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**IN THE THIRD JUDICIAL DISTRICT COURT IN AND FOR  
TOOELE COUNTY, STATE OF UTAH**

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JOHN BLEAZARD, an individual, MARK  
BLEAZARD, and individual, and SIX MILE  
RANCH COMPANY, a Utah Corporation

Plaintiff.

v.

CITY OF ERDA, DIEDRE M.  
HENDERSON, in her capacity as Lieutenant  
Governor of the State of Utah.

Defendant.

**COMPLAINT  
(Jury Demand)**

Case No.

Judge

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Plaintiffs John Bleazard (“John”), Mark Bleazard (“Mark”), and Six Mile Ranch Company (“Six Mile Ranch”) (collectively “Plaintiffs”) by and through their undersigned counsel, pursuant to Utah Code Ann. § 78B-6-401, *et seq.*, Utah Code Ann. § 67-1a-6.5, and Utah Code Ann. § 10-2a-202 hereby complain against the City of Erda and Diedre M. Henderson, in her capacity as Lieutenant Governor of the State of Utah as follows:

## **INTRODUCTION**

1. Defendant City of Erda (“Erda”) is located in Tooele County, sitting between Tooele City, to its south, and Grantsville City to its west.
2. Defendant Diedre M. Henderson (“Lieutenant Governor”) is Utah’s Lieutenant Governor.
3. Tooele County, which has historically consisted of a largely agricultural area, has seen a recent rise in growth and development.
4. In an effort to impede on the Tooele Valley’s organic growth and development, certain sponsors of Erda have undertaken efforts to incorporate a large area of the remaining unincorporated land in the Tooele Valley into the City of Erda to effectively limit private landowners’ ability to develop their property as they wish or to fully realize the real property’s potential other than for agricultural uses.
5. In order to complete the incorporation efforts, the sponsors for incorporation of the City of Erda (the “Sponsors”) made material misrepresentations as to the purported consent of landowners within the incorporation area in violation of Utah Code § 10-2a-202.
6. Because Erda’s incorporation is based on material misrepresentations of landowner signatures, which cause the incorporation efforts to fail to satisfy statutory requirements for incorporation, the Lieutenant Governor’s certification of the Request for Feasibility Study is invalid, Erda’s incorporation did not satisfy statutory requirements, and the certificate of incorporation issued on January 3, 2022 should be invalidated.

### **JURISDICTION AND VENUE**

7. Jurisdiction is proper pursuant to Utah Code § 78A-5-102 and Utah Code § 78B-6-401.

8. Venue is proper pursuant to Utah Code § 78B-3-302 and 307.

9. This matter qualifies for Tier 2 discovery pursuant to Utah Rule of Civil Procedure 26(c)(3) because it is an action claiming non-monetary relief.

### **PARTIES**

10. Plaintiff John Bleazard (“John”), an individual, owns residential real property as an individual within the area of incorporation of Erda and is a minority shareholder of Six Mile Ranch Company (“Six Mile Ranch”), a Utah Corporation.

11. Plaintiff Mark Bleazard (“Mark”), an individual, owns residential real property as an individual within the area of incorporation of Erda and is a minority shareholder of Six Mile Ranch.

12. Six Mile Ranch owns nearly 6,000 acres of real property in Tooele County, which is included in Erda’s incorporated area.

13. Erda is a municipal corporation located in Tooele County, Utah.

14. The Lieutenant Governor certified the incorporation of Erda on or about January 3, 2022.

### **GENERAL ALLEGATIONS**

#### ***Erda’s Fraudulent Actions***

15. In October of 2018, certain Erda citizens organized to incorporate the City of Erda and submitted a request for a feasibility study to initiate the incorporation process.

16. The Request for Feasibility Study was required to be signed “by the owners of private real property that . . . covers at least 10% of the total private land area within the area[] and is equal in value to at least 7% of the value of all private real property within the area” under Utah Code Ann. § 10-2a-202(1)(a).

