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May 13, 2019

**VIA US POSTAL SERVICE**

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

The Honorable William Pelham Barr  
UNITED STATES ATTORNEY GENERAL  
Department of Justice  
10th Street and Constitution Avenue, NW  
Washington DC 20530

**Re: Request for Reconsideration of Extension of Time Request & the *Sua Sponta* Reinstatement of Permanent-Change Application “a12710b” / Petition under Utah State Code 73-3-13 (3) for Declaration of All Rights Claimed under Permanent-Change Application “a12710b” Forfeited / Notice of Illegal Water Extraction via Boyer Well Nr. 1 (Well ID: 10643) operated by Emigration Improvement District**

Dear Mr. Jones:

As previously reported to your office, these proceedings concern the extraction of water rights from an active federal military cemetery in order to construct an affluent urban development resulting in extraordinary private profit and destruction of one the most historically significant areas in the State of Utah.

The Emigration Canyon Home Owners Association (“*The ECHO-Association*”), owner of surface water right 57-8947 (a16183), hereby submits the following Request for Reconsideration regarding the *sua sponte* reinstatement of permanent-change application “a12710b” to previously perfected and segregated water claim 57-8865 (base water right 57-69) and likewise file Request for Reconsideration to The ECHO-Association’s Protest of the Request for Extension of Time for the aforementioned permanent-change application submitted by Emigration Improvement District (“*EID*” aka ECID) for the apparent benefit of the private land-developers named herein.

As per Utah State Code 73-3-13(3) The ECHO-Association also hereby petitions the Division Director of the Utah State Division of Water Rights Kent L. Jones (“*Utah State Engineer*”) to declare the aforementioned permanent-change application filed by the Mount Olivet Cemetery Association (“*Mt. Oliver*”) and The Boyer Company LC (“*Boyer*”), and later perpetuated by EID, void and all rights claimed under “a121710b” forfeited due to the fact that

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the permanent change of the point-of-diversion, nature and place-of-use of base water right 57-69 (a12710) and later segregated water claim 57-8865 (a12710b) cannot be finalized without the express authorization of the United States Congress, and the permanent change application cannot be certified for beneficial use by a licensed professional in its present form.

The ECHO-Association furthermore requests your office take immediate action to prohibit illegal water extraction via Boyer Well Nr. 1 (Well ID: 19643) by EID to the detriment of the active federal military cemetery operated by Mt. Olivet.

The present informal adjudication of the Reinstatement of Permanent-Change Application, Extension of Time Request and Declaration of Forfeiture is subject to *de novo* judicial review of the Utah State Third District Court as per Utah Code 63G-4-402 and is therefore a proceeding pursuant to 43 U.S.C. 666, which allows for the joinder of the United State of America.

John W. Huber, United States Attorney for the District of Utah, is being served as provided in 43 U.S.C. 666. A courtesy copy is provided to the Stephen A. Douglas Armed Forces Reserve Center ("**Fort Douglas**") and Mt. Olivet to include the Veterans of Foreign Wars and the American Legion as non-profit organizations dedicated to honoring our fallen American heroes.

In addition to our pervious correspondence from January 22, 2019, to your office and former Fort Douglas Commending Officer, Brigadier General Bugno, please note the following for the record:

- On December 11, 1922, your office issued "Certificate of Appropriations of Water Nr. 2220", to Mt. Olivet for 1.17 cubic feet per second ("*cfs*") thereby perfecting the cemetery's water-right claim previously adjudicated under Civil Decree 25890 by the Utah State Third District Court and later affirmed by the Utah State Supreme Court for the care and maintenance of the active federal military cemetery operated by Mt. Olivet located near the University of Utah Rice-Eccles Stadium (*see* Certificate Nr. 2220 attached as **Exhibit A**; *see also* *Mount Olivet Cemetery Ass'n v. Salt Lake City*, 961 F. Supp. 1547 (D. Utah 1997));
- On March 9, 1983, for reasons unknown, and in possible violation of the deed of conveyance issued under the authority of the Congressional Act of 1874, signed by United States President Ulysses S. Grant, the "premises" (and water rights appurtenant thereto) would be used "forever as a cemetery for the burial of the dead." Mt. Olivet, through its "Board President" identified as "R.L. Arnold," certified that it would "retire from irrigation *all of its water rights*" previously perfected and "*any other water rights* it may now have for use on the cemetery

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grounds” for the benefit of Boyer (*see* Application for Permanent Change of Point of Diversion Place and Nature of Use of Water attached as **Exhibit B**);

- With the approval of the Utah State Engineer, Mt. Olivet and private land-developer Boyer, through permanent-change application 57-69 (a12710), altered both the previously perfected surface point-of-diversion, nature and place-of-use at the Mt. Olivet cemetery grounds to nineteen (19) points-of-diversion<sup>1</sup> in the luxurious Emigration Oaks Private Urban Development (“*Oaks PUD*”) located at higher elevations within the historic Emigration Canyon (“*Canyon*”) for sole purpose of high-end residential development at an estimated private profit of \$42 million dollars (*see* <https://echo-association.com/wp-content/uploads/Mt.-OlivetBoyer-Change-Application-Notice-.pdf>);
- For reasons unknown, Mt. Olivet executed at least three separate “Special Warranty Deeds” each for the conveyance of “1/7 of all waters and water rights” and each notarized on **March 8, 1983**, to Boyer (*i.e.*, 3/7 or 42%); and on the same day, for reasons unknown, Boyer through its partner H. Roger Boyer notarized its own Quit Claim Deed for “5/7 of all water and water rights” (*i.e.*, 71%) to Mt. Olivet and on September 23, 1985 for unknown reasons, Boyer through its partner H. Roger Boyer executed yet another warrant deed to Mt. Olivet for “1/7 of all waters and water rights” (*see* **Exhibit C**);
- Boyer segregated permanent-change application 57-8865 (a12710b) from base water share 57-69 (a12710) and then deeded the former to EID in order to facilitate the further expansion of the Oaks PUD by Boyer, City Development Inc., and later land-developer R. Steve Creamer for *at least* 56 additional parcels to include a Gun Range and Wedding Resort proposed by the Butler Crockett & Walsh Development Corp;
- For reasons unknown, although point-of-diversion Nr. 11 identified as “Boyer Well Nr. 1” (Well ID: 10643) under 57-69 (a12710) and segregated water claim 57-8865 (a12710b) was drilled and placed into operation sometime after June 15, 1986 for water use at 3 of the 229 luxurious homes of the Oak PUD built at that time, neither Mt. Olivet, Boyer nor EID submitted proof of beneficial use thereby perfecting the aforementioned permanent-change application due to the fact that

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<sup>1</sup> The Bertagnole Investment Company Limited Partnership identified the same points-of-diversion in its permanent-change application 57-7475 (a12712) also filed on the same day as Mt. Olivet and Boyer’s application 57-69 (a12710 and a12711).

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the well was not drilled in an approved location and could not be certified by a professional engineer as required under Utah State Code;<sup>2</sup>

- On January 15, 2019, the Utah State Engineer informed EID that permanent-change application “a12710b” had permanently lapsed as of December 31, 2018, because Mt. Olivet, Boyer and EID had failed to provide proof of beneficial use for the altered points-of-diversion, nature and place-of-use *not on cemetery grounds* and had neglected to file a Request for Extension of Time (*see Exhibit E*);
- Despite the two-week delay in informing EID that permanent-change application “a12710b” had lapsed, on January 18, 2019, EID submitted an “Extension of Time Request” whereby the Utah State Engineer, for reasons unknown, immediately reinstated the permanent-change application the same day *without* a written application for reinstatement as mandated under Utah State Code 73-3-18(3), *without* showing of reasonable cause as required under Utah State Code 73-3-18(2), and *without* public notice or hearing (*see* Extension of Time Request and State Engineer Reinstatement Letter attached as **Exhibit F**);
- The ECHO-Association is alarmed by the Utah State Engineer’s handling of this matter. In correspondence dated December 5, 2018, The ECHO-Association informed Utah State Engineer Kent L. Jones and Mt. Olivet Board Member and former Fort Douglas Commander Officer Brigadier General Craig A. Bugno that permanent-change application 57-8865 (a12710b) filed by Mt. Olivet/Boyer and currently in use by EID for **188** domestic units of the luxurious Oaks PUD required the *express authorization* of the United States Congress due to the fact at the original transfer of property (and all claims to water appurtenant thereto) to Mt. Olivet from the United States of America in 1874 mandated “forever use” at the active federal military cemetery operated by Mt. Olivet for the burial of the dead in order to *prevent reversion* back to the United States government (*see* <https://echo-association.com/wp-content/uploads/Protest-Addendum-Final-.pdf>; *see also* *Mount Olivet Cemetery Ass’n v. Salt Lake City*, 961 F. Supp. 1547 (D. Utah 1997));

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<sup>2</sup> It appears that the location of Boyer Wells Nr.1 approved as a point-of-diversion Nr. 10 identified as “Preuss-Freeze Creek Well Nr. 3” under 57-8865 (a12710b), differ substantially from the actual location of the well competed in 1986 and may have been drilled at an unapproved location after three approved points-of-diversion drilled over a period of two years identified under Well IDs 10761, 10760 and 10762 proved unsuccessful<sup>2</sup> (*see* Well Driller’s Reports attached as **Exhibit D**).

