



CHRISTENSEN
& JENSEN
ATTORNEYS

Phone: 801.323.5000
Fax: 801.355.3472
www.chrisjen.com
January 22, 2019

Scot A. Boyd
scot.boyd@chrisjen.com

VIA HAND DELIVERY

Kent L. Jones, State Engineer
Utah Division of Water Rights
2594 W. North Temple, Suite 220
Salt Lake City, UT 84114-6300

**Re: Protest of Extension of Time Request for Permanent Change Application
“a12710b” (57-8865) Submitted by Emigration Improvement District / Congressional
Authorization for Mount Olivet Cemetery Association Water Right 57-8865**

Dear Mr. Jones:

On behalf of Emigration Canyon Home Owners Association (“**The ECHO-Association**”), we hereby submit the following protest to the Request for Extension of Time for permanent change application “a12710b” (57-8865) for the continued operation of Boyer Well #1 (aka Freeze Creek Well #1) by Emigration Improvement District (“**EID**” aka ECID).

Please note the following for the record:

- On October 31, 2018, EID received notice from your office that permanent change application “a12710b” (57-8865) would lapse if EID failed to provide proof of beneficial use or extension request prior to December 31, 2018 (*see* Utah State Division of Water Rights correspondence signed by Kent L. Jones attached as **Exhibit A**);
- On December 10, 2018, despite our request, Deputy Utah State Engineer Boyd Clayton failed to provide a copy of the Memorandum Decision of your office from December 16, 1983, approving the aforementioned permanent change application, although the same was protested by Salt Lake City in protection of a water share belonging to James E. Hogle previously adjudicated under Civil Decree 25890 (*see* email correspondence Deputy Utah State Engineer Boyd Clayton attached as **Exhibit B**; *see also* Protest and Endorsement Page attached as **Exhibit C**);
- In our correspondence from December 5, 2018, we informed your office that the continued use of water share 57-8865 by EID for 188 domestic units of the luxurious Emigration Oaks development required the express authorization of the United States Congress due to the fact at the original transfer to Mount Olivet Cemetery Association from the United States of America mandated “forever use” of the water share for an *active federal military cemetery* in order to prevent reversion back to the United States government (*see* **Exhibit D**);
- For unknown reasons, it took the State Engineer’s office two weeks to inform EID that the aforementioned change application had permanently lapsed (*see* **Exhibit**

E) but the State Engineer's office approved EID's Request for Extension of Time the very same day it was submitted *without public notice or hearing* (see **Exhibit F**);

- Contrary to EID's factual representations and contrary to the express affirmation of accuracy by EID General Manager Eric Hawkes in the aforementioned Extension of Time Request, Boyer Well Nr. 2 (aka Well #2) is not operated under "a12710b" (57-8865) but rather underground point-of-diversion Nr. 9 under permanent change application "a17521" (57-7796). Accordingly, operation of the water system was not "acquired" from the Freeze Creek Water Company (*i.e.*, The Boyer Company) in 1994. Instead, EID "assumed legal liability thereof" on August 4, 1998 (see **Exhibit G**); and,
- Lastly, as you are aware, the former Area Manager of Emigration Canyon with your office Jack A. Barnett†, expressly *warned against* the operation of large-diameter commercial wells as proposed by the current permanent change application due to "almost certain" impairment of underground water sources with superior water rights (see Second Addendum of The ECHO-Association protest to permanent change application "a44045" (57-7796) available at https://echo-association.com/?page_id=635).

The record shows that over forty (40) private-well owners report quantity and quality impairment, including *total depletion of the Emigration Canyon Stream* less than two miles from Utah's Hogle Zoo. We hereby protest the Request for Extension of Time for "a12710b" (57-8865) until which time EID produces evidence of Congressional authorization for the continued operation of Boyer Well #1.

Please feel free to contact me regarding any questions.

Kind Regards,

CHRISTENSEN & JENSEN P.C.



Scot A. Boyd

cc: Brigadier General Craig A. Bugno
Fort Douglas Commanding Officer
and Board Member of the Mount Olivet Cemetery Association -
1965 de Trobriand St.
Salt Lake City, Utah 84113

EXHIBIT A



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

OCTOBER 31, 2018

EMIGRATION IMPROVEMENT DISTRICT
PO BOX 58945
SALT LAKE CITY, UT 84158-0945

Dear Applicant:

RE: Application No. 57-8865 (a12710b)
PROOF DUE DATE: DECEMBER 31, 2018

To complete an appropriation or a change of water right, proof that the development work is completed and the water is being beneficially used must be prepared by a land-surveyor or an engineer licensed in Utah. Your due date for submitting a properly prepared proof is on or before **DECEMBER 31, 2018**.

