

FABIAN VANCOTT

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September 18, 2023

Hon. Scott Bartholomew, Chair
Hon. Reed Hatch
Hon. Scott Collard
Sanpete County Commission
160 North Main
P.O. Box 157
Manti, UT 84642

Re: Skyline Mountain Resort's Rejection of Water Right Dedication/Exaction
Requirements for New Connection SMSSD

Dear Commissioners:

This firm represents Skyline Mountain Resort. You recently received a letter from attorneys representing the Skyline Mountain Special Service District ("SSD") in support of the application of a new dedication/exaction requirement to be used by the SSD for each ERC within the Skyline Mountain Resort. This would reduce the required water demand from 0.45 acre feet of water per year to 0.17 acre feet of water per year. The letter implies that Skyline Mountain Resort would support this new exaction and that this exaction would somehow benefit Skyline Mountain Resort.

Nothing could be further from the truth. Skyline Mountain Resort was not consulted in regard to the SSD letter, and Skyline Mountain Resort does not support this exaction and will not approve this exaction.

Furthermore, the enforcement of this exaction upon Skyline Mountain Resort owners would be a breach of contract between SSD and Skyline Mountain Resort.

Enclosed with this letter is a copy of the Water Rights Deed, dated February 28, 2009, and recorded September 8, 2009, in which Sports Haven International Inc. dba Skyline Mountain Resort, Grantor, conveys, with special warranty, to the SSD, all of the Skyline Mountain Resort's valuable water rights along with a perpetual easement for use of the water rights.

The consideration for this conveyance of water rights to the SSD is clearly stated in the deed:

Grantee, and all of its successors and assigns, shall first use the water under the foregoing water rights only within the boundaries of the Skyline Mountain Resort, as established and in effect as of the date of execution of this Deed ("Effective Date"), to ensure that each residence within such boundaries receives at least 0.45 acre-feet for indoor culinary use if such residence is for year round occupancy or 0.25 acre-feet for indoor culinary use if such residence is for

seasonal occupancy; at which point any remaining surplus water under the foregoing water rights may be used outside the boundaries of the Skyline Mountain Resort, as established and in effect as of the Effective Date.

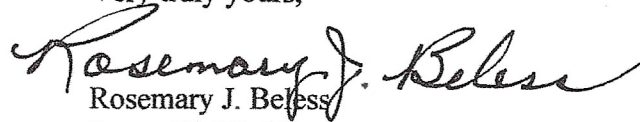
Paragraph 10 of Water Rights Deed.

In essence, consideration for the conveyance of all of the water rights to the SSD is that each fulltime resident shall have 0.45 acre-feet of water per year and each seasonal resident shall have 0.25 acre-feet of water per year. If the SSD now decides that each resident can use only 0.17 acre-feet per year, the SSD has breached its agreement with Skyline Mountain Resort. The SSD has unjustly enriched itself with the ability to sell water which it has taken away from the Skyline Mountain Resort residents. At the very least, each Skyline Mountain Resort resident should be paid the fair market value of the water that the SSD has exacted from each resident. However, money cannot fairly compensate residents in an area where water is scarce and where water determines the lifestyle and use of the resident's property.

Skyline Mountain Resort respectfully requests that Sanpete County reject this exaction policy and allow each Skyline Mountain Resort resident to use the amount of valuable water that each resident dedicated for his use in this community. Skyline Mountain Resort has trusted the SSD to use its water rights wisely for the benefit of the current residents of Skyline Mountain Resort and this exaction would be a breach of contract and an intentional breach of that trust.

Thank you for your thoughtful consideration of the needs of this resort community.

