

May 26, 2022

**VIA HAND DELIVERY**

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

**RECEIVED**  
**MAY 26 2022** *RC*  
WATER RIGHTS  
SALT LAKE

**Re: Protest of Permanent Change Application "a48752" (57-8033) Submitted by Courtney H. Crombie and Michael J. Jimenez (Hearing Requested)**

Dear Ms: Wilhelmsen,

The Emigration Canyon Home Owners Association ("**The ECHO-Association**") hereby submits the following protest to permanent change application "a48752" (57-8033) filed by Courtney H. Crombie and Michael J. Jimenez ("**Ms. Crombie**" and "**Mr. Jimenez**") (collectively "**Applicants**").

Please note the following for the record:

- The ECHO-Association is owner of surface water right 57-8947 and is therefore entitled to file protest as per Utah Code Ann § 73-3-12(2)(f);
- Permanent change application "a14831" (57-8033) was submitted by Mario Capechhi more than three decades ago on April 10, 1989, proposing to alter the point-of-diversion from a surface water spring to an underground water source due to the fact that the "spring's flows have diminished to the extent that only enough water exists for drinking water" (see Application for Permanent Change, attached as **Exhibit A**);
- The following day, your office permitted construction of a 6-inch well, 100 to 300 feet deep, although it appears that no notice of the permanent change application was published, and water use from the underground source was expressly forbidden (see Utah Division of Water Rights correspondence dated April 11, 1989, attached as **Exhibit B**);
- On June 5, 1989, Zimmerman Well Service, Inc., completed an 8-inch, 127 foot deep well (see Driller's Report, attached as **Exhibit C**);

- During a telephone call on April 6, 2022, at 3:23 PM, Mr. Jimenz, the current owner of base water right 57-8033, denied having any knowledge of the permanent change application published in the Desert News on March 18, 2022, and insisted that drinking water was provided to Applicant's private residence from a "shared [surface-water] spring;"
- Following the protest of "a14831" by The ECHO-Association, Applicants however affirmed that they have improperly extracted water from the unapproved underground water source since June 2017 (*see* Answer to Protest [57-8033 (a14831)], dated May 3, 2022 attached as **Exhibit D**);
- The improper use of the underground water source by the Applicants has reduced stream flow, thereby reducing water rights of The ECHO-Association; and lastly,
- As you are aware, the record shows that over forty (40) private-well owners in Emigration Canyon 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. *See* protest letters available that the website administered by The ECHO-Association at [https://echo-association.com/?page\\_id=635](https://echo-association.com/?page_id=635)).

We hereby request that the State Engineer take appropriate action to prevent further illegal water extraction and use by the Applicants per Utah Code Ann. § 73-2-1(6).

Moreover, until which time that the Applicants demonstrate that proposed change application will not cause existing rights to experience further quantity impairment, the present application should be rejected per Utah Code Ann. § 73-3-8(1)(c).

Please feel free to contact me regarding any questions.

Kind Regards,

MARK CHRISTOPHER TRACY DBA  
EMIGRATION CANYON HOME OWNERS  
ASSOCIATION



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Mark Christopher Tracy

cc: Laura Briefer  
[laura.briefer@slcgov.com](mailto:laura.briefer@slcgov.com)  
Salt Lake Department of Public Utilities  
1530 South West Temple  
Salt Lake City, Utah 84115

# EXHIBIT A

# APPLICATION FOR PERMANENT CHANGE OF WATER

**RECEIVED**

APR 10 1989

STATE OF UTAH

WATER RIGHTS <sup>11</sup>

For the purpose of obtaining permission to make a permanent change of water in the State of Utah, application is hereby made to the State Engineer, based upon the following showing of facts, submitted in accordance with the requirements of Section 73-3-3 Utah Code Annotated 1953, as amended.

Rec. by         
Fee Paid \$         
Receipt # 26015  
Microfilmed         
Roll #       

CHANGE APPLICATION NO. a14831

WATER RIGHT NUMBER 57-8033

Proposed changes: point of diversion [X], place of use [ ], nature of use [ ].

1. NAME: Mario Capeccchi

ADDRESS: 9510 Emigration Salt Lake City, UT 84108

2. PRIORITY OF CHANGE:

FILING DATE:

3. RIGHT EVIDENCED BY: a8384

4. FLOW: 0.00769 cfs OR 2.56 acre-feet

5. SOURCE: Developed Spring

6. COUNTY: Salt Lake

7. POINT(S) OF DIVERSION:

(1) N 1804 ft. W 434 ft. from SE corner, Section 16, T1N, R2E, SLBM  
Diameter of Well: ins. Depth: ft.

8. NATURE OF USE:

IRRIGATION: Total: 0.04 acres SOLE SUPPLY: 0.04 acres.