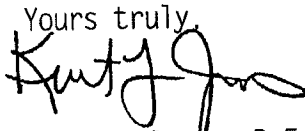
However, if the water uses do not exceed one residence, irrigation of 0.25 acre, and watering 10 livestock, you may be eligible to submit an Affidavit of Beneficial Use instead of a proof prepared by a licensed proof professional. The following is required to submit an affidavit: a copy of the Certificate of Occupancy for the residence; a copy of the plat map from your County Recorder's office; a map showing the water source and the uses of water; and a completed affidavit form. If you submit an affidavit, all required documents must be filed by the proof-due date shown above.

There is no fee for filing a proof or an affidavit. However, if either cannot be submitted by the proof-due date, an extension of time may be requested by completing the enclosed form and submitting it by the proof-due date. The fee for filing an extension of time request is \$150.00.

If the applicant is a public water supplier or wholesale electrical cooperative, extensions beyond 50 years can only be approved if the water is needed for the future needs of the public. Those extension requests must be accompanied by an adequate 40-year plan projecting the future needs of the applicant, in accordance with criteria specified in Section 73-1-4(2)(f), Utah Code Annotated 1953 (as amended).

Failure to submit a completed proof, affidavit, or an extension request on or before the PROOF DUE DATE will cause the application to LAPSE.

Your contact with this office, should you need it, is with our Regional Office in Salt Lake City. The telephone number is (801)538-7240.

Yours truly,

 Kent L. Jones, P.E.
 State Engineer

Enclosure: Extension Form

PROOF DUE - ADVERTISING REQUIRED

EXHIBIT B

From: Boyd Clayton [mailto:boydclayton@utah.gov]
Sent: Monday, December 10, 2018 9:45 AM
To: Scot Boyd
Subject: Re: December 19 Hearing - additional info referenced but hard to find...

I have examined our files and there are two relevant documents in water right file 57-69 which relate to the approval of change application a12710. They are in the scanned documents numbered 225 and 235. Office practice prior and during this period was generally not to issue a separate order of the state engineer by memorandum unless there was a need for specific conditions or determinations. It appears the state engineer concluded that was not necessary so following practice at the time he signed the change application endorsement page and provide a signed copy back to the applicant. He also sent a cover letter called an approval letter which accompanies a copy of the endorsed application. This the approval letter:
https://www.waterrights.utah.gov/asp_apps/DOCDB/DocImageToPDF.asp?file=/docSys/v113/a113/a11304wp.tif

This is the application endorsement page.

On Dec 6, 2018, at 11:15 AM, Scot Boyd <scot.boyd@chrisjen.com> wrote:

It would probably be better for your folks to do so internally as they know the files better. A couple days would be fine. Plus, then it can be scanned and placed into the file.

Scot

From: Boyd Clayton [mailto:boydclayton@utah.gov]
Sent: Thursday, December 06, 2018 10:50 AM
To: Scot Boyd
Subject: Re: December 19 Hearing - additional info referenced but hard to find...

I was looking in the scanned documents yesterday and I could not find it there either. I don't know if you've looked at the hardcopy file. If we have it that is where it would be and it was mislabeled or just missed in the scanning process. I can ask someone to go through the hardcopy file and see if we can produce it but that will take a few days. You are welcome to look yourself. Our files are open to the public.

On Thu, Dec 6, 2018 at 10:27 AM Scot Boyd <scot.boyd@chrisjen.com> wrote:
Boyd,

Thank you for your Freeze Creek info. We have also seen reference to the following and can't find it:

State Engineer's Memorandum Approval of permanent change application "a12710" (57-8865) in December 1983?

Scot

From: Boyd Clayton [mailto:boydclayton@utah.gov]
Sent: Wednesday, December 05, 2018 2:23 PM
To: Scot Boyd
Subject: Re: Refusal to Reopen Protest Period / December 19 Hearing Protocol - Utah State Engineer

I was unable to find a copy of the Freeze Creek Investigation in state engineer records but I did find a copy in my personal records. Of note, the figures at the end are dated after the report was issued so they may not have been included in the report provided the state engineer

On Wed, Dec 5, 2018 at 12:08 PM Scot Boyd <scot.boyd@chrisjen.com> wrote:
Boyd,

Thank you for the clarification. On behalf of ECHO, we intend to appear and to comply with all the instructions re testimony.

