Exhibit B

COPY

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IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR

SUMMIT COUNTY, STATE OF UTAH

SUMMIT WATER DISTRIBUTION COMPANY, a Utah non-profit corporation; LEON H. SAUNDERS, an individual; MICHAEL SCOTT SAUNDERS, an individual, SAUNDERS LAND INVESTMENT CORPORATION, a Utah corporation; STUART A. KNOWLES, an individual; TRILOGY LIMITED, L.P., a Georgia limited partnership; FRANK H. LANG, Trustee of the LARRY R. KNOWLES IRREVOCABLE TRUST; LAND AND WATER RESOURCES COMPANY, INC., a California corporation; LYNN NELSON, an individual; GREGORY G. NELSON, an individual; JEFFREY L. NELSON and KELLIE H. NELSON, Individual Joint Tenants; CRAIG S. PETTIGREW and TAMMY N. PETTIGREW, Individual Joint Tenants,

Plaintiffs,

SECOND AMENDED

COMPLAINT

&

DEMAND FOR TRIAL

BY JURY

Civil No. 010500359

Honorable Bruce C. Lubeck

State District Judge

v.

SUMMIT COUNTY; SUMMIT COUNTY COMMISSION; MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT, a body politic of the State of Utah; PATRICK D. CONE, County Commissioner; SHAUNA L. KERR, County Commissioner; ERIC D. SCHIFFERLI, County Commissioner; DOUGLAS EVANS, an individual; MONTGOMERY WATSON HARZA, a California corporation and its employee and agent, WILLIAM TODD JARVIS, an individual; DAVID L. THOMAS, an individual; JAMES DOILNEY, an individual; and JOHN DOES 1-8,

Defendants.

Summit Water Distribution Company (hereafter "Summit Water") and Leon H. Saunders, an individual; Michael Scott Saunders, an individual, Saunders Land Investment Corporation, a Utah corporation; Stuart A. Knowles, an individual; Trilogy Limited, L.P., a Georgia limited partnership; Frank H. Lang, Trustee of the Larry R. Knowles Irrevocable Trust; Land and Water Resources Company, Inc., a California corporation; Lynn Nelson, an individual; Gregory G. Nelson, an individual; Jeffrey L. Nelson and Kellie H. Nelson, Individual Joint Tenants; Craig S. Pettigrew and Tammy N. Pettigrew, Individual Joint Tenants (collectively, the "Investor Shareholders" and, together with Summit Water, the "Antitrust Plaintiffs") complain of the Defendants, Summit County, the Summit County Commission, Mountain Regional Water Special Service District (hereinafter "Mountain Regional" or "Special Service District"), Patrick D. Cone (hereinafter "Cone"), County Commissioner, Shauna L. Kerr (hereinafter "Kerr"), County Commissioner, Eric D. Schifferli

(hereinafter "Schifferli"), County Commissioner, Douglas Evans (hereinafter "Evans"), an individual, Montgomery Watson Harza (hereinafter "Montgomery Watson"), a California corporation and its employee and agent, William Todd Jarvis (hereinafter "Jarvis"), an individual, David L. Thomas (hereinafter "Thomas"), an individual, and James Doilney (hereinafter "Doilney"), an individual, and for Causes of Action, allege as follows:

NATURE OF COMPLAINT & PETITION FOR REVIEW

1. This is an action brought under the antitrust laws of the State of Utah and Article XII, Section 20 of the Utah Constitution in which redress to the Antitrust Plaintiffs is sought:

   (i) first against the Defendants, and each of them, for having conspired, agreed, and combined to unlawfully tie the sale, distribution and delivery of water to the granting of favored building permits and density and planning approvals, fix prices, other restraints of trade and impair competition in violation of the antitrust laws of the State of Utah in the private sale, distribution and delivery of culinary water in the Snyderville Basin of Summit County, Utah;

   (ii) second, against the Defendants Summit County and Mountain Regional Water Special Service District and other Defendants for the illegal conspiracies, combinations and arrangements by anti-competitive conduct to monopolize or attempt to monopolize the trade and business of the private sale, distribution and delivery of culinary water in the Snyderville Basin of Summit County, Utah in violation of Article XII, Section 20 of the Utah Constitution and the antitrust laws of the State of Utah.

2. The First Cause of Action is brought under Article XII, Section 20 of the Utah Constitution and the Utah Antitrust Act, Utah Code Ann. § 76-10-914(1), in which equitable relief is sought in the form of permanent, prohibitory and mandatory injunctions against certain Defendants and, in addition compensatory and treble damages also are sought against Montgomery Watson and Jarvis, its agent and employee, Thomas, Doilney and John Does 1-8 to be hereafter named, for conspiracies, combinations, contracts and arrangements to restrain trade and impair competition as set forth infra.

3. The Second Cause of Action is brought under Article XII, Section 20 of the Utah Constitution and the Utah Antitrust Act, Utah Code Ann. § 76-10-914(2), for the attempt by Summit County, the Summit County Commission, its Commissioners, and Mountain Regional to monopolize, or attempt to monopolize and conspire, arrange and combine with certain other Defendants, including Montgomery Watson and its agent and employee, Jarvis, Thomas, Doilney and Johns Does 1-8 yet to be named, to monopolize or attempt to monopolize the trade or commerce of the sale, distribution and delivery of culinary water in the Snyderville Basin of Summit County, Utah, as set out hereinafter and as to which permanent prohibitory and mandatory injunctive relief against said Summit County, the County Commission, its Commissioners, and Mountain Regional are sought, and compensatory and treble damages are sought against Defendants, Montgomery Watson and Jarvis, Thomas and Doilney.

PARTIES, JURISDICTION AND VENUE

4. Plaintiff, SUMMIT WATER, is a private corporation organized under and existing pursuant to the laws of the State of Utah as a non-profit mutual water company, with its principal place of business in Summit County, State of Utah.

5. Plaintiff, LEON H. SAUNDERS, is an individual residing in Summit County, Utah, and the owner of transferable Class A shares of Summit Water.

6. Plaintiff, MICHAEL SCOTT SAUNDERS, is an individual, residing in California and the owner of transferable Class A shares of Summit Water.

7. Plaintiff, SAUNDERS LAND INVESTMENT CORPORATION, is a Utah corporation, organized under and existing pursuant to the laws of the State of Utah, with its principal place of business in Summit County, State of Utah, and the owner of transferable Class A shares of Summit Water.

8. Plaintiff, STUART A. KNOWLES, is an individual, residing in California and is the owner of transferable Class A shares of Summit Water.

9. Plaintiff, TRILOGY LIMITED L.P., a Georgia limited partnership and the owner of transferable Class A shares of Summit Water.

10. Plaintiff, FRANK H. LANG, Trustee of the LARRY R. KNOWLES IRREVOCABLE TRUST, is the owner of transferable Class A shares of Summit Water.

11. Plaintiff, LAND AND WATER RESOURCES COMPANY, INC., a California corporation, organized and existing under the laws of the State of California and is a owner of transferable Class A shares of Summit Water.

12. Plaintiff, LYNN NELSON, an individual, residing in Box Elder County, Utah, and the owner of transferable Class A shares of Summit Water.

13. Plaintiff, GREGORY G. NELSON, an individual, residing in Salt Lake County, Utah, and the owner of transferable Class A shares of Summit Water.

14. Plaintiffs, JEFFREY L. NELSON and KELLIE H. NELSON, individual joint tenants, residing in Davis County, Utah, and the owners of transferable Class A shares of Summit Water.

15. Plaintiffs, CRAIG S. PETTIGREW and TAMMY N. PETTIGREW, individual joint tenants, residing in Cache County, Utah, and the owners of transferable Class A shares of Summit Water.

16. Defendant, SUMMIT COUNTY is a public corporation and body politic, a political subdivision of the State of Utah, organized under and pursuant to the laws of the State of Utah.

17. Defendant, MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT is a special service district in the State of Utah created by Summit County pursuant to Utah Code Ann. § 17A-2-1301 et seq., is a quasi-municipal public corporation and is existent as a separate and independent entity with the *sui juris* power to sue, be sued and contract on its own.

18. Defendant, SUMMIT COUNTY COMMISSION is the body exercising legislative and executive authority for and in behalf of Summit County, pursuant to Utah Code Ann. § 17-5-101 et seq. and 201 et seq.

19. Defendant, PATRICK D. CONE is an individual residing in Summit County and a former Commissioner of Summit County when some of the unlawful conduct alleged occurred.

20. Defendant, SHAUNA L. KERR is an individual residing in Summit County and a former Commissioner of Summit County when some of the unlawful conduct alleged occurred.

21. Defendant, ERIC D. SCHIFFERLI is an individual residing in Summit County and a former Commissioner of Summit County, and the chairman of the Summit County Commission, when some of the unlawful conduct alleged occurred.

22. Defendant, DOUGLAS EVANS, an individual, is a resident of Summit County.

23. Defendant, MONTGOMERY WATSON HARZA is a California corporation doing business in the State of Utah with a principal place of business in Salt Lake County, Utah.

24. Defendant, WILLIAM TODD JARVIS, an individual, is a resident of Summit County, Utah, and at all relevant times herein, was an employee and managing agent of and for Montgomery Watson Harza and an independent contractor for Mountain Regional, Summit County and others in the Snyderville Basin. He is sued as a named defendant both in a representative and individual capacity.

25. Defendant, DAVID L. THOMAS, an individual, is a resident of Weber County.

26. Defendant, JAMES DOILNEY, an individual, is a resident of Summit County and at all relevant times was a private owner and developer of water in the Snyderville Basin.

