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*Attorney for Highlands Water Co., Inc.*

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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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HIGHLANDS WATER COMPANY, INC.,

Applicant,

v.

MOUNTAIN GREEN MUTUAL WATER  
COMPANY and VILLAGE AT TRAPPERS  
LOOP LLC,

Intervenors.

**REQUEST TO VOLUNTARILY DISMISS  
DOCKET 23-010-01 AND STAY DATA  
REQUEST RESPONSES**

**Docket No. 23-010-01**

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**REQUESTS FOR RELIEF AND GROUNDS THEREFOR**

Highlands Water Company, Inc. (“Highlands”), by and through its above-named counsel and pursuant to Utah Rule of Civil Procedure 41(a)(2), desires to voluntarily dismiss Docket 23-010-01 (the “Docket”) and hereby requests an Order of Dismissal from the Public Service Commission (“PSC”). While PSC weighs Highlands’ request for voluntary dismissal, Highlands also requests that its deadline to respond to data requests in the Docket be stayed.

In September 2023, Highlands initiated the Docket to update and legally establish its service area. The Docket has persisted for the past 18 months. While recently sorting through historic files and documents to provide responses to data requests in the Docket, Highlands discovered *PSC Reports and Orders from 1965, 1966, and 1976 that already established*

**Highlands' service area.** The Docket should be dismissed because: (1) Highlands already has a service area legally recognized by PSC; and (2) Highlands needs time to compare the already established service area described in PSC's prior Orders with its current service area request. When ready, Highlands will return to PSC with clear maps and descriptions concerning what is already established and what must be added or altered based on Highlands' current operations. As it stands, however, the current Docket is premature and if forced to move forward, will occupy time and resources that are duplicative and unnecessary due to these recent findings.

### **RELEVANT FACTS**

On May 6, 1965, PSC entered a Report and Order in Case No. 5572 concluding that Highlands "should be issued a certificate of convenience and necessity to operate as a utility furnishing water for useful purposes within the Highlands Subdivision." (May 1965 Report and Order attached as Exhibit A.) PSC issued Certificate of Convenience and Necessity No. 1520 authorizing Highlands "to operate as a public utility providing water for culinary, domestic, and other useful purposes, in the area designated as Highlands Subdivision in Morgan County, Utah."

On August 11, 1966, PSC entered a subsequent Report and Order in Case No. 5572 ("SUB-1") in response to Highlands' request to expand its facilities and service area. (August 1966 Report and Order attached as Exhibit B.) The original certificate issued to Highlands authorized it to render water service in two subdivisions designated as Highlands Addition No. 1 and Highlands Addition No. 2. In SUB-1, Highlands abandoned Addition No. 2 and sought to extend its certificate "authorizing it to expand its water system, including the pump and storage facilities, to render water service to Highlands Additions 3, 4, and 5 ... and also to future subdivisions that may be created adjacent to those subdivisions." PSC ordered that "the

certificate of convenience and necessity now held by [Highlands] should be amended to include Highlands Additions Numbers 3, 4, and 5 and all of the additional area” legally described in the Order. (Legal Descriptions included in Ex. B.)

Ten years later, on February 25, 1976, PSC entered a third Report and Order in Case No. 5572 (“SUB 2 and 4”) in response to another request from Highlands to expand its certificated area. (February 1976 Report and Order attached as Exhibit C.) PSC ordered that Highlands certificated area “be expanded to include the additional areas” described in the exhibit attached to the Report and Order. After the Court’s 1976 Report and Order, Highlands had a legally recognized and enforceable service area that included all the property surveyed and legally described in the attachments to the above-listed Reports and Orders.

In the nearly 50 years since these Orders were issued, they became lost as significant time passed and Highlands transitioned from paper to digital files and experienced changes in ownership and management. Also, the Orders are not accessible online as PSC’s online case archives only date back to approximately 1998. Being unaware of PSC’s previous Reports and Orders and the fact that its service area was already established, Highlands submitted its application to update its service area in September 2023 (Docket 23-010-01).

In the process of searching its historical files to respond to data requests in the Docket, Highlands recently discovered the 1965, 1966, and 1976 Reports and Orders. Highlands realized that its service area was already established 50 years ago and that service area it has been seeking to establish in the Docket must be reconsidered given these findings.

## ARGUMENT

“The Utah Rules of Civil Procedure ... are persuasive authority in Commission adjudications unless otherwise provided by: (1) Title 63G, Chapter 4, Administrative Procedures Act; (2) Utah Administrative Code R746; or (3) an order of the Commission.” Utah Admin. Code 746-1-105. In Highlands’ search of the Administrative Procedures Act and Utah Administrative Code R746, no language concerning voluntary dismissals or withdrawals of dockets was found. Turning to the Utah Rules of Civil Procedure, Rule 41(a) governs dismissals of actions. It states, “an action ... may be dismissed at the [applicant’s] request by court order ... on terms the court considers proper.” Utah R. Civ. P. 41(a)(2).

Highlands desires to voluntarily dismiss the Docket and requests an Order of Dismissal from PSC. Dismissing the Docket is proper given that: (1) The applicant who initiated the Docket in the first place, Highlands, desires to voluntarily dismiss it; (2) there are no counterclaims, crossclaims, or anything of the like to be dealt with—only one intervenor protesting the proposed service area Highlands now wishes to voluntarily withdraw (this intervenor will not be prejudiced by the dismissal, as they will have the opportunity to protest or attempt to intervene in the event Highlands files a new service area request in the future with more accurate mapping and information); and (3) PSC Orders from 1965, 1966, and 1976 have been found that already legally establish Highlands’ service area.

Knowing the 1965, 1966, and 1976 Reports and Orders exist, and that Highlands’ service area has already long been established, Highlands is now in the process of comparing the service area it has been attempting to establish over the past 18 months with the service area already established 50 years ago. While they closely resemble one another, they do not exactly match.

Highlands is in the process of obtaining surveys and mapping to accurately compare and contrast the service areas to see what is or is not included, and whether a request to establish a new service area is even necessary at this point.

