

IN THE UTAH COURT OF APPEALS

Mark Christopher Tracy dba
Emigration Canyon Home Owners
Association

Petitioner / Appellant

vs.

Simplifi Company, Jennifer Hawkes
and Eric Hawkes

Respondents / Appellees

Case No. 20200705-CA

Reply Brief of Appellant

Appeal from Third Judicial District, Salt Lake County, From Order Granting
Motion to Dismiss Petition for De Novo Judicial Review of the Denied Request
for Disclosure of Government Records Related to Lead Contamination of a
Public Drinking Water System Operated by and in the Sole Custody of a For-
Profit Utah Corporation and Controlling Shareholders
by the Honorable Robert P. Faust

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Reply Brief of Appellant

INTRODUCTION

The present appeal addresses the transfer of governmental services and functions to a for-profit shell corporation and apparent circumvention of civil and criminal provisions of the Utah Government Access and Management Act (“GRAMA”).

Specifically, the question before this Court is whether the willful refusal to disclose government records of lead contamination in drinking water required to be maintained on the “premises” of the water system operator¹ for a period of 12 years for

¹ Although the factual allegations of the Petition are assumed true for the purpose of the motion to dismiss under Rule 12(b)(6) URCP (*Mackey v. Cannon*, 2000 UT App 36, ¶ 9, 996 P.2d 1081), Simplifi Respondents continue to argue before this Court that they are “clearly not the operators” of water system no. 18143 compensated with an annual salary of \$118,000.00 of public funds. *Brief of Appellees* at page 22, footnote no. 7 and *Petition* at R. 3, ¶ 3.

public view and inspection² during normal business hours³ is with or without legal consequence in the State of Utah.

After both the Utah Department of Environmental Quality (“DEQ”) and the water system owner Emigration Improvement District (“EID” aka Emigration Canyon Improvement District aka ECID) refused to disclose laboratory testing of lead contamination and/or reported incorrect data results of drinking water system no. 18143 in parallel proceedings,^{4,5} having failed to receive a single laboratory test prior to the exhaustion of administrative proceedings,^{6,7} and in compliance with Utah Code Ann. § 63G-2-404(2) in connection with Rule 19(a) Utah Rules of Civil Procedure (“URCP”), Appellant Mark Christopher Tracy (“Mr. Tracy”) dba Emigration Canyon Home Owners Association (“The ECHO-Association”) commenced the present litigation against the private water system operator Simplifi Company (“Simplifi”) requesting court ordered disclosure of 10 years of government records maintained at the private residence of Emigration Canyon Deputy Mayor Jennifer Hawkes (“Deputy Mayor Hawkes”) and her spouse EID General Manager, EID Financial Manager, and EID Public Records Officer

² Utah Administrative Code R309-105-17(2)(a)-(b).

³ Utah Code Ann. § 63G-2-201(1)(a).

⁴ See *Onysko v. Emigration Improvement District*, No. 200906661 (Utah 3rd Dist., pending).

⁵ See *Onysko v. Utah Department of Environmental Quality*, No. 200907218. (Utah 3rd Dist., pending).

⁶ *Petition* Exhibit BB at R. 90 and *Petition* Exhibit EE at R. 97.

⁷ Contrary to the facts presented to this Court by Simplifi Respondents’ legal representatives, Simplifi Respondents failed to produce a single laboratory test prior to Mr. Tracy filing notice of appeal in the instant action. See *Brief of Appellees* at page 2, ¶ 3 and page 5, ¶ 1 and *Petition* at R. 13, ¶ 34.

Eric Hawkes (“Mr. Hawkes”) as the sole shareholders of Simplifi (collectively “Simplifi Respondents”). R. 1-106.

Lacking prior precedent, the district court however ruled that a for-profit Utah corporation contracted by a governmental entity and paid with taxpayer funds to create and maintain government records and the controlling shareholders in sole possession thereof are exempt from GRAMA,⁸ the UAC,⁹ and URCP.¹⁰ R. 231-233.

Mr. Tracy timely appealed. R. 236-238.

