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

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MARK CHRISTOPHER TRACY, dba  
EMIGRATION CANYON HOME OWNERS  
ASSOCIATION,

Petitioner,

vs.

SIMPLIFI COMPANY, a Utah Corporation;  
ERIC HAWKES, an individual; and  
JENNIFER HAWKES, an individual,

Respondents.

**PETITION FOR:**

**(1) JUDICIAL REVIEW OF DENIED  
REQUEST FOR DISCLOSURE OF  
PUBLIC RECORDS;**

**(2) INJUNCTION FOR VIOLATIONS  
OF THE GOVERNMENT  
RECORDS ACCESS AND  
MANAGEMENT ACT;**

**(3) AWARD OF ATTORNEY FEES  
AND COSTS**

**RE: LEAD CONTAMINATION  
LABORATORY TEST RESULTS OF A  
PUBLIC DRINKING WATER SYSTEM**

**TIER 2**

**Case No.: 200905123**

**Judge: Robert P. Faust**

Petitioner Mark Christopher Tracy (“Mr. Tracy”) dba Emigration Canyon Home Owners Association (“The ECHO-Association”) brings this action under Utah Code Ann. §§ 63G-2-404 and 63G-2-802 for judicial review of the denied request and *de facto* denied appeal<sup>1</sup> to the chief administrative officer of Emigration Improvement District (“EID”) for the release of public records required to be on the premises of the Simplifi Company (“Simplifi”) in the physical custody of Eric and Jennifer Hawkes (“Mr. Hawkes” and “Mrs. Hawkes”) (collectively “Respondents”) in violation of the Government Access to Records and Management Act (“GRAMA”) and the Utah Administrative Code.

The names and address of the Respondents are:

- 1) Simplifi Company, 271 N. Margarethe LN, Salt Lake City, Utah, 84108;
- 2) Eric Hawkes, *id.*,
- 3) Jennifer Hawkes, *id.*

### **INTRODUCTION**

This matter concerns the failure of the Respondents to disclose public records related to lead contamination of a public drinking-water system servicing over 300 existing homes and 253 future homes<sup>2</sup> through so-called “stand-by” agreements in Emigration Canyon, Salt Lake County, Utah (the “Canyon”).

Petitioner seeks an Order from this Court for the inspection and duplication of all original laboratory test results of lead contamination believed to have been created by Chemtech-Ford Analytical Laboratories, an Order enjoining Respondents for GRAMA violations, and an Order awarding The ECHO-Association reasonable attorney fees and costs of this action.

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<sup>1</sup> See Utah Code Ann. § 63-2-401(5)(b).

<sup>2</sup> EID financial records reveal that property owners of 97 vacant parcels were promised future water service from EID trustees and managers. See true and correct copy of excerpt of EID account “Emigration Oaks Accounts Receivable Water Bills” dated 2013, attached as Ex. A.

## **PARTIES**

1. Petitioner The ECHO-Association is registered with the Utah Division of Corporations and Commercial Code as a “dba entity” of Mr. Tracy and is the owner of surface water right no. 57-8947 (a16183) located in Emigration Canyon, Salt Lake County, Utah.

2. On information and belief, Respondent Simplifi Company is a Utah Corporation, registered with the Utah Division of Corporations and Commercial Code under the business purpose of “NAICS Title 5511-Management of Companies and Enterprises”, with its headquarters located in Salt Lake County, Utah.

3. On information and belief, Respondent Eric Hawkes, is a director of Simplifi, is the spouse of Jennifer Hawkes and is a resident of Salt Lake County, Utah.

4. On information and belief, Respondent Jennifer Hawkes is a current elected member of the Emigration Canyon Metro Township Council, is an officer and director of Simplifi, is the spouse of Mr. Hawkes and is a resident of Salt Lake County, Utah.