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- As you are further aware, in August 1966 and December 1995, the former Area Manager of Emigration Canyon Jack A. Barnett, expressly *warned against* the points-of-diversion, nature and place-of-use in the Oaks PUD as proposed by permanent-change application “a12710b” due to “*almost certain*” impairment of surface water flow necessary for the care and maintenance of an active federal military cemetery for the burial of the dead by Mt. Olivet for a period of “*twenty-five, fifty, seventy-five years*” (emphasis added) (see [https://echo-association.com/?page\\_id=2204](https://echo-association.com/?page_id=2204));
- As EID has failed to either seek or acquire congressional authorization for water extraction and use in the Oaks PUD to the detriment of an active federal military cemetery for the burial of the dead, and the Utah State Engineer’s Office has failed to investigate or inquire *prior to reinstating* permanent changes, it appears that segregated water right 57-8865 and base water share 57-69 has reverted back to the United States of America;
- In public, EID vehemently denies plans to utilize permanent changes to the perfected water right 57-8865 for continued massive residential and commercial development in the Canyon for the benefit of private land-developers, including current or former members of the “EID Advisory Committee,” to the “*almost certain*” detriment of an active federal military cemetery for the burial of the dead. However, in its previous application for Extension of Time Request submitted to the Utah State Engineer Office on January 30, 2014, EID expressly certified that “it intends to develop *some of the springs* contemplated by this application *and one or two additional wells*” in addition to the recently completed Upper Freeze Creek Well in October 2013 *not for use on cemetery grounds* (emphasis added) (see Undated Community Letter attached as **Exhibits G** and 2014 Extension Request attached as **Exhibit H**; see also [https://echo-association.com/?page\\_id=2985](https://echo-association.com/?page_id=2985));
- Moreover, during the March 12, 2015 trustee meeting, EID reported that it intends to provide water service to over **517** luxurious homes *yet to be constructed* in Canyon and EID financial records show that it obligated itself to bring future water service to **97 vacant lots** to the “*almost certain*” detriment of the active federal military cemetery to be used forever for the burial of the dead (see [https://echo-association.com/?page\\_id=1425](https://echo-association.com/?page_id=1425); see also <https://echo-association.com/wp-content/uploads/Stand-by-lots.pdf>);
- As predicted by former Utah State Area Engineer Jack Barnett, on September 8, 2018, the Salt Lake Tribune reported *total depletion* of the historic Emigration Canyon Stream less than two miles from Mt. Olivet’s previously perfected point-of-diversion for use on cemetery grounds for the burial of the dead while the

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surface water share of 57-8947 of The ECHO-Association suffered *total quantity impairment* in the summer, autumn and winter of 2018 (see Salt Lake Tribune article “Why is Emigration Creek — a historic Utah waterway — dry?” available at <https://www.sltrib.com/news/environment/2018/09/08/why-is-emigration-creek/>);

- As previously reported to the Utah State Engineer’s Office in The ECHO-Association’s complaint dated February 25, 2019, Mt. Olivet, Boyer and EID have severely damaged the surface water flow of the Emigration Canyon stream, serving as the water source for the active federal military cemetery through a water-extraction method known as “groundwater mining” via the very same points-of-diversion, nature and place-water-use identified in EID’s Request for Extension of Time for permanent-change application “a12710b,” filed by Mt. Olivet and Boyer; and lastly,

While your office has no jurisdiction in regard to *perfected* water shares, *permanent changes* to the point-of-diversion, nature and place-of-use require approval of the Utah State Engineer, and an application may be declared void under Utah State Code 73-3-13(3) if the applicant fails to “show diligence” that the proposed “work is not being diligently prosecuted to completion”.

In addition to EID’s failure to seek and/or acquire Congressional authorization for permanent-change application “a12710b” originally submitted to the State Engineer’s Office by Mt. Olivet/Boyer, and later perpetuated by EID for continued use in the high-end Oaks PUD, The ECHO-Association notes that two large-diameter commercial wells were drilled under the auspices of base water right 57-69 (a12710) and segregated water share 57-8865 (a12710b) and has been operational since sometime subsequent to June 15, 1986 and February 20, 1994 respectively.

For example, due to the fact that Boyer Wells Nr. 1 (Well ID: 10643) was not drilled at any location approved under 57-8865 (a12710b) and insofar as Mt. Olivet, Boyer and EID *are unable* to submit proof of beneficial use for water use at the affluent Oaks PUD via Boyer Well Nr. 1, The ECHO-Association hereby protests the request for further extension of time as redundant.

Insofar as EID intends to drill *additional* large-diameter commercial wells or develop future surface-water sources under for purpose of water use *other than at an active federal military cemetery* for the burial of the dead *without* Congressional authorization as noted in its Extension of Time Request submitted on January 30, 2014, EID has shown a lack of diligence in perfecting (*i.e.*, “completing”) permanent change application “a12710b” under Utah Code 73-3-13(3).

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It is unknown, how and at what expense Mt. Olivet is currently maintaining cemetery grounds for the burial of the dead without the water rights currently claimed by EID under permanent-change application "a12710b". However, during a conversation with Canyon resident Jones sometime in February 2015, Mt. Olivet's legal representative, Rosemary J. Beless, *Esq.*, apparently reported that Boyer "never even paid" Mt. Olivet for the aforementioned water rights.

For the reasons set forth above, The ECHO-Association hereby petitions the Utah State Engineer to either deny EID's Extension of Time Request or declare permanent-change application "a12710b" forfeited for lack of diligence.

The ECHO-Association hereby incorporates the arguments set forth in its Petition for *de novo* Judicial Review of 57-7796 (a44045) currently pending with Judge Su Chon of the Utah State Third District Court, Case Nr. 190901675 regarding groundwater mining in Emigration Canyon via the points-of-diversion, nature and place-of-use proposed under "a12710b" are hereby incorporated in their entirety.<sup>3</sup>

Lastly, due to the fact that the point-of-diversion, nature and place-of-use at the Mt. Olivet cemetery have been perfected under base water right 57-8865, the aforementioned declaration of forfeiture of all rights claimed by EID under permanent change "a12710b" will ensure that the *only active military cemetery created by an Act of Congress* in this country will be maintained in honor of fallen soldiers as intended under the original deed to Mt. Olivet from the United States of America.

Please feel free contact me with any questions.

Kind Regards,

CHRISTENSEN & JENSEN P.C.



Stephen D. Kelson, *Esq.*

cc: Vincent "B.J." Lawrence  
Commander-in-Chief

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<sup>3</sup> EID falsely reported Boyer Well Nr. 1 (Well ID: 10643) was approved at N 1200 ft E 800 ft SW Sec. 28 T1N 2E under permanent change application 57-7796 (a44045) although the State Engineer had only approved a underground point-of-diversion at N 1500 ft 1080 ft SW Sec. 28 T1N 2E under 57-8865 (a12710) and the Well Driller's Report documented that Boyer Well Nr. 1 was drilled at N 1290 E 990 ft SW Sec. 28 T1N 2E. Boyer Well #1 appears to be located at N 1300 ft. E 930 ft. SW Sec. 28 T1N 2E.

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Veterans Of Foreign Wars  
406 W. 34th Street  
Kansas City, Missouri 64111

Brett P. Reistad  
Commander of the American Legion  
700 N. Pennsylvania St.  
P.O. Box 1055  
Indianapolis, Indiana 46206

Commanding Officer  
76th Division & Fort Douglas Commanding Officer  
- And Board Member of the Mount Olivet Cemetery Association -  
c/o Chief-of-Staff COL Bill R. Crouse  
390 Soldiers Circle  
Salt Lake City, Utah 84113



# EXHIBIT A

DUPLICATE

# CERTIFICATE OF APPROPRIATION OF WATER STATE OF UTAH

APPLICATION NO. 9297

UPPER LARSEN AND JORDAN RIVER

WATER DIVISION

CERTIFICATE NO. 2220

The State of Utah, that the appropriation of water from IRRIGATION CANAL in SALT LAKE County, made by \*MOUNT OLIVET CEMETERY ASSOCIATION (Assignee) has been perfected in accordance with the application hereof, received in the office of the State Engineer on the 11th day of December 1922 and recorded on page 250 in book I-23 of the record of applications to appropriate water: Subtractors, Be it known that I, R. H. Humphreys, State Engineer of the State of Utah, under and by authority and direction of the Law of Utah, as of the date of filing of the above numbered application, do hereby certify that the said MOUNT OLIVET CEMETERY ASSOCIATION of SALT LAKE CITY in SALT LAKE County, State of UTAH is entitled to the use of 1.17 cscs. ft. of water subject to prior rights and to the following restrictions, to-wit:

Said water is allotted from March 1 to November 30 inclusive of each year at a point which bears S. 4° 56' E. 1923 ft. from the NW cor. of Sec. 11, T. 1 S., R. 1 E., S. 1.34. It and conveyed thence in what is known as the Induration Canal for a distance of 11800 ft., and need to irrigate 82.29 acres of land in the West Olivet Cemetery embraced in the S. 1/4 Sec. 4, T. 1 S., R. 1 E., above said base and northerly more especially described as follows: Sec. 4 at a point 100 ft. N. of a point which bears S. 6° 23' E. 1606.7 ft. from the NW cor. of said Sec. 9, thence N. 83° 6.5 ft., W. 33.3 ft., N. 660 ft., E. 1365.3 ft., S. 661 ft., S. 43° 57' W. 12.5 ft., S. 2018.2 ft., E. 1326 ft. to thence of sec. containing 82.29 acres.

This certificate does not entitle the holder to use to exceed 3 acre feet of water per acre of land irrigated per annum. The rights of applicant granted under this certificate are on equal right with the world, subject however to the terms of the Olivet Cemetery Association, June 30, 1925 in the Civil District Court in and for Salt Lake County, State of Utah, in the case of Mt. Olivet Cemetery Association, Plaintiff, v. Salt Lake City, a municipal corporation, et al., Defendants.

\* Application No. 9297, pursuant to which this certificate is issued, was filed in the State Engineer's office December 11, 1922 by Arthur B. Catrell and assigned to the Mount Olivet Cemetery Association by instrument dated June 1, 1925 and filed in the State Engineer's office August 13, 1927.

The date of priority of this right is December 11th 1922.

In witness whereof, I have hereunto set my hand and affixed the seal of my office this THIRTY day of JULY 1922 at SALT LAKE CITY, Utah.

*R. H. Humphreys*  
R. H. HUMPHREYS  
STATE ENGINEER

# EXHIBIT B

52.57

RECEIVED

Form No. 107 3-66

MAR 9 1983

CHANGE APPLICATION NO. A-12710

57-69

WATER RIGHTS
Application for Permanent Change of Point of Diversion
Place and Nature of Use of Water
STATE OF UTAH

Please clearly and correctly complete the information requested below which defines the right or rights being changed. (Type or clearly print.)

For the purpose of obtaining permission to permanently change: the point of diversion [X], place [ ] or nature of use [X], of water rights acquired by See Exhibit A

If the right described has been amended by a previous approved change application, give the number of such change application. No.

- 1. The name of the applicant is Mount Olivet Cemetery Association & The Boyer Compar
2. The post-office address of the applicant is 675 East 500 South, Salt Lake City, Ut.
3. The flow of water which has been or was to have been used in second-feet is 1.17
4. The quantity of water which has been or was to have been used in acre-feet is
5. The water has been or was to have been used for and during periods as follows:
Irrigation from March 1 to November 30 incl.
6. The direct source of supply is See Exhibit A in Salt Lake County.
7. The point or points of diversion See Exhibit A

(Must be the same as that of right being changed unless a previous change has been filed and approved. Then use the point or points approved in the previous change.)

