



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

Amanda Smith  
*Executive Director*

DIVISION OF DRINKING WATER  
Kenneth H. Bousfield, P.E.  
*Director*

**MEMORANDUM**

TO: Emigration Improvement District  
e-Docs, Construction Assistance file

FROM: Michael J. Grange, P.E.  
Construction Assistance Section Manager

DATE: January 20, 2015

SUBJECT: EPA OIG Investigation

On January 12, 2015 I received a phone call from Daniel Hawthorne of EPA's Office of Inspector General. Mr. Hawthorne explained that allegations had been made that Emigration Improvement District (System No. UTAH18143) had received federal financial assistance through the SRF program when it should not have. We spoke for several minutes regarding the system and I looked up some information in the CASPER database.

I requested that Mr. Hawthorne allow me to investigate further and e-mail him any information I found.

The accompanying documents are the e-mail exchanges between Mr. Hawthorne and me as well as the documentation I e-mailed him.

The final e-mail from Mr. Hawthorne indicates that OIG has determined that no additional investigation into these allegations is necessary.



Michael Grange &lt;mgrange@utah.gov&gt;

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## Emigration Improvement District - Utah DDW information

6 messages

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**Michael Grange** <mgrange@utah.gov>

Tue, Jan 13, 2015 at 11:57 AM

To: hawthorne.daniel@epa.gov

Cc: "Bousfield, Ken" &lt;kbousfield@utah.gov&gt;, "Pett, Sandy" &lt;spett@utah.gov&gt;

Mr. Hawthorne,

I have attached a document that includes screenshots of DDW's SRF project database that provide basic information about SRF activities related to the Emigration Improvement District (EID).

I have also attached a copy of the authorization letter for the 2012/2013 loan to EID that shows this funding did not originate with the Federal SRF program, rather from the Utah Department of Natural Resources/Division of Water Resources. At this point I have no documentation for the 2006 loan you mentioned yesterday.

The SRF history document also contains some language regarding DDW's Single Audit procedure prepared by our staff accountant Sandy Pett. My recollection of the process was not entirely accurate.

During our discussion yesterday you provided loan dates of 2000, 2002, 2006 and 2013. After our conversation I dug deeper into the database and found the following:

1 - The Utah Drinking Water Board authorized a loan of \$1.256 million to EID in 2000. That loan was not closed until 2002 and for an amount different than originally authorized. Based on this information, I believe that the 2000 and 2002 dates you gave me are for the same loan. It appears there were some construction and other issues related to this project. The database and documents that were readily available did not contain enough information to determine the entire outcome of these issues. There may be additional information in the archived files.

2 - There are no records of funding applications received from or loans authorized to EID after 2002 in DDW's SRF project database.

Additionally, I was reminded that DDW fulfilled a GRAMA (Government Records Access and Management Act, Utah's state version of FOIA) request for information sometime in August 2014. The information request involved documents related to SRF loans to EID. The SRF files for EID take up one and one-half file boxes, so they are quite extensive.

I will request the archived files be returned to DDW. The files should be here within 3-4 days. In the mean time, if you could perhaps provide a more detailed description of the information/documents you need to see it would make things simpler for staff to comply with your request.

Please let me know if you have additional questions or comments.

Regards,  
Michael

*Michael J. Grange, P.E.*

Construction Assistance Section Manager

Utah Division of Drinking Water

Phone: (801)536-0069

Fax: (801)536-4211

Web: [www.drinkingwater.utah.gov](http://www.drinkingwater.utah.gov)

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**2 attachments****Emigration Improvement District - Water Resources loan 2012.pdf**

610K

**Emigration Improvement District SRF History.docx**

798K

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**Hawthorne, Daniel** <Hawthorne.Daniel@epa.gov>  
To: Michael Grange <mgrange@utah.gov>

Tue, Jan 13, 2015 at 1:40 PM

Hi Michael,

Thank you for doing that research. To clarify, it appears the \$1.256 million loan in 2000 (amount later adjusted) was from the federal SRF program. Any other monies were unrelated to the feds.

Is that correct?

I plan to be in SLC next week anyway for a meeting at the US Attorney's Office so if you have time, I would love to pour through those documents you requested (and were previously sought after under a GRAMA request) to either corroborate the allegations received or refute them in so far as the federal government side of the house.

Would that work for you?

I plan to be in SLC the 20-22.

Thanks.

Daniel T. Hawthorne, CFE

Resident Agent in Charge

Denver Post of Duty

United States Environmental Protection Agency

Office of Inspector General

Office of Investigations

1595 Wynkoop Street, 4th Floor (OIG)

Denver, CO 80202

(303) 312-6815 [OFFICE]

(303) 312-7088 [FAX]

**From:** Michael Grange [mailto:mgrange@utah.gov]

**Sent:** Tuesday, January 13, 2015 11:57 AM

**To:** Hawthorne, Daniel

**Cc:** Bousfield, Ken; Pett, Sandy

**Subject:** Emigration Improvement District - Utah DDW information

[Quoted text hidden]

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**Michael Grange** <mgrange@utah.gov>  
To: "Hawthorne, Daniel" <Hawthorne.Daniel@epa.gov>  
Cc: "Bousfield, Ken" <kbousfield@utah.gov>

Tue, Jan 13, 2015 at 3:55 PM

Good Afternoon Daniel,

*"To clarify, it appears the \$1.256 million loan in 2000 (amount later adjusted) was from the federal SRF program. Any other monies were unrelated to the feds."*

Based on the research I have done, yes, that is a correct statement.

