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GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
RICHARD G NIELSEN  
561 W 10000 S  
SOUTH JORDAN UT 84095  
BY: SSP, DEPUTY - WI 9 P.

**WHEN RECORDED, RETURN TO:**

Richard G. Nielson  
561 West 10000 South  
South Jordan, UT 84095

**NOTICE OF PRESCRIPTIVE EASEMENT FOR WATER CONVEYANCE**

The NELSON LATERAL DITCH USERS, an association of property owners and shareholders of the East Jordan Irrigation Company who use water diverted through the Nelson Weir, hereby record this Notice of Prescriptive Easement for Water Conveyance pursuant to sections 57-13a-102 and 57-13a-103 of the Utah Code ("Easement"). The Easement is supported by the facts set forth in the affidavit of Richard Nielson, attached as Exhibit "A" and incorporated by this reference. The Easement burdens the property described in Exhibit "B," attached and incorporated by this reference. The Easement is described as follows:


A 15-foot easement and right-of-way being 7.5 feet to the north and 7.5 feet to the south of the following centerline description:

Beginning at a point 853.9 feet more or less West, and 441 feet more or less North, 362.9 feet more or less East to an old fence line, and 141.7 feet more or less North along the old fence line to a point near a concrete irrigation box from the Southeast Corner of the Southwest Quarter of the Southeast Quarter of Section 12, Township 3 South, Range 1 West, Salt Lake Base and Meridian; and running thence 372.5 feet more or less West to a point on the Easterly right of way line of Frontage Road No. 5, State Road Project No. I-15-7 (3) 289.

The Easement includes the right to maintain, operate, use, repair, inspect, protect, install, improve, develop, remove, and replace a ditch, culvert, pipeline, and associated facilities. The ditch, culvert, pipeline, and associated facilities are used for irrigation, flood control, and related purposes.

Inquiries regarding this Easement may be made to the Nelson Lateral Ditch Users at the address indicated above.

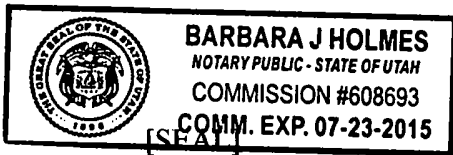
NELSON LATERAL DITCH USERS

By:   
Name: Richard Neilson  
Its: Weir Master

STATE OF UTAH            )  
  ) ss.  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me this 18 day of April, 2014, by Richard Nielson, the Weir Master for the Nelson Lateral Ditch Users, an association of property owners and shareholders of the East Jordan Irrigation Company who use water diverted through the Nelson Weir, on behalf of such association.

WITNESS my hand and official seal.



*Barbara J Holmes*  
My commission expires: 7-23-15  
Notary Public

EXHIBIT A  
TO NOTICE OF PRESCRIPTIVE EASEMENT FOR WATER CONVEYANCE  
AFFIDAVIT OF RICHARD NIELSON

**AFFIDAVIT OF RICHARD NIELSON**

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE    )

Richard Nielson, being first duly sworn on his oath, deposes and states as follows:

1. I am over the age of 18 years, a resident of the State of Utah, and am fully competent in all respects to testify regarding the matters set forth herein.

2. I have personal knowledge of each of the facts set forth below.

3. The Nelson Weir diverts water from the East Jordan Canal and delivers it to the Nelson Lateral Ditch.

4. I have lived on property irrigated by the Nelson Lateral Ditch since 1990.

5. I have acted as the Weir Master for the Nelson Lateral Ditch since March 2002.

6. To the best of my knowledge the Nelson Lateral Ditch was originally constructed in approximately 1882.

7. Since its construction, the Nelson Lateral Ditch has included several separate, but interdependent, sections. Water was conveyed from the East Jordan Canal in a ditch to a dividing point. Water is now conveyed to the dividing point in a pipeline. The location of the dividing point has changed over the years. At the dividing point, water in the Nelson Lateral Ditch is split between a North Section and a South Section. The North Section conveys water north of the Dry Creek drainage and the South Section conveys water south of the Dry Creek drainage.