Simplifi Respondents now argue that this Court must dismiss the present appeal as both the district court and this Court lack subject matter jurisdiction¹¹ to rule on the merits of Mr. Tracy’s petition for *de novo* judicial review (“Petition”) pursuant to Utah Code Ann. § 63G-2-404, or in the alternative, may not issue an “advisory opinion” regarding the willful refusal to disclose government records of lead contamination.¹²

In support of these novel legal theories, Simplifi Respondents, miscite the factual allegations of the Petition,¹³ purport alternative facts in support their own Rule 12(b)(6) URCP motion to dismiss,¹⁴ augment the district court’s decision with baseless

⁸ Utah Code Ann. § 63G-2-103(11)(b).

⁹ Utah Administrative Code R309-105-17(2)(a)-(b).

¹⁰ Rule 19(a) URCP.

¹¹ *Brief of Appellees* at page 10.

¹² *Id.* at page 20.

¹³ Contrary to the facts presented to this Court by Simplifi Respondents’ legal representatives, Mr. Tracy did not “ask for laboratory test results for the presence of lead in a public water system *owned and operated by EID*” (emphasis added). Prior to Simplifi, water system no. 18143 was operated by former EID Trustee Fred A. Smolka of Management Enterprises LLC. *Brief of Appellee* at page 5, ¶ 1 and *Petition* Exhibit BB at R. 91 and footnote no. 6 at R. 5.

¹⁴ Footnotes no. 1 and no. 7 *supra*, footnote no. 26 *infra*.

presumptions,¹⁵ miscite and omit statutory provisions of GRAMA,¹⁶ and mischaracterize the Petition for court ordered disclosure of lead contamination laboratory tests^{17,18} (“Petition No. 1”),¹⁹ issuance of an injunction for willful violations of GRAMA provisions (“Petition No. 2”),²⁰ and an award of attorney fees and costs (“Petition No. 3”)²¹ as a request for an “impermissible advisory opinion.”²²

The Court should disregard these innovative legal arguments and alternative facts in their entirety.

Firstly, Simplifi Respondents’ reliance on a single isolated GRAMA provision and an unrelated case interpreting the legislative intent behind an ambiguous eminent domain statute to deny subject matter jurisdiction in the present case is refuted by both the broad legislative mandate of Utah Code Ann. § 78A-5-102(1) granting the district court “original jurisdiction in all matters civil and criminal” except as “otherwise provided by

¹⁵ *Brief of Appellees* at page 8, ¶ 1.

¹⁶ Footnote no. 25 *infra*.

¹⁷ Contrary to the facts presented to this Court by Simplifi Respondents’ legal representatives, although EID Trustee Chairman Michael Scott Hughes is the Chief Administrative Officer of EID, only Mr. Hawkes of Simplifi responded to the GRAMA Appeal with an unrequested table of self-reported data inconsistent with testing results on file with DEQ. *Brief of Appellees* at page 18, ¶ 1 and *Petition* at R. 13, ¶¶ 32-34.

¹⁸ Contrary to the facts presented to this Court by Simplifi Respondents’ legal representatives, recent documents obtained by Mr. Tracy reveal that Simplifi Respondents purposely withheld laboratory test results from DEQ. *Brief of Appellees* at page 5, ¶ 2 and R. 94 and “Chemtech – Ford Laboratories Chain of Custody for Water Samples of Water System No. 18143” attached as Addendum 2; *see also Petition* at R. 13, ¶¶ 33-34 and Exhibit AA at R. 88.

¹⁹ R. 16.

²⁰ *Id.*

²¹ *Id.*

²² *Brief of Appellees* at page 20.

the Utah Constitution or by statute” as well as the specific legislative intent of GRAMA documented in Utah Code Ann. § 63G-2-102(1)(a) proclaiming an unequivocal *constitutional right* to unhindered access to government records.