However, at a minimum, Highlands' requests in the current Docket are no longer accurate nor necessary, and Highlands must go through the process of determining what exactly it needs to establish moving forward. As it stands, the Docket should not (and really, cannot) proceed forward as the newly discovered historic PSC Orders completely change what Highlands thought it needed to do. Once Highlands has all the information, legal descriptions, surveys, and mapping it is currently working on obtaining, it is Highlands' intent to re-file a new docket once it knows exactly what it needs to ask for. In the meantime, it is proper to dismiss this Docket as the requests and information contained therein are either moot, irrelevant, duplicative, or otherwise unnecessary and there would be no reason to incur the time, effort, and expense of moving it forward.

Due to Highlands' request to voluntarily dismiss the Docket and while it waits for PSC's decision on the dismissal, Highlands requests that its deadline and requirement to respond to data requests in the Docket be stayed. If PSC orders the dismissal of the Docket, the data requests and all of the documentation and information sought therein, becomes irrelevant. Because responding to the requests will take significant time, effort, and expense, Highlands requests a stay until the dismissal request is considered and ruled upon.

DATED this 28<sup>th</sup> day of March 2025.

GORDON LAW GROUP, PC

/s/ Corbin B. Gordon  
*Attorney for Highlands Water Co.*

## CERTIFICATE OF SERVICE

I hereby certify that on the 27<sup>th</sup> day of March 2025, I filed a copy of the above-captioned document with the Public Service Commission and emailed copies of the document to the following:

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Patrick Grecu  
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GORDON LAW GROUP, PC

/s/ Corbin B. Gordon  
Corbin B. Gordon  
*Attorney for Highlands Water Co, Inc.*

# **EXHIBIT A**



- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of  
HIGHLANDS WATER COMPANY, INC.,  
Morgan County, Utah, for a Certificate  
of Convenience and Necessity to operate  
as a public water utility.

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CASE NO. 5572

REPORT AND ORDER

Appearances:

Allen H. Tibbals

For

Applicant

W. A. Robinson and  
T. E. Thain

"

Public Service Commission  
Staff

By the Commission:

The above-entitled application of Highlands Water Company, Inc., came on for hearing before the Commission at its offices in Salt Lake City, Utah on May 6, 1965, and was concluded on the same day. Notice of the hearing was given by mail to interested parties and also by publication in The Salt Lake Tribune, a daily newspaper published in Salt Lake City, Utah. There were no protests entered.

From the evidence submitted the Commission now finds as follows:

1. The applicant, Highlands Water Company, Inc., is a corporation organized and existing under the laws of the state of Utah with its principal place of business in the town of Morgan, Morgan County, Utah. A certified copy of its articles of incorporation was made a part of the record in this proceeding as Exhibit No. 3. The articles provide for 5,000 shares of common stock of no par value. The names of the incorporators are A. Kent Smith and JoAnn L. Smith of Sunset, Utah and Dale T. Smedley and Helen B. Smedley of Syracuse, Utah. The applicant's articles authorize it to own and operate water and water rights and physical facilities



to engage in the business of providing water for irrigation, culinary and domestic, and other useful purposes.

2. A subdivision has been developed in Morgan County, Utah by Highlands, Inc., a corporation, (formerly Montana-Utah Development Corporation) which subdivision has been designated as Highlands Addition No. 1 and Highlands Addition No. 2. Highlands Addition No. 1 is located in part of the W 1/2 of Sec. 23, T5N, R1E, and in part of the NW 1/4 of Sec. 26, T5N, R1E, Salt Lake Base and Meridian. Highlands Addition No. 2 is situated in part of the SW 1/4 of Sec. 23, T5N, R1E. The subdivision has been divided into 98 buildings lots and the necessary streets and utility easements. The subdivision is shown on plats which carry the signatures of the appropriate public officials indicating approval of such subdivision. At the present time there are 10 homes under construction on lots in the subdivision and there are plans for quite a number of additional homes to be built. It is expected that the homes will be occupied on a year round basis.

3. The applicant has installed a part of the water system designed to serve the lots within the subdivision. When completed the system will include 16,200 linear feet of 6" transite water main, an 80,000 gallon reservoir, a pumping station, fire hydrants, customers' meters, 98 water services, and another storage reservoir to provide water at a higher elevation of the subdivision. The applicant represents that the total cost of the system installed to date is \$79,136. The applicant has an agreement with one Verl J. Poll, under which the applicant has permission to use certain facilities of Poll including an 8 inch well equipped with a pump, and a 30,000 gallon storage tank. The Poll well is located 1,300 feet from the 30,000 gallon storage tank and water is pumped from the well through a 4 inch pipeline into the storage tank. The water then runs 1,100 feet by gravity to the pump station of the applicant which lifts the water into a part of the

applicant's pipeline system and also into the 80,000 gallon reservoir of the applicant. Under the agreement with Poll the applicant will pay Poll \$500 a year plus a proportion of the cost of electricity to operate the pump at the well and maintenance costs associated with the Poll facilities. The existing pump in the Poll well will deliver 45 gallons a minute. The well is capable of producing 75 gallons a minute and the applicant proposes to install a larger pump unit which will deliver this amount of water. The quantity of water which will be available through this well for the applicant's system will be adequate to satisfy all of the requirements of the subdivision. The present and proposed storage facilities will provide adequate water storage to serve all customers.

The well and other facilities owned by Mr. Poll will be used in part to provide service to 15 homes in an area designated as Mountain Green Subdivision. This subdivision is owned by Poll and certain other parties. The Utah State Department of Health has approved the water supply system of Poll with a proviso that if future analyses of the well water indicate a need of chlorination to assure proper water quality then adequate chlorination equipment will be installed.

4. The applicant has acquired by conveyance certain water rights as described at page 25 of the Weber River Decree, under the subdivision Weber River and Tributaries from Echo Reservoir to Gateway. These rights cover certain waters diverted from Gordon Creek under Rights No. 164 and 165, originally issued to J. S. and S. L. Ostler. Water from the Gordon Creek is not suitable for domestic and residential uses without treatment. The applicant has no plans at the present time to install the facilities that would be necessary to make the Gordon Creek water meet the standards of the State Board of Health.

