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*Attorneys for plaintiff Eagle Mountain City*

**IN THE FOURTH JUDICIAL DISTRICT COURT  
IN AND FOR UTAH COUNTY, STATE OF UTAH**

**EAGLE MOUNTAIN CITY**, a municipal corporation

Plaintiff,

vs.

**CEDAR VALLEY WATER COMPANY, LLC**, aka and fka **CEDAR VALLEY WATER CO. LLC**, aka and fka **CEDAR VALLEY WATER COMPANY**, aka and fka **CEDAR VALLEY WATER COMPANY, L.C.**, aka and fka **CEDAR VALLEY WATER COMPANY EM LLC**, aka and fka **CEDAR VALLEY COMPANY, LLC**, aka and fka **CEDAR VALLEY COMPANY**,

Defendant.

**COMPLAINT TO QUIET TITLE  
TO REAL PROPERTY AND FOR  
DECLARATORY RELIEF AND FOR  
OTHER RELIEF**

Civil No. \_\_\_\_\_

Honorable \_\_\_\_\_

Plaintiff Eagle Mountain City (“**Plaintiff**” or “**Eagle Mountain**”), through counsel, complains of and for its causes of action against defendant Cedar Valley Water Company, LLC, aka and fka Cedar Valley Water Co. LLC, aka and fka Cedar Valley Water Company, aka and fka Cedar Valley Water Company, LC, aka and fka Cedar Valley Water Company EM LLC, aka and fka Cedar Valley Company, LLC, aka and fka Cedar Valley Company (each of which is referred to herein as “**Defendant**” or “**CVWC**”), and alleges as follows:

## **PARTIES, JURISDICTION, & VENUE**

1. Plaintiff is a municipal corporation located in Utah County, Utah.
2. Defendant is a Utah limited liability company, with its principal place of business located in Utah County, Utah. Upon information and belief, Defendant has, at various times, referred to itself as Cedar Valley Water Company, LLC, Cedar Valley Water Co. LLC, Cedar Valley Water Company, Cedar Valley Water Company, LC, Cedar Valley Company, LLC, and Cedar Valley Company.
3. This action involves a determination of rights, title and interests in and to Water Right Nos. 54-47, 54-48, 54-50, 54-56, 54-645, and 54-1003, described in more detail below, with sources located in Utah County, State of Utah.
4. The Court has jurisdiction over this matter pursuant to Utah Code § 78A-5-102(1).
5. Venue is proper in this Court pursuant to Utah Code §§ 78B-3a-201(1)(a), 78B-3a-202(1)(a) and/or 78B-3a-202(1)(b).

## **GENERAL ALLEGATIONS**

### **I. General background**

6. Defendant was the owner of Water Right Nos. 54-47, 54-48, 54-50, 54-56, 54-645, and 54-1003.
7. Defendant is an affiliate of various entities that are in the business of developing properties in Eagle Mountain City.
8. Eagle Mountain Municipal Code requires that developers of subdivisions supply Eagle Mountain City with water rights equal to the amount of water required by the subdivision

at build out before the plat map can be recorded. *See generally* Eagle Mountain Municipal Code 13.25.010-200.

9. Accordingly, Defendant sought to transfer water rights to Plaintiff so that Defendant, its affiliates, or third parties could meet Eagle Mountain's water dedication requirements and develop properties within Eagle Mountain.

*CVWC Creates Escrow Agreement to Facilitate Water Rights Transfer to Eagle Mountain*

10. To effectuate this arrangement, the Defendant entered into a Water Security Agreement, Collateral Assignment of Water Rights, and Escrow Agreement (the “**Escrow Agreement**”) with US Bank National Association (“**US Bank**”), whereby Defendant transferred water rights to US Bank to act as an escrow agent and deliver appropriate water rights to Plaintiff and its predecessor in interest, Town of Eagle Mountain (which subsequently deeded the same water rights to Plaintiff), in connection with the development of properties within Eagle Mountain. The Escrow Agreement, a true and correct copy of which is attached as **Exhibit A**, is dated October 15, 1997.