## **JURISDICTION AND VENUE**

5. The acts set forth herein occurred in Salt Lake County, State of Utah.

6. The final agency action constituting exhaustion of administrative proceedings occurred in Salt Lake County, Utah.

7. Jurisdiction is appropriate pursuant to Utah Code Ann. § 63G-4-402.

8. Venue is properly laid before the Third District Court in and for Salt Lake County, State of Utah, pursuant to the provisions of Utah Code Ann. § 78-3-307(1)(a).

## **BACKGROUND**

9. There are currently approximately 677 residential units located in the Canyon, whereby circa 300 homes are connected to public water system No. 18143 owned by EID and operated by Simplifi under the unregistered designation “Emigration Canyon Improvement

District”<sup>3</sup> (“EID Water System”), circa 370 homes are serviced by individual private domestic wells and approximately 37 homes are connected to Salt Lake City Public Utilities.

10. Although less than half of Canyon homes are connected to the EID Water System, all non-exempt developed and undeveloped properties are assessed property taxes and fees by EID through Simplifi and Mr. and Mrs. Hawkes for the operation and maintenance of a “preposterously oversized”<sup>4</sup> and destructive water system as follows:

- a. In an extensive study of the Canyon’s hydrology in 1966, the Utah State Division of Water Right’s (“State Engineer”) concluded that the groundwater was in direct communication with the Canyon Stream and expressly recommended *against* the construction and operation of large-diameter commercial wells in the Canyon (“1966 Barnett Thesis”). See excerpt pages 94-97 of *Ground-water Hydrogeology of Emigration Canyon, Salt Lake County, Utah* by Jack Arnold Barnett submitted to University of Utah Department of Geology filed in federal district court, attached as Ex. C; see also the publication in its entirety available at The ECHO-Association website [https://echo-association.com/?page\\_id=3310](https://echo-association.com/?page_id=3310);
- b. Contrary to the 1966 Barnett Thesis, between May 1984 and February 1994, private land developers constructed water system no. 18143 consisting of a

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<sup>3</sup> The EID website maintained by Simplifi is recorded under the designation “Emigration Canyon Improvement District” and “ECID” although no such name or entity is registered with the Utah Division of Corporations and Commercial Code as per Utah Code Ann. § 42-2-5(2) and no such entity is registered with the Utah Lt. Governor’s Office as a special service district as required under Utah Code Ann. § 67-1a-15(3). See true and correct copy of website listed under assumed name at “<https://www.ecid.org/>” last visited on July 29, 2020, attached as Ex. B.

<sup>4</sup> See Emma Penrod, *Paranoia and a ‘Preposterously’ Oversized Water Tank*, High Country News, July 22, 2019, also available at High County News website <https://www.hcn.org/issues/51.12/water-paranoia-and-a-preposterously-oversized-water-tank-in-utah>, last visited on July 31, 2020.

small 330,000 gallon storage tank and two (2) large-diameter commercial wells designated as Boyer Well No. 1 and Boyer Well No. 2 to service the luxurious Emigration Oaks Private Urban Development (“Emigration Oaks PUD”);

- c. In testimony before the State Engineer on December 15, 1995, EID through hydrologists Jack Arnold and Don A. Barnett testified that the operation of these large-diameter commercial wells in the Pioneer Fork and Freeze Creek drainage areas would interrupt the movement of groundwater supporting surface water flow of the Canyon Stream at “This is the Place State Park” (and thus Utah’s Hogle Zoo) “for decades...*twenty-five, fifty or seventy-five years*” (“1995 Barnett Testimony”)(emphasis added). See written transcript excerpt of audio recording and illustrative maps, attached as Ex. D; see also excerpt of audio recording, available at The ECHO-Association website [https://echo-association.com/?page\\_id=2204](https://echo-association.com/?page_id=2204);
- d. However, in order to facilitate the further massive expansion of the Emigration Oaks PUD at the expense of existing Canyon residents and taxpayers, and contrary to the 1966 Barnett Thesis and 1995 Barnett Testimony, EID acquired title and assumed operation of water system No. 18143 in August 1998 at extraordinary private profit as alleged and currently pending in federal district court;<sup>5,6</sup>

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<sup>5</sup> See *United States of America ex rel. Mark Christopher Tracy v. Emigration Improvement District et al.*, (D. Utah) Case No. 2:14-cv-701-JNP-JCB.