I have asked that the archived project files be ready for you next week. I am available all day either Jan 20th or 21st. However, neither Ken Bousfield (our Division Director) nor I will be in the office on Jan 22. Ken is a presenter at a Water/Energy Summit sponsored by DDW and the Rural Water Association of Utah and I am giving a presentation at the Utah City Engineers Association Conference in St. George, Utah. In addition, many of our staff engineers will also be out of the office that day for the Water/Energy Summit. You are, of course, welcome to come on Jan 22 if that is what fits your schedule, I just wanted to make you aware there may not be anyone in the office that day to answer questions you may have.

Regards,  
Michael

*Michael J. Grange, P.E.*

Construction Assistance Section Manager

Utah Division of Drinking Water

Phone: (801)536-0069

Fax: (801)536-4211

Web: [www.drinkingwater.utah.gov](http://www.drinkingwater.utah.gov)

[Quoted text hidden]

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**Hawthorne, Daniel** <Hawthorne.Daniel@epa.gov>  
To: Michael Grange <mgrange@utah.gov>

Tue, Jan 13, 2015 at 4:01 PM

Thank you, sir. I will keep you posted on next week.

Daniel T. Hawthorne, CFE  
Resident Agent in Charge  
Denver Post of Duty  
United States Environmental Protection Agency  
Office of Inspector General  
Office of Investigations  
1595 Wynkoop Street, 4th Floor (OIG)  
Denver, CO 80202  
(303) 312-6815 [OFFICE]  
(303) 312-7088 [FAX]

**From:** Michael Grange [mailto:[mgrange@utah.gov](mailto:mgrange@utah.gov)]  
**Sent:** Tuesday, January 13, 2015 3:56 PM  
**To:** Hawthorne, Daniel  
**Cc:** Bousfield, Ken  
**Subject:** Re: Emigration Improvement District - Utah DDW information

[Quoted text hidden]

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**Hawthorne, Daniel** <[Hawthorne.Daniel@epa.gov](mailto:Hawthorne.Daniel@epa.gov)>  
To: Michael Grange <[mgrange@utah.gov](mailto:mgrange@utah.gov)>

Tue, Jan 20, 2015 at 6:46 AM

The powers above me have made the decision that based on the information provided by you and your office, we will not need to look any deeper into the allegations received.

Thank you for your time, your assistance and your patience as I worked through this issue.

Daniel T. Hawthorne, CFE  
Resident Agent in Charge  
Denver Post of Duty  
United States Environmental Protection Agency

Office of Inspector General

Office of Investigations

1595 Wynkoop Street, 4th Floor (OIG)

Denver, CO 80202

(303) 312-6815 [OFFICE]

(303) 312-7088 [FAX]

**From:** Michael Grange [mailto:[mgrange@utah.gov](mailto:mgrange@utah.gov)]

**Sent:** Tuesday, January 13, 2015 3:56 PM

**To:** Hawthorne, Daniel

**Cc:** Bousfield, Ken

**Subject:** Re: Emigration Improvement District - Utah DDW information

[Quoted text hidden]

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**Michael Grange** <[mgrange@utah.gov](mailto:mgrange@utah.gov)>  
To: "Hawthorne, Daniel" <[Hawthorne.Daniel@epa.gov](mailto:Hawthorne.Daniel@epa.gov)>

Tue, Jan 20, 2015 at 9:05 AM

Good Morning Daniel,

Thank you. I am glad we were able to provide appropriate and relevant information.

Regards,  
Michael

*Michael J. Grange, P.E.*

Construction Assistance Section Manager

Utah Division of Drinking Water

Phone: (801)536-0069

Fax: (801)536-4211

Web: [www.drinkingwater.utah.gov](http://www.drinkingwater.utah.gov)

[Quoted text hidden]

State loan, authorized in January 1995, loan de-authorized by the Drinking Water Board in December 1995. No loan funds expended.

Main Switchboard Financial Assistance Switchboard frmFA\_SRF\_Main

### State SRF Applications

By Engineer: [dropdown]  Historical Report **LoanNumber33209**  
 Status Report

SystemName: **EMIGRATION IMPROVEMENT DISTRICT**  
System#: 18143 County: Salt Lake Population: 600  
*If Applicant Name Does NOT Appear in the Above List, Enter Info Below:*  
ApplicantName: **Emigration ID**

Project Description: [text area]  
AssistanceType: **Loan @ 0.62%, 25 yrs**  
**status (Req'd): Dead - Deauthorized by Board** [dropdown]  
Status Comments: [text area]  
DDW Engineer: **Peterson** [dropdown]

Detailed Notes:  Network Folder (Financial Assistance) [icon]