17. Before its current incorporation, Erda was a Census Designated Place (“CDP”). The area locally referred to as Erda, before its incorporation, was generally coextensive with the official map of the Erda CDP and is much smaller than the present incorporated boundaries of the City of Erda. A copy of the map of the Erda CDP is attached as Exhibit 1.

18. As shown on the map of the Erda CDP, the area locally known as Erda was located to the south of SR 138, east of Marshall Road, and North of SR 112. Six Mile Ranch’s property was outside the Erda CDP and outside the area locally referred to as Erda before the incorporation.

19. As certain Erda citizens gathered signatures of owners of real property for the proposed incorporation, Mark and John were approached for their signatures.

20. Mark and John each own personal, residential property in the Erda CDP.

21. Mark and John were told that the request related only to their separate, personal real property located in the Erda CDP.

22. Mark and John were not informed that the proposed study area or incorporation included Six Mile Ranch’s property. Neither Mark nor John were provided with a map depicting the proposed incorporation boundaries in violation of Utah Code Ann. § 10-2a-202(1)(c) (requiring request for feasibility study submitted to the Lieutenant Governor to describe the area

proposed to be incorporated and be “accompanied by and circulated with an accurate map or plat”).

23. Mark and John each supplied their signatures for the feasibility study solely for their own personal, real property and not on behalf of Six Mile Ranch.

24. Neither Mark nor John would have expected Six Mile Ranch property to be included, given that it was not located in the Erda CDP and the Sponsors represented to Mark and John that the Request for Feasibility Study related only to Mark’s and John’s individual, separate real property. Mark and John were not approached or asked to sign on behalf of Six Mile Ranch.

25. John and Mark were never asked to provide, or actually provided, documentation demonstrating that they signed any request for feasibility study or request for incorporation on behalf of Six Mile Ranch. John and Mark were never authorized by Six Mile Ranch to sign any request for feasibility study or other document relating to the incorporation on behalf of Six Mile Ranch.

26. None of the owners of Six Mile Ranch, other than John and Mark in their separate, individual capacities, were ever contacted regarding the Request for Feasibility Study.

27. Six Mile Ranch has not consented to any request for feasibility study and has not consented to incorporation into the City of Erda.

28. The signatures submitted in support of the Request for Feasibility Study were fraudulently misrepresented to have been obtained on behalf of Six Mile Ranch.

29. Despite the fact that John and Mark signed only for their individual residential property that was actually located in Erda, the sponsors of the Erda incorporation petition altered

the request for a feasibility study to indicate that John and Mark signed on behalf of Six Mile Ranch.

30. In particular, the sponsors of the feasibility request handwrote in the margin “Owners of ‘Six Mile Ranch’” on the Request for Feasibility Study and drew arrows to the signatures of Mark and John in an effort to misrepresent the capacity in which Mark and John signed the document. *See* Request for Feasibility Study, attached as Exhibit 2.

31. Neither Mark nor John were aware of the alteration prior to the Request for Feasibility Study being submitted to the Lieutenant Governor’s Office for certification and have never given their consent for that alteration.

32. This attempt to misrepresent the signatories on the request does not comply with statutory requirements for verifying authority to act on behalf of an entity. As set forth in Utah Code Ann. § 10-2a-102(3)(b), signatures purporting to be made “in a representative capacity on behalf of an owner [are] invalid unless . . . the person’s representative capacity and the name of the owner the person represents are indicated on the request or petition with the person’s signature[] and . . . the person provides documentation accompanying the request or petition that substantiates the person’s representative capacity.”

33. Sponsors for Erda’s incorporation submitted the Request for Feasibility Study with Mark and John’s misrepresented signatures.

34. Following completion of the feasibility study, based upon the misrepresented signatures on the Request for Feasibility Study, a petition for incorporation was submitted to the Lieutenant Governor (the “Petition for Incorporation”).