11. The Escrow Agreement lists the assignor as “Cedar Valley Water Company, L.C.” and specifically states that the assignor “unconditionally assigns, grants, conveys and warrants to [US Bank]... Water Rights Numbers 54-47, 54-48, 54-50, 54-56, 54-645, and 54-1003, and Change Applications a16238 and a21500[.]”

12. The same day as the Defendants entered the Escrow Agreement, October 15, 1997, Defendant executed a Water Right Deed in favor of US Bank that was recorded on

October 21, 1997 at entry 82284 (the “**Original Water Right Deed**”).<sup>1</sup> A true and correct copy of the Original Water Right Deed is attached as **Exhibit B**.

13. The Original Water Right Deed lists the grantor as “Cedar Valley Company, L.L.C.” and transferred “Water Rights No. 54-47, 54-48, 54-50, 54-56, 54-645, and 54-1003 together with all rights under Change Application a16238 and pending Change Application a21500...”

14. Plaintiff was unaware that Defendant’s name was, as Defendant has subsequently alleged, misidentified in Entry 82284. The parties to the Escrow Agreement and the Original Water Right Deed clearly and unequivocally intended that Defendant was and would be the grantor, and any mistake in the naming of the grantor runs contrary to the intent of the parties, as expressed in the Escrow Agreement.

15. In any event, a corrected deed was recorded on December 31, 1998 at entry 137915, which corrects the misidentified grantor in entry 82284. Entry 137915 names as the grantor “Cedar Valley Water Company, L.L.C.,” US Bank as the escrow agent, and lists the same water rights as entry 82284 (the “**Corrected Water Rights Deed**”). The correction properly reflects and reflected the intention of parties. A true and correct copy of the Corrected Water Rights Deed is attached as **Exhibit C**.

16. The Corrected Water Rights Deed clearly bears the same signature on behalf of Defendant as the Original Water Rights Deed. Accordingly, Defendant clearly and expressly recognized and acknowledged the validity of the Original Water Rights Deed when executing the Corrected Water Rights Deed.

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<sup>1</sup> Herein “entry” refers to deeds and documents recorded with the Utah County Recorder.  
4899-8297-4086, v. 3

17. US Bank and Defendant subsequently made numerous conveyances of water rights to Plaintiff so that affiliates of Defendant could develop properties. The specific conveyances are discussed in more detail below. For each conveyance to Plaintiff, Plaintiff assigned the water rights to the relevant entities involved to meet the dedication requirements of specific property developments.

18. Plaintiff has relied on these water right conveyances to meet the water demands of the specified developments.

19. Plaintiff submitted these conveyance to the Division of Water Rights, which updated title on its records to reflect the conveyances.

## **II. The Dispute**

20. On or about June 17, 2021, the State of Utah's Department of Natural Resources, Division of Water Rights ("**DWRi**") apparently circulated a letter titled *Review of the Ownership on Water Right Number: 54-47, 54-48, 54-50, 54-645, 54-1003 (a21500)* (the "**DWRi Letter**"). In the DWRi Letter, DWRi expressed its concerns about the ownership of the water rights discussed above. A true and correct copy of the DWRi Letter is attached as **Exhibit D**.

21. The DWRi Letter was purportedly addressed to Plaintiff's prior address, so Plaintiff never received it.

22. Defendant provided a response to the DWRi Letter in a letter titled *Cedar Valley Water Company: Report of Conveyances* ("**Defendant's Response**"), dated May 10, 2022. Defendant's Response claimed that certain conveyances made by Defendant and on Defendant's behalf failed because the deeds misidentify the parties, or the grantor did not own the water rights at the time of conveyance, or the water right numbers were misidentified in the deeds.

23. In short, Defendant sought to invalidate its own agreements and signatures as described in Original Water Rights Deed, the Escrow Agreement and the Corrected Water Rights Deed.

24. Contrary to its prior actions of updating title in the water rights at issue to Plaintiff, DWRi updated its record to reflect Defendant as the new owner of these water rights.

