

Jeremy R. Cook (10325)
William G. Garbina (13960)
COHNE KINGHORN, P.C.
111 E. Broadway, Suite 1100
Salt Lake City, UT 84111
Telephone: (801) 363-4300
Facsimile: (801) 363-4378
Email: jcook@cohnekinghorn.com
wgarbina@cohnekinghorn.com
Attorneys for Emigration Improvement District

**IN THE THIRD DISTRICT COURT
IN AND FOR THE STATE OF UTAH**

EMIGRATION CANYON HOME OWNERS
ASSOCIATION, a Utah Corporation,

Petitioner,

vs.

KENT L. JONES, Division Director of the
Utah State Division of Water Rights, and
EMIGRATION IMPROVEMENT
DISTRICT, a special service district of the
state of Utah,

Respondents.

MOTION TO DISMISS

**PETITION FOR DE NOVO JUDICIAL
REVIEW OF INFORMAL
ADJUDICATIVE HEARING**

**RE: ORDERS OF THE STATE
ENGINEER FOR PERMANENT
CHANGE APPLICATIONS NOS. 57-7796
(a44045) AND 57-10711 (a44046)**

Case No. 190901675

Judge: Su Chon

Respondent Emigration Improvement District (“**EID**”), through counsel, submits this
Motion to Dismiss the Petition for De Novo Judicial Review of Informal Adjudicative Hearing
(the “**Petition**”) filed by Emigration Canyon Home Owners Association (“**ECHO**”).

RELIEF SOUGHT AND GROUNDS FOR THE MOTION

EID moves the Court, pursuant to Utah R. Civ. P. 12(b)(6), for an Order dismissing the Petition, with prejudice. The grounds for this Motion are that at the time of the administrative proceeding before the State Engineer, ECHO did not own the water right identified in the Petition (No. 57-8947 (a16183)), and the previous owner of water right no. 57-8947 was not one of the parties who protested the applications which were the subject of the administrative proceeding. As a consequence,

1. ECHO lacks standing to assert the claims set forth in the Petition;
2. ECHO failed to exhaust its administrative remedies; and
3. ECHO has failed to state a claim on which relief can be granted.

EID respectfully requests that its motion be granted, and the Petition be dismissed, with prejudice.

INTRODUCTION

EID is a local district that provides water service to residents in Emigration Canyon. On September 12, 2018, EID filed change application for water right nos. 57-7796 (a44045) and 57-10711 (a44046) (the “**Change Applications**”). The Change Applications were filed to correct and update points diversion along Emigration Creek for private wells, to correct the points of diversion for two previously approved springs, and to add two existing public drinking water wells and five potential public drinking water well locations as points of diversion.

On October 17, 2018, ECHO filed a protest against the Change Applications (the “**ECHO Protest**”). However, at the time of filing the ECHO Protest, ECHO did not claim to own any real property or water rights that were impaired as a result of the Change Applications. Additionally, the water right which is now purportedly owned by ECHO was not represented in the underlying administrative proceeding.

LEGAL STANDARD

A motion to dismiss under Utah R. Civ. P. 12(b)(6) admits the facts alleged in the complaint but challenges the plaintiff's right to relief based on those facts. *St. Benedicts Dev. Co. v. St. Benedict's Hosp*, 811 P.2d 194 (Utah 1991). Absent standing, there is no claim upon which relief can be granted. *Haik v. Jones*, 427 P.3d 1155 (2018).

PERTINENT ALLEGATIONS OF THE PETITION

1. Petitioner, the ECHO-Association is registered with the Utah Department of Commerce, is a dba entity of Mark Christopher Tracy and is the owner of water right no. 57-8947 (a16183).