35. The Lieutenant Governor's office acknowledged that the Request for Feasibility Study was deficient without the assent of Six Mile Ranch and, consistent with the actual state of affairs, the Lieutenant Governor's office stated that it had not "seen any indication at this point that Mark or John intended their signature to count for all of Six Mile Ranch." These concerns were never resolved in a manner that complied with the statutory requirements.

36. In advance of the incorporation election held in 2020, John and Mark each sent letters to the Lieutenant Governor. Mark attested that "it was never discussed or implied that I was signing for anything other than my own property in Erda" and that he "did not or could not sign as a representative of Six Mile Ranch Corp., without first consulting the other owners." John attested that "it was never stated or implied that I was signing for anything other than a feasibility study to move forward" and that he "did not or could not sign as a representative of Six Mile Ranch and was never informed that any Six Mile Ranch property was being considered as part of the Erda City boundaries."

37. Two days after John and Mark sent their statements, the Lieutenant Governor's Office acknowledged that John, Mark, and another property owner stated they were signing only for their personal property parcels. Accordingly, the Lieutenant Governor's Office stated to Erda Sponsors, "if that is accurate, then there is an argument that the original petition should not have been certified, and that could be grounds for someone to challenge the validity of the election if the votes are in favor of incorporation."

38. Despite being informed of the consequences of their fraudulent activities, the Sponsors moved forward with their efforts to incorporate Erda.

39. Because of Erda's inclusion of fraudulent signatures on Six Mile Ranch's behalf, material defects exist that prevent Erda's lawful incorporation. Erda has not met the statutory requirements for incorporation and its certificate of incorporation should be invalidated.

40. More specifically, the Lieutenant Governor wrongfully issued the certificate of incorporation to Erda ("Certificate of Incorporation") because the Certificate of Incorporation should not be issued unless (1) the Lieutenant Governor "determines that the notice of an impending boundary action meets" the requirements of Utah Code Ann. § 67-1a-6.5(3), and that (2) "the notice of an impending boundary action is accompanied by an approved final local entity plat." Utah Code Ann. § 67-1a-6.5(2)(a)(i).

41. Among other things, Utah Code Ann. § 67-1a-5(3) requires that the notice of impending boundary action must "contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met." Utah Code Ann. § 67-1a-6.5(3)(e)(i).

42. The Lieutenant Governor must decline to issue the certificate of incorporation if these requirements are not met. *See* Utah Code Ann. § 67-1a-6.5(2)(b).

43. Several requirements were not met during Erda's incorporation efforts including the inclusion of fraudulent, invalid signatures and the failure to make a timely submission of its notice of impending boundary action.

### ***Invalid Signatures***

44. First, the Request for Feasibility Study and the subsequent Petition for Incorporation did not contain the requisite signatures to allow the feasibility study or the proposed incorporation to proceed or be approved by the Lieutenant Governor. The Request for



Feasibility Study was required to be signed “by the owners of private real property that . . . covers at least 10% of the total private land area within the area[] and is equal in value to at least 7% of the value of all private real property within the area.” Utah Code Ann. § 10-2a-202(1)(a).

45. Six Mile Ranch’s signatures were never provided to Erda for the Request for Feasibility Study or for the incorporation. The only signatures provided by Mark and John Bleazard were in their individual capacity and not on behalf of Six Mile Ranch.

46. The absence of any valid signature on behalf of Six Mile Ranch causes the Petition for Incorporation to fall short of the necessary signature requirements and should have been rejected by the Lieutenant Governor under Utah Code Ann. § 10-21-204(1)(b)(ii) (“if the lieutenant governor determines that the request fails to comply with Section 10-2a-202, reject the request and notify the contact sponsor in writing of the rejection and the reasons for the rejection.”). .

47. Also, to the extent the 2019 version of Utah Code Ann. § 10-2a-208(1)(c) applies to the petition for incorporation, Six Mile Ranch’s signature was necessary to meet the minimum signature requirements for the petition as well. Utah Code Ann. § 10-2a-208(3) prohibits the use of signatures from feasibility requests to be used to satisfy the signature requirements for an incorporation petition. The Petition for Incorporation should have been rejected by the Lieutenant Governor under Utah Code Ann. § 10-2a-204(1)(b)(ii) (“if the lieutenant governor determines that the petition fails to comply with Section 10-2a-208, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.”).