25. Once again, Plaintiff was unaware of Defendant's Response at the time it was sent or the actions taken by DWRi as a result of Defendant's Response.

26. Plaintiff eventually discovered the existence of the DWRi Letter and Defendant's Response. Plaintiff disputes the allegations and conclusions contained in Defendant's Response.

27. To clarify ownership, Plaintiff now brings this quiet title action against Defendant to definitively establish Plaintiff's ownership interest in and title to the water rights at issue – Water Right Nos. 54-47, 54-48, 54-50, 54-56, 54-645, and 54-1003.

### **III. Conveyances from Water Right Nos. 54-47, 54-48, 54-50, 54-56, 54-645, and 54-1003**

28. As described above, on October 15, 1997 Defendant and US Bank entered into the Escrow Agreement whereby Defendant transferred Water Right Nos. 54-47, 54-48, 54-50, 54-56, 54-645, and 54-1003 to US Bank to deliver the appropriate water rights to Plaintiff for the development of properties.

29. Defendant executed the Original Water Rights Deed, the Escrow Agreement and the Corrected Water Rights Deed, each with the same signature and intent that these documents controlled and expressed the actual agreement between the parties.

30. The subsequent transfers of specific water rights are as follows:

#### **A. Water Right Nos. 54-47**

31. Water Right No. 54-47 has 10.85 acre-feet (af).

32. The operative conveyances related to Water Right No. 54-47 occurred after the Corrected Water Right Deed was recorded.

33. On or about March 26, 2001,<sup>2</sup> entry 27273 deeded 3.09 af from Water Right No. 54-48 from US Bank to Plaintiff.

34. On or about April 4, 2003, entry 52416 deeded US Bank's remaining interests in Water Right No. 54-47 from US Bank to Defendant.

35. On or about October 3, 2003, entry 160858 corrected entry 27273 to deed 3.09 af from Water Right No. 54-47 from US Bank to Plaintiff.

36. Defendant's Response asserts entries 27273, and 160585 failed.

37. On or about August 2, 2006, entry 98424 deeded 7.76 af from Water Right No. 54-47 from Defendant to Plaintiff.

#### **B. Water Right No. 54-48**

38. Water Right No. 54-48 has 10.85 af.

39. The operative conveyances related to Water Right No. 54-48 occurred after the Corrected Water Right Deed was recorded.

40. On or about March 26, 2001, entry 27273 deeded 3.09 af from Water Right No. 54-48 from US Bank to Plaintiff.

41. On or about February 22, 2002, entry 21580 deeded 10.8 af from Water Right No. 54-48 from Defendant to Plaintiff.

42. Defendant's Response asserts entry 21580 failed.

43. On or about April 7, 2003, entry 52416 deeded US Bank's remaining interests in Water Right No. 54-48 from US Bank to Defendant.

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<sup>2</sup> The dates provided refer to the recording date of each deed.  
4899-8297-4086, v. 3

44. On or about October 3, 2003, entry 160858 corrected entry 27273 to deed 3.09 af from Water Right No. 54-47 from US Bank to Plaintiff.

45. On or about September 21, 2011, entry 66944 deeded Defendant's interest in Water Right No. 54-48 from Defendant to John Walden.

46. On or about September 21, 2011, entry 66946 deeded John W. Walden's interest in Water Right No. 54-48 from John Walden to Defendant.

47. June 30, 2020: entry 91946 deeded 0.036 af from Water Right No. 54-48 from Defendant to Plaintiff.

**C. Water Right No. 54-50**

48. Water Right No. 54-50 has 906.89 af.

49. With regard to Water Right No. 54-50, the deeds relevant to the issues here begin with entry 82284, described in more detail above.

50. On or about October 21, 1997, entry 82284 deeded, *inter alia*, Water Right No. 54-50 from "Cedar Valley Company, LLC" to US Bank.