Date	By	Note
9/1/2006	Rich	deauthorized 12/6/95: Loan Amount \$1,425,000

Record: 1 of 1 No Filter Search

General Info  Contact Info   Loan Closing Checklist

<b>Dates</b>	<b>Funding</b>	Prior Planning Loan: [text area]
Date Received: 1/26/1995	Project Cost: \$3,599,000	SysContribution: [text area]
Date Evaluated: [text area]	Loan Amount: \$1,425,000	MAGI: [text area]
Date Authorized: 1/26/1995	Grant Amount: [text area]	Monthly Rate: [text area]
Date Closed: [text area]	LoanPercent: 0.62	Percent MAGI: [text area]
<b>Loan Closing Note: deauthorized 12/6/95</b>	Loan Yrs: 25	Escrow#: [text area]
<input type="checkbox"/> Other Agency Funding?		Date Bond Transcripts Received: [text area]

[Sandy's Escrow Tracking Spreadsheet](#)

Record: 1 of 1 Filtered Search

Federal loan, authorized in September 2000, loan closed in December 2002, original authorized loan amount \$1.256 million, later amended (see attached SRF Notes page)

Main Switchboard | Financial Assistance Switchboard | **FSRF Main Form**

**Federal SRF Program**

Pick Active Project

Pick Closed Project

By System Name

By Loan Number

**System Name:** **EMIGRATION IMPROVEMENT DISTRICT**

System Number: 18143    County: Salt Lake    Population: 600

*If System NOT in SDWIS List, Enter Info:*    Applicant Name:

Applicant County:

Type of Project:     **DDW Engineer**    Macauley

Project: 1MG Reservoir, PS, Transmission/Distrib Piping

Project Status: Project Fully Closed

Status Comments: (Keep accurate and current)

1st Round Federal SRF     2nd Round Federal SRF     HGA Fund     State SRF

Detailed Notes:    Preview Notes

5/3/2005	YYM	project closed out All money was disbursed. All project components have received operat
Today	<input type="checkbox"/>	
1/1/1900	Unknown	On October 13, 2000 the DWB authorized a lo of \$1,256,000 to Emigration Improvement Dist requests have amended the loan 3 times incl
Today	<input type="checkbox"/>	

Record: 1 of 2    No Filter    Search

General | **Contacts** | Loan Closing

<b>Dates</b>	Date Received	9/20/2000	<b>Funding</b>	Grant Amount	\$0
	Date Evaluated			Loan Amount	\$1,400,000
	Date Authorized	10/13/2000		Interest Rate	1.01%
	Date Closed	12/5/2002		Term	20

Anticipated Loan Closing Notes

1. Application Review and DWB Authorization

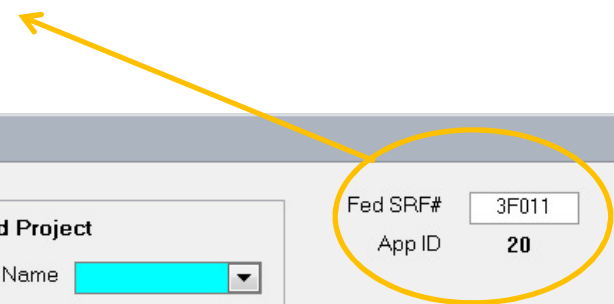
Budget Details

View/Create Network Folder    [Browse Entire FSRF Project Folder](#)

Record: 1 of 1    Filtered    Search



This is a continuation of the previous screen shot to identify the project's Utah FSRF loan number, 3F011.



Main Switchboard | Financial Assistance Switchboard | **FSRF Main Form**

**Program**

Pick Active Project

Pick Closed Project

By System Name

By Loan Number

Fed SRF# 3F011  
App ID 20

EMIGRATION IMPROVEMENT DISTRICT

County: Salt Lake Population: 600

Applicant Name:

Applicant County:

DDW Engineer Macauley

Project Fully Closed

(Keep accurate and current)

2nd Round Federal SRF  HGA Fund  State SRF

Detailed Notes: [Preview Notes](#)

5/3/2005	YYM	project closed out All money was disbursed. All project components have received operating permits.
Today	<input type="checkbox"/>	
1/1/1900	Unknown	On October 13, 2000 the DWB authorized a loan in the amount of \$1,256,000 to Emigration Improvement District. Subsequent requests have amended the loan 3 times including an increase
Today	<input type="checkbox"/>	

Record: 2 of 2 | No Filter | Search

Received 9/20/2000

Evaluated

Authorized 10/13/2000

Closed 12/5/2002

g Notes

**Funding**

Grant Amount \$0

Loan Amount \$1,400,000

Interest Rate 1.01%

Term 20

Budget Details

1. Application Review and DWB Authorization

Folder [Browse Entire FSRF Project Folder](#)

## FedSRF General Notes

### EMIGRATION IMP

Date Authorized: 10/13/2000

Loan Number: 3F011

Date	By	Note
5/3/2005	YYM	project closed out All money was disbursed. All project components have received operating permits.
1/1/1900	Unknown	<p>On <u>October 13, 2000</u> the DWB authorized a loan in the amount of <u>\$1,256,000</u> to Emigration Improvement District. Subsequent requests have amended the loan 3 times including an increase in the loan amount to \$1,846,000 for a period of 20 years with an annual total rate of 2.01%.</p> <p>The District constructed an 8 inch waterline across Burr Fork Creek before the Environmental Review process had been completed. The board took action by removing their eligibility for participation in Federal/State loan funds. The amount of funding will be reduced to include the cost of constructing the crossing, plus engineering and related expenses. The District will not construct any other facilities until Environmental Review has been completed and project is cleared for construction with a plan approval.</p> <p>EA and FONSI completed and published 08/05/2002.</p> <p>On 09/23/03 the final inspection was completed. Pumphouse and waterline appear to have been constructed according to plan and compliance with Drinking Water Rules.</p>

