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Judge Laura Scott
Matheson Courthouse
450 South State Street, P.O. Box 1860
Salt Lake City, UT 84114-1860

RE: Special Master Application – Utah Lake and Jordan River General Adjudication

Dear Judge Scott,

Please accept this letter as my updated application for the appointment of a Special Master in the Utah Lake and Jordan River General Adjudication.

With respect to the minimum qualifications listed in the announcement of this position, I:

- hold an active Utah Bar License in good standing (#0874);
- have practiced law in Utah for 40 years;
- have substantial administrative and judicial case management and litigation experience;
- do not currently represent any of the parties in this General Adjudication;
- have no economic interests in the subject matter of these proceedings;
- am not aware of any potential conflicts of interest that would require my recusal; and
- would abide by the Code of Judicial Conduct to the same extent as a judge pro tempore.

I have attached a summary resume of my additional educational and professional qualifications.

By way of personal introduction, I grew up in the Snake River Valley of Southern Idaho where water was and still is the lifeblood of our communities – as it is in my adopted home state of Utah. In both states, I have anxiously watched the levels of our winter snow packs and been grateful each spring when the runoff water stored in our dams is turned into the supply canals and ditches. I remember waiting with my cousins for their scheduled water turns before helping them open headgates and set siphon tubes in the furrows of their ditch irrigated fields. As new wells were drilled and electric pumps were installed on their farms, I helped them with the muddy, back breaking work of moving sprinkler pipes and rejoiced in our liberation when their new pivot sprinklers were installed. During the recent drought years, I have heard and felt the increasing concerns expressed by my extended family and friends on both sides of the potential curtailments of needed water supplies for our rapidly growing cities and industries in order to protect the prior water rights of our farms, fish hatcheries and federal reservations. I have also witnessed the impacts of water mining by over pumping and the need to recharge our aquifers.

For most of my legal career, I have assisted clients in the acquisition and development of large-scale natural resource and energy projects. These projects are typically located in rural areas where they have the potential to affect the existing surface flow patterns and to increase the existing uses of water. My approach in addressing the water related issues in these projects has been shaped by my life experiences with the benefits of responsible water use and by my deep respect and gratitude for the men and women in our local communities who have been the custodians of this precious resource.

From 2007 until 2012, I was primarily responsible for acquiring the surface, mineral and water rights for the Magnum Western Energy Hub project north of Delta in Millard County, Utah. The project envisioned the solution mining of a unique salt deposit to create underground caverns for the storage of natural gas and other hydrocarbons, as well as compressed air energy storage. In addition to designing and permitting this novel project as a zero discharge facility, we elected to lease, rather than purchase, surplus municipal and agricultural water rights within the Sevier River Basin. Our goal was to spread the economic benefits from the water used by our project to the local communities, while allowing the existing owners to retain long-term control of their leased water for the benefit of their towns and families. By working in cooperation with our lessors to schedule our temporary uses of their leased water on a rotating basis, we were also able to assist them in maintaining their surplus water rights by applying them to a beneficial use.

Ongoing administrative transfers of the nature, places and seasons of use for these leased water rights were required to support our permits for and withdrawals from the new water supply wells to be drilled on the Magnum project site. This process allowed me to work closely with experienced water lawyers, professional engineers, state and federal administrative agencies, community leaders, local agricultural water users, concerned citizens and the adjacent Intermountain Power Project, which has historically been the largest water rights holder in the Sevier River Basin. By drilling our new water supply wells into a previously untapped deeper aquifer, we were also able to demonstrate through extensive hydrogeological modeling, and to confirm through ongoing observations of offsetting monitoring wells, that there was no measurable interference by drawdown from our new supply wells with any other existing water rights or uses. (*See* enclosed DWR map depicting the Magnum Western Energy Hub wells south of State Highway 179, with the Intermountain Power Project wells on the north.)

Should the Court desire to contact references in connection with my application, the two water lawyers who worked with me on the Magnum Project were: Steven E. Clyde of ClydeSnow (801.322.2516) or sec@clydesnow.com; and Wendy Bowden Crowther of Parsons Behle & Latimer (801.532.1234) or wcrowther@parsonsbehle.com. The consulting hydrogeological engineer was David E. Hansen, Ph.D., PE, of Hansen, Allen & Luce, Inc. (801.566.5581) or dehansen@hansenallenuce.com.