Second, as operator of a public drinking water system, compensated entirely with taxpayer funds²³ to conduct the people’s business such as creating and maintaining government records,²⁴ Simplifi is an “office” of a governmental entity under Utah Code Ann. § 63G-2-103 (11)(b)(i) as recognized in numerous other state and federal jurisdictions under the widely recognized “functional-equivalency test.”²⁵

Third, as custodians of government records owned by the State of Utah,²⁶ contracted by a governmental entity to create and maintain the same at their private residence at taxpayer expense, Deputy Mayor Hawkes and Mr. Hawkes are the only necessary parties under Rule 19(a) URCP to the instant action and the only persons who may afford relief for court ordered disclosure under Petition No. 1.²⁷

Moreover, because Simplifi has no employees, owns no real property, and appears to exist solely to conceal the payment of public funds administered by Mr. Hawkes as “EID Financial Manager,” to himself and his spouse, under equitable doctrine of

²³ Based upon recent court filings, it appears that Mr. Hawkes as designated “EID Financial Manager” is diverting taxpayer funds for private legal expenses of Simplifi Respondents. See “Response to Objection to Form of Judgment” submitted by Utah Attorney Jeremey R. Cook on behalf of Simplifi Respondents in *Mark Christopher Tracy dba Emigration Canyon Home Owners Association v. Simplifi Company et al.*, No. 200905074 (Utah 3rd. Dist., February 25, 2021).

²⁴ Utah Code Ann. § 63A-12-103.

²⁵ *Brief of Appellant* at pages 18-25.

²⁶ Utah Code Ann. § 63A-12-105(2)(a).

²⁷ *Brief of Appellant* at page 23.

“piercing the corporate veil” first postulated by this Court and later affirmed by the Utah Supreme Court, Simplifi is not a distinct and separate entity from its shareholders. As such, Deputy Mayor Hawkes and Mr. Hawkes are subject to injunctive relief under Utah Code Ann. § 63G-2-802(1) and an award of attorney fees and costs pursuant to subsection (2)(a) under Petition No. 2 and No. 3.

Lastly, although EID has no physical presence separate from the private residence of Deputy Mayor Hawkes and Mr. Hawkes in compliance with Utah Administrative Code R309-105-17(2)(a)-(b)²⁸ and has no legal authority to allow and/or order access to government records maintained at a private residence,²⁹ even if EID was a necessary party to the present litigation as argued by Simplifi Respondents, the district court was in error granting Simplifi Respondents’ motion to dismiss under Rule 12(b)(6) URCP rather than order mandatory joinder of EID under Rule 19(a) URCP.

ARGUMENT

I. THE DISTRICT COURT HAS SUBJECT MATTER JURISDICTION OVER A PRIVATE FOR-PROFIT SHELL CORPORATION AND THE SOLE SHAREHOLDERS IN POSSESSION OF GOVERNMENT RECORDS UNDER GRAMA

In regard to Petition No. 1, Simplifi Respondents argue that this Court and the district court lack subject matter jurisdiction over a for-profit Utah corporation and its sole shareholders due to the fact that Utah Code Ann. § 63A-2-802 (1) (“Section 802”) only allows for a relief against “any governmental entity or political subdivision” but not

²⁸ *Petition* at R. 10, ¶¶ 18-19.

²⁹ *Id.* at R. 122-123.

against a private contractor and natural persons – a proposition purported to have been recognized by the Utah Supreme Court in *Marion Energy, Inc. v. KFJ Ranch P'ship*, 2011 UT 50.

Simplifi Respondents further cite that “[n]othing in GRAMA or Section 802 remotely suggests courts have subject matter jurisdiction to order individuals who perform services, like responding to GRAMA requests on behalf of a governmental entity, to comply with GRAMA.”³⁰

These arguments fail.

Firstly, contrary to Simplifi Respondents’ cursory recitals, the rule of statutory interpretation in *Marion* relates only to the interpretation of an ambiguous eminent domain statute and is inconsistent with the express recital of legislative intent recorded in Utah Code Ann. § 63G-2-102(1)(a) of the public’s “*constitutional right*” to “access information concerning the conduct of the people’s business” (emphasis added). *See Marion Energy*, 2011 UT at 865.

Secondly, multiple GRAMA provisions apply to natural persons in both lawful and unlawful possession of government records.

For instance, a person who obtains possession a copy of a private, controlled or protected record to which the person is not entitled is subject to Utah Code Ann. § 63G-2-801(2)(a), while a public employee who intentionally refuses to release a record, the disclosure of which the employee knows is required by law is subject to criminal

³⁰ *Brief of Appellees* at page 14, ¶ 1.

sanctions under subsection (3)(a), and refusal to release a record, which disclosure is “required by a final unappealed order from a governmental entity, the State Records Committee *or a court*” (emphasis added) is a Class B misdemeanor under subsection 3(c).

