

VIA ELECTRONIC MAIL

Rebekkah Shaw
Executive Secretary
Utah State Records Committee
346 S. Rio Grande Street
Salt Lake City, Utah 84101-1106
rshaw@utah.gov



echo-association.com

February 8, 2021

Ref: Statement of Facts, Reasons and Legal Authority Regarding the Denied Requests and De Facto Denied Appeals for Inspection of Public Records Created, Maintained and in the Physical Custody of a For-Profit Utah Corporation / Objection to Consolidation of Appeals / Request for Motion to Disqualify Opposing Legal Counsel (Case Nos. 2020-115, 2020-121 and 2020-125)

Dear Ms. Shaw,

Pursuant to Utah Code Ann. § 63G-2-403(3)(b), we hereby submit the following Statement of Facts, Reasons and Legal Authority in response to the corresponding statement filed on February 2, 2021 by the Salt Lake City law firm Cohne Kinghorn P.C. (“Kinghorn”) on behalf of Emigration Improvement District (“EID” aka Emigration Canyon Improvement District aka ECID) and the for-profit Utah corporation Simplifi Company (“Simplifi”) contracted and compensated with taxpayer funds to create and maintain governmental records at the private residence of Emigration Canyon Deputy Mayor Jennifer Hawkes (“Deputy Mayor Hawkes”) and Eric Hawkes (“Mr. Hawkes”)(collectively “Simplifi Respondents” and “Respondents” respectively).

We furthermore object to the consolidation of appeals and request a motion to disqualify opposing legal counsel Jeremy R. Cook (“Utah Attorney Cook”) and Kinghorn from the Committee hearing scheduled for February 11, 2021 for the reasons stated herein.

Procedural and Factual Background

The three (3) appeals before the Utah State Records Committee (“Committee”) concern the willful refusal to allow inspection of governmental records related to the operation of public water system No. 18143, originally constructed by private land developers Kem C. Gardner and Walter J. Plumb III to service the luxurious Emigration Oaks Private Urban Development (“Emigration Oaks Water System”) currently owned by EID, and operated by Simplifi through Deputy Mayor Hawkes and her spouse Mr. Hawkes.

To illustrate the complexity of Respondents’ organizational arrangements germane to appeal nos. 2020-115, 2020-121 and 2020-125, it must be first noted that there are approximately 677 residential units in Emigration Canyon (the “Canyon”), whereby only approximately 300 homes are connected to the Emigration Oaks Water System, 370 homes are serviced by individual, private domestic wells located near the Canyon Stream and 37 homes are connected to Salt Lake City Public Utilities.

Although less than half of Canyon homes are connected to the Emigration Oaks Water System, all non-exempt developed and undeveloped properties are assessed property taxes and fees for the operation, maintenance, and payment of legal fees thereof including \$6.3 million dollars of yet outstanding federally-backed debt acquired with the assistance of Kinghorn (*see e.g.* audio/video recording entitled “The ECHO-Association Ordered to ‘Shut up’ During Public Hearing (2021 Public Budget Hearing Excerpt)”) regarding the use of property taxes for the retirement of federally-funded water revenue bonds (time-counter 3:38) available at the website maintained by The ECHO-Association at https://echo-association.com/?page_id=5666.

Petitioner Emigration Canyon Home Owners Association (“The ECHO-Association”) is currently registered with the Utah Division of Corporations and Commercial Code as a dba entity

of Mark Christopher Tracy (“Mr. Tracy”) and is the owner of surface water right no. 57-8947 (a16183), which enjoys a base priority date of 1910, and is senior to all underground water sources of the Emigration Oaks Water System.