27. Defendants, JOHN DOES 1-8, and such others as hereafter may be named, are unknown at this time and will be named as additional Defendants in the case as they become known through discovery.

28. This Court has personal jurisdiction over the parties and subject matter jurisdiction over the causes of action pursuant to Article XII, Section 20 of the Utah Constitution and the Utah Antitrust Act, Utah Code Ann. § 76-10-914 et seq.

29. Venue is properly laid in this Court pursuant to Utah Code Ann. § 78-13-7, the operative facts giving rise to Summit Water's causes of action having occurred in Summit County, Utah, a substantial number of Plaintiffs and most of the Defendants reside in Summit County, Summit County is one of the named parties, and therefore, Summit County is the proper venue at this time pursuant to Utah Code Ann. §§ 78-13-3, 78-13-5 and 78-13-7.

30. The Plaintiffs are not required to give notice under the Utah Government Immunity Act prior to filing this Complaint because they seek only equitable relief in the form of permanent injunctions against Summit County, the Summit County Commission, Mountain Regional and their respective Commissioners and employees. Compensatory and treble damages are sought only against Montgomery Watson and Jarvis who are a private firm and individual, Thomas and Doilney.

FACTUAL BACKGROUND, ALLEGATIONS COMMON TO EACH CAUSE OF ACTION

Summit Water's Business Organization, Infrastructure, and the Antitrust Plaintiffs' Ability to Compete

31. Summit Water is managed by a Board of Directors and a Managing Director and employs highly competent engineering and water management staff.

32. Summit Water is owned by its shareholders who actually use, or plan to use, the water provided through Summit Water's water distribution system.

33. These shareholders consist of developers and/or owners of homes, golf courses, ski resorts, condominiums, commercial businesses, recreational facilities, sports complexes and a variety of other types of buyers and users of property.

34. Summit Water has four classes of shareholders: (a) Class A shareholders - investors and developers who contribute capital, infrastructure and/or source water in exchange for shares; (b) Class B shareholders - residential water users; (c) Class C shareholders - irrigation water users; and (d) Class D shareholders - snowmaking water users.

35. The Investor Shareholders Class A shares constitute approximately 61.6% of all of Summit Water's shares.

36. The Investor Shareholders were issued their Class A Shares in exchange for their contribution to Summit Water of not only water rights and source water, but also the capital infrastructure constituting Summit Water's water storage, distribution and delivery system.

37. The Investor Shareholders' Class A shares are unique in that they are not dedicated to any specifically identified property development. Consequently, the right to wet water that these shares represent may be sold to new or existing Class A shareholders having an identified property development project. This is the means by which the Investor Shareholders' recover their costs and a reasonable return on their investment in obtaining and developing the water rights and water sources and providing the capital to construct the storage, distribution and delivery systems they have contributed at no cost to Summit Water.

38. Each Class A share contains the right to be converted into a Class B, C or D share upon the sale and surrender of the Class A share, and the issuance of a Class B, C or D share. Such new share is an appurtenant interest tied to the land of the Class B, C or D shareholder. For instance, a residential developer who owns a block of Class A shares purchased from one or more of the Investor Shareholders and who starts selling residential homes in a new development will surrender its Class A shares in exchange for one Class B share issued to each new homeowner. The water rights represented by the Class B share become part of the real property owned by the homeowner, and are transferred with the land upon subsequent sale of the home.

39. Through the sale of their Class A shares, the Investor Shareholders are engaged in the retail sale of culinary water that is then distributed and delivered by Summit Water for commercial and residential use.

40. The Antitrust Plaintiffs operate entirely within the unincorporated portion of the Snyderville Basin, a well-defined hydro-geological basin located in western Summit County, and the quality of Summit Water's culinary water is monitored by the State of Utah through the Utah Division of Drinking Water ("DDW").

41. Summit Water, together with Class A investor shareholders, compete in the production, sale and distribution of culinary water in the Snyderville Basin.

42. Summit Water has a long 25-year history and an established reputation for consistently providing its shareholders with ample supplies of safe culinary water at low rates.

43. Summit Water's infrastructure consists of:

- Over 75 miles of main water distribution pipelines
- 10 wells and 1 spring source
- A multi-million dollar water treatment plant capable of treating over 22 million gallons of water per day
- 10 storage reservoirs with 5,953,000 gallons of storage
- Water rights
- Booster stations, pump facilities, meters, etc.

44. Summit Water's wells and other water sources have a long history of reliability and have remained constant sources of water year by year as the Company's historical operating record amply shows.

45. Antitrust Plaintiffs have, throughout the company's 25-year history, maintained a conscious policy of developing and have developed new source capacity wells in advance of any increased system demand. This policy is implemented by finding and developing reliable, proven sources rather than by acquiring struggling and problematic water providers with unreliable and depleting wells.

46. Summit Water has constructed a state-of-the-art water treatment plant and is in the process of constructing a pipeline from East Canyon Reservoir that, when completed, will be capable of treating 22 million gallons of water per day for use in the Snyderville Basin. The funds for such development have been provided by the Investment Shareholders.

47. The DDW determined, as of September 2000, that Summit Water's system was capable of supplying 3535 gallons of safe culinary water per minute ("gpm"). Although not a perfect match, one gpm is roughly equivalent to the amount needed by a single residential home.

48. The DDW is the entity that the State Legislature has charged with the responsibility for ensuring the availability of ample supplies of safe drinking water and its rating of Summit Water's system capability is based on actual summer source production rates.

49. As of June, 2000, Summit Water was serving approximately 2,275 equivalent residential connections ("ERCs") a standard industry measure designed to compare the amount of water needed by different types of users. One ERC is equal to the amount of water a typical single family residence would use, which the DDW has established at 0.76 acre feet.

50. At that time, Summit calculated its excess water capacity - i.e., actual wet water in excess of that needed to serve its current customers - at 1,300 gpm.

The Culinary Water Market in the Snyderville Basin and the Competitors in that Market Prior to Defendants' Illegal Conduct

51. Prior to the beginning of the events described herein, the retail sale, distribution and delivery of culinary water in the Snyderville Basin was highly competitive.

52. The relevant market consists of the provision, service and sale of culinary or potable irrigation water to major developments in the Snyderville Basin with each development representing a separate geographic market.

53. As of January, 2000, there were eleven water companies serving the Snyderville Basin, comprised of a mix of mutual water companies such as Summit Water, private water companies subject to regulation by the Public Service Commission, and special service districts established by Summit County, serving approximately 6,600 ERCs.

54. The competition was intense and healthy, resulting in low prices to developers and water customers, and enabling them to select from among the competitors in the Snyderville Basin based on normal market comparisons such as price, reliability, reputation, size, infrastructure, water capacity, excess water capacity, and the like.

55. As of January 2000, the Antitrust Plaintiffs were the leading, largest and strongest competitor for the retail sale, distribution and delivery of water in the Snyderville Basin.

56. The Antitrust Plaintiffs' relative market share for the sale, delivery and distribution of water approximated 34% and Summit Water was one of the few water companies with sufficient infrastructure and excess water capacity to serve new development in the Snyderville Basin.

57. At all times mentioned herein, the Antitrust Plaintiffs and Mountain Regional have been and are now engaged in supplying culinary and other types of water for residential and commercial purposes in the Snyderville Basin, and particularly compete with respect to the sale, distribution and delivery of new water connections to developers and property owners.

58. Mountain Regional is separate and distinct from Summit County as provided by Utah law. Utah law provides that the debts of Mountain Regional cannot legally be enforced against Summit County pursuant to Utah Code Ann. § 17A-2-1319.

Defendants' Conspiracy in Restraint of Trade and Attempt to Monopolize

59. Beginning in the Spring of 2000 and continuing to the present, Summit County, the Summit County Commission, Schifferli, Cone, Mountain Regional, Evans, Montgomery Watson through Jarvis, Thomas and Dollney, combined, conspired and contracted to restrain trade and commerce, to monopolize, and to attempt to monopolize the culinary water product market in the Snyderville Basin geographic market. These defendants also have attempted to monopolize said product and geographic markets.

60. The object of the antitrust conspiracy was to "get Hy Saunders [Summit Water] out of the water business" and, through "annexation... ultimately... a one-world one-system of water in the Snyderville Basin for the future."

61. In the Spring of 2000, Summit County entered into an arrangement with Pivotal for Promontory pursuant to which Summit County agreed to approve all of Pivotal's desired densities and view lots in the Promontory Development provided Pivotal agreed to purchase all of its water from Mountain

Regional, to annex Promontory into Mountain Regional, and to provide capital for Mountain Regional's development of water ("The Promontory Agreement").

62. Before Pivotal entered into the Promontory Agreement, Summit Water offered to sell water to Promontory for a fee of $7,600 per 0.76 acre foot connection. Pivotal rejected Summit Water's offer in favor of the Promontory Agreement under which it agreed to purchase water from Mountain Regional for a fee of $15,000 per 0.76 acre foot connection. Summit Water, in 2001, again offered to supply water to Promontory promising to "beat any competitors offer." Pivotal again rejected Summit Water's offer.

63. Pivotal's point person, Richard Sonntag, stated publicly that he considered the Promontory Agreement and the increased cost of securing water for Mountain Regional the "price of admission" for increased building lot density and development approvals from Summit County.