Applicant has entered into a contract with the Weber Basin Water Conservancy District providing for the production from underground water, by means of a well, up to 100 acre feet per year, commencing with five acre feet in 1964

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and graduating to 100 acre feet in 1970, the utilization to be increased at the option of the applicant. This contract was entered into on May 14, 1964, in the name of Montana-Utah Development Corporation (later changed to Highlands, Inc.) and the contract has been assigned to the applicant. The water to be secured under this contract will be produced through the Poll well described above pursuant to the agreement with Poll. Approval of the State Engineer has been received.

5. The balance sheet of the applicant as of March 4, 1965, shows cash of \$1,000, water rights in the Gordon Creek \$15,414, reservoir, pump station, water mains, and laterals \$79,136, or total assets of \$95,550. The amount of \$15,414 shown as water rights is an arbitrary value assigned to 1/2 second foot of water owned by applicant in the Gordon Creek. The balance sheet reflects no liabilities of any kind and the 5,000 shares of no par value common stock are shown at \$95,550.

The applicant will have to provide funds with which to pay for additional plant facilities that will be needed on the water system. The applicant proposes to borrow money for this purpose from commercial banks. At a later date the stockholders of applicant will make loans to the applicant with which to pay the banks. Such loans then will represent a liability of the applicant to the stockholders unless the stockholders decide to accept another series of capital stock in settlement of such loans.

6. The applicant proposes, on an initial basis, to charge the following rates:

<u>One month</u>	
Up to 10,000 gallons	\$2.50
Next 20,000 gallons	20¢ per 1000 gallons
Next 50,000 gallons	18¢ per 1000 gallons
All over 80,000 gallons	15¢ per 1000 gallons
<u>Two months</u>	
Up to 20,000 gallons	\$5.00
Next 40,000 gallons	20¢ per 1000 gallons
Next 100,000 gallons	18¢ per 1000 gallons
All over 160,000 gallons	15¢ per 1000 gallons

The applicant proposes to charge each customer a connection fee of \$85 which amount is the estimated cost of a meter and associated facilities on the customer's premises. All water service will be metered through 3/4 inch meters of the magnetic type. Costs incurred in the maintenance or replacement of meters will be paid by the applicant.

7. There is no facility available other than that of the applicant through which the purchasers of the lots in the Highlands Subdivision could obtain water service. The Commission finds, therefore, that public convenience and necessity require the service which applicant proposes to render in the Highlands Subdivision.

CONCLUSION

Based upon the foregoing findings, the Commission concludes that the applicant should be issued a certificate of convenience and necessity to operate as a utility furnishing water for useful purposes within the Highlands Subdivision, and that the applicant should be authorized to institute the rates shown above on an initial basis.

ORDER

IT IS THEREFORE ORDERED, That Highlands Water Company, Inc., is hereby issued Certificate of Convenience and Necessity No. 1520 authorizing it to operate as a public utility providing water for culinary, domestic, and other useful purposes, in the area designated as Highlands Subdivision in Morgan County, Utah, as shown on the plats which are in evidence in this proceeding.

IT IS FURTHER ORDERED, That the applicant may publish a tariff conforming with the Commission's rules and regulations containing, on an initial basis, the rates and charges set forth in Item 6 of the foregoing findings.

IT IS FURTHER ORDERED, That the applicant's tariff may be published to become effective on not less than five day's notice to the Commission

and the public, and that such tariff shall make reference to this order as authority therefor.

IT IS FURTHER ORDERED, That the applicant shall keep accurate accounting and other records of its business and operations in accordance with the Uniform System of Accounts and other accounting regulations prescribed by this Commission for water utilities, and that said applicant shall operate at all times in conformity with the laws of the State of Utah and the rules and regulations of this Commission promulgated thereunder.

IT IS FURTHER ORDERED, That this order shall be in effect on and after May 28, 1965.

Dated at Salt Lake City, Utah, this 28th day of May, 1965.

/s/ Donald Hacking, Chairman

(SEAL)

/s/ Hal S. Bennett, Commissioner

/s/ Raymond W. Gee, Commissioner

Attest:

/s/ C. R. Openshaw, Jr., Secretary

## **EXHIBIT B**



- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of )  
HIGHLANDS WATER COMPANY, INC., )  
Morgan County, Utah, for a Certificate of )  
Convenience and Necessity to operate as )  
a public water utility. (Application to ex- )  
pand facilities and service area.) )

CASE NO. 5572-SUB 1

REPORT AND ORDER

Certificate of Convenience and Nec-  
essity No. 1520 - Amended

Submitted: June 2, 1966

Issued: August 11, 1966

Appearances:

Harold A. Ranquist	For	Highlands Water Company, Inc.
Dan T. Moyle	"	Ostler Land & Livestock Company, Protestant

By the Commission:

The above-entitled application of Highlands Water Company, Inc., was heard by the Commission at its offices at 330 East Fourth South Street, Salt Lake City, Utah, on June 2, 1966. Notice of the hearing was given by mail and by publication. Ostler Land & Livestock Company filed a written protest to the application and also appeared by counsel at the hearing.

From the evidence of record, the Commission makes the following findings.

FINDINGS OF FACT

Highlands Water Company, Inc. is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Mountain Green, Morgan County, Utah. The applicant was issued Certificate of Convenience and Necessity No. 1520 by this Commission in Case No. 5572 by order dated May 28, 1965, authorizing the applicant to operate as a public utility providing water for culinary, domestic, and other useful purposes in an area designated as Highlands Subdivision in Morgan County, Utah. The original certificate issued to the applicant



authorized it to render water service in two subdivisions designated as Highlands Addition No. 1 and Highlands Addition No. 2. The applicant has abandoned Highlands Addition No. 2, at least for the time being, and no service is being rendered within the confines of that area, nor is any contemplated in the near future.

In the present application the applicant seeks an extension of its certificate authorizing it to expand its water system, including the pump and storage facilities, to render water service to Highlands Additions 3, 4, and 5, as set forth and described on maps designated Exhibits 1, 2, and 3, and also to future subdivisions that may be created adjacent to those subdivisions. The entire proposed service area, including that part covered by Certificate of Convenience and Necessity No. 1520, is delineated by red lines appearing on a map marked Exhibit 18 and is described in Exhibit 6. Highlands Addition No. 3 is located in part of the East half of Section 22, T5N, R1E, and also part of the West half of Section 23, T5N, R1E, Salt Lake Base and Meridian. Highlands Addition No. 4 is situated in part of the S.W. 1/4 of Section 23, and the S. E. 1/4 of Section 22, T5N, R1E, Salt Lake Base and Meridian. Highlands Addition No. 5 is located in a part of the S. E. 1/4 of Section 22, part of the S. W. 1/4 of Section 23, part of the N. W. 1/4 of Section 26, and part of the N. E. 1/4 of Section 27, T5N, R1E, Salt Lake Base and Meridian. All of the lands involved in this undertaking are owned by Highlands, Inc., a corporation.