8. Pursuant to Utah Code Ann. § 63G-4-402, Petitioner identifies the following entities and individuals who were parties to the underlying informal adjudicative proceedings and who submitted timely protests to EID's permanent change applications:

- a. Emigration Improvement District;
- b. Emigration Canyon Home Owners Association (representative Mark Christopher Tracy) c/o Scot A. Boyd, 257 East 200 South, Ste 1100, SLC, Utah 84111;
- c. Salt Lake City, a municipal corporation, do Laura Briefer, 1530 South West Temple, SLC, Utah 84115;
- d. Pinecrest Pipeline Operating Company, c/o Steve Moore, 6424 E. Lefthand Fork Ln, SLC, Utah 84108;
- e. Tierra Investments, LLC, 6440 Wasatch Blvd Ste 340, SLC, Utah 84121;
- f. Willy Stokman, 86 S Skycrest Lane, SLC, Utah 84108;
- g. Jack Samuel Plumb, 6378 E Emigration Canyon Road, SLC, Utah 84108;
- h. Margot McCallum, 1167 Pinecrest Canyon Road, SLC, Utah 84108;

- i. Larry and Susan Henchel, 3806 Sunnydale Ln, SLC, Utah 84108;
- j. Patricia [Pat] Sheya, 1111 Alvarado Ave., Apt. 116, Davis, California 95616--5919;
- k. Eric M. Simon, 6627 E, Emigration Canyon Rd, SLC, Utah 84108;
- l. Laura Gray, 1195 Pinecrest Canyon Road, SLC, Utah 84108;
- m. Daniel Walker, 3762 E Sunnydale Ln, SLC, Utah 84108;
- n. Michael Martin, PO Box 58602, SLC, Utah 84158;
- o. Brett Wheelock, 6571 East Quartermile Road, SLC, Utah 84108;
- p. Jamie White, c/o JAMIE WHITE, 7290 Las Vistas Drive, Las Cruces, New Mexico 88005;
- q. Robert Jordan, 749 N Emigration Canyon Rd, SLC, Utah 84108;
- r. Mary Jo Sweeney, Trustee for Michael James Ballantyne, 865 N Pinecrest Canyon Road, SLC, Utah 84108;
- s. Jessica Lucas, 4801 E Skycrest Park Cove, SLC, Utah 84108;
- t. Donald L, Clark, 100 South Skycrest Lane, SLC, Utah 84108;
- u. Lowell Miyagi, 6298 E Lefthand Fork Lane, SLC, Utah 84108;
- v. Melinda McIlwaine, 2148 N Pincrest Canyon Road, SLC, Utah 84108;
- w. Phil Davis, 1832 N, Pinecrest Canyon, SLC, Utah 84108;
- x. John Porcher, 2238 Pinecrest Canyon Road, SLC, Utah 84108;
- y. Dr. Jessica Kramer, 4801 E Skycrest Park Cove, SLC, Utah 84108;
- z. Barbara Babson and Ben Dobbin, 2230 Pinecrest Canyon Road, SLC, Utah 84108;

- aa. Dr. Sarah K. and Jason P. Hall, 1761 N. Pinecrest Canyon Road, SLC, Utah 84108;
 - bb. David L. Phillips, 907 North Pinecrest Canyon Road, SLC, Utah 84108;
 - cc. Andrew B. Walker, 6016 E. Red Hill Lane, SLC, Utah 84108;
 - dd. Stephen B. and Michelle D. Andersen, 3980 E, Emigration Canyon Rd, SLC, Utah 84108;
 - ee. Chris and Kirtly Jones, 3798 E Sunnysdale Lane, SLC, Utah 84108;
 - ff. Ronald Hallett, 290 Margarethe Lane, SLC, Utah 84108;
 - gg. Dinko Duheric, 6392 Emigration Canyon Road, SLC, Utah 84108;
 - hh. Karen Penske, 1278 N Pinecrest Canyon Road, SLC, Utah 84108;
 - ii. Caroline Biggs, c/o Caroline Biggs, 6740 E Emigration Canyon Road, SLC, Utah 84108;
 - jj. Kate and James Bert Bunnell, 3962 East Emigration Canyon Road, SLC, Utah 84108;
 - kk. Daniel Craig, c/o Daniel Boone Craig, 2137 N Pinecrest Canyon Road, SLC, Utah 84108;
 - ll. Gregory Palis, 6771 E Emigration Canyon Road, SLC, Utah 84108;
 - mm. Michael Terry, 6226 E Emigration Canyon Road, SLC, Utah 84108; and
 - nn. Robert J. Reid IV, 6788 Emigration Canyon Road, SLC, Utah 84108.
16. On September 10, 2018, EID filed the two subject change applications, Nos. 57-7796 (a44045) and 57-10711 (a44045).
17. On September 12, 2018, EID filed revised change applications to replace those filed on September 10, 2018 (the "Permanent Change Applications"), *See* Exs. D and E.