64. Among other things, defendants attempted to eliminate Mountain Regional's competitors, including the Antitrust Plaintiffs, Mountain Regional's major competition for new culinary water connections, have in fact eliminated all but 3 of Mountain Regional's competitors, have fixed, stabilized and maintained the price of culinary water at artificially high levels, illegally tied planning and zoning approvals and building permits required of developers and property owners to the purchase of water from Mountain Regional, restrained competition for the supply of culinary water, injured the Antitrust Plaintiffs in their business or property in order to substantially lessen or eliminate their ability to compete, and attempted to monopolize culinary water in the Snyderville Basin.

65. Thomas acted as the architect and impresario of the conspiracy to eliminate Summit Water as a competitor in the relevant markets and to create in Mountain Regional a monopoly in the sale of water in the Snyderville Basin. In addition, Thomas committed overt acts to carry out the conspiracy to eliminate competition in the relevant markets and to create in Mountain Regional a monopoly in the sale of water in the Snyderville Basin.

66. Doilney was the "initial catalyst and key coordinator," and conspirator, for the creation of Mountain Regional as the monopoly water company in the Snyderville Basin and participated in the conspiracy to eliminate Summit Water as a competitor and to establish Mountain Regional as a monopoly. Doilney's actions in furtherance of the conspiracy included the sale of water resources and infrastructure to Mountain Regional in exchange for favorable treatment for his developments by Summit County, acting to reduce the perceived value of Summit Water for purposes of condemnation and monopolization and fostering a concurrency ordinance for the purpose of creating in Mountain Regional a monopoly in Snyderville Basin water.

67. These defendants have accomplished and implemented this illegal contract, combination and conspiracy, and attempt to monopolize by at least the following overt acts:

(i) Appointed themselves as the Board of Mountain Regional.

(ii) Caused Mountain Regional to become a major competitor in the Snyderville Basin by contracting to provide water which Mountain Regional did not have to large developments.

(iii) Required these and other developments to obtain water from Mountain Regional as a condition to receiving building permits and required planning and zoning approvals.

(iv) Embarked upon a scheme whereby Defendants, using whatever predatory conduct and tactics were required, would cause Mountain Regional to end up with a monopoly as the sole supplier of culinary water in the Snyderville Basin.

(v) Entered into independent contractor agreements with Montgomery Watson pursuant to which Jarvis served as Mountain Regional's water consultant and as Summit County's Water Concurrency Officer.

(vi) Entered into agreements or arrangements with Doilney and other co-conspirators for the purpose of increasing Mountain Regional's market share in water it did not have in the relevant markets, injuring Summit Water as a competitor to Mountain Regional, and,

ultimately with the intent of making Mountain Regional the exclusive provider of water in the relevant markets.

(vii) By appointing themselves as Mountain Regional's Board and retaining Montgomery Watson and Jarvis as independent contractors and consultants to Mountain Regional and to Summit County, Mountain Regional's business could and did escape meaningful regulation by Summit County and Summit Water's business could be effectively regulated out of existence.

(viii) Drafted, adopted, and unfairly enforced Ordinance Nos. 385, 400 and 415 to enable defendants to prevent or severely limit the Antitrust Plaintiffs' ability to compete for new water connections by providing Summit Water with an artificially low and unjustified "excess water capacity" concurrency rating and awarding Mountain Regional an artificially high and unjustified excess water capacity concurrency rating.

(ix) Caused Summit Water to spend large sums in attorneys' fees and employee and consultant time and expense to attempt to prevent defendants from limiting Summit Water's ability to compete. At the same time Mountain Regional and its coconspirators, including Doilney, were awarded unreasonably high excess water ratings with little or no expenditure on their part.

(x) Award of an artificially and unreasonably low concurrency rating to Summit Water and artificially and unreasonably high ratings to Mountain Regional and its coconspirators which enabled Mountain Regional to unfairly compete against the Antitrust Plaintiffs by touting to prospective customers that Mountain Regional had excess water, and Summit Water did not, when exactly the opposite was the case.

(xi) By providing building permits, densities and planning and zoning approval to culinary water customers of Mountain Regional and by refusing to do so for Summit Water shareholders,

enabled Mountain Regional to unfairly compete by touting such favored treatment by Summit County to prospective customers.

(xii) Took the above actions in an attempt to substantially diminish the value of Summit Water and the shares of the Investor Shareholders so that defendants could acquire Summit Water for far less than its true value either through condemnation, purchase, or running it out of business.

(xiii) Initially waived the drought reserve for Summit Water under Ordinance Nos. 385 and 400 and then revoked the waiver without cause.

(xv) Included in formal "findings and conclusions" in the County Commission's August 23, 2001 water concurrency Decision personal attacks on Summit Water having nothing to do with Summit Water's concurrency rating, further demonstrating its bias, discrimination and conflict of interest and providing Mountain Regional with additional inaccurate information to unfairly compete.

(xvi) Provided Mountain Regional with a 1,753 gpm excess water concurrency rating when Mountain Regional cannot serve planned future connections while also serving existing connections.

(xvii) Unjustifiably increased Summit Water's personal property tax assessment from $5,000 to $60,000 in a further attempt to injure Summit Water in its business or property.

(xviii) Failed to recuse themselves and/or eliminate their irreconcilable conflicts of interest, including Jarvis, as an independent contractor. Mountain Regional and its co-conspirators failed to establish procedures for the independent and competitive regulation of Summit Water and Mountain Regional.

68. Kerr joined said conspiracy and attempt to monopolize in January 2001 upon her election to the Summit County Commission.

69. The impact of the Defendants' illegal contract, combination and conspiracy, and attempt to monopolize has been a reduction in competition and increased consumer prices in the relevant market. Mountain Regional's rates are between 300% to 350% higher than Summit Water's rates for equivalently less water, both in quality and quantity.

Defendants' Creation of Mountain Regional

70. Mountain Regional was formerly known as the Atkinson Special Service District, and was established in 1982.

71. The Atkinson Special Service District primarily served areas to the east of the Snyderville Basin and not included within the Basin.

72. On February 22, 2000, Summit County and its County Commission adopted resolution 376 renaming the district as "Mountain Regional Water Special Service District" and naming the County Commission as Mountain Regional's Board, with the express goal of establishing a Snyderville Basin-wide water service district.

73. As a result, the Summit County Commissioners are now, and at all times mentioned, the governing members and authority of Mountain Regional.

74. The County Commission has not exercised its statutory authority to appoint an independent Board of Directors for Mountain Regional. Initially, Defendants Cone, Schifferli, Kerr and now the County Commission have been the sole members of the Board of Directors of Mountain Regional.

75. In February, 2000, Mountain Regional's presence in Snyderville Basin consisted of only 315 ERCs, or 5.7% of the ERC market, as compared to Summit Water's 34% share of the ERC market.

76. Mountain Regional charges each homeowner approximately $1200 per year for water, as compared to Summit Water's charge of $485.

77. In the Spring of 2000, Mountain Regional was prohibited from selling new water connections in the Snyderville Basin by virtue of a moratorium imposed by DDW in 1998 because Mountain Regional's

water failed to meet drinking water quality standards. As a result, Mountain Regional was then providing bottled water to its customers in the Snyderville Basin.

78. Despite the DDW moratorium, in the Spring of 2000, Mountain Regional became a direct competitor of Summit Water in the Snyderville Basin by entering into agreements to supply water to the Promontory Development, to consist, when built, of 1600 homes and 5 golf courses, and the Colony Development, to consist of approximately 50 homes.

79. Under the Promontory Agreement, Mountain Regional gained one well - known as the Well 15b, which was not approved for drinking water by DDW until August 23, 2001.

80. These agreements were accompanied by the simultaneous execution of development agreements between the respective developers and Summit County, in which Summit County approved the respective development plans, thus as a practical matter guaranteeing the issuance of building permits for each development.

81. In 1999, Doilney and Summit County, acting through the County Commission also serving as the Board of Directors of Mountain Regional, entered into an agreement whereby Doilney agreed to develop an east-west pipeline for Mountain Regional's use in providing water in the Snyderville Basin.

82. In 2000, Doilney and Mountain Regional, again acting through the County Commission in its capacity as the Board of Directors of Mountain Regional, entered into an agreement whereby Doilney would be the exclusive source of water sales for Mountain Regional on the west side of the Snyderville Basin and, in exchange, Doilney would cause to be constructed the infrastructure needed by Mountain Regional to serve the Snyderville Basin and add road repairs to the Mountain Regional system.

83. In 2000, Mountain Regional also entered into an agreement with Iron Mountain Associates, the developer of The Colony under which Iron Mountain Associates agreed to construct a pipeline extending to the existing Doilney pipelines in exchange for receiving building permits for lots which

had already been sold and upon which construction necessarily had to commence notwithstanding the fact that The Colony had no connected water system in place.

84. Doilney's agreements with Summit County and Mountain Regional, and his actions pursuant to those agreements and otherwise, were in furtherance of the conspiracy combination and agreement to restrain trade and commerce, to make Mountain Regional the exclusive provider in the relevant product and market and to hinder or destroy Summit Water as a competitor in those markets.

Mountain Regional's and Summit County's Retention of Montgomery Watson and Jarvis

85. Spring of 2000, Mountain Regional entered into an independent contractor agreement with Montgomery Watson, pursuant to which Montgomery Watson through Jarvis was to provide engineering services on a task by task basis.

86. Defendant Jarvis was the employee and managing agent of Montgomery Watson designated as the technical water consultant to Mountain Regional.

87. At approximately the same time, Summit County and Montgomery Watson entered into an independent contractor agreement whereby Jarvis was to serve as Summit County's Water Concurrency Officer.