8. To the best of my knowledge, the two sections of the Nelson Lateral Ditch began delivering irrigation water to shareholders of the East Jordan Irrigation Company in approximately 1882.

9. I first personally observed delivery of irrigation water through the North Section in 1990. The North Section continuously delivered irrigation water from that year until 2007.

10. I first personally observed delivery of irrigation water through the South Section in 1990. The South Section has continuously delivered irrigation water from that year until the present.

11. The two sections are also maintained for overflow control. In the event that one section is blocked, the other section may be used to prevent flooding of properties upstream from the blocked section.

12. As Weir Master, I believe that this configuration of the Nelson Lateral Ditch is a prudent and necessary way to prevent overflow flooding.

13. To the best of my knowledge, the two sections of the Nelson Lateral Ditch have operated for overflow control purposes since the ditch's construction in 1882. Both sections currently provide overflow protection.

14. I first personally observed the use of the North Section for overflow control purposes in 1990. The North Section has continuously provided overflow protection from that year until the present.

15. I first personally observed the use of the South Section for overflow control purposes in 1990. The South Section has continuously provided overflow protection from that year until the present.

16. The North Section carries water generally from the dividing point in the Nelson Lateral Ditch west to a pipeline running beneath Interstate 15 and then to Dry Creek.

17. Historically, the North Section irrigated land to the east and west of Interstate 15. The North Section also irrigated land where Interstate 15 is currently located.

18. The North Section provides overflow control at any time water is diverted from the East Jordan Canal into the Nelson Lateral Ditch.

19. A portion of the North Section crosses property located between 280 West and Aetna's office building ("Property").

20. The Nelson Lateral Ditch approaches the Property from the east. Water flows in a pipeline located along the northern boundary of the Aetna property until it reaches an old fence line located on the eastern boundary of the Property. At this point, there is a concrete box covered with a grate. The box is visible from the Property.

21. From the first concrete box, the pipeline flows south, along the old fence line, until it reaches a second concrete box covered with a grate. The second concrete box is visible from the Property.

22. From the second concrete box, the Nelson Lateral Ditch flows west across the Property in an open ditch. Near the western edge of the Property, the Nelson Lateral Ditch is piped to provide access between a home and accessory buildings.

23. The Nelson Lateral Ditch exits the Property's western boundary and flows in a pipe beneath 280 West.

24. The Shulsen family previously owned the Property.

25. Glade Shulsen acquired the Property from his parents sometime prior to 1995. He sold the Property in 2007.

26. To the best of my knowledge, the Shulsen family began irrigating the Property with water from the North Section sometime prior to 1940.

27. I have personal knowledge that the Shulsen family irrigated the Property with water from the North Section continuously from 1990 until 2007.

28. Sandy City acquired the Property in approximately 2009.

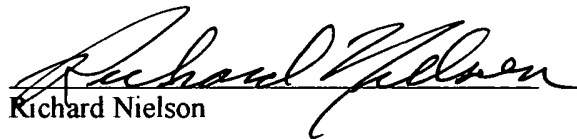
29. Sandy City has not irrigated the Property with water from the Nelson Lateral Ditch since it purchased the Property in 2009.

30. During my time as Weir Master for the Nelson Lateral Ditch Users, I have maintained the North Section. The maintenance activities that I have completed include removal of dead trees, limbs, leaves, shrubs, grasses, trash, and other debris from the North Section. I removed an animal's burrow from the bank of the North Section. I have also regularly observed and inspected the ditch, pipeline, concrete boxes, slide gates, head gates, and related facilities that comprise the North Section.

31. I have continued maintenance of the North Section since 2007, when Mr. Shulsen ceased irrigation, to preserve the section's overflow prevention function.

32. My activities from 2002 until the present have included maintenance of the portion of the North Section that crosses the Property.