As confirmed by the Utah Supreme Court, as a court of original and general jurisdiction, the district court is afforded broad subject matter jurisdiction. *Chen v. Stewart*, 2004 UT 82, ¶ 38.

The additional cases cited by Simplifi Respondents are contrary to the express legislative intent of GRAMA and in no way support a general conclusion that this Court and district court lack subject matter jurisdiction over entire class of persons and/or legal entities under Utah State statutes, administrative and/or court rules.

Specifically, in *State v. Smith*, 2014 UT 33, 344 P.3d 573, 578, Court held that the district court was not deprived of subject matter jurisdiction after creation of the Utah Court of Appeals regarding procedural “bindover orders” in criminal proceedings, and in *Housing Auth. v. Snyder*, 2002 UT 28, 44 P.3d 724, the Utah Supreme Court only determined that the district court lacked subject matter jurisdiction due to the fact that the Utah Housing Authority failed to exhaust administrative remedies required under federal law prior to evoking jurisdiction in an unlawful retainer action, and in *Varian-Eimac, Inc. v. Lamoreaux*, 767 P.2d 569, 570 (Utah Ct. App. 1989) this Court ruled subject matter jurisdiction is lacking only if the filing with Industrial Commission of Utah was untimely.

In the present case, all administrative remedies were exhausted,³¹ and the Petition for *de novo* judicial review of the *de facto* denied request for government documents was timely. It cannot be contested that the district court is afforded proper subject matter jurisdiction to hear all cases brought under Utah Code Ann. 63G-2-404, and is no way deprived of subject matter jurisdiction over a for-profit corporation and shareholders contracted to maintain government records at taxpayer expense.

Secondly, in regard to injunctive relief and award of attorney fees and costs under Petition No. 1 and Petition No. 2, Section 802 applies to both Simplifi, as well as Deputy Mayor Hawkes and Mr. Hawkes as sole shareholders.

In particular, a “governmental entity” also includes every “office ... that is funded ... to carry out the people’s business.”³²

In the present case, Simplifi is compensated entirely with taxpayer funds including direct payment for “office expenses” while the “physical location” of EID registered with the Utah Lt. Governor’s Office is likewise the place of business for Simplifi recorded with the Utah Department of Commerce (R. 15 at ¶ 39-41).

Moreover, as Simplifi appears to exist only as a shell corporation to disguise the payment of taxpayer funds to Deputy Mayor Hawkes and Mr. Hawkes by Mr. Hawkes as

³¹ Contrary to the facts presented to this Court by Simplifi Respondents’ legal representatives, the GRAMA Request and GRAMA Appeal were served on Mr. Hawkes as EID certified records manager at eric@ecid.org and was in no way limited to the denial of “expedited processing” but rather the *de facto* denial of the request for disclosure of governmental documents pursuant to Utah Code Ann. § 63G-2-204(9). *Brief of Appellees* at page 2, ¶ 2 and *Petition* at R. 15, ¶ 44.

³² Utah Code Ann. § 63G-2-103(11)(b).

“EID Financial Manager,”³³ under the equitable alter ego doctrine first articulated by this Court in *Colman v. Colman*, 743 P.2d 782 (Utah Ct. App. 1987) and affirmed by the Utah Supreme Court in *Jones & Trevor Marketing, Inc. v. Lowry*, 2012 UT 39, Deputy Mayor Hawkes and Mr. Hawkes assume the position of Simplifi in the present litigation.

Factors in determining that a corporation is not to be regarded as a separate and distinct legal entity from its stockholders include, but are not limited to:

(1) undercapitalization of a one-man corporation; (2) failure to observe corporate formalities; (3) nonpayment of dividends; (4) siphoning of corporate funds by the dominant stockholder; (5) nonfunctioning of other officers or directors; (6) absence of corporate records; (7) the use of the corporation as a facade for operations of the dominant stockholder or stockholders; and (8) the use of the corporate entity in promoting injustice or fraud. *Coleman* 743 P.2d at 785.