Highlands Additions 1, 3, 4, and 5 have been subdivided into 150 lots. Plats showing the lots, streets and public thoroughfares, and public utility easements have been approved by the proper authorities of Morgan County and recorded in the records of that county. More than 100 lots have been sold within Highlands Additions 1, 3, 4, and 5, and between 32 and 35 houses are in the process of construction or have been completed.

The present water system includes 16,200 linear feet of six inch transite water main, an 80,000 gallon reservoir, a pumping station, 98 water services, fire

hydrants, and customer meters. The applicant has an agreement with one Verl J. Poll for the use of certain water facilities owned by Poll, including an eight inch well equipped with a pump and a 30,000 gallon storage tank. The Poll well is located 1300 feet from the 30,000 gallon storage tank and water is pumped from the well through a four inch pipeline into the storage tank. From this point it runs by gravity 1100 feet to the pump station of the applicant which lifts the water into the 80,000 gallon reservoir and the pipeline system of the applicant. The State Department of Health has approved the present water system of the applicant and has given tentative approval to the proposed plan of expansion to serve Highlands Additions 3, 4, and 5.

The applicant proposes to expand its water facilities and service in a two-step process. The first step contemplates extension of service to Highlands Additions 3, 4, and 5, the locations of which are stated above. It is anticipated that the total cost of expanding the present facilities to service these three areas will be \$60,653. Included in this figure is a 10 horsepower submersible pump to be installed in the Verl J. Poll well which pump will be capable of delivering 160 gallons per minute; the replacement of the present booster pump utilized by applicant at its pump station with a 20 horsepower electric pump to lift the water into the applicant's pipeline system and into its reservoir No. 1 of 80,000 gallons capacity; construction of reservoir No. 2 with a capacity of 81,000 gallons; the installation of three-phase power to the pump sites; and the installation of 850 feet of six inch transite pipe to connect reservoir No. 2 with the enlarged pumping system.

The Highlands Subdivision contains approximately 3,200 acres. The second step in the overall program involves the subdividing by Highlands, Inc., of that part of the subdivision not covered by Additions 1 to 5, inclusive, and the extension by the applicant of the water system to serve those who may build or acquire homes or establish businesses in such area. Extension of service into this area will occur as subdivisions are developed therein, or as various parts of the area are con-

verted to industrial or commercial uses and a need for water service arises. Additions 6 and 7 are being planned at the present time, but have not been developed to the point of submission to the authorities of Morgan County.

The applicant owns water rights Nos. 164 and 165 in Gordon Creek pursuant to the Weber River Decree, and in addition thereto the rights of No. 166 were recently purchased by the applicant from one A. F. Winchester. The applicant has on file with the State Engineer change application number a-4609 for a change in point of diversion and nature of use of the water rights in Gordon Creek. This application provides that the point of diversion shall be changed to the springs at the head of Gordon Creek where the water belonging to the applicant will be intercepted underground by diversion works and then transported by 15,000 feet of six inch transite water pipe from the springs area to the distribution pipeline system of the applicant. The estimated cost of this project is \$90,000. The interception will take place on land owned by Highlands, Inc., a corporation, which has developed the Highlands Subdivision. The applicant has entered into an agreement with Highlands, Inc. relating to the interception and right-of-way for the installation of the necessary diversion works and pipeline.

Ostler Land & Livestock Company in its written protest entered an objection to the development proposed by applicant in the Gordon Creek spring area. The protest recites that the Gordon Creek spring area is located almost entirely on lands owned by the protestant; that such lands now are and ever since prior to the year 1890 have been used for the grazing of sheep and cattle; that if the waters from such spring area are diverted as proposed by the applicant it will necessitate the taking and condemning of a very large portion of the protestant's property; and that the protestant will be irreparably damaged thereby. The evidence shows that approximately 50 per cent of the water in Gordon Creek rises on land owned by Highlands, Inc., and the remainder on lands owned by Ostler Land & Livestock Company. An engineer employed by the Office of State Engineer testified that in his opinion, the

development of the Gordon Creek spring area as proposed by the applicant will not cause flood conditions. The application of Highlands Water Company, Inc. for a change in point of diversion on Gordon Creek has been advertised by the Office of State Engineer and eight protests were received from water users and residents in the area. A protest hearing was held on the application. The State Engineer has stated that it is within the rights of the applicant to change the diversion and uses as long as the changes do not interfere with other rights on Gordon Creek and the Weber River, but if there is a problem of interference then compensation must be made to the other users, and that the problem of compensation is the principal matter that must be resolved before the application can be approved.

The applicant has a firm commitment from Weber Basin Water Conservancy District for 100 acre-feet of water. The scheduled utilization of this water commences with five acre-feet in 1964 and gradually increases to 100 acre-feet in 1970, but the volume could be accelerated and the entire amount used at any time needed. There is additional water available to the applicant from the same source between now and 1970, up to a total of possibly 250 acre-feet, should it be necessary to secure a supply in excess of 100 acre-feet. The District has no distribution facilities within the Mountain Green area and it is the duty of the water user to provide such facilities. Under existing arrangements whereby the applicant secures its entire water supply from the Poll well, the water purchased from the District replaces that taken by the applicant from such well.

The supply of water required for Additions 1, 3, 4, and 5 can be produced through the Poll well after the new pumps and other facilities described above have been placed in operation. The same facilities will be able to furnish water to proposed Additions 6 and 7 as shown by Exhibit No. 7. The elevation of the balance of the area proposed for certification is such that it would not be feasible to serve it from the Poll well and the pumping equipment proposed at this time. Any further

subdivisions beyond Additions 6 and 7 will have to be provided with water through the facilities proposed by the applicant for diversion of Gordon Creek water in the area of the springs which feed this creek.