In September 2014, Mr. Tracy commenced legal action against EID trustees, engineers, consultants, independent contractors and private land developers under the federal False Claims Act (“FCA”) alleging fraudulent acquisition and fraudulent diversion of federally-backed funds for the construction of a “preposterously oversized” water system (*see* “‘We Don't Need Your Water’: Emigration Canyon Water Fight Breaks Out in Court” by Brian Maffly at the Salt Lake Tribune website available at <https://archive.sltrib.com/article.php?id=2618507&itype=CMSID>; *see also* “Paranoia and a ‘Preposterously’ Oversized Water Tank” by Emma Penrod at the HCN website available at <https://www.hcn.org/issues/51.12/water-paranoia-and-a-preposterously-oversized-water-tank-in-utah>).

Specifically, and as related to the instant appeals before the Committee, in August 1998, with the assistance of Kinghorn, EID trustees Fred A. Smolka† (“Mr. Smoka”) and Lynn Hales assumed legal title and liability of the Emigration Oaks Water System from The Boyer Company LC and City Development Inc. and immediately transferred operation to Mr. Smolka’s for-profit Utah corporation Management Enterprises L.L.C., after Mr. Smolka stepped down as EID Trustee Chairman and christened himself as “EID General Manger,” “EID Financial Manager” and “EID Election Specialist” with an annual compensation of taxpayer funds in the amount **\$120,000.00**.

Circa 15 years later, with the assistance of Kinghorn, EID transferred operation of the Emigration Oaks Water System from Management Enterprises L.L.C., to Simplifi and therewith custody of all governmental documents and records reportedly consisting of 25 boxes.

For the first time in recorded history, and every summer since August 2018, the Canyon Stream has suffered total depletion less than 2 miles from Utah's Hogle Zoo as predicted in testimony presented by Kinghorn to the Utah State Engineer expressly warning against the use of large-diameter commercial wells in the Freeze Creek and Brigham Fork drainage areas – the exact same water sources later constructed by EID with the assistance of Kinghorn in 2003 and 2013 via federally-backed funds (*see* “1966 Thesis – Utah State Division of Water Rights Area Manager for Emigration Canyon Jack Arnold Barnett” available at the website maintained by The ECHO-Association at https://echo-association.com/?page_id=3310 and audio recording entitled “Utah State Engineer Hearing – Barnett Testimony (December 15, 1995)” at https://echo-association.com/?page_id=2204; *see also* Salt Lake Tribune article “Why is Emigration Creek — a Historic Utah Waterway — Dry? Blame Runs From Climate Change to Drought to Development to Water-Sucking Wells” by Brian Maffly available at <https://www.sltrib.com/news/environment/2018/09/08/why-is-emigration-creek/>).

Although all water sources of the Emigration Oaks Water System had tested positive for traces of lead since 1994, EID trustee chairman and chief administrative officer Michael Scott Hughes insisted that EID was under no legal obligation to inform its water customers of lead contamination even after all 10 sampled homes tested positive in September 2016 (*see* audio recording entitled “Trustee Chairman Hughes: EID Has No Obligation to Report Lead Contamination To Emigration Canyon Water Users” available at the website maintained by The ECHO-Association at https://echo-association.com/?page_id=1661).

On June 16, 2020, and during the pendency of state and federal litigation addressing possible permanent damage to the Canyon's fragile underground water system, The ECHO-Association recorded a 700-foot fissure and massive ground subsidence in the Freeze Creek

drainage area, believed to be caused by groundwater mining of the Canyon's primary aquifer via the underground points-of-diversion of the Emigration Oaks Water System as documented by EID's own hydrologist Don Barnett and the Chairman of Weber State University Department of Geology Adolph Yonkee (*see* audio-video recording entitled "Aerial and Ground Recording of Emigration Oaks PUD near Lots Nr. 199, 171, 178, 180, 182 and 184 (YouTube)" and "2000 Barnett-Yonkee Study" available at The ECHO-Association website at https://echo-association.com/?page_id=3310).

Statement of Facts

Although EID is a limited purpose local government entity created by Salt Lake County, EID maintains that statutory provisions prohibiting nepotism under Utah Code Ann. §§ 52-3-1(2) and 17B-1-110 do not apply due to the fact that EID has no employees and all services are provided to EID by "independent contractors" such as Simplifi (*see* EID community letter dated June 2014, attached as **Exhibit A**).