The Petition records that Simplifi has no employees, owns no real property, and operates exclusively to disguise a fixed public salary in excess of the Utah State governor and Salt Lake City Mayor.³⁴

According to Simplifi Respondents, despite Deputy Mayor Hawkes’ position as officer, director and registered agent of Simplifi, Deputy Mayor Hawkes has “no direct involvement with EID”³⁵ despite the fact that EID is only client and “customer” of Simplifi.³⁶

³³ R. 15 at ¶ 41.

³⁴ *Petition* at R. 9-10, ¶¶ 18-20.

³⁵ *Simplifi Respondents’ Motion to Dismiss* at R. 134, footnote no. 3.

³⁶ *Petition* at R. 15, ¶ 41.

Under the 5th and 7th prong of the alter ego doctrine, Simplifi is not a separate and distinct legal entity from its shareholders. Deputy Mayor Hawkes and Mr. Hawkes takes the place of Simplifi in regard to Petition No. 1, Petition No. 2 and Petition No. 3.

In sum, both the district court and this Court have subject matter jurisdiction over Simplifi Respondents without limitation.

II. THE PETITION IS NOT A REQUEST FOR AN “ADVISORY OPINION” REGARDING CRIMINAL VIOLATIONS OF GRAMA PROVISIONS

Under Utah Code Ann. § 63G-2-802(1) the court may enjoin any governmental entity or political subdivision that “violates or proposes to violate the *provisions of this chapter*” (emphasis added).

Contrary to the factual allegations of the Petition, Simplifi Respondents cite to this Court that “Mr. Hawkes also suggested that Mr. Tracy could contact DDW [Utah Division of Drinking Water of DEQ] because the lab results were transmitted directly to DDW, so they may be able to provide a quicker response for less cost.”³⁷

Regardless that this is an inappropriate response to a GRAMA request under Utah Code Ann. §63G-2-204(4)(b), Mr. Hawkes’ representation has direct relevance to injunctive relief under Petition Nr. 2. Specifically, actual government records recovered by Mr. Tracy reveal that Simplifi Respondents purposefully withheld laboratory test results from DDW and DEQ. *See* “Chain of Custody Form of Chemtech – Ford Laboratory,” attached as **Addendum 1**.

³⁷ *Brief of Appellee* at page 5.

Moreover, contrary to Simplifi Respondents' factual representations to this Court,³⁸ the GRAMA Request was served on Mr. Hawkes as the certified "EID Public Records Officer" at the email address listed on the website administered by Mr. Hawks as "EID General Manager" at eric@ecid.org and only Mr. Hawkes of Simplifi responded to the GRAMA request on July 9, 2020, the same day that Mr. Hawkes had also announced the cancelation of the July 2020 EID trustee meeting.³⁹ R. 15 at ¶ 42.

However, on July 6, 2020, 3 days prior to denying the GRAMA Request and cancelling the EID trustee meeting, Mr. Hawkes informed the legal representative of both EID and Simplifi Respondents that water system 18143 had exceeded both copper and lead contamination levels, but then submitted an unrequested table to Mr. Tracy with contrary lead test results.⁴⁰ See "Email Correspondence to EID and Simplifi Respondents' Legal Counsel Jeremy R. Cook," attached as **Addendum 2**.

While these misrepresentations to Mr. Tracy and this Court may bring criminal proceedings not at issue in the present case, the district court may only grant injunctive relief under Petition Nr. 2, if any governmental entity or political subdivision "violates the provisions of this chapter."

As such, determination of a criminal violation of Utah Code Ann. 2-801(3)(a) is a prerequisite for injunctive relief and is no way an impermissible "advisory opinion." As Simplifi is both an office of a governmental entity, and a vehicle to obscure payment of

³⁸ *Id.* at page 16.

³⁹ Petition Exhibit DD at R. 95.

⁴⁰ *Id.* at R. 86

taxpayer funds to Deputy Mayor Hawkes and Mr. Hawkes as noted above, the Court should disregard a Simplifi as a separate legal entity and find that Deputy Mayor Hawkes and Mr. Hawkes are “public employees” within the meaning of subsection (3)(a).

Moreover, given Simplifi Respondents’ economic interest in concealing lead contamination of drinking water to both existing and future “standby customers” of water system no. 18143,⁴¹ the refusal to disclose laboratory testing must be assumed as willful for the purpose of a motion to dismiss under Rule 12(b)(6) URCP. *Mackey v. Cannon*, 2000 UT App 36, ¶ 9, 996 P.2d 1081.

