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May 12, 2021

**VIA CERTIFIED US MAIL**  
**RETURN RECEIPT REQUESTED**

Re: Illegal spring diversion near Juniper Drive of Cottonwood Springs adjacent to Lots [REDACTED],  
[REDACTED]

Dear Skyline Mountain Lot Owners,

This firm represents the Skyline Mountain Resort Special Service District ("SMSSD"). The SMSSD is responsible for culinary water service [REDACTED] in the Skyline Mountain Resort ("Resort"). It has recently come to the attention of SMSSD that one or more individuals are illegally diverting water from a Cottonwoods Springs near Juniper Drive, and adjacent to Lots [REDACTED], within the Resort, (the "Cottonwoods Springs"). A search of the records of the Utah Division of Water Rights reveals that the Cottonwoods Spring is not an

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approved point of diversion and there is no water right associated with the Cottonwoods Spring. This letter is being sent to those with lots near Cottonwoods Springs. Also, I have enclosed photographs which depict the Spring location and signs of the diversion of water from the Cottonwoods Springs.

Utah law prohibits diverting water for beneficial use without a state issued water right and a state approved point of diversion and provides both civil and criminal penalties for an illegal diversion of water. See Utah Code Sections 73-2-26 and 73-2-27. Accordingly, whoever is diverting water from this Spring is subject to civil penalties from the Utah Division of Water Rights and criminal penalties imposed by the Sixth District Court. Additionally, your use of the spring water constitutes an interference with the vested water rights of others, including SMSSD by diminishing the quantity and quality of water available to the SMSSD and other water right holders in the drainage. And is therefore prohibited. See, e.g., *Adams v. Portage Irrigation Reservoir & Power Co.*, 95 Utah 1, 72 P.2d 648, 653 (1937).

The diversion of springs or streams within the Resort is also prohibited by the Covenants, Conditions and Restrictions (CC&Rs) of the Skyline Mountain Resort, ("SMR") which provide as follows:

CC&R 3.7 Drainage. No owner shall do any act or construct any Improvement which would interfere with the natural or established drainage systems or patterns within the Project.

CC&R 3.9 Water Use. No owner of an Undivided Interest or user of a Assigned Area or Dwelling contiguous to a stream or body of water shall have any rights over or above those of other Owners with respect to use of the water, the land thereunder or the water therein. No person shall acquire or be divested of title to any land adjacent to or beneath such water within the Project due to accretion, erosion or change in water levels. No Assigned Area shall be contoured or sloped, nor may drains be placed upon any Assigned Area into any body of water without the approval of the Board. All streams and other natural bodies of water within the Project are protected as watershed, and access thereto by persons and domestic animals is strictly prohibited.

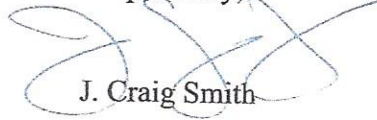
Also, it is stated in the SMR Policy and Procedures Manual under the heading of Springs & Streams:

There are ten springs and three streams (Spring Creek, North Fork and South Fork Birch Creek) on the property of SMR. These springs and streams cannot be altered, or the water flow changed, in any way. All members have full access to all streams. No one may interfere with their natural flow or divert them for any reason.

Anyone who is diverting water from the Cottonwoods Springs or any other spring is advised to immediately cease and desist from diverting any water from the Spring and to remove any items that you have installed at the Spring to divert or transport water. If this illegal diversion continues SMSSD will contact the Division of Water Rights to initiate both civil and criminal enforcement actions. In the event, you know who is diverting the water from the Spring I ask that you contact me and provide me the identity of this person or persons.

Hopefully, this letter will result in the discontinuance of the illegal diversion of water and no further action will be necessary. Thank you for your attention to this letter. If you have any questions or information, please contact me or SMSSD.

Respectfully,

A handwritten signature in blue ink, appearing to read "J. Craig Smith", is written over the typed name. The signature is stylized with loops and a long horizontal stroke extending to the right.

J. Craig Smith

cc: Craig Godwin, Chair SMSSD  
EvaMae Cook, President SMR  
Roy Fox, Manager SMSSD

