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Jacob Olsen, P.E
Enforcement Engineer
Utah Division of Water Rights
P.O. Box 146300
Salt Lake City, Utah 84114

Via Email: jmolsen@utah.gov

Re: Enforcement Referral SEAA2417

Dear Mr. Olsen,

This firm represents Kane Creek Preservation and Development, Inc. (“**Kane Creek**”). Kane Creek owns Water Right No.’s 05-290, 05-644, and 05-2450. Although Kane Creek has not yet received notice from the Division of Water Rights (“**DWRi**”), Kane Creek has learned that the above referenced Enforcement Referral was recently submitted regarding the diversion of water by Kane Creek under its water rights.

Upon learning of the Enforcement Referral, Kane Creek immediately reviewed the Enforcement Referral and the claims therein. Kane Creek determined that contrary to its original assumptions, the well that is equipped and is currently being used is not yet an approved point of diversion for water rights. In fact, it is listed as a Hereafter Point of Diversion under Change Application a51289 which is still pending and not yet approved. However, Kane Creek also owns a second well, which is an approved point of diversion under approved Change Application a4587, and this second well is approximately 2,500ft to the south of the well in question.

Now that Kane Creek has become aware of this situation, Kane Creek is currently taking steps to rectify matters, and intends to fully comply with the requirements of its water rights as quickly as possible. Specifically, Kane Creek is expeditiously extending electrical power to and equipping the well that has an approved point of diversion. Doing so will allow Kane Creek to divert water from its approved point of diversion and will address and resolve the concerns raised in the Enforcement Referral.

As soon as the well at the approved point of diversion is equipped and has power, all water will be diverted from that well and use of the current well will be

discontinued. Kane Creek is relying on third party contractors to complete this work and believes the changeover to the well at the approved point of diversion will be accomplished within thirty (30) days. Kane Creek, therefore, respectfully requests it be given this time to make the transition.

The diversions by Kane Creek are consistent with its water rights. It is believed both wells, which are approximately one-half mile apart, draw from the same aquifer. The well at the approved point of diversion is actually closer to the closest point of diversion of a third party. Therefore, Kane Creek believes there will be no adverse impacts on either the aquifer or other water users due to the use of the current well.

Hopefully, the above actions will resolve the Enforcement Referral and avoid further actions by you and DWRi. Please feel free to contact me at (801) 413-1600 if you have any concerns, questions, or would like to discuss this issue further.

Sincerely,

SMITH HARTVIGSEN, PLLC



J. Craig Smith

cc: Marc Stilson, P.E. Regional Engineer, marcstilson@utah.gov
Kane Creek Preservation and Development, Inc.