III. THE DISTRICT COURT MAY NOT GRANT A MOTION TO DISMISS FOR FAILING TO NAME A NECESSARY PARTY UNDER RULE 19 URCP

Assuming arguendo, that Mr. Tracy must also name the owner of water system no. 18143 and contracting governmental entity as a party to the litigation, under 19(a) URCP the Court “shall order that he [or she] be named a party” after first determining that joinder of a necessary party is feasible. *Landes v. Capital City Bank*, 795 P.2d 1127, 1130-31 (Utah 1990).

In performing a Rule 19(a) URCP analysis, a court must discuss specific facts and reasoning that lead to the conclusion that a party is or is not necessary or indispensable, and failure to do so is error. *Id.* at 1130. The burden of presenting such specific facts

⁴¹ R. page 9, ¶¶ 13-15.

and reasoning is on the party attempting to persuade the court that additional parties are necessary. *Grand County v. Rogers*, 2002 UT 25.

The district court failed cite specific facts and reasoning, failed order mandatory joinder but rather instead granted Simplifi Respondents' Rule 12(b)(6) URCP motion to dismiss.

As such, this Court should vacate the decision of the district court and instruct that the case may proceed with EID as a mandatory party only if the district court first determines that the interest of EID cannot otherwise be protected from multiple litigation and inconsistent judicial determinations.

CONCLUSION

As contracted operator of a public drinking-water system compensated entirely with taxpayer funds to create and maintain government records at their private residence, Simplifi Respondents are subject to GRAMA provisions and penalties without limitation.

Under the alter ego doctrine, the corporate form of Simplifi should disregarded. Deputy Mayor Hawkes and Mr. Hawkes are subject to injunctive relief for willful violations of criminal sanctions for the unlawful refusal to disclose government records of lead contamination required under Utah Administrative Code to be maintained on the premises of the water system operator for a period of 12 years.

The Court should vacate the decision of the district court and remit the case to determine if the governmental entity is a necessary party under Rule 19(a) URCP, whereby Simplifi Respondents must carry the burden demonstrating how a governmental

entity without a physical presence and not in possession of the requested government documents may be subject to multiple litigation and inconsistent judicial determinations under Rule 19(a) URCP.

Due to inherent and irreparable danger of lead contamination in drinking water of the circa 300 homes currently connected to water system no. 18143 and continued public denials as documented herein, further delay should be avoided.

Respectfully submitted this 5th day of March, 2021.

**MARK CHRISTOPHER TRACY DBA
EMIGRATION CANYON HOME OWNERS
ASSOCIATION**

/s/ Mark Christopher Tracy
Mark Christopher Tracy
Pro se Appellant

CERTIFICATE OF COMPLIANCE

In compliance with the type-volume limitation of Utah R. App. P. 24(g)(1), I, Mark Christopher Tracy, certify that this brief contains **3,618 words**, excluding the table of contents, table of authorities, addenda, certificates of compliance and service.

In compliance with the typeface requirements of Utah R. App. P. 27(b), I also certify that this brief has been prepared in a proportionally spaced font using Microsoft Word v.16.46 in Time New Romans font, 13-point.

I also certify that this brief contains no non-public information in compliance with the non-public information requirements of Utah R. App. P. 21(h).

**MARK CHRISTOPHER TRACY DBA
EMIGRATION CANYON HOME
OWNERS ASSOCIATION**

/s/ Mark Christopher Tracy
Mark Christopher Tracy
Pro se Appellant

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of March, 2021, a true and correct copy of the foregoing Reply Brief of Appellant was sent via electronic mail as per Rule 26 (b) Utah R. of App. P. to the following counsel of record. 2 paper copies will be provided upon request:

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EMIGRATION CANYON HOME
OWNERS ASSOCIATION**

/s/ Mark Christopher Tracy
Mark Christopher Tracy

ADDENDUM

1. Chemtech – Ford Laboratories Chain of Custody for Water Samples of Water System No. 18143.
2. July 9, 2020 Email Correspondence to Simplifi Respondents and EID Legal Counsel Jeremy R. Cook Regarding Lead Contamination of Water System No. 18143.

