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Proposed Pro Se Co-Petitioner

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

STEVE ONYSKO

Petitioner,

vs.

PATRICIA SMITH-MANSFIELD (CHAIR),
and EMIGRATION IMPROVEMENT
DISTRICT

Respondents.

**MOTION FOR LEAVE TO JOIN THIRD
PARTY AS CO-PETITIONER**

Case No.: 200906661

Judge: Keith Kelly

Pursuant to Rule 20 of the Utah Rules of Civil Procedure (“URCP”), proposed petitioner Mark Christopher Tracy (“Mr. Tracy”) dba Emigration Canyon Home Owners Association (“The ECHO-Association”) hereby moves to join Petitioner Steve Onysko (“Onysko”) as Co-Petitioner, on the grounds that rights to relief arise out of the same series of transactions or occurrences and common questions of law.

A. INTRODUCTON AND FACUTAL SUMMARY

This case centers on the de facto denied request for disclosure of government records regarding lead contamination of public drinking-water system no. 18143 owned by Emigration Improvement District (“EID” aka Emigration Canyon Improvement District aka ECID) and

operated by the Simplifi Company (“Simplifi”) through Emigration Canyon Deputy Mayor Jennifer Hawkes (“Deputy Mayor Hawkes”) and her spouse Eric Hawkes (collectively “Simplifi Respondents”).

In response to a request for access to government records under the Utah Government Records and Management Act (“GRAMA”) filed by Onysko on March 30, 2020, EID through its legal counsel denied access to lead-contamination documents required to be maintained on the “premises” of the water system operator for a period of 12 years under Utah Administrative Code R309-105-17(2)(a)-(b) thereby leading to Onysko’s petition for de novo judicial review of the denied request for government records.

A year later, on March 31, 2021, in parallel proceedings, upon a similar request and appeal filed by Mr. Tracy, and in response to the Decision and Order issued by the Utah State Records Committee, EID through Simplifi through Mr. Hawkes produced 5 email communications regarding lead contamination of drinking water and certified that all laboratory test results of lead contamination of water system no. 18143 were posted on the EID website administered by Simplifi.¹

It appears that the Notice of Certification filed by Mr. Hawkes on behalf of EID is demonstrably false. Rather than commence additional legal action and further tax judicial resources during the COVID-19 pandemic, Mr. Tracy requests joinder in the present litigation.

¹ See true and correct copy of the Notice of Compliance dated March 30, 2021, attached as Exhibit A. Litigation against Simplifi Respondents also regarding willful refusal to disclose government records of lead-contamination maintained at the private residence of Deputy Mayor Hawkes and Mr. Hawkes is current pending with the Utah Court of Appeals. See *Mark Christopher Tracy dba Emigration Canyon Home Owners Association v. Simplifi Company, Jennifer Hawkes and Eric Hawkes* (UT App) Docket No. 20200295-CA (pending).

B. GROUNDS FOR REQUESTED RELIEF

Such joinder is appropriate because the claims against the defendants:

- Arise out of the same series of occurrences and transactions – *i.e.*, the de facto refusal to provide access to government documents related to lead contamination of public drinking water system no 18143;
- Require the adjudication of common questions of fact and law – *i.e.*, whether defendant’s conduct violates state law.

Finally, because joinder of the proposed Co-Petitioner will not deprive the court of jurisdiction in the pending matter, joinder is warranted under Rule 20 URCP.

C. CONCLUSION

Based upon the foregoing, Mr. Tracy respectfully requests the Court grant this Motion and join Mr. Tracy with Onysko as co-petitioner, and grant other and further relief as the Court may find just and proper.

DATED this 20th day of April, 2021.

MARK CHRISTOPHER TRACY dba
EMIGRATION CANYON HOME OWNERS
ASSOCIATION

/s/ Mark Christopher Tracy
Mark Christopher Tracy
Proposed Pro se Co-Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of April, 2021, a true and correct copy of the foregoing **MOTION FOR LEAVE TO JOIN THIRD PARTY AS CO-PETITIONER** was sent via electronic mail to the following counsel of record:

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/s/ Mark Christopher Tracy
Mark Christopher Tracy

EXHIBIT A

March 30, 2021

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

RE: Notice of Compliance

Dear Ms. Shaw:

In accordance with the Decision and Order in Case No. 21-09, the Records Committee ordered that Emigration Improvement District ("EID") do a more thorough search for records responsive to the following records request from Mr. Tracy submitted to the District on September 18, 2020:

"All email correspondence between EID General Manager Eric Hawkes and/or Deputy Emigration Canyon Mayor Jennifer Hawkes of the Simplifi Company with EID trustees Michael Scott Hughes, David Bradford, Brent Tippets and Dr. Mark Stevens regarding lead contamination of water system 18143 since January 1, 2013."

The letter confirms that I have conducted a second search of my emails (and my wife's emails although she has no involvement with EID) and I have found additional email correspondence between January 1, 2013 and September 18, 2020 (the date of the request) that are response to the request. I have included copies of the emails with this correspondence. In addition, though not responsive to the request, EID has posted all lead testing results on its webpage at <https://www.ecid.org/projects>.

Please let me know if you have any questions or if the Records Committee requires any additional information.



Eric Hawkes, EID Records Custodian