Because it has no physical presence, pursuant to Utah Code Ann. § 67-1a-15(3), EID's "Physical Address" is registered with the Utah State Lt. Governor's Office as located at the private residence of Deputy Mayor Hawkes and Mr. Hawkes (*see* true and correct copy of "Entity Details" of EID from the website <https://www.entityregistry.utah.gov> last visited on February 7, 2021, attached as **Exhibit B**).

As such, since 2013, all governmental records of the Emigration Oaks Water System are created and maintained at the private residence of Deputy Mayor Hawkes and Mr. Hawkes, which is likewise the place of business registered with the Utah Division of Corporations and Commercial Code for Simplifi (*see* "Summary of Online Changes" for Simplifi Company, attached as **Exhibit C**).

It appears that Simplifi has no employees, owns no real property, has no other customers or clients other than EID, and appears to exist only to conceal payment of taxpayer funds to Deputy Mayor Hawkes and Mr. Hawkes as the sole officers and directors of the same.

The telephone number listed with the Utah State Records Ombudsman for Mr. Hawkes as the certified records officer and trustee chairman Michael (aka “Mike”) Scott Hughes as chief administrative officer of EID is identical (*see* email confirmation of Rosemary Cundiff, Utah State Records Ombudsman dated September 23, 2020, attached as **Exhibit D**).

Having assumed title as “EID General Manger” and “EID Financial Manger” as an independent contractor, Mr. Hawkes appears to have been granted sole access and control of EID bank accounts and Utah State Public Treasury Funds, via which Mr. Hawkes renders payment for legal services billed to Canyon taxpayers by Kinghorn.

EID financial records reveal that in the calendar year 2019, Mr. Hawkes paid Deputy Mayor Hawkes and himself through Simplifi **\$97,321.08** of public funds for “Manager Compensation,” “Office Expenses” and “Internet and Computer Expenses” equaling more than 20% of EID’s operating expenses for that year. *See* true and correct copy of Utah Transparency Website and comparison with two (2) employees of the Big Cottonwood Improvement District compensated in the amount of **\$53,342.02** available at The ECHO-Association website https://echo-association.com/?page_id=6054.

In September 2019, for reasons currently unknown, Mr. Hawkes increased fixed monthly payments from **\$7,000.00** to **\$9,000.00** to Simplifi without EID trustees recording public discussion and/or approval in the organizational meeting minutes as required under the Utah Open and Public Meetings Act (*see id*).

In October 2019, The ECHO-Association discovered that three (3) homes connected to the Emigration Oaks Water System had reported lead contamination of drinking water in excess of federally mandated “action level” limits (*see* “Lead Shows Up in Emigration Canyon Drinking Water” by Brian Maffly at the website administered by the Salt Lake Tribune available at <https://www.sltrib.com/news/environment/2019/11/08/lead-shows-up-emigration/>).

For the current calendar year, EID allocated payment of **\$118,000.00** of taxpayer funds to Deputy Mayor Hawkes and Mr. Hawkes through Simplifi thereby exceeding the salary of both the Utah State Governor and Salt Lake City Mayor (*see* audio-video recording entitled “Payment of \$118,000 of Public Funds to Deputy Major Jennifer Hawkes and EID General/Financial Manager Eric Hawkes (2021 EID Budget Hearing Excerpt)” available at The ECHO-Association website at https://echo-association.com/?page_id=6054).

Procedural Objections and Request for Motion to Disqualify Opposing Legal Counsel

We respectfully object to the consolidation of three (3) separate appeals into a single 20-minute hearing before the Committee and therewith the imposed time limitation to present appeal nos. 2020-115, 2020-121 and 2020-125 (*see* correspondence of the Utah State Records Executive Secretary dated January 22, 2021, attached as **Exhibit E**).

Under Utah Administrative Code R35-1-2, “each party *shall* be allowed twenty minutes to present testimony and evidence, to call witnesses, and to respond to questions from Committee members” (emphasis added).