18. On October 17, 2018, The ECHO-Association filed its protest to both permanent change applications with two subsequent addendums. *See* Exs. F, G and H.

20. On December 19, 2018, the State Engineer held a hearing on EID's Permanent Change Application (the "Protest hearing").

21. The Order of the State Engineer for Permanent Change Application Number 57-7796 (a44045) was issued on January 16, 2019, *See* Ex. B.

22. The Order of the State Engineer for Permanent Change Application Number 57-10711 (a44045) was issued on January 25, 2019, *See* Ex. C.

THE REPORT OF WATER RIGHT CONVEYANCE AND DEED¹

A. Attached hereto as Exhibit "A" is the *Declaration of Jeremy R. Cook*, which includes a true and correct copy of the "Report of Water Conveyance and Quitclaim Deed" relating to water right no. 57-8947 (a16183) (the "**Water Right**"), which Petitioner claims to own.

B. The Grantor of the Water Right is "Nelson R. Mather."

C. The Grantee of the Water Right is "Emigration Canyon Home Owners Association."

D. The Quitclaim Deed was signed on February 11, 2019.

ARGUMENT

It is a fundamental premise of our legal system that only those who are aggrieved by an action may file a lawsuit to obtain relief. The courts of Utah do not issue advisory opinions.

¹ "If a plaintiff does not incorporate by reference or attach a document to its complaint, but the document is referred to in the complaint and is central to the plaintiff's claim, a defendant may submit an indisputably authentic copy to the court to be considered on a motion to dismiss." *Oakwood Village LLC v. Albertsons, Inc.*, 2004 UT 101, ¶ 13, 104 P.3d 1226.

Redwood Gym v. Salt Lake Cty. Com'n, 624 P. 2d 1138 (Utah 1981). Relative to district court review of an action by the state engineer on a change application, “standing is a jurisdictional requirement that must be satisfied before a district court may even entertain the question of whether the state engineer's decision was consistent with the requirements of Utah law.

Washington County Water Conservancy Dist. v. Morgan, 82 P.3d 1125, 1128 (Utah 2003)(citing *Harris v. Springville City*, 712 P.2d 188, 190 (Utah 1986) (“[L]ack of standing is jurisdictional,”) and *Jenkins v. Swan*, 675 P.2d 1145, 1150–51 (Utah 1983) (holding that a party must have standing to invoke the jurisdiction of the court)).

When pursuing relief afforded by statute, a party seeking the benefit of the statute must be within the class of parties the legislature has authorized to file suit. *Washington County Water Conservancy Dist. v. Morgan*, 82 P.3d 1125, 1128 (Utah 2003). Likewise, “the requirement that a party exhaust administrative remedies before seeking judicial review is a matter of subject matter jurisdiction.” *Ramsay v. Kane County Human Resource Spec. Serv. Dist.*, 322 P.3d 1163, 1166 (Utah 2014).

ECHO’s Petition attempts to put before the Court an issue that was never before the state engineer. The Water Right was not at issue in the Change Applications. Its owner at that time did not file a protest. Although ECHO filed a protest, ECHO did own any water rights or real property when it filed its protest. The mere act of filing a “protest” in administrative proceedings does give a party standing for purposes of judicial review. *Washington County Water Conservancy Dist. v. Morgan*, 82 P.3d 1125, 1130 (Utah 2003)². Simply put, because the owner

² “Were we to interpret the phrase ‘any person aggrieved’ to include all interested persons who protest a change application, the filing of a change application would expose the underlying water rights to otherwise unavailable forfeiture challenges, because an uninjured protestant would be able to insert its foot into an otherwise closed jurisdictional door.” *Washington County Water Conservancy Dist. v. Morgan*, 82 P.3d 1125, 1130 (Utah 2003).

of the Water Right failed to file a protest and therefore lacked standing to appeal because he failed to exhaust his administrative remedies, he cannot impart standing on ECHO by transferring the Water Right to ECHO after the State Engineer issues a decision.