The following was prepared by Sandy Pett, Utah DDW Staff Account:

Procedures for single audit oversight are as follows:

1. Send a letter to subrecipient at closing.
2. Send a reminder letter to subrecipient at the end of their annual fiscal year. Attach a copy of my spreadsheet and include the CFDA #66.468 and grant award #'s.
3. An excel spreadsheet tracks the subrecipients noting federal amounts disbursed, subrecipients and notes discussed with subrecipient's auditors.
4. Semi Annually check the Utah State Auditors website (or the harvester website) to find copies of the single audit. It is requested in the letters that the subrecipient send a copy of the single audit to DDW. However, if a copy is not received, it helps to look on the websites prior to initiating contact as many times a copy of the audit is found on the web. If a copy is still not found DDW attempts to contact the subrecipient with a phone call. If a phone call does not resolve the problem, a letter will follow.
5. Review the single audit report. Check for findings listed, review amounts noted and compare with amounts on our records, review other identifiable items.
6. If noteworthy findings or discrepancies are discerned, a letter is sent to the subrecipient to correct the audit and resubmit or correct the findings by the next years audit report. Compilation of the letter is discussed with the project manager and signed by the Assistant Executive Secretary.

These procedures have been evolving over the past 5 or 6 years. Items 2, 4 and 6 were added approximately 2009, 2009 & 2012, respectively.

18143



GARY R. HERBERT  
Governor  
GREG BELL  
Lieutenant Governor

State of Utah  
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

Division of Water Resources  
DENNIS J. STRONG  
Division Director

October 22, 2012

RECEIVED  
OCT 23 2012  
Drinking Water

Fred Smolka, General Manager  
Emigration Improvement District  
4990 Trails End Way  
Salt Lake City, UT 84108

Re: Conditions for Emigration Improvement District Loan No. L573

Mr. Smolka:

On October 11, 2012 the Board of Water Resources (Board) authorized a loan of \$2,326,000 to Emigration Improvement District (Sponsor) for the construction of drinking water system improvements (Project). The loan from the Board will be secured by a non-voted revenue bond (Bond) issued by the Sponsor. The Sponsor shall repay the principal amount in no more than 30 annual payments, with the annual interest rate of 0%. The Board will require annual payments on the bond as indicated on the attached repayment schedule.

The Bond may be prepaid, in whole or in part, at any time in minimum amounts of \$1,000 or any integral multiple thereof, with the prepayments applied against the Bond principal in inverse order of maturities.

Based upon the information presented to the Board, the following sources of funding will be available for construction of the Project:

<u>Agency</u>	<u>Cost Sharing</u>	<u>% of Total</u>
Board of Water Resources	\$2,326,000	85%
Sponsor	<u>411,000</u>	<u>15</u>
TOTAL	\$2,737,000	100%

As a condition to the purchase of the Bond by the Board, the Sponsor must make arrangements for all other Project funds to be available for deposit into the escrow account described below at the time the Board delivers funds unless other acceptable arrangements have been previously made. If any funds remain in the escrow account upon completion of the Project, the remaining funds shall be returned to the depositors on a pro rata basis. Funds returned to lending agencies shall be applied as a payment of Bond principal in inverse order of maturity.

Because of the demand on the Board's Loan Programs, this loan was authorized subject to the availability of funds. When the requirements listed herein have been met, the Board will commit funds for the Project subject to funds being available at that time. If the project is not ready for committal of funds in 18 months or less, the Board may withdraw the funds or reconsider the authorization with possibly different terms.



The Bond documents must contain the following provisions:

1. The Bond will be issued initially in the form of a single, fully-registered bond in the amount of \$2,326,000. However, provision should be made which would allow the Bond to be exchanged for separate serial bonds in minimum denominations of \$1,000. The Bond resolution should provide for incremental advances of the loan principal by the Board.
2. The Bond must be secured by a pledge by the Sponsor of 100% of the net revenue produced by the Sponsor's water system, and the Sponsor will be required to warrant and demonstrate that those net revenues are adequate to satisfy the total annual debt service requirements on the Bond and any other obligations secured by a pledge of those revenues.
3. The Sponsor will be required to establish and maintain a debt service reserve fund in an amount equal to the maximum annual debt service on the Bond exclusive of the final payment. The amount required must be contributed to that fund in no more than 120 monthly payments.
4. Interest, if any, on the Bond must be tax-exempt, and delivery of the Bond must be accompanied by an opinion of recognized bond counsel that the interest is not subject to state or federal income taxes.
5. If the Sponsor has previously issued bonds or other obligations secured by a pledge of water system revenues, the Bond to be purchased by the Board should be issued on parity with those prior bonds or obligations with respect to the revenue pledge. If it is not possible for the Bond to be issued on a parity basis, the Sponsor should contact Shalaine DeBernardi immediately (801-538-7255).

