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LESLIE W. SLAUGH (3752), and
ELIJAH L. MILNE (11171), for:
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Our File No. 28499-2

Attorneys for Big Ditch Irrigation Co.

IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY

STATE OF UTAH

<p>SALT LAKE CITY CORPORATION,</p> <p>Plaintiff,</p> <p>vs.</p> <p>BIG DITCH IRRIGATION COMPANY, et al.,</p> <p>Defendants.</p>	<p>AFFIDAVIT OF WAYNE CRAWFORD</p> <p>Case No. 070903735 Judge Robin W. Reese</p>
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STATE OF UTAH)
 :SS
COUNTY OF UTAH)

Wayne Crawford being first duly sworn deposes and says as follows:

1. My name is Wayne Crawford. I am over the age of 21 years and all matters attested hereto are of my own personal knowledge unless otherwise stated.

2. I am a resident of Sandy City, Salt Lake County, State of Utah.

3. I have a Bachelors of Science from the University of Utah in Biology, and a Masters degree from the University of Nebraska.

4. I am employed as a Physician's Assistant for Intermountain Health Care.

5. I own water rights in the Farr & Harper Ditch with water rights to Big Cottonwood Creek water in the Holladay area of Salt Lake County.

6. On May 25, 1994, I filed an application for permanent change of water, application a18075 (57-9301), seeking to change the point of diversion for some Farr & Harper Ditch water that was owned by me, to a location in Big Cottonwood Canyon.

7. Salt Lake City protested the Change Application.

8. The State Engineer approved the application on July 21, 1995 to meet the needs “of five families” and “not to exceed the maximum annual diversion of 2.55 acre-feet.

9. A request for reconsideration of the approved change application was filed on August 14, 1995, which was not approved.

10. Salt Lake City brought suit in Third District Court seeking to overturn the State Engineers approval of my Change Application, Salt Lake City v. State Engineer and Wayne G. Crawford, Salt Lake County Civil No. 95090681 IAA (SLC v. Crawford).


11. During the course of discovery in SLC v. Crawford, I personally reviewed water right files of Salt Lake City and discovered a document wherein Salt Lake City Public Utility Director Hooton clarifies to his Deputy Director Tim Doxey the difference between a water right and exchange water. Salt Lake City produced a copy of the document with Bates stamp, attached hereto as Exhibit I.

12. Prior to trial, the City settled the case with me for a \$40,000 payment to me, and a Salt Lake City "surplus" water contract to me for 4 lots in exchange for the title to my water (Exhibit II).

DATED this 27th day of May, 2008.


WAYNE CRAWFORD

SUBSCRIBED AND SWORN TO before me this 27 day of May, 2008.


NOTARY PUBLIC

I:\Big Ditch 28499-2\Exhibits\Affidavit of Wayne Crawford.wpd

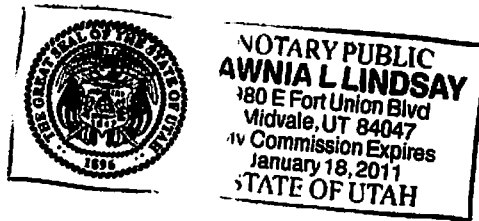


EXHIBIT “I”

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WATER RIGHTS PURCHASES:
AS A MEANS OF PROTECTING THE WATERSHEDS

0 01

1. Salt Lake City has had a long standing policy of acquiring water rights in the canyon streams along eastern Salt Lake County.
2. The City's water rights in Parleys, Millcreek, Big and Little Cottonwood Canyons are based on "exchange" agreements with the original appropriators, whereby Salt Lake City provides Utah Lake water in exchange for the high quality canyon water. These exchanges were made between 1888 and 1935.
3. Through these exchange agreements, Salt Lake City has gained control of the canyons.
 - a. 1914 and 1934 Congressional legislation to protect Salt Lake City Water supplies.
 - b. Utah State Legislation granted first class cities (Salt Lake City) extraterritorial jurisdiction to protect its water supply and watersheds.
 - c. Through ownership of the water rights the city has controlled growth in the canyons by controlling water sales permits. Salt Lake has had in place a water sales moratorium since 1981.
4. The City has purchased water rights as they have come available. **In this manner Salt Lake City becomes the "outright owner" of the rights rather than an owner through contract.** As the owner through contract, the City must fully comply with the terms and conditions of the exchange agreements. We are dealing with individual owners and companies that have their interests to protect. The City has had several law suits over the years with various companies.
5. As long as the water rights are held by the individual or the companies there is a potential for water being transferred into the canyons. A case in point is the Boyer Development in Emigration Canyon. By acquiring water rights from Mount Olivet Cemetery and transferring them up the canyon they were able to acquire the necessary water rights to develop. Salt Lake City had refused to provide water to this development.
6. If an individual or company was successful in transferring their water, either by stock or water right up into the other canyons, Salt Lake City will loose control of the ability to control growth by denying water sales contracts.

Water Rights Purchases

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August 16, 1989

7. Controlling the water rights is just as important as owning the land, where there is so much private land available. It is to the City's best interest to acquire water rights from the various owners with whom it has exchange contracts. If we do not do so, they will seek out others to meet their best interest. Up until now the city has controlled the canyons and the water rights. It would be a mistake to invite others to deal with those who own the water rights in these canyons.

LWH:mf

EXHIBIT “II”

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



JAN GRAHAM
ATTORNEY GENERAL

RECEIVED

SEP 26 1997

WATER RIGHTS
SALT LAKE


CAROL CLAWSON
Solicitor General

REED RICHARDS
Chief Deputy Attorney General

PALMER DEPAULIS
Chief of Staff

MEMORANDUM

TO: BOB MORGAN, State Engineer
KENT JONES, Assistant State Engineer
JIM RILEY, Regional Engineer, Utah Lake/Jordan River

FROM:  JOHN H. MABEY, JR.
Assistant Attorney General

DATE: September 26, 1997

RE: Salt Lake City Corp. v. State Engineer and Wayne G. Crawford, Salt Lake
County Civil No. 950906811AA; Approved Change Application Number 57-9301
(a18075)

Attached is a copy of the Order of Dismissal dated September 18, 1997 which dismisses the above case. The Order and Stipulation have the effect of affirming the Memorandum Decision dated July 21, 1995 which approved Change Application Number 57-9301 (a18075), with the following modifications:

1. Mr. Crawford has conveyed all water rights evidenced by the Change and assigned the Change to Salt Lake City Corporation, reserving a right to the use of water as set forth in the Quit Claim Deed and Assignment, each dated September 9, 1997.
2. Salt Lake City will likely amend the Change Application to **delete the underground well** point of diversion.

Crawford Memo - September 26, 1997

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3. Mr. Crawford and his heirs, successors and assigns reserved the right to divert and use water, free of charge, in amounts sufficient under the approved Change for four single family residences for 75 years beginning September 9, 1997. The nature and place of use is as described in the Change Application. The four residences may be located anywhere within or adjacent to the Pine Tree Subdivision area of Big Cottonwood Canyon, as described in the Change. The point of diversion shall be the surface point of diversion described in the Change Application, unless Crawford identifies in writing an alternative spring source in the general area of the Pine Tree Subdivision within three years of September 9, 1997. If Crawford so identifies an alternative spring source, Salt Lake City will undertake to gain the State Engineer's approval for the use and diversion from the alternative spring source.

Please endorse your records accordingly and remove the red litigation tag from the water right file.

Please contact me should you have any questions regarding this matter.

Attachment: Order of Dismissal