- 8. Diversion works:
If a well give diameter and depth.
If a dam and reservoir give height, capacity, and area inundated.
If other give type of diversion facility Concrete diversion box with open canal
9. The water involved has been or was to have been used for the following purposes in the following described legal subdivisions: (If used for irrigation, state sole or supplemental supply, and describe other supplemental rights.)
Irrigation See Exhibit A
Total acres to be irrigated 82.29 acres
Stockwatering (number and kind)
Domestic (number of families and/or persons, etc.)
Other
10. The point at which water has been or was to have been returned to the stream channel is situated as follows: (Please describe method of return.)

Note: Paragraph 10 is to be completed only when all or part of the water is returned to the natural stream or channel.

The Following Changes Are Proposed

- 11. The flow of water to be changed in cubic feet per second is 1.17
12. The quantity of water to be changed in acre-feet is 329.16 (See Exhibit A)

SEE CHANGE-SEE ABSTRACT

SEE CHANGE-SEE ABSTRACT

CHANGE

13. The water will be used each year for:  
 ..... Domestic ..... from January 1 ..... to December 31 ..... incl.  
 (purpose) (month) (day) (month) (day)  
 ..... Irrigation ..... from April 1 ..... to October 31 ..... incl.  
 (purpose) (month) (day) (month) (day)  
 and stored each year (if stored) from ..... to ..... incl.  
 (month) (day) (month) (day)

14. It is now proposed to divert the water from See Exhibit A .....  
 (i.e., spring, spring area, stream, river, drain, well, etc.)  
 at a point(s) as follows: See Exhibit A .....

NOTE: The "point of diversion," or "point of return," must be located by course and distance or by rectangular distances with reference to some regularly established United States land corner or United States mineral monument if within a distance of six miles of either, or if a greater distance to some prominent and permanent natural object. A spring area must also be described by metes and bounds.

15. The proposed diverting and conveying works will consist of: (if a well, state diameter and depth thereof)  
 ..... See Exhibit A .....

16. If water is to be stored, give capacity of reservoir in acre-feet ..... height of dam .....  
 area inundated in acres ..... legal subdivisions of area inundated .....  
 ..... Not Applicable .....

17. The water is to be used for the following purposes in the following described legal subdivisions: (if used for irrigation, state sole or supplemental supply, and describe other supplemental rights.)  
 Irrigation See Exhibit A .....

..... Total acres to be irrigated 9.655 .....  
 but limited to the sole irrigation supply of 8.265 ..... acres.  
 Stockwatering (number and kind) .....  
 Domestic (number of families and/or persons, etc.) 658 families (See Exhibit A) .....  
 Other .....

18. If paragraphs 11 and 12 designate that only part of the right described in paragraphs 1 to 10 inclusive is to be changed, designate the status of the water so affected by this change as to its being abandoned or used as heretofore.

**EXPLANATORY**

The following additional facts are set forth in order to define more clearly and completely the full purpose of the proposed change: See Exhibit B .....

The undersigned hereby acknowledges that even though he may have been assisted in the preparation of the above-numbered application through the courtesy of the employees of the State Engineer's Office, all responsibility for the accuracy of the information contained therein, at the time of filing, rests with the applicant.

The Boyer Company  
 BY: [Signature]  
 ITS: [Signature]

Signature of Applicant  
 MOUNT OLIVET CEMETERY ASSOCIATION  
 BY: [Signature]  
 ITS: [Signature]

1. Winkworth Spring
2. Freeze Creek Spring
3. Twin Spring Freeze Creek
4. Lefthand Burr Fork Spring Area
5. Thomas Spring
6. City Canyon Spring Area
7. Jeep Trail Spring
8. Nugget-Freeze Creek Well No. 1
9. Twin Creek-Freeze Creek Well No. 2
10. Preuss-Freeze Creek Well No. 3
11. Preuss Well No. 4
12. Preuss-Pioneer Fork Well No. 5
13. Preuss-Cederloff Hollow Well No. 6
14. Twin Creek Well No. 7
15. Preuss-Winkworth Well No. 8
16. Preuss-Brigham Fork Well No. 9
17. Preuss-Pioneer Fork Well No. 10
18. Preuss-Meik Well No. 11
19. Nugget-Freeze Creek Well No. 12 (horizontal)

The descriptions of these diversion points are as follows:

1. Winkworth Spring: North 1,343 feet West 708 feet from the Southeast corner of Section 29, Township 1 North, Range 2 East, SLB&M.
2. Freeze Creek Spring: North 400 feet West 750 feet from the Southeast corner of Section 20, Township 1 North, Range 2 East, SLB&M.
3. Twin Spring Freeze Creek: North 400 feet West 700 feet from the Southeast corner of Section 20, Township 1 North, Range 2 East, SLB&M.
4. Lefthand Burr Fork Spring Area: North 1,850 feet West 2,580 feet from the Southeast corner of Section 16, Township 1 North, Range 2 East, SLB&M.
5. Thomas Spring: North 4,950 feet West 2,150 feet from the Southeast corner of Section 16, Township 1 North, Range 2 East, SLB&M.
6. City Canyon Spring Area: Originates approximately North 100 feet East 2,500 feet from the Northwest corner of Section 22, and continues

along the natural channel to a point approximately South 1,300 feet East 2,400 Feet from the Northwest corner of Section 22, Township 1 North, Range 2 East, SLB&M. Point of diversion being located: South 1,226 feet East 2,200 feet from the Northwest corner of Section 22, Township 1 North, Range 2 East, SLB&M.

7. Jeep Trail Spring: South 1,500 feet West 1,800 feet from the East Quarter corner of Section 15, Township 1 North, Range 2 East, SLB&M.
- ×8. Nugget-Freeze Creek Well No. 1: North 800 feet West 750 feet from the Southeast corner of Section 20, Township 1 North, Range 2 East, SLB&M.
- ✓9. Twin Creek-Freeze Creek Well No. 2: North 150 feet West 850 feet from the Southeast corner of Section 20, Township 1 North, Range 2 East, SLB&M.
- ✓10. Preuss-Freeze Creek Well No. 3: North 1,500 feet East 1,080 feet from the Southwest corner of Section 28, Township 1 North, Range 2 East, SLB&M.
- ✓11. Preuss Well No. 4: South 2,100 feet West 2,400 feet from the Northeast corner of Section 32, Township 1 North Range 2 East, SLB&M.
- ✓12. Preuss-Pioneer Fork Well No. 5: North 1,975 feet East 650 feet from the Southwest corner of Section 32, Township 1 North, Range 2 East, SLB&M.
- ✓13. Preuss-Cederloff Hollow Well No. 6: North 110 feet West 1,550 feet from the Southeast Corner of Section 31, Township 1 North, Range 2 East, SLB&M.
- ✓14. Twin Creek Well No. 7: North 1,275 feet West 1,400 feet from the Southeast corner of Section 29, Township 1 North, Range 2 East, SLB&M.
- ✓15. Preuss-Winkworth Well No. 8: North 1,410 feet West 995 feet from the Southeast corner of Section 29, Township 1 North, Range 2 East, SLB&M.
- ✓16. Preuss-Brigham Fork Well No. 9: South 2,525 feet West 1,600 feet from the Northeast corner of Section 28, Township 1 North, Range 2 East, SLB&M.

- ✓17. Preuss-Pioneer Fork Well No. 10: North 1,240 feet East 160 feet from the Southwest corner of Section 32, Township 1 North, Range 2 East, SLB&M.
- ✓18. Preuss-Meik Well No. 11: North 133 feet West 259 feet from the Southeast corner of Section 31, Township 1 North, Range 2 East, SLB&M.
- ✓19. Nugget-Freeze Creek Well No. 12: (Horizontal) North 425 feet West 750 feet from the Southeast corner of Section 20, Township 1 North, Range 2 East, SLB&M.

TITLE CHANGE SET

Paragraph 15: Diverting and conveying works will consist of:

Sources No. 1 through 7 - Springs:

All of these sources will consist of buried perforated collection pipes to a collection box. From the collection boxes, water will run by gravity or be pumped to buried concrete water storage reservoirs. Water will be delivered from the reservoirs to the place of use in buried pipelines.

Sources No. 8 through 16 - Vertical Wells:

All of these sources will be cased with 10 to 12-inch diameter steel casing to depths of 300 to 800 feet. Water will be pumped from the wells and delivered to the place of use as described above.

✓ Source 17 - Preuss-Pioneer Fork Well No. 10:

This is an existing 6-inch diameter cased well 155 feet deep.

✓ Source 18 - Preuss-Meik Well No. 11:

This is an existing 10-inch diameter cased well 250 feet deep.

Source 19 - Nugget-Freeze Creek Well No. 12:

This is to be a horizontally drilled well, 100 to 200 feet long and cased with 4-inch diameter perforated steel casing.



EXHIBIT B

This is Exhibit B to Change Application No. \_\_\_\_\_, for water rights acquired by Certificate No. 2220 (57-69).

EXPLANATORY

The following additional facts are set forth in order to define more clearly and completely the full purpose of the proposed change.

This change is based on a decreed diligence right and Certificate number 2220 (57-69). The decreed right has an 1874 priority and entitles Mt. Olivet Cemetery Association to irrigate 20 acres. Mt. Olivet Cemetery Association et al v. Salt Lake City et al, 65 Utah 193. The certificated right, Certificate number 2220 (57-69) entitles Mt. Olivet to use 1.17 second-feet on 82.29 acres of land and includes the same 20 acres as covered by the decreed right. Therefore, the total area irrigated under both rights is no more than the 82.29 acres listed on Certificate number 2220 (57-69).

The purpose of this Change Application is to allow the water right of Mount Olivet Cemetery Association to be transferred to various springs and wells in Emigration Canyon. The water will be used for the domestic and irrigation requirements of the residents of the canyon within the legal subdivisions described in Exhibit A, Paragraph 17. No more water will be diverted and used than applicant had a right to divert and use under its original right.