As Sponsor of this Project, you will need to complete the following items before the Board will purchase your bond:

1. The Board has retained William L. Prater to review all proceedings and documents relating to the sale of bonds to the Board. His address is: 6925 Union Park Center, Suite 265, P.O. Box 71368, Salt Lake City, Utah 84171, Attention: Board of Water Resources Counsel. His telephone number is 801-566-8882. The Sponsor's bond counsel should submit the following items to Mr. Prater ("Board Counsel") at the times indicated below:
  - a. No later than one week prior to the meeting at which the Sponsor intends to adopt its Resolution for the issuance of the bonds, a complete copy of the proposed Resolution shall be submitted for review.
  - b. No later than two weeks after the adoption of the Resolution, the following items shall be submitted:
    - (1) A true and complete photocopy of the Resolution as adopted, showing signatures of the appropriate officials of the Sponsor on the Resolution

and on the Notice of Meeting, Acknowledgment of Notice and Consent, Certificate of Publication, Open Meeting Certificate, and other similar documents relating to the Resolution.

- (2) A complete copy of the proposed documents to be signed at Closing, including (but not necessarily limited to) General Certificate, Signature Identification and Non-Litigation Certificate, Receipt, Arbitrage Certificate (if required), Sponsor Attorney's Non-Litigation Certificate, Certificate of Clerk (or Recorder) as to contents of Bond Transcript File, Escrow Agreement, and the Bond Attorney's Opinion.

The procedures for the bond approval will be substantially the same as required by the Utah Municipal Bond Act as it applies to cities and towns. The opinion of the bond attorney must accompany delivery of the bonds to the Board before proceeds of the loan will be released.

At or after the Closing, the Sponsor will be billed by the Board Counsel and those legal fees must be paid by the Sponsor. This fee is an eligible project expenditure and can be reimbursed from the escrow account. If the Sponsor fails to close the loan after this authorization, it will nonetheless be billed for the actions taken by the Board Counsel prior to loan cancellation.

The Sponsor will be charged a fee of \$15,900 for investigation, development, and administration of the project by the Division of Water Resources (Division). This fee is calculated as a percentage of the Board loan. The sponsor will be billed at or after bond closing and can be paid from the escrow account.

2. Consistent with requirements of the law and the covenants of applicable bond resolutions, the actual payment of funds by the Board to the Sponsor will not take place until the Board has assurance the funds will be used for Project costs and the Project will actually be completed. To assure this, all monies to be expended on the Project shall be placed in an escrow account supervised by the Sponsor and the Division. A copy of the proposed escrow agreement shall be submitted to the Board Counsel for review.
3. At the time of the adoption of the bond resolution, the Sponsor shall have passed an ordinance or resolution establishing reasonable water use rates and collection enforcement remedies, taking into account many factors including the need to have sufficient revenue income for all outstanding water system debts, operation and maintenance costs, and any reserve funds. It will then be necessary to implement effective collection procedures. A copy of the rate ordinance and collection enforcement procedures shall be submitted to the Division and the Board Counsel for review.
4. The Sponsor's contract with its engineer should include the cost of developing the plans and specifications and inspecting construction. The contract should be submitted to the Division for review. This requirement is to assure the Board that adequate and appropriate arrangements will be made for designing the Project and inspecting construction within the guidelines set by the Board.

5. The Project engineer shall submit plans and specifications, bidding documents, and general conditions to the Division and the Division of Drinking Water for review prior to soliciting bids on the Project. The engineer should contact Marisa Egbert of my staff to arrange for the expeditious review of the plans and specifications. The Division's review of the plans and specifications, bidding documents, and general conditions is solely for the purpose of assuring that the Project to be constructed by the Sponsor is as represented in the Sponsor's application and that the Project meets the Board's lending criteria. Neither the Board, the Division, nor any employee or agent thereof shall have any duty to note any design or other defect relating to the Project, and none shall be liable for any loss, claim or damages with respect to the design, bidding, construction, maintenance or operation of the Project or any water system of which the Project is a part.
6. Rights-of-way and easements for construction, operation, and maintenance of the Project shall be acquired. The Sponsor, through its engineer, shall furnish its attorney a right-of-way map showing the location of all water sources, structures, pipelines, ditches, reservoirs, and other pertinent facilities, not only for the Project but for the Sponsor's entire water system. This map will be signed by the engineer and presiding officer of the Sponsor.
7. The Sponsor's attorney shall certify the following items in writing to the Board:
  - a. The Sponsor is a legal entity.
  - b. The Sponsor has valid legal title to the rights-of-way designated and shown on the right-of-way map, including rights-of-way for both the Project to be constructed and the remainder of the existing water system.
  - c. The Sponsor has established ownership of water rights or a legal right to use any and all water used in the system throughout the repayment period of the bond. Such rights should be summarized including associated water right numbers.
  - d. The bidding and contract documents for the construction of the Project have the proper and legal format and are in compliance with Utah Procurement Code (Title 63, Chapter 56, Section 20.6).
  - e. After the completed and executed construction contract, along with the performance and payment bonds and evidence of necessary insurance, has been reviewed by the Sponsor's attorney, the Sponsor's attorney shall certify that all of such items are legal and binding and in compliance with the Utah Code. A draft of the proposed legal opinion should be submitted by the attorney to the Division and Board Counsel as soon as possible. The final opinion must be dated as of the loan closing date.
8. The Sponsor must obtain and maintain continuously throughout the loan repayment period, a fidelity bond on the positions handling the Sponsor's funds, in the amount of \$160,000 on each position. The name of the insured on the position fidelity bond will be "Emigration Improvement District and the State of Utah acting through the Board of

Water Resources." A copy of this fidelity bond must be furnished to the Division and Board Counsel for review.

