan to light gray quartzite with 15% glassy gray quartzite
790	795		Gray-brown glassy quartzite with lesser amounts dark gray quartzite
795	800		Light tan to brown quartzite with dark argillite clasts and trace white sandy clay
800	805		50% light tan-brown quartzite and 50% dark brown argillite with trace white sandy clay
805	830		Tan-brown quartzite and dark brown argillite with some white sandy clay
830	835		Tan-white-brown quartzite and argillite with trace off white-light red sandy clay
835	840		Tan-white-brown quartzite and argillite with ~10% off white-light red sandy clay

DETAILED LITHOLOGIC LOG
CRIMSON RIDGE WELL

Depth		Geologic	Description
From	To	Unit	
840	850		Light tan-brown quartzite and argillite with 5-10% off white clay
850	855		Light tan-brown quartzite and argillite with 10-15% off white clay
855	860		Green-white-tan-brown quartzite with argillite and off white-red sandy clay
860	865		Light tan-brown quartzite with argillite and trace off white-red sandy clay
865	875		Light tan-brown quartzite with argillite with some off white-red sandy clay
875	880		50% Light tan-brown quartzite with argillite and 50% off white-red sandy clay
880	890		50% argillite with trace light tan-gray quartzite and 50% silty clay
890	895	Green Arkose Member of the Maple Canyon Formation (Zmcg)	60% light tan-white quartzite and argillite with 40% off white silty clay
895	900		50% quartzite and argillite with 50% off white-light red silty clay
900	905		80% dark gray argillite with 15% reddish-gray and 5% light brown silty clay
905	910		75% light-red to gray clay with 25% dark argillite and trace quartzite
910	915		90% tan quartzite with 10% white clay
915	920		60% off white clay with ~40% argillite and quartzite
920	925		70% light-gray to pale-red clay with ~30% gray argillite and tan quartzite
925	930		80% light-gray and pale-red clay with 20% gray sandy quartzite
930	935		70% light gray clay with 20% dark gray argillite and 10% light-gray quartzite
935	940		70% dark gray argillite and 20% light brown-gray clay with 10% light moderate brown quarzite
940	945		70% light gray quartzite and 25% pale-reddish-brown clay and ~5% dark gray argillite
945	950		75% white to brown quartzite with 25% white sandy clay
950	955		80% light-gray to pale-reddish-brown clay with 20% moderate gray quartzite
955	960		60% pale-reddish-brown clay with 30% moderate gray quartzite and 10% dark gray argillite
960	970		70% tan to light brown clay with 30% white to light-brown quartzite
970	980		75% tan to light-brown clay with 25% white to light-brown quartzite
980	985		60% fine angular quartzite gravel with tan to reddish sandy clay
985	990		70% light green-gray and reddish silty clay with 30% fine angular quartzite gravel
990	1005		80% light green-gray and reddish silty clay with 20% fine angular quartzite gravel

Notes:

Logged by Neil Burk, P.G., John Brown, P.G. and Greg Gavin, G.I.T. of Loughlin Water Associates, LLC

WL1

WELL DRILLER'S REPORT

State of Utah
Division of Water Rights

PROVISIONAL WELL: 97-35-005-R-01

For additional space, use "Additional Well Data Form" and attach

RECEIVED
NOV 20 1998
WATER RIGHTS
SALT LAKE

Well Identification

Owner *Note any changes*
Edward E. Radford
1568 Connecticut Dr.
Salt Lake City, UT 84103

Contact Person/Engineer:

Well Location NORTH 400 feet EAST 800 feet from the SW Corner of SECTION 3, TOWNSHIP 6N, RANGE 1E, SLB&M.

Location Description: (address, proximity to buildings, landmarks, ground elevation, local well #)

Drillers Activity

Start Date: Oct 1 - 97 Completion Date: Sept 30 - 98

Check all that apply:
☑ New ☐ Repair ☐ Deepen ☐ Abandon ☐ Replace ☐ Public Nature of Use:

DEPTH (feet) FROM	TO	BOREHOLE DIAMETER (in)	DRILLING METHOD	DRILLING FLUID
0	100	15"	Mud Rotary	Bentonite
100	240	11"	" "	"
240	504	8½"	" "	"

Well Log

DEPTH (feet) FROM	TO	WATER	PERMEABLE high	PERMEABLE low	UNCONSOLIDATED CLAY	SILT	SAND	GRAVEL	COBBLES	BOULDER	OTHER	CONSOLIDATED ROCK TYPE	COLOR	DESCRIPTIONS AND REMARKS (include comments on *water quality* if known.)
0	2										X		Black	Top soil
2	32				X				X		X		white	2" & 8" Rock + shale
32	49										X		White + Brown	Shale
49	63	X	X								X		Brown	shale
63	110					X					X		White + Brown	White clay + Brown shale
110	190	X		X							X		Brown	shale
190	278	X		X							X		Brown White	Shale (water) 404 @ 445 (water)
278	504	X		X										Brown + White Green shale

Static Water Level

Date Sept 30 - 98 Water Level ____ feet Flowing? ☑ Yes ☐ No
Method of Water Level Measurement ____ If Flowing, Capped Pressure 5 PSI
Point to Which Water Level Measurement was Referenced ____
Height of Water Level reference point above ground surface 10 feet Temperature 52 ☐ °C ☑ °F

[redacted] *Well Log* [redacted]

Construction Information

DEPTH (feet) FROM	TO	CASING: CASING TYPE AND MATERIAL/GRADE	WALL THICK (in)	NOMINAL DIAM. (in)	DEPTH (feet) FROM	TO	SCREEN ☑ PERFORATIONS ☐ SLOT SIZE OR PERF SIZE (in)	SCREEN DIAM. OR PERF LENGTH (in)	SCREEN TYPE OR NUMBER PERF (per round/interval)
+3'	240	PVC Well Casing	SK 80	8"	240	260	.050	6"	PVC SK 80
240	502	" " "	SK 80	6"	300	502	.050	6"	PVC SK 80

Well Head Configuration: Well Seal — Access Port Provided? ☑ Yes ☐ No

Casing Joint Type: Threaded — Perforator Used: No

DEPTH (feet) FROM	TO	FILTER PACK / GROUT / PACKER / ABANDONMENT MATERIAL: ANNULAR MATERIAL, ABANDONMENT MATERIAL and/or PACKER DESCRIPTION	Quantity of Material Used (if applicable)	GROUT DENSITY (lbs./gal.,# bag mix, gal./sack etc.)
0	100	12 bag mix Grout pumped From bottom to Top		12 bag Mix

Well Development / Pump or Bail Tests

Date	Method	Yield	Units Check One GPM	Units Check One CFS	DRAWDOWN (ft)	TIME PUMPED (hrs & min)
Aug 10-98	Bailing / pumping with AIR		10			161 hours
to	Dry ICE		to			Total
Sept 30-98	Test pumping		40			

Pump (Permanent)

Pump Description: GRUNDFOS/FRANKLIN — Horsepower: 7 — Pump Intake Depth: 434 feet

Approximate maximum pumping rate: 40 GPM — Well disinfected upon completion? ☐ Yes ☑ No

Comments

Description of construction activity, additional materials used, problems encountered, extraordinary circumstances, abandonment / procedures. *Use additional well data form for more space.*

Well Driller Statement

This well was drilled or abandoned under my supervision, according to applicable rules and regulations, and this report is complete and correct to the best of my knowledge and belief.

Name GJ Stoddard Drilling (Person, Firm, or Corporation – Print or Type) — **License No.** 41

Signature [signature] (Licensed Well Driller) — **Date** Oct 30 - 98