Likewise, without standing based on the Water Right, ECHO has no “distinct and palpable injury that gives rise to a personal stake in the outcome of the dispute” and therefore lacks standing to file this action. *See Id.*

I. ECHO’S CURRENT OWNERSHIP OF WATER RIGHT NO. 57-8947 (a16183) DOES NOT GIVE ECHO STANDING.

“[A] party may seek judicial review of a final action of the state engineer ‘only after exhausting all administrative remedies available.’ Utah Code Ann. § 63G-4-401(2) (LexisNexis 2016); *see also id.* § 73-3-14(1)(a) (2012) (‘A person aggrieved by an order of the state engineer may obtain judicial review in accordance with Title 63G, Chapter 4, Administrative Procedures Act. . . .’) *Salt Lake City Corporation v. Haik*, 2019 UT App 4 - Utah Court of Appeals 2019.

EID filed the initial Change Applications on September 10, 2018. The Utah Division of Water Rights published notice of the Change Applications on September 27, 2018. In accordance with Utah Code Ann. § 73-3-7, the Notice indicated that protest must be filed by October 17, 2018. On December 19, 2018, the State Engineer held a hearing on EID’s Permanent Change Application (the “**Protest Hearing**”). (Petition ¶ 20). The Order of the State Engineer Approving the Permanent Change Application Number 577796 (a44045) was issued on January 16, 2019 while the Order of the State Engineer Approving Permanent Change Application Number 57- 10711 (a44045) was issued on January 25, 2019. (Petition ¶¶ 21-22.)

However, ECHO did not obtain the Water Right until February 11, 2019, nearly two weeks after the state engineer concluded his proceedings, and months after the deadline to timely

file a protest. (Ex. A.) Instead, on September 10, 2018, and continuing through February 11, 2019, Water Right 57-8947 was owned by Nelson R. Mather (“**Mr. Mather**”). As set forth in paragraph 8 of the Complaint, Mr. Mather did not file a protest with the State Engineer. Thus, neither Mr. Mather, nor any subsequent owner of Water Right 57-8947, has standing to appeal based on the ownership of the Water Right.

Nevertheless, in a clear attempt to circumvent Mr. Mather’s lack of standing to appeal, on February 11, 2019 (approximately 14 days before ECHO filed this action), Mr. Mathers deeded his interest in Water Right 57-8947 to ECHO. Clearly, if Mr. Mathers lacks standing to appeal based on a failure to exhaust administrative remedies, then a subsequent owner, such as ECHO, cannot have exhausted its administrative remedies relative the Water Right.

In summary, because Mr. Mathers lacked standing to appeal based on his ownership of Water Right 57-8947, the conveyance of Water Right 57-8947 to ECHO on February 11, 2019 does not create standing for ECHO to seek judicial review.

II. ECHO LACKS GENERAL STANDING TO SEEK JUDICIAL REVIEW OF THE STATE ENGINEER’S ADMINISTRATIVE ACTION.

A. ECHO lacks standing because it is not a “person aggrieved by an order of the state engineer.”

To obtain judicial review of a determination by the state engineer on a change application, a petitioner must be “[a] person aggrieved by an order of the state engineer.” Utah Code Ann. § 73-3-14(1)(a). *See Haik v. Jones*, 427 P.3d 1155, 1159 (Utah 2018). *See also Washington County Water Conservancy Dist. v. Morgan*, 82 P.3d 1125, 1128 (Utah 2003). This means the petitioner must be able to show “particularized injury.” *Id.* at 1130. In the context of judicial review of the state engineer, the Utah Supreme Court held the following:

We have recognized that 'the first and most widely employed standard' for establishing standing 'requires a plaintiff to show some distinct and palpable injury that gives rise to a personal stake in the outcome of the dispute.' This requirement that a plaintiff demonstrate such 'particularized' injury is part of the 'traditional' test for standing." *Id.* ¶ 20 (citations omitted). The traditional standing requirement is generally justified on grounds that in the absence of a requirement that a plaintiff have a 'personal stake in the outcome' or a 'particularized injury,' the courts might permit themselves to be drawn into disputes that are not fit for judicial resolution or amount to 'generalized grievances that are more appropriately directed to the legislative and executive branches of the state government.' *Soc'y of Prof'l Journalists, Utah Chapter v. Bullock*, 743 P.2d 1166, 1170 (Utah 1987) (citation omitted).