In our preparation for the hearing, we have noted references to a 1995 protest of water right 57-7479. In the hearing on Dec. 15, 1995, a report, authored by you in 1988, is referenced. We have been unable to locate your 1988 report.

Will you please forward that to me or provide me with a reference point to find it on your website?

Thank you,

Scot

Scot A. Boyd
Christensen & Jensen, PC
257 E 200 S, Suite 1100
SLC, UT 84111
801-323-5000

EXHIBIT C

RAY L. MONTGOMERY
Assistant City Attorney
Attorney for Protestant
100 City & County Building
Salt Lake City, Utah 84111
Telephone: 535-7788

RECEIVED
SEP 30 1983
WATER RIGHTS

CHANGE-SEE ABSTRACTION

BEFORE THE UTAH STATE ENGINEER

Application No. a-12710)	PROTEST OF
(57-69) of Mt. Olivet)	SALT LAKE CITY
Cemetery and Boyer Company.)	CORPORATION
)	

COMES NOW Salt Lake City Corporation, by and through its Assistant City Attorney Ray L. Montgomery, and protests the foregoing identified application on the following grounds:

1. The change in point of diversion provided for in the application will reduce the stream flow, thus increasing the trans-evaporation losses in the stream flow, resulting in a reduced stream flow available to Salt Lake City Corporation under Third District Court Decree No. 25890.


2. In application 9207 (57-29), change application a-12710, certificate 2220 indicates that the water right amounts to 1.17 CFS and not in excess of three acre feet per acre per annum for 82.29 acres which amounts to 246.87 acre feet per year. This certificate also states that the rights are subject to the terms of the court decree, Third District Court No. 25890, which only allows 1.00 CFS continuous flow, or 1.27 CFS from 6:00 a.m. Mondays to 6:00 p.m. Saturdays, which would be an average of 1 CFS of continuous flow. The change application enlarges the

decreed water right to the detriment of Salt Lake City Corporation.

3. Change application a-12710 (57-2526) Mt. Olivet Cemetery Association, The Boyer Company, proposed to change the point of diversion with a 16-inch well from a location within Mt. Olivet Cemetery approximately to a point up-canyon in the Emigration drainage. This change in point of diversion will reduce water rights of Salt Lake City Corporation in Emigration Creek pursuant to the said decree.

4. The change of point of diversion requested for 4) Lefthand Burr Fork Spring area, at a point north 1850 feet west 2580 feet from the southeast corner, section 16; 5) Thomas Spring, at a point north 4950 feet west, 2150 feet from the southeast corner, section 16; 6) City Canyon Spring area, at a point south 1226 feet east 2200 feet from the northwest corner, section 22; and 7) Jeep Trail Spring, at a point south, 1500 feet west 1800 feet from the east one-quarter corner of section 15, are protested by Salt Lake City Corporation. The City has prior contractual obligations to Zions First Security for the delivery of water to some of the Pinecrest homeowners from these same sources of water.

DATED this 28th day of September, 1983.


RAY L. MONTGOMERY
Assistant City Attorney
Attorney for Protestant

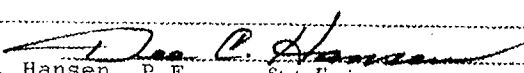
(This page not to be filled in by applicant)

STATE ENGINEER'S ENDORSEMENTS

1. 3-9-83 Change Application received ^(over counter) by mail in State Engineer's office by CP
2. _____ Priority of right to make change brought down to, on account of _____
3. 3-9-83 Fee for filing Application \$ 5.25, received by CP, Receipt No. 02126
4. 3-31-83 Application microfilmed by CAA Roll No. 1004 and indexed by 3-18-83
5. _____ Application platted by _____
6. 05/06/83 Application examined by EADP
7. _____ Application returned, with letter, to _____ for correction
8. _____ Corrected application resubmitted ^{over counter} by mail to State Engineer's office
9. 05/06/83 Application approved for advertisement by EADP
10. JUN 8 1983 Notice to water users prepared by WWE
11. JUN 16 1983 Publication began, was completed JUN 30 1983 Deseret News
12. 6/10/83 Proof slips checked by COE
13. _____ Change Application protested by _____
14. 12/1/83 Publisher paid MEV No. 021018
15. _____ Field Examined by _____
16. 12/12/83 Application designated for ^{approval} ~~rejection~~ by EADP SE
17. 12/16/83 Change Application copied slm proofread by _____
18. 12/16/83 Change Application ^{approved} ~~rejected~~ and returned to applicant _____

This application is approved on the following conditions:

1. Actual construction work necessitated by proposed change shall be diligently prosecuted to completion.
2. Proof of change shall be submitted to the State Engineer's office by 4/30/87
3. This change is subject to all conditions imposed on the approval of the original application or right


Dee C. Hansen, P.E., State Engineer

19. _____ Time for making proof of change extended to 4/30/90, 4/30/95
20. _____ Proof of change submitted.
21. _____ Certificate of change No. _____, issued.