Highlands, Inc. has agreed to install for and on behalf of applicant all water mains necessary to serve the new subdivisions as they are developed, including service laterals to the property lines, but not including any meters or house connections. The funds for such purpose will be provided by Highlands, Inc. and the applicant will issue five year notes to Highlands, Inc. for the costs thus incurred. Highlands, Inc. also has agreed to install and pay for the additional pumps and reservoir and the water mains to connect with the system now serving the Highlands Subdivision. Pursuant to a request of Morgan County a bond in the form of a certified cash deposit has been posted with that county for this purpose. A promissory note will be executed by the applicant to Highlands, Inc. for the cost of this construction, such note to be payable in five years with interest at 6 per cent annually. Highlands, Inc. also has agreed to advance the funds with which to construct the facilities to divert and develop the springs at the head of Gordon Creek and convey the water into the distribution system of the applicant. A promissory note will be executed by the applicant for the cost of this project, payable ten years after date and bearing 6 per cent interest. After the applicant has sufficient income from the sale of water to its customers it will seek a loan from a banking institution to provide funds to retire some of the notes issued to Highlands, Inc.

The applicant's articles of incorporation authorize 5,000 shares of common capital stock of no par value. The balance sheet of applicant as of February 28, 1966, shows the entire 5,000 shares as being issued at a stated value of \$95,550. As stated above, the additions to the water distribution system of applicant proposed at this time are estimated to cost \$60,653 while the facilities which would be required for diversion of the Gordon Creek water are estimated to cost \$90,000. If



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these expenditures had been made the capital structure of the applicant, pro forma, would be as follows:

Debt	\$150,653	61.2%
Common stock equity	<u>95,550</u>	<u>38.8%</u>
	\$246,203	100.0%

A capital structure consisting of 61.2 per cent debt and equity of 38.8 per cent would be reasonable for this water utility applicant. From a long range point of view, however, the financing program of the applicant for the payment of the notes which it is expected will be executed in favor of Highlands, Inc. is somewhat incomplete and inadequate. It appears, however, that with the financial backing of Highlands, Inc. the applicant should be able to finance the undertaking and ultimately arrange a suitable and appropriate capital structure.

In connection with its original application for a certificate of convenience and necessity the applicant submitted a proposed rate schedule which was approved by the Commission for initial application. The applicant proposes to apply the same schedule of rates in the additional subdivisions contemplated by the present application.

The schedule of rates is as follows:

One month

Up to 10,000 gallons	\$2.50
Next 20,000 gallons	20¢ per 1000 gallons
Next 50,000 gallons	18¢ per 1000 gallons
All over 80,000 gallons	15¢ per 1000 gallons

Two months

Up to 20,000 gallons	\$5.00
Next 40,000 gallons	20¢ per 1000 gallons
Next 100,000 gallons	18¢ per 1000 gallons
All over 160,000 gallons	15¢ per 1000 gallons

The applicant proposes to charge a connection fee of \$85.00 for each customer served, which amount is the same as that authorized in the original order in this case.

The area which the applicant seeks to have certificated in this proceeding includes many acres that are not embraced within Highlands Additions 3, 4, 5, and proposed Additions 6 and 7. This means that a substantial part of the total area must be classed as undeveloped at this time. It is to be understood that the Commission retains jurisdiction in this matter, and in connection with any further subdivisions that may be made in the future the Commission reserves the right to require the applicant to submit information and evidence to show financial responsibility and the feasibility of any proposed additions to the water system.

CONCLUSION

The Commission concludes from the foregoing findings that the certificate of convenience and necessity now held by the applicant should be amended to include Highlands Additions Numbers 3, 4, and 5 and all of the additional area shown by the map marked Exhibit 18 and as more fully described in Exhibit 6.

ORDER

IT IS THEREFORE ORDERED, That Certificate of Convenience and Necessity No. 1520 be and the same is hereby amended to authorize Highlands Water Company, Inc. to operate as a public utility providing water for culinary, domestic and other useful purposes in the area in Morgan County, Utah, described in the attachment to this order which attachment by this reference is hereby made a part hereof.

IT IS FURTHER ORDERED, That Certificate of Convenience and Necessity No. 1520 as amended includes all of the area covered by the original Certificate of Convenience and Necessity No. 1520 heretofore issued under date of May 28, 1965.

IT IS FURTHER ORDERED, That the schedule of rates and charges set forth in the findings above may be made effective for service rendered pursuant to this certificate.



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IT IS FURTHER ORDERED, That the Commission retains full jurisdiction in respect to the matter of any further developments within the area covered by this certificate.

IT IS FURTHER ORDERED, That this order shall be in effect on and after the date hereof.

Dated at Salt Lake City, Utah, this 11th day of August, 1966.

/s/ Donald Hacking, Chairman

(SEAL)

/s/ Hal S. Bennett, Commissioner

/s/ D. Frank Wilkins, Commissioner

Attest:

/s/ C. R. Openshaw, Jr., Secretary

**DESCRIPTION OF AREA COVERED BY CERTIFICATE  
OF CONVENIENCE AND NECESSITY NO. 1520-AMENDED**

TOWNSHIP 5 NORTH, RANGE 1 EAST, SALT LAKE MERIDIAN

All of Sections 15, 16 and 21, and the Northwest Quarter of the Northwest Quarter of Section 14;

In Section 26 the following:

Beginning at a point 1 chain East of the Northwest corner of the Northeast quarter (NE 1/4) of the Southwest quarter (SW 1/4) of said Section 26, running thence North  $3^{\circ} 15'$  East 9.30 chains; thence North  $86^{\circ} 40'$  East 9.60 chains; thence South  $9^{\circ}$  East 30 chains; thence West 10.90 chains; thence North  $8^{\circ} 40'$  West 6 chains; thence along the U.P. R.R. North  $83^{\circ} 30'$  West 3.35 chains to the center of Gordon Creek; thence up said Creek North  $3^{\circ} 15'$  East 13.79 chains to the place of beginning.

Also, commencing at a point 80 rods West of the center of said Section 26, running thence North 59.4 rods; thence North  $87^{\circ}$  East 3.2 rods; thence South  $5^{\circ} 30'$  East down the center of Gordon Creek, 23 rods; thence South  $2^{\circ} 30'$  West 42.4 rods; thence South  $7^{\circ}$  East 50.2 rods; thence South  $80^{\circ} 30'$  East 13.5 rods; thence South  $9^{\circ} 30'$  East 22.6 rods; thence West 26.1 rods; thence North 80 rods to the place of beginning.

