



Keli Beard <kelibeard@utah.gov>

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## RE: Bluff

1 message

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**Bruce Baird** <bbaird@difficultdirt.com>

Tue, May 2, 2023 at 8:51 AM

To: Keli Beard <kelibeard@utah.gov>

Cc: Scott Bartlett <scottbartlett@utah.gov>, Bryan Torgerson <bryantorgerson@utah.gov>, Mike Johnson <mjohnson@utah.gov>, Chris Shiraldi <cshiraldi@utah.gov>

I understand. Your call. I will get you a draft of the letter tonight or tomorrow morning for your review.

### Bruce R. Baird

**Bruce R. Baird, PLLC**

**2150 S. 1300 E., Suite 500**

**Salt Lake City, UT 84106**

**801.647.1400**

**bbaird@difficultdirt.com**

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**From:** Keli Beard <kelibeard@utah.gov>

**Sent:** Tuesday, May 2, 2023 8:33 AM

**To:** Bruce Baird <bbaird@difficultdirt.com>

**Cc:** Scott Bartlett <scottbartlett@utah.gov>; Bryan Torgerson <bryantorgerson@utah.gov>; Mike Johnson <mjohnson@utah.gov>; Chris Shiraldi <cshiraldi@utah.gov>

**Subject:** Re: Bluff

We'd like to avoid including anyone other than SITLA and your client and we aren't concerned about Section 11. I think the disconnection request, as we've drawn it, is going to be hard for the town council to deny and we'd like this to go as quickly and smoothly as possible.

On Tue, May 2, 2023 at 8:12 AM Bruce Baird <bbaird@difficultdirt.com> wrote:

That should work.

Query about the map: Why don't we take out 11 and 12 too? And maybe all of 13 and 14 as well. And maybe the north half off all of 23 and 24? Or maybe all of 23 and 24? Or maybe parts of 22, 26 and 27 too.

We may have to leave off some of the lower portions of 19 and 20 to avoid creating a peninsula in 29 and 28.

Call me today if you can please.

**Bruce R. Baird****Bruce R. Baird, PLLC****2150 S. 1300 E., Suite 500****Salt Lake City, UT 84106****801.647.1400****bbaird@difficultdirt.com**

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**From:** Keli Beard <kelibeard@utah.gov>**Sent:** Friday, April 28, 2023 8:43 AM**To:** Bruce Baird <bbaird@difficultdirt.com>**Cc:** Scott Bartlett <scottbartlett@utah.gov>; Bryan Torgerson <bryantorgerson@utah.gov>; Mike Johnson <mjohnson@utah.gov>; Chris Shiraldi <cshiraldi@utah.gov>**Subject:** Re: Bluff

Bruce,

Scott and I were looking over the disconnection statute this morning and it looks like we don't need a legal description to file the disconnection request. We will need a formal plat before it becomes final, but for us to put together a legal description will take some time and consultation with outside parties. To push this along, can we file with the attached maps?

Let me know if you'd like to discuss.

Thanks,  
Keli

On Fri, Apr 28, 2023 at 7:04 AM Bruce Baird <bbaird@difficultdirt.com> wrote:

Any word?

**Bruce R. Baird****Bruce R. Baird, PLLC****2150 S. 1300 E., Suite 500****Salt Lake City, UT 84106****801.647.1400**



Keli Beard <kelibeard@utah.gov>

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## RE: Bluff

1 message

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**Bruce Baird** <bbaird@difficultdirt.com>

Tue, May 2, 2023 at 9:07 AM

To: Keli Beard <kelibeard@utah.gov>

Cc: Scott Bartlett <scottbartlett@utah.gov>, Bryan Torgerson <bryantorgerson@utah.gov>, Mike Johnson <mjohnson@utah.gov>, Chris Shiraldi <cshiraldi@utah.gov>

Here is a new draft of the letter. I will get it out as soon as we talk about the issue below.

Please do look at the map in the area of 19 and 20 on the southeast and let's think about the peninsula issue there as noted below.

### Bruce R. Baird

Bruce R. Baird, PLLC

2150 S. 1300 E., Suite 500

Salt Lake City, UT 84106

801.647.1400

bbaird@difficultdirt.com

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**From:** Keli Beard <kelibeard@utah.gov>

**Sent:** Tuesday, May 2, 2023 8:33 AM

**To:** Bruce Baird <bbaird@difficultdirt.com>

**Cc:** Scott Bartlett <scottbartlett@utah.gov>; Bryan Torgerson <bryantorgerson@utah.gov>; Mike Johnson <mjohnson@utah.gov>; Chris Shiraldi <cshiraldi@utah.gov>

**Subject:** Re: Bluff

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## DRAFT

## BRUCE R. BAIRD PLLC

ATTORNEY AND COUNSELOR

2150 SOUTH 1300 EAST, FIFTH FLOOR

SALT LAKE CITY, UTAH 84106

TELEPHONE (801) 328-1400

BBAIRD@DIFFICULTDIRT.COM

May 3, 2023

VIA CERTIFIED MAIL AND FIRST-CLASS MAIL

Hon. Ann K. Leppanen, Mayor  
 Town of Bluff  
 190 North 3<sup>rd</sup> East, Office 1  
 PO Box 324  
 Bluff, UT 84512