Haik v. Jones, 427 P.3d 1155, 1159 (Utah 2018).

ECHO cannot meet this standard. Except for its purported ownership of the Water Right, which as set forth above cannot serve to establish standing, ECHO asserts no facts to support a claim for particularized injury. Since ECHO did not own the Water Right, and alleges no other factual basis to support standing, it cannot have sustained any injury, let alone a "particularized injury" which would make it a "person aggrieved by the order of the state engineer."

ECHO can suffer no "distinct and palpable that gives rise to a personal stake in the outcome of the dispute." The jurisprudence of the Utah appellate courts demonstrates that those with a far greater interest than ECHO possesses have been found to lack standing. For instance, ECHO has far less of an interest than the petitioner in *Haik*, who was found to lack standing. In *Haik*, the petitioner owned land in the watershed and was worried that appropriations to others would deprive it of the ability to obtain water that would allow him to develop his land. *Haik v. Jones*, 427 P.3d 1155 (Utah 2018).

Haik contends that "[he] is a landowner in the valley" and that this "suffices for recognizing him as an aggrieved person." Haik cites *Utah Alunite Corp. v. Jones*, 2016 UT App 11, 366 P.3d 901, for this proposition. In that case, the court concluded that appellants were aggrieved because they were granted a water right

"subject to the [Water] District's senior right." *Id.* ¶¶ 4, 9 (alteration in original). Appellants there challenged that senior right. *Id.* ¶ 4. The State Engineer's decision that appellants' rights were junior caused appellants to suffer an "actual or potential injury" resulting from the State Engineer's decision." *Id.* ¶ 7 (citation omitted). Thus, they were aggrieved.

There is no similar contention here. Unlike the appellants in *Utah Alunite Corp.*, the change application here does not impact Haik in any direct or particularized way. Haik merely claims that he, like many others, "is a landowner in the valley from which the water is to be appropriated...." In other words, Haik argues that because he receives (or wants to receive) water from the City, he has an interest in how the City manages that water and standing to challenge the City's decision. Haik's injury could hardly be "particularized" if any person who receives water from the City could assert it.

Haik also appears to argue that approval of this change application appropriated water that could have been his. Haik claims that "[i]f wrongful municipal appropriation is followed by unconstitutional alienation back to selected or favored private parties, then the public trust is injured and wrongful displacement of waters that would otherwise be available to serve private residences occurs, directly harming Haik."

Haik v. Jones, 427 P.3d 1155, 1159 (Utah 2018).

Haik lacked standing. ECHO has not, and cannot allege, that at the time of the administrative proceeding it had any junior or senior water right that would be affected by the Change Applications.

In *Washington County Water Conservancy Dist. v. Morgan*, 82 P.3d 1125 (Utah 2003), the petitioner was a water conservancy district statutorily "charged to serve the public interest," with the power to "appropriate and otherwise acquire water rights" and "exercise the power of eminent domain." *Id.* at 1129. The statutory power of that entity was insufficient to give it standing to seek judicial review of the state engineer.

ECHO lacks any semblance of interest in the administrative determination made by the state engineer. It is the type of party which the Court in *Haik*, cautioned against allowing to

invoke the jurisdiction of the courts lest they “be drawn into disputes that are not fit for judicial resolution or amount to `generalized grievances that are more appropriately directed to the legislative and executive branches of the state government.’ *Soc’y of Prof’l Journalists, Utah Chapter v. Bullock*, 743 P.2d 1166, 1170 (Utah 1987) (citation omitted).” *Haik v. Jones*, 427 P.3d 1155, 1159 (Utah 2018).

In summary, ECHO has no distinct and palpable injury that gives rise to a personal stake in the outcome of the dispute, and therefore ECHO lacks standing.