While the Committee’s interest in combining identical parties is understandable, the present appeals involve three (3) separate denied requests of the certified records officer and three (3) separate unacknowledged appeals to the chief administrative officer to inspect governmental records whereby only this past week did Respondents through Utah Attorney Cook

assert separate and distinct facts and legal conclusions for each appeal thereby necessitating sufficient time for The ECHO-Association to present rebuttal evidence and testimony thereby preserving issues for possible further judicial review (*see e.g. Pease v. Industrial Comm'n*, 694 P.2d 613 (1984), UT 1984).

Moreover, it may be noted that during the previous appearance before the Committee on September 10, 2020, Kinghorn through Utah Attorney Cook provided demonstrably false testimony that EID “must hire a third-party vendor” to classify public records “going back to 1968” thereby failing to inform the Committee that all governmental records of the Emigration Oaks Water System have been maintained at the private residence of Deputy Mayor Hawkes and Mr. Hawkes for the past eight (8) years whereby Simplifi is remunerated with a fixed salary of **\$9,000.00** per month for “management compensation” as the “EID General Manager,” “EID Financial Manager,” and “EID certified records officer” (*see hearing testimony of Utah Attorney Cook in Steven Onysko v. Emigration Improvement District*, case no. 2020-44).

As such, we respectfully object to the legal representation of Respondents during the appeals hearing and request that a member of the Committee motion to disqualify opposing legal counsel Utah Attorney Cook and Kinghorn.

Specifically, it is uncontested that Kinghorn through Utah Attorney Cook have assumed legal representation of Simplifi, Deputy Mayor Hawkes and Mr. Hawkes in pending state and federal litigation at public expense. Review of both EID meeting minutes and Utah Attorney Cook’s own representations before this Committee on February 2, 2021 confirms that EID trustees have not approved the payment of public funds for legal services provided to Simplifi, Deputy Mayor Hawkes and/or Mr. Hawkes by Utah Attorney Cook and Kinghorn.

Under the Rule 1.7 (a)(2) of the Utah Rules of Professional Conduct (“URPC”), a “lawyer shall not represent a client if the representation involves a concurrent conflict of interest if [t]here is a significant risk that the representation of one or more clients will be materially limited by the personal interest of the lawyer” whereby under Rule 3.7 (a) URPC a “lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness.”

During the most recent EID trustee meeting, Mr. Tracy informed both Utah Attorney Cook and Respondents of the present request for motion to disqualify opposing legal counsel (see audio-video recording entitled “Use of Public Funds for the Private Legal Expense of Simplifi Company” at the website maintained by The ECHO-Association available at https://echo-association.com/?page_id=5666).

Lastly, legal representation of both the governmental entity and the private for-profit corporation and controlling individuals in the present appeal is improper due to the fact that the legal invoices germane to appeal no. 2020-121 were prepared and submitted by Utah Attorney Cook for payment of public funds by Simplifi through Mr. Hawkes and is directly relevant to a possible violation of Utah Code Ann § 76-8-402(4).

Reasons and Legal Conclusions Regarding the Denied Request and De Facto Denied Appeal to Inspect Legal Invoices Prepared by Utah Attorney Cook (Case No. 2020-121)

The Respondents’ objection to the requested inspection of legal invoices based upon a purported attorney-client privilege is without legal basis.

This Committee has recognized legal service invoices submitted for payment of public funds by a government vendor are not generally subject to the attorney-client privilege under Utah Code 63G-2-305(17), (18) or (23) (see *Onykso v. Attorney General’s Office*, Case No. 2020-105).

Regardless of the fact that legal service invoices are not “prepared ... for, or in anticipation of pending litigation,” or concern a “governmental entity’s strategy about imminent or pending litigation” but rather only document the scope and duration of work performed as a demand for payment, federal courts have unanimously rejected claims of attorney-client privilege even when legal services are provided solely to private individuals and corporations and not a for-profit corporation contracted by a governmental entity to create and maintain public records at taxpayer expense as in the instant action. *See e.g., In re Grand Jury Subpoenas*, 906 F.2d 1485 (10th Cir. 1990).