PERIOD OF USE: April 1 to October 31

DOMESTIC: 1 Family

PERIOD OF USE: January 1 to December 31

9. PLACE OF USE:

Sec 16, T1N, R2E, SLBM

NORTH-EAST	NORTH-WEST	SOUTH-WEST	SOUTH-EAST
NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE
: : :	: : :	: : :	X: : :

## THE FOLLOWING CHANGES ARE PROPOSED

10. FLOW: 0.00256 cfs 0.853 acre-feet

REMAINING WATER: Same as HERETOFORE

11. SOURCE: Underground well, tributary to Emigration Creek

The spring's flows have diminished to the extent that only enough water exists for drinking water. A well is being sought as a reliable water supply for the uses previously described.

Continued on Next Page

Permanent Change

12. COUNTY: Salt Lake

COMMON DESCRIPTION: near Pinecrest Lodge.

13. POINT(S) OF DIVERSION: Changed as follows:

(1) S 917 ft. W 785 ft. from E1 corner, Section 16, T1N, R2E, SLBM  
Diameter of Well: 6 ins. Depth: 100 to 300 ft.

14. PLACE OF USE: Same as HERETOFORE

Sec 16, T1N, R2E, SLBM

NORTH-EAST1				NORTH-WEST1				SOUTH-WEST1				SOUTH-EAST1			
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
:	:	:	:	:	:	:	:	:	:	:	:	X:	:	:	:

15. NATURE OF USE: Same as HERETOFORE

IRRIGATION: Total: 0.04 acres SOLE SUPPLY: 0.04 acres.

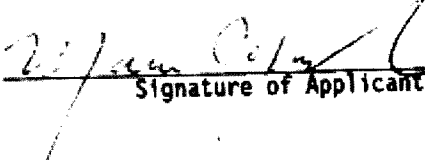
PERIOD OF USE: April 1 to October 31

DOMESTIC: 1 Family

PERIOD OF USE: January 1 to December 31

## EXPLANATORY

The undersigned hereby acknowledges that even though he/she may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the State Engineer's Office, all responsibility for the accuracy of the information contained therein, at the time of filing, rests with the applicant.

  
Signature of Applicant

## EXHIBIT B



Norman H. Benavente

Governor

Don C. Hansen

Executive Director

Robert L. Morgan

State Engineer

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

1838 West North Temple, Suite 220  
Salt Lake City, Utah 84116-3158  
801-538-7240

April 11, 1989

Mario Capeochi  
9510 Emigration Canyon road  
Salt Lake City, UT 84108

Issue Date: April 11, 1989  
Expiration Date: October 11, 1989

Dear Applicant:

RE: Change Appl. No. 57-8033 (a14831)

Your above-numbered change application proposes to change the point of diversion for the use of 0.00256 cfs of water as evidenced by Change No. a8384. You have requested permission to begin drilling a 6-inch well, 100 to 300 feet deep at a point South 917 ft. and West 785 ft. from the E1/4 Cor., Sec. 16, T1N, R2E, S18&M. The water is to be used for domestic and stockwatering.

This letter grants you permission with the understanding that all risks regarding water rights are assumed by you. However, this action does not grant any right to the use of water from the well. Such right of use may be granted only if and when your application is completed in accordance with the laws controlling the appropriation and change of water and, of course, subject to existing rights.

If other than new casing is to be used in this well, such casing must be inspected and approved by a representative from this office. All wells must be so constructed and finished as to be readily controlled at all times to prevent waste of underground water. Wells must be drilled and cased in such a manner as to prevent infiltration of contaminated water into them.

The driller must be bonded and have a current license from the State Engineer. Before starting, he must give this office notice of the day he will begin. Within 30 days after the well has been completed or abandoned, he must file a well driller's report containing accurate and complete information regarding the work done, which is to become part of the files in this office pertaining to your change application.

This is permission for the licensed driller to begin drilling your well. Please note that the expiration date of this letter is October 11, 1989.

Sincerely yours,

Edward D. Feldt, P.E.  
Area Engineer  
For Robert L. Morgan, P.E.  
State Engineer

RLM:EDF:ap

## EXHIBIT C



Recorded: B. C. T. B.  
Inspection Sheet  
Copied

# REPORT OF WELL DRILLER STATE OF UTAH

Application No. 14531  
Claim No. 57-5038  
Coordinate No.

GENERAL STATEMENT: Report of well driller is hereby made and filed with the State Engineer, in accordance with the laws of Utah (This report shall be filed with the State Engineer within 60 days after the completion or abandonment of the well. Failure to file such reports constitutes a misdemeanor.)

