

REQUEST FOR RECONSIDERATION

This document serves as a formal request for reconsideration of the decision by the Utah State Engineer, made on January 16, 2019, to approve EID permanent change application a44045, including 5 new well sites in the Burr Fork drainage in Pinecrest Canyon, on the following grounds:

IMPAIRMENT OF EXISTING WATER RIGHTS

1 - Main Canyon

The Utah State Engineer has received numerous letters of private well owners in the main canyon reporting water quality and quantity impairments and wells going dry, attributed to commercial wells operated by EID, yet in its memorandum decision approving permanent change application a44045 these concerns are not adequately addressed.

Utah code 73-3-3 authorizes the State Engineer, upon reviewing the change application, to determine whether the proposed change would result (or has resulted) in quantity impairments of other water rights.

Quantity impairment under Utah code 73-3-3 (1)(c)(i) is defined as any reduction in the amount of water a person is able to receive in order to satisfy an existing right to the use of water that would result from a change application, including diminishing quality in the source of supply and change in timing (i.e. impairment during summer months).

In its memorandum decision the Utah State Engineer bases approval of EID's permanent change application upon inability to connect concerns expressed by residents with EID's change application. This finding is hardly surprising since there is no hydrologic data available for review. However:

Utah code 73-3-3 (5)(a) states that the applicant (EID) has the burden of proof to provide evidence to support a reasonable belief that the change application will not cause existing rights to experience quantity impairments.

EID has spent 14 million dollars on development of reservoirs, wells and a water distribution system, but has not invested in any hydrologic studies or computer models that provide insight on the effects of commercial wells on groundwater flow patterns, which are likely complex and dynamic and may particularly affect parts of the canyon where topographic divides are less pronounced and the stream is losing ground. There are also no studies indicating effect of existing EID wells on aquifers and streamflow and how to protect water resources in the main canyon. Could it be they have not done so because they do not want to find data demonstrating interference?

Bill Bowen, EID trustee from 1996-2005, declared in sworn testimony on July 9, 2018 that EID board members were informed - by EID hydrologist Jack Barnett - that large diameter wells would reduce the Emigration Canyon aquifer and dewater smaller wells. So while EID was aware of potential interference problems before developing the water system left to them by the Boyer company, they did not take any action to determine the

RECEIVED

SCANNED LP

FEB 05 2019

LP

WATER RIGHTS
SALT LAKE