Even if such a attorney-client privilege existed between Kinghorn, Utah Attorney Cook, EID, Simplifi, Deputy Mayor Hawkes and/or Mr. Hawkes, any claim of privilege was waived when Respondents petitioned state and federal courts to award attorney fees and costs thereby necessitating disclosure of the scope and duration of past legal services rendered (*see e.g.*, excerpt of affidavit filed in federal district court by Utah Attorney Cook, attached as **Exhibit F**).

Moreover, legal invoices previously obtained by The ECHO-Association reveal that both Kinghorn and Utah Attorney Cook have previously provided legal services to private land developers and unassociated third parties at the expense of Canyon taxpayers through EID and is therefore directly relevant to a possible violation of Utah Code Ann § 76-8-402(4) (*see id.*; *see also* excerpt of Kinghorn invoice dated September 30, 2001 for legal services provided to the CEO of Energy Solutions, Inc., private land-developer and EID Advisory Committee Chairman R. Steve Creamer billed by Utah Attorney Cook to Canyon taxpayers through EID, attached as **Exhibit G**).

Lastly, it may be noted that trustee chairman Michael Scott Hughes as EID chief administrative officer failed to acknowledge and/or respond to the subsequent GRAMA appeal thereby necessitating the instant appeal to the Committee.

Reasons and Legal Conclusions Regarding the Denied Request and De Facto Denied Appeal to Inspect Email Correspondence of Lead Contamination (Case No. 2020-125)

Contrary to Respondents' objections, as certified records officer registered with the Utah State Records Ombudsman, Mr. Hawkes of the is the proper recipient of a request to inspect governmental documents related to operation of the Emigration Oaks Water System and was properly served at the address registered both as the physical location of EID with the Utah State Lt. Governor, as well as the place of business for service of process for Simplifi as the contracted custodian of public records (*see Exhibit B, C and D supra*).

Utah Administrative Rule R309-105-17 further provides:

(2) Lead and copper recordkeeping requirements.

(a) Any water system subject to the requirements of R309-210-6 *shall retain on its premises* original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, Director determinations, and any other information required by R309-210-6 (emphasis added).

(b) Each water system shall retain the records required by this section for no fewer than 12 years.

As such, even if Mr. Hawkes was not the registered with the Utah State Records Ombudsman as the records officer of the Emigration Oaks Water System, due to the fact that EID has no physical presence, and all governmental records are created and maintained at the private residence of Deputy Mayor Hawkes and Mr. Hawkes, the request to inspect lead-contamination documents was properly addressed to the only individuals who may legally grant

access to governmental records required to maintained “on the premises” of the water system under Utah Administrative Rules.

However, contrary to the express requirements of Utah Code Ann. § 63G-2-204(6), Simplifi Respondents through Utah Attorney Cook denied the request to inspect with a cursory reference to “extraordinary circumstances” due to “current attorney fee motion” and Michael Scott Hughes, the chief administrative officer of EID, failed to acknowledge and/or respond the subsequent GRAMA appeal thereby necessitating the present action before the Committee.

As such, an order from this Committee to produce governmental records under Utah Code Ann. § 63G-2-402(15)(d) must be addressed to the actual custodians of public records and not a separate governmental entity, which lacks legal authority to order a private independent contractor to grant access into a private home.

Reasons and Legal Conclusions Regarding the Denied Request and De Facto Denied Appeal to Inspect Fire Flow Test Results (Case No. 2020-121)

As recorded in the appeal to this Committee, although the GRAMA request was submitted to Mr. Hawkes as the certified records officer of EID, and subsequently appealed to trustee chairman Michael Scott Hughes, as the chief administrative officer of EID, Utah Attorney Cook provided only a cursory remark that “Simplifi Company is not a governmental entity. Accordingly, no further response will be provided to this request.”

