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IN THE THIRD DISTRICT COURT OF THE STATE OF UTAH

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: WATER LEVEL TELEMTRY
DATA OF A PUBLIC DRINKING WATER
SYSTEM**

TIER 2

Case No. 200905074

Judge: Mark S. Kouris

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 appeal¹ of the chief administrative officer of Emigration Improvement District (“EID”) for the release of public records of water-level telemetry reports and graphs required to be collected and maintained by 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”).

The names and addresses of the Respondents are:

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

INTRODUCTION

This matter concerns the failure of the Respondents to disclose public records of water-level telemetry data of four (4) underground large-diameter commercial wells and two (2) water-storage reservoirs of a public drinking-water system servicing over 300 existing homes and 253 future homes² through so-called “stand-by” agreements in Emigration Canyon, Salt Lake County, Utah (the “Canyon”).

Petitioner seeks an Order from this Court requiring all water-level recordings, telemetry data, graphs and reports believed to have been recorded by hand and/or electronically formatted as “LGH files” compiled, transmitted and accessed by the software program “LGH File Inspector”,

¹ See Utah Code Ann. § 63-2-401(5)(b).

² 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 records, attached as Ex. A.

an Order enjoining Respondents for GRAMA violations, and an Order awarding Petitioner reasonable attorney fees and costs of this action.

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 through Mr. and Mrs. Hawkes under the unregistered designation “Emigration Canyon Improvement District”³ (“EID Water System”), circa 370 homes are serviced by individual, private domestic wells located near the Emigration Canyon Stream (“Canyon Stream”) 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 for the operation and maintenance of the EID Water System by the Respondents to include the retirement of \$6.3 million dollars of outstanding federally-backed loan obligations as outlined below.

11. In an extensive study of the Canyon’s hydrology in 1966, the Utah State Engineer’s Office concluded that the Canyon’s groundwater was in direct communication with the Canyon Stream and expressly recommended *against* the construction and operation of large-diameter commercial wells (“1966 Barnett Thesis”). *See* excerpt pages 95 and 96 of *Ground-water Hydrogeology of Emigration Canyon, Salt Lake County, Utah* by Jack Arnold Barnett submitted to University of Utah Department of Geology as filed in federal district court, attached as Ex. C; *see also* entire publication available at https://echo-association.com/?page_id=3310.

³ 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.

12. Moreover, if the Canyon's water table dropped below the level of the Canyon Stream, the loss of artesian pressure augmenting stream flow would reverse the flow of clean, safe water *into* the stream thereby allowing contaminated surface water to penetrate the circa 300 private-water sources located nearby. *See id.*; *see also* excerpt diagrams "Figure 15" and "Figure 34" of *Ground Water in Utah's Densely Populated Wasatch Front Area – The Challenge and Crisis - Water-Supply Paper 2232* published by the United States Geological Survey, 1985, attached as Ex. D.

13. Contrary to conclusions of the 1966 Barnett Thesis, between May 1984 and February 1994, private land developers constructed water system No. 18143 consisting of a small 330,000 gallon storage tank identified as the "Boyer Tank" and 2 large-diameter commercial wells designated as "Boyer Well No. 1" and "Boyer Well No. 2" to service the luxurious Emigration Oaks Private Urbane Development ("Emigration Oaks PUD").

14. In testimony before the Utah State Engineers' Office 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 Brigham Fork and Freeze Creek drainage areas would interrupt the movement of groundwater providing artesian pressure to the Canyon Stream and thus surface water flow at Utah's Hogle Zoo "for decades...*twenty-five, fifty or seventy-five years*" ("1995 Barnett Testimony")(emphasis added). *See* written transcript excerpt of State Engineer protest hearing and illustrative maps, attached as Ex. E; *see also* excerpt of audio recording, available The ECHO-Association website https://echo-association.com/?page_id=2204.

15. 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 in federal district court.^{4,5}

16. 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 “good water year” of 1998 and expressly warned against continued groundwater mining of the Twin Creek Aquifer located 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. F; see also entire publication available at The ECHO-Association website https://echo-association.com/?page_id=7139.

17. 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 existing Canyon residents and property owners, between October 2003 and January 2013 EID drilled two (2) additional large-diameter commercial wells in the Canyon’s Twin Creek Aquifer identified as the “Brigham Fork Well” drilled at 1,220 feet and the “Upper Freeze Creek Well” drilled at 1,148 feet and constructed the Wildflower Reservoir altogether equaling more than **4 times** the required water source capacity and more than **6 times** the required water storage capacity vis-à-vis existing Canyon residents connected to the

⁴ 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.