Mount Olivet Cemetery Association will retire from irrigation all of its water rights including its decreed rights under the Utah Supreme Court Case Mt. Olivet Cemetery Association et al v. Salt Lake City, 65 Utah 193, Certificate #2220 (57-69), Certificate #8139 (57-2526), Diligence Claim 2595 (57-7825), and Application to Segregate #26456-a (57-7549), and any other water rights it may now have for use on the cemetery grounds. Upon approval of this change, Mt. Olivet will obtain water from another source to meet its irrigation needs on the cemetery grounds. It should be expressly noted, however, that Mt. Olivet Cemetery Association will continue to use the water on its cemetery grounds until such time as the water is placed to use in the canyon. Also, in the event all of Mt. Olivet's water rights are not placed to use in the canyon or Mt. Olivet retains an ownership interest in its various rights and decides not to use them in the canyon, then Mt. Olivet Cemetery Association will so inform the State Engineer and that portion of Mt. Olivet's water rights will revert to use upon the cemetery grounds. The remainder of the water will be segregated and proof submitted thereon.

Paragraph 17: The water is to be used within the following legal subdivisions:

The Southwest Quarter of Section 14; the South Half of the South Half and the Northeast Quarter of the Southeast Quarter of Section 15; all of Section 16; the Southeast Quarter of the Southeast Quarter of Section 20; the North Half and the North Half of the South Half of Section 21; the East Half of the East Half and the Northeast Quarter of the Northwest Quarter of Section 22; the Northwest Quarter, the West Half of the Southwest Quarter, and the West Half of the Northeast Quarter of Section 27; the South Half of the North Half and the South Half of Section 28; the South Half of Section 29; the South Half of the Southeast Quarter of Section 31; the North Half, the West Half and the Northeast Quarter of the Southeast Quarter, and the Southwest Quarter of Section 32; and the Northwest Quarter, the North Half of the Northeast Quarter, and the Southwest Quarter of the Northeast Quarter of Section 33, all in Township 1 North, Range 2 East, Salt Lake Base and Meridian.

The water is to be used for the domestic and irrigation supply for 658 families as follows:

Domestic -  $\frac{1}{2}$   
658 families X 0.45 acre-feet/family = 296.1 acre-feet

Irrigation -  
(average yard  $\frac{23.4 \text{ feet} \times 23.4 \text{ feet}}{43,560 \text{ sq. ft./acre}}$ )  
(equals 0.0126 acres)

658 families X 0.0126 acres/family X 4 acre-feet per acre =  $\frac{33.06}{33.06}$  acre-feet

TOTAL

329.16 acre-feet

Handwritten notes and calculations at the bottom of the page, including "246.87", "3/2", and "7.0000".

This water right will be the primary water right to meet the needs listed herein. The Change Application on Certificate 8139 (57-2526) will be used supplementally. These water rights will then be combined with the Change Applications on WUC 57-7479, and WUC's No. 57-7687, 57-7693 through 57-7696, 57-8066, 57-8138, 57-8168, and 57-7465 through 57-7486, to provide the domestic and irrigation requirements of up to 763 families.

By allowing the water to be used in the Canyon, the underground aquifers will be recharged from irrigation runoff and through the use of drainfield systems for all indoor "gray water." Of all water used, approximately 181.66 acre-feet will be returned to the aquifers. This figure was derived as follows:

58% of all indoor (296.1 acre-feet) =	171.74 acre-feet
30% of all irrigation (33.06 acre-feet) =	<u>9.18</u> acre-feet

TOTAL: 181.66 acre-feet

The remaining 42% of indoor "black water" or toilet effluent will be collected, held in a temporary holding tank, and exported to Salt Lake City for treatment. The net result will be a positive effect on the overall hydrologic region of Emigration Canyon.

# EXHIBIT C



STATE OF UTAH  
NATURAL RESOURCES  
Water Rights

Norman H. Bangerter, Governor  
Doe C. Hansen, Executive Director  
Robert L. Morgan, State Engineer

1636 West North Temple • Suite 220 • Salt Lake City, UT 84116-3156 • 801-533-6071

September 26, 1985

Mr. John W. Anderson  
Clyde & Pratt  
200 American Savings Plaza  
77 West Second South  
Salt Lake City, Utah 84101

CHANGE-SEE ANSINA

Dear Mr. Anderson:

Re: Water Filing Nos. 57-7825,  
57-2526, 57-7549, & 57-69  
Mt. Olivet Cemetery Assoc.

We have received your letter concerning a special warranty deed conveying title to 1/7th of the above-numbered water filings from Mt. Olivet to The Boyer Company. You indicate that this deed (Recorder's Entry No. 4111411 is the second one to transfer a 1/7th interest, thus entitling Boyer to 2/7ths.

We have a discrepancy on our files as we have previously received two special warranty deeds conveying 1/7th interest (Recorder's Entry Nos. 4122871 and 3927294), making your submittal the third deed and entitling Boyer to 3/7ths. We will await further action on your deed until we hear further.

Yours truly,

*Marge Tempest*  
Marge Tempest  
Title Section

RECEIVED

EDWARD W. CLYDE, P.C.  
ELLIOTT LEE PRATT  
RODNEY G. SNOW  
STEVEN E. CLYDE  
THEODORE BOYER, JR.  
EDWIN C. BARNES  
GARY L. PAXTON  
L. MARK FERRE  
NEIL A. KAPLAN\*  
D. BRENT ROSE  
JOHN W. ANDERSON  
JAMES L. WARLAUMONT  
H. MIFFLIN WILLIAMS III  
JEFFREY W. APPEL

\*ADMITTED IN WASHINGTON, D.C.

CLYDE & PRATT

ATTORNEYS AT LAW  
200 AMERICAN SAVINGS PLAZA  
77 WEST SECOND SOUTH  
SALT LAKE CITY, UTAH 84101

OCT 18 1985

WATER RIGHTS  
SALT LAKE

PHONE 322-2516  
AREA CODE 801

TELECOPIER:  
(801) 322-2516

OF COUNSEL  
FRANK J. ALLEN

October 16, 1985

FILE NO.

Marge Tempest  
Title Section  
Utah State Engineer  
1636 West North Temple  
Suite 220  
Salt Lake City, Utah 84116-3156

Re: Water Filing Nos. 57-7825, 57-2526, 57-7549, and  
57-69, Mt. Olivet Cemetery Association

Dear Marge:

To clarify any confusion there may be with the above  
referenced water filings, I have enclosed copies of the  
following for your review:

(a) Special Warranty Deed recorded July 16, 1985,  
whereby Mt. Olivet Cemetery Association conveyed a 1/7th  
interest in the above referenced water rights to The Boyer  
Company.

(b) Special Warranty Deed recorded August 12, 1985,  
whereby Mt. Olivet Cemetery Association conveyed a 1/7th  
interest in the above referenced water rights to The Boyer  
Company.

(c) Special Warranty Deed recorded September 24, 1985,  
whereby The Boyer Company conveyed a 1/7th interest in the  
above referenced water rights to Mt. Olivet Cemetery  
Association.

The deeds referenced in (b) and (c) above simply cancel each  
other out, leaving The Boyer Company with a 1/7th interest by  
(a) above.

*processed  
already*

CLYDE & PRATT


Marge Tempest  
October 16, 1985  
Page 2

Through all conveyances made to date, The Boyer Company should show as the record owner of 2/7ths of the Mt. Olivet Cemetery Association Water rights. Mt. Olivet Cemetery Association owns the remaining 5/7ths of the respective rights.

If you have any questions regarding this matter please let me know.

Best regards.

Very truly yours,

  
John W. Anderson

JWA/bg  
Enclosures  
cc Dick Moffat  
Albert J. Colton

Total in Right 329.16 AF

TITLE ABSTRACT

Page No. 1 RE: 57-69

DATE	TITLE CHANGE INSTRUMENT	ASSIGNOR/CONVEYOR/OWNERSHIP NAME and ADDRESS	RETAINED AMOUNT	CONVEYED AMOUNT	ASSIGNEE/PURCHASER/NEW OWNERSHIP NAME and ADDRESS	WATER SOURCE	COUNTY	REMARKS
Instr't Execu'tn (by Orig'r) <u>3-28-83</u> Recor'd (by No.) <u>4-29-84</u> Rec'vd (by us) <u>4-25-84</u> Action (by us) <u>3-4-85</u>	Assignment <input type="checkbox"/> Deed: <input type="checkbox"/> Warranty <input checked="" type="checkbox"/> Quit Claim <input type="checkbox"/>	Mt. Olivet Cemetery Assoc.	<u>67</u>	<u>47</u>	The Bayer Company 515 So. 7th E. SLC, Utah 84102			Title Changed <u>3-4-85 mt</u> Entered D/B <u>3-4-85 mt</u>
Instr't Execu'tn (by Orig'r) <u>3-9-83</u> Recor'd (by No.) <u>4-12-84</u> Rec'vd (by us) <u>8-29-85</u> Action (by us) <u>9-10-85</u>	Assignment <input type="checkbox"/> Deed: <input type="checkbox"/> Warranty <input checked="" type="checkbox"/> Quit Claim <input type="checkbox"/>	" " " " " "	<u>57</u>	<u>47</u>	" " " " " "			Now own <u>7/4 mt</u> ( <u>14.04 A.F.</u> ) Title Changed <u>9-10-85 mt</u> Entered D/B <u>9-11-85 mt</u>
Instr't Execu'tn (by Orig'r) <u>3-8-83</u> Recor'd (by No.) <u>4-11-84</u> Rec'vd (by us) <u>4-24-85</u> Action (by us) <u>11-4-85</u>	Assignment <input type="checkbox"/> Deed: <input type="checkbox"/> Warranty <input checked="" type="checkbox"/> Quit Claim <input type="checkbox"/>	" " " " " "	<u>47</u>	<u>47</u>	" " " " " "			
Instr't Execu'tn (by Orig'r) <u>9-23-82</u> Recor'd (by No.) <u>9-11-85</u> Rec'vd (by us) <u>10-19-85</u> Action (by us) <u>11-4-85</u>	Assignment <input type="checkbox"/> Deed: <input type="checkbox"/> Warranty <input checked="" type="checkbox"/> Quit Claim <input type="checkbox"/>	The Bayer Company	<u>27</u>	<u>17</u>	Mt. Olivet Cemetery Assoc. 1342 E. 500 S. S.L.C., Utah 84102			Done to cancel deed with entry no. 4122871



Recorded at Request of \_\_\_\_\_  
at \_\_\_\_\_, M. Fee Paid \$ \_\_\_\_\_  
by \_\_\_\_\_ Dep. Book \_\_\_\_\_ Page \_\_\_\_\_ Ref.: \_\_\_\_\_  
Mail tax notice to \_\_\_\_\_ Address \_\_\_\_\_

RECEIVED

# SPECIAL WARRANTY DEED

OCT 18 1985

4111411

[CORPORATE FORM]

WATER RIGHTS  
SALT LAKE

MT. OLIVET CEMETERY ASSOCIATION  
organized and existing under the laws of the State of Utah, with its principal office at  
Salt Lake City, of County of Salt Lake, State of Utah,  
grantor, hereby CONVEYS AND WARRANTS against all claiming by, through or under it to

THE BOYER COMPANY  
675 E 500 S  
SLC 84102  
of Salt Lake City, Salt Lake County, Utah  
Ten and No/100-----  
the following described ~~xxxxxx~~ water rights in Salt Lake County,  
State of Utah: grantee for the sum of \_\_\_\_\_ DOLLARS

One-seventh (1/7) of all the waters and water rights, wells and well rights, springs and spring rights, more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof.

