

WHEN RECORDED MAIL TO:  
Soderby, LLC  
5449 W. Mountain View Drive  
Morgan, Utah 84050

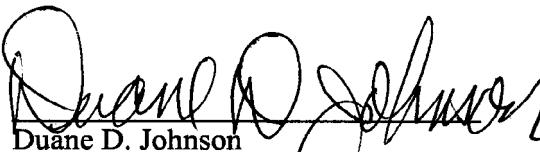
**ASSIGNMENT OF 1995 WATER USE AGREEMENT BETWEEN JOHNSONS AND HIGHLAND WATER COMPANY**

Recitals

1. On May 4, 1995, Duane D. and Annette A. Johnson executed a Water Use Agreement with Highland Water Company, Inc.
2. The Agreement was recorded with the Morgan County Recorder on December 8, 1995. A copy of the recorded agreement is attached as Exhibit 1.
3. The Agreement is "binding upon, and inure to the benefit of, the legal representatives, successors and assigns of the parties hereto." Agreement at 9.
4. Johnsons now exercise their right to assign the agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **Duane D. and Annette A. Johnson**, Assignor, does hereby assign, indorse, transfer, and convey to **Soderby, LLC**, a Utah limited liability company, Assignee, the following:

All rights, duties, interest, and remedies in and under the 1995 Water Use Agreement with Highland Water Company, Exhibit 1 to this Assignment.

  
\_\_\_\_\_  
Duane D. Johnson

This 6 day of Nov 2023.

  
\_\_\_\_\_  
Annette A Johnson

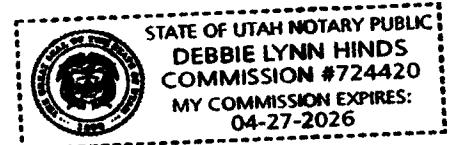
This 6 day of Nov 2023

**ACKNOWLEDGMENT**

STATE OF UTAH )  
: ss.  
COUNTY OF Morgan )

On this 16 day of Nov, 2023, personally appeared Duane D. Johnson, whose identify was proven on the basis of satisfactory evidence to be the person whose name is subscribed in this Assignment and acknowledged he executed the same.

Debbie Lynn Hinds  
NOTARY PUBLIC

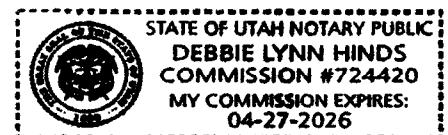


**ACKNOWLEDGMENT**

STATE OF UTAH )  
: ss.  
COUNTY OF Morgan )

On this 16 day of Nov, 2023, personally appeared Duane D. Johnson, whose identify was proven on the basis of satisfactory evidence to be the person whose name is subscribed in this Assignment and acknowledged he executed the same.

Debbie Lynn Hinds  
NOTARY PUBLIC



# Exhibit 1

## WATER USE AGREEMENT

THIS AGREEMENT is given between DUANE D. JOHNSON and ANNETTE A. JOHNSON, husband and wife (hereinafter "Johnson's"), of 938 E. Cherry Lane, Layton, Utah, 84040, and HIGHLAND WATER COMPANY, INC., a Utah corporation (hereinafter "Highland"), with its principal office located at 5880 Highland Drive, Mountain Green, Utah, 84050. Johnsons and Highland shall hereinafter be collectively referred to as "the Parties".

### R E C I T A L S:

- A. The terms used in these recitals are defined in paragraph 1 below and are incorporated herein by reference.
- B. Johnsons are the current owners of the Johnson Property.
- C. Highland is a water company which, for purposes of this Agreement, has two water sources, Gordon Creek and Reservoir Overflow.
- D. Johnsons are in need of water for irrigation purposes to irrigate the Johnson Property for agricultural purposes.
- E. Johnsons have agreed to grant to Highland a Right-of-Way and Easement Agreement in exchange for water rights defined herein.
- F. Highland is in the business of providing water to water users for industrial, commercial and residential purposes.
- G. Highland and Polls entered into the Poll Contract which gives Polls the first priority to all available water from Gordon Creek.