88. Jarvis and Montgomery Watson were also engaged as an independent contractor water consultant for Pivotal and other developers in the Snyderville Basin and, by combinations and conspiracies, assisted Mountain Regional and Summit County in obtaining tying agreements with, and wells and infrastructure from, developers in furtherance of the general conspiracy, combination and agreement to restrain trade, to destroy Summit Water as a competitor and to make Mountain Regional the monopoly water provider in the relevant product and geographic market.

89. Jarvis and Montgomery Watson received substantial amounts of compensation as their incentive to act as conspirators to eliminate Summit Water from the water market and to establish Mountain Regional as a monopolist.

Montgomery Watson, Jarvis, Summit County and its Commission, Cone, Schifferli and Kerr's Conflict of Interest

90. As a retained consultant, Jarvis and Montgomery Watson owed a duty of loyalty, faithfulness and responsibility to Mountain Regional, while simultaneously owing a conflicting, irreconcilable, and unmitigatable duty of loyalty, faithfulness and responsibility to Summit County and its citizens in Jarvis' capacity as Water Concurrency Officer.

91. Jarvis and Montgomery Watson would both represent Mountain Regional regarding compliance with Summit County ordinances and determine whether it complied. Jarvis and Montgomery Watson would also determine Summit Water's compliance with Summit County's ordinances.

92. As the sole members of both the County Commission and Mountain Regional's Board of Directors, Cone, Schifferli and Kerr directly control both Summit County and Mountain Regional.

93. As with Jarvis and Montgomery Watson, Summit County and its County Commission have an irreconcilable and unmitigatable conflict of interest between acting in an objective manner for the public good and welfare and acting in the best interest of Mountain Regional with respect to the sale, distribution and delivery of culinary water in the Snyderville Basin in competition with the Antitrust Plaintiffs.

94. The County Commission both manages Mountain Regional and determines Mountain Regional's ordinances. The County Commission also determines Summit Water's compliance with Summit County ordinances when the Commission manages Summit Water's major competitor, Mountain Regional.

Defendants Drafting, Adoption and Use of Ordinance No. 385 and

Ordinance No. 400 Curtailing the Antitrust Plaintiffs' Ability to Compete and Permitting Mountain Regional to Compete Unfairly

95. On May 15, 2000, Summit County adopted Ordinance No. 385 known as the "Concurrency Ordinance" which restricted the issuance of building permits and the approval of subdivision plats in the Snyderville Basin until the applicant's water supplier had completed a "Water Supply Concurrency Assessment Study and Program."

96. Under Ordinance No. 385, each Snyderville Basin water company could not issue "willing to serve" letters to developers until it established "excess source capacity" to Summit County's satisfaction sufficient to permit the water company to serve the new development. Such "willing to serve" letters were necessary for building permits and for development approval.

97. On November 13, 2000, the County Commission adopted Summit County Ordinance No. 400 ("Ordinance No. 400"), which was to be the permanent version of Ordinance No. 385.

98. Ordinance No. 400 also directly tied a developer's ability to obtain a building permit to the developer's receipt of a firm commitment from a water supplier to provide water to the development. Such commitments were known as "willing to serve" letters.

99. Like Ordinance No. 385, Ordinance No. 400 was ostensibly adopted to enable Summit County determine whether water suppliers had adequate supplies of water available to meet existing demands before permitting additional "willing to serve" letters for building permits resulting in new connections. Any water in a supplier's system in excess of the amount needed to meet existing demands was considered "excess source capacity."

100. Under Ordinance No. 400, a water supplier could not issue a "willing to serve" letter unless it had sufficient "excess source capacity" to satisfy the demands of the new connection. Thus, the Antitrust Plaintiffs were absolutely prohibited from competing in the business of selling, distributing and delivering water for new connections in Summit County unless Summit Water had "excess source

capacity" as defined under Ordinance No. 400 and as determined by the Water Concurrency Officer, Jarvis, and the Summit County Commissioners.

101. To determine whether water suppliers had "excess source capacity" in their systems, Summit County required all water suppliers to submit an application for a "concurrency rating."

102. Jarvis for Montgomery Watson, Thomas and Doilney were the principal substantive authors of Ordinance No. 385 and Ordinance No. 400 as approved by Summit County, the County Commissioners, and Mountain Regional.

103. Knowing that Ordinance No. 385 and Ordinance No. 400 would prevent the issuance of development and building permit approvals until water companies obtained concurrency ratings, Summit County, the County Commissioners, and Mountain Regional conspired to and did grant a large number of building permits and large development approvals to potential Mountain Regional customers, including MJM, immediately prior to the passage of the Ordinance No. 385, as partially evidenced by the Promontory and Colony water and development agreements, even though Mountain Regional had no source capacity to supply water to such developments. Such actions would have violated Ordinance No. 385. Summit Water has never received such benefit.

104. To administer the concurrency process established under Ordinance No. 385 and, later, Ordinance Nos. 400 and 415, Montgomery Watson through Jarvis, as the Summit County Water Concurrency Officer, was assigned the responsibility of reviewing the concurrency applications to determine how much "excess source capacity" each water supplier had.

105. At approximately this same time, the County Commissioners, acting as the governing board of Mountain Regional, hired Jarvis of Montgomery Watson as an independent contractor to prepare Mountain Regional's water concurrency application under Ordinance No. 385 and later Ordinance Nos. 400 and 415.

106. Consequently, Jarvis and the County Commission would decide Mountain Regional's and Summit Water's excess water capacity in their "county" capacities, while, simultaneously, in their "Mountain Regional" capacities, they aggressively furthered their common goal of making Mountain Regional the sole water provider in the Snyderville Basin by artificially inflating without basis or support Mountain Regional's excess capacity and arbitrarily, capriciously and illegally reducing Summit Water's excess source capacity to levels far below those Summit Water in fact had.

107. Ordinance No. 385 and Ordinance No. 400 were intended to and did give Defendants the power to put the Antitrust Plaintiffs out of business or severely curtail their ability to supply water to new development, all to the benefit of Mountain Regional. An artificial and unreasonably low excess water capacity rating would curtail or eliminate the Antitrust Plaintiffs' ability to compete for new customers. An unreasonably high and unfounded excess capacity rating for Mountain Regional would permit Mountain Regional to compete for customers with water it did not have.

Summit Water's Attempt to Comply With Ordinance Nos. 385 and 400

108. Summit Water submitted a detailed and comprehensive water concurrency application on June 13, 2000, indicating that it had 1,300 gpm excess capacity, and was one of the first water suppliers in Summit County to do so under Ordinance No. 385.

109. Defendants undertook to injure the Antitrust Plaintiffs in their business or property by continually rating Summit Water's excess water capacity at levels far below what they in fact were and requiring Summit Water to incur substantial expense in meeting Montgomery Watson and Jarvis's unreasonable demands and pursuing legal proceedings and appeals to the Summit County Commission which should not have been necessary.

110. On July 25, 2000, the County Commission issued Summit Water a "preliminary" concurrency rating under Ordinance No. 385 concluding that Summit Water did not have 1300 gpm excess capacity, but had only 343 gpm of excess source capacity. Then Jarvis and Montgomery Watson arbitrarily,

capriciously and illegally, limited Summit Water to only 60 gpm of excess capacity in an effort to hinder Summit Water as a competitor in the relevant market. Jarvis took such action on his own accord, in furtherance of Defendants' conspiracy, combination and agreement to restrain trade and commerce and monopolize the relevant market.

111. On September 11, 2000, the Utah Division of Drinking Water ("DDW") re-rated Summit Water's wells according to actual well production levels during the summer period of peak demand of 1998 and 1999. DDW rated the wells included in Summit Water's concurrency application at 2,869 gpm. According to DDW, after accounting for Summit Water's summer peak daily demand of 2,032, Summit Water had excess water capacity of 837 gpm that could be used for new connections. This rating excluded numerous wells as to which Summit Water did not request a rating and Summit Water's new water treatment plant which was under construction.

112. Shortly thereafter, Summit Water requested that Jarvis for Montgomery Watson, as the Water Concurrency Officer, reevaluate Summit Water's concurrency rating in light of the very up-to-date and highly accurate information collected by the DDW.

113. On September 25, 2000, Jarvis for Montgomery Watson, acting as an independent contractor, but under a duty of loyalty to both Summit County and Mountain Regional, issued Summit Water a revised concurrency rating concluding that Summit Water had 667 gpm of excess source capacity. However, Jarvis for Montgomery Watson again arbitrarily, capriciously, and illegally, limited Summit Water to only 333 gpm for new connections.

114. The concurrency rating letter of September 23, 2000 also required Summit water to perform pump tests on all of its wells submitted for the concurrency rating, although this requirement was not strictly required by Summit County until the County Commission adopted Ordinance No. 400 in November 2000.

115. Summit Water informed Jarvis that it could not perform any well pump tests at that time because Summit County was experiencing drought conditions and Summit Water needed its wells to be operational at all times to ensure uninterrupted service to its customers.

116. From the time Summit Water first submitted its concurrency application, Defendants repeatedly refused to give Summit Water a fair, impartial or reasonable concurrency rating. Jarvis and Montgomery Watson refused to recuse themselves as a result of their patent and obvious conflict of interest. Summit County and its Commissioners, Cone, Schifferli and Kerr, refused to recuse themselves as a result of patent and obvious conflicts of interest and to establish fair and impartial procedures for providing excess water capacity concurrency ratings to Summit Water and Mountain Regional.

117. On numerous occasions, Jarvis for Montgomery Watson, requested or demanded additional information from Summit Water when such information was (a) already in Jarvis' possession, (b) not demanded of other water suppliers, or (c) irrelevant to Summit Water's concurrency rating.

