



Emigration Canyon
Home Owners
Salt Lake City, Utah
801-669-9825

echo-association.com

April 19, 2018

Ref: Public Presentation of Case Evidence and Documents

Dear Emigration Canyon Home/Property Owner,

In September 2014, ECHO Association President Mark Christopher Tracy through the law firm Christensen and Jensen P.C. commenced legal action, as alleged in the complaint, against Emigration Improvement District (“**EID**” AKA ECID) trustees, “independent contractors”, the former CEO of Energy Solutions Inc. **R. Steve Creamer** (individually), and others under the federal False Claims Act (“**FCA**”), for the alleged fraudulent acquisition/diversion of federally-backed funds at the expense of Canyon taxpayers and active concealment thereof.

Based upon new information and documents obtained since August 20, 2015, the Third Amended Complaint now pending in the Federal District Court for the State of Utah against the new defendants **The Boyer Company L.C.** and **City Development Inc.** alleges:

- In September 2002, in order to provide water service to 156 parcels (*i.e.*, 70%) of the Emigration Oaks PUD development sold as “buildable” to unsuspecting buyers, Kem Gardner of **The Boyer Company L.C.** and Walter J. Plumb III of **City Development Inc.** made an undisclosed payment of \$27,000.00 to an unregistered company controlled by EID Trustee Chairman **Michael Scott Hughes** to induce the Utah Special District to fraudulently obtain and then divert federally-backed funds for the construction of water distribution lines in **phases 4A, 6 and 6A** as well as a second access road for the Emigration Oaks development;
- Although Utah State Plan Review Engineer Dr. Steve Onysko refused to approve EID’s massive expansion of the Emigration Oaks water system with the assistance of federal funds that same month, EID under the direction of general manager/treasurer **Fred A. Smolka** and the current Emigration Canyon Metro Township Council Chairman **Joseph Smolka**, both constructed and misrepresented the existence of grossly undersized water distribution lines previously installed by The Boyer Company, which are incapable of providing adequate pressure and flow during a fire emergency in the Canyon and then falsified fire-flow test results through defendant **Aqua Engineering Inc.**;
- Since December 2007, EID trustees and managers knowingly delivered drinking water contaminated with iron bacteria to its customers and failed to report the same in its federally mandated Customer Confidence Reports and Sanitation Surveys through **Eric Hawkes** of the Simplifi Company and defendant **Aqua Environmental Services Inc.**;

- EID continues to operate the Wildflower Reservoir and Boyer Well #2 without operating permits, which cannot be obtained under federal safe drinking water standards;
- Due to irreparable construction defects of the Wildflower Reservoir and a defunct distribution system, every month since August 2007 EID improperly discharges approximately **1 million gallons** of chlorinated and/or bacterially contaminated water back into the Canyon Aquifer (approximately 1/2 of the water extracted by EID's four (4) large-diameter commercial wells during winter months); and lastly,
- Since October 2003, **twenty-eight (28)** private well owners have reported impairment of superior water rights, as predicted by EID hydrologist **Jack Barnett**, while EID failed to ensure minimum flow of the Emigration Canyon Stream in 8 of the 14 years between 2001 and 2015 as mandated in its own Water Conservation and Management Plan.

In addition to the aforementioned allegations, the ECHO Association through the law firm Christensen & Jensen P.C. has filed protest with the Utah State Engineer to prevent the alleged fraudulent consolidation of water shares by EID necessary for the future development of circa **1,700 acres** owned by R. Steve Creamer, Kem Gardner, Walter J. Plumb III, Ira Sachs, David Nuescheler and/or the Gillmor family.

As EID's final temporary application for the operation of the **Brigham Fork and Upper Freeze Creek Wells** will automatically expire on January 16, 2019, the ECHO Association intends to petition the Utah State Third District Court for a judicial order terminating water extraction via the two (2) aforementioned large-diameter commercial wells and prohibit water use at **forty (40)** domestic units, which EID appears to be providing water service without the legal right to do so.

In short, the ECHO Association is dedicated to protecting both the private interests of Emigration Canyon Home Owners as well as the historic birthplace of the state of Utah.

You are cordially invited to attend a presentation of case evidence and documents followed by a short Q&A session on **May 2, 2018** at the downtown Salt Lake City Library auditorium.

Please note that seating is limited to the first **300** participants. Auditorium doors will open at **06:30 p.m.** and close promptly at **7:00 p.m.** whereby late arrivals will not be permitted entry.

Please feel free to contact me directly with any questions, concerns or comments.

Kind Regards,



- ECHO Association President/*qui tam* Relator