48. Because the signature requirements were not met for either the Request for Feasibility Study or for the Petition for Incorporation, Erda’s incorporation is invalid from its inception.

### ***Untimely Notice***

49. Second, Erda did not timely make submissions to complete its incorporation.

50. Upon information and belief, the canvas of the final election of municipal officers for the City of Erda was completed by November 16, 2021.

51. As set forth in Utah Code Ann. § 10-2a-217(1), Erda was required to submit to the Lieutenant Governor a notice of impending boundary action that complied with Utah Code Ann. § 67-1a-6.5(3) and a copy of an approved final local entity plat within thirty days, or by December 16, 2021. *See* Utah Code Ann. § 68-3-7 (stating that when “comput[ing] the period of time provided by law to perform an act,” the first day is excluded and the last day is included unless it is a holiday or weekend).

52. Sponsors for Erda did not submit a notice of impending boundary action with an approved final local entity plat by December 16, 2021.

53. Upon information and belief, a final approved local entity plat was not submitted until December 30, 2021, after the Third District Court ordered the Tooele County Surveyor to approve Erda’s final plat map. *See Ryan Sorenson, et al., v. Jerry Houghton*, Case No. 210301631, Ruling and Order Granting Petitioners' Motion for Rule 65B Motion for Extraordinary Relief and Compelling Respondent to Review and Approve the Erda Incorporation Plat.

54. The Third District Court’s decision was based on the Lieutenant Governor’s purported practice to allow for late incorporation submissions. *See id.*

55. However, nothing in the Municipal Code allows the Lieutenant Governor to extend the deadline for making submissions to the Lieutenant Governor. The only provision

giving authority to the Lieutenant Governor to extend any incorporation deadline is contained in Utah Code Ann. § 10-2a-220(4)(c).

56. Utah Code Ann. § 10-2a-220(4)(c), which was adopted in 2019, allows for the extension of “a fee payment deadline beyond the deadline described in” the statute, and is inapplicable to excuse Erda’s failure to comply with the relevant statutory timeframes.

57. Erda’s failure to meet those timeframes invalidates the incorporation.

**FIRST CLAIM FOR RELIEF  
(Declaratory Judgment)**

58. Plaintiffs re-allege and incorporate the foregoing paragraphs as though fully set forth herein.

59. Pursuant to Utah Code § 78B-6-401, “[e]ach district court has the power to issue declaratory judgments determining rights, status, and other legal relations within its respective jurisdictions.”

60. Plaintiffs have standing under Utah Code Ann. § 10-2a-217(2)(b)(ii) to challenge Erda’s incorporation.

61. An actual, justiciable dispute exists between Plaintiffs, on the first part, and Erda and the Lieutenant Governor, on the second part.

62. Plaintiffs are entitled to a decree from this Court that:

a. Erda’s Request for Feasibility Study and subsequent Petition for Incorporation failed to include the requisite signatures to allow for the study and Petition for Incorporation to be approved by the Lieutenant Governor under Utah Code § 10-2a-204(1)(b)(ii) and Utah Code Ann. § 10-2a-209(1)(b)(ii) and the Lieutenant Governor’s certification of incorporation is invalid.

b. The signatures of John and Mark were fraudulently misrepresented as consenting to the Request for Feasibility Study on behalf of Six Mile Ranch and that their signatures were provided only in John's and Mark's respective individual capacities as residential landowners.

c. The Lieutenant Governor's issuance of the Certificate of Incorporation under Utah Code Ann. § 67-1a-6.5(2)(b) is invalid because of deficiencies in the Request for Feasibility Study and Petition for Incorporation.

d. Erda failed to make a timely submission of its Notice of Impending Boundary Action under Utah Code Ann. §10-2a-217(1) and that Erda's incorporation is invalid.

e. The Lieutenant Governor's certificate of incorporation for Erda should be invalidated based upon the failure to satisfy statutory requirements.