118. In November, 2000, Mountain Regional met with the Utah Board of Water Resources in an attempt to dissuade the Board from granting Summit Water a loan for a portion of the construction costs on its treatment plant.

119. Montgomery Watson through Jarvis refused to allow Summit Water to issue "willing to serve" letters totaling more than 333 gpm unless and until Summit Water performed expensive and time-consuming physical pump tests of all its wells. Other water providers, most notably Mountain Regional and SCSC, Inc., a company controlled by Doilney, were not required to pump test all their wells to receive a final concurrency rating under Ordinance No. 400. Nothing in Ordinance No. 400 gave Jarvis the authority to limit Summit Water's ability to compete in this manner.

120. Summit Water was forced to agree to pump test its wells because Jarvis made it clear he would not issue Summit Water any concurrency rating unless the pump tests were performed. Jarvis knew that

his refusal to issue any water concurrency rating would prohibit the Antitrust Plaintiffs from competing in the sale, distribution and delivery of any culinary water.

121. To perform the pump tests that Jarvis demanded, Summit Water was required to stop production on each tested well for at least 24 hours.

122. Summit Water protested against performing pump tests during the winter because, during the winter, seasonal recharge of the wells has not yet occurred. Moreover, winter pump test results are irrelevant to an evaluation of a well's summer performance capabilities.

123. Summit Water, under protest, performed pump tests on each of its wells from October, 2000 through January, 2001. The total cost of the pump testing, including consulting and legal fees, was very substantial, an expense entirely absorbed by Summit Water.

124. Notwithstanding, the results of Summit Water's pump tests revealed that Summit Water's winter source capacity was within five percent of its summer source capacity as determined by DDW. That difference is remarkably small considering that the pump tests were performed immediately following one of the driest summers on record and before any seasonal recharge had occurred.

125. Summit Water submitted the pump test results to Jarvis and Montgomery Watson on January 15, 2001.

126. On January 16, 2001, Summit Water appeared before Cone, Schifferli and Kerr, acting as County Commissioners, to again request a final concurrency rating under Ordinance No. 400.

127. At that hearing, Montgomery Watson through Jarvis admitted on the record that they had all the information they needed to issue Summit Water's final concurrency rating and Jarvis indicated they would do so by March 1, 2001.

128. As of January 16, 2001, Summit Water was the only water supplier to submit a concurrency application that had not received a final concurrency rating.

129. Montgomery Watson through Jarvis failed to issue a concurrency rating on March 1, 2001.

130. On May 17, 2001, the County Commission adopted Ordinance No. 415 which replaced Ordinance No. 400. By its express terms Ordinance No. 415 was not to be implemented until January 2, 2002. Ordinance No. 415 continued the concurrency process but required more voluminous and detailed information from water suppliers than Ordinance No. 400.

Mountain Regional Files Sham Eminent Domain Case Seeking to Condemn all of Summit Water's Business and Properties

131. On April 4, 2001, Mountain Regional's governing board, consisting of Defendant, Summit County Commission, Schifferli, Cone and Kerr, passed a resolution authorizing Mountain Regional to commence the condemnation by eminent domain of all of Summit Water's properties, assets and business.

132. Mountain Regional and Jarvis, Thomas, Dolley and the other Defendants all participated in efforts to reduce the perceived value of Summit Water's assets in advance of the condemnation resolution and continued in those efforts through and after the condemnation action in an effort to eliminate Summit Water as a competitor.

133. On April 23, 2001, Mountain Regional filed a petition with this Court seeking a temporary restraining order and permission to restrain all of Summit Water's assets, including the cash in all of its bank accounts, which action the County, though a shareholder and defendant in the condemnation action, subsequently joined.

134. At a hearing on May 2, 2001, the Court denied Mountain Regional's motion for a temporary restraining order. Mountain Regional's motion sought immediate access to Summit Water's books and records.

135. Jarvis received substantial amounts of compensation as his incentive to act as a conspirator to eliminate Summit Water from the water market and to establish Mountain Regional as a monopolist.

136. Jarvis independently filed his affidavit in the condemnation proceedings in support of Mountain Regional's condemnation of Summit Water and in an effort to diminish Summit Water's available water resources, water connections and value. Jarvis, receiving substantial monies for his conspiratorial conduct and combinations, acted independently and of his own accord in this and other efforts to eliminate Summit Water as a competitor to Mountain Regional in the relevant market and in furtherance of the Defendants' conspiracy to restrain trade and commerce and to monopolize the relevant market.

137. At a hearing on June 14, 2001, the Court granted Summit Water's motion to dismiss Mountain Regional's condemnation action, ruling that Mountain Regional had neither the direct authority nor the derivative authority through Summit County to condemn the extraterritorily assets of a company located outside of Mountain Regional's service area.

138. At that hearing, Mountain Regional claimed that it did not seek to condemn Summit Water's surplus water or the interests of the Investor Shareholders holding Class A shares. However, it expressly sought to condemn all of Summit Water's wells and other water sources and facilities then in operation, each of which physically produce the surplus water. Through this facade, Mountain Regional really intended to acquire all of Summit Water's water and infrastructure without having to compensate the Investor Shareholders' capital investment in the same.

Defendants' Artificially and Unreasonably Low Excess Water Concurrency Ratings to Summit Water

139. Despite numerous written and verbal requests from Summit Water, Jarvis and Montgomery Watson, acting on their own behalf and for the above referenced co-conspirators, did not issue Summit Water's final concurrency rating until July 2, 2001, immediately prior to the dismissal of Mountain Regional's condemnation action.

140. Despite Summit County and its County Commission's repeated assurances that Summit Water's concurrency rating would be evaluated under Ordinance No. 400, Jarvis and Montgomery Watson, calculated Summit Water's final concurrency rating under Ordinance No. 415 and concluded, as set forth in a letter dated July 2, 2001, that Summit Water had only 178 gpm of excess source capacity.

141. Because of Summit Water's history and record for excess water capacity, in each of Summit Water's prior concurrency ratings the drought reserve had been completely waived. However, in calculating Summit Water's final concurrency rating of July 2, 2001, Defendants arbitrarily and capriciously refused to waive any part of the drought reserve. Defendants also arbitrarily and capriciously refused to use the DDW's capacity ratings. Jarvis and Montgomery Watson claimed as reasons that all aquifers in Summit County were depleting and that all water systems leaked.

142. Defendants applied the full 15% drought reserve to Summit Water when they knew from the winter pump tests and DDW ratings that Summit Water's wells were not diminishing and when they had no evidence whatsoever that Summit Water's system leaked. In fact, Summit Water has established that its system does not leak.

143. Summit Water's final concurrency rating of 178 gpm was arbitrary, capricious and illegal.

144. There was no basis for a 178 gpm rating because the only reliable and relevant data Jarvis and Montgomery Watson possessed regarding Summit Water's summer source capacity supported a rating of 836.63 gpm.

145. The 178 gpm rating was also baseless because all the reliable and relevant data Defendants possessed supported a complete waiver of the drought reserve.

146. Jarvis' failure to lawfully issue Summit Water concurrency letters matching its actual source capacity created the false perception that Summit Water was a weak water provider.

147. Jarvis' failure to lawfully issue Summit Water concurrency letters matching its actual source capacity created a disincentive for new customers to buy water from Summit Water because they knew they

would be unable to obtain building permits during the summer construction season. Two large Summit Water served developments, Bear Hollow Village and Club Regent, suffered severe financial hardship as a result of such delays and eventually went into foreclosure.

Summit Water's Futile Appeal to Summit County and The County Commission of its Unreasonably Low Concurrency Rating

148. After receiving the 178 gpm rating, Summit Water sued certain Defendants seeking judicial intervention against Summit County's and Jarvis's and Montgomery Watson's biased and unlawful treatment of Summit Water.

149. Summit County asked the Court to dismiss Summit Water's lawsuit because Summit Water had failed to exhaust its administrative remedies. Summit County argued that Summit Water could either (a) appeal its concurrency rating directly to Cone, Schifferli and Kerr sitting as the County Commission, or (b) submit the appeal to "peer review."

150. Under the "peer review" process established under Ordinance No. 400, an unidentified and unknown individual chosen by the County Commission, at Jarvis' recommendation, who would review materials provided only by Jarvis with no input from or even notice to Summit Water, would then make recommendations to the County Commission. However, the County Commission still made any final decision regarding the appeal.

151. Accordingly, the only options for appeal that Summit County gave Summit Water vested final decision making authority in Cone, Schifferli and Kerr sitting as the County Commission.

152. Throughout the appeal process, Summit Water repeatedly pointed out the County Commission's inherent and irreconcilable conflict of interest. However, the County Commission never recused itself from deciding the appeal.

153. To assist in reviewing Summit Water's appeal, the County Commission retained Dr. David Eckhoff ("Eckhoff"), an "independent" expert in hydrogeology merely to provide recommendations to the County Commission. The County Commission was not bound to accept all or any of his conclusions.

154. Summit Water made tremendous expenditures of time and money in appealing the final concurrency rating of 178 gpm.

155. On August 9, 2001, Summit Water appeared at a public hearing before the County Commission and presented live testimony of its general manager, its contract hydrologist, and Dr. Alan Mayo.

156. On August 17, 2001, Dr. Eckhoff issued his report and recommendations. Dr. Eckhoff did exactly what Defendants planned he would do - without any factual analysis or explanation, he simply split the difference between Jarvis' decision and Summit Water's position and arbitrarily concluded that Summit Water's final concurrency rating should be 550 gpm.

157. Dr. Eckhoff's report was devoid of any explanation of how the 550 gpm rating was calculated. Dr. Eckhoff's report contained no calculation of Summit Water's source capacity and imposed, without explanation, a five percent drought reserve.

