

ENT 114371; 2007 PG 1 of 9  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2007 Aug 07 11:24 am FEE 0.00 BY SW  
RECORDED FOR SARATOGA SPRINGS CITY

## EASEMENT

**Fund: School  
Easement No. 1256**

THE STATE OF UTAH, by and through the School and Institutional Trust Lands Administration, GRANTOR, in consideration of the payment of \$36,936.00 plus a \$600.00 application fee, receipt of which is acknowledged, and the promise of GRANTEE to pay an administrative fee as provided by Administration Rules R850-40-1800 and R850-4-200, as amended or replaced, to GRANTOR on or before January 1, 2010, and every third year thereafter, hereby grants to City of Saratoga Springs, 1307 North Commerce Drive, Suite 200, Saratoga Springs, Utah, 84043, GRANTEE, the right to construct, operate, repair and maintain a water pipeline on state trust lands described as follows:

### UTAH COUNTY

Township 6 South, Range 1 West, SLB&M  
Section 3: NE $\frac{1}{4}$  (within)

A water pipeline easement located within the northeast quarter of Section 3, Township 6 South, Range 1 West, Salt Lake Base and Meridian, said easement being 20 feet in width and the sidelines of which are 10 feet parallel and perpendicular to the following described centerline:

Beginning at a point on the east line of the State of Utah Trust Lands property which point is South 00°07'32" West along the section line 744.24 feet, and South 89°52'28" East 4.06 feet from the northeast corner of said Section 3, and running thence northwesterly along the arc of a 3141.62 foot radius curve to the left through a central angle of 09°55'46" a distance of 544.45 feet, the chord of which bears North 61°14'10" West 543.77 feet; thence North 69°07'56" West 362.11 feet to a point of termination of the proposed waterline at station 42+42.37.

Also beginning at a point of intersection on the waterline which point is South 00°07'32" West 362.64 feet, and West 788.10 feet from the northeast corner of Section 3, Township 6 South, Range 1 West, Salt Lake Base and Meridian, and running thence North 17°34'57" East 381.43 feet more or less to the northerly line of said State of Utah Trust Lands property.

Less and excluding any portion of the above that is not State of Utah Trust Lands. Contains 0.513 acres, or 22350 square feet, more or less.

TO HAVE AND TO HOLD for a term of 30 years commencing April 25, 2007 and expiring April 24, 2037, unless earlier terminated pursuant to the terms of this Easement, subject to the following terms and conditions and any valid and existing rights or until GRANTEE, its successors and assigns shall fail to make any payment in accordance with its promise above set forth. This Easement is granted only for the purpose described above as far as it is consistent

with the principles and obligations in the Enabling Act of Utah (Act of July 16, 1894, Ch. 138, 28 Stat. 107) and the Constitution of the State of Utah.

1. GRANTEE shall pay for all cost and expense in connection with the construction, operation, repair, replacement, and maintenance of said water pipeline across trust lands, and hold GRANTOR harmless from any and all liability (including expenses for attorney's fees) which may arise from the construction, operation, and maintenance of said water pipeline, so long as the Easement shall remain in force and effect.

2. GRANTOR reserves the right to relocate or modify the Easement, in whole or in part, as may be necessary to satisfy the interests of GRANTOR for the use of the dominant estate or the adjoining lands. The cost of such relocation shall be at GRANTEE's sole expense. The relocated or modified Easement shall provide GRANTEE with access such as is necessary to fulfill the purposes of the grant.

3. GRANTEE shall have sixty (60) days after the expiration of the terms of this Easement to remove said water pipeline if GRANTOR determines it is in GRANTOR's best interest, and upon written notification from GRANTOR. In the event the same is not removed within sixty (60) days, it is mutually agreed by and between GRANTOR and GRANTEE that GRANTOR shall have the right to remove, or cause the same to be removed, all at the cost and expense of GRANTEE.

4. GRANTEE represents that it has notified holders of state issued interests in the area surrounding the Easement, as set forth in Exhibit "A" attached hereto, of GRANTEE's rights and plans hereunder. GRANTEE represents that the location and construction of this Easement will not unreasonably interfere with or cause damage to such other existing users and that GRANTEE will coordinate construction of said water pipeline with such existing users. GRANTEE will construct the water pipeline in such a manner as not to unreasonably interfere with the operations of such existing users.

5. GRANTEE acknowledges that said water pipeline will be located in an area frequently traversed by heavy equipment and machinery. Accordingly, GRANTEE shall install the water pipeline at a depth such that it will not be adversely impacted in the future by the traverse of such heavy equipment and machinery over the easement. GRANTEE agrees to hold GRANTOR, its lessees, assigns or successors in interest harmless from any damage that may occur to said pipeline from the activities of GRANTOR, its lessees, assigns or successors in interest.

6. GRANTEE agrees that, for good cause shown, at any time during the term of this Easement, GRANTOR may require that the amount of an existing bond be increased or if a bond has not been previously required, GRANTOR may require GRANTEE to post with GRANTOR a bond with an approved corporate surety company authorized to transact business in the State of Utah, or such other surety as may be acceptable to GRANTOR, in a sum to be determined by GRANTOR, said bond to be conditioned upon full compliance with all terms and conditions of

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City of Saratoga Springs  
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this Easement and the rules relating hereto. The amount of this bond shall not be deemed to limit any liability of GRANTEE.