Very truly yours,


Rosemary J. Belless
James W. Waddoups

RJB/mab

cc: M. Roy Fox, District Manager
SMSSD Trustees
Beca Mark, District Clerk
Kevin Daniels, Sanpete County Attorney
Linda Christiansen, Sanpete County Clerk
Steven Jenson, Zoning Administrator, Sanpete County
Kim Hansen, SMR Manager
J. Craig Smith, SMSSD Attorney

Enclosure

When Recorded, Return to:
J. Craig Smith
Smith Hartvigsen, PLLC
215 South State St., Suite 600
Salt Lake City, UT 84111

Ent 16.5581 Bk 593 Pg 1204
Date: 08-SEP-2009 3:47PM
Fee: \$20.00 Check
Filed By: KEH
REED D HATCH, Recorder
SANPETE COUNTY CORPORATION
For: SKYLINE MOUNTAIN RESORT
WATER

Water Rights Deed

SPORTS HAVEN INTERNATIONAL, INC. dba SKYLINE MOUNTAIN RESORT, a Utah Corporation, **Grantor**, hereby conveys, transfers, and assigns, with a warranty of title as against all claiming an interest by or through GRANTOR, and subject to the covenants and restrictions set forth herein, to **SKYLINE MOUNTAIN SPECIAL SERVICE DISTRICT**, a Utah political subdivision, **Grantee**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, all of Grantor's rights, title, and interest in and to the following:

Water Right No. 65-368 as identified of record with the Utah Division of Water Rights, including the portions of approved Change Applications a6790, a20981 and a26740 tied to this right, and all other applications pertaining thereto;

Water Right No. 65-1712 as identified of record with the Utah Division of Water Rights, including the portions of approved Change Applications a8651 and a26740 tied to this right, and all other applications pertaining thereto;

Water Right No. 65-1713 as identified of record with the Utah Division of Water Rights, including the Chicken Track Spring and the portion of approved Change Application a26740 tied to this right, and all other applications pertaining thereto;

Water Right No. 65-2887 as identified of record with the Utah Division of Water Rights, including the Chicken Track Spring and the portion of approved Change Application a26740 tied to this right, and all other applications pertaining thereto;

Water Right No. 65-2928 as identified of record with the Utah Division of Water Rights, including the portion of approved Change Application a26740 tied to this right, and all other applications pertaining thereto; and

Water Right No. 65-3413 as identified of record with the Utah Division of Water Rights, including the portion of approved Change Application a26740 tied to this right, and all other applications pertaining thereto; and

Thad's Peak Well, as identified of record with the Utah Division of Water Rights, and for which the point of diversion is located at North 820 feet, West 0 feet from the E ¼ Corner of Section 9, Section 17, T14S, R 5E, SLB&M (10 – inch well, 385 feet deep).

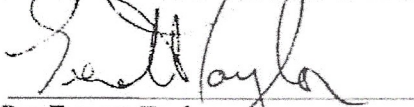
Grantor further grants and conveys to Grantee a perpetual, nonexclusive easement for source protection requests of the State of Utah as well as to access the points of diversion for the aforementioned Water Rights to operate, maintain, repair, replace, devices, structures, pumps, and other equipment and appurtenances necessary or useful to the water wells and pipelines.

Grantee, and all of its successors and assigns, shall first use the water under the foregoing water rights only within the boundaries of the Skyline Mountain Resort, as established and in effect as of the date of execution of this Deed ("Effective Date"), to ensure that each residence within such boundaries receives at least 0.45 acre-feet for indoor culinary use if such residence is for year round occupancy or 0.25 acre-feet for indoor culinary use if such residence is for seasonal occupancy; at which point any remaining surplus water under the foregoing water rights may be used outside the boundaries of the Skyline Mountain Resort, as established and in effect as of the Effective Date.

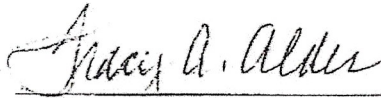
In the event that the **Grantee** ever dissolves, title to the aforementioned Water Rights, wells and other appurtenances shall automatically revert to the **Grantor** upon the initiation of the dissolution process of the Grantee.

IN WITNESS WHEREOF, **Grantor** executes this Water Rights Deed this 28th day of February, 2009.

**SPORTS HAVEN INTERNATIONAL, INC. dba
SKYLINE MOUNTAIN RESORT**


By: Everett Taylor
Its: President

ATTEST:



By: Tracy A. Alder
Its: Secretary

State of Utah }
 :SS.
County of Sanpete }

On the 28th day of February, 2009, Everett Taylor personally appeared before me and duly acknowledged that he executed the foregoing instrument for the purposes stated therein.



Janis L. Hanks
Notary Public

R.R #1 BOX 247
2109 SKYLINE MT. RESORT
FAIRVIEW, UTAH
84629