63. Plaintiffs are, therefore, entitled to declaratory and further relief as set forth in the Prayer for Relief.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment as follows:

1. This Court to issue an order declaring that Erda's Request for Feasibility Study and Petition for Incorporation be declared invalid for failure to obtain requisite signatures for incorporation pursuant to Utah Code Ann. § 67-1a-6.5(2)(b).

2. This Court issue an order declaring that the Lieutenant Governor's issuance of the Certificate of Incorporation be declared invalid because of deficiencies in the Request for Feasibility Study and Petition for Incorporation pursuant to Utah Code Ann. § 67-1a-6.5(2)(b).

3. This Court issue an order declaring that the Lieutenant Governor's issuance of the Certificate of Incorporation be declared invalid for failure to meet statutory requirements to make a timely submission of its Notice of Impending Boundary Action pursuant to Utah Code Ann. § 10-2a-220(4)(c).

4. The Lieutenant Governor's certificate of incorporation for Erda should be invalidated based upon the failure to satisfy statutory requirements.

5. An award of attorneys' fees and costs

6. Such other and further relief as this Court deems just and equitable.

DATED February 2, 2022.

**MITCHELL BARLOW & MANSFIELD, P.C.**

*/s/ Robert E. Mansfield* \_\_\_\_\_

Robert E. Mansfield

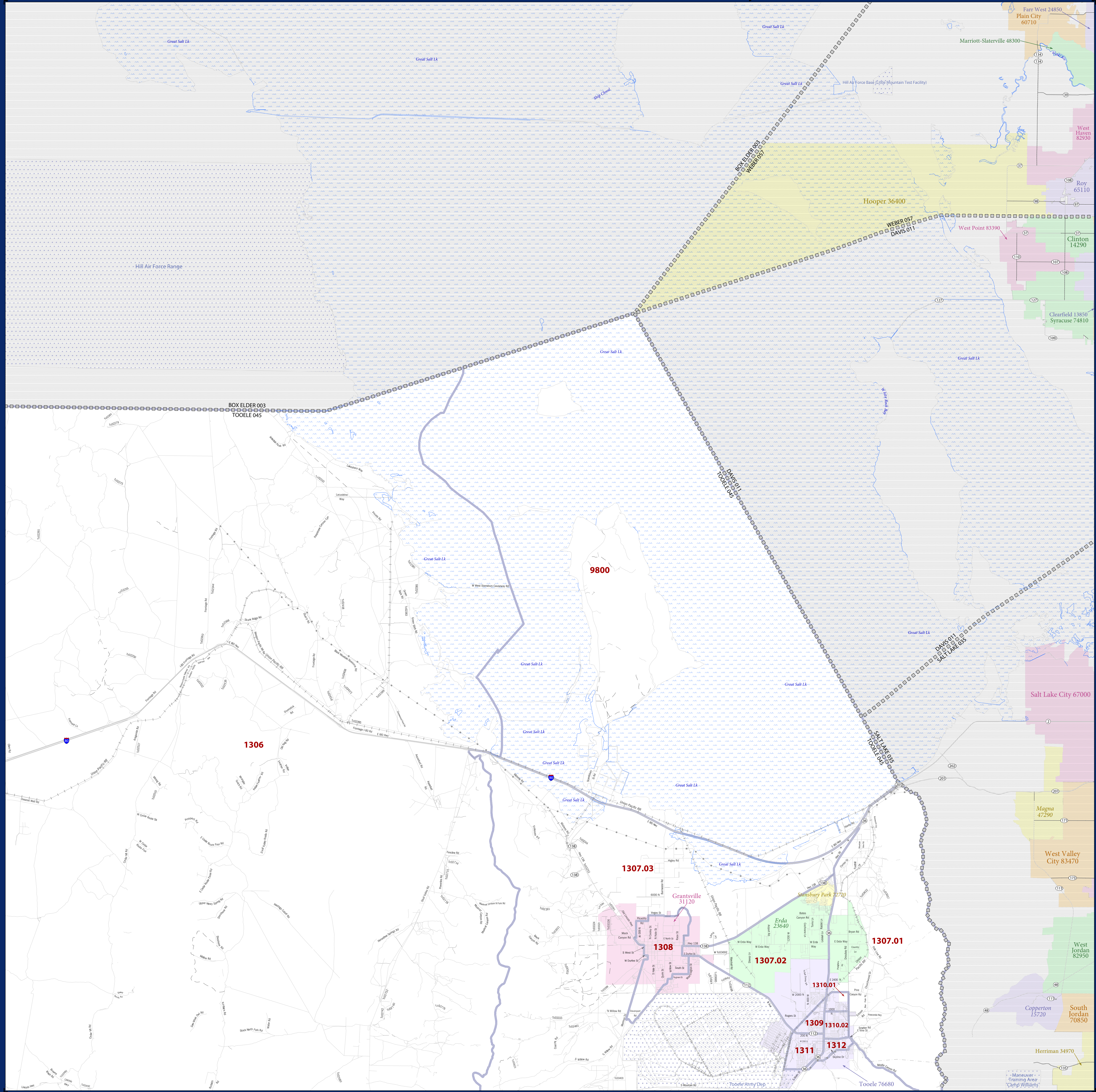
Megan E. Garrett

*Attorneys for Plaintiffs*

# EXHIBIT 1



## 2010 CENSUS - CENSUS TRACT REFERENCE MAP: Tooele County, UT



SYMBOL DESCRIPTION		LEGEND	
Federal American Indian Reservation		SYMBOL	<u><b>LABEL STYLE</b></u>
Off-Reservation Trust Land, Hawaiian Home Land			<b>L'ANSE REE 1880</b>
Oklahoma Tribal Statistical Area, Alaska Native Village Statistical Area, Tribal Designated Statistical Area			<b>T1880</b>
State American Indian Reservation			<i>KAW OTSA 5340</i>
State Designated Tribal Statistical Area			Tama Ree 4125
Alaska Native Regional Corporation			<i>Lumbee STSA 9815</i>
State for statistically equivalent entity	+++++		<b>NANA ANRC 52120</b>
County (or statistically equivalent entity)			<b>NEW YORK 36</b>
Minor Civil Division (MCD) <sup>1,2</sup>			<b>ERIE 029</b>
Consolidated City	●●●●●		Bristol town 07485
Incorporated Place <sup>1,3</sup>	●●●●●		<b>MILFORD 47500</b>
Census Designated Place (CDP)			<b>Davis 18100</b>
Census Tract			<i>Incline Village 35100</i>
			<b>33.07</b>