Also, beginning at a point 80 rods West of the Center of said Section 26, running thence South 80 rods; thence West 34.6 rods; thence North  $5^{\circ} 30'$  West 114.6 rods; thence North  $87^{\circ}$  East along County Road 24 rods; thence North 43.6 rods; thence East 21.6 rods; thence South 80 rods to the place of beginning.

Also, commencing at the center of the Northwest quarter of Section 26, and running thence West 80 links; thence South  $6^{\circ}$  East to 40-acre line; thence North to beginning.

Also, the North half of the Northwest quarter and the Northwest quarter of the Northeast quarter of said Section 26, except the following described portions thereof:

1. Beginning at a point 2.95 chains North and 2.75 chains West from the center of the Northeast quarter of said Section 26, and running thence North 8 rods, thence West 9 rods; thence South 8 rods; thence East 9 rods to the place of beginning. Said tract having been deeded to Mountain Green for a cemetery.

2. Also, that portion of the above quarter Sections included in the following described property: Commencing 20 chains South and 12.66 chains West from the Northeast corner of said Section 26, and running thence West 10.74 chains; thence North  $75^{\circ}$  East 7.70 chains; thence South  $60^{\circ}$  East 4 chains to the point of beginning, containing 0.81 of an acre, more or less.

Also the Southeast Quarter of the Southeast Quarter of said Section 26, except the following described portion thereof:

1. Commencing at the Southeast corner of said Section 26, and running thence West 80 rods; thence North 30 rods to the Weber River; thence up said River South 75° East 20.85 chains; thence South 8 rods to the point of beginning.

Also beginning at a point 8.7 rods North of the Southwest corner of the Northeast Quarter of said Section 26, running thence North 71.3 rods; thence East 3.9 rods; thence South 3° East 39.2 rods; thence North 87° East 47.8 rods; thence South 9° East 125.0 rods; thence West 58.75 rods; thence North 9° 15' West 89.9 rods to the place of beginning.

Also, commencing at a point 8.7 rods North of the Southeast corner of the Northwest Quarter of said Section 26, running thence North 71.3 rods; thence West 31.8 rods; thence South 3° East 41.0 rods; thence North 87° East 24.6 rods; thence South 9° 15' East 32.1 rods to the place of beginning.

Also, beginning at a point 80.0 links West of the Northwest corner of the Southeast Quarter of the Northwest Quarter of said Section 26; running thence East 4.675 chains; thence South 5° East 10.62 chains; thence South 86° 40' West 4.39 chains; thence North 6° West 11.0 chains to the place of beginning.

Also, all of Section 23, excepting the East one-half of the East one-half of said Section.

Also, the East one-half of the Northwest Quarter and the Northeast Quarter of the Southwest Quarter of Section 22; and all of the East one-half of said Section 22.

Excepting from above described property, all of that portion thereof occupied by the County Highway.

Reserving to a prior owner, its successors and assigns, a right of way for wagons, horses and vehicles, including trucks, to the adjoining property owned by the said prior owner, said right of way, however, not to include the passage of livestock.

Together with a tract of land located in the Southwest Quarter of the Northwest Quarter of Section 26, Township 5 North, Range 1 East, Salt Lake Base and Meridian, described as follows:

Beginning at a point 615.0 feet North and 891.0 feet East from the West Quarter section corner of the said Section 26, (said West Quarter section corner is located at a point 741.9 feet North 0° 18' East from Engineer's Station 52199 + 69.0 angle 83° 51' right of the center line of the West bound main line (South Track) of the U.P.R.R. the signal tower No. 9786-7 is located at Station 52198 + 75.0) and running thence North 0° 25' East 705.0 feet to the forty line, along a fence; thence East 75.0 feet; thence South 700.0 feet to the State Highway; thence along said Highway South 86° West 80 feet to the point of beginning.

A part of the Northeast Quarter of Section 26, Township 5 North, Range 1 East, Salt Lake Base & Meridian, U.S. Survey:

Beginning at a point on the North line of the Southwest Quarter of the Northeast Quarter of said Section 26, said point being South 1320.00 feet and East 2847.5 feet from the Northwest corner of Section 26; running thence East along the North line of the Southwest Quarter of the Northeast Quarter 606 feet; thence South 560 feet, more or less, to the North right-of-way fence line of the Old Highway; thence S.  $87^{\circ} 27'$  W. along the North right-of-way fence line 606.5 feet; thence North 587 feet to the point of beginning. Contains 8.0 acres.

PARCEL "B"

A part of the Northeast Quarter of Section 26, Township 5 North, Range 1 East, Salt Lake Base & Meridian, U. S. Survey:

Beginning at a point on the North line of the Southwest Quarter of the Northeast Quarter of said Section 26, said point being South 1320.00 feet and East 2647.5 feet from the Northwest corner of Section 26; running thence East along the North line of the Southwest Quarter of the Northeast Quarter 200 feet; thence South 587.00 feet, more or less, to the North right-of-way fence line of the old highway; thence S.  $87^{\circ}$  W. 200.14 feet along the right-of-way fence line; thence North 599 feet, more or less, along a fence line to the point of beginning.

PARCEL "C"

A part of the Northeast Quarter of Section 26, Township 5 North, Range 1 East, Salt Lake Base & Meridian, U. S. Survey:

Beginning at a point on the North line of the Southwest Quarter of the Northeast Quarter of said Section 26, said point being South 1320.00 feet and East 3453.50 feet from the Northwest corner of said Section 26; running thence East along the North line of the South  $1/2$  of the Northeast  $1/4$  of Section 26, 512.00 feet; thence S.  $0^{\circ} 01' 21''$  W. 533.43 feet to the North right-of-way fence line of the old highway; thence S.  $87^{\circ}$  W. 511.10 feet along said North right-of-way fence line; thence North 560 feet to the point of beginning.