9. As a condition of the non-voted revenue bond, the Sponsor must give written notice to all water users in the Sponsor's service area, which notice shall inform such water users of the Sponsor's intent to issue non-voted revenue bonds to the Board and shall describe the face amount of the bond, the rate of interest, the repayment schedule, and the proposed water rates. Said notice shall state that water users should respond to the Sponsor in writing to said issuance within 15 days after the date of the notice. A copy of all written responses received by the Sponsor shall be forwarded to the Division. If the Board feels there is significant opposition to the proposed Project, it may require the Sponsor to hold a bond election to obtain the Board's funds.

The Sponsor shall also hold a public meeting to describe the Project and its need, cost, and effect on water rates. This shall be a separate meeting and not a part of the regular meeting of the governing body. A copy of the minutes of the meeting shall be forwarded to the Division.

10. The Sponsor will also be required to prepare a water management and conservation plan for its service area, and obtain approval of it from the Division.
11. The Sponsor will adopt an ordinance prohibiting pressurized irrigation of landscapes between the hours of 10:00 a.m. and 6:00 p.m.
12. The Sponsor will adopt a progressive water rate schedule.

In order to facilitate the timely closing of the loan, all required items should be submitted as specified in the numbered paragraphs above but no later than 30 days before the bond closing.

These requirements will probably not cover all matters pertaining to the Project. We anticipate that specific questions on matters relating to your Project will arise, and we are confident that a joint cooperative effort can resolve the issues.

If you have any questions concerning these requirements, please contact Shalaine DeBernardi (801-538-7255) or Marisa Egbert (801-538-7266).

Thank you,



Val J. Anderson, P.E.  
Chief of Investigations



Page 6

October 22, 2012

Subject: Emigration Improvement District L573

cc:	Stew Paulick	:	Board of Water Resources
	David Bradford	:	Clerk/Secretary
	Craig Neeley, P.E.	:	Engineer, AQUA Engineering
	Ballard Spahr	:	Bond Counsel
	Parson, Kinghorn, Harris	:	Attorney
	William L. Prater	:	Board of Water Resources Counsel
	Salt Lake County	:	County Commission
	Ken Bousfield	:	Drinking Water Board
	Teresa Wilhelmsen	:	Water Rights Regional Engineer

## SAMPLE

### REQUEST FOR PUBLIC COMMENT ON LOAN APPLICATION TO THE BOARD OF WATER RESOURCES

\_\_\_\_\_  
(date)

Dear Water User:

The \_\_\_\_\_ (Sponsor name) has applied to the Utah Board of Water Resources for a loan to be used in the construction (describe project and tell why project is needed) Security for the loan would be provided through the sale of a "non-voted" revenue bond to the Board of Water Resources. The bonds will be issued for a total of \$ \_\_\_\_\_ which amount will be repaid to the Board of Water Resources over a period of \_\_\_\_\_ years at \_\_\_\_\_ interest. Payments shall be made from the net revenues of the water system. (The Sponsor should comment about the possibility of water rates being increased in order to pay for the project.)

It is the policy of the Utah Board of Water Resources to provide a 15-day period for public comment prior to the purchase of any non-voted revenue bonds. In this regard, the Board wishes to solicit the comments of the water users (either favorable or negative). Interested individuals are encouraged to respond in writing before \_\_\_\_\_ (date) \_\_\_\_\_. All written comments received prior to that date will be reviewed by the Board of Water Resources prior to the final decision on whether to proceed with the bond purchase. Comments should be addressed either to \_\_\_\_\_ (Sponsor name) \_\_\_\_\_ or the Board of Water Resources:

\_\_\_\_\_  
(Sponsor address)

OR

Board of Water Resources  
P.O. Box 146201  
Salt Lake City, UT 84114-6201

Thank you for your consideration in this matter.