51. On or about April 21, 1998, entry 38623 deeded 47 af from Water Right No. 54-50 from US Bank to Plaintiff.

52. On or about May 5, 1998, entry 44361 deeded 56.4 af from Water Right No. 54-50 from US Bank to Plaintiff.

53. On or about July 28, 1998, entry 74496 deeded 38.78 af from Water Right No. 54-50 from US Bank to Plaintiff.

54. On or about July 28, 1998, entry 74581 deeded 281 af from Water Right No. 54-50 from US Bank to Plaintiff.

55. On or about August 6, 1998, entry 78763 deeded 355.32 af from Water Right No. 54-50 from US Bank to Plaintiff.

56. Defendant's Response asserts the conveyance entries 38623, 44361, 74496, 74581, and 78763 failed.

57. On or about December 31, 1998, entry 137915 corrects the grantor from "Cedar Valley Company, LLC" to Defendant in entry 82284.

58. On or about March 18, 1999, entry 32387 deeded 87.34 af from Water Right No. 54-50 from US Bank to Plaintiff.

59. On or about February 22, 2002, entry 21581 deeded 1.26 af from Water Right No. 54-50 from Defendant to Plaintiff.

60. On or about April 11, 2002, entry 41007 deeded 0.45 af from Water Right No. 54-50 from Defendant to Plaintiff.

61. Defendant's Response asserts the conveyances in entries 21581 and 41007 failed.

62. On or about April 7, 2003, entry 52416 deeded all remaining water in Water Right No. 54-50 from US Bank to Defendant.

63. On or about April 7, 2006, entry 42013 deeded 14.30 af from Water Right No. 54-50 from Defendant to Plaintiff.

64. On or about August 2, 2008, entry 98425 deeded 25.04 af from Water Right No. 54-50 from Defendant to Plaintiff.

65. On or about September 21, 2011, entry 66946 deeded Defendant's interest in Water Right No. 54-50 from Defendant to John W. Walden.

66. On or about September 21, 2011, entry 66946 deeded John W. Walden's interest in Water Right No. 54-50 from John W. Walden to Defendant.

67. On or about June 5, 2013, entry 54989 deeded the Town of Eagle Mountain's interest in Water Right No. 54-50 from the Town of Eagle Mountain to Plaintiff.

**D. Water Right No. 54-645**

68. Water Right No. 54-645 has 315.24 af.

69. With regard to Water Right No. 54-645, the deeds relevant to the issues here begin with entry 82284, described in more detail above.

70. On or about October 21, 1997, entry 82284 deeded, *inter alia*, Water Right No. 54-645 from "Cedar Valley Company, LLC" to US Bank.

71. On or about October 21, 1997, entry 82285 deeded 25 af from Water Right No. 54-645 from "Cedar Valley Company, LLC" to Plaintiff.

72. On or about October 24, 1997, entry 83835 deeded 42 af from Water Right No. 54-645 from Defendant to an entity named Touchstone Development Company.

73. On or about October 24, 1997, entry 83836 deeded 42 af from Water Right No. 54-645 from Touchstone Development Company to Plaintiff.

74. On or about November 20, 1997, entry 92268 deeded 14 af from Water Right No. 54-645 from Defendant to an entity named Cedar Pass, L.C.

75. On or about November 20, 1997, entry 92269 deeded 0.446 af from Water Right No. 54-645 from Cedar Pass, L.C. to John Jacob.

76. On or about November 20, 1997, entry 92270 deeded 7.53 af from Water Right No. 54-645 from Cedar Pass, L.C. to Plaintiff.

77. On or about November 20, 1997, entry 92271 deeded 6.024 af from Water Right No. 54-645 from Cedar Pass, L.C. to Plaintiff.

78. On or about December 2, 1997, entry 95424 corrects the grantor from “Cedar Valley Company, LLC” to CVWC in entry 82284 to deed 25 af from Water Right No. 54-645 from Defendant to Plaintiff. This deed does not purport to correct the deed that actually transferred 25 af, which is entry 82285, and the proper correction was recorded on December 31, 1998 at entry 137916.