<sup>6</sup> Sometime after June 2014, Simplifi through Mr. and Mrs. Hawkes assumed operation of the EID Water System from Management Enterprises through Canyon resident Fred A. Smolka (deceased).

- e. Having assumed the legal liability of water system no. 18143 constructed in violation of the 1966 Barnett Thesis and 1995 Barnett Testimony, in an extensive hydrological study completed in July 2000, EID hydrologist Don A. Barnett and the Weber State University Geology Department Chairman W. Adolph Yonkee concluded that Boyer Well No. 2 had extracted more groundwater than was replenished in a “relatively good water year” and expressly *warned against* continued groundwater mining of the Twin Creek Aquifer in the Freeze Creek drainage area (“2000 Barnett-Yonkee Study”). See excerpt pages 36-38 of *Geologic and Hydrologic Setting of the Upper Emigration Canyon Area* by W. Adolph Yonkee and Don A. Barnett, attached as Ex. E; see also the publication in its entirety available at The ECHO-Association website [https://echo-association.com/?page\\_id=3310](https://echo-association.com/?page_id=3310); and lastly,
- f. Contrary to the conclusions, warnings and recommendations of the 1966 Barnett Thesis, the 1995 Barnett Testimony and the 2000 Barnett-Yonkee Study, at the cost of \$6.3 million dollars of federally-backed loans to be paid by Canyon residents and property owners, between October 2003 and January 2013 EID drilled two (2) additional large-diameter commercial wells on property belonging to private land developers designated as the Brigham Fork<sup>7</sup> and the Upper Freeze Creek Wells to include the Wildflower Reservoir altogether equaling more than **4 times** the required water source capacity and

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<sup>7</sup> According to utility billings from Rocky Mountain Power, EID continued operation of the Brigham Fork Well until September 2018 although EID water customers had complained of discolored and foul smelling drinking water as early as September 2015. The Brigham Fork Well was removed from the inventory on file with the DDW in January 2020 although federally-backed loan obligations for the construction of the water source remain outstanding to date.

more than **6 times** the required water storage capacity vis-à-vis existing Canyon residents connected to the EID Water System. *See* footnote no. 4 and excerpt of “Water System Capacity Calculation Sheet” for existing water source capacity dated January 1, 2014, attached as Ex. F and excerpt of “Water System Capacity Calculation Sheet” for existing water storage capacity dated October 19, 2018, attached as Ex. G.

11. As accurately predicted in the 1966 Barnett Thesis, the 1995 Barnett Testimony and the 2000 Barnett-Yonkee Study, in September 2018, for the first time in recorded history, with the collapse of groundwater levels and thereby artesian pressure, the Canyon Stream suffered total depletion less than 2 miles from Utah’s Hogle Zoo thereby forcing many long-time Canyon residents to abandon private wells with senior water rights and involuntarily connect to the same preposterously oversized and destructive water system operated by Simplifi and Mr. and Mrs. Hawkes at substantial cost and possible risk to personal health and safety of all Canyon residents as follows:

- a. On June 16, 2020, The ECHO-Association recorded an area of massive ground subsidence and a 700-foot fissure in the Canyon’s Freeze Creek drainage area between Emigration Oaks PUD lots 171, 178 and 180 believed to have been caused by the groundwater mining of the Canyon’s Twin Creek Aquifer via Boyer Well No. 2 and the Upper Freeze Creek Well as documented in the 2000 Barnett-Yonkee Study. *See* illustrative map and photograph of Mr. Tracy standing in a 700-foot long fissure, attached as Ex. H; *see also* aerial video recording of the Freeze Creek drainage area available at The ECHO-Association website [https://echo-association.com/?page\\_id=3310](https://echo-association.com/?page_id=3310);

