



GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

BRIAN C. STEED
Executive Director

TERESA WILHELMSSEN
State Engineer/Division Director

August 11, 2020

PHILIP M AND DONNETTA S DAVIS
1832 NORTH PINECREST
SALT LAKE CITY UT 84108

RE: Change Application Number: a31223 (57-10075)

Dear Applicant:

Please find enclosed correspondence relating to the above-numbered application.

If you desire to answer the issues raised in the correspondence, submit same on or before Monday, August 31, 2020.

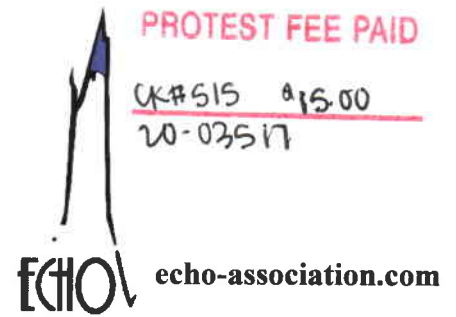
If the correspondence indicates a protest and requests a hearing, a hearing may be scheduled at a later date. Whether requested or not, the holding of a hearing will be at the discretion of the State Engineer in accordance with statute and rule. All documents concerning your application will become a permanent part of your file and used in the decision-making process.

If a hearing is to be held on this application, notice of this hearing will be sent at a later date to you and all interested parties.

Sincerely,

Teresa Wilhelmsen, P.E.
State Engineer

Enclosure



August 6, 2020

VIA FIRST CLASS MAIL, POSTAGE PREPAID

Teresa Wilhelmsen, State Engineer
Utah Division of Water Rights
1594 W. North Temple, Suite 220
Salt Lake City, UT 84114-6300

**Re: Protest of Extension of Time Request for Permanent Change Application
“a31223” (57-10075) Submitted by Philip W. and Donnetta S. Davis**

Dear Mr. Jones:

The Emigration Canyon Home Owners Association (“**The ECHO-Association**”) hereby protests the Request for Extension of Time for permanent change application “a31223” (57-10075) for the purported construction of an irrigation system to be drawn from an unnamed stream in Emigration Canyon by applicants Philip M. and Donnetta S. Davies (“**Mr. and Mrs. Davis**”).

Please note the following for the record:

- The ECHO-Association is owner of surface water right “a16183” (57-8947) and is therefore entitled to protest per Utah Code Ann. § 73-3-12(2)(f);
- The previous change application “a17660” (57-10075) filed by Mr. and Mrs. Davis permanently lapsed on April 30, 2003 thereby returning the base water right to its previous point-of-use and point-of-diversion at the Royal Scotsman Inn located at the base of Pinecrest Canyon (*see* State Engineer correspondence dated June 12, 2003 attached as **Exhibit A**);
- Mr. and Mrs. Davis filed the present application on March 24, 2006 with your office, although Mr. and Mrs. Davis had transferred title to the Royal Scotsman Inn and all water rights appurtenant thereto to David L. Philips six (6) years prior thereto on May 15, 2000 (*see* Warranty Deed attached as **Exhibit B**);
- Even if Mr. and Mrs. Davis had retained ownership of the base water right 57-10075 despite the transfer of fee-simple title to the property, the present change application altered the point-of-diversion from the Royal Scotsman Inn to a surface point-of-diversion located near parcel numbers 10212760060000 and

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Emigration Canyon Home Owners Association | 1160 E. Buchnell Dr. | Sandy, Utah 84094 | Tel. (929) 208-6000 **AUG 10 2020 TL**

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10212760070000 owned by the Mr. and Mrs. Davis as per Salt Lake County property records from July 2013 (*see* illustrative map attached as **Exhibit C**).

- The present application however also altered the place-of-use previously located at the Royal Scotsman Inn at the south-west 1/4 of section 27 to the north-east 1/4 of Section 27 (*see* permanent change application attached as **Exhibit D**).
- Because the proposed point-of-diversion and place-of-use are separated by two (2) drainage areas and 5,850 linear feet, it is not plausible that Mr. and Mrs. Davis have exercised due diligence in completing “pump stations” and “3/4 water lines and impact sprinklers” as certified in the extension request or that there is a reasonable cause for delay due to “health issues” for a “work in progress”.

As you are aware, the record shows that over forty (40) private-well owners have reported quantity and quality impairment to your office, including *total depletion* of the Emigration Canyon Stream less than two miles from Utah’s Hogle Zoo. We have therefore included a copy of this protest to Laura Briefer, Director of Salt Lake City Public Utilities.

Until which time as Mr. and Mrs. Davis provide documentation that they retained title to water right 57-10075 regardless of transfer of the Royal Scotsman Inn in May 2000, have legal access between the proposed point-of-diversion and point-of-use, have made substantial effort to complete over 5,800 linear feet of water-distribution lines, or there is a reasonable cause for delay, the present application for extension of time must be rejected as per Utah Code Ann. § 73-3-12 (2)(b)(ii)

Please see enclosed protest fee of \$15.00.