⁵ 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).

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. G and excerpt of “Water System Capacity Calculation Sheet” for existing water storage capacity dated October 19, 2018, attached as Ex. H.

18. Despite have constructed a massively oversized water system intended for future yet to be built homes, a report published by the United States Geological Survey determined that development in the Canyon was a cause of deteriorating water quality thereby posing a risk to human health (“2008 USGS Report”). See excerpt pages 1, 2, 20-22 of *Principle Locations of Major-Ion, Trace Element, Nitrate, and Escherichia coli Loading to Emigration Canyon Creek, Salt Lake County, Utah, October 2005* United States Geological Survey, 2008, attached as Ex. I; see also publication in its entirety available at The ECHO-Association website https://echo-association.com/?page_id=7139.

19. 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 artesian pressure due to a declining water table, 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 EID Water System at substantial cost and possible risk to health and safety as follows.

STATEMENT OF FACTUAL GROUNDS FOR RELIEF

20. On June 16, 2020, The ECHO-Association recorded massive ground subsidence and a 700-foot fissure in the Canyon’s Freeze Creek drainage area near Emigration Oaks PUD lots 171, 178, 180, 182, 184 and 199 believed to have been caused by the groundwater mining of the Canyon’s Twin Creek Aquifer as documented in the 2000 Barnett-Yonkee Study. See illustrative

map and photo, attached as Ex. J; *see also* audio and video recording available at The ECHO-Association website https://echo-association.com/?page_id=3310.

21. In a study of groundwater mining in Cedar Valley, Utah, the Utah Geological Society concluded that fissures provided a direct path of contaminated surface water to reach the Cedar Valley aquifer, the primary drinking-water source for the Cedar Valley (“2015 Cedar Valley Report”). *See* excerpt pages 1, 2 of *Investigation of Land Subsidence and Earth Fissures in Cedar Valley, Iron County, Utah, Special Study 150*, Utah Department of Natural Resources, 2014, attached as Ex. K; *see also* publication in its entirety available at The ECHO-Association website https://echo-association.com/?page_id=3919.

22. Despite impairment of the Canyon Stream, massive earth collapse and fissures, decreased surface water flow at Utah’s Hogle Zoo, and impairment of numerous private wells, financial records reveal that EID promised future water service to the owners of 98 vacant lots through “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.⁶

23. On June 30, 2020, EID through an unregistered “Utah non-profit organization” identified as the “Emigration Canyon Sustainability Alliance” through “President” Willy Stokman

⁶ Permanent changes to water rights claimed by EID was 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.

and “Vice President” Mindy McAnulty^{7,8} circulated a correspondence to Canyon residents purporting that “faulty septic systems in the Canyon” was a “attributed” cause of surface-water contamination, despite the fact that the 2008 USGS Report expressly concluded that older septic systems were not related to the loading of *E. coli*, lithium, and nitrate in Canyon Stream. *See* correspondence signed by Willy Stokman and Mindy McAnulty, attached as Exhibit L.

24. Contrary to EID’s representations through Ms. Stokman and Ms. McAnulty, continued development of the Canyon (or another undetermined source) was cited as the probable cause of deteriorated drinking-water quality and risk to human health. *See* Exhibit I.

25. Financial records 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. *See* true and correct⁷ copy of Utah Transparency Website, attached as Ex. M; *see also* comparison of EID “Manager Compensation” with two (2) Big Cottonwood Improvement District employees available at The ECHO-Association website https://echo-association.com/?page_id=6054.

26. Contrary to the express conclusions of the 1966 Barnett Thesis, 1995 Barnett Testimony, the 2000 Barnett-Yonkee Study and the 2008 USGS Report, Mr. and Mrs. Hawkes have a vital personal and economic interest in EID’s sustained and continued revenue flow secured

⁷ In an email correspondence from August 7, 2020, Ms. Stokman confirmed having received public funds for the printing and postage costs of the letter from the Simplifi Company, although no such allocation to Ms. Stockman and/or the “Emigration Canyon Sustainability Alliance” was recorded as approved during the public portion of the EID trustee meeting on June 10, 2020.