7. GRANTEE assumes liability for and agrees to indemnify GRANTOR for and against any and all liability, including attorney's fees, of any nature imposed upon, incurred by, or asserted against GRANTOR which in any way relates to or arises out of the activity or presence upon the Easement of GRANTEE, its servants, employees, agents, sublessees, assignees, or invitees, unless such liability is caused by GRANTOR's sole negligence.

8. This Easement may be terminated by GRANTOR upon breach of any conditions hereof. If GRANTOR determines that GRANTEE, its assigns or successors in interest have breached any conditions of this Easement, GRANTOR shall notify the breaching party (parties) in writing by certified mail, return receipt requested, specifying the particular breach. The breaching party (parties) shall have thirty (30) days from the date of such notice, or such longer period as may be required under the circumstances as approved by GRANTOR to correct such breach. If breaching party (parties) fails (fail) to correct such breach within such period, GRANTOR may terminate this Easement without further notice; provided, however, such termination shall not release breaching party (parties) from liability for damage prior to such termination.

9. GRANTEE consents to suit in the courts of the State of Utah in any dispute arising under the terms of this Easement or as a result of operations carried on under this Easement. Service of process in any such action is hereby agreed to be sufficient if sent by registered mail to GRANTEE at the last known address of GRANTEE appearing in the records of GRANTOR.

10. GRANTEE agrees for itself, successors and assigns that any suit brought by GRANTEE, its successors or assigns concerning this Easement may be maintained only in the Utah State District Court of Salt Lake County.

11. The acquisition or assumption by another party under an agreement with GRANTEE of any right or obligation of GRANTEE under this Easement shall be ineffective as to GRANTOR unless and until GRANTOR shall have been notified of such agreement and shall have recognized and approved the same in writing, and in no case shall such recognition or approval: (i) operate to relieve GRANTEE of the responsibilities or liabilities assumed by GRANTEE hereunder; or (ii) be given unless such other party is acceptable to GRANTOR as a grantee, and assumes in writing all of the obligations of GRANTEE under the terms of this Easement as to the balance of the term thereof, or acquires the rights in trust as security and subject to such conditions as GRANTOR deems necessary.

12. GRANTEE shall at all times observe reasonable precautions to prevent fire on said Easement and shall comply with all applicable laws and regulations of any governmental agency having jurisdiction. In the event of a fire on said Easement proximately caused by GRANTEE, its servants, employees, agents, sublessees, assignees or licensees which necessitates suppression action by the State Forester or any other government entity incurring supplemental costs, GRANTEE agrees to reimburse GRANTOR for the cost of such fire suppression action.

13. GRANTEE shall surrender to GRANTOR said lands in the original land contour in order to allow the area to properly drain. Rehabilitation shall be done with the approval and to the specifications of GRANTOR.

14. GRANTEE, in exercising the privileges granted by this Easement, shall comply with the provisions of all valid Federal, State, County, and Municipal laws, ordinances, and regulations which are applicable to the subject tract and operations covered by this Easement. GRANTEE shall neither commit nor permit any waste on the Easement premises. GRANTEE shall take reasonable precautions to prevent pollution or deterioration of lands or waters which may result from the exercise of the privileges granted pursuant to this Easement.

15. GRANTOR herein reserves the right to utilize said Easement for access to and from the lands owned by GRANTOR on both sides of said Easement.

16. It is expressly understood and agreed that the right herein granted is non-exclusive and GRANTOR hereby reserves the right to issue other non-exclusive easements, leases, or permits on or across the subject property where such uses are appropriate and compatible or to dispose of the property by sale or exchange.

17. GRANTOR expressly reserves the right to lease said land for the exploration, development and production of oil, gas and all other minerals, together with the right of ingress and egress across said Easement.

18. GRANTEE agrees that the removal of ordinary sand and gravel or similar materials from the Easement is not permitted except when GRANTEE has applied for and received a materials permit from GRANTOR.

19. GRANTEE agrees that no trees may be cut or removed from the Easement except when GRANTEE has applied for and received a small forest products permit or timber contract from GRANTOR.

20. It is hereby understood and agreed that all treasure-trove, all articles of antiquity, and critical paleontological resources in or upon the subject lands are and shall remain the property of GRANTOR. GRANTEE agrees that all costs associated with archeological and paleontological investigations on the subject lands that may be required by GRANTOR will be borne by GRANTEE. GRANTEE further agrees to cease all activity on the subject lands and immediately notify GRANTOR if any discovery of human remains or a "site" or "specimen," as defined in Section 9-8-302 or 63-73-1 Utah Code Annotated (1953), as amended, is made on the subject lands, and continue to cease all construction or maintenance therein until such time as the human remains, "site" or "specimen" in question has been treated to the satisfaction of GRANTOR.