**Addendum 1
to Reply Brief of Appellant**

**Tracy v. Simplifi *et al.*
20200705-CA**

**Chemtech – Ford Laboratories Chain of Custody for Water Samples of Water
System No. 18143**

DRINKING WATER SAMPLES ONLY

CHEMTECH - FORD ANALYTICAL LABORATORY

CHAIN OF CUSTODY

COMPANY: Aqua Environmental Services Inc.
ADDRESS: 89 W Monarch Dr
CITY/STATE/ZIP: Bountiful, Utah 84010
PHONE #: 801-209-6382
CONTACT: Larry Hall
EMAIL: larryh@aquaeenviro.com

BILLING ADDRESS: SAME
BILLING CITY/STATE/ZIP: _____
PURCHASE ORDER: _____



TURNAROUND TIME REQUIRED: _____
 * Expedited turnaround subject to additional charge

State System Number

UTAH18143

Send to State

☐ Yes ☒ X No

Lab Use Only	LOCATION	DATE	TIME	FACILITY ID (source code)	POINT CODE (DBP)	Field Residual Chlorine	TESTS REQUESTED		Bacteria		LAB FAIL Ref #
							Lead and Copper	pH	R = Routine I = Investigative TR = Trigger Source RP = Repeat	REPEAT OR = Original Location UP = Upstream DN = Downstream	
01	Freeze Creek Well	10/24/19	15:50	WS001			✓	✓			
02	Well #2	10/24/19	15:50	WS002			✓	✓			
03	Upper Freeze Creek	10/24/19	16:20	WS004			✓	✓			
4											
5											
6											
7											
8											
9											
10											

Special Instructions: _____
 Relinquished by: [signature] Date/Time: 10/25/19 11:00
 Relinquished by: [signature] Date/Time: _____
 Relinquished by: [signature] Date/Time: _____

CHEMTECH-FORD
 8632 South 500 West
 Sandy, UT 84070

801.262.7299 PHONE
 866.792.0093 FAX
www.chemtechford.com

Payment Terms are net 30 days OAC. 1.5% interest charge per month (18% per annum).
 Client agrees to pay collection costs and attorney's fees.

**Addendum 2
to Reply Brief of Appellant**

**Tracy v. Simplifi *et al.*
20200705-CA**

**JULY 9, 2020 EMAIL CORRESPONDENCE TO SIMPLIFI RESPONDENTS'
LEGAL COUNSEL JEREMY R. COOK REGARDING LEAD
CONTAMINATION OF WATER SYSTEM NO. 18143**

From: Eric Hawkes <eric@ecid.org>

Date: Mon, Jul 6, 2020 at 8:44 AM

Subject: EID - Meeting Agenda??

To: David Bradford <dave@ecid.org>, Michael Hughes <mike@ecid.org>, Mike <highscience@gmail.com>, Brent Tippetts <brent@ecid.org>, Jeremy Cook <jcook@cohnekinghorn.com>, Don Barnett <dbarnett@barnettwater.com>

Hi Gentlemen,

I hope everyone had a safe and fun July 4th. I'm questioning whether we want to proceed with our meeting this week or cancel it or move it to next week.

I do not have any items that need to be approved that could not wait until our next meeting in August, and we do not have any additional agenda requests except for Brigham Fork, which now may not be the best time to have this discussion.

As for updates, we may have dodged the bullet with well #2, thus far, it appears the check valve at the wellhead was bad resulting in constricting the flows and increasing the amps on the motor to the point the telemetry would shut it off after 10 or 15 minutes. A water sample will be pulled and sent to the lab and it should be back in operation in the next couple of days (pending lab results and pump test).

I've contacted Badger meters and they will be coming out in the next couple of weeks to do a cellular data analysis on our system and we are getting things set up on the starter package.

We are in the middle of our external audit and there is a new fraud risk assessment questionnaire we need to go through, so expect something on that over the next few days.

Lastly, we have performed our lead /copper testing and looks like our test this round exceeded both lead and copper. I do not have any answers at this point in time and am not ready for public discussion until we have more communication with DDW this week. In the meantime, Mr Tracy continues to submit GRAMA requests on the same.

Thoughts on the meeting?

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