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Application of Juniper Canyon, LLC for Exemption	<u>DOCKET NO. 21-2630-01</u> <u>ORDER GRANTING EXEMPTION FROM REGULATION</u>
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ISSUED: August 13, 2021

### **BACKGROUND**

On July 15, 2021, Juniper Canyon, LLC (“Juniper”) filed an Application and Attachments for Exemption (“Application”) from regulation by the Public Service Commission (PSC). The Application explains that the company will be serving its members only and not the public generally. In addition, the Application states that Juniper intends to serve 35 residential lots.

On August 11, 2021, the Division of Public Utilities (DPU) filed a memorandum (“DPU Recommendation”), recommending the PSC grant the Application. DPU states that Juniper is a new water company planning to serve 35 residential lots in a proposed subdivision located in Iron County in or near Cedar City, Utah. DPU states that according to records of the Utah Division of Corporations, Juniper is listed as an “[a]ctive” and “[c]urrent” domestic LLC.<sup>1</sup> DPU further states that Juniper is working with the Utah Department of Environmental Quality, Utah Division of Drinking Water (DDW) to prepare an application for DDW’s approval.<sup>2</sup>

### **DISCUSSIONS, FINDINGS OF FACT, AND CONCLUSIONS OF LAW**

Utah Code Ann. § 54-4-1 vests the PSC with the power and jurisdiction to regulate public utilities, including water corporations. Utah Code Ann. § 54-2-1(38) defines a water corporation

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<sup>1</sup> DPU Recommendation, at 1-2.

<sup>2</sup> *Id.*, at 2.

as “every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state.” It specifically states that a water corporation “does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.”<sup>3</sup>

As represented in the Application and DPU Recommendation, Juniper intends to only serve its members. The Application and DPU Recommendation confirm Juniper will not provide water service to the public generally. Based on these representations, the PSC finds and concludes that Juniper does not meet the definition of a water corporation under Utah Code Ann. § 54-2-1(38). Therefore, it is not subject to the PSC’s jurisdiction and is thus exempt from regulation.

### **ORDER**

Because Juniper will serve only its members, and will not otherwise serve the general public, the PSC concludes Juniper is exempt from the PSC’s regulation and grants the Application in accordance with Utah Code Ann. § 54-2-1(38). The letter of exemption is attached to this Order as Exhibit A.

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<sup>3</sup> *Id.*

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DATED at Salt Lake City, Utah, August 13, 2021.

/s/ Yvonne R. Hogle  
Presiding Officer

Approved and confirmed August 13, 2021 as the Order of the Public Service Commission  
of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#319964

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

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Exhibit A



## State of Utah

SPENCER J. COX  
*Governor*

DEIDRE M. HENDERSON  
*Lieutenant Governor*

## Public Service Commission

THAD LeVAR  
*Chair*

DAVID R. CLARK  
*Commissioner*

RON ALLEN  
*Commissioner*

### LETTER OF EXEMPTION NO. 243

August 13, 2021

Brian Nichols  
Trudi Nichols  
Juniper Canyon, LLC  
2045 N Main Street  
Cedar City, UT 84721

Dear Mr. and Ms. Nichols,

The Public Service Commission (PSC) has reviewed the proposed application for exemption for a new water company, filed on behalf of Juniper Canyon, LLC (“Juniper”) on July 15, 2021.

On August 11, 2021, the Division of Public Utilities (DPU) recommended the PSC grant the request for exemption because Juniper “is a new water company planning to serve 35 residential lots in a proposed subdivision located in Iron County in or near Cedar City, Utah”<sup>4</sup> and will be “serving members only.”<sup>5</sup> Utah Code Ann. § 54-2-1(38) excludes water corporations from PSC regulation that distribute water only to their stockholders or members. Thus, it appears an exemption for Juniper is appropriate.

Please be advised that this Letter of Exemption No. 243 is granted pursuant to the representations contained in the Application and on the basis of DPU’s confirmation that Juniper will serve only its members and not the public generally. Juniper has a continuing obligation to update the PSC within 30 days of any change.

This Letter of Exemption No. 243 is revocable for cause at any time. Please refer to this letter number in any future correspondence with either the PSC or DPU.

Sincerely,

/s/ Gary L. Widerburg  
PSC Secretary  
DW#319964

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<sup>4</sup> DPU Recommendation, at 1 (August 11, 2021).

<sup>5</sup> *Id.*, at 2.

CERTIFICATE OF SERVICE

I CERTIFY that on August 13, 2021, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

Brian Nichols ([brian@buildthewest.com](mailto:brian@buildthewest.com))  
Trudi Nichols ([trudi@buildthewest.com](mailto:trudi@buildthewest.com))  
Juniper Canyon, LLC

Patricia Schmid ([pschmid@agutah.gov](mailto:pschmid@agutah.gov))  
Justin Jetter ([jjetter@agutah.gov](mailto:jjetter@agutah.gov))  
Assistant Utah Attorneys General

Madison Galt ([mgalt@utah.gov](mailto:mgalt@utah.gov))  
Division of Public Utilities

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Administrative Assistant