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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Hi-Country Estates Homeowners Association for Approval of Its Proposed Water Rate Schedules and Water Service Regulation	**MEMORANDUM IN SUPPORT OF HI-COUNTRY ESTATES HOMEOWNERS ASSOCIATION'S MOTION FOR SUMMARY JUDGMENT ON THE CLAIMS OF INTERVENOR RODNEY DANSIE** Docket No. 13-2195-02

In accordance with Utah Administrative Code R746-100-3.J, Hi-Country Estates Homeowners Association ("**Hi-Country**"), by and through its undersigned counsel, Smith Hartvigsen, PLLC, respectfully submits this Memorandum in Support of its Motion for Summary Judgment.

STATEMENT OF UNDISPUTED MATERIAL FACTS

A. Formation of Hi-Country Estates Subdivision and Homeowners Association

1. Hi-Country is a Utah non-profit corporation consisting of the homeowners of Hi-Country Estates subdivision, Phase I (the "**Subdivision**"), located a few miles southwest of Herriman, Salt Lake County, Utah. (Report and Order, issued March 17, 1986, at 3 ("**1986 PSC Order**"), attached hereto as **Exhibit A**.)

2. Currently, Hi-Country has 90 active residential customers, 35 standby residential customers, and one governmental customer. (Testimony of Randy Crane ("**Crane Testimony**"), at 5, attached hereto as **Exhibit B**.)

3. In 1970, Gerald H. Bagley purchased undeveloped real property comprising the Subdivision, from Tony and Bette Lou Nicoletti on a deferred-payment contract. (*Hi-Country Estates Homeowners Assoc. v. Bagley & Co.*, 863 P.2d 1, 2 (Utah Ct. App. 1993) ("***Hi-Country I* Opinion**") .)

4. After forming Hi-Country Estates, Inc., a Utah corporation, and Hi-Country Estates, Second, a limited partnership in which Hi-Country Estates, Inc., was the general partner, Bagley assigned his purchase contract with the Nicolettis to Hi-Country Estates, Second. (*Id.*)

5. Thereafter, the partnership "installed a water system to supply water to the [S]ubdivision, and then commenced to sell lots to the public." (*Id.*)

6. Following a sale of his interest in the Subdivision in 1971, Bagley personally repurchased the water system and all unsold lots in the Subdivision in 1973 and 1974 and resumed operation of the Subdivision's water system. (*Id.*; *see also* 1986 PSC Order at 6, Ex. A.)

B. The Well Lease Agreement

7. On April 7, 1977, Bagley entered into a Well Lease and Water Line Extension Agreement (the "**Lease**") with Jesse H. Dansie. (Well Lease and Water Line Extension Agreement (the "**Lease**"), dated April 7, 1977, attached hereto as **Exhibit C**.)

8. Pursuant to the terms of the Lease, Jesse Dansie agreed to lease to Bagley a well, identified by Certificate No. 26451 issued by the Utah State Engineer's Office (the "**Dansie Well**"), for a period of ten years in exchange for the following:

a. Payment from Bagley to Dansie in the amount of $5,100.00, (Lease at § A.2);

b. Monthly rental payments extending for the first five years of the lease in the amount of $300.00 per month, (Lease at § A.2);

c. Monthly rental payments for the last five years of the lease in the amount of $600.00 per month, (Lease at § A.3);

d. Dansie's right to receive up to five residential hook-ups onto the water system for members of Dansie's immediate family at no charge and the additional right to receive reasonable amounts of water from the system through these five hook-ups for culinary and yard irrigation at no cost, (Lease at § E.2); and

e. Dansie's right to receive up to fifty residential hook-ups onto the water system at no charge, (Lease at § E.3).

9. The Lease provided that "Dansie agrees that Bagley may form a water company, using such entity or form of organization as Bagley desires, and may convey all his rights to the water system referred to in this Agreement and assign his interest in this Agreement to any such entity or organization." (Lease at § F.2.)

10. Nevertheless, because Bagley entered into the Lease individually, the Lease provided that "Bagley will be personally responsible for lease terms and conditions if assignee fails to meet the terms and conditions of the [L]ease. No assignment, conveyance or sublease shall release Bagley from liabilities and obligation under this [Lease]." (Lease at § F.2.)