79. On or about January 8, 1998, entry 1950 deeded 89.25 af from Water Right No. 54-645 from Defendant to Plaintiff.

80. On or about January 8, 1998, entry 1951 deeded 156.51 af from Water Right No. 54-645 from Defendant to Plaintiff.

81. On or about December 31, 1998, entry 137915 corrects the grantor from “Cedar Valley Company, LLC” to Defendant in entry 82284.

82. On or about December 31, 1998, entry 137916 corrects the grantor from “Cedar Valley Company, LLC” to CVWC in entry 82285 to deed 25 af from Water Right No. 54-645 from Defendant to Plaintiff.

83. Defendant’s Response asserts this conveyance failed.

84. On or about April 4, 2003, entry 52416 deeded US Bank’s remaining interests in Water Right No. 54-645 from US Bank to Defendant.

85. On or about September 21, 2011, entry 66944 deeded Defendant’s remaining interest in Water Right No. 54-645 from Defendant to John Walden.

86. On or about September 21, 2011, entry 66946 deeded John Walden’s remaining interest in Water Right No. 54-645 from John Walden to Defendant.

87. On or about June 5, 2013, entry 54989 deeded Town of Eagle Mountain’s interests in 54-645 from Town of Eagle Mountain to Plaintiff.

88. On or about June 30, 2020, entry 91946 deeded 48.572 af from 54-645 from Defendant to Plaintiff.

89. Defendant's Response asserts this conveyance failed.

90. In total, Defendant conveyed 408.886 af of water right 55-645 to Plaintiff, which amount is 93.646 af more than the right contains. In other words, Defendant owes Plaintiff an additional 93.646 af.

#### **E. Water Right No. 54-1003**

91. Water Right No. 54-1003 has 1,875.56 af.

92. With regard to Water Right No. 54-1003, the deeds relevant to the issues here begin with entry 82284, described in more detail above.

93. On or about October 21, 1997, entry 82284 deeded, *inter alia*, Water Right No. 54-1003 from "Cedar Valley Company, LLC" to US Bank.

94. On or about December 31, 1998, entry 137915 corrects the grantor from "Cedar Valley Company, LLC" to Defendant in entry 82284.

95. On or about August 3, 1999, entry 86768 deeded 44.89 af from Water Right No. 54-1003 from US Bank to Plaintiff.

96. On or about September 29, 1999, entry 105769 deeded 22.92 af from Water Right No. 54-1003 from US Bank to Plaintiff.

97. On or about November 2, 1999, entry 116491 deeded 203.19 af from Water Right No. 54-1003 from US Bank to Plaintiff.

98. On or about January 13, 2000, entry 3497 deeded 260 af from Water Right No. 54-1003 from US Bank to Plaintiff.

99. On or about January 13, 2000, entry 3498 deeded 194.13 af from Water Right No. 54-1003 from US Bank to Plaintiff.

100. On or about September 27, 2002, entry 114351 deeded 64.96 af from Water Right No. 54-1003 from Defendant to Plaintiff.

101. Defendant's Response asserts this conveyance failed.

102. On or about April 7, 2003, entry 52416 deeded US Bank's remaining interest in Water Right No. 54-1003 from US Bank to Defendant.

103. On or about May 9, 2003, entry 69997 deeded 43.54 af from Water Right No. 54-1003 from Defendant to Plaintiff.

104. On or about June 17, 2003, entry 91034 deeded 14.43 af from Water Right No. 54-1003 from Defendant to Plaintiff.

105. On or about June 17, 2003, entry 91035 deeded 52.99 af from Water Right No. 54-1003 from Defendant to Plaintiff.

106. On or about February 20, 2004, entry 19125 deeded 89.25 af from Water Right No. 54-1003 from Defendant to Plaintiff.

107. On or about September 9, 2005, entry 101192 deeded 50 af from Water Right No. 54-1003 from Defendant to Scott Hazard.

108. On or about September 9, 2005, entry 101193 deeded 50 af from Water Right No. 54-1003 from Scott Hazard to Defendant.