Sincerely,

\_\_\_\_\_  
(Sponsor name)

\_\_\_\_\_  
(signature of presiding officer)

IN FAVOR \_\_\_\_\_  
NOT IN FAVOR \_\_\_\_\_  
COMMENTS:

**EMIGRATION IMP DISTRICT**

10/16/12

Due		Interest Rate	Board Loan \$2,326,000				Reserve		Total Outlay
Pmt	Sep 1 Year		Total Bond Payment	Principal Payment	Interest Payment	Board Balance	Reserve Payments	Reserve Balance	
0	□					2,326,000	□		
1	2013	0.00%	72,000	72,000	0	2,254,000	8,000	8,000	
2	2014	0.00%	72,000	72,000	0	2,182,000	8,000	16,000	
3	2015	0.00%	72,000	72,000	0	2,110,000	8,000	24,000	
4	2016	0.00%	72,000	72,000	0	2,038,000	8,000	32,000	
5	2017	0.00%	72,000	72,000	0	1,966,000	8,000	40,000	
6	2018	0.00%	72,000	72,000	0	1,894,000	8,000	48,000	
7	2019	0.00%	72,000	72,000	0	1,822,000	8,000	56,000	
8	2020	0.00%	72,000	72,000	0	1,750,000	8,000	64,000	
9	2021	0.00%	72,000	72,000	0	1,678,000	8,000	72,000	
10	2022	0.00%	72,000	72,000	0	1,606,000	8,000	80,000	
11	2023	0.00%	80,000	80,000	0	1,526,000	0	80,000	
12	2024	0.00%	80,000	80,000	0	1,446,000	0	80,000	
13	2025	0.00%	80,000	80,000	0	1,366,000	0	80,000	
14	2026	0.00%	80,000	80,000	0	1,286,000	0	80,000	
15	2027	0.00%	80,000	80,000	0	1,206,000	0	80,000	
16	2028	0.00%	80,000	80,000	0	1,126,000	0	80,000	
17	2029	0.00%	80,000	80,000	0	1,046,000	0	80,000	
18	2030	0.00%	80,000	80,000	0	966,000	0	80,000	
19	2031	0.00%	80,000	80,000	0	886,000	0	80,000	
20	2032	0.00%	80,000	80,000	0	806,000	0	80,000	
21	2033	0.00%	80,000	80,000	0	726,000	0	80,000	
22	2034	0.00%	80,000	80,000	0	646,000	0	80,000	
23	2035	0.00%	80,000	80,000	0	566,000	0	80,000	
24	2036	0.00%	80,000	80,000	0	486,000	0	80,000	
25	2037	0.00%	80,000	80,000	0	406,000	0	80,000	
26	2038	0.00%	80,000	80,000	0	326,000	0	80,000	
27	2039	0.00%	80,000	80,000	0	246,000	0	80,000	
28	2040	0.00%	80,000	80,000	0	166,000	0	80,000	
29	2041	0.00%	80,000	80,000	0	86,000	0	80,000	
30	2042	0.00%	86,000	86,000	0	0	0	86,000	

BOARD OF WATER RESOURCES

Feasibility Report

Cities Water Loan Fund

Appl. No.: **L-573**  
Received: 8/6/12  
Approved: 10/11/12

To be Presented at the October 11, 2012 Board Meeting

SPONSOR: **EMIGRATION IMPROVEMENT DISTRICT**

General Manager: Fred A. Smolka

LOCATION: The proposed project is located in Emigration Canyon, approximately three miles east of Salt Lake City in Salt Lake County.

EXISTING  
CONDITIONS  
& PROBLEMS:

The sponsor delivers culinary water to approximately 270 connections through a system that includes about nine miles of pipeline, three wells, and two reservoirs with a total storage capacity of 1.3 million gallons. The system provides service to approximately 53% of the total possible water users in its service area, which encompasses the Emigration Creek drainage. About 230 residences have access to the system but are not currently connected, and of those about 150 pay a monthly fee for fire protection and possible future service. The remaining 80 do not pay any fees to the sponsor.

The sponsor has adequate storage for now and the near future, and the three wells that serve the system provide adequate supply during normal and wet years; however, during dry years the wells' output decreases during the late summer to the point of straining the system. Well #1 originally produced 200 gpm, but poor management of it several years ago has hampered its production. It now typically produces 70-80 gpm in the early part of the season, but only about 40 gpm in late summer. Well #2 produces 200 gpm in the early part of the season but drops to about 150 gpm in the summer, and is also drawn down extremely low in late summer. The Brigham Fork well produces about 200-250 gpm, and was drilled at an angle of about 30 degrees. It has recently experienced problems with some of the gravel pack getting past the screened casing and damaging the pump. The gravel pack was

installed in February of this year during well maintenance.

During drought years some of the residences that were not connected to the system chose to connect as their private wells dried up or needed repair. That is expected to continue and will add further strain on the current system.

PROPOSED  
PROJECT:

Due to the recent problems with the existing wells, the sponsor is requesting financial assistance to drill and equip a 1,000-foot replacement well near Well #1 (with a maintenance facility and a SCADA/telemetry system) and a 1,300-foot vertical well with about 1/2 mile of pipeline, a well/pump house, access road, additional power for the new well, and SCADA/telemetry upgrades.

Because of the declining production rate of the sponsor's three wells, the sponsor needs to complete the project before the irrigation season begins next summer.

The sponsor has completed both hydrological and feasibility studies for the proposed project; these costs have been included in the cost estimate. Technical assistance is being provided by Aqua Engineering, Inc., in Bountiful.

The project fits in Prioritization Category 2 (municipal project required to meet existing or impending need).