*Duplicate to previously submitted deed*

*Kevin Koroligos  
Pennl Koroligos*

*John Anderson*

*Jul 16 4 39 PM 1985*

600  
RECORDED  
SALT LAKE COUNTY, UTAH

7742005  
SLC 84101

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the grantor at a lawful meeting duly held and attended by a quorum.  
In witness whereof, the grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officers this 8<sup>th</sup> day of March, A. D. 19 83

Attest:  
*Louis C. Burke*  
Secretary.

Mt. Olivet Cemetery Association  
a Utah  
By *R. L. Arnold*  
President.

[CORPORATE SEAL]

STATE OF UTAH,  
County of *Salt Lake* ss.

On the 8<sup>th</sup> day of March, A. D. 1983  
personally appeared before me *R. L. Arnold* and *Louis C. Burke*,  
who being by me duly sworn did say, each for himself, that he, the said *R. L. Arnold*  
is the president, and he, the said *Louis C. Burke* is the secretary  
of *Mt. Olivet Cemetery Association*, and that the within and foregoing  
instrument was signed in behalf of said corporation by authority of a resolution of its board of  
directors and said *R. L. Arnold* and *Louis C. Burke*  
each duly acknowledged to me that said corporation executed the same and that the seal affixed  
is the seal of said corporation.

*Rita Beadle*  
Notary Public.

My commission expires *11-1-84* My residence is *SLC, Utah*

EXHIBIT "A"

1. Statement of Water Users Claim to Diligence Rights No. 2594 (57-7825).

2. Application to Appropriate Water No. 26456 (57-2526); Amendatory Change Application No. ~~a-5313 (57-2526)~~; <sup>rejected well</sup> and Certificate No. 8139 (57-2526).

3. Application to Segregate No. 26456-a (57-7549).

4. Application to Appropriate Water No. 9207 (57-69); Certificate No. 2220 (57-69).

5. Any and all water and water rights that may result from a certain quiet title action entitled Mt. Olivet Cemetery Association, et al v. Salt Lake City, et al, 65 Utah 193, 235 P. 876.

6. Any and all water rights that Mt. Olivet claims or may have a claim for use on the Mt. Olivet Cemetery grounds.

CHANGE SEE ABSTRACT

BOOK 5671 PAGE 2809

Recorded at Request of \_\_\_\_\_  
at \_\_\_\_\_, M. Fee Paid \$ \_\_\_\_\_  
by \_\_\_\_\_ Dep. Book \_\_\_\_\_ Page \_\_\_\_\_ Ref.: \_\_\_\_\_

Mail tax notice to The Boyer Company Address 675 East 500 South, #600  
Salt Lake City, Utah 84102

# SPECIAL WARRANTY DEED

4122S71

[CORPORATE FORM]

OCT 18 1985

MT. OLIVET CEMETERY ASSOCIATION  
organized and existing under the laws of the State of Utah, with its principal office at  
Salt Lake City, of County of Salt Lake, State of Utah,  
grantor, hereby CONVEYS AND WARRANTS against all claiming by, through or under it to  
THE BOYER COMPANY

WATER RIGHTS  
SALT LAKE COUNTY, UTAH

of Salt Lake City, Salt Lake County, Utah grantees  
Ten and No/100----- for the sum of  
the following described ~~xxxxxx of land~~ water rights in Salt Lake County,  
State of Utah: -----DOLLARS

One-seventh (1/7) of all the waters and water rights,  
wells and well rights, springs and spring rights, more  
particularly described on Exhibit "A" attached hereto  
and by this reference made a part hereof.

*duplicate to  
procured deed*

REC'D OF DEP  
RELEASED  
FEBRUARY 1985  
Aug 12 4 32 PM '85  
SALT LAKE COUNTY,  
UTAH

*200 Lines Savings Plaza 7th 200 S. # 200 SEC 484101*

The officers who sign this deed hereby certify that this deed and the transfer represented  
thereby was duly authorized under a resolution duly adopted by the board of directors of the  
grantor at a lawful meeting duly held and attended by a quorum.  
In witness whereof, the grantor has caused its corporate name and seal to be hereunto affixed  
by its duly authorized officers this 8<sup>th</sup> day of March, A. D. 19 83

Attest:  
Louis C. Burke  
Secretary.

Mt. Olivet Cemetery Association  
By A Utah  
R.L. Arnold  
President.

[CORPORATE SEAL]

STATE OF UTAH,  
County of Salt Lake

On the 8<sup>th</sup> day of March, A. D. 1983  
personally appeared before me R.L. Arnold and Louis C. Burke  
who being by me duly sworn did say, each for himself, that he, the said R.L. Arnold  
is the president, and he, the said Louis C. Burke is the secretary  
of Mt. Olivet Cemetery Association, and that the within and foregoing  
instrument was signed in behalf of said corporation by authority of a resolution of its board of  
directors and said R.L. Arnold and Louis C. Burke  
each duly acknowledged to me that said corporation executed the same and that the seal affixed  
is the seal of said corporation.

NOTARY PUBLIC  
SALT LAKE COUNTY, UTAH

Rita M. Beadle  
Notary Public.  
My residence is SLC, Utah

My commission expires 11-1-84

BOOK 5680 Pg 1996

Water +  
mail

RECEIVED  
APR 25 1984

Recorded at Request of \_\_\_\_\_  
at \_\_\_\_\_, M. Fee Paid \$ \_\_\_\_\_  
by \_\_\_\_\_ Dep. Book \_\_\_\_\_ Page \_\_\_\_\_ Ref.: \_\_\_\_\_  
Mail tax notice to The Boyer Company Address \_\_\_\_\_ 7-11-84 84102

# 3927294 SPECIAL WARRANTY DEED

[CORPORATE FORM]

MT. OLIVET CEMETERY ASSOCIATION, a corporation  
organized and existing under the laws of the State of Utah, with its principal office at  
Salt Lake City, of County of Salt Lake, State of Utah,  
grantor, hereby CONVEYS AND WARRANTS against all claiming by, through or under it to  
THE BOYER COMPANY

of Salt Lake City, Salt Lake County, Utah grantee  
for the sum of \_\_\_\_\_ DOLLARS  
Ten and No/100-----  
the following described ~~tract of land~~ water rights in Salt Lake County,  
State of Utah:

One-seventh (1/7) of all the waters and water rights,  
wells and well rights, springs and spring rights, more  
particularly described on Exhibit "A" attached hereto  
and by this reference made a part hereof.

APR 11 1 59 PM '84  
REG. OF DEEDS  
SALT LAKE COUNTY, UTAH  
KATHLEEN L. DIXON  
RECORDER

The officers who sign this deed hereby certify that this deed and the transfer represented  
thereby was duly authorized under a resolution duly adopted by the board of directors of the  
grantor at a lawful meeting duly held and attended by a quorum.  
In witness whereof, the grantor has caused its corporate name and seal to be hereunto affixed  
by its duly authorized officers this 8<sup>th</sup> day of March, A. D. 19 83

Attest:  
Louis C. Beale  
Secretary.

Mt. Olivet Cemetery Association  
A Utah  
By W. L. Beale  
President.

[CORPORATE SEAL]  
STATE OF UTAH,  
County of Salt Lake

On the 8<sup>th</sup> day of March, A. D. 1983  
personally appeared before me R. L. Arnold and Louis Beale  
who being by me duly sworn did say, each for himself, that he, the said R. L. Arnold  
is the president, and he, the said Louis Beale is the secretary  
of Mt. Olivet Cemetery Association, and that the within and foregoing  
instrument was signed in behalf of said corporation by authority of a resolution of its board of  
directors and said R. L. Arnold and Louis Beale  
each duly acknowledged to me that said corporation executed the same and that the seal affixed  
is the seal of said corporation.

Louis Beale  
Notary Public.

My commission expires 11-1-84 My residence is Salt Lake, UT

MICROFILMED

11  
WATER RIGTS  
84101  
60855546 PART 130

Recorded at Request of \_\_\_\_\_  
at \_\_\_\_\_ M. Fee Paid \$ \_\_\_\_\_  
by \_\_\_\_\_ Dep. Book \_\_\_\_\_ Page \_\_\_\_\_ Ref.: \_\_\_\_\_  
Mail tax notice to \_\_\_\_\_ Address \_\_\_\_\_

# QUIT-CLAIM DEED

[CORPORATE FORM]

*ALB*

THE BOYER COMPANY  
organized and existing under the laws of the State of Utah, with its principal office at  
Salt Lake City, of County of Salt Lake, State of Utah,  
grantor, hereby QUIT CLAIMS to

*Utah Partnership*

MT. OLIVET CEMETERY ASSOCIATION

of Salt Lake City, Salt Lake County, Utah grantee  
Ten and no/100----- for the sum of  
-----DOLLARS,

the following described ~~tract~~ water rights in Salt Lake County,  
State of Utah:

Five-sevenths (5/7) of all the waters and water rights,  
wells and well rights, springs and spring rights, more  
particularly described on Exhibit "A" attached hereto  
and by this reference made a part hereof.

The officers who sign this deed hereby certify that this deed and the transfer represented  
thereby was duly authorized under a resolution duly adopted by the board of directors of the  
grantor at a lawful meeting duly held and attended by a quorum.

In witness whereof, the grantor has caused its corporate name and seal to be hereunto affixed  
by its duly authorized officers this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19 83

Attest: \_\_\_\_\_ }  
Secretary. By THE BOYER COMPANY Company  
[CORPORATE SEAL] } *H. Royce Boyer* President.