⁸ To date, other than a “Business Name Registration” on July 9, 2020, no filings have been made for the “Emigration Canyon Sustainability Alliance” with the Utah Department of Corporations and Commercial Code under entity no. 11847526-0111 in violation of Utah Code Ann. § 42-2-5(2).

from owners of vacant lots unaware of the actual source of deteriorated drinking-water quality and the risk posed to human health in the Canyon should development in the Canyon continue as planned.

27. With EID's current expenditures identified in the 2020 budget, EID will default on its federally-backed loan obligations if Mr. and Mrs. Hawkes are unable to maintain projected revenue consisting of water-usage fees, monthly "fire-hydrant rental fees" and monthly "standby fees" paid by Canyon residents and property owners unaware of the extensive contamination of surface and drinking water in the Canyon.

28. Although EID is a limited purpose local government entity created by Salt Lake County, EID trustees maintain that statutory provisions prohibiting nepotism under Utah Code Ann. §§ 52-3-1(2) and 17B-1-110 do not apply to EID due to the fact that EID has "no 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. N.

29. 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.

30. 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.

31. 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.

32. In August 1998, EID assumed ownership and operation of water system No. 18143 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 issuance of an operating permit required under the federal Safe Drinking Water Act of 1974.⁹ *See* Chemical and Biological Analysis of Ford Analytical Laboratories, attached as Ex. O and Ex. P and DDW correspondence dated September 20, 1995, attached as Ex. Q.

33. 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 in the Brigham Fork and Freeze Creek drainage areas, although both water sources had tested positive for lead contamination prior thereto and were expressly forbidden under the 1966 Barnett Thesis, 1995 Barnett Testimony, the 2000 Barnett-Yonkee Study and the 2008 USGS Report. *See* Certificates of Analysis, Chemtech-Ford Analytical Laboratories, attached as Ex. R and S.

34. From October 2003 to the present date, EID through Simplifi continues to operate the Wildflower Reservoir without a valid operating permit. *See* footnote no. 4.

35. 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 “action level” of 0.015 mg/L for lead contamination. *See* true and correct copy of Nextdoor electronic post, attached as Ex. T.

36. 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” despite the fact that federal guidelines do not allow for any amount of lead contamination in drinking water, it appears

⁹ To date, EID through Simplifi continues operation of Boyer Well No. 2 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>.

that all homes sampled and connected to the EID Water System had tested positive for lead contamination since 1995 and all EID underground water sources had previously tested positive for lead contamination (emphasis added). *See id.* and Ex. O, P, R and S and map of lead contamination test results of EID Water System since 1994 compiled by The ECHO-Association, attached as Exhibit U; *see also* links to lead test results also available at ECHO-Association website https://echo-association.com/?page_id=4950.

37. During the EID trustee meeting on June 11, 2020, at the insistence of Utah Attorney Jeremy Cook of the Salt Lake City law firm Cohne Kinghorn P.C., Mr. Hawkes and EID trustees Michael Scott Hughes, Brett Tippets and David Bradford 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 and DDW correspondence dated November 12, 2019, attached as Ex. V.

38. During the November 11, 2019 EID trustee meeting, Mr. Hawkes disclosed 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.

39. During the June 11, 2020 EID trustee meeting, Mr. Hawkes disclosed the repair of distribution lines of the EID Water System not approved for drinking water (*i.e.*, black PVC). *See* audio-video excerpt of electronic trustee meeting conducted via the Zoom internet platform, available at The ECHO-Association website https://echo-association.com/?page_id=1661.

40. Between August 1998 to the present day, Simplifi failed to inform EID water users and “standby customers” of the lead-contamination of EID’s water sources, lead contamination of EID’s water-distribution lines, lack of valid operating permits for Boyer Well No. 2 and the Wildflower Reservoir, and use of unapproved 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.

41. During the EID trustee meeting on August 6, 2020, Mr. Hawkes failed to inform EID trustees that all 20 homes connected to the EID water system had again tested positive for lead contamination in June 2020. *See id.* and “90th Percentile Result Calculator, Lead and Cooper Sampling Summary” dated July 17, 2020, attached as Ex. W.

42. On July 25, 2020, in an undated correspondence under the letterhead “Emigration Canyon Improvement District”, Mr. Hawkes reported copper contamination in excess of federally-mandated drinking water standards of 3 homes connected to EID Water System the but failed to inform its existing and “stand-by” customers that all 20 homes and all water samples had tested positive for lead contamination and failed to record that 1 water sample had tested 18 times the level for copper contamination allowed under federal drinking water requirements. *See* System-Wide Public Notice attached as Ex. X and Lead and Copper Sampling Summary at Ex. W.