- b. In an investigation of similar groundwater mining of the Cedar Valley in 2014, the Utah Division of Natural Resources determined that “long-term groundwater pumping in excess of recharge rate is the cause of land subsidence and earth fissures” whereby the “[e]arth fissures could provide a direct path for contaminated surface water to reach the Cedar Valley aquifer, a principle source of potable water in Cedar Valley.” See excerpt pages 1-2, abstract of investigative findings 1-10 of the *Investigation of Land Subsidence and Earth Fissures in Cedar Valley, Iron County, Utah*, Special Study 150, published by the Utah Geological Survey, attached as Ex. I; see also the publication in its entirety available at The ECHO-Association website [https://echo-association.com/?page\\_id=3919](https://echo-association.com/?page_id=3919).

12. Despite impairment of the Canyon Stream, massive earth subsidence and fissures, total depletion of surface water flow near Utah’s Hogle Zoo, and impairment of numerous private wells, financial records reveal that EID trustees and managers promised future water service to the owners of 97 undeveloped parcels through so-called “stand-by agreements” and recently secured approval from the State Engineer to allow construction of more than 500 additional homes in the Canyon to include future water service to a “Gun Range and Wedding Resort” proposed by private land developers. See Ex. A<sup>8</sup>; see also undated correspondence entitled “EIDs’ Response to Walsh Project and Water Right Change Applications Filed to State Engineer’s Office” available at The ECHO-Association website [https://echo-association.com/?page\\_id=2985](https://echo-association.com/?page_id=2985).

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<sup>8</sup> Permanent changes to water rights claimed by EID were protested by The ECHO-Association and is currently pending with the Utah Court of Appeals under *Emigration Canyon Home Owners Association v. Kent L. Jones and Emigration Improvement District* (UT App) Docket No. 20200295-CA.



13. Financial disclosures to the Utah State Auditor reveal that in the calendar year 2019, EID through Mr. Hawkes paid Mr. and Mrs. Hawkes through Simplifi \$97,321.08 for “Manager Compensation”, “Office Expenses” and “Internet and Computer Expenses” equaling more than 20% of EID’s operating expenses for that year.<sup>9</sup> See true and correct copy of Utah State transparency website at <https://www.utah.gov/transparency> last visited on June 9, 2020, attached as Ex. J; see also comparison of EID manager compensation with two (2) employees of the Big Cottonwood Improvement District available at The ECHO-Association website [https://echo-association.com/?page\\_id=6054](https://echo-association.com/?page_id=6054).

14. Mr. and Mrs. Hawkes have a vital personal and economic interest in EID’s continuing and sustained revenue flow.

15. With EID’s current expenditures identified in the 2020 budget, EID will default on federally-backed loan obligations if Simplifi through Mr. and Mrs. Hawkes is unable to maintain projected revenue consisting of property tax collections, water-usage fees, monthly “fire-hydrant rental fees” and monthly “standby fees” paid by Canyon residents and property owners unaware of the extensive lead contamination of the EID Water System as outlined below.

16. The present action is therefore justified and necessary to ensure compliance with GRAMA provisions.

#### **STATEMENT OF FACTUAL GROUNDS FOR RELIEF**

17. 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 to EID managers due to the fact that EID has “no

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<sup>9</sup> In 2019, Mr. Hawkes increased EID’s monthly payment from \$7,000.00 to \$9,000.00 to Simplifi without recording trustee approval in the EID meeting minutes. See Ex. J.

employees” and all services are provided to EID by “independent contractors” such as Simplifi through Mr. and Mrs. Hawkes. *See* EID correspondence dated June 2014, attached as Ex. K.

18. Mr. Hawkes is currently listed as the primary contact for EID with the Utah Lt. Governor’s Office at Mr. and Mrs. Hawkes’ private residence.

19. Mr. and Mrs. Hawkes are listed as directors of Simplifi, which is registered at the same private residence recorded for EID with the Utah Lt. Governor’s Office.

20. It does not appear that Simplifi possess legal or equitable title to any real property, maintains an office separate from the private residence of Mr. and Mrs. Hawkes, has any employees or provides services to any customer or client other than EID.