21. GRANTOR claims title in fee simple, but does not warrant to GRANTEE the validity of title to these premises. GRANTEE shall have no claim for damages or refund against

GRANTOR for any claimed failure or deficiency of GRANTOR's title to said lands or for interference by any third party.

22. GRANTOR reserves the right to inspect the area subject to the Easement at any time and recall GRANTEE for correction of any violations of stipulations contained herein. If GRANTEE fails to correct such violations within a reasonable time GRANTOR may, after thirty (30) days written notice, re-enter and terminate this Easement.

23. This Easement is granted pursuant to the provisions of all applicable laws and subject to the rules of the departments and agencies of the State of Utah presently in effect and to such laws and rules as may be hereafter promulgated by the State.

24. Any notice contemplated herein to be served upon GRANTEE shall be in writing and shall be deemed sufficient if deposited in the United States mail, postage prepaid and certified or registered, and addressed as follows:

City of Saratoga Springs  
1307 North Commerce Drive, Suite 200  
Saratoga Springs, Utah 84043

or at any such other address as GRANTEE may from time to time designate by written notice to GRANTOR.

25. This Easement shall be interpreted and governed by the laws of the State of Utah and the provisions hereof shall inure to and be binding upon the successors and assigns of GRANTEE.

26. No Waiver of Conditions by GRANTOR of any default of GRANTEE or failure of GRANTOR to timely enforce any provisions of this Easement shall constitute a waiver of or constitute a bar to subsequent enforcement of the same or other provisions of this Easement. No provision in this Easement shall be construed to prevent GRANTOR from exercising any legal or equitable remedy it may otherwise have.

IN WITNESS WHEREOF, the State of Utah, by and through the School and Institutional Trust Lands Administration, has caused these presents to be executed this ~~24th~~ day of April May, 2007 by the Director. 9th

GRANTOR: STATE OF UTAH  
School and Institutional  
Trust Lands Administration  
675 East 500 South, Suite 500  
Salt Lake City, Utah 84102-2818

By: [Signature]  
KEVIN S. CARTER, DIRECTOR

GRANTEE: CITY OF SARATOGA SPRINGS  
1307 North Commerce Drive, Suite 200  
Saratoga Springs, UT 84043

By: [Signature]  
Its: City Manager

APPROVED AS TO FORM  
MARK L. SHURTLEFF  
ATTORNEY GENERAL

By: [Signature]  
Special Assistant Attorney General

Director's Initial Review: \_\_\_\_\_

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STATE OF UTAH )  
 )  
COUNTY OF SALT LAKE ) §

On the 9<sup>th</sup> day of May, 2007, personally appeared before me Kevin S. Carter, who being duly sworn did say that he is the Director of the Utah School and Institutional Trust Lands Administration, and authorized to execute the above instrument.

My commission expires: 2/23/11

Linda Bianchi -'  
Notary Public, residing at:

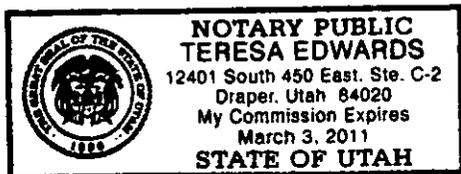


STATE OF )  
 )  
COUNTY OF ) §

On the 24<sup>th</sup> day of April, 2007, personally appeared before me Ken Leatham, who being duly sworn did say that he/she is the City Manager of the City of Saratoga Springs, and authorized to execute the above instrument.

My commission expires:

Teresa Edwards  
Notary Public, residing at:



**EASEMENT NO. 1256**  
**Exhibit "A"**

Mineral Lease No. 46231

Clay & Cole Peck  
DBA Peck Rock & Products, LLC  
1512 North 1300 East  
Lehi, UT 84043

Mineral Lease No. 17806

Pabco Building Products, LLC  
9780 South 5200 West  
West Jordan, UT 84088

Easement No. 61

Reid Wayman  
3505 N. West Lake Road  
Lehi, UT 84043

Easement No. 1169

PacifiCorp  
DBA Rocky Mountain Power  
1407 West North Temple  
Attn: Real Estate Services  
Salt Lake City, UT 84116

Grazing Permit No. 22121-02

Zale Vacher  
P.O. Box 265  
Goshen, UT 84633

Special Use Lease No. 1204

Clay & Cole Peck  
DBA Peck Rock & Products, LLC  
1512 North 1300 East  
Lehi, UT 84043

Special Use Lease No. 1465

Orica USA, Inc.  
Legal Department  
33101 E. Quincy Ave.  
Watkins, CO 80137

Right of Way No. 3135

PacifiCorp  
Property Department  
825 NE Multnomah, Suite 1000  
Portland, OR 97232

**EASEMENT NO. 1256**  
**Exhibit "A" - Continued**

Materials Permit No. 277

Peck Rock & Products, LLC  
1512 North 1300 East  
Lehi, UT 84043

Small Forest Products Permit No. 1407

Native Seed Company  
3361 Pine Ridge Dr.  
Park City, UT 84098-5336

Small Forest Products Permit No. 1500

Native Seed Company  
3361 Pine Ridge Dr.  
Park City, UT 84098-5336