11. Finally, the Lease provided that Dansie is entitled to receive the water "for such time beyond the expiration or termination of this [Lease] as water is supplied to any of the Hi-Country properties or that the lines and water system referred to in this [Lease] are in existence and water is being supplied from another source such as Salt Lake County Conservancy District." (Lease at § F.7.)

12. On July 3, 1985, Bagley and Jesse Dansie entered into an Amendment to the Lease, which provided that the provision in the Lease granting Dansie the right to receive reasonable amounts of water through his five residential hook-ups should be interpreted to mean that Dansie has the right to receive up to 12 million gallons of water per year at no cost. (Amendment to Well Lease and Water Line Extension Agreement ("**Amendment to Lease**"), at 1-2, attached hereto as **Exhibit D**.)

13. The Lease was never assigned to Hi-Country, nor has Hi-Country otherwise succeeded Bagley or his successor entities as a party to the Lease. (Crane Testimony at 21, Ex. B.)

C. Ownership of the Subdivision Water Company

14. "In 1980, the Subdivision water company was transferred from Bagley to another limited partnership, Jordan Acres, of which Bagley was a general partner." (1986 PSC Order at 9, Ex. A.)

15. On June 7, 1985, the Subdivision water company assets were transferred from Jordan Acres to Foothills Water Company ("**Foothills**"), in return for all of Foothills' outstanding shares. (*Id.*)

16. That same day, June 7, 1985, Foothills filed an application for a Certificate of Convenience and Necessity to operate as a public utility, proposing to provide culinary water to a residential area in the southwest corner of Salt Lake County, including all of the Hi-Country Estates subdivision, Phase I. (*Id.*)

17. On October 31, 1985, Bagley executed an assignment transferring all outstanding stock of Foothills to Rod Dansie in exchange for a previous obligation owed to Mr. Dansie, and Mr. Dansie thereafter took control of Foothills. (*Hi-Country I* Opinion at 4.)

D. Proceedings Before the Commission Regarding the Lease

18. In 1986, the Commission issued its Final Report and Order on Foothills' Application for a Certificate of Convenience and Necessity to Operate as a Public Utility. (*See* 1986 PSC Order at 9, Ex. A.)

19. In its Final Report and Order, the Commission found that, "[f]rom about 1972 until August 8, 1985, when [Foothills] was granted its Certificate of Convenience and Necessity, [Foothills] acted illegally as an uncertificated public utility." (*Id.* at 10.)

20. The Commission further found that "[t]he record is clear that Bagley and his partners knew from the beginning that unless they were annexed by the Conservancy District they would be subject to Commission jurisdiction" and that "[d]espite Bagley's awareness that he was subject to Commission jurisdiction, the records of the Commission show no contact by him prior to June of 1985." (*Id.*)

21. Due to Bagley's failure to contact the Commission prior to 1985, it was "impossible for the Commission to become aware of the terms of the [Lease] before it was executed" to determine whether the Lease should be approved. (*Id.* at 34.)

22. Accordingly, the Commission determined that it had the power and authority to review the Lease subsequent to its execution to determine whether it should be approved. (*Id.*)

23. After reviewing the terms of the Lease and the potential impact such terms would have on the Subdivision's ratepayers, the Commission determined that the Lease "was not proposed in good faith for the economic benefit of Foothills." (*Id.*)

24. Indeed, the Commission found that the Lease is "grossly unreasonable, requiring not only substantial monthly payments, but also showering virtually limitless benefits on Jesse Dansie and the members of his immediate family." (*Id.* at 11.)

25. The Commission further found that "it would be unjust and unreasonable to expect Foothills' 63 active customers to support the entire burden of the [Lease]" such that "this

Commission would be abrogating its statutory duty were it to impose such a burden on Foothills' present and future customers." (*Id.* at 13.)

26. Because the Lease "makes Bagley personally responsible to fulfill the terms and conditions of the Lease, whether or not a water company is created to which Bagley conveys or assigns the [Lease]," the Commission found it is "reasonable for Foothills to bill Jesse Dansie for the actual cost of any water provided to him, his family or his other connections, and for Mr. Dansie to seek reimbursement for same from Bagley." (*Id.* at 13, 14.)