21. In August 1998, EID assumed ownership and operation of water system No. 18143 from private land developers despite the fact that all underground water sources operated at that time had previously tested positive for lead contamination on February 25, 1994 and March 19, 1997 and use of Boyer Well No. 2 had been expressly forbidden by the Utah Division of Drinking Water (“DDW”) prior to the issuance of an operating permit as required under the federal Safe Drinking Water Act of 1974.<sup>10</sup> *See* Chemical and Biological Analysis of Ford Analytical Laboratories, attached as Ex. L and M, and DDW correspondence dated September 20, 1995, attached as Ex. N.

22. In October 2003 and January 2013, EID secured operating permits for the Brigham Fork (aka “EID Well #3”) and the Upper Freeze Creek Wells located on property belonging to private land developers, although both water sources tested positive for lead contamination prior

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<sup>10</sup> To date, Simplifi through Mr. and Mrs. Hawkes continues to operate Boyer Well No. 2 for the EID Water System without a valid operating permit. *See* 2015 Sanitary Survey of EID Water System available at <https://echo-association.com/wp-content/uploads/EID-Sanitary-Survey-2015.pdf>.

thereto. *See* Certificates of Analysis, Chemtech-Ford Analytical Laboratories, attached as Ex. O and P.

23. On February 1, 2004, the temporary permit required for the operation of the Wildflower Reservoir expired due to the fact that the EID had failed to provide proof that the “construction defects responsible for substantial leakage from the tank” had been corrected. *See* Temporary Operating Permit dated October 30, 2003, attached as Ex. Q; *see also* photographs of water leakage dated September 2003 taken by a Canyon resident, attached as Ex. R.

24. To date, Simplifi through Mr. and Mrs. Hawkes continues to operate Boyer Well No. 2 and the Wildflower Reservoir without a valid operating permit. *See id.* and footnote no. 4 and no. 5.

25. On October 29, 2019, a single Canyon resident connected to the EID Water System reported on the internet platform “Nextdoor” to have received notice that the drinking-water sample collected from the home connected to the EID Water System had exceed the federal “action level” of 0.015 mg/L for lead contamination. *See* true and correct copy of electronic postings on the website <https://nextdoor.com> last visited on November 5, 2019, attached as Ex. S.

26. Mr. Hawkes responded that only “3 [of the 10 sampled homes] exceeded the water standard for lead (*this is the first time ever*)” and “*we do not believe the lead is coming from our water sources*, but likely from the lead solder used in the plumbing of homes” (emphasis added) despite the fact that federal guidelines do not allow for any amount of lead contamination in drinking water, it appears that all homes sampled and connected to the EID Water System had tested positive for lead contamination since 1995 and all of EID’s water sources had previously tested positive for lead contamination. *See id.* and Ex. L, M, O and P and illustrative map of lead contamination test results of the EID Water System since 1994 complied by The ECHO-

Association, attached as Exhibit T; *see also* links to yearly lead test results available at ECHO-Association website [https://echo-association.com/?page\\_id=4950](https://echo-association.com/?page_id=4950).

27. Contrary to Mr. Hawkes' representations to Canyon residents on the Nextdoor internet platform, during the November 11, 2019 EID trustee meeting, Mr. Hawkes reported that the water distribution lines on both the east and west side of the EID Water System had tested positive for lead contamination. *See* excerpt of audio recording, available The ECHO-Association website [https://echo-association.com/?page\\_id=1442](https://echo-association.com/?page_id=1442).

28. During the EID trustee meeting on June 11, 2020, Mr. Hawkes refused to answer any questions regarding lead contamination of the 20 Canyon homes connected to the EID Water System required to be tested prior to June 30, 2020 by DDW. *See* audio/video excerpt of electronic meeting conducted via the "Zoom" internet platform, available at The ECHO-Association website [https://echo-association.com/?page\\_id=1661](https://echo-association.com/?page_id=1661); and DDW correspondence dated November 12, 2019, attached as Ex. U.