158. On August 23, 2001, the County Commission held a public meeting and voted to adopt only three of the seven conclusions in Dr. Eckhoff's report, including the conclusion that Summit Water's final concurrency rating under Ordinance No. 400 should be 550 gpm.

159. The County Commission did not disclose during that meeting that it had already adopted a 27 page set of "Findings of Fact and Conclusions of Law" drafted by Thomas and Jarvis.

160. The County Commission's "Findings of Fact" were contrary to the facts actually developed on the record, contained personal attacks on Summit Water and went far beyond simply adopting 3 paragraphs of Dr. Eckhoff's report.

161. For example, the County Commission's "Findings of Fact" repeatedly stressed that physical pump tests were required under Ordinance No. 400 and that all other water suppliers performed such tests

before Summit Water. In fact, Jarvis did not require other water suppliers, including Mountain Regional or SCSC, Inc., a water company controlled by Dollney, to perform pump tests on their wells before he issued their final concurrency ratings.

162. The County Commission's "Findings of Fact" also addressed at length personal clashes between Summit Water and Jarvis that were irrelevant either to Summit Water's appeal or the concurrency rating. Throughout its appeal, Summit Water refrained from indulging in personality attacks and conflicts and focused instead on the technical merits of its appeal.

163. In contrast, the arguments of Jarvis and Montgomery Watson, acting individually, to the County Commission focused on Jarvis' personal conflicts with Summit Water and were riddled with diatribe, invective and malice. Jarvis' arguments completely failed to address the technical basis for Summit Water's concurrency rating.

164. During the first public hearing regarding Summit Water's appeal, on August 9, 2001, the County Commission complimented Summit Water for addressing the merits of its appeal and for not engaging in personal attacks. Conversely, the County Commission had to direct Jarvis to turn to the actual merits of Summit Water's appeal after he spent 45 minutes addressing his personal conflicts with Summit Water and other matters entirely irrelevant to Summit Water's concurrency rating. The County Commission then included over 26 pages of these personal conflicts in its "Findings and Conclusions" after expressly stating their lack of relevance, expressly complimenting Summit Water for avoiding such conflicts, expressly advising Jarvis to avoid conflicts and respond on the merits and expressly stating at the August 23, 2001 hearing that its findings and conclusions would contain only 3 paragraphs of Dr. Eckhoff's report.

165. The County Commission's "Findings of Fact and Conclusions of Law" set forth the County Commission's conclusion that Summit Water's final concurrency rating was 550 gpm and that, if Summit Water wanted to appeal that finding, it could do so to the District Court.

166. The County Commission's "Findings of Fact and Conclusions of Law" were devoid of any calculation of Summit Water's source capacity and failed to set forth any support for a final rating of 550 gpm.

Defendants' Artificially and Unreasonably High Concurrency Rating to Mountain Regional

167. Jarvis gave Mountain Regional a final concurrency rating for 2000 of 1365 gpm which included water for two wells - Well 15b and Nugget Well - that had not yet been approved as sources of drinking water by DDW, failed to account for actual water shortages then being experienced by Silver Springs Water Company and other companies owned or managed by Mountain Regional, and failed to apply a drought reserve to any water sources except for Well 15b and Nugget Well.

168. While Summit Water was required to struggle for more than a year and incur tremendous expense only to be issued an arbitrary, capricious and illegal final concurrency rating, Mountain Regional sailed through the concurrency process with ease incurring de minimus expense and putting in minimal time.

169. Thereafter, Mountain Regional's concurrency rating was increased to 1,753 gpm, nearly three times Summit Water's 550 gpm rating.

170. Mountain Regional, unlike Summit Water, was not required to pump test all its wells to receive its final concurrency rating.

171. Mountain Regional's concurrency application was not subjected to Jarvis' overreaching, arbitrary and unlawful scrutiny because it was prepared by him.

172. Jarvis applied the 15% drought reserve to Summit Water because "all water systems leak" and because Jarvis believed without support that the aquifers in the Snyderville basin were depleting. Jarvis arbitrarily and capriciously failed to consistently apply these opinions to Mountain Regional. Summit Water established that its wells do not leak. Summit Water established that its wells are not depleting but remain constant.

173. Mountain Regional gave itself a concurrency rating for Well 15b of 1200 gpm, nearly 385 gpm more than the 815 gpm subsequently approved by the DDW.

174. Mountain Regional gave itself a concurrency rating for Well No. 10 of 300 gpm, even though the well had never been pump tested and Mountain Regional had no well performance data.

175. Mountain Regional gave itself a concurrency rating of 350 for the Nugget Well, even though that well had never been approved by the DDW as a source of drinking water.

176. Even by its own numbers, Mountain Regional does not have enough water to serve planned connections in Promontory and the Colony while also serving the remainder of its existing connections.

177. Mountain Regional has been directly competing with the Antitrust Plaintiffs for new water customers. In doing so, Mountain Regional has been repeatedly informing potential customers that, based on the concurrency ratings, Mountain Regional has dramatically more water than Summit Water and that customers will receive building permit and subdivision plat approvals more quickly if they buy water from Mountain Regional.

Ordinance No. 415 Requires Summit Water to Again Make a Futile Attempt To Receive a Reasonable Concurrency Rating From Summit County and the County Commissioners

178. On or about May 17, 2001, the Summit County Commission passed and enacted Ordinance No. 415 with an effective date of January 2, 2002.

179. Ordinance No. 415 required water companies to submit further evidence in connection with obtaining a water concurrency rating, but mirrored Ordinance No. 400 in one critical respect - - the ultimate decision and determination of the water concurrency rating rested and was in the hands of the Summit County Commissioners in their capacity as the Summit County Commission.

180. Ordinance No. 415, and inferentially Nos. 385 and 400, was ultimately held unconstitutional by this Court and was replaced by Ordinance No. 415-A. Ordinance No. 415-A was only moderately different from Ordinance No. 415.

181. Ordinance No. 415-A was replaced by Ordinance No. 436 which was in turn replaced in 2005 by Ordinance No. 525.

182. Summit Water now faces parallel competitive difficulties as it is forced to submit to the re-rating process established under Ordinance No. 525. Under Ordinance No.525's express terms, Summit Water's arbitrary, capricious and illegal prior concurrency ratings are still being used in re-rating Summit Water's system.

Defendants' Attempts to Monopolize By Causing Mountain Regional to Acquire Water Companies Owned and Controlled by Doilney and Others

183. On May 1, 2001, Mountain Regional entered into asset acquisition agreements with Doilney owned and controlled entities MJMH2O, LLC and Willow Spring, LLC and SCSC, Inc. and, in which Mountain Regional openly acknowledged the goal of the conspiracy and the attempt to monopolize that all of the water companies would be consolidated under one publicly owned entity, Mountain Regional.

184. In those agreements, Mountain Regional agreed not to sell certain well water in competition with Doilney and agreed to provide water as and when requested to identified developments owned by Doilney prior to providing water to any other Mountain Regional customer.

185. On May 31, 2001, Mountain Regional entered into a similar acquisition agreement with Silver Springs Water Company.

186. Silver Springs Water Company was experiencing a water shortage of approximately 461 gpm since at least the summer of 2000.

187. As of June 1, 2001, Mountain Regional supplied approximately 32% of the ERCs in the Snyderville Basin, compared to Summit Water's 36% market share of ERCs.

188. Nearly all of Mountain Regional's growth has come through acquiring water companies suffering water shortages, including Timberline, Silver Springs Water Company and Summit Park Special Service District. The water deficits of these companies, which total over 500 gpm, never have been applied to reduce Mountain Regional's concurrency rating.

189. Mountain Regional now owns or controls all but 3 water companies in the Snyderville Basin of Summit County, Utah.

190. Mountain Regional financed its acquisition of these water companies through short-term revenue bond anticipation notes which resulted in more than $28,750,000 in debt. This $28,750,000 in debt did not result in any surplus water supply for Mountain Regional.

191. The result of each acquisition has been to reduce the alternative suppliers of water in the developments previously served by the takeover target from at least three (the target, Summit Water and Mountain Regional) to at best two (Summit Water and Mountain Regional).

Summit County and Mountain Regional tried to Delay Summit Water's East Canyon Project.

192. Because the Snyderville Basin is now closed to new appropriations of water in the County, Summit Water and Mountain Regional have engaged in separate and distinct efforts to develop major water importation projects and increase their ability to compete.

193. Summit Water's impartation project, the "East Canyon Project," is based on storage rights in the East Canyon Reservoir originally appropriated in 1898. Water under the East Canyon Project will be diverted from the East Canyon Reservoir and transported to Summit Water's new water treatment plant in the Snyderville Basin through a pipeline that will run down East Canyon Road. The pipeline

and water treatment plant will allow for the eventual diversion and use of 12,500 acre feet of water annually.

194. The projected demand for water exceeds the current capacities of both of the water projects proposed by Summit Water and Mountain Regional and the existence of those projects would lead to the creation of an extremely competitive water market in the Snyderville Basin.