109. On or about July 19, 2007, entry 104535 deeded 9.86 af from Water Right No. 54-1003 from Defendant to Plaintiff.

110. On or about September 21, 2011, entry 66944 transferred Defendant's remaining interests in Water Right No. 54-1003 from Defendant to John Walden.

111. On or about September 21, 2011, entry 66946 transferred John Walden's interests in Water Right No. 54-1003 from John Walden to Defendant.

112. On or about September 21, 2011, entry 66949 deeded 50 af from Water Right No. 54-1003 from Defendant to Plaintiff.

113. On or about June 5, 2013, entry 54989 deeded Town of Eagle Mountains remaining interests in Water Right No. 54-1003 from Town of Eagle Mountain to Plaintiff.

114. On or about March 28, 2017, entry 29387 deeded 10 af from Water Right No. 54-1003 from Defendant to Dale and Beth Cutler.

**FIRST CAUSE OF ACTION**  
**(Quiet Title)**

115. Plaintiff hereby realleges and incorporates herein each of the averments set forth above, as well as those stated below.

116. Under Utah Code § 78B-6-1301, "A person may bring an action against another person to determine rights, interests, or claims to or in personal or real property."

117. Plaintiff is entitled to entry of an order that Plaintiff owns clear title to Water Right Nos. 54-47, 54-48, 54-50, 54-645, and 54-1003, which title is superior to any claim of interest alleged by Defendant.

118. Plaintiff is entitled to entry of an order that the transfers to Plaintiff pursuant to the Original Water Rights Deed and the Corrected Water Rights Deed were valid and that Plaintiff holds valid and superior title to those water rights transferred by these deeds.

119. The misidentified grantor "Cedar Valley Company, LC" on entry 82284 is not material to the transfer of ownership of the property subject to the deeds. The identity of the true grantor "Cedar Valley Water Company, LLC" is reasonably clear and can be ascertained by the evidence.

120. Defendant executed the Escrow Agreement with the correct name on the same date as entry 82284, which transfer Water Right Nos. 54-47, 54-48, 54-50, 54-645, and 54-1003 from Defendant to US Bank.

121. Defendant also executed the Corrected Water Rights Deed with the correct name and the same signature as entry 82284, which transfer Water Right Nos. 54-47, 54-48, 54-50, 54-645, and 54-1003 from Defendant to US Bank.

122. Any and all conveyances made by US Bank between entry 82284 and entry 137915 are valid.

123. As to water rights 54-47, 54-48 and 54-1003, there are no intervening conveyances between entries 82284 and 137915.

124. The Escrow Agreement itself contains language of conveyance and identifies the property conveyed, the grantor, and the grantee, and therefore conveyed Defendant's interest in Water Right Nos. 54-47, 54-48, 54-50, 54-56, 54-645, and 54-1003 to US Bank (which rights were subsequently transferred to Plaintiff).

125. Moreover, the After-Acquired Title Statute, Utah Code § 57-1-10, applies to water rights and cures the conveyances reflected in entries 82284, 21580, 38623, 44361, 74496, 74581, 78763, 21581, 41007, 82285, and 114351.

126. Defendant's Response confusingly and contrary to law, challenges its own conveyances for its benefit and to the detriment of Plaintiff. The After-Acquired Title Statute was enacted to prevent such an unjust challenge.

127. WHEREFORE, and for each of these reasons, Plaintiff is entitled to entry of judgment against Defendant (i) quieting title and holding that entries 82284, 21580, 38623, 44361, 74496, 74581, 78763, 21581, 41007, 82285, and 114351 reflect valid conveyances of the

respective water rights and (ii) adjudging and declaring that the Plaintiffs and their heirs, successors and assigns hold legal and equitable title to the water rights conveyed in those entries and (iii) that Plaintiff's interest in the water rights conveyed are clear of any right, claim, lien or interest of Defendant.

**SECOND CAUSE OF ACTION**  
**(Reformation)**

128. Plaintiff hereby realleges and incorporates herein each of the averments set forth above, as well as those stated below.