This opening for the position of Special Master presents itself at a stage in my career where I have been looking for a “legacy project” to give back to our community. My private consulting practice currently provides me increased scheduling flexibility and the ability to spend the personal study and training time required to accelerate my learning curve without the external law firm pressures of maintaining standard billing rates or meeting revenue generation targets.

In pursuing my personal preparation for this position, I initially returned to my experience with surface and groundwater uses in the Snake River Valley in Idaho, which have recently been the subject of a successful, basin wide general adjudication ("SRBA"). I discovered that my former neighbor, Julie Murphy, has been serving as the deputy court clerk and assistant to the district court judge and special masters assigned to the SRBA. With her gracious assistance, I was introduced to Judge Eric Wildman and Special Masters Brigette Bilyeu and Theodore Booth, who have generously shared their lessons learned from and the on-line resources developed for the SRBA that are now being applied in their Coeur d'Alene-Spokane River Basin Adjudication. Judge Wildman and Mr. Steve Clyde have also facilitated introductions and access to the resources for resolving water conflicts available to judges and special masters in other western states through the Dividing the Waters program of the National Judicial Conference. In addition to researching these resources from successful adjudications in surrounding states, I continue to review the significant Utah court decisions, statutes and rules affecting water rights and to participate in the CLE programs on current issues sponsored by the water law section.

Based on my preliminary review of some of the more recent pleadings and objections filed in this Adjudication that are available through the DWR website and the Court's Xchange system, I agree with Mr. Ben Jensen's assessment at the recent status conference that resolution of the 160 pending objections and the anticipated number of new objections may require more than one year. If selected, I would be available to continue in this position beyond the 2017 fiscal year.

Recognizing that this position will require establishing a mutually supportive and cooperative working relationship with the Court, if selected as one of the finalists I would welcome the opportunity for a personal interview – both to provide additional information to the Court and to allow me to better understand the available support systems and facilities.

Respectfully submitted,



David K. Detton

Summary Resume

Background

Education: BYU (B.A.1973, cum laude); BYU Law School (J.D. 1976, magna cum laude), graduated second in charter class, BYU Law Review (lead note and comment editor)

Judicial Clerkship: Honorable David T. Lewis, Chief Judge, U.S. 10th Circuit Court of Appeals

Law Firm Practice: Associate or partner in the Salt Lake City Offices of VanCott Bagley (Fabian VanCott); Holme Roberts & Owen (Bryan Cave HRO) and Dorsey & Whitney -- practicing in their natural resources, energy and environmental groups and in HRO's (Holland & Hart's) state and local tax group

Representative Clients: NRG Energy, Union Pacific, Amoco (BP Amoco), Chase Bank, Homestake Mining, Arch Coal, Questar, Rocky Mountain Power, US West (Qwest), Intermountain Power Agency and Deseret Generation & Transmission Cooperative

Representative Projects: Greenfield development, acquisition/sale, financing, permitting and state/local taxation of oil & gas, mining, pipeline, telephone, electric generation and transmission facilities in multiple states, including associated land/mineral titles and water rights

Case Management & Litigation: Preparation, management or presentation of litigated cases before the Second Judicial District Court for Davis County, the Third Judicial District Court for Salt Lake County, the Fourth Judicial District Court for Juab County, the Sixth Judicial District Court for Sanpete County, the United States District Court for the Northern District of Utah, the United States Tenth Circuit Court of Appeals, the Utah State Tax Commission, and the Utah Board of Oil, Gas and Mining

Teaching: Adjunct Professor (oil & gas law), BYU Law School

Publications & Presentations: Rocky Mountain Mineral Law Institute ("RMMLI") papers and presentations (1986 – "Execution, Acknowledgement & Recordation of Documents") (1989 – "Property and Production Taxes"), Law of Federal Oil & Gas Leases (RMMLI treatise -- chapter editor); various commercial, law firm and Utah Bar ENREL and Tax Section CLE presentations
** (complete citations to and copies of RMMLI papers available on request)

Public & Utah Bar Service: Special counsel to Governor's Office (pro bono) for secured bond financing of Utah Olympic Park legacy facilities; drafting and presentations to the Legislature of the Utah Uniform Recognition of Acknowledgments Act and the initial Utah Limited Liability Company Act; drafting and presentations to the Utah State Tax Commission of various administrative rules for the valuation of centrally assessed utilities and mineral properties

Current

Private Practice: Start-up and closely-held business consulting; oil & gas leasing and development services