33. I have read the above statement and it is true and correct to the best of my knowledge and belief.

  
Richard Nielson

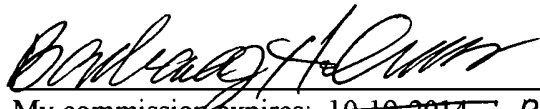
04/18/14  
Date

18th day of April, 2014

BJH

SUBSCRIBED AND SWORN to before me this ~~30th day of December, 2013~~





My commission expires: ~~10-19-2014~~ BJH  
Notary Public: ~~Davis County~~ BJH 7-23-2014  
Salt Lake County

**EXHIBIT B**

**TO NOTICE OF PRESCRIPTIVE EASEMENT FOR WATER CONVEYANCE**

**LEGAL DESCRIPTION OF ENCUMBERED PROPERTY**

## Legal Description of Encumbered Property

### PARCEL 1:

Beginning at a point South 547.0 feet of the South line of a County Road, said South line being the North line of the South half of the Southeast Quarter of Section 12, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said point being North 0°08'50" West 1337.7 feet and North 89°58'19" West 1806.5 feet and South 547.0 feet from the Southeast Corner of said Section 12; and running thence South 114.00 feet along an existing fence line; thence West 379.2 feet, more or less, to a point on the Easterly right of way line of Frontage Road No. 5, State Road Project No. 1-15-7 (3) 289, said point being perpendicularly distant and Easterly 40.0 feet from the Engineer's Station 16+91.38 on centerline; thence North 3°54' West 114.27 feet along said Easterly right of way line; thence East 386.97 feet, more or less, to the point of beginning.

Tax I.D. No.: 27-12-453-009

### PARCEL 2:

Beginning at a point 853.9 feet more or less West, and 441 feet more or less North, and North 3°54' West 119.775 feet from the Southeast Corner of the Southwest Quarter of the Southeast Quarter of Section 12, Township 3 South, Range 1 West, Salt Lake Base and Meridian; and running thence North 3°54' West 119.775 feet, East 379.2 feet more or less to old fence line, South 119.5 feet, West 371 feet more or less to point of beginning.

Tax I.D. No.: 27-12-453-006

### PARCEL 3:

Beginning 853.9 feet more or less West, and 441 feet more or less North, from the Southeast Corner of the Southwest Quarter of the Southeast Quarter of Section 12, Township 3 South, Range 1 West, Salt Lake Base and Meridian; beginning thence North 3°54' West 119.775 feet, East 371 feet more or less to old fence line, South 119.5 feet, West 362.9 feet more or less to beginning.

Tax I.D. No.: 27-12-453-007

### PARCEL 4:

Beginning at a point on a line of an old fence, said point being North 89°51'19" West along the Section line 546.20 feet and North 0°08'41" East 433.80 feet from the Southeast Corner of the Southwest Quarter of the Southeast Quarter of Section 12, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said corner being North 89°51'19" West along the Section line 1319.96 feet from the Southeast Corner of said



Section 12 and running North 88°47'44" West along said fence line 151.16 feet; thence North 89°44'24" West along said fence line 148.84 feet to the East right of way line of the I-15 frontage road; thence North 3°53'15" West along said East line 14.14 feet; thence South 89°51'19" East 300.96 feet; thence South 0°08'41" West 17.20 feet to the point of beginning.

Also, beginning at a point on a line of an old fence, said point being North 89°51'19" West along the Section line 546.20 feet and North 0°08'41" East 433.80 feet from the Southeast Corner of the Southwest Quarter of the Southeast Quarter of Section 12, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said corner being North 89°51'19" West along the Section line 1319.96 feet from the Southeast corner of said Section 12 and running thence North 0°08'41" East 17.20 feet; thence South 89°51'19" East 54.07 feet; thence South 0°08'41" West 17.70 to a line of an old fence; thence North 89°19'20" West along said old fence line 54.07 feet to the point of beginning.

Less and excepting from Parcels 1, 2, 3 and 4 any portion lying within the bounds of that certain tract of land conveyed to the State Road Commission of Utah by Warranty Deed Entry No. 1985187.

Also, less and excepting from Parcels 1, 2, 3 and 4 any and all portions lying within the legal bounds of 250 West.

Tax I.D. No.: 27-12-453-014