In the Southeast Quarter of the Northwest Quarter of Section 26, Township 5 North, Range 1 East, of the Salt Lake Base & Meridian, on the State Highway in Mountain Green, bounded and described as follows, to-wit:

Commencing 31 and  $9/10$  rods North and 30 rods, more or less, South  $87^{\circ}$  West of the center of said Section 26, and running thence South  $87^{\circ}$  West 7 rods, thence South  $7^{\circ}$  East 10 rods, thence North  $87^{\circ}$  East 7 rods, thence North  $7^{\circ}$  West 10 rods, to place of beginning, containing 70 square rods.

Also, in Section 26, Township 5 North, Range 1 East, Salt Lake Meridian, U. S. Survey:

Commencing 80 rods North and 31.8 rods West of the Southeast corner of the Northwest Quarter of said Section 26; thence West 29.5 rods; thence South  $5.5^{\circ}$  East 42.6 rods; thence North  $87^{\circ}$  East 25.7 rods; thence South  $7^{\circ}$  East 10 rods; thence South  $87^{\circ}$  West 7 rods; thence South  $7^{\circ}$  East 109.5 rods; thence East 24 rods; thence North 86.7 rods; thence North  $9.5^{\circ}$  West 34.1 rods; thence South  $87^{\circ}$  West 24.1 rods; thence North  $3^{\circ}$  West 41 rods to the place of beginning, containing 30.37 acres, more or less.

# EXHIBIT C

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -  
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In the Matter of the Application of )  
HIGHLANDS WATER COMPANY, )  
INC. for an increase in its rates )  
and charges for water service, )  
addition to its certificated area, )  
and certificate to furnish )  
irrigation water. )

CASE NO. 5572 SUB 2 and SUB 4

REPORT AND ORDER

Submitted: June 2, 1975

Issued: February 25, 1976

Appearances:

Elliott Lee Pratt	For	Highlands Water Company, Inc.
Clair J. Jaussi, Assistant Attorney General	"	Division of Public Utilities, Department of Business Regulation, State of Utah
Robert A. Echard	"	Highlands Homeowner's Association
Philip C. Patterson	"	Morgan County

By the Commission:

The above-entitled application of Highlands Water Company for an increase in its rates, for an additional certificated area and for a certificate to serve irrigation water throughout its system to the consumers therein came on for hearing on February 26, 1975, thereafter on March 18 and finally on June 2, 1975. Notice of the hearing was given by mail and by publication.

Based upon the evidence adduced herein, the Commission finds as follows:

FINDINGS OF FACT

1. Highlands Water Company, Inc. is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Mountain Green, Morgan County, Utah. The company was issued its original Certificate of Convenience and Necessity, No. 1520, in Case No. 5572 by order of this Commission dated May 28, 1965, and said certificate was amended August 11, 1966 in Case No. 5572 Sub 1. Thereafter, in Case No. 6328, the applicant was granted a rate increase by order of this Commission dated June 25, 1971, and from that date forward the applicant has been operating under the rates established by such order.



2. In Investigation Docket No. 168 this Commission, by its Report and Order issued November 13, 1974, ordered that the Gordon Creek Springs become the primary water source for the applicant, and that the Pate-Poll Well and Reservoir shall be operated only in emergencies; and the Commission retained further jurisdiction over the operation of the system requiring the system to meet the standards of the State of Utah Division of Health, Department of Social Services.

3. In the present application, Sub 2 and Sub 4, applicant seeks an extension of its certificated area, and extension of its certificate to permit it to furnish irrigation water through a secondary system, and to increase the culinary rates above those rates granted in 1971. The proposed additional area is set out in the attachment hereto, and is shown on the map exhibit submitted in these proceedings. Said additional areas include in Parcel No. 1 a trailer court, known as the Wagon Wheel Trailer Court, together with approximately 50 possible connections, 30 of which are in actual use, and some additional homes along the County Road in the general vicinity of the Wagon Wheel. In the additional areas there are various existing consumers who are now receiving water from applicant, there are consumers who desire to receive water and there are prospective consumers who will require water in the future development of the area.

4. The applications seek to increase the rates as follows:

Raise the rate for 6,000 gallons from \$4.50 to \$6.00, for 14,000 gallons from \$.35 per thousand gallons to \$.90 per thousand gallons, for 30,000 gallons from \$.30 per thousand gallons to \$.80 per thousand gallons, and for all over 50,000 gallons from \$.25 per thousand gallons to \$.70 per thousand gallons. The increase will also raise the minimum from \$4.50 to \$6.00; and the 3/4" connection fee from \$85 to \$300.

5. The applications further seek to obtain approval of the use of secondary water from Gordon Creek to serve the customers in the certificated areas with irrigation water, in addition to the culinary water which is now being served under the appropriate certificates. The Commission finds that as to the secondary irrigation system, that at the present time, and under the engineering studies and testimony adduced at the hearing, that there is presently insufficient need for the additional water in sufficient quantities and for enough



customers, to justify a finding that public convenience and necessity would best be served by the granting of such a certificate. The Commission further finds that due to sub-surface soil conditions and steep slopes, the increased application of surface waters likely to occur should a secondary system be approved would likely cause a serious risk of soil slippage and the secondary system should be disapproved for this reason alone.

6. The Commission finds that as to the additional area sought to be included in applicant's certificated area, that for the most part, the smaller areas are within the overall boundaries and service area presently being served by applicant, that there is a present public convenience and necessity which will be satisfied by granting a certificate to serve said areas. The Commission finds that as to the larger area lying to the north and east of the existing certificated area, that the reasonable and foreseeable development of said area, together with its proximity to the existing area and system of the applicant, justifies a finding that public convenience and necessity will be best satisfied by adding said area to the certificated area of applicant. In this connection the Commission finds that there are no other utilities having water which either at the present time or in the foreseeable future could serve said area; that applicant is the logical company to furnish water to said area; and that public convenience and necessity will best be served by granting said area to applicant.

7. The evidence shows that there is one metering connection at the Wagon Wheel whereby the trailers are all metered through a common meter. The evidence further shows that at the present time only one billing for the water used at the Wagon Wheel is being made by the Company. The Commission finds that such a practice is consistent with public convenience and necessity in this case.