The response provided by Utah Attorney Cook on behalf of Respondents is contrary to Utah Code Ann. § 63G-2-204(8)(a) requiring that an improperly submitted GRAMA request be promptly forwarded to the appropriate office of a governmental entity -- if such an office did in fact exist separate from the for-profit Utah corporation contracted and compensated by a

governmental entity with taxpayer funds to create and maintain governmental records at a private residence.

As in the case of all previous request to inspect governmental records, trustee chairman Michael Scott Hughes, the chief administrative officer of EID failed to acknowledge and/or respond thereby necessitating the instant appeal before the Committee.

Lastly, we further note that Utah Attorney Cook failed to inform the Committee that the cited decision of the Third District Court dismissing *de novo* judicial review of the denied request to access *lead contamination laboratory test results* is currently pending with the Utah Court of Appeals awaiting Mr. Tracy's Reply Brief due on March 5, 2021 and thus has no precedential authority for the Committee's decision of the pending appeal to access *email correspondence related to lead contamination* (see e.g., "Brief of Appellant" available at website administered by The ECHO-Association at https://echo-association.com/?page_id=7677).

Conclusion

For the foregoing reasons, pursuant to Utah Code Ann. § 63G-2-403, the Committee should schedule three (3) separate appeal hearings allowing for sworn testimony, disqualify opposing legal counsel Utah Attorney Cook and Kinghorn, grant the requested relief as petitioned, and impose a per diem civil penalty of \$500 for continued non-compliance.

Respectfully Submitted,

MARK CHRISTOPHER TRACY dba
EMIGRATION CANYON HOME OWNERS
ASSOCIATION

/s/ Mark Christopher Tracy

Mark Christopher Tracy
Pro Se Petitioner

EXHIBIT A

Emigration Improvement District
Michael Hughes, Chairman; David Bradford, Mark Stevens,
Trustees
Fred Smolka, Manager; Eric Hawkes, Assistant Manager
PO Box 58945, Salt Lake City, UT 84158
June 2014

Exh 11

Several issues have arisen recently where Emigration Canyon residents have not been clear about the facts surrounding Emigration Improvement District. This information should clarify some of these matters:

- EID was created by action of Salt Lake County government in June 1968, under State regulations for special improvement districts. It is charged with providing water and sewer services to Emigration Canyon. The District boundaries run from ridgeline to ridgeline and to the mouth of the Canyon.
- The District is run by a Board of three elected Trustees, which meet generally once a month in public meetings, with legal counsel present. Minutes are posted on the website after approval by the Board.
- The District maintains and updates a website which provides general information: emigrationcanyon.org.
- The District has no employees but hires independent contractors to provide services. The District therefore pays no payroll taxes. Independent contractors are required to pay their own payroll taxes.
- The Board advertises, interviews, and hires service providers, including the position of Manager.
- The District operates a water system that provides high-quality water (tested three times a week) to 273 homes and is prepared to serve an additional 253 more property owners as requested.
- The system includes 4 wells, 2 reservoirs with a total capacity of 1,300,000 gallons, and water transmission lines covering approximately 70 percent of the populated area of the Canyon.
- The District has provided fire hydrants within 250 feet of every property within the infrastructure area. This allows 1,500 gallons of flow per minute for a period of at least two hours to meet State and County requirements for water flow to fight home fires.
- The District has taken measures to hold down development in the Canyon by thoughtfully allocating water connections and negotiating with developers to scale back plans that would have resulted in more than double the current buildable lots.

EXHIBIT B



Entity Details

[Back](#)

Entity Information

Name
Emigration Improvement District

Registration Date
Apr 30, 2020

Entity Type
Special Service District

Mailing Address
PO Box 58945, Salt Lake City, Utah, 84158

Entity Status
Compliant

Website
www.ecid.org

Phone
801-243-5741

Physical Address
271 N Margarethe LN, Salt Lake City, Utah, 84108

Parent Entity

Renewal Date
Jul 3, 2021

Government Function
Emigration Improvement District is authorized to provide water and wastewater services within the boundaries of the District County, and has the power to establish rules and regulations governing these services including setting rates and fees.