29. During the protest hearing before the State Engineer on December 18, 2018, The ECHO-Association informed Mr. Hawkes that the CEO of Energy Solutions and EID Advisory Committee Chairman R. Steve Creamer had installed distribution lines of the EID Water System not approved for drinking water (*i.e.*, black PVC). *See* construction photograph taken by a Canyon resident, attached as Ex. V; *see also* the audio-video recording of The ECHO-Association protest hearing presentation in its entirety available at The ECHO-Association website [https://echo-association.com/?page\\_id=635](https://echo-association.com/?page_id=635).

30. During the June 11, 2020 EID trustee meeting, Mr. Hawkes reported that the repair of distribution lines of the EID Water System not approved for culinary drinking water (*i.e.*, black PVC) "isn't a problem" for the health and safety of water users. *See* excerpt of audio-video

recording of electronic meeting conducted via the “Zoom” internet platform, available at The ECHO-Association website [https://echo-association.com/?page\\_id=1661](https://echo-association.com/?page_id=1661).

31. Between August 1998 to the present day, Management Enterprises through Fred A. Smolka (deceased) and later Simplifi through Mr. and Mrs. Hawkes failed to inform EID water users and “standby customers” of lead-contamination of EID’s water sources, lead contamination of EID’s water-distribution lines, lack of operating permits for Boyer Well No. 2 and the Wildflower Reservoir, and the use of black-PVC drinking-water lines in the annual Customer Confidence Reports and triannual Sanitary Surveys required under the federal Safe Drinking Water Act of 1974. *See* reports and surveys of EID Water System, available at The ECHO-Association website [https://echo-association.com/?page\\_id=1221](https://echo-association.com/?page_id=1221).

32. The water system monitoring report maintained by the Utah Department of Environmental Quality (“DEQ”) recorded on July 12, 2020 that EID had sampled 20 Canyon homes on March 20, 2020 but no test results were listed in the chemical testing database under the analyte designation “1030 Lead” on that date. *See* true and correct copy of DEQ Public Water System Monitoring Report downloaded from the Utah State website <http://waterlink.utah.gov>, attached as Ex. W, and a true and correct copy of Chemical Analysis Report download from the Utah State website <http://waterlink.utah.gov> attached as Ex. X.

33. On July 19, 2020, the chemical testing database maintained by DEQ recorded that EID had sampled only 4 of the 20 Canyon homes connected to the EID Water System and every home tested positive for lead contamination for all drinking-water samples. *See* a true and correct copy of the Chemical Analysis Report downloaded from the Utah State website <http://waterlink.utah.gov>, attached as Ex. Y.

34. On July 27, 2020, Mr. Hawkes disclosed to The ECHO-Association an unrequested DEQ spreadsheet indicating that all 20 homes connected to the EID Water System purportedly

sampled in June 2020 had tested positive for lead contamination whereby the recorded testing locations and lead contaminate levels did not match the DEQ chemical database report from July 19, 2020. *See id.* and “90th Percentile Result Calculator, Lead and Cooper Sampling Summary” dated July 17, 2020, attached as Ex. Z.

35. In a correspondence dated July 25, 2020, under the letterhead of “Emigration Canyon Improvement District,” Mr. Hawkes reported copper contamination in excess of federally-mandated drinking-water standards in 3 homes connected to EID Water System the but failed to inform existing and future “stand-by” water users that all 20 homes and all water samples had also tested positive for lead contamination. *See System-Wide Public Notice*, attached as Ex. AA.

#### **STATEMENT OF LEGAL GROUNDS FOR RELIEF**

36. Under Utah Administrative Code R309-105-17(2)(a)-(b), “[a]ll public water systems shall retain on their premises or at convenient location near their premises” the “original records of all sampling data and analysis” of lead contamination for a period not less than 12 years.

37. Under Utah Code Ann. § 63G-2-201, every person has a right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, if the record is not confidential and exempt from disclosure.

38. Although GRAMA typically applies to “any political subdivision of the state” such as EID and not private individuals operating for-profit corporations under an unregistered assumed name at a private residence, under Utah Code Ann. § 63G-2-103(11)(a)(v), a “government entity” also includes “every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business.”