Kind Regards,

MARK CHRISTOPHER TRACY DBA
EMIGRATION CANYON HOME OWNERS
ASSOCIATION



Mark Christopher Tracy

cc: Laura Briefer
Salt Lake Department of Public Utilities
1530 South West Temple
Salt Lake City, Utah 84115

Encl.: Check # 515 (\$15.00)

EXHIBIT A



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor
Robert L. Morgan
Executive Director
Jerry D. Olds
State Engineer

1594 West North Temple, Suite 220
PO Box 146300
Salt Lake City, Utah 84114-6300
(801) 538-7240 telephone
(801) 538-7467 fax
www.nr.utah.gov

LAPSED

June 12, 2003

Philip M. and Donnetta S. Davis 57-10075
7800 Emigration Canyon
Salt Lake City, UT 84108

Dear Applicant: FINAL NOTICE OF LAPSING
RE: Application No. 57-10075 (a17660)
PERMANENTLY LAPSED DATE: April 30, 2003

The above numbered application LAPSED because neither proof of beneficial use nor extension of time request was received on or before April 30, 2003.

Under Utah Laws, if an application has lapsed because proof was not submitted or an election was not filed (in areas under an adjudication order of the court), or an extension of time was not requested with proper showing of diligence, it may be reinstated within sixty days after this notice of lapsing.

REQUEST FOR REINSTATEMENT CANNOT BE RECEIVED LATER THAN SIXTY DAYS FROM THE DATE HEREOF. IF YOUR APPLICATION IS REINSTATED, ITS PRIORITY DATE WILL BE CHANGED TO THE DATE ON WHICH REQUEST FOR REINSTATEMENT IS FILED.

IF YOUR APPLICATION IS NOT REINSTATED WITHIN SIXTY DAYS FROM THE DATE HEREOF, UNDER THE LAW, THE ABOVE-NUMBERED APPLICATION WILL BE PERMANENTLY LAPSED AND YOU WILL HAVE LOST THE RIGHT INITIATED BY THIS APPLICATION. THIS IS THE ONLY NOTICE OF PERMANENT LAPSING YOU WILL BE SENT UNDER THIS APPLICATION.

IF YOU USE THIS WATER WITHOUT PROPER AUTHORITY, YOU ARE PERFORMING AN ILLEGAL ACT THAT MUST BE DISCONTINUED UNTIL PROPER PROCEDURES HAVE BEEN FOLLOWED.

IF YOU HAVE QUESTIONS OR IF WE CAN ASSIST YOU, WE WILL BE HAPPY TO DO SO. YOUR CONTACT WITH THIS OFFICE, SHOULD YOU NEED IT, IS WITH OUR REGIONAL OFFICE IN SALT LAKE CITY. THE TELEPHONE NUMBER IS (801)538-7240.

Yours truly,

Jerry D. Olds
Jerry D. Olds, P.E.
State Engineer

P E R M A N E N T L Y L A P S I N G N O T I C E

Utah!
Where ideas connect

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EXHIBIT B

7639439

MAIL TAX NOTICE TO:

Grantee
3101 South Bountiful Blvd
SLC, Utah 84108

7639439
05/16/2000 12:44 PM 23.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
PARAMOUNT TITLE
BY: BJN, DEPUTY - WI 2 p.

PTC File No. 00-7593
[PARCEL LD.# 10-27-326-015]

WARRANTY DEED

Philip M. Davis and Donnetta C. Davis aka Donnetta Sims Davis

grantor
of Salt Lake City, County of Salt Lake, State of Utah, hereby
CONVEY AND WARRANT to
David L. Phillips, a married man

grantee
for the sum of
of Salt Lake City, County of Salt Lake, State of Utah
OTHER GOOD AND VALUABLE CONSIDERATIONS AND TEN AND NO/100THS----- DOLLARS,

the following described tract of land in Salt Lake County,
State of Utah:

Lots 23, 24 and 25, LITTLE MOUNTAIN SUBDIVISION NO. 2, according to the official plat thereof, recorded in the office of the County Recorder, County of Salt Lake, State of Utah. Less and excepting therefrom those portions of said property conveyed to Salt Lake County by various deeds of record. Also: The lower 1/2 of Lot 41 and all of Lots 42, 43, 44, 45, 46, 47, 48, 49 and the North 1/2 of Lot 50, LITTLE MOUNTAIN SUBDIVISION NO. 2, according to the official plat thereof, recorded in the office of the County Recorder, County of Salt Lake, State of Utah. Less and excepting therefrom that portion of said property conveyed by Warranty Deed recorded May 14, 1954, as Entry No. 1372364, in Book 1087 at page 422, of Official Records.

Subject to easements, restrictions, reservations, and rights of way of record.
Subject to annual general property taxes for 2000 and subsequent years thereafter:

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WATER RIGHTS
SALT LAKE

WARRANTY DEED - Page 1 of 2

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WITNESS the hand(s) of said grantor(s), this
May 2000, A. D.