STATE OF UTAH, }  
County of Salt Lake } ss.

On the *8<sup>th</sup>* day of *March* 1983, A. D.  
personally appeared before me *N. Royce Boyer* and  
who being by me duly sworn did say, each for himself, that he, the said *N. Royce Boyer*  
is the ~~President~~ *President*, and he, the said *N. Royce Boyer* is the secretary  
of ~~The Boyer Company~~ *The Boyer Company* Company, and that the within and foregoing  
instrument was signed in behalf of said ~~corporation~~ *corporation* by authority of a resolution of its board of  
directors and said \_\_\_\_\_ and  
each duly acknowledged to me that said corporation executed the same and that the seal affixed  
is the seal of said corporation.

*DePuesi D. Balli*  
Notary Public.

My commission expires *4-28-85* My residence is *Salt Lake City*

After recording return to: John W. Anderson, 77 West 200 South, #200  
Recorded at Request of Salt Lake City, Utah 84101

RECEIVED

M. Fee Paid \$

by Dep. Book Page Ref.:

001181365

Mail tax notice to Mt. Olivet Cemetery Association Address 1342 East 500 South Salt Lake City, Utah 84102

WATER RIGHTS SALT LAKE

# 4141665 WARRANTY DEED

(Special)

THE BOYER COMPANY, a Utah partnership  
of Salt Lake City, Salt Lake County, State of Utah  
CONVEYS AND WARRANTS against all claiming by, through or under

grantor

hereby  
THE CHANGE OF

to MT. OLIVET CEMETERY ASSOCIATION

grantee

of 1342 East 500 South, Salt Lake City, Utah 84102

for the sum of

----- TEN AND NO/100 (\$10.00) -----

DOLLARS,

described water rights in  
the following ~~land~~

Salt Lake

County,

State of Utah:

One-seventh (1/7) of all the waters and water rights,  
wells and well rights, springs and spring rights,  
more particularly described on Exhibit "A" attached  
hereto and by this reference made a part hereof.

Design Project  
EVELYN PROGGST

John W. Anderson

SEP 24 4 34 PM '85

SALT LAKE COUNTY, UTAH

BOOK 5693 PAGE 121

WITNESS, the hand of said grantor, this 23<sup>rd</sup> day of September, A. D. 1985

Signed in the Presence of

THE BOYER COMPANY, a Utah partnership

BY H. Roger Boyer  
H. Roger Boyer, General Partner

STATE OF UTAH,  
County of Salt Lake

ss.

On the 23<sup>rd</sup> day of September, A. D. 1985  
personally appeared before me H. ROGER BOYER, a General Partner of The  
Boyer Company of the within instrument, who duly acknowledged to me that he executed the  
same and in behalf of The Boyer Company.



Dennis J. Belli  
Notary Public.  
Residing in Salt Lake

4636380

RECEIVED

JUN 28 1988

WHEN RECORDED, MAIL TO:

Sorenson Development  
ATTENTION: Craig Larsen  
2511 South West Temple

Salt Lake City, UT 84115

Space Above for Recorder's Fee

WATER RIGHTS  
SALT LAKE

SPECIAL WARRANTY DEED

(CORPORATE FORM)

MOUNT OLIVET CEMETERY ASSOCIATION  
organized and existing under the laws of the State of Utah, with its principal office at Salt Lake City, of County of Salt Lake State of Utah,  
grantor, hereby CONVEYS AND WARRANTS against all claiming by, through or under it to

SORENSEN DEVELOPMENT, INC.

of Salt Lake City, Utah  
Ten and 00/100  
the following ~~XXXXXXXXXXXXXXXXXXXX~~ water rights in Salt Lake  
State of Utah:

grantee  
for the sum of  
DOLLARS  
County,

40 acre-feet of water and water rights from those  
water rights more particularly described on Exhibit  
"A" attached hereto and by this reference made a  
part hereof.

4636380  
13 JUNE 88 11:46 AM  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
SORENSEN DEVELOPMENT  
REC BY: REBECCA GRAY, DEPUTY

The officers who sign this deed hereby certify that this deed and the transfer represented  
thereby was duly authorized under a resolution duly adopted by the board of directors of the  
grantor at a lawful meeting duly held and attended by a quorum.

In witness whereof, the grantor has caused its corporate name and seal to be hereunto affixed  
by its duly authorized officers this 7th day of July, A. D. 1987  
MOUNT OLIVET CEMETERY ASSOCIATION

Attest:

Secretary.

By  
*Robert J. Cook*  
President

[CORPORATE SEAL]

STATE OF UTAH,  
County of Salt Lake

On the 7th day of July, A. D. 1987  
personally appeared before me *Robert J. Cook* and  
who being by me duly sworn did say, each for himself, that he, the said *Robert J. Cook*  
is the president, and by the said *Robert J. Cook*  
of *Mount Olivet Cemetery Association*, and that the within and foregoing  
instrument was signed in behalf of said corporation by authority of a resolution of its board of  
directors and said *Robert J. Cook* and  
each duly acknowledged to me that said corporation executed the same and that the seal affixed  
is the seal of said corporation.

ROSEMARY J. BELESS  
NOTARY PUBLIC  
My commission expires 5-7-89

*Rosemary J. Beless*  
Notary Public.  
My residence is Salt Lake City, Utah

FORM 154C - WARRANTY DEED, SPECIAL CORP. FORM - KELLY 88 - 88 W. NINTH SOUTH, S.L.S., UTAH

APPROVED FORM - UTAH SECURITIES COMMISSION

TITLE CHANGE-SEE ABSTRACT

BOOK 6037 PAGE 2522

EXHIBIT "A"

1. Statement of Water Users Claim to Diligence Rights No. 2594 (57-7825).
2. Application to Appropriate Water No. 26456 (57-2526); Amendatory Change Application No. a-5313 (57-2526); and Certificate No. 8139 (57-2526).
3. Application to Segregate No. 26456-a (57-7549).
4. Application to Appropriate Water No. 9207 (57-69); Certificate No. 2220 (57-69); Change Application a-12710 (57-69);
5. Any and all water and water rights that may result from a certain quiet title action entitled Mt. Olivet Cemetery Association, et al v. Salt Lake City, et al, 65 Utah 193, 235 P. 876.
6. Any and all water rights that Mt. Olivet claims or may have a claim for use on the Mt. Olivet Cemetery grounds.

TITLE CHANGE SET ABSTRACT

BOOK 6037 PAGE 282

BY \_\_\_\_\_  
DATE \_\_\_\_\_ 19\_\_\_\_

WATER RIGHTS RECORDS

of Salt Lake County

originally filed in the county of Salt Lake County and duly recorded in the office of the county clerk of Salt Lake County, Utah, in Book 6037, Page 282, and the same being a true and correct copy of the original document as the same appears on the records of the county clerk of Salt Lake County, Utah.



# EXHIBIT D



*a-12710 57-69*  
*a-12711 57-2526*  
*a-12712 57-7479*

Examined \_\_\_\_\_  
Recorded: B. C. \_\_\_\_\_ T. B. \_\_\_\_\_  
Inspection Sheet \_\_\_\_\_  
Copied \_\_\_\_\_

### REPORT OF WELL DRILLER STATE OF UTAH

Application No. \_\_\_\_\_  
Claim No. \_\_\_\_\_  
Coordinate No. \_\_\_\_\_

GENERAL STATEMENT: Report of well driller is hereby made and filed with the State Engineer, in accordance with the laws of Utah. (This report shall be filed with the State Engineer within 30 days after the completion or abandonment of the well. Failure to file such reports constitutes a misdemeanor.)

*Mount Olivet Cemetery &*

#### (1) WELL OWNER:

Name *Beyl Co.*  
Address *675 E 500 S SLC, UT*

#### (2) LOCATION OF WELL: *84102*

County *Salt Lake* (Ground Water Basin (leave blank))  
North *1290* feet, East *990* feet from SW Corner  
South \_\_\_\_\_ West \_\_\_\_\_  
of Section *28* T *1* N R *2* E SLBM  
out words not needed)  USBR (strike out words not needed)

#### (3) NATURE OF WORK (check):

New Well   
Replacement Well  Deepening  Repair  Abandon   
If abandonment, describe material and procedure: \_\_\_\_\_

#### (4) NATURE OF USE (check):

Domestic  Industrial  Municipal  Stockwater   
Irrigation  Mining  Other  Test Well

#### (5) TYPE OF CONSTRUCTION (check):

Rotary *HH-1*  Dug  Jetted   
Cable  Driven  Bored

#### (6) CASING SCHEDULE:

*12 I.D.* Diam. from *0* feet to *30* feet Gage *375*  
*8 I.D.* Diam. from *0* feet to *120* feet Gage *330*  
" Diam. from \_\_\_\_\_ feet to \_\_\_\_\_ feet Gage \_\_\_\_\_  
New  Reject  Used

#### (7) PERFORATIONS:

Perforated? Yes  No   
Type of perforator used \_\_\_\_\_  
Size of perforations \_\_\_\_\_ inches by \_\_\_\_\_ inches  
\_\_\_\_\_ perforations from \_\_\_\_\_ feet to \_\_\_\_\_ feet  
\_\_\_\_\_ perforations from \_\_\_\_\_ feet to \_\_\_\_\_ feet  
\_\_\_\_\_ perforations from \_\_\_\_\_ feet to \_\_\_\_\_ feet  
\_\_\_\_\_ perforations from \_\_\_\_\_ feet to \_\_\_\_\_ feet  
\_\_\_\_\_ perforations from \_\_\_\_\_ feet to \_\_\_\_\_ feet

#### (8) SCREENS:

Well screen installed? Yes  No   
Manufacturer's Name \_\_\_\_\_  
Type \_\_\_\_\_ Model No. \_\_\_\_\_  
Diam. \_\_\_\_\_ Slot size \_\_\_\_\_ Set from \_\_\_\_\_ ft. to \_\_\_\_\_  
Diam. \_\_\_\_\_ Slot size \_\_\_\_\_ Set from \_\_\_\_\_ ft. to \_\_\_\_\_

#### (9) CONSTRUCTION:

Was well gravel packed? Yes  No  Size of gravel: \_\_\_\_\_  
Gravel placed from \_\_\_\_\_ feet to \_\_\_\_\_ feet  
Was a surface seal provided? Yes  No   
To what depth? *120* feet  
Material used in seal: *Cement Grout*  
Did any strata contain unusable water? Yes  No   
Type of water: \_\_\_\_\_ Depth of strata: \_\_\_\_\_  
Method of sealing strata off: \_\_\_\_\_

#### (10) WATER LEVELS:

Static level *5* feet below land surface Date *June 7-84*  
\_\_\_\_\_ feet above land surface Date \_\_\_\_\_

RECEIVED  
JAN 20 1987  
WATER RIGHTS  
SALT LAKE

#### (11) FLOWING WELL:

Controlled by (check) Valve   
Cap  Plug  No Control   
Does well leak around casing? Yes  No

#### (12) WELL TESTS:

Drawdown is the distance in feet the water level is lowered below static level.  
Was a pump test made? Yes  No  If so, by whom? *Cliff A. Stephenson*  
Yield: *200* gal./min. with *2.35* feet drawdown after *5* hours  
" *300* " *4.00* " *5* "

#### (13) WELL LOG:

Bailer test \_\_\_\_\_ gal./min. with \_\_\_\_\_ feet drawdown after \_\_\_\_\_ hours  
Arterian flow \_\_\_\_\_ g.p.m. Date \_\_\_\_\_  
Temperature of water \_\_\_\_\_ Was a chemical analysis made? No  Yes   
Depth drilled *500* feet. Diameter of well *8 I.D.* inches. Depth of completed well *500* feet.