I hereby certify that the foregoing is a true copy of the Application by _____ to change the point of diversion, place and nature of use of water as shown, with endorsements thereon, on the records of my office on the date given below.

Salt Lake City, Utah _____, 19____ State Engineer

Change Application No. A-12710

EXHIBIT D



CHRISTENSEN
& JENSEN
ATTORNEYS

Phone: 801.323.5000
Fax: 801.355.3472
www.chrisjen.com

Scot A. Boyd
scot.boyd@chrisjen.com

December 5, 2018

VIA HAND DELIVERY AND E-MAIL (boydclayton@utah.gov)

Kent L. Jones, State Engineer
Utah Division of Water Rights
2594 W. North Temple, Suite 220
Salt Lake City, UT 84114-6300

Re Addendum to Protest Regarding Permanent Change Applications "a44045" (57-7796) and "a44046" (57-10711) submitted by Emigration Improvement District / Proof of Congressional Authorization for Operation of Boyer Well Nr. 1 Under Mount Olivet Cemetery Association Water Right 57-8865

Dear Mr. Jones:

On behalf of the Protestant Emigration Canyon Home Owners Association ("The ECHO-Association"), we hereby submit the following addendum to our protest of the above referenced change applications against water share 57-7796 currently owned by Emigration Improvement District ("EID" aka ECID).

Upon further and extensive review of documents posted on the website administered by the Utah Division of Water Rights as well as submitted to The ECHO-Association by concerned parties of interest, please note the following for the record:

- On August 11, 1923, the Judge P.G. Evans of the Utah State Third District Court determined that surface water flow of the Emigration Canyon Creek averaged **5.43 cfs** per year (*see* Civil Decree 25890 attached as **Exhibit A**);
- While the court's decision addressed the rights of the formal parties of the civil action (Salt Lake City, James E. Hogle, Mount Olivet Cemetery Association *et. al.*) as to 2/3 flow of the Emigration Canyon Stream, the remaining 1/3 flow was assumed to belong to the Emigration Dam and Ditch Company (*see id.*);
- As such, 2/3 flow of **5.43 cfs** calculated at **3.822 cfs** was determined to belong to the formal parties of interest, while the remaining 1/3 flow of **5.43 cfs** calculated at the remaining **1.683 cfs** was undetermined by the court.
- Per warranty deed, assumed to be executed on August 21, 1954, the Emigration Dam and Ditch Company transferred "all of the water rights vested" to the Utah State Road Commission (*see* **Exhibit B**);