COST ESTIMATE:

The following cost estimate is based on the engineer's preliminary design and has been reviewed by staff:

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Amount</u>
1.	Mobilization	2 EA	\$50,000	\$ 100,000
2.	Test Well	LS	50,000	50,000
3.	Permanent Wells			
	a. Drilling, Reaming, & Conductor Casing	2,300 FT	420	966,000
	b. 16" Steel Casing & Screened Casing	2,300 FT	140	322,000
	c. Well Development/ Test Pumping	LS	210,000	210,000
	d. Install Pump Motor	LS	50,000	50,000
4.	Well House and Maintenance Facility	LS	250,000	250,000

5.	Earthwork	2,000 CY	9.00	18,000
6.	Gravel Access Road	37,500 SF	0.56	21,000
7.	18-inch Storm Drain Culvert	100 LF	50	5,000
8.	6-inch Water Line	3,000 LF	40	120,000
9.	Air Valve Stations	2 EA	2,000	4,000
10.	Blowoff Drain	1 EA	3,000	3,000
11.	Extend 3-Phase Power	LS	78,000	78,000
12.	Connect to Existing Tank/Main Line	2 EA	5,000	10,000
13.	SCADA Upgrades	2 EA	25,000	50,000
	Construction Cost			\$2,257,000
	Contingencies			230,000
	Legal and Administrative			80,000
	Geology/Hydrology/Preliminary Engineering			50,000
	Design and Construction Engineering			120,000
	TOTAL			\$2,737,000

STAFF COMMENTS: The test well and access road for the new well will initially be paid for by the sponsor. If the test well proves acceptable, the cost of the test well and access road will become part of the cost share.

Twenty years ago the delivery of water from Salt Lake City to the sponsor was not considered a viable option. Staff has asked the sponsor to re-evaluate this as a possible future option.

COST SHARING  
& REPAYMENT:

The recommended cost sharing and repayment are:

<u>Agency</u>	<u>Cost Sharing</u>	<u>% of Total</u>
Board of Water Resources	\$2,326,000	85%
Sponsor	411,000	15
TOTAL	\$2,737,000	100%

If the board authorizes the project, it is suggested it be purchased at 0% interest over approximately 30 years with annual payments of \$80,000 (includes reserves).

FINANCIAL  
FEASIBILITY:

Based on the board's water service affordability guidelines, Emigration Canyon residents could pay up to \$61.44 monthly for water. The cost of water with the proposed project, based on 270 residential connections projected to be in place when repayment begins, is as follows:

	<u>Annual Cost</u>	<u>Cost/Conn/Mo</u>
Existing O&M	\$120,000	\$37.04
New O&M	15,000	4.63
BWRe Assistance	<u>80,000</u>	<u>24.69</u>
TOTAL	\$215,000	\$66.36

**BENEFITS:** The proposed wells will provide additional supply for persistent drought years and allow for a backup source during normal years. It will also allow for additional growth on the system.

**PROJECT SPONSOR:** In 1968, the Emigration Improvement District was created by the Salt Lake County Commission to develop canyon-wide culinary and sewer systems. The sewer system has not been built. The sponsor has an approved rating from the Division of Drinking Water (DDW).

The sponsor currently has a \$1.4 million loan with DDW for the existing community system. Payments to DDW are approximately \$67,000 annually until 2023. The sponsor also has a \$2,860,000 loan with the board. Payments to the board are approximately \$95,000 in 2012 increasing each year to about \$128,000 in 2038.

The current water rate is \$3.50 for the first 1,000 gallons, increasing approximately \$0.07 for each additional 1,000 gallons.

**WATER RIGHTS & SUPPLY:** The sponsor's main water rights for the proposed system are 57-7796 and 57-8865 for approximately 740 acre-feet annually, which will be used for present and future canyon development.

**EASEMENTS:** The sponsor will need to obtain easements and/or rights-of-way for the proposed project from Emigration Oaks Home Owners Association and a private property owner.

**ENVIRONMENTAL:** The proposed project is not expected to have any detrimental effects on the environment beyond the usual dust and noise of the construction phase.

**WATER CONSERVATION:** The sponsor encourages water conservation by promoting the use of water saving devices, advocating natural landscaping, and has adopted a progressive water rate structure. An aggressive effort has been

made over the last several months to fix leaks and encourage conservation. That effort lowered the total daily use by over 40% since the beginning of this summer.

The sponsor will be required to review and update its Water Conservation and Management Plan and obtain approval of it from the Division of Water Resources, as well as adopt an ordinance prohibiting watering between 10:00 a.m. and 6:00 p.m.

SPONSOR'S RESPONSIBILITIES: The sponsor will be required to make all arrangements to sell the board a non-voted revenue bond, as well as verify it has adequate water rights and rights-of-way to construct the project. If the project is authorized, a list of procedures and requirements necessary to close the loan will be furnished to the sponsor.

PROJECT  
CONTACT  
PEOPLE:

General Manager/  
Treasurer: Fred Smolka  
4990 Trails End Way  
Salt Lake City, UT 84108  
Phone: 801-582-6176

Chairman: Michael Hughes  
4388 Emigration Canyon  
Salt Lake City, UT 84108  
Phone: 801-651-3201

Clerk/Secretary: David Bradford  
130 South Skycrest Lane  
Salt Lake City, UT 84108  
Phone: 801-583-5428

Engineer: Aqua Engineering  
533 West 2600 South, Ste 275  
Bountiful, UT 84010  
Phone: 801-299-1327