NOTE: Place an "X" in the space or combination of spaces needed to designate the material or combination of materials encountered in each depth interval. Under REMARKS make any desirable notes as to occurrence of water and the color, size, nature, etc., of material encountered in each depth interval. Use additional sheet if needed.

DEPTH	MATERIAL									REMARKS			
	From	To	Clay	Silt	Sand	Gravel	Cobbles	Boulders	Hardpan		Conglomerate	Bedrock	Other
	<i>12</i>	<i>28</i>											<i>Tap Soil</i>
	<i>28</i>	<i>120</i>				<i>Red</i>	<i>Shale</i>	<i>&amp;</i>					<i>(Process Salt Stone)</i> <i>Turn to 6</i>
	<i>120</i>	<i>420</i>				<i>Fractured</i>	<i>Hard</i>	<i>limestone</i>	<i>stone</i>	<i>in</i>	<i>fractures</i>		<i>Very Little Water</i>
	<i>420</i>	<i>500</i>				<i>Fractured</i>	<i>limestone</i>	<i>stone</i>	<i>in</i>	<i>fractures</i>			<i>Very Little Water</i>

Work started *May 15*, 19*84*. Completed *June 15*, 19*84*

#### (14) PUMP:

Manufacturer's Name \_\_\_\_\_  
Type: \_\_\_\_\_ H. P. \_\_\_\_\_  
Depth to pump or bowles \_\_\_\_\_ feet

#### Well Driller's Statement:

This well was drilled under my supervision, and this report is true to the best of my knowledge and belief.  
Name *Cliff A. Stephenson D-5 Co*  
(Person, firm, or corporation) (Type or print)  
Address *Bny No 8 Fillmore UT 84631*  
(Signed) *Cliff A. Stephenson*  
(Well Driller)  
License No. *120* Date *June 16*, 19*84*

# WELL DRILLER'S REPORT

State of Utah  
Division of Water Rights

RECEIVED

MAR 23 1994

For additional space, use "Additional Well Data Form" and attach

Well Identification **CHANGE APPLICATION 12710 (57-69)**

WATER RIGHTS  
SALT LAKE

Owner *Note any changes*  
 Mount Olivet Cemetery Association **AND THE BOYER Co.**  
 1342 East 5th South **127 So. 500 E.**  
 Salt Lake City, UT 84102 **S L C, UT. 84102**

Contact Person/Engineer: **DICK MOFFAT / FRED DUBEROW**

Well Location *Note any changes*  
 COUNTY: Salt Lake  
 NORTH 150 feet WEST 850 feet from the SE Corner of  
 SECTION 20, TOWNSHIP 11N. RANGE 2E, SLB&M.

Location Description: (address, proximity to buildings, landmark, ground elevation, local well #)

Drillers Activity Start Date: Sept. 10 1993 Completion Date: Feb. 20 1994

Check all that apply:  
 New  Repair  Deepen  Abandon  Replace  Public Nature of Use:

DEPTH (feet)		BOREHOLE DIAMETER (in)	DRILLING METHOD	DRILLING FLUID
FROM	TO			
0	40	22"	Air Rotary	
40	802	15½"	Air Rotary	

Well Log		WATER	PERMEABLE		UNCONSOLIDATED							CONSOLIDATED		ROCK TYPE	COLOR	DESCRIPTIONS AND REMARKS (include comments on water quality if known.)
			high	low	C	S	S	G	C	B	O	OTHER				
DEPTH (feet)	FROM	TO			CLAY	SILT	SAND	GRAVEL	COBBLES	BLESS	BLDER	OTHER				
0	0	3						x							Top Soil	
3	3	36										x	Shale	Grey		
36	36	323										x	Limestone	Grey	Shale Limestone (twinecreek)	
323	323	802	x									x	Limestone	Grey	Limestone (twinecreek)	

Static Water Level  
 Date Mar. 22 1994 Water Level +2 feet Flowing?  Yes  No  
 Method of Water Level Measurement \_\_\_\_\_ If Flowing, Capped Pressure 1 PSI  
 Point to Which Water Level Measurement was Referenced Ground  
 Height of Water Level reference point above ground surface \_\_\_\_\_ feet Temperature \_\_\_\_\_ °C \_\_\_\_\_ °F

**Construction Information**

DEPTH (feet)		CASING			DEPTH (feet)		SCREEN <input type="checkbox"/>	PERFORATIONS <input checked="" type="checkbox"/>	
FROM	TO	CASING TYPE AND MATERIAL/GRADE	WALL THICK (in)	NOMINAL DIAM. (in)	FROM	TO	SLOT SIZE OR PERF SIZE (in)	SCREEN DIAM. OR PERF LENGTH (in)	SCREEN TYPE OR NUMBER PERF (per round/interval)
0	40'	A53, Grade B	.250	16"					
+2	792	A53, Grade B	.279	10 3/4"	320'	792'	1/8" x 3"		20 P.L.F.F.

Well Head Configuration: Plate and Valve Access Port Provided?  Yes  No  
 Casing Joint Type: Welded Perforator Used: Milled

DEPTH (feet)		FILTER PACK / GROUT / PACKER / ABANDONMENT MATERIAL		
FROM	TO	ANNULAR MATERIAL, ABANDONMENT MATERIAL and/or PACKER DESCRIPTION	Quantity of Material Used (if applicable)	GROUT DENSITY (lbs./gal., # bag mix, gal./sack etc.)
0	40	Cement	1 yard	
0	105	Grout	6 yards	16.75, 12 bag, 5.5 gal. per bag mix

**Well Development / Pump or Bail Tests**

Date	Method	Yield	Units Check One		DRAWDOWN (ft)	TIME PUMPED (hrs & min)
			GPM	CFS		
	Pump test	350	x		419'	24

**Pump (Permanent)**

Pump Description: \_\_\_\_\_ Horsepower: \_\_\_\_\_ Pump Intake Depth: \_\_\_\_\_ feet  
 Approximate maximum pumping rate: \_\_\_\_\_ Well disinfected upon completion?  Yes  No

**Comments** Description of construction activity, additional materials used, problems encountered, extraordinary circumstances, abandonment / procedures. Use additional well data form for more space.

**Well Driller Statement**

This well was drilled or abandoned under my supervision, according to applicable rules and regulations, and this report is complete and correct to the best of my knowledge and belief.

Name Sierra Drilling Inc. License No. #240  
 (Person, Firm, or Corporation - Print or Type)  
 Signature [Signature] Date Mar. 22 1994  
 (Well Driller)

# 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      KENT L. JONES  
*Executive Director*      *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

**AFTER FOURTEEN YEARS**  
**REQUEST FOR EXTENSION OF TIME TO FILE PROOF OF BENEFICIAL USE**  
**STATE OF UTAH** Fee Amount: \$150

CHANGE NO. a12710b (57-8865)  
 APPLICANT: Emigration Improvement District  
 PO Box 58945  
 Salt Lake City, UT 84158-0945

Provide all information requested below:  
 Construction completed to date:  
 see attachment

Work completed since last extension:  
 see attachment

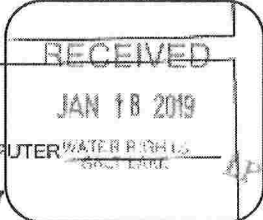
Reasons why the project has not been completed:  
 see attachment

Estimated time for completion of project:  
 10 years

Pursuant to Section 73-3-12, Utah Code Annotated 1953 (as amended), request is made for EXTENSION OF TIME to file proof of beneficial use. I assert that to the best of my knowledge all information provided herein is true and complete. By signing this form, I assert that I am the applicant or I have been granted authority to make this request on behalf of the applicant.

[Signature] 1-17-19 801-243-5741  
 APPLICANT or REPRESENTATIVE (signature) Date Telephone Number (Optional)

ERIC HAWKES MANAGER  
 APPLICANT or REPRESENTATIVE (print) REPRESENTATIVE'S TITLE



**FOR OFFICE USE ONLY**

\$150 FEE RECD. AMOUNT 528753 BY LP RECEIPT NO. 19-00255 COMPUTER WATER RIGHTS

PROOF DUE DATE: December 31, 2018 14 YEAR PERIOD ENDED: December 16, 1997  
LAPSED 20

REINSTATED 1-18 20 19 50 YEAR PERIOD ENDS: December 16, 2033

REMARKS:

Return to: DIVISION OF WATER RIGHTS, 1534 West North Temple, Suite 221, Salt Lake City, UT 84115 (801) 538-7240

SCANNED LP

*Extension Request*



Attachment to:  
**Request for Extension of Time**

Change Application: **a12710b (57-8865)**

Filed by:  
**EMIGRATION IMPROVEMENT DISTRICT**

The Emigration Improvement District is a public water supplier created in 1968 to supply water to the residents in Emigration Canyon. It holds several water rights, including this one, to meet the reasonable future requirements of its residents. In 1994 the District acquired the Freeze Creek Water Company which among other things owned this water right. In 2004 the District expanded the system and added another 60 connections. In 2007 it again expanded the system to provide for another 208 connections. There are presently just over 300 connections on the system and this number is increasing by between 5 – 10 connections per year.