RECEIVED

DEC 05 2018

WATER RIGHTS
SALT LAKE

LP

- The court's determination of the 1/3 interest of 1.683 cfs and the conveyance of water rights from the Emigration Dam and Ditch Company to the Utah State Road Commission was affirmed by your office in a letter dated July 5, 1961 (*see Exhibit C*);
- Although the volume of water remained unspecified in the aforementioned conveyance, as 2/3 flow of Emigration Canyon stream had been previously adjudicated in Civil Decree Nr. 25890 to be **3.822 cfs**, the remainder 1/3 interest of **1.683 cfs** was effectively transferred to the Utah State Road Commission from the Emigration Dam and Ditch Company *and no more*;
- In turn, on January 27, 1971, the Utah State Road Commission, via quit claim deed, conveyed "an interest in Diligence Claim Number 2023" (unknown reference) consisting of sufficient water from Emigration Creek to supply the irrigation of 100 acres of land, *not to exceed a flow of 10.00 cfs*. (emphasis added) to the Utah State Division of Parks and Recreation (*see Exhibit D*) thereby potentially exhausting its entire water claim of **1.683 cfs** previously acquired from the Emigration Dam and Ditch Company under the aforementioned August 21, 1954 warranty deed;
- Although it arguably possessed no remaining water rights, the Utah Road Commission deeded EID an "interest in Diligence Claim D2023" (unknown reference) via quit claim deed "consisting of sufficient water from Emigration Creek to supply the needs for 26 families, 75 horses, 200 cattle, 400 sheep and the irrigation of 150 acres of land, *not to exceed a flow of 2.00 cfs* (emphasis added) (*see Exhibit E*);
- Contrary to the 1923 Civil Decree Nr. 25890, during the adjudicative proceedings of your office commenced in 1983, and for unknown reasons, EID claimed **33.00 cfs** under diligence claim "a6538" (57-7796) as a 63.606 % interest in diligence claim "D2023" (unknown reference) (*see Exhibit F*) but then later withdrew "a6538" on March 14, 1997 for unknown reasons (*see Exhibit G*);
- In a letter dated September 6, 2013, your office reported that EID water right 57-7796 was "evidenced by" diligence claim "D2023" filed on June 30, 1968 by the Utah State Road Commission, stating that it was "based on 1/3 natural flow of Emigration Creek used by individuals of the Emigration Canyon Dam & Ditch Company" (*see Exhibit H*), which was expressly contrary to the Utah State Third District Court Civil Decree Nr. 25890 as noted above (*see Exhibit A*); and lastly,
- Regardless of proposed determination of your office commenced in 1983, on October 16, 2014 Mount Olivet Cemetery Association filed timely objection to the State Engineer's Proposed Determination of Water Rights under Civil No. 360057298 including EID water right 57-7796 (*see Exhibit I*).

Letter to Kent L. Jones
December 5, 2018
Page | - 3 -

Although EID had submitted permanent change applications “a44045” (57-7796) and “a44046” (57-10711), EID is currently operating the Brigham Fork and Upper Freeze Creek Wells under *approved* temporary change application “t43182” (underground point-of-diversions Nr. 9 and 10 respectively) while EID is operating Boyer Well Nr. 2 under approved permanent change application “a17521” (57-7796) (underground point-of-diversion Nr. 9) but continues to falsely represent that it owns “one of the most senior water rights in the canyon, thanks to the Utah Road Commission... who [sic], in 1976 deeded to the District *a large sum of water rights*” (emphasis added) (see **Exhibit J**).

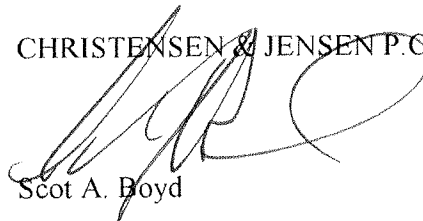
Further, as Boyer Well Nr. 1 is currently being operated by EID under water share 57-8865 (underground point-of-diversion Nr. 11), formerly owned by the Mount Olivet Cemetery Association, and as per Congressional Act of 1909 such property must be used “forever as a cemetery for the dead: *Provided: that when such premises shall cease to be used for such purpose they shall revert to the United States [...]*” (emphasis added) (see <https://echo-association.com/wp-content/uploads/Mount-Olivet-Cemetery-Association.pdf>), we think it necessary for your office to demand that EID trustees provide proof of evidence of Congressional authorization for the indoor and outdoor water use for **188 private residences** (94.04 acre/ft) of the Emigration Oaks development as originally claimed by The Boyer Company LC under “a12710b” (57-8865) with your office.

As over forty (40) wells have reported quantity and quality impairment to date to include *total depletion of the Emigration Canyon Stream* less than two miles from Utah’s Hogle Zoo and to the determinant of the Mount Olivet Cemetery, we look forward to the hearing on December 19, 2018.

Should there be any other relevant documents in the State Engineer’s possession that the engineer intends to rely on that are not found on its web-site, please forward them to me.

Sincerely,

CHRISTENSEN & JENSEN P.C.



Scot A. Boyd

SCANNED RC

Letter to Kent L. Jones
December 5, 2018
Page | - 4 -

Enclosures: a/s

cc: Assistant US Attorney
ATTN: Sandra Steinvoort
District of Utah
111 S. Main, Suite 1800
Salt Lake City, Utah 84111

Fort Douglas Commanding Officer
- As Board Member of the -
Mount Olivet Cemetery Association
1965 de Trobriand St.
Salt Lake City, Utah 84113

SCANNED RC

EXHIBIT E



GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

JANUARY 15, 2019

EMIGRATION IMPROVEMENT DISTRICT
PO BOX 58945
SALT LAKE CITY, UT 84158-0945

LAPSED

Dear Applicant:

FINAL NOTICE OF LAPSING
RE: Application No. 57-8865 (a12710b)
PERMANENTLY LAPSED DATE: DECEMBER 31, 2018

The above-numbered application LAPSED because neither proof of beneficial use nor an extension of time request was received on or before DECEMBER 31, 2018.