E. Hi-Country's Action to Quiet Title to the Water System

27. In March 1985, Hi-Country brought a complaint in state court against Foothills, Intervenor Dansie, and others to quiet title to the Subdivision's water system. (*Hi-Country I* Opinion at 3.)

28. On October 20, 1989, the district court entered its Findings of Fact and Conclusions of Law, concluding that Hi-Country "is the legal owner of the disputed water system" based on the execution of certain quit claim deeds. (*Id.* at 4-5.)

29. The district court also found that the Lease "was a valid and binding encumbrance on the water system, and thus the Dansie family was entitled to draw, without charge, water from the system's Dansie well, 'in the amount of either twelve million gallons per year or such larger amount as the excess capacity of the system shall permit, as long as the system exists and is operative.'" (*Id.* at 11 n.6.)

30. On March 23, 1994, Hi-Country was granted a Certificate of Convenience and Necessity to operate the water system as a public utility. (Crane Testimony at 4, Ex. B.)

31. On May 14, 1996, the Commission issued Letter of Exemption No. 0057 to Hi-Country, allowing Hi-Country to operate as an exempt water corporation, such that the Commission did not exercise regulatory control over Hi-Country. (*Id.*)

32. Following the district court's ruling, the matter was appealed to the Utah Court of Appeals, reviewed by the Utah Supreme Court on a *writ* of *certiorari*, and ultimately remanded to the district court. (*See Hi-Country Estates Homeowners Assoc. v. Bagley & Co.*, 901 P.2d 1017 (Utah 1995) ("***Hi-Country II* Opinion**").)

33. On remand, the district court entered a Final Judgment, in which it (1) ruled that the Lease was an enforceable contract; (2) denied the Dansies' breach of contract claims, holding that the Dansies were only entitled to receive water under the Lease upon payment of their pro rata share of fees and costs; and (3) awarded Dansies $16,334.99 as reimbursement for improvements to the water system. (*See Hi-Country Estates Homeowners Assoc. v. Bagley & Co.*, 2011 UT App 252, 262 P.3d 1188 ("***Hi-Country III* Opinion**").)

34. Dansie again appealed, and the final appellate decision concerning in this matter was issued on July 29, 2011. (*See id.*)

35. In the *Hi-Country III* Opinion, the Court of Appeals affirmed the district court's ruling regarding the enforceability of the Lease, holding that "so long as the PSC does not exercise jurisdiction over the water system, the rights of the parties are as set forth by the plain language of the [Lease]." (*Id.* at ¶ 10.)

36. In so holding, the Court of Appeals expressly acknowledged that the "precise question we were treating was whether the [Lease] *as written*—not as superseded by PSC directives—was contrary to public policy." (*Id.* at ¶ 7.)

37. Recognizing the uncertainty as to whether "the PSC could or would exert jurisdiction in the future," the Court of Appeals held, "the Dansies are, going forward, entitled to their contractual rights to free water and free hook-ups ***unless the PSC intervenes and determines otherwise***." (*Id.* at ¶¶ 10, 14 (emphasis added).)

38. In 2012, in accordance with the terms of the Letter of Exemption, Hi-Country notified the Commission that it had begun serving customers who were not members of Hi-Country and were therefore not entitled to the voting rights and inherent protections provided to Hi-Country's members. (Crane Testimony at 4-5, Ex. B.)

39. On July 12, 2012, the Commission entered a Report and Order revoking the letter of exemption, thereby subjecting Hi-Country to the Commission's jurisdiction. (*Id.* at 5.)

40. This proceeding is to set just and equitable rates for the regulated Hi-Country Water Company.

ARGUMENT

Pursuant to Rule 56(c) of the Utah Rules of Civil Procedure,[1] summary judgment shall be granted if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Utah R. Civ. P. 56(c). Although the facts should be considered in a "light most favorable to the nonmoving party," *Overstock.com, Inc. v. SmartBargains, Inc.*, 2008 UT 55, ¶ 12, 192 P.3d 858, the nonmoving party "'may not rest upon the mere allegations or denials of the pleadings, but … must set forth specific facts showing that there is a genuine issue for trial.'" *Id.* at ¶ 16 (quoting Utah R. Civ. P. 56(e)).