8. The evidence shows that in the general vicinity of the Wagon Wheel, there were several homes which should be served by applicant; and the Commission finds that said homes shall be served and shall be billed and shall pay the same rates as are other customers in applicant's certificated area. In this connection, the evidence shows that some homes have been receiving water without being billed or paying for same; and the Commission finds that such a practice is inconsistent with proper utility regulation and shall cease; and that all water users throughout the entire system shall be billed and shall

All over 50,000 gallons	\$ .70/thousand
Minimum	\$6.00
3/4" Connection	\$300.00

16. The Commission further finds that said rates should be put into effect for all connections made after the date of this order, and shall be effective beginning with the next billing date for all existing consumers now receiving service from applicant.

### CONCLUSIONS

The Commission concludes that applicant's application for a certificate to furnish secondary irrigation water should be denied.

The Commission further concludes that the applicant's additional area requested herein should be certificated to applicant and added to its certificated area.

The Commission further concludes that the increase in rates sought herein by applicant should be approved.

The Commission further concludes that the Order herein should be conditioned upon applicant first obtaining all prior approvals required by the Utah State Board of Health and by Morgan County, as said approvals have been described in the Findings of Fact herein.

### ORDER

IT IS THEREFORE ORDERED, That applicant's request for a certificate to serve irrigation water through a secondary system is denied.

IT IS FURTHER ORDERED, That applicant's certificated area shall be expanded to include the additional areas described in the attached Exhibit A, conditioned upon applicant first obtaining all prior approvals required by the Utah State Board of Health and by Morgan County.

IT IS FURTHER ORDERED, That the rates of applicant shall be increased in accordance with Finding No. 15 above, and that said rate increase shall be effective as to any new connections made after the date of this Order, and as to existing connections at the beginning of the next billing period.

IT IS FURTHER ORDERED, That applicant shall file with the Public Service Commission, Division of Public Utilities, copies of its operating statement and balance sheet every 90 days for the next year, or until further ordered by this Commission. These

CASE NO. 5572 SUB 2 and SUB 4

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financial records must be in compliance in all respects with the uniform system of accounts and with the regulations of this Commission.

IT IS FURTHER ORDERED, That this Report and Order shall be effective upon the date it bears.

Dated at Salt Lake City, Utah, this 25th day of February, 1976.

/s/ Frank S. Warner, Chairman

(SEAL)

/s/ Olof E. Zundel, Commissioner

/s/ James N. Kimball, Commissioner

Attest:

/s/ Ronald E. Casper, Secretary

The applicant proposed to serve the following area:

1. Parcel 1: A part of the Southwest 1/4 of the Northwest 1/4 of Section 25, and the Southeast 1/4 of the Northeast 1/4 of Section 26, Township, 5 North, Range 1 East, Salt Lake Base and Meridian, described as follows: Beginning at a point on the West Boundary of said Section 25, which bears North 0° 16' East 299.0 feet from the West 1/4 corner of said Section 25, (said West 1/4 corner is located at a point which bears North 1319.0 feet from Engineers Station 52146+38.0 to the center line of the U.P.R.R. Main line (S.track) angle 88° 24' right; cantilever signal tower No. 9777 is located at Station 52143+45.8), and running thence South 72° West 114.5 feet; thence South 37° West 135.0 feet; thence South 77°30' West 418.0 feet; thence North 19° East 316.0 feet; thence North 53°15' East 240.0 feet; thence North 26° East 300.0 feet to the State Highway; thence along Highway North 85° 40' East 173.5 feet to the Section line; thence North 82° 52' East 942.0 feet; thence South 242.0 feet; thence South 49° 35' West 393.5 feet; thence South 69°30' West 424.0 feet; thence North 81°10' West 242.0 feet to the point of beginning.
2. Parcel 2: A part of the Southwest 1/4 of the Northwest 1/4 of Section 25, and the Southeast 1/4 of the Northeast 1/4 of Section 26, Township 5 North, Range 1 East, Salt Lake Base and Meridian, described as follows: Beginning at a point which bears North 0°16' East 155.8 feet from the West 1/4 corner of said Section 25, and running thence West 189.5 feet; thence North 37° East 135.0 feet; thence North 72° East 114.5 feet to the Section line; thence South 81°10' East 242.0 feet; thence North 69°30' East 424.0 feet; thence North 49°35' East 393.5 feet; thence South 293.0 feet to the North bank of an old channel of Cottonwood Creek; thence along the North bank of said old channel South 63°45' West 490.0 feet; thence West 497.0 feet to the point of beginning.
3. Parcel 3: Beg. at a point located E. 1167.8 feet; thence N. 430.3 ft; th. S. 85°25' W. 136.0 ft; th.S. 63°45' W. 106.0 ft. from the W. cor. of Sec. 25, T5N, R1E, SLB&M. said pt. of beg. being the Grantors SW prop. cor. th.N. 535.0 ft. to the S. of-way line of Hwy. US 30-S; th. N. 85°30' E. alg. said r-of-way 16.5 ft.; th. S. 528.2 ft. to the Grantors S prop. line; th. S 63°45' W. 18.4 ft. to the place of beg.
4. Parcel 4: A part of NW 1/4 of Sec. 25, T5N, R1E, SLM comm. at pt. on S line of Co. Rd. (St. Hwy.) 11.50 chs. N. & 242.68 ft. W. 87° E. of SW cor. of SW 1/4 of said Sec. 25; th. S. 10° E. 4.25 chs; th. N 87° E. 20 ft; th. N. 10°W 4.25 chs. more or less to St. Hwy; th. S. 87° W. 20 ft. to place of beg. 0.129 ac.  
A part of Sec. 25, T5N, R1E, SLM U. S. Survey des. as fol: Beg. at W1/4 cor. of said Sec. 25, and run. th. E. 40 chs. th. W. 3.82 chs; th. W 56° W 10.08 chs; th. W 1.50 chs; th. S. 4.0 chs; th. N 87° W 5.50 chs; th. W. 3.64 chs; th. S 66° W 18.39 chs; th. S 12 chs. to place of beg. except therefrom however, the fol. tract of land prev. con. to O.W. Pollins; beg. 4.0 chs. E of SW cor. of SE 1/4 NW 1/4 of Sec. 25, & run. th. W 2° W. 13.25 chs; S 37° E. 2.0 chs; th. S 66° E 5.0 chs; th. S 48° E. 12.93 chs; th. S 2.81 chs; th. W. 16 chs. to place of beg. 10.72 acs.