00069176 Bk0118 Pg00533-00544  
DEBBIE WEAVER, MORGAN COUNTY RECORDER  
1995 DEC 08 10:36 AM FEE \$27.00 BY SD  
REQUEST: JOHNSON DUANE D

NOW, THEREFORE, the parties hereto intending to be legally bound and in consideration of the respective undertakings made and described herein, do agree as follows:

1. Definitions.

- a. "Johnsons" refers to and includes Duane D. Johnson, Annette A. Johnson, D & D Concrete and their heirs, successors and assigns.
- b. As used in this Agreement, the "Johnson Property" refers to the real property owned by Johnsons and/or D & D Concrete. A copy of the legal descriptions of the Johnson Property is attached hereto and marked as Exhibit "A".
- c. "Gordon Creek" refers to the surface water collected and diverted out of Gordon Creek.
- d. "Reservoir Overflow" refers to the excess water after the reservoirs owned by Highland are full. The excess water may be collected and tied into the Secondary Pipe.
- e. "Secondary Pipe" refers to the secondary pipe which was once used by Dale Smedley and which is currently disconnected. There exists a dispute over who owns the secondary pipe. Dale Smedley claims he owns the pipe. Highland claims it owns the pipe.
- f. "Poll Contract" refers to that contract between Highland and Polls wherein Highland agreed to provide Polls a certain amount of water from Gordon Creek. The agreement states that should there be insufficient water

available to Polls, Highland agrees to pay Polls for the unavailability of water at the going rate.

2. **Grant of Water Rights.** Highland grants to Johnsons the right to use water, at no cost, from Gordon Creek and the Reservoir Overflow.

3. **Duration.** The right to use the water described in paragraph 1 above, subject to the limitations set forth in paragraph 4 below, shall be in perpetuity.

4. **Limitations.** The water rights granted herein are subject to the following limitations:

- a. Johnsons may use the water for their own purposes only and may not sell the water.
- b. Johnsons use of the Reservoir Overflow is limited to water use only after the reservoirs are completely full.
- c. Johnsons use of the Gordon Creek water is secondary to Polls' first right to receive water in accordance with the Poll Contract. During periods when there is insufficient water to completely fulfill the Poll Contract, Johnsons will have no right to divert water from Gordon Creek.
- d. The water shall be used by Johnsons for agricultural purposes only. Johnsons may not use the water for residential, commercial or industrial purposes. If Johnsons subdivide the Johnson Property, Johnsons may not use the water for residential purposes but may be entitled to use the water for agricultural purposes on lots which contain more than one acre. The

water will not be used for culinary purposes since Highland is in the business of providing culinary water for residential uses.

5. **Use of Water.** As already stated, use of the water shall be limited to agricultural purposes, which includes the watering of livestock and for irrigation purposes. If portions of the Johnson Property are not cultivated or used, the water may be diverted to the other ground owned by Johnsons.

6. **Secondary Pipe.** Highland authorizes Johnsons to reconnect the secondary pipe and to collect reservoir overflow. Johnsons agree to maintain the secondary pipe. If it is determined that Highland owns the secondary pipe, Highland also grants to Johnsons the right to use the secondary pipe for the purpose of delivering water to the Johnson Property as contemplated by this Agreement. If it is determined that Dale Smedley owns the secondary pipe, Highland will not guarantee access to the water through the secondary pipe and Johnsons will work directly with Dale Smedley to gain such access.

7. **Amendment.** Any amendment, modification, termination, or recession affecting this Agreement shall be made in writing, signed by the parties, and attached hereto.

8. **Effective Date.** The Agreement shall become effective upon execution.

9. **Successors.** This Agreement shall be binding upon, and inure to the benefit of, the legal representatives, successors and assigns of the parties hereto.

10. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

11. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

12. **Counterparts.** The fact that the parties hereto execute multiple but identical counterparts of this Agreement shall not affect the validity or efficacy of their execution, and such counterparts, taken together, shall constitute one and the same instrument, and each such counterpart shall be deemed an original.

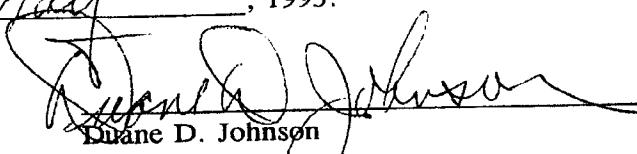
13. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving party.