As discussed more fully below, Hi-Country is entitled to summary judgment on Mr. Dansie's claim in intervention concerning the enforceability of the Lease because (1) the Commission's Final Order issued in 1986, in which the Lease was found to be unreasonable and unenforceable as against the Subdivision's water provider, is conclusive; and (2) enforcement of the Lease is contrary to public policy when it would result in preferential treatment to Mr. Dansie at the expense and prejudice of the ratepayers and it would jeopardize with Hi-Country's financial stability and ability to transfer the water system to a governmental entity.

1. The Commission's 1986 Final Order and Decision Conclusively Rejects Mr. Dansie's Claim that the Lease Is Enforceable against Hi-Country

[1] As provided by Utah Admin. Code R746-100-1.C, the Utah Rules of Civil Procedure shall govern in all "situations for which there is no provision in these rules ... unless the Commission considers them to be unworkable or inappropriate."

Section 54-7-14 of the Utah Code provides that "[i]n all collateral actions or proceedings the orders and decisions of the commission which have become final shall be conclusive." Utah Code Ann. § 54-7-14. Accordingly, absent a showing of "change of circumstances subsequent to the finding," the Commission's final ruling is binding on the applicant, as well as those "claiming through or under it, and those later dealing with it." *North Salt Lake v. St. Joseph Water & Irr. Co.*, 223 P.2d 577, 583, 584 (Utah 1950).

In its 1986 Final Report and Order, this Commission determined that the Lease was unreasonable, declaring, the Lease is "grossly unreasonable, requiring not only substantial monthly payments, but also showering virtually limitless benefits on Jesse Dansie and the members of his immediate family." (1986 PSC Order at 11.) This Commission further found that "it would be unjust and unreasonable to expect [the water company's] 63 active customers to support the entire burden of the [Lease]" such that "this Commission would be abrogating its statutory duty were it to impose such a burden on [the water company's] present and future customers." (*Id.* at 13.)

Relying on the findings of unreasonableness, the Commission ordered that the water company bill "Dansie for the actual cost of any water provided to him, his family or his other connections, and for Mr. Dansie to seek reimbursement for same from Bagley," who was personally liable to Mr. Dansie under the provisions of the Lease. (*Id.* at 13, 14.)

The Commission upheld this determination of unreasonableness on two subsequent occasions. Indeed, in its Report and Order issued on April 9, 1992, regarding an Investigation into the Reasonableness of the Rates and Charges of Foothills, the Commission declared as follows when addressing the 1986 Order:

> we expressed strongly our disapprobation of the terms of the [L]ease and our determination to reform it on terms more favorable to [the water company]. We are empowered to do so. We intended that [the water company's] liability under the [L]ease be limited to payment of $600 per month, and that any costs associated with providing surplus water to the [Dansie] Trust be the obligation of the Trust or the original lessee, Gerald Bagley.

(1992 PSC Report and Order, issued April 9, 1992, at 5, attached hereto as **Exhibit E**.)

Although recognizing that the district court upheld the enforceability of the Lease, the Commission nonetheless held:

> Our position is not changed by the entry of an Order by the Utah Third District Court that the obligation to move the 12,000,000 gallons annually through the system, at no cost, is a virtually perpetual "encumbrance" on [the water company]. The court may have felt compelled to enforce the terms of the contract as written, but, as noted above, we do not deem ourselves under any such constraint. For rate-making purposes, we may disallow the associated pumping costs as valid utility expenses, and we most emphatically should do so.[2]

(*Id.*)

In rendering its Order reforming the terms of the Lease, the Commission acted within the powers granted it by statute. Pursuant to Section 54-4-1, the Commission is "vested with power and jurisdiction to supervise and regulate every public utility in this state, and to supervise all of

[2] On November 30, 1992, an Order on Rehearing was issued by the Commission. (*See* Docket No. 91-2010-01, Order on Rehearing, ("**Order on Rehearing**"), attached hereto as **Exhibit F**.) In that Order, the Commission declared that "the terms of this [L]ease unreasonably benefit the [Dansie] Trust, in which Mr. Dansie has a one-fifth interest, at the expense of ratepayers." (*Id.* at 12.) "Given this, and Mr. Dansie's failure to secure Commission permission to continue the [L]ease arrangement, if a different water source were available under terms and conditions more favorable to ratepayers, the Commission should be compelled to base rates on its use, i.e., the alternative source would establish water costs for revenue requirement. This would put an end to an obvious conflict of interest." (*Id.*)

