



Auditor's Office Use Only

Hotline Case # \_\_\_\_\_

Special Project # \_\_\_\_\_

**Email completed form to:**

jwrigley@utah.gov

**or Fax to:**

Julie Wrigley

(801) 538-1383

**or Send to:**

Office of the Utah State Auditor

Attn: Julie Wrigley

Utah State Capitol Complex

PO Box 142310

Salt Lake City, Utah 84114-2310

**HOTLINE REPORTING FORM**

**Complainant Information:**

<b>Complainant to remain anonymous?</b> <b>Yes</b> <b>No</b>		
<b>Complainant would like a response?</b> <b>Yes</b> <b>No</b>		
<b>Name</b>	<b>Check One</b> <input type="checkbox"/> State Employee <input type="checkbox"/> Local Government Employee <input checked="" type="checkbox"/> Citizen/Contractor	<b>Date</b>
<b>Home Address</b>		
<b>Phone/cell/e-mail</b>		
<b>Work Address and information (if applicable)</b> N/A		

**Information Concerning the Complaint (Please complete one form for each separate complaint)**

Each improper action should be noted separately and supported with as much specific information as possible. Supplying detailed information contributes to a thorough and efficient investigation. This form is designed to help you supply the needed information.

**Who is the person(s) the complaint is against? (Please provide name, position, agency, division, and phone #)**

Fred Smolka, President & Treasurer, Emigration Improvement District, Home: 801-582-6176; Mobile: 801-580-7770

**Who is the above person's supervisor? (Please provide name, position, and phone#)**

None.

**What is the assertion of improper governmental activity? Please describe in detail.**

See Attachment 1-7

**When did the event(s) take place? Please include dates, time, and frequency.**

See Attachment 1-7

**Where did the event(s) occur?**

See Attachment 1-7

**Are there any other persons who might provide information or who witnessed the event? If so, what are their names, positions, agencies, divisions, and their contact information?**

See Attachment 1-7

**Is there evidence that can be examined or documentation that can be reviewed? (Please provide any documentation you have)**

See Attachment 1-7

**How do you know about the improper action? Did you see it occur? Did you see documentation indicating it occurred? Did you hear about it from someone else?**

See Attachment 1-7

**What specific law or state regulation has been violated?**

See Attachment 1-7

Please attach to the email or fax supporting documentation, details and ANY and ALL other information available to support the complaints or concerns.

## ATTACHMENT 1-7

### A. STATEMENT OF FACTS

1. Emigration Improvement District is a special service district in Salt Lake County. (Hereafter "EID.")
2. Since 1983, EID collects property taxes from all property owners from the mouth of the Emigration Canyon extending into Killyons and Pinecrest Canyons, as well as into Little Mountain.
3. Prior to 2003, EID supplied water services solely to Emigration Oaks, a private HOA in Emigration Canyon.
4. Since 2003, EID has extended its service area into the main canyon road, as well as into Pinecrest and Killyons Canyons even though residents were predominately on private wells and did not wish to pay a monthly fee for water service.
5. Mr. Fred Smolka, president and original promoter of EID, in numerous public meetings and speaking with private residents, informed them that private wells were "dirty and dangerous" and they needed to connect to the EID system. [REDACTED] On several occasions, Mr. Smolka informed worried canyon residents that the system would be "entirely voluntary" and serve the primary purpose of fire protection. *Id.*
6. In 2003, a resident on a private well who requested to join the system would relinquish her water rights to EID, pay a \$5,500 impact fee, as well as render payment for a progressive usage fee per gallon over 1,000 gallons per month.
7. Since its inception over 30 years ago, EID has never denied a resident within its service area an opportunity to connect with the system.
8. EID trustees have never approved a plan or policy that would limit a resident from connecting to water service should this be desired.

## B. COMPLAINT

1. After construction of EID water lines commenced in Pinecrest Canyon in 2003, Mr. Fred Smolka, President/Treasurer of EID, contacted Mr. [REDACTED] who had just moved to Utah from the east coast and had not yet closed the property contract with the title company.
2. The property in [REDACTED] Canyon that Mr. [REDACTED] had agreed to buy was serviced by a private well due to the fact that the previous owner had refused to connect to EID for water service.
3. Mr. Smolka informed Mr. [REDACTED] that the private well “might go bad” and the only way he could connect to the EID water system in the future was to pay \$500 immediately to extend a “water connection hub,” as well as render a monthly “stand-by fee” in the amount of \$25 per month thereafter.
4. Relying on Mr. Smolka’s representations, and believing that he would be unable to connect to the EID water system at a future date, Mr. [REDACTED] immediately rendered payment of \$500 to Mr. Smolka and remained current in his monthly “stand-by” payments of \$25.
5. On July 11, 2013, the trustee of EID approved a rate plan that increased the stand-by fee to \$40, which Mr. [REDACTED] has tendered since August 2013.
6. In addition to the increase in stand-by and usage fees, the trustees also approved a “fire hydrant rental fee” for those residents who “pay nothing to the District for that system.” See Exhibit A, “Proposal for Raising Funds for Annual Payments of (sic) the State of Utah Loan” dated June 1, 2013.
7. Despite the fact that Mr. [REDACTED] had paid \$500, as well as a monthly “stand-by” fee of \$25 since 2003, he received an additional bill from EID for the monthly fire hydrant rental fee.
8. After receiving notice from EID that they would levy a tax lien against his property under the “certified delinquent program ” for any outstanding balances, Mr. [REDACTED] reluctantly rendered an additional monthly payment of \$15.

### **C. RELEVANT STATUTES**

**Utah Title 76-8-405. Theft by Deception (assessing an unauthorized fee).**

**Utah Title 76-6-406. Theft by Extortion (threatening to deny access to water service in the future if monthly payments are not tendered).**

**Utah Title 76-6-406. Theft by Extortion (threatening to levy a tax lien to collect an unauthorized fee).**