B. ECHO lacks “public interest” standing.

Given ECHO’s clear lack of traditional standing, ECHO is likely to assert that it qualifies for an exception to the traditional standing rule, under what is referred to as “public interest standing.” A party can acquire standing to litigate an “important public issue if ‘no one else has a greater interest in the outcome[,] the issues are unlikely to be raised at all unless that particular plaintiff has standing to raise the issues,’ and the legal issues are sufficiently crystallized to be subject to judicial resolution.” *Washington County Water Conservancy Dist. v. Morgan*, 82 P.3d 1125, 1132–33 (Utah 2003).

Evaluation of the first and second criteria readily demonstrate that ECHO cannot satisfy the test for public interest standing. The allegations of its Petition show that residents of Emigration Canyon protested the Change Applications. (Petition, ¶ 8.) As such, ECHO cannot reasonably contend that “no one else has a greater interest in the outcome.” Similarly, given that others protested the Change Applications, ECHO cannot fairly claim that “the issues are unlikely to be raised at all” unless ECHO raises them. Again, ECHO has alleged that others protested the Change Applications. (Petition, ¶ 8.)

"Utah law ... allows parties to gain standing if they can show that they are an appropriate party raising issues of significant public importance." *Gregory v. Shurtleff*, 2013 UT 18, ¶ 18, 299 P.3d 1098 (omission in original) (citation omitted). As explained in *Haik*, the test to determine whether a party has public interest standing "breaks down to two elements. *Id.* ¶ 28 (citation omitted). First, the issue must be of "significant public importance. *Id.* ¶¶ 27-28 (citation omitted). Second, the party invoking public interest standing must also be 'an appropriate party.' *Id.* ¶ 28 (citation omitted)." *Haik v. Jones*, 427 P.3d 1155, 1160 (Utah 2018).

Even if the issue raised was one of "such great importance that [it] ought to be decided in furtherance of the public interest," it is clear the ECHO is not "an appropriate party." It is not a representative organization. ECHO is not a charitable environmental organization like the Nature Conservancy. It is not a homeowner's association like the Emigration Oaks Property Owners Association. It is not a Water Conservancy District such as the Petitioner in *Washington County Water Conservancy Dist. v. Morgan*, 82 P.3d 1125 (Utah 2003). Despite the implication of the name, ECHO is merely an assumed name -- adopted by a single individual, Mark Christopher Tracy. (Petition, ¶ 1.) Mr. Tracy has no better grounds for standing than ECHO.

In summary, neither ECHO nor Mr. Tracy are "an appropriate party" for purposes of public interest standing.

CONCLUSION

The Court should dismiss the Petition because ECHO lacks standing to appeal the state engineer's approval of the Change Applications.

DATED this 3rd day of April, 2019.

COHNE KINGHORN

/s/ *Jeremy R. Cook*

William G. Garbina

Jeremy R. Cook

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of April 2019, a true and correct copy of the foregoing document was served by the CMECF system which will send notice of filing to counsel of record:

Scot A. Boyd
Stephen D. Kelson
Bryson R. Brown
CHRISTENSEN and JENSEN
257 East 200 South, Suite 1100
Salt Lake City, Utah 84111
scot.boyd@chrisjen.com
stephen.kelson@chrisjen.com
bryson.brown@chrisjen.com
Attorneys for ECHO

/s/ Janelle Dannenmueller

EXHIBIT

A

Jeremy R. Cook (10325)
William G. Garbina (13960)
COHNE KINGHORN, P.C.
111 E. Broadway, Suite 1100
Salt Lake City, UT 84111
Telephone: (801) 363-4300
Facsimile: (801) 363-4378
Email: jcook@cohnekinghorn.com
wgarbina@cohnekinghorn.com
Attorneys for Emigration Improvement District

**IN THE THIRD DISTRICT COURT
IN AND FOR THE STATE OF UTAH**

EMIGRATION CANYON HOME OWNERS
ASSOCIATION, a Utah Corporation,

Petitioner,

vs.

KENT L. JONES, Division Director of the
Utah State Division of Water Rights, and
EMIGRATION IMPROVEMENT
DISTRICT, a special service district of the
state of Utah,

Respondents.

**DECLARATION OF
JEREMY R. COOK**

Case No. 190901675

Judge: Su Chon

Jeremy R. Cook hereby declares and states as follows:

1. I am over the age of eighteen and competent to testify as to the matters set forth herein.
2. I am counsel for respondent Emigration Improvement District in this matter.
3. I routinely review water right information and related documents on the webpage to the Utah Division of Water Rights.