Because, on rehearing, it was shown that Hi-Country had developed an alternative water source to provide water to the ratepayers, the Commission "reaffirm[ed] its Findings contained in [its] April 9th order that just and reasonable rates should be based on the cost of the [Hi-Country] well water source." (*Id.* at 15.)

the business of every such public utility in this state, and to do all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction." Utah Code Ann. § 54-4-1. In interpreting this statute, the Utah Supreme Court has declared that the Commission has the statutory authority to exercise jurisdiction over contracts affecting the rates to be paid by ratepayers. *Garkane Power Assoc. v. PSC*, 681 P.2d 1196, 1207 (Utah 1984). Indeed, "[t]here is no question that the [Commission] has the authority to investigate, interpret and even alter contracts. That question was settled in an early series of cases brought just after the enactment of Utah's Public Utility Act." *Id.* at 1208 (Durham, J., dissenting).

While the Utah Court of Appeals ultimately upheld the validity of the Lease in the series of appeals stemming from the district court's opinion, the Court of Appeals expressly conditioned its opinion upon the absence of any action by the Commission. Indeed, the Court of Appeals declared that, "so long as the [Commission] does not exercise jurisdiction over the water system, the rights of the parties are as set forth by the plain language of the [Lease]." *Hi-Country III*, 2011 UT App 252 at ¶ 10. Accordingly, "going forward, [the Dansies are] entitled to their contractual rights to free water and free hook-ups unless the [Commission] intervenes and determines otherwise." *Id.* at ¶ 14. Because the Commission now has jurisdiction, the Commission must reaffirm its prior determination regarding the unreasonableness of the Lease and hold that the Lease is unenforceable as against Hi-Country and its ratepayers.

2. Enforcement of the Lease Is Contrary to Public Policy

In addition to the fact that enforcement of the Lease against Hi-Country is prohibited given the Commission's prior orders, enforcement is also prohibited because the Lease is contrary to public policy. As recognized by the Utah Supreme Court, the Commission "is to exercise supervisory control over certain aspects of the businesses of public utilities for the purpose of securing two essential objectives in the promotion of the public interest." *Garkane*, 681 P.2d at 1207. "First, the Commission must deal with those subject to its jurisdiction in such a manner as to assure their continued ability to be able to serve the customers who rely upon them for essential services and products." *Id.* "Second, the Commission performs the extremely delicate, and not uncontroversial but nonetheless essential, function of balancing the interest of having financially sound utilities that provide essential goods and services against the public interest of having goods and services made available without discrimination and on the basis of reasonable costs." *Id.*

As set forth in more detail below, enforcement of the Lease against Hi-Country would be contrary to the two essential objectives governing the Commission's jurisdiction and supervision of public utilities. First, enforcement of the Lease against Hi-Country would jeopardize Hi-Country's financial stability and continued ability to serve its customers when the Lease requires Hi-Country to convey its assets for less than fair market value and imposes a restraint on alienation. Second, enforcement of the Lease against Hi-Country would result in unreasonable rates that provide a preference to the Dansies at the expense of the remaining ratepayers.

a. Enforcement of the Lease against Hi-Country Would Jeopardize Hi-Country's Stability

In accordance with the policy of ensuring the continued ability of public utilities "to serve the customers who rely upon them for essential services and products," *Garkane*, 681 P.2d at 1207, the Utah Supreme Court has held that "[a]ny transfer of a utility asset should be for fair market value so an appropriate benefit therefrom will redound to the credit of the ratepayers." *Committee of Consumer Servs. v. PSC*, 595 P.2d 871, 878 (Utah 1979).

As demonstrated by the Commission's prior orders, if the Lease were enforced against Hi-Country, Hi-Country would not receive fair market value for the many benefits provided to the Dansies. Rather, the Lease would provide the "Dansie family with an annual lease payment of $7,200, the free production, storage and transmission of a minimum 12,000,000 gallons of water per annum, and other benefits, when in fact a reasonably accurate estimation of the value of the [L]ease was $368.00 per month." (Order on Rehearing, at 4, Ex. F.) Requiring Hi-Country to absorb these unreasonable costs would likely result in the eventual insolvency of the company, thereby halting service of culinary water to the homeowners in the Subdivision.