129. Pleading in the alternative, Plaintiff seeks entry of an order reforming the Original Water Rights Deed, entry 82284.

130. According to Defendant, the Original Water Rights Deed contains the improper name of the grantor.

131. Whether by mutual mistake or a unilateral mistake, Defendant placed the incorrect name as the grantor of the Original Water Rights Deed.

132. A mistake of fact, whether mutual or unilateral, can provide the basis for equitable rescission or reformation of a contract even when the contract appears on its face to be a complete and binding integrated agreement.

133. This is particularly true where one party makes a mistake either as the result of the other party's fraud or with the knowledge of the other party who then attempts to take advantage of the mistake.

134. Here, the Original Water Rights Deed does not align with the intention or subsequent actions of the grantor Defendant, grantee US Bank, and Plaintiff because it mistakenly identifies the grantor as "Cedar Valley Company, LLC" instead of "Cedar Valley Water Company, LLC."

135. Defendant is now attempting to take advantage of this mistake, to the disadvantage of Plaintiff.

136. It is inequitable for Defendant to capitalize on the mistake by invalidating conveyances reflected in entries 82284, 38623, 44361, 74496, 74581, 78763, 82285.

137. Reforming the Original Water Rights Deed equitably and appropriately resolves Defendant's claim that entries 38623, 44361, 74496, 74581, 78763, 82285 fail and vests title to the water rights in Plaintiff.

138. Reforming the deed in entry 82284 does not prejudice any intervening transfers to innocent third parties.

139. WHEREFORE, Plaintiff is entitled to entry of judgment that reforms deed 82284 to reflect the true intention of the parties – that Defendant be listed as the Grantor.

**THIRD CAUSE OF ACTION**  
**(Declaratory Judgment)**

140. Plaintiff hereby realleges and incorporates herein each of the averments set forth above, as well as those stated below.

141. Utah Code Ann. § 78B-6-401 provides that the Court “has the power to issue declaratory judgments determining rights, status, and other legal relations within its respective jurisdiction.”

142. This action is brought for the purpose of determining an actual controversy between the parties.

143. An actual controversy or dispute exists regarding the respective interests between the Plaintiff and Defendant in Water Right Nos. 54-47, 54-48, 54-50, 54-645, and 54-1003.

144. WHEREFORE, the Court should enter judgment against defendants determining, adjudging and declaring: (i) that the conveyance of water rights per the Original Water Rights

Deed properly conveyed said water rights; (ii) that the other entries described in this Complaint represent valid conveyances, (iii) that the Defendant does not hold any valid and enforceable claim against Plaintiff, the Current Owners and/or the Current Owners' heirs, successors and assigns, (iv) to the extent Defendant conveyed more water than it was entitled to, Defendant must compensate Plaintiff for such improper distribution (93.646 af) and (v) such further relief as set forth in the Prayer for Relief.

**FOURTH CAUSE OF ACTION**  
**(Unjust Enrichment)**

145. Plaintiff hereby realleges and incorporates herein each of the averments set forth above, as well as those stated below.

146. Pleading in the alternative, Plaintiff conferred a benefit upon Defendant and Defendant's affiliates by recording plat maps after allocating water rights that Defendant conveyed to Plaintiff to meet the water dedication requirements of development within Plaintiff's boundaries. Plaintiff has been serving water to these homes and residents for decades.

147. The recording of the plat maps and the conveyance of water conferred a significant benefit upon the Defendant and its partners and affiliates.

148. Defendant had a knowledge and appreciation of the benefit it enjoyed by conveying water rights to Plaintiff to meet Plaintiff's water dedication requirements for development.

149. It is unjust for the Defendant to now reap the benefit while also clawing back water rights it conveyed to the Plaintiff.

150. WHEREFORE, to the extent that the conveyances are invalid, the Court should enter judgment against Defendants in the amount of the benefit that Defendants unjustly enjoyed. That amount is an amount that shall be proven in trial.