4. On April 1, 2019, I downloaded a copy of the Report of Water Right Conveyance (the "ROC") for Water Right 57-8947, Receipt No. 19-00770, from the webpage of the Utah Division of Water Rights located at <https://www.waterrights.utah.gov/>.

5. A true and correct copy of the ROC is attached hereto as Exhibit 1.

6. The ROC includes a Quitclaim Deed, dated February 11, 2019, purportedly conveying Water Right 57-8947 from Nelson R. Mather to Emigration Canyon Home Owners Association.

I declare under criminal penalty of the State of Utah that the foregoing is true and correct as to the best of my knowledge.

DATED this 3rd day of April, 2019.

/s/ Jeremy R. Cook

Jeremy R. Cook

Exhibit 1

Report of Water Right Conveyance

REPORT OF WATER RIGHT CONVEYANCE

\$40 Fee Rec'd by ck # 569 UP
Receipt # 19-00770

USE THIS CONVEYANCE REPORT FORM WHEN 100% OF THE WATER RIGHT IS CONVEYED.

WATER RIGHT # 57-8947

SECTION A. CONVEYANCE SUMMARY

If no water right number is mentioned on deed, is a map attached? Yes No

- Assignment Warranty Deed Quitclaim Deed Sheriff's Deed Trustee's Deed Water Deed Trust Deed
Other : _____
- Date Signed 02 / 11 / 2019 Date Recorded 02 / 21 / 2019
Book 10754 Page # 6355-6357 Entry # 12938014
- Grantor Nelson R. Mather
- Grantee(s) Emigration Canyon Home Owners Association
- Mailing Address : c/o Scot Boyd, Christensen & Jensen P.C. 257 E. 200 S. #1100, SLC, UT 84111
- E-mail Address (to be notified of ownership updates) : m.tracy@echo-association.com
- Special Conditions/Information of Conveyance _____

If no water right number is mentioned on deed, is a map attached? Yes No

- Assignment Warranty Deed Quitclaim Deed Sheriff's Deed Trustee's Deed Water Deed Trust Deed
Other : _____
- Date Signed ___ / ___ / ___ Date Recorded ___ / ___ / ___
Book _____ Page # _____ Entry # _____
- Grantor _____
- Grantee(s) _____
- Mailing Address : _____
- E-mail Address (to be notified of ownership updates) : _____
- Special Conditions/Information of Conveyance _____

If no water right number is mentioned on deed, is a map attached? Yes No

- Assignment Warranty Deed Quitclaim Deed Sheriff's Deed Trustee's Deed Water Deed Trust Deed
Other : _____
- Date Signed ___ / ___ / ___ Date Recorded ___ / ___ / ___
Book _____ Page # _____ Entry # _____
- Grantor _____
- Grantee(s) _____
- Mailing Address : _____
- E-mail Address (to be notified of ownership updates) : _____
- Special Conditions/Information of Conveyance _____

RECEIVED

FEB 21 2019

WATER RIGHTS
SALT LAKE **LP**

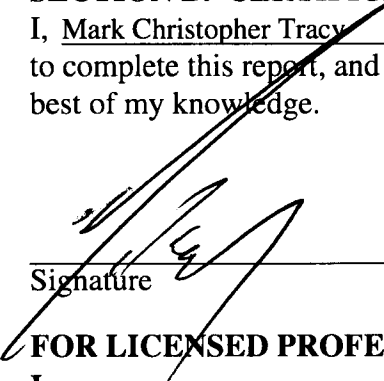
SCANNED RC

REPORT OF WATER RIGHT CONVEYANCE

WATER RIGHT # 57-8947

SECTION B. CERTIFICATION

I, Mark Christopher Tracy, certify that I am authorized by Administrative Rule R655-3-7 to complete this report, and that the information contained herein or attached hereto is true and accurate to the best of my knowledge.

| | | |
|---|---------------------------|--------------------------------|
|  Signature | <u>02/21/2019</u> Date | <u>929-208-6010</u> Phone # |
|---|---------------------------|--------------------------------|

FOR LICENSED PROFESSIONALS ONLY

I, _____, certify that I am licensed as _____ in the State of Utah, that my license number is _____, that I was retained by an owner of the water right to prepare or supervise the preparation of the Report of Conveyance; that the report is true and accurate to the best of the preparer's knowledge; that an appropriate search of County Records records has been made and that the attached documents evidence the ownership interest of the grantee.

| | | |
|-----------|------|---------|
| Signature | Date | Phone # |
| Address: | | |

This report is not a title opinion based on the title search made. It does not warrant or guarantee title to water rights. This report was prepared for the purpose of updating records of the Division of Water Rights.

