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RECEIVED

October 13, 2009

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Public Service Commission  
Heber Wells Building  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, UT 84111

**Re: *Bear Hollow v. Summit Water Distribution Co., et al* (Docket No. 09-015-01);  
Division of Public Utilities' Request for Scheduling Conference**

To the Public Service Commission:

This letter responds to the Division of Public Utilities' memorandum recommending that the Public Service Commission ("Commission") schedule a conference to "streamline the discovery process and enable this Docket to proceed in a timely manner." Oct. 7, 2009 Memorandum. Summit Water Distribution Company ("Summit Water") received this memorandum on October 9, 2009, several days before its responsive pleading in this matter was due. As you know, the respondents in this matter (Summit Water and the individual shareholders named as respondents) filed separate motions to dismiss on October 12, 2009. Until the Commission issues a final decision on those motions, it would be inappropriate to schedule or conduct discovery because that course of action entails a finding that the Commission has both jurisdiction and the basis to initiate an investigation. The Division's memorandum presumes that the Commission has decided to proceed with discovery and further investigation; while the pending motions are unresolved, that assumption is premature and unjustified.

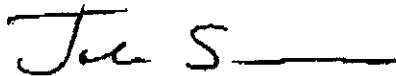
Furthermore, even if the Commission denies both motions to dismiss and opts to proceed, Bear Hollow should not be involved in the investigation other than as a potential witness. As it has in each of the four preceding investigations, Summit Water will comply fully with any requests for information from the Commission, but sees no justification for allowing Bear Hollow to seek discovery in this venue on topics related only to the private contract dispute over its Development Agreement. To the extent that the Commission finds Bear Hollow has properly alerted the Commission to the potential need to reexamine Summit Water Distribution Company's exemption, Bear Hollow's role is complete if the Commission opts to initiate an investigation and consider possible agency action. Again, unless the Commission issues a finding of jurisdiction and opts to proceed, Bear Hollow has no standing to pursue its claims in this forum. If Bear Hollow desires additional corporate documents and information, it is free to seek those items through discovery in a court properly situated to hear its claims, not shortcut that process by bringing these proceedings and

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then benefitting from the Commission's investigative efforts.

Accordingly, Summit Water requests that the Commission refrain from scheduling a Scheduling Conference until and unless it has issued a final decision asserting jurisdiction over the respondents and opting to initiate an investigation. As always, my office is happy to discuss this matter further with the Commission or the Division of Public Utilities.

Very truly yours,



John S. Flitton  
Attorney for Summit Water Distrib. Co.

cc: Patricia Schmid  
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