**FIFTH CAUSE OF ACTION**  
**(Breach of Warranty)**

151. Plaintiff hereby realleges and incorporates herein each of the averments set forth above, as well as those stated below.

152. The deeds conveying water rights from CVWC to Plaintiff are substantially satisfy the requirements for warranty deeds.

153. The deeds “convey and warrant” the water in each conveyance.

154. CVWC has taken affirmative steps to contravene the conveyances and warrants it executed in favor of the Plaintiff in CVWC’s Response.

155. CVWC breached the warranties when it conveyed water rights to the extent that it did not own the water rights, to the extent it did not have the right to convey those water rights, and to the extent that it actively seeks to undermine Plaintiff’s claim to the water rights.

156. Plaintiff has suffered an actual loss as a direct result of CVWC’s breach.

157. WHEREFORE, the Court should enter judgment against Defendants in the amount in an amount to be proven at trial.

**SIXTH CAUSE OF ACTION**  
**(Constructive Trust)**

158. Plaintiff hereby realleges and incorporates herein each of the averments set forth above, as well as those stated below.

159. In the alternative to validating the contested conveyances, Plaintiff requests that the Court order Defendant to hold water rights in constructive trust for the benefit of Plaintiff.

160. It is unjust for Defendant to enjoy the benefits conferred by Plaintiff, then to attempt to invalidate prior conveyances to the detriment of Plaintiff.

161. There are specific water rights that can be traced.

162. WHEREFORE, in the alternative to validating the conveyances, the Court should order the Defendant to hold the rights of the failed conveyances in constructive trust for the benefit of Plaintiff.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff demands judgment in its favor and against Defendant, as follows:

A. on its First Cause of Action, for entry of a judgment in favor of Plaintiff (and plaintiff's successors and assigns) and against Defendant –

(i) quieting title of the water rights as follows:

Water Right No 54-47: 10.85 af to Plaintiff,

Water Right No 54-48: 10.836 af to Plaintiff,

Water Right No 54-50: 906.89 af to Plaintiff

Water Right No 54-645: 314.794 af to Plaintiff; 0.446 af to John Jacob.

Water Right No 54-1003: 1,100.14 af to Plaintiff;

and

(ii) adjudging and declaring that the Plaintiff and its heirs, successors and assigns hold legal and equitable title to the water rights conveyed to Plaintiff, and those water rights are free and clear of any right, claim, lien or interest of Defendant;

B. on its Second Cause of Action, for entry of a judgment determining, adjudging, declaring, and reforming entry 82284 so that Defendant is the grantor of the deed and –

(i) that the subsequent conveyances from US Bank to Plaintiff are valid conveyances,

(ii) that Defendant does not hold any lien, right, claim or interest in or against the water rights US Bank conveyed to Plaintiff, and

(iii) that Defendant does not hold any valid and enforceable claim against Plaintiff and its heirs, successors and assigns;

C. on its Third Cause of Action, for entry of a judgment declaring such rights to Water Right Nos. 54-47, 54-48, 54-50, 54-56, 54-645, and 54-1003 as Plaintiff is entitled, and declaring that Defendant owes Plaintiff 93.646 af.

D. on its Fourth Cause of Action, in the alternative to an order validating the conveyances, for entry of a judgment in favor of Plaintiff and against Defendant in an amount to be proven at trial;

E. on its Fifth Cause of Action, for entry of a judgment in favor of Plaintiff and against Defendant in an amount to be proven at trial;

F. on its Sixth Cause of Action, in the alternative to validating the conveyances, for entry of an order establishing a constructive trust over the water rights in the failed conveyances in favor of Plaintiff.

G. for an award of Plaintiff's attorneys' fees and costs to the extent permitted by applicable law; and

H. for such other and further relief as this Court deems just and equitable.

DATED this 5th day of February, 2026.

**COHNE KINGHORN, P.C.**

*/s/ Jonathan R. Schutz*

Jonathan R. Schutz

Bradley Strassberg

*Attorneys for plaintiff Eagle Mountain City*