SECTION C. DIVISION OF WATER RIGHTS - FOR OFFICIAL USE ONLY

| | | |
|--|------------------------------|--------------------|
| Received: _____ / _____ / _____ | Filed: _____ / _____ / _____ | Reviewed By: _____ |
| Database Changed: _____ / _____ / _____ | By: _____ | |
| File Changed: _____ / _____ / _____ | By: _____ | |
| New File Number based on Segregation _____ | | |
| Remarks: _____ | | |

AMOUNT OF WATER RIGHT RETAINED _____

RECEIVED
 FEB 21 2019
 WATER RIGHTS
 SALT LAKE

No agency of the State of Utah warrants or guarantees title to certain water rights. The water right ownership information of record in the Division of Water Rights concerning this water is based on the information which has been submitted by this Report of Water Right Conveyance.

SCANNED RC
REPORT OF WATER RIGHT CONVEYANCE

3

Prepared By:
Nelson R. Mather

12938014
02/21/2019 03:30 PM \$14.00
Book - 10754 Pg - 6355-6357
RASHELLE HOBBS
RECORDER, SALT LAKE COUNTY, UTAH
CHRISTENSEN & JENSEN PC
257 E 200 S #1100
SLC UT 84111
BY: DCP, DEPUTY - WI 3 P.

After Recording Return To:
Christensen & Jensen P.C., 257 E 200 S #1100 |
Salt Lake City, Utah 84111

SPACE ABOVE THIS LINE FOR RECORDER'S USE

QUITCLAIM DEED

On November 08, 2018 THE GRANTOR(S),

- Nelson R. Mather, a single person,

for and in consideration of: One Dollar (\$1.00) and/or other good and valuable consideration conveys, releases and quitclaims to the GRANTEE(S):

- Emigration Canyon Home Owners Association, Mark Christopher Tracy, President residing at c/o Christensen & Jensen P.C., 257 E 200 S #1100, Salt Lake City, _____ County, Utah 84111

the following described real estate, situated in an unincorporated area in the County of Salt Lake, State of Utah

Legal Description:

Water Right #57-8947 (a16183)

Grantor does hereby convey, release and quitclaim all of the Grantor's rights, title, and interest in and to the above described property and premises to the Grantee(s), and to the Grantee(s) heirs and assigns forever, so that neither Grantor(s) nor Grantor's heirs, legal representatives or assigns shall have, claim or demand any right or title to the property, premises, or appurtenances, or any part thereof.

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WATER RIGHTS
SALT LAKE

SCANNED RC Page 1 of 3

Tax Parcel Number: N/A

Mail Tax Statements To:
Emigration Canyon Home Owners Association
Christensen & Jensen P.C., 257 E 200 S #1100
Salt Lake City, Utah 84111

[SIGNATURE PAGE FOLLOWS]

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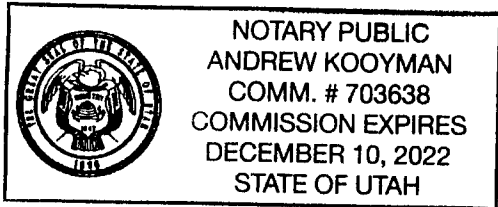
Grantor Signatures:

DATED: 2/11/19

[Signature]

Nelson R. Mather
5328 Emigration Canyon
Salt Lake City, Utah, 84108

STATE OF UTAH, COUNTY OF SALT LAKE, ss:



A. Beer
Notary Public

NOTARY PUBLIC
Title (and Rank)

My commission expires 12/10/2022

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WATER RIGHTS
SALT LAKE