STATEMENT OF LEGAL GROUNDS FOR RELIEF

43. Under the Water Management and Conservation Plan dated November 14, 2003, required for the receipt of federally-backed funds administered under the Safe Drinking Water Act of 1974, EID purported that the telemetry system installed in the year 2000 “measures and records well depths, reservoir levels and pumping volumes, rates of pumping and electrical usage”

whereby [a]ll of these levels, volumes, ect. are available for observation and print-out [sic] on-line [sic] through PC Anywhere [sic]" and "[p]ermanent hard copy table and graphs are created and kept in EID files in addition to the electronic files created by the computer program in use." See excerpt of "Telemetry System" at Nr. B (4), attached as Ex. Y.

44. In the Water Conservation and Management Plan dated March 14, 2013, EID further reported that the original telemetry system was "updated in 2003 to include the new reservoir [i.e., Wildflower Reservoir]" and "will also include the new well [i.e., Upper Freeze Creek Well]" under the same system of easily accessible recording. See "Telemetry System at Nr. B (4), attached as Ex. Z.

45. 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.

46. Although GRAMA typically applies to "any political subdivision of the state" such as EID and not private individuals and for-profit corporations operating under an unregistered fictitious 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."

47. The only "office" and "premises" of EID operated during normal working hours is the private residence of Mr. and Mrs. Hawkes accessible only by Mr. and Mrs. Hawkes.

48. Because EID has no employees and operates entirely through the shell of Simplifi at the private residence of Mr. and Mrs. Hawkes under the unregistered assumed name "Emigration Canyon Improvement District", all Respondents to the present action are subject to the judicial

review of the denied request/denied appeal 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.

49. On June 10, 2020, The ECHO-Association submitted a request for all telemetry data for EID production wells and water storage facilities since September 1, 1998 (“Water-Level Telemetry GRAMA”) to Mr. Hawkes. *See* GRAMA request form, attached as Ex. AA.

50. Upon non-response and non-confirmation of receipt of the Water-Level Telemetry GRAMA, on June 27, 2020 The ECHO-Association filed appeal to the chief administrative officer whereby on July 9, Mr. Hawkes responded that “data requires custom software programs to access the data” and then identified the Software program “LGH File Inspector” with an alternative demand for payment of \$3,000.00 to provide the data in the format of a Microsoft Excel spreadsheet. *See* email correspondence attached as Ex. BB.

51. After receipt of the data file from Mr. Hawkes, The ECHO-Association reported that the file transmitted by Mr. Hawkes on July 15, 2020 did not match the water levels previously reported by Mr. Hawkes to EID trustees as captured in audio recordings and all telemetry data collected as “LGH files” could be easily converted to an Excel spreadsheet in an easy 5-step process in less than 15 minutes. *See* email entitled “Final Deadline for Judicial Review Filing” dated July 17, 2020, attached as Ex. CC.

52. During the following EID trustee meeting on August 6, 2020 Mr. Hawkes failed to identify or discuss the Water-Telemetry GRAMA during the trustee meeting and refused to disclose current water levels despite the fact that “Water Level Report” and “System Water Levels and Consumption Report” was identified in the EID meeting agenda under Nr. 6 and subsection A. *See* EID Board Meeting Agenda, attached as Ex. DD.

53. Previous reports of water levels by Mr. Hawkes to the EID trustees document that the EID's main production well is pumping water below the level of the Canyon Stream. *See* illustrative map of the Upper Freeze Creek Well in relation to the surface water level of the Canyon Stream, attached as Ex. EE.

54. To date, Respondents have failed to disclose the requested public records identified in the Water-Level Telemetry GRAMA thereby necessitating the present litigation.

REQUEST FOR RELIEF

Petitioner requests this Court enter the following relief:

1. An Order directing the Respondents to disclose all water level reports of Boyer Well No. 1, Boyer Well Nr. 2, the Brigham Fork Well, the Upper Freeze Creek Well, the Boyer Tank and the Wildflower Reservoir to include pumping volumes, rates of pumping and electrical usage and all tables and graphs from September 1, 1998 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);
3. An Order awarding Petitioner reasonable attorney fees and costs per Utah Code Ann. § 63G-2-802(2).

DATED this 10th day of August, 2020.

MARK CHRISTOPHER TRACY dba
EMIGRATION CANYON HOME OWNERS
ASSOCIATION

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