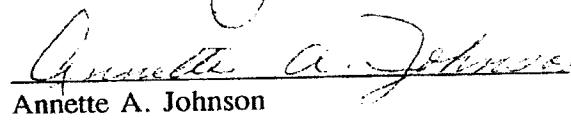
14. **Captions.** The Captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.

15. **Integration.** This Agreement contains the entire and integrated agreement of the parties as of its date, and no prior or contemporaneous promises, representations, warranties, inducement, or understandings between the parties and not contained herein shall be of any force or effect.

16. **Attorney's Fees.** In the event either party hereto defaults in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including a reasonable attorney's fee, incurred by the other party.

DATED this 4 day of May, 1995.

  
Duane D. Johnson

  
Annette A. Johnson

HIGHLAND WATER COMPANY, INC.,  
a Utah corporation  
by:

Bart K. Smith

Its: PRESIDENT

Parcel No 00-0004 8d31

## EXHIBIT "A"

A part of Section 26, Township 5 North, Range 1 East, Salt Lake Base and Meridian, Beginning at a point which is 380.19 feet West and North 645.96 feet and North 87°26'09" East 330 feet from the center of Section 26, said point being on the South line of Old Highway and running thence North 87°26'09" East 941.55 feet along the South line of said Highway to a fence line; thence along said fence line South 7°11'15" East 1314.77 feet; thence South 32°31'43" West 253.57 feet more or less to the North line of Interstate; thence North 83°24'45" West along said North line 987.05 feet more or less to a point South of beginning thence North 1355 feet more or less to the point of beginning.

Containing 34.15 acres more or less.

Subject to an existing right-of-way used as access to the Mountain Green Sewer Improvement District property to the South of subject property.

Part of Section 26, Township 5 North, Range 1 East, Salt Lake Base and Meridian. Beginning at a point which is 380.19 feet West and 645.96 feet North 87°26'09" East 330 feet from the center of Section 26, said point being on the South line of Old Highway and running thence South 87°26'09" West 330 feet; thence South 1311.41 feet to the North line of the Interstate Highway thence South 83°24'45" East 320 feet more or less to a point which is South of the point of beginning; thence North 1355 feet more or less to the point of beginning.

Containing 10 acres more or less.

Parcel 1:

Beginning at the East Quarter corner of Section 26, Township 5 North, Range 1 East, Salt Lake Meridian, said corner is located at a point North 1319.0 feet from the Engineers Station 52146+38.0 at the center line of UPRR Main Line (South Track), angle right 83°24', (centilever signal tower no. 9777.15 is located at Station 52143+45.8) and is monumented with stone (iron pin 1.0 foot West), and running thence South 75°56'51" West 1662.99 feet to an existing fence; thence two courses along said fence as follows: North 7°05'03" West 374.92 feet and North 7°13'18" West 756.35 feet to the South line of the State Highway; thence North 87°55'14" East 849.98 feet; thence South 2°04'45" East 217.0 feet; thence North 87°55'15" East 200.0 feet; thence South 2°04'45" East 122.47 feet; thence South 27°52'42" West 464.48 feet to the Quarter Section line; thence South 89°36'59" East 910.11 feet to the point of beginning.

Parcel 2:

Beginning at the East Quarter corner of Section 26, Township 5 North, Range 1 East, Salt Lake Meridian, said corner is located at a point North 1319.0 feet from the Engineers Station 52146+38.0 at the center line of UPRR Main Line (South Track) angle right  $83^{\circ}24'$  (centilever signal tower no. 9777.15 is located at Station 52143+45.8), and is monument with stone (iron pin 1.0 foot West), and running thence South 629.93 feet along the Section line to the North line of I-84; thence three courses along said North line as follows: South  $55^{\circ}50'38''$  West 520.88 feet to the right of way marker, North  $86^{\circ}01'58''$  West 551.07 feet to the right of way marker and North  $83^{\circ}28'54''$  West 593.92 feet to an existing fence; thence two courses along said fence as follows: North  $4^{\circ}53'15''$  West 232.36 feet and North  $7^{\circ}05'03''$  West 182.92 feet; thence North  $75^{\circ}56'15''$  East 1662.99 feet to the point of beginning.

SUBJECT TO easements, restrictions and reservations of record.