Hon. Ann K. Leppanen, Mayor  
 Town of Bluff  
 PO Box 175  
 Bluff, UT 84512

Hon. Jim Sayers, Council Member  
 Town of Bluff  
 190 North 3<sup>rd</sup> East, Office 1  
 PO Box 324  
 Bluff, UT 84512

Hon. Luanne Hook, Council Member  
 Town of Bluff  
 190 North 3<sup>rd</sup> East, Office 1  
 PO Box 324  
 Bluff, UT 84512

Hon. Brant Murray, Council Member  
 Town of Bluff  
 190 North 3<sup>rd</sup> East, Office 1  
 PO Box 324  
 Bluff, UT 84512

Hon. Linda Sosa, Council Member  
 Town of Bluff  
 190 North 3<sup>rd</sup> East, Office 1  
 PO Box 324  
 Bluff, UT 84512

**Re: Petition for Disconnection Pursuant to Section 10-2-501  
 Kim E. Acton and Ida E. Acton**

Dear Mayor Leppanen and Members of the Town Council:

I am counsel for Mr. Kim Eric Acton and Ms. Ida Elizabeth Acton, husband and wife (the "Actons"). The Actons own as joint tenants the approximately 640 acres of real property described as Section 16, T 40S, R. 22E, SLM (the "Actons' Property"). SITLA, other governmental agencies and others own other properties described in Exhibit "A" constituting a total of approximately \_\_\_\_ acres ("Other Properties"). The Actons' Property plus the Other Properties are herein referred to as the "Disconnection Properties".

Pursuant to Section 10-2-501, Utah Code Ann., Acton hereby requests that the Town of Bluff ("Bluff") disconnect the Disconnection Properties from its boundaries. SITLA has

Hon. Mayor Leppanen and Members of the Town Council  
May 3, 2023  
Page 2

consented to this Petition.

The address for the Actons is 2002 North Reservoir Road, Blanding, Utah 84511. The Actons own more than 50% of the privately owned property within the totality of the Disconnection Properties. This letter is countersigned by Mr. and Ms. Acton. This information satisfies the requirements of Section 10-2-501(2)(b)(i). Mr. Eric Acton is hereby designated as the person with authority to act on behalf of Acton at the address listed above. That information satisfies the requirements of Section 10-2-501(2)(b)(iv). Please direct any future correspondence regarding this matter to Mr. Acton and please copy me on all such correspondence.

Attached is a map of the proposed disconnection which satisfies the requirements of Section 10-2-501(2)(b)(iii).

The disconnection is proposed because the portion of the Disconnection Property owned by the Actons and the rest of the Disconnection Properties cannot be served by Bluff with any municipal services. The vast majority of the Disconnection Properties are all currently vacant land owned by State and Federal entities and requires no municipal services (which Bluff does not provide anyway). The Disconnection Properties, as disconnected, would be “viable” in that they would get the very minimal services that San Juan County has previously provided. Justice and equity require the disconnection. The proposed disconnection will not leave the municipality with an area within its boundaries for which the cost, requirements, or other burdens of providing municipal services would materially increase over previous years (which is obviously true as no such services have or will be provided). The proposed disconnection will not make it economically or practically unfeasible for the municipality to continue to function as a municipality (which is obviously true as the taxes generated for Bluff by the Actons portion of the Disconnection Properties are miniscule while the remaining portions are totally exempt from any such taxes). The proposed disconnection will not leave or create one or more islands or peninsulas of unincorporated territory.

Further, the proposed disconnection will have no adverse effect on: (a) the municipality or community as a whole; (b) adjoining property owners; (c) existing or projected streets or public ways (since there are none); (d) water mains and water services (since there are none); (e) sewer mains and sewer services (since there are none); (f) law enforcement (since there is none); (g) zoning (since there is none in reality); or (h) other municipal services (since there are none).

Simply put, if Bluff does not allow the Disconnection Properties to disconnect peacefully then the Actons will file suit in District Court to force the disconnection. Bluff will lose that suit and the Disconnection Properties will be disconnected but only after Bluff has wasted a fortune on attorney’s fees. Based on *Bluffdale Mountain Homes v Bluffdale City*, 2007 UT 57, a copy of which I sent you with a prior disconnection request several years ago I am about as certain of that outcome as I can possibly be. The Actons do not want to litigate this matter but will do so if they have to.

Section 10-2-501(3) was amended this year by the Legislature in SB 43 2nd Substitute (lines 1104 to 1130). That bill was signed by the Governor on March 20, 2023 and has now

Hon. Mayor Leppanen and Members of the Town Council  
May 3, 2023  
Page 3

taken effect. That new legislation puts the onus for giving public notice of the Petition (and, also, of the public hearing on the Petition required by Section 10-2-502.5) entirely on the municipality. This new legislation allows the municipality to bill the petitioner for the costs of that notice. The Actons agree to pay those actual and reasonable costs.

I look forward to coordinating with you for the hearing required by Section 10-2-502.5, Utah Code Ann. Please contact me if you have any questions.

Sincerely,



Bruce R. Baird

cc: Client  
SITLA