195. Summit County, through the County Commission, serving in its capacity as both the governing body of Summit County and the board of directors of Mountain Regional, used its power in permitting to delay Summit Water and the completion of the East Canyon Project and thereby hinder competition:

a. In 1992 Summit Water filed an application to construct a water treatment plant at the north end of the Snyderville Basin to transmit water from the East Canyon Project.

b. In 1998 Summit Water secured approval from the State Engineer of a change application authorizing the diversion and use of up to 5,000 acre feet of water annually through the East Canyon Project.

c. By 2000, Summit Water had secured all of the necessary state, federal and local permits needed to construct the East Canyon Project, except for relatively simple excavation permits from Summit County and a conditional use permit from Morgan County.

d. The Summit County engineer acknowledged as early as 1999 that Summit Water had met all conditions and requirements for issuance of the excavation permits.

e. Summit County at the insistence of the conspirator, Thomas, nonetheless refused to issue the permits, thereby delaying the construction and completion of Summit Water's East Canyon Project and significantly hindering Summit Water's ability to compete in the relevant market.

f. In November 2000, Mountain Regional met the Utah Board of Water Resources in an attempt to dissuade it from granting Summit Water a loan for a portion of the construction costs of its water treatment plant.

Summit County's Tax Audit of Mountain Regional

196. In September, 2000, Summit County requested a tax audit of Summit Water, with the result that Summit Water's personal property tax assessment rose from just over $5,000 to nearly $60,000 per year.

197. The County Commission, sitting as the Board of Equalization, denied an appeal of the assessment even though the type of property now subject to assessment belonging to Summit Water has not ever been taxed when held by other water companies inside and outside the Snyderville Basin.

198. The tax audit information was later used by Mountain Regional in an attempt to establish a low value for Summit Water during Mountain Regional's condemnation proceedings against Summit Water.

199. As the governing body of Mountain Regional, the County Commission is obligated to recuse itself from all matters relating to water concurrency and tax assessment relating to Summit Water and Mountain Regional and to establish a procedure that ensures fair and unbiased concurrency ratings and tax assessment. However, the County Commission continues to directly regulate the concurrency process in a manner that eviscerates Mountain Regional's competitors, including the Antitrust Plaintiffs.

Antitrust Injury

200. Upon annexation into the Mountain Regional service area a property owner is required to pay an impact fee before receiving water service and may then receive water based upon Mountain Regional's rate structure. The property owner also bears a proportionate responsibility to pay any debt owed by Mountain Regional.

201. Mountain Regional's current debt exceeds $33 million, most of which was incurred purchasing existing water companies.

202. Utah Code Ann. § 70A-2-1329 prohibits de-annexation of property from within a special service district like Mountain Regional "if any bonds, notes, or other obligations of the district are outstanding and

unpaid or if any contractual obligation to provide the service exist." Accordingly, no development can leave Mountain Regional unless and until its share of the total debt is repaid.

203. As a condition of annexation into Mountain Regional all water distribution facilities necessary to serve a development must be conveyed to Mountain Regional. If a particular landowner or developer desires to switch service providers, that individual would be required to construct a duplicate water delivery system and to pay the alternative water supplier for the cost of obtaining the right to a connection.

204. The impact of the conduct described above has been a reduction in competition and increased prices in the relevant market. Mountain Regional's rates are between 300% to 350% higher than Summit Water's rates for equivalently less water, both in quality and quantity.

205. The unlawful conduct described above has substantially increased Mountain Regional's market power and has hindered Summit Water's ability to compete in the relevant market.

206. During the short period of time in which the Defendants were engaged in the anti-competitive conduct described above Mountain Regional's share of the relevant market has increased substantially.

207. If Defendants are successful in their stated plans to monopolize the relevant market and are allowed to continue to engage in predatory and anticompetitive conduct such as described above, there is a substantial and dangerous probability that Mountain Regional will achieve monopoly power in the relevant market.

208. Defendants efforts have harmed and will continue to harm consumers in the relevant market by causing them to pay more for lower quality water service. As a result of Defendants' actions consumers, developers and users have been forced to pay higher prices for water in the relevant market.

FIRST CAUSE OF ACTION
(Conspiracy and Combination to Restrain Trade and Impair Competition)

209. Plaintiffs incorporate by reference paragraphs 1 through 208 as though set out herein in *haec verba*.

210. This Cause of Action is made out under Article XII, Section 20 of the Utah Constitution and the antitrust laws of Utah, specifically, Utah Code Ann. § 76-10-914(1) and § 76-10-912. The Utah Constitutional Article is both prohibitory and mandatory that competition in a free market system is in the highest public interest and general welfare and that combinations and conspiracies in restraint of trade or in the elimination of competition and in the monopolization of or attempt to monopolize trade or commerce is unlawful and prohibited:

> "It is the policy of the state of Utah that a free market system shall govern trade and commerce in this state to promote the dispersion of economic and political power and the general welfare of all the people. Each contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is prohibited. Except as otherwise provided by statute, it is also prohibited for any person to monopolize, attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of trade or commerce."

Utah State Constitution, Article XII, Section 20.

The statute, Section 76-10-912 underscores the critical importance of competition in Utah commerce and business in its statement:

> "The legislature finds and determines that competition is fundamental to the free market system and that the unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, . . . conducive to the preservation of our democratic, political and social institutions.
>
> The purpose of this act is, therefore, to encourage free and open competition in the interest of the general welfare and economy of this State by prohibiting monopolistic and unfair trade practices, combinations and conspiracies in restraint of trade or commerce and by providing adequate penalties for the enforcement of its provisions."

Utah Code Ann. § 76-10-912.

211. The Utah Antitrust Act renders illegal combinations and conspiracies to interfere with or eliminate a competitor from the market. As stated in the Utah Antitrust Act:

> "Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is declared to be illegal."

Utah Code Ann. § 76-10-914(1).

212. A unanimous Supreme Court Decision on November 3, 2005 definitely held contrary to the Defendants' rambling argument characterized by the Supreme Court, itself, as a "tortured analysis", held that there is no Utah law or statute that authorized or directed the Defendants, or any of them, to suppress or eliminate competition or to establish a monopoly in a private water market in Utah.

213. In January 2000, the relevant product and geographic market was and is the sale, distribution and delivery of culinary water in the unincorporated areas of western Summit County, State of Utah, sometimes referred to for hydrologic and planning purposes as the Snyderville Basin, with each major development in the Snyderville Basin constituting a discrete geographic market.

214. In January 2000, there was strong and effective competition in the market between the Antitrust Plaintiffs, Mountain Regional, and nine other water companies.

215. As of January 2000, the Antitrust Plaintiffs and, to a far lesser extent, Mountain Regional were virtually the only competitors who had excess water capacity available for sale, distribution and delivery to new buyers and developers.

216. At that time, Mountain Regional's service area was a small fraction of the relevant market concentrated in the Silver Creek area, while Summit Water's shareholder customer base was far larger and spread throughout the reaches of the Snyderville Basin.

217. At or about January 2000, the Defendants conspired and combined and have continued to conspire and combine up to the present to unlawfully restrain trade and commerce in the relevant market and particularly, to injure and eliminate the Antitrust Plaintiffs as a competitor, to the injury and damages to

the business and properties of the Antitrust Plaintiffs, all in violation of Article XII, Section 20 of the Utah Constitution and the Utah Antitrust Act, Utah Code Ann. § 76-10-914(1).

218. As part of said conspiracy, said Defendants, and each of them, further conspired and combined with respect to water concurrency Ordinance No. 385 of Summit County, enacted on May 15, 2000, with the intent of using said Ordinance to down-rate water concurrency ratings of Summit Water and other private water companies, to inflate and strengthen the ratings of Mountain Regional, and to eliminate the Antitrust Plaintiffs as competitors in the market.

219. Defendants in the year 2000 and the year 2001 enacted and enforced successor Ordinance No. 400 and have enacted a succession of concurrency ordinances for the purpose of restraining and eliminating competition in the market, of increasing and strengthening the concurrency water rating of Mountain Regional, of down-rating and decreasing the concurrency water rating of Summit Water and to substantially impair and eliminate the Antitrust Plaintiffs as competitors in the market all to the Antitrust Plaintiffs' injury to business and properties in violation of Article XII, Section 20 of the Utah Constitution and the Utah Antitrust Act, Utah Code Ann. § 76-10-914(1).

220. In furtherance of the conspiracy and arrangement to eliminate competition in the market and to substantially impair and restrain trade by the Antitrust Plaintiffs as competitors in the market, the Defendants, and each of them, engaged in the following overt acts designed specifically to harm the Antitrust Plaintiffs in their efforts to fairly and effectively compete and to make Mountain Regional the exclusive provider in the relevant product and geographic markets:

a. Entering into agreements or arrangements with Defendant Doilney and others designed to increase Mountain Regional's market share, injure Summit Water as a competitor, and ultimately make Mountain Regional the exclusive provider in the relevant product and geographic markets.

b. The conspiracies and combinations of Jarvis, Doilney and others influenced developers and other consumers in the relevant market to purchase water from Mountain Regional when they could have purchased water at a lower cost from Summit Water and when Mountain Regional did not actually have the capacity to serve the customer's needs.

c. Adopting a concurrency ordinance and abusing the concurrency rating system to artificially lower Summit Water's concurrency rating and hinder its ability to compete for new customers while at the same time artificially increasing Mountain Regional's concurrency rating and ability to compete for new customers.

d. Delaying Summit Water in its efforts to complete its East Canyon Project.

e. Acquiring all but three of the water companies competing in the relevant market.

f. Using Summit County's tax power to increase Summit Water's property taxes and then using information gleamed in that process to support Mountain Regional's sham litigation aimed at condemning Summit Water.

g. Coercing developers such Pivotal and Iron Mountain to purchase water for new developments from Mountain Regional if they wanted their development plans and building permits approved by Summit County.