**Construction completed to date:**

Two of the wells contemplated by this change application have been drilled and are presently in use by the District (Freeze Creek Well #1 and Well #2). The District has expended significant funds in maintaining and operating these wells as well as other components in the District's water system.

**Work completed since the last extension:**

In 2018\_ the District pulled and replaced the pump on Freeze Creek Well #1 at a cost of approximately \$ 8450.00\_\_\_\_\_.

**Reasons why the project has not been completed:**

The holding of this water right and change application by the Emigration Improvement District, a public water supplier, constitutes due diligence. Nevertheless, the District is using this water right pursuant to this approved change application and will continue to do so. Construction of projects in Emigration Canyon is very expensive due to relatively long distances between connections and other factors such as narrow access and rock outcrops. Additionally, connection to the system is relatively slow and therefore, demand for additional source development is also slow. As demand requires, the District will seek and develop additional sources pursuant to this change application or other water rights held by the District. Therefore, the District requests that the State Engineer approve a ten-year extension of time as it further expands and develops its system.

SCANNED LP



GARY L. FERRELL  
Governor  
SPRINGFIELD COOK  
Lieutenant Governor

## State of Utah

### DEPARTMENT OF NATURAL RESOURCES

#### Division of Water Rights

MICHAEL A. SCHLES  
Executive Director

KENT L. JONES  
State Engineer/Director General

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

To Our Canyon Residents:

It has recently come to the attention of the Emigration Improvement District (the "District") that Mark Tracy and his so-called ECHO Association are continuing to provide certain inaccurate information to residents in Emigration Canyon regarding the District's water system and the District's recent change application.

As many of you know, in 2014 Mr. Tracy filed a lawsuit against the District and numerous other individuals and entities associated with the District. Although the lawsuit never proceeded past the initial motion to dismiss phase, Mr. Tracy was able to delay resolution by amending his Complaint multiple times. Nevertheless, on June 25, 2018, Federal Court Judge Jill Parrish issued a final order dismissing all the claims against all the defendants with prejudice. Mr. Tracy has appealed the dismissal with prejudice, but the District is confident that the appellate court will uphold Judge Parrish's decision.

In addition, because Judge Parrish found that Mr. Tracy and his legal counsel took unlawful action with respect to the District's water rights, Judge Parrish has already awarded the District **\$29,936.00** in attorney fees and damages against Mr. Tracy and his legal counsel, Christensen and Jensen. The District has another motion pending before Judge Parrish for an additional **\$118,831.00** in legal fees against Mr. Tracy and Christensen and Jensen based on the frivolous nature of the lawsuit.

Because of the ongoing litigation, the District has been reluctant to speak out or engage Mr. Tracy in his public relations battle against the District, believing it best to protect the canyon's interests in the proper forums. Nonetheless, a number of Emigration Canyon residents who are familiar with District operations and the hydrology in the Canyon have asked that the District correct and clarify key items which have been circulating relative to the District's water right(s), and so we provide to you the follow facts:

**I. EID DOES NOT HAVE A PLAN TO ADD 500 NEW HOMES IN THE CANYON.**

It has come to the attention of the District that Mr. Tracy is informing residents that the District has a current proposal to add 500 new homes to the Canyon. This is completely false. Mr. Tracy appears to claim that the District trustees made this statement during a public meeting on March 12, 2015 (over three and a half years ago) during a discussion regarding impact fees on future development. However, Mr. Tracy completely misrepresents the statements, which simply suggested that the impact fee for new development be based on a buildout of approximately 500 homes. Thus, to be absolutely clear, the District is not aware of any proposal to develop 500 new homes in Emigration Canyon.

**II. THE DISTRICT'S PENDING CHANGE APPLICATIONS HAVE NOTHING TO DO WITH A PLAN TO DEVELOP 500 HOMES IN THE CANYON.**

As background for those who are not familiar with history of the District, the District was created in 1968. At the time, the District was provided a senior water right for water at the mouth of the Canyon. However, because there was not a public drinking water system in the Canyon, the District provided a service to residents in the Canyon by leasing its water right to be used to cover water usage by individual canyon residents from their private wells. Because the leases changed each year, the State Engineer

(who regulates water usage in the State) established a policy requiring the District to file temporary change applications annually on a piece of the District's water rights to cover such usage. This practice has continued to the present under the direction of the State Engineer's office.

In 1993, the District filed a permanent change application on the District's water right to include a number of potential surface and groundwater sources and to be used to provide water to Canyon residents. Since that time, the District has either constructed or acquired four wells in the Canyon (two that it acquired from the Freeze Creek Water Company associated with the Emigration Oaks development and two that it has since drilled). They are all located at the northern end (uphill) of the Emigration Oaks Development.

Earlier this year, the State Engineer's Office changed its policy with respect to the District filing an annual temporary change application and instructed the District to file a permanent change application. The District met several times with the State Engineer and his staff and pursuant to their direction, has now filed two new permanent change applications on its water right.

Change application a44045 includes the water sources previously approved under the 1993 permanent change application, two existing wells approved under prior temporary change applications and five potential new well sites. Of the five new wells sites, four are near the one million gallon storage tank and the other is above Pinecrest (to provide water to that area if the residents want it). Not a single drop of additional water is included in this change application than has already been approved many years ago. The change application allows the water to be used for Canyon residents.

Change application a44046 includes only the individual residential wells which have been approved over many years by the series of temporary change applications cited above. Again, no more water is sought than has been previously approved. If this change application is not approved, then shortly after the first of the year these approximately 25 homeowners will be without a water right.

Accordingly, in contrast to Mr. Tracy's apparent assertion that the change applications are being filed to facilitate a plan for 500 new homes in the Canyon, the only reason the District is filing the permanent change applications is due to a change in policy by the State Engineer's Office.

### **III. THE DISTRICT'S WELLS ARE NOT THE CAUSE OF THE LACK OF WATER IN THE STREAM.**


As everyone is aware, it has been extremely hot and dry this year. In fact, the 2018 water year was the lowest on record for Emigration Canyon and very low for the state generally. Annual precipitation was at an all-time low, with almost no summer rains. Unlike Mr. Tracy, who does not live in Emigration Canyon, the District's Trustees are all long-time Canyon residents who, like you, value the natural creek environment. Because of this and other factors, the District's wells are deep, sealed for at least the top 100 feet, constructed into bedrock aquifers and far removed from Emigration Creek. This also makes the District's wells far removed from most of the individual wells in the Canyon which are mostly constructed into the shallow creek aquifer. Accordingly, although Mr. Tracy would like residents to believe that the District's well are the cause of the stream going dry this year, it is simply not true.

# EXHIBIT H

**AFTER FOURTEEN YEARS  
REQUEST FOR EXTENSION OF TIME TO FILE PROOF OF BENEFICIAL USE  
STATE OF UTAH**

CHANGE NO.	a12710b (57-8865)
APPLICANT:	Emigration Improvement District PO Box 58945 Salt Lake City, UT 84158-0945
<b>Provide all information requested below:</b>	
Construction completed to date:	see attachment
Work completed since last extension:	see attachment
Reasons why the project has not been completed:	see attachment
Estimated time for completion of project:	5 years

Pursuant to Section 73-3-12, Utah Code Annotated 1953 (as amended), request is made for EXTENSION OF TIME to file proof of beneficial use. I assert that to the best of my knowledge all information provided herein is true and complete. By signing this form, I assert that I am the applicant or I have been granted authority to make this request on behalf of the applicant.

	01-30-2014	(801) 242-4662
APPLICANT or REPRESENTATIVE (signature)	Date	Telephone Number (Optional)
DON BARNSETT	DISTRICT ENGINEER	
APPLICANT or REPRESENTATIVE (print)	REPRESENTATIVE'S TITLE	

**FOR OFFICE USE ONLY**

\$150 FEE RECD. ✓1830 BY AK RECEIPT NO. 14-00358 COMPUTER \_\_\_\_\_

PROOF DUE DATE: December 31, 2013      14 YEAR PERIOD ENDED: December 16, 1997

LAPSED 12-31- 2013 50 YEAR PERIOD ENDS: December 16, 2033

REMARKS: REINSTATED 1-30- 2014

Return to: DIVISION OF WATER RIGHTS\*1594 West North Temple, Suite 220, Salt Lake City, UT 84116\*(801)538-7240

SCANNED AK  
RECEIVED AK  
JAN 30 2014  
WATER RIGHTS  
SALT LAKE

Attachment to:  
**Request for Extension of Time**

Change Application: a12710b (57-8865)

Filed by:  
**EMIGRATION IMPROVEMENT DISTRICT**

The Emigration Improvement District is a public water supply entity created in 1968 to supply water to the residents in Emigration Canyon. It holds several water rights, including this one, to meet the needs of its residents. The District for many years has leased its water right to canyon residents and other entities to meet their water needs. In 1994 the District acquired the Freeze Creek Water Company which had completed or anticipated a total of approximately 220 connections. This water right came with that acquisition. In 2004 the District expanded the system and added another 60 connections. In 2007 it again expanded the system to provide for another 208 connections. The system will continue to be expanded to meet the needs of its residents as there is need and as the residents are able to afford the needed expansions. As the system is expanded, the temporary change applications covering usage by the individual wells and other users will be terminated.

**Construction completed to date:**

The District is in the process of completing its fourth production well. Additionally, the District has a 300,000 gallon and a 1,000,000 gallon storage tank as well as many miles of distribution lines.

Over the next several years it intends to develop some of the springs contemplated by this application and one or two additional wells.

**Work completed since the last extension:**

Since the last extension the District has drilled a new production well (Upper Freeze Creek Well), add approximately ½ mile of pipeline and rebuilt the Well 1 house at a total cost of approximately \$1.8M. This work was completed with a loan from the Utah Board of Water Resources.

**Reasons why the project has not been completed:**

Construction of projects in Emigration Canyon is very expensive due to relatively long distances between connections and other factors such as narrow access and rock outcrops. The District is continually seeking financing to assist the residents in the development of the system. As canyon residents are able to afford expansion of the water system they will convert from a system of individual family wells to the canyon water system. The development of this change application by the District to meet the needs of its residents constitutes due diligence. Therefore, the District requests that the State Engineer approve a five-year extension of time as it further expands and develops its system.

SCANNED