15th day of

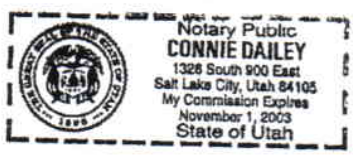
Philip M. Davis
Philip M. Davis
Donnetta C. Davis
Donnetta C. Davis aka
Donnetta Sims Davis
Donnetta Sims Davis

STATE OF UTAH)
) ss.
COUNTY OF Salt Lake)

On the 15th day of May, A.D. 2000,
personally appeared before me Philip M. Davis and Donnetta C. Davis aka Donnetta
Sims Davis,
the signer(s) of the above instrument, who duly acknowledged to me that they executed the
same.

My Commission Expires: 11-03

Connie Dailey
Notary Public residing at:
Draper, Ut.



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WATER RIGHTS
SALT LAKE

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EXHIBIT C

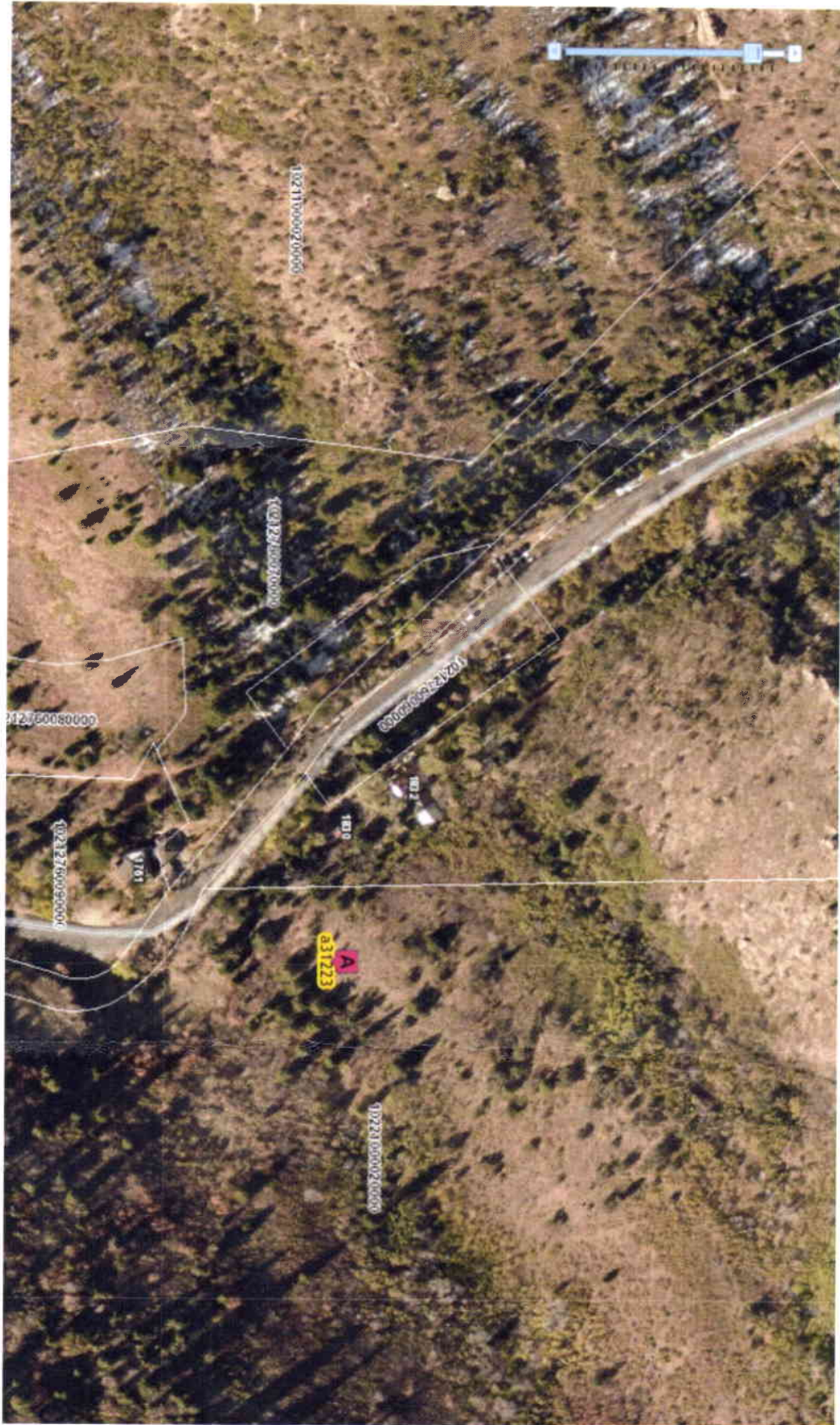


EXHIBIT D

SCANNED TL

SCANNED TL