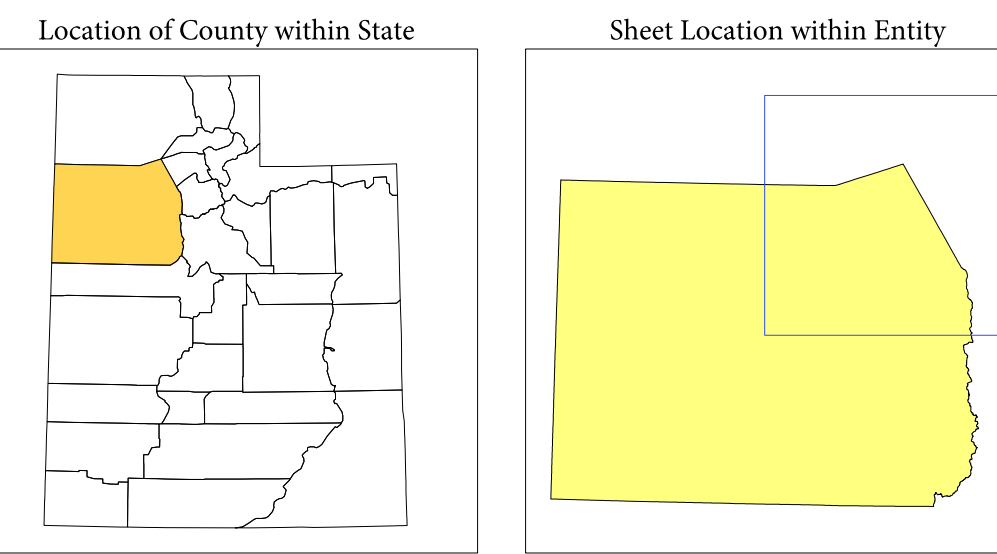
DESCRIPTION	SYMBOL	DESCRIPTION	SYMBOL
Interstate		Water Body	
U.S. Highway		Swamp or Marsh	
State Highway		Glacier	
Other Road			
4WD Trail, Stairway, Alley, Walkway, or Ferry		Military	
Railroad		National or State Park, Forest, or Recreation Area	
Pipeline or Power Line			
Bridge or Fence		Inset Area	
Property Line		Outside Subject Area	
Nerveless Boundary or Feature Not			

Where state, county, and/or MCD boundaries coincide, the map shows the boundary symbol for only the highest-ranking of these boundaries.

1 A 'o' following an MCD name denotes a false MCD. A 'o' following a place name indicates that a false MCD exists with the same name and FIPS code as the place; the false MCD label is not shown.

2 MCD boundaries are shown in the following states in which MCDs have functioning governments: Connecticut, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Wisconsin.

3 Place label color correlates to the place fill color

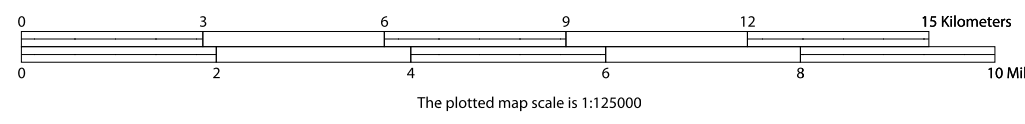


All legal boundaries and names are as of January 1, 2010. The boundaries shown on this map are for Census Bureau statistical data collection and tabulation purposes only; their depiction and designation for statistical purposes does not constitute a determination of jurisdictional authority or rights of ownership or entitlement.

Geographic Vintage: 2010 Census (reference date: January 1, 2010)  
Data Source: U.S. Census Bureau's MAF/TIGER database (TAB10ST49)  
Map Created by Geography Division: December 13, 2010

U.S. DEPARTMENT OF COMMERCE Economics and Statistics Administration U.S. Census Bureau

Projection: Albers Equal Area Conic  
Datum: NAD 83  
Spheroid: GRS 80  
1st Standard Parallel: 37 49 54  
2nd Standard Parallel: 41 10 02  
Central Meridian: -111 32 46  
Latitude of Projection's Origin: 36 59 52  
False Easting: 0  
False Northing: 0



1	2	
3	4	

PARENT SHEET 2

Total Sheets: 5  
- Index Sheets: 1  
- Parent Sheets: 4  
- Inset Sheets: 0

NAME: Tooele County (045)

ENTITY TYPE: County or statistically equivalent entity  
ST: Utah (49)



# EXHIBIT 2



PETITION FOR INCORPORATION OF ERDA, UT

To the honorable Lieutenant Governor:

We, the undersigned owners of Real property within the area described in this petition, respectfully petition the lieutenant Governor to direct the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a city. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a city is described as follows: ( See attached map of city boundaries).

Owners of "Six Mile Ranch"

Signature	Name	Address
1	John Peterson	1917 E 12th St
2	Mark Peterson	342 W 12th St
3	Judy L. WARR	4820 Tom's Lane, E. of W.
4	CLOYD A. RUSSELL	90 W 6th St, R. DENA
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