[Welcome](#) [Home](#) [Login](#)

EXHIBIT C



State of Utah
DEPARTMENT OF COMMERCE
Division of Corporations & Commercial Code

Summary of Online Changes



Business Name: SIMPLIFI COMPANY

Entity number: 7416980-0142

Date of Filing: 09/09/2010

Principal Office Address:

Street 271 Margarethe Lane
City Salt Lake City
State UT
Zip 84108

Registered Principals:

New Information (added or updated)
Name JENNIFER HAWKES
Position Director
Address 271 Margarethe Lane
Salt Lake City, UT 84108

New Information (added or updated)
Name ERIC LEE HAWKES
Position Director
Address 271 Margarethe Lane
Salt Lake City, UT 84108

New Information (added or updated)
Name JENNIFER HAWKES
Position Registered Agent
Address 271 Margarethe Lane
Salt Lake City, UT 84108

Old Information (removed or updated)
Name Jennifer Hawkes
Position Director
Address 4920 Emigration Canyon
Salt Lake City, UT 84108

EXHIBIT D

From: Rosemary Cundiff <rcundiff@utah.gov>
Subject: Re: Records Manger and Chief Administrative Officer for Emigration Improvement District
Date: September 23, 2020 at 9:43:13 AM PDT
To: The ECHO-Association <m.tracy@echo-association.com>

Hi Mark,

The records officer (ARO) and chief administrative officer (CAO) are as follows:
ARO is Eric Hawkes 801-243-5741 eric@ecid.org
CAO is Mike Hughes 801-243-5741 mike@ecid.org

Have an awesome day.

Rosemary Cundiff
Government Records Ombudsman
Utah State Archives
(801) 531-3858

On Wed, Sep 23, 2020 at 9:58 AM The ECHO-Association <m.tracy@echo-association.com> wrote:

Dear M. Cundiff,

Can you please verify the identity of the Records Manager and Chief Administrative Officer for Emigration Improvement District (aka Emigration Canyon Improvement District)?

Kind Regards,

Mark Christopher Tracy
Tel. 929-208-6010

EXHIBIT E



State of Utah

SPENCER J. COX
Governor

DIEDRE HENDERSON
Lieutenant Governor

Department of Administrative Services

JENNEY REES
Executive Director

Division of Archives and Records Service

KENNETH R. WILLIAMS
Director

January 22, 2021

Sent via email

Notice of Appeals Combined for February Meeting

To whom it may concern,

This letter is to inform you that you have more than one appeal scheduled for February 11th, 2021. To accommodate the Committee's schedule, appeals 2020-115, 2020-121 and 2020-125 will be heard in one hearing. Please plan on addressing all of the appeals during your 20 minute presentation per Administrative Rule R35-1-2(2).

If you have any questions or concerns, please let me know.

Sincerely,

e/s: Rebekkah Shaw

Rebekkah Shaw
Executive Secretary
State Records Committee
346 S. Rio Grande Street
Salt Lake City, UT 84101-1106
(801)531-3851
rshaw@utah.gov

cc: Members of the State Records Committee and Legal Counsel
Brady Eames, petitioner
Teresa Harris, Logan City