## (1) WELL OWNER:

Name LAURIE FRISCH  
Address 9510 Emigration Canyon

## (2) LOCATION OF WELL:

County Salt Lake Ground Water Basin Utah  
(leave blank)  
North 997 East 784 Section 16 T. 1 N. R. 2 E. S. 16 (strife)  
South 1064 West 784 Corner USE  
not words not needed

## (3) NATURE OF WORK (check):

Replacement Well ☐ Deepening ☐ Repair ☐ New Well ☒ Abandon ☐  
If abandonment, describe material and procedure:

## (4) NATURE OF USE (check):

Domestic ☒ Industrial ☐ Municipal ☐ Stockwater ☐  
Irrigation ☐ Mining ☐ Other ☐ Test Well ☐

## (5) TYPE OF CONSTRUCTION (check):

Rotary ☐ Aug ☐ Jetted ☐  
Cable ☒ Driven ☐ Bored ☐

## (6) CASING SCHEDULE:

Threaded ☐ Welded ☒  
8" Diam. from 5 feet to 97 feet Casing 350  
4" Diam. from 127 feet to 97 feet Casing 5.640  
Diam. from      feet to      feet Casing     

New ☐ Rebet ☐ Used ☐

## (7) PERFORATIONS:

Perforated? Yes ☐ No ☒

Type of perforator used \_\_\_\_\_

Size of perforations \_\_\_\_\_ inches by \_\_\_\_\_ inches

perforations from \_\_\_\_\_ feet to \_\_\_\_\_ feet

perforations from \_\_\_\_\_ feet to \_\_\_\_\_ feet

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## (12) WELL TESTS:

Drawdown is the distance in feet the water level is low-  
ered below static level.

Was a pump test made? Yes ☐ No ☐ If so, by whom? 2425

Yield: 15 gal./min. with 2.6 foot drawdown after 12 hours

Boiler test 25 gal./min. with 3.5 foot drawdown after 7 hours

Arterial flow \_\_\_\_\_ p.m. Date \_\_\_\_\_

Temperature of water \_\_\_\_\_ Was a chemical analysis made? No ☒ Yes ☐

## (13) WELL LOG:

Uiameter of well 8 inches

Depth drilled 127 feet. Depth of completed well 127 feet.

NOTE: Place an "X" in the space or combination of spaces needed to designate the material  
or combination of materials encountered in each depth interval. Under REMARKS make any  
descriptive notes as to occurrence of water and the color, size, nature, etc., of material en-  
countered in each depth interval. Use additional sheets if needed.

DEPTH	MATERIAL										REMARKS
	Gravel	Coarse	Medium	Fine	Silt	Clay	Shale	Sand	Gravel	Coarse	
0' - 1'											Soil
1' - 15'											Red
15' - 25'											Red
25' - 31'											Hard Gr
31' - 32'											Shale Red
32' - 105'											Red
105' - 110'											Shale - Red
110' - 115'											Shale Red
115' - 120'											Sandy Shale
120' - 127'											limonite fissure @ 127' - sandstone drill through or 1150.

Work started 5-25 1927 Completed 6-5 1928

## (14) PUMP:

Manufacturer's Name Grundfos

Type Sub 163557-3 H. P. 3/4

Depth to pump or below 105 feet

Well Driller's Statement:

This well was drilled under my supervision, and this report is true to  
the best of my knowledge and belief.

Name Zimmerman Well Service Inc

(Person, firm, or corporation) (Type or print)

Address 4425 W 10500 S

(Signed) Zimmerman (Well Driller)

License No. 527 Date 7-27 1928

## LOG RECEIVED:

## (11) FLOWING WELL:

Controlled by (check) Valve ☐

Cap ☐ Plug ☐ No Control ☐

Does well leak around casing? Yes ☐ No ☐

USE OTHER SIDE FOR ADDITIONAL REMARKS

## EXHIBIT D

Courtney H. Crombie  
1232 North Pinecrest Canyon Road  
Salt Lake City UT 84108

Michael J. Jimenez  
2124 North Pinecrest Canyon Road  
Salt Lake City UT 84108

May 3, 2022

Answer to the protest by Mark Christopher Tracy, dated April 14, 2022

57-8033 (a14831)

When we purchased our property, there was an existing well and a spring in use. We have lived at this property since June 2017 and have continued using both the spring and the underground water well. The well was drilled by Mike Zimmerman under a provisional permit. The provisional permit was granted with the condition that the water would not be put to beneficial use prior to the approval of the change application. Not being aware that there had not been a final approval, we continued to use the well as was being done when we purchased the house.

Change application a14831, was filed in 1989 to use the well as the only source for our property. That change application was not advertised until March 18 and April 14, 2022. We filed a new change application on April 13, 2022, in order to better represent the sources used on our property.

It is our intent to withdraw change a14831; however, we wanted to respond to this protest to clarify the concerns expressed by Mark Tracy.

 5/3/2022  
Michael J. Jimenez

 5/3/2022  
Courtney H. Crombie

SCANNED LB  
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MAY 03 2022  
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SALT LAKE