221. As part of the conspiracy and arrangement set forth herein, said Defendants have authorized, concurred and participated in agreements entered into between Mountain Regional, Summit County, and John Does 1-10 to impair and restrain competition from the Antitrust Plaintiffs, to unfairly obtain new and further water sales, to offer below-cost water prices to certain end users of companies acquired or managed by Mountain Regional and to waive impact fees charged to certain customers with the expectation of raising prices and fees if and when Mountain Regional achieves monopoly power over the market in the Snyderville Basin.

222. As a result of the conspiracies, agreements and arrangements set forth in this Complaint, the antitrust violations of the Defendants have injured competition and injured the Antitrust Plaintiffs in their business and properties.

223. The Antitrust Plaintiffs have been deprived of and lost business, have been precluded from competing effectively, and have sustained enormous costs and expenses, all in an amount to be proven at trial.

224. The Antitrust Plaintiffs are entitled to recover treble the amount of damages actually sustained by them plus reasonable attorneys fees and costs as against the Defendants Montgomery Watson, Jarvis, Thomas and Doilney, jointly and severally.

225. As a result of the Defendants' overt acts as alleged in this Complaint and injuries to the business and properties of the Antitrust Plaintiffs, the Antitrust Plaintiffs are entitled to a permanent prohibitory and mandatory injunction against the Defendants, and each of them, mandating that they observe the Utah Constitution and the antitrust laws of Utah and prohibiting and restraining said Defendants, and each of them, from further entering into conspiracies and arrangements and committing overt acts violating Article XII, Section 20 of the Utah Constitution and the Utah Antitrust Act, Utah Code Ann. § 76-10-914(1).

SECOND CAUSE OF ACTION
(Monopolization, Attempted Monopolization, Conspiracy to Monopolize)

226. Plaintiffs incorporate by reference paragraphs 1 through 225 as though set out herein in *haec verba*.

227. Beginning in January 2000 and continuing to the present, the Defendants have conspired, combined, and engaged in overt anti-competitive conduct with the specific intent of Mountain Regional monopolizing the market in violation of Utah Code Ann. § 76-10-914(2).

228. Mountain Regional has achieved substantial market share since 2000 as a consequence of the actions of Defendants through the water concurrency Ordinances and by controlling or attempting to

control who can sell water, how much water can be sold, tying building permits and planning approval and other anti-competitive conduct.

229. The Defendants by overt act and in concert with each other, have, with premeditation, made it extremely costly and difficult in the water concurrency process for the Antitrust Plaintiffs to compete in the market and to provide strong competition against Mountain Regional.

230. After attempting to regulate, control and injure the Antitrust Plaintiffs' business and business properties through water concurrency ordinances in furtherance of the monopolization scheme or attempt to monopolize, Mountain Regional filed an eminent domain action against Summit Water in April 2001 in the Third District Court for Summit County, Utah to condemn all of Summit Water's business and business assets, water rights, real property, personal property, bank deposits, all business records, papers and documents, all contracts, permits, pipelines, well pumps, and all infrastructure of Summit Water facilities and properties.

231. Mountain Regional's eminent domain action against Summit Water was in furtherance of the Defendants' conspiracies and arrangements to monopolize or attempt to monopolize the market and to gain complete control and possession of Summit Water's business, business records, assets, cash, bank accounts and facilities without compensating the Investor Shareholders in order to eliminate the Antitrust Plaintiffs as Mountain Regional's largest remaining competitor in the Snyderville Basin water market in Summit County.

232. The Mountain Regional eminent domain action sought further to condemn by eminent domain all of the property rights of the Class B shareholders of Summit Water in a class action complaint, which interests constitute an integral part of the real property of each of some 1,200 shareholders. Said action sought further to eliminate the rights of Class A shareholders in the properties and assets of Summit Water.

233. The attempted eminent domain scheme of Defendants was aided, abetted and assisted by Summit County and the Summit County Commission in the form of motions to intervene and by Montgomery Watson in affidavits filed by Jarvis in the conflicting roles as an independent contractor to Mountain Regional, as water consultant, and Summit County as Water Concurrency Officer.

234. Mountain Regional sought to condemn extraterritorily outside of its Special Service District all of the properties, assets, business records, bank accounts and business of Summit Water to eliminate the Antitrust Plaintiffs as competitors and to establish and effectuate a monopoly in the relevant market in the Snyderville Basin.

235. The district court for the Third Judicial District of Summit County, Utah, granted Summit Water's motion to dismiss Mountain Regional's complaint on June 14, 2001 and on July 8, 2001 entered a final Order of Dismissal of Mountain Regional's complaint finding that Mountain Regional had no authority or power to condemn by eminent domain the properties, assets and business of Summit Water.

236. The Defendants, in concert and by overt acts, have continued their conspiracy and combination of attempting to eliminate the Antitrust Plaintiffs as competitors in the market and to establish Mountain Regional as a monopoly, all in violation of the Utah Constitution Article XII, Section 20 and Utah Code Ann. § 76-10-914(2).

237. As a result of Defendants' conduct, the Antitrust Plaintiffs have been damaged and injured in their business and properties, in their inability to compete and in their enormous costs and expenses of operation, in an amount to be proven at trial.

238. As a result of Defendants' conspiracies, arrangements and overt acts as alleged above, the Antitrust Plaintiffs are entitled, pursuant to the Utah Constitution Article XII, Section 20 and Utah Code Ann. § 76-10-919(1) to a permanent injunction prohibiting Summit County from further attempts to

eliminate the Antitrust Plaintiffs as competitors in the market and to monopolize or attempt to monopolize.

239. Further, as a result of Montgomery Watson, Jarvis, Thomas and Doilney's participation in and as a part of the conspiracies and arrangements to monopolize or attempt to monopolize the market, the Antitrust Plaintiffs, pursuant to the Utah Constitution Article XII, Section 20 and the Utah Antitrust Act are entitled to a money judgment against Montgomery Watson, Jarvis, Thomas and Doilney jointly and severally for treble the damages actually sustained by plaintiffs as determined by trial, together with reasonable attorneys fees and costs.

PRAYER FOR RELIEF

WHEREFORE, the Antitrust Plaintiffs pray for relief against the Defendants and each of them as follows:

I. As to the First Cause of Action for conspiracy and combination to restrain trade and impair competition in violation of the antitrust laws of Utah:

(1). Against the Defendants, Summit County, Summit County Commission, Mountain Regional, and the individual Summit County Commissioners, Cone, Kerr and Schifferli, Mountain Regional and its president, Evans, Montgomery Watson, Jarvis, Thomas and Doilney, jointly and severally, for a permanent, prohibitory and mandatory injunction that they, and each of them, observe and obey Article XII, Section 20 of the Utah Constitution and the Utah Antitrust Act and a permanent, prohibitory and mandatory injunction that they observe and obey the antitrust constitutional provision and the laws of Utah and a permanent, prohibitory injunction restraining and barring further conspiracies, arrangements, agreements and combinations to violate the Utah Constitution and the Utah Antitrust Act.

(2). Against Montgomery Watson, Jarvis, Thomas and Doilney, jointly and severally, for compensatory damages, trebled under the antitrust laws of Utah for the injury to the Antitrust

Plaintiffs' properties and business to be proven at trial, together with reasonable attorneys' fees and costs of litigation; and for a prohibitory and mandatory injunction consistent with the injunctive relief sought against other defendants.

(3). For such other and further relief as the Court deems just, equitable and proper in the premises.

II. As to the Second Cause of Action for monopolization, attempted monopolization, and conspiracy to monopolize in violation of Article XII, Section 20 of the Utah Constitution and the Utah Antitrust Act:

(1). As against the Defendants, Summit County, Summit County Commission, and the individual Summit County Commissioners, Cone, Kerr and Schifferli; Mountain Regional and its president, Evans, Montgomery Watson and its agent, Jarvis, Thomas and Doilney, jointly and severally, for a permanent, prohibitory and mandatory injunction that they observe and obey Article XII, Section 20 of the Utah Constitution and the Utah Antitrust Act and a permanent, prohibitory injunction restraining said Defendants, and each of them, from engaging in conspiracies and arrangements or overt acts of monopolization or attempts to monopolize the market in violation of the Utah Constitution and the Utah Antitrust Act.

(2). Against Montgomery Watson, Jarvis, Thomas and Doilney, jointly and severally, for compensatory damages, trebled under the antitrust laws of Utah for the injury to the Antitrust Plaintiffs' properties and business to be proven at trial, together with reasonable attorneys' fees and costs of litigation; and for a prohibitory and mandatory injunction consistent with the injunctive relief sought against other defendants.

(3). For such other and further relief as the Court deems is just, equitable and proper in the premises.

DATED this 17th day of March, 2006.

Respectfully submitted,

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DEMAND FOR TRIAL BY JURY

Pursuant to the Constitution of Utah and Utah Rule of Civil Procedure 38, Plaintiff, Summit Water Distribution Company, hereby demands that all issues of fact, triable by and reserved to a jury under the Constitution and the common law be tried to and by a jury.

DATED this 17th day of March, 2006.

Respectfully submitted,

ROBERT S. CAMPBELL

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CERTIFICATE OF SERVICE

I hereby certify that I am a member of and/or employed by the law firm of Van Cott Bagley Cornwall & McCarthy, Suite 1600 Key Bank Tower, 50 South Main Street, Salt Lake City, Utah, 84145-0340, and that in said capacity and pursuant to Rule 5(b), Utah Rules of Civil Procedure, a true and correct copy of **SECOND AMENDED COMPLAINT DEMAND FOR TRIAL BY JURY** was served on the following this 17th day of March, 2006 by:

[ ] Hand Delivery

[ ] Facsimile No.

[X] Depositing the same in the U.S. Mail, postage prepaid

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