Moreover, it should be noted that, due to the provision in the Lease that requires the water company to continue delivering water to the Dansies even after the Lease is terminated, (Lease at § F.7), enforcement of the Lease against Hi-Country would also result in an unreasonable indirect restraint on Hi-Country's right to alienate its property and, specifically, to transfer the water system to a public entity for future operation. "An indirect restraint on alienation arises when an attempt is made to accomplish some purpose other than the restraint of alienability, but with the incidental result that the instrument, if valid, would restrain practical alienability." *Redd v. Western Savings & Loan Co.*, 646 P.2d 761, 764 (Utah 1982) (internal quotations omitted). An indirect restraint on

alienation will not be upheld if it is not "reasonably necessary to protect a justifiable or legitimate interest of the parties." *Id.*

In this case, there can be no question that enforcement of the Lease against Hi-Country is not reasonably necessary to protect a justifiable or legitimate interest of the parties. In considering the circumstances under which the Lease was executed, the Commission tellingly found as follows:

> [T]he lessee, Bagley, who was one of the developers of the residential area served by [the water company], was knowingly in violation of the law requiring regulation of public service entities, that the [L]ease had not been entered into in good faith for the benefit of utility ratepayers and that the Commission had been denied any opportunity to review the [L]ease because the developer had operated illegally for some thirteen years as a de facto public utility without applying for certification.

(Order on Rehearing, at 4, Ex. F.)

Clearly, under such circumstances, Mr. Dansie cannot argue that he had a legitimate or justifiable interest in receiving 12,000,000 gallons of water in perpetuity from a public utility for free. Accordingly, Section F.7 of the Lease should be invalidated by the Commission as an unreasonable indirect restraint on alienation. This is particularly so when enforcement of that provision essentially would preclude Hi-Country from transferring the water system to a public entity in contravention of public policy. *See* Utah Code Ann. § 17B-2a-1002 (providing that the purpose of water conservancy districts is to "provide for the conservation and development of the water and land resources of the state").

b. Enforcement of the Lease against Hi-Country Would Result in Unreasonable Rates and Discrimination

As recognized by the Utah Supreme Court in *Garkane*, the second purpose of the Commission's jurisdiction is to ensure the provision of essential services "without discrimination and on the basis of reasonable costs." *Garkane*, 681 P.2d at 1207. In accordance with this policy, the Legislature has enacted statutes mandating the reasonableness of rates and prohibiting preferences. Section 54-3-1 mandates that "[a]ll charges made, demanded or received by any public utility ... shall be just and reasonable." Utah Code Ann. § 54-3-1. Additionally, Section 54-3-8 prohibits a public utility from "mak[ing] or grant[ing] any preference or advantage to any person, or subject[ing] any person to any prejudice or disadvantage." Utah Code Ann. § 54-3-8(1)(a). And Section 54-4-4 grants the Commission authority to remedy any unjust, unreasonable, discriminatory, or preferential rates. Utah Code Ann. § 54-4-4(1)(a)(i).

In its prior Orders, the Commission determined that the Lease, if enforceable, would "shower[] virtually limitless benefits on Jesse Dansie and the members of his immediate family" by providing "free water to [Dansie's children] in virtual perpetuity," while the burden of such benefits would be imposed upon the water company's "present and future customers." (1986 PSC Order at 11, 13.) Thus, Hi-Country would be required to charge unreasonable rates to its ratepayers to fund the preferential treatment to the Dansies. Clearly, such actions fall squarely within the conduct prohibited by Sections 54-3-1 and 54-3-8. Consequently, the Lease must not be enforced against Hi-Country.

CONCLUSION

For the reasons set forth above, the Commission should deny Mr. Dansie's claim in intervention seeking to uphold the Lease and should instead hold that the Lease is unenforceable against Hi-Country as a regulated public utility.

Dated this 25th day of February, 2014

/s/ Adam S. Long

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of February, 2014, I served a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF HI-COUNTRY ESTATES HOMEOWNERS ASSOCIATION'S MOTION FOR SUMMARY JUDGMENT** by causing the same to be delivered to the following:

Via hand delivery and email to:

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