

COPY

JUN 25 2010



MICHAEL K. JEANES, CLERK  
M. VEJAR  
DEPUTY CLERK

1 TERRY GODDARD  
2 The Attorney General  
3 Firm No. 14000

4 Sandra R. Kane, No. 007423  
5 Assistant Attorney General  
6 Civil Rights Division  
7 1275 West Washington Street  
8 Phoenix, AZ 85007  
9 Telephone: (602) 542-8862  
10 CivilRights@azag.gov  
11 Attorneys for Plaintiff

12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
13 **IN AND FOR THE COUNTY OF MARICOPA**

14 CV2010-020375

15 THE STATE OF ARIZONA *ex rel.* TERRY  
16 GODDARD, the Attorney General; and THE  
17 CIVIL RIGHTS DIVISION OF THE ARIZONA  
18 DEPARTMENT OF LAW,

No.

**COMPLAINT**

(Non-classified Civil)

19 Plaintiff,

20 v.

21 HILDALE-COLORADO CITY UTILITIES;  
22 TWIN CITY WATER AUTHORITY; TWIN CITY  
23 POWER; CITY OF HILDALE, UTAH; TOWN  
24 OF COLORADO CITY, ARIZONA; JOHN  
25 DOES I-X; JANE DOES I-X; ABC  
26 CORPORATIONS I-X; XYZ LIMITED  
LIABILITY COMPANIES 1-X;

Defendants.

Plaintiff, the State of Arizona *ex rel.* Terry Goddard, the Attorney General, and the Civil Rights Division of the Arizona Department of Law (collectively "the State"), for its Complaint, alleges as follows:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

## INTRODUCTION

The State brings this civil rights action pursuant to the Arizona Fair Housing Act (“AFHA”), A.R.S. §§ 41-1491 to 41.1491.37, to remedy Defendants’ discriminatory and unlawful housing practices, provide appropriate relief to aggrieved persons, and vindicate the public interest. Specifically, the State brings this matter to redress the injury sustained by Defendants’ violation of the rights of Ronald Cooke (“Cooke”), and denial of and resistance to the full enjoyment of the fair housing rights of other persons who, like Cooke, are not members of the Fundamentalist Church of Jesus Christ of Latter Day Saints (“FLDS”), and reside on or have applied to reside on land owned by the United Effort Plan Trust (“UEP”) in Colorado City, Arizona, and seek to receive utility services, including new connections to the municipal culinary water system, from Defendants in this predominately FLDS community without discrimination, intimidation or interference based on religion.

## JURISDICTION AND VENUE

14 1. This Court has jurisdiction of this matter pursuant to A.R.S. §§ 41-1491.34(A)  
15 and 41-1491.35(A).

16 2. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

## PARTIES

17  
18 3. The Civil Rights Division of the Arizona Department of Law (“the Division”) is  
19 an administrative agency established by A.R.S. § 41-1401 to enforce the provisions of the  
20 Arizona Civil Rights Act, A.R.S. § 41-1401, *et seq.*

21 4. The State brings this action on its own behalf and on behalf of Cooke, his wife,  
22 Jinjer Cooke, and their three children (collectively “the Cookes”), and on behalf of other non-  
23 FLDS members (“the Applicants”) who, like Cooke, applied for occupancy agreements for  
24 unfinished housing on UEP land and have either been or expect that they will be injured by  
25 Defendants’ discrimination in providing utility services, including new connections to the  
26 municipal culinary water system, and interference and resistance to their exercise and

1 enjoyment of rights under the AFHA. The Cookeś and the Applicants are aggrieved persons  
2 within the meaning of A.R.S. § 41-1491(1)(a).

3 5. Defendant Town of Colorado City is a municipality of the State of Arizona.

4 6. Defendant City of Hildale is a municipality of the State of Utah.

5 7. Defendant Twin City Water Authority (“TCWA”) is a Utah non-profit  
6 corporation.

7 8. Defendant Hildale-Colorado City Utilities (“HCC Utilities”) is, upon  
8 information and belief, an intergovernmental utility entity of the “twin cities” of Defendant  
9 Town of Colorado City, Arizona and Defendant City of Hildale, Utah (“the Defendant  
10 Municipalities”). Upon information and belief, HCC Utilities administers and provides water,  
11 sewer and gas utilities to customers residing in Colorado City and Hildale, and consists of the  
12 Hildale-Colorado City Power, Water, Sewer and Gas Department, and Defendant TCWA.  
13 HCC Utilities has both a utility board (“the Utility Board”) and a water board (“the Water  
14 Board”). Upon information and belief, among other things, the Utility Board makes policy  
15 recommendations to and follows utility-related resolutions and ordinances adopted by the  
16 Defendant Municipalities. Upon information and belief, the Water Board, among other things,  
17 makes policy recommendations to and follows water-related resolutions and ordinances  
18 adopted by the Defendant Municipalities.