EXHIBIT F

8031.06	04/30/2018	#	A	1	280	0.2	56.00	Analyze opposition response time; reply to J. Cook regarding same.	ARCH
8031.06	05/10/2018	#	A	1	220	1.5	330.00	Meeting with client to discuss status and strategy.	ARCH
8031.06	05/11/2018	#	A	1	220	0.5	110.00	Draft email to Paul Brown regarding Oaks HOA meeting update and message.	ARCH
8031.06	05/16/2018	#	A	1	220	0.3	66.00	Draft email to Paul Brown on case status.	ARCH
8031.06	05/23/2018	#	A	1	220	0.1	22.00	Analyze email from Mr. Tracy.	ARCH
8031.06	05/25/2018	#	A	1	220	2.4	528.00	Analyze opposition to motion to dismiss and case law cited by Mr. Tracy. Begin formulating reply brief.	ARCH
8031.06	05/25/2018	#	P	1	280	1.4	392.00	Analyze Tracy's Memorandum in Opposition to Motion to Dismiss.	573
8031.06	05/29/2018	#	P	1	280	3.1	868.00	Research regarding Tracy's claim of promissory fraud and analysis.	575
8031.06	05/29/2018	#	P	1	280	0.2	56.00	Analyze pleadings regarding extension for Tracy's response.	576
8031.06	05/29/2018	#	P	1	280	1.1	308.00	Analyze J. Parrish's Memorandum Decision and Order in US ex rel Brooks v. Stevens-Henager.	577
8031.06	05/31/2018	#	A	1	220	4.2	924.00	Continue work on Motion to Dismiss. Meeting with Will Garbina regarding same.	ARCH
8031.06	05/31/2018	#	P	1	280	1.4	392.00	Conference with J. Cook regarding Tracy's arguments, distinguishing cases, and strategy for reply.	574
8031.06	06/01/2018	#	P	1	220	7.2	1,584.00	Continue drafting reply brief in support of motion for summary judgment including revisions to organize arguments on direct false claims versus reverse false claims. Research additional cases on promissory fraud. Review files on DDW correspondence regarding approval and inclusion in prior briefs filed by Plaintiff. Analyze email from Paul Brown regarding letter to residents from Mr. Tracy.	578
8031.06	06/04/2018	#	P	1	220	5.2	1,144.00	Continue work on reply brief in support of motion to dismiss.	579
8031.06	06/05/2018	#	P	1	220	1.7	374.00	Continue drafting reply memorandum.	583
8031.06	06/06/2018	#	P	1	220	4.5	990.00	Continue drafting reply brief on direct false claim liability on statute of limitations. Additional research on case law regarding same.	580
8031.06	06/07/2018	#	P	1	220	3.3	726.00	Meeting with Will Garbina on reply brief and arguments. Analyze draft changes and discuss same. Analyze filing and exhibit issues.	581
8031.06	06/11/2018	#	P	1	220	5.5	1,210.00	Analyze prior motions for attorney fees and begin drafting revisions based on Third Amended Complaint. Research case law on inclusion of all pleadings in motion for attorney fees. Compile correspondence from Mr. Tracy to residents.	582
Total for Client ID 8031.06					Billable	497.2	118,831.00	Emigration Improvement District Litigation	
GRAND TOTALS									
					Billable	497.2	118,831.00		

EXHIBIT G

Emigration Improvement District

Page: 2
 September 30, 2001
 Account No: 8031-00M
 Statement No: 119444

General

		Hours		
	parcels.	0.65	113.75	OAKS EXP
09/18/01	GHK Confer with Mr Smolka and Mr Woodbury regarding impact fee analysis and project status.	2.65	463.75	(GEN) <i>CHARGE THE P.M.</i>
09/19/01	GHK Travel to and attend monthly meeting of trustees.	2.90	175.00	(GEN)
09/21/01	GHK Travel to Division of Water Rights and confer with Mr Hall, Mr Woodbury and Mr Smolka concernig streambank and bed regulations and permits and application issues.	1.20	210.00	OAKS EXP
09/24/01	GHK Travel to State office and attend meeting with Mr Barnett and Mr Damry regarding groundwater classification and return.	2.30	402.50	(GEN)
09/25/01	GHK Conference with Mr Barnett regarding Lang Drilling issues.	0.34	59.50	OAKS EXP
09/27/01	GHK Conference with Mr Creamer regarding Gillmor platting and development and well site and access agreement.	0.90	157.50	OAKS EXP
	For Current Services Rendered	16.41	2,539.25	

Recapitulation

Timekeeper	Hours
Gerald H. Kinghorn	16.41

09/27/01	Photocopy expense.	14.80
09/30/01	Postage.	2.05
	Total Expenses	16.85

(GEN)