39. The only “office” and “premises” of the EID Water System operated during normal working hours is the private residence of Mr. and Mrs. Hawkes accessible only with the explicit permission of Mr. and Mrs. Hawkes or by Court order for search and seizure.

40. It appears that Mr. and Mrs. Hawkes through Simplifi are funded entirely by Canyon residents and property owners through EID payments rendered by Mr. Hawkes to Simplifi.

41. Because EID has no employees and operates entirely through Simplifi at the private residence of Mr. and Mrs. Hawkes under the unregistered assumed name of “Emigration Canyon Improvement District”, the Respondents to the present action are subject to the jurisdiction of this Court regarding the unlawfully denied request for disclosure of public records, injunctive relief, and the recovery of attorney fees and costs under Utah Code Ann. §§ 63G-2-404 and 63G-2-802.

42. On July 2, 2020, The ECHO-Association submitted the Lead-Contamination GRAMA to Mr. Hawkes at the physical address listed on EID’s website. *See* GRAMA request form, attached as Ex. BB.

43. On July 9, 2020, Mr. Hawkes reported that the Lead-Contamination GRAMA “has been denied [by unknown person(s)]” with the cursory remark that “[w]e are looking at the costs associated with providing this information to you and will get back with you as soon as possible” although EID trustees had not convened a meeting in accordance with Utah Code Ann. §§ 54-4-101 *et seq.* (Utah Open and Public Meetings Act) since June 11, 2020, Mr. Hawkes had announced the cancelation of the July 9 EID trustee meeting on July 9 and EID trustees were not calendared to meet again until August 13, 2020. *See* email denial of Lead-Contamination GRAMA dated July 9, 2020, attached as Ex. CC and email of EID trustee meeting cancelation dated July 9, 2020, attached as Ex. DD.

44. The ECHO-Association appealed Mr. and Mrs. Hawkes’ apparent denial of the Lead-Contamination GRAMA to the chief administrative officer of EID (“Lead-Contamination

GRAMA Appeal”) thereby providing a statement that the basis for the request for public records<sup>11</sup> was related to possible contamination of the Canyon’s Freeze Creek Aquifer by groundwater mining and/or the disposal of asphalt and construction waste at the Wildflower Reservoir building site by the CEO of Energy Solutions and EID Advisory Committee Chairman R. Steve Creamer during the construction of Mr. Creamer’s private residence in the Emigration Oaks PUD in September 2003. *See* email correspondence dated July 9, 2020, attached as Ex. EE; photograph of asphalt and construction waste dated September 2003 taken by a Canyon resident, attached as Ex. FF; and aerial photographs and illustrative 3d maps of the now inoperable Brigham Fork Well constructed on the property of Mr. Creamer’s private residence attached as Ex. GG.

45. To date, Respondents have failed to disclose the requested public records identified in the Lead-Contamination GRAMA, respond to the Lead-Contamination GRAMA Appeal, or summon an EID trustee meeting as per the Utah Open and Public Meetings Act thereby necessitating the present litigation.

### **REQUEST FOR RELIEF**

Petitioner requests this Court enter the following relief:

1. An Order directing the Respondents to provide Petitioner inspection and copies all original documents related to lead contamination of water system no. 18143 from July 9, 2010 to the date of the Order;
2. An Order enjoining Respondents for violations the Government Records Access and Management Act per Utah Code Ann. § 63G-2-802(1); and,
3. An Order awarding Petitioner reasonable attorney fees and costs per Utah Code Ann. § 63G-2-802(2).

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<sup>11</sup> This statement is required for the recovery of reasonable attorney fees and costs in the present action under Utah Code Ann. § 63G-2-802(4).



DATED this 31st day of July, 2020.

MARK CHRISTOPHER TRACY dba  
EMIGRATION CANYON HOME OWNERS  
ASSOCIATION

/s/ Mark Christopher Tracy  
Mark Christopher Tracy  
*Pro se Petitioner*