19 9. Defendant Twin City Power is an intergovernmental entity of the Defendant  
20 Municipalities who, upon information and belief, provided electric utility service for Colorado  
21 City and Hildale residents and participated in HCC Utilities and the Utility Board until on or  
22 about July 2009 when Garkane Energy reacquired the municipal power system and took over  
23 responsibility for providing electric utility service in the area.

24 10. Defendants John Does I-X, Jane Does 1-X, ABC Corporations I-X, and XYZ  
25 Limited Liability Companies I-X are persons or entities who, upon information and belief,  
26 caused or contributed to the actionable conduct, harm and injuries plead herein, or conspired  
with other persons to take the actions complained of, and who are therefore liable for the relief

1 demanded herein, but whose identities are not known to the Plaintiff at this time. The Plaintiff  
2 reserves its right pursuant to Rule 10(f), Ariz R.Civ.P., to amend this complaint to add the true  
3 names of these defendants when they are discovered.

## 4 GENERAL ALLEGATIONS

### 5 Background

6 11. As noted in the following excerpt from a Utah Supreme Court decision, much of  
7 the land in Colorado City, Arizona and adjacent Hildale, Utah was settled by a religious group  
8 who wanted to continue the practice of plural marriage in an isolated area. The Utah Supreme  
9 Court stated, in relevant part:

10  
11 Sometime in the late nineteenth century, some members of the Church of Jesus  
12 Christ of Latter Day Saints organized a movement called the Priesthood Work  
13 ("The Work") to continue the practice of plural marriage outside that church. In  
14 the early part of [the twentieth] century, The Work's leadership – The Priesthood  
15 Council – decided to settle its membership in an isolated area to avoid  
16 interference with their religious practices. In approximately the 1930's, The  
17 Work selected an area composed of Hildale, Utah and Colorado City, Arizona –  
18 an area now known as Short Creek. The Priesthood Council secured a large tract  
19 of land in this area, and adherents of The Work began to settle there. The Work  
20 continued to secure additional land in the area. Commonly, its adherents bought  
21 land and deeded it to The Work. Eventually, the leadership of The Work formed  
22 a trust to hold title to the land. The trust failed, and, for the most part, the land  
23 was deeded back to those who contributed it. In 1942, the Priesthood Council  
24 signed and recorded in Mohave County, Arizona, a Declaration of Trust for the  
25 United Effort Plan. After the Priesthood Council formed the UEP, adherents  
26 deeded most of the land that had been held by the first trust to the UEP. Over the  
years, the UEP acquired more land as adherents obtained and deeded it to the  
trust. . . . From its inception, the UEP invited members to build their homes on  
assigned lots on UEP land. Through this system, the UEP intended to localize  
control over all local real property and to have the religious leaders manage it.  
Members who built on the trust land were aware that they could not sell or  
mortgage the land and that they would forfeit their improvements if they left the  
land. However, the UEP did encourage its members to improve the lots assigned  
to them and represented that they could live on the land permanently. . . .  
Sometime during the late 1960's or early 1970's, dissension over a doctrinal issue  
arose among adherents of The Work, causing a split in the Priesthood Council.  
The dissension broke into the open in 1984 when adherents of The Work split

1 into two groups: One group led by Rulon T. Jeffs ("Jeffs") acquired control of the  
2 UEP. A second group, led by J. Marion Hammon and Alma Timpson, includes  
3 most of the claimants in the present case [but some complainants claim no  
4 affiliation with either group]. In 1986, Jeffs declared that all those living on  
5 UEP land were tenants at will. Before this declaration, no one had told the  
6 claimants that they were tenants at will. In 1987, the claimants, [including  
7 Cooke's brother, Claude "Seth" Cooke] filed an action . . . to determine their  
8 rights in the [UEP] property.

9 *Jeffs v. Stubbs*, 970 P.2d 1234, 1239-40 (Utah 1998).

10 12. After the claimants prevailed in *Jeffs v. Stubbs*, an Amended and Restated  
11 Declaration of Trust of the United Effort Plan Trust was recorded in Mohave County, Arizona  
12 and Washington County, Utah in 1998 ("the 1998 Amendment"). The 1998 Amendment  
13 states in relevant part:

14 The United Effort Plan is the effort and striving on the part of Church members  
15 toward the Holy United Order. This central principle of the Church requires the  
16 gathering together of faithful Church members on consecrated and sacred lands to  
17 establish as one pure people the Kingdom of God on Earth under the guidance of  
18 Priesthood leadership. . . . Consecration of real estate to the United Effort Plan  
19 Trust is accomplished by a deed of conveyance. Church members also consecrate  
20 their time, talents, money, and materials to the Lord's storehouse, to become the  
21 property of the Church and, where appropriate, the United Effort Plan Trust. . . .  
22 All consecrations made to or for the benefit of the United Effort Plan are  
23 dedicated to the sacred purpose of the United Effort Plan and without any  
24 reservation or claim of right and/or ownership. The privilege to participate in the  
25 United Effort Plan and live upon the lands and in the buildings of the United  
26 Effort Plan Trust is granted, and may be revoked by the Board of Trustees. Those  
who seek that privilege commit themselves and their families to live their lives  
according to the principles of the United Effort Plan and the church, and they and  
their families consent to be governed by the Priesthood leadership and the Board  
of Trustees. . . . Participants who, in the opinion of the Presidency of the Church,  
do not honor their commitments to live their lives according to the principles of  
the United Effort Plan and the Church shall remove themselves from the Trust  
property and, if they do not, the Board of Trustees may, in its discretion cause  
their removal.

13. On or about July 2000, the leadership of the local religion, now known as the  
"FLDS," instructed members that apostates were tools of the devil, and that there were dangers

1 in associating with apostates, including those who were close family members. The FLDS  
2 leadership required FLDS members to “leave apostates alone, severely” so that they would be  
3 discouraged and leave UEP land. Those who did not follow this instruction would be asked to  
4 leave.

5 14. On or about January 2004, FLDS leader Warren Jeffs told approximately 21  
6 FLDS men that they had “lost Priesthood,” that they should leave UEP land, and that their  
7 wives and children had been released from them.

8 15. By trying to assert control over housing, family relationships and salvation, the  
9 FLDS Church placed great pressure on FLDS members to conform and avoid apostates.

10 16. FLDS control over UEP property changed somewhat in 2005 when a Utah court  
11 determined that the existing UEP Trustees had engaged in breach of trust and violation of Utah  
12 law and appointed Bruce Wisan (“Wisan”) as Special Fiduciary of the UEP.

13 17. Effective October 25, 2006, the Utah court reformed the UEP based on neutral  
14 principles of law rather than religious doctrine or practice. The UEP, as reformed in 2006, is  
15 to provide for the just wants and needs of the class of potential trust participants, *i.e.*, those  
16 who previously made contributions of property or time, talents or materials to the UEP or to  
17 the FLDS Church, and those who subsequently make contributions to the UEP which are  
18 approved by the Board, regardless of the potential participants’ current religion.

19 18. When Wisan became the Special Fiduciary of the UEP, dozens of unfinished  
20 homes in various stages of completion had been abandoned since late 2002 and were  
21 deteriorating. The UEP began working on making housing on UEP land available to potential  
22 trust participants regardless of religion and on subdividing the UEP property. To subdivide its  
23 land, the UEP needed cooperation from the Defendants, which are composed of FLDS  
24 members.

25 19. Defendants raised concern about connecting water service to properties that had  
26 not been previously served with water in the context of discussions with the reformed UEP in

1 April and May 2007 about subdividing UEP land for distribution to trust beneficiaries,  
2 regardless of religion.

3 20. On or about April 25, 2007 in the context of reviewing a UEP subdivision  
4 proposal, Utility Board President Jonathan Fischer stated that additional studies of the water  
5 and wastewater systems are needed to determine the actual capacity of the systems.

6 21. According to a May 18, 2007 report to Defendant Colorado City's Town  
7 Council, Colorado City Town Manager David Darger ("Darger") spoke with Wisan about  
8 whether there would be roadblocks with water if someone submitted a building permit and  
9 Darger responded that he couldn't say yes or no because no study had been done to determine  
10 how much water was available although there seemed to be shortages in summer. Darger's  
11 report also indicates that Wisan offered on behalf of the UEP to work with the Defendants to  
12 help with infrastructure, particularly water.

13 22. Thereafter, the UEP hired a water engineer and requested records from  
14 Defendants to determine how much water was available. A dispute arose as to whether the  
15 records had been fully provided to the UEP by Defendant TCWA. On or about February 28,  
16 2008, the UEP sought judicial relief to compel Defendant TCWA to provide subpoenaed water  
17 records. The dispute between the UEP and Defendant TCWA over production of water  
18 records continued on in Utah courts until approximately May 2010.

19 23. As of December 2009, the Defendants had not measured the aquifer and had not  
20 determined how much water was available for culinary water connections in their municipal  
21 water service area.

22 **Ronald Cooke**

23 24. Cooke was born in the Colorado City/Hildale area, and was raised in the FLDS  
24 religion. However, Cooke left the FLDS religion at age 18 or 19, and moved to Phoenix to  
25 work in construction.

26 25. In 2005 while doing road work in Phoenix, a large truck hit Cooke and he  
suffered traumatic brain and spinal cord injury, facial paralysis, and multiple mental and