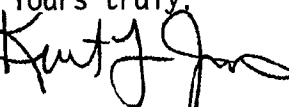
Under Utah Laws, even if an application has lapsed because proof was not submitted or an election was not filed (in areas under an adjudication order of the court), or an extension of time was not requested with the proper showing of diligence, that application might still be reinstated within sixty days after this notice of lapsing.

REQUEST FOR REINSTATEMENT CANNOT BE RECEIVED LATER THAN SIXTY DAYS FROM THE DATE HEREOF. IF YOUR APPLICATION IS REINSTATED, ITS PRIORITY DATE WILL BE CHANGED TO THE DATE ON WHICH REQUEST FOR REINSTATEMENT IS FILED.

IF YOUR APPLICATION IS NOT REINSTATED WITHIN SIXTY DAYS FROM THE DATE HEREOF, UNDER THE LAW, THE ABOVE-NUMBERED APPLICATION WILL BE PERMANENTLY LAPSED AND YOU WILL HAVE LOST THE RIGHT INITIATED BY THIS APPLICATION. THIS IS THE ONLY NOTICE OF PERMANENT LAPSING YOU WILL BE SENT UNDER THIS APPLICATION.

IF YOU USE THIS WATER WITHOUT PROPER AUTHORITY, YOU ARE PERFORMING AN ILLEGAL ACT THAT MUST BE DISCONTINUED UNTIL PROPER PROCEDURES HAVE BEEN FOLLOWED.

IF YOU HAVE QUESTIONS OR IF WE CAN ASSIST YOU FURTHER, WE WILL BE HAPPY TO DO SO. YOUR CONTACT WITH THIS OFFICE, IF NECESSARY, IS WITH OUR REGIONAL OFFICE IN SALT LAKE CITY. THE TELEPHONE NUMBER IS (801)538-7240.

Yours truly,

Kent L. Jones, P.E.
State Engineer

PERMANENTLY LAPSING NOTICE

EXHIBIT F



GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

January 18, 2019

Emigration Improvement District
PO Box 58945
Salt Lake City, UT 84158-0945

Application Number: 57-8865 (a12710b)

Dear Applicant(s):

Your request for extension of time to file proof for the above numbered application was filed in this office on January 18, 2019.

The above-numbered application lapsed on December 31, 2018 because neither proof, affidavit, nor an extension request was received in our office.

The application was reinstated on January 18, 2019, because an Extension Request was received in our office. The priority date of the application is now January 18, 2019.

Sincerely,

Kent L. Jones, P.E.
State Engineer

SCANNED LP

EXHIBIT G

12

7047203

WHEN RECORDED, MAIL TO:

David E. Gee, Esq.
Parr Waddoups Brown Gee & Loveless
185 South State Street, Suite 1300
Salt Lake City, Utah 84111

Mail Tax Notice to: Emigration Improvement District
P.O. Box 58945
Salt Lake City, Utah 84158-0945

7047203
08/05/98 12:56 PM 12.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
PARSONS DAVIES KINGHORN PETERS
185 S STATE SUITE 700
SLC, UT 84111
REC BY: A GARAY DEPUTY - WI

RECEIVED

AUG 11 1998

WATER RIGHTS
SALT LAKE

57-8865

DEED OF WATER RIGHT

For the sum of Ten Dollars (\$10.00) and other good and valuable consideration, FREEZE CREEK WATER COMPANY, a Utah non-profit corporation, and THE BOYER COMPANY, a Utah general partnership ("Grantors"), hereby convey and warrant against all claiming by, through or under them to EMIGRATION IMPROVEMENT DISTRICT, a Utah special district, the following described water right whose point of diversion and place of use are located in Salt Lake County, State of Utah:

Water Right No. 57-8865, as modified by approved change application No a12710b, as more particularly described in the official records of the Utah Division of Water Rights.

IN WITNESS WHEREOF, Grantors have executed this Deed of Water Right this 4th day of August, 1998.

FREEZE CREEK WATER COMPANY, a
Utah non-profit corporation

By Kem C. Gardner
Kem C. Gardner
Its: Vice President and Trustee

THE BOYER COMPANY, a Utah general
partnership

By Kem C. Gardner
Kem C. Gardner
Its: General Partner

BK8056PG1076