

1988

## Van Wagoner v. Whitmore : Unknown

Utah Supreme Court

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UTAH SUPREME COURT

BRIEF

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**FILED**  
NOV 3 1989

Clerk, Supreme Court, Utah

Mr. Geoffrey J. Butler, Clerk  
Utah Supreme Court  
332 State Capitol  
Salt Lake City, Utah 84114

RE: Case No. 880243, consolidated with 880215, 880120 and 880300

Dear Mr. Butler:

As provided by Rule 24(J), Rules of the Supreme Court of Utah, the Defendants/Appellants, The Utah Division of State Lands, et al., hereby supplement their brief in each of the above referenced cases.

Since the filing of the briefs in the case the Arizona Supreme Court case of Kadish vs. Arizona State Land Department, 747 P.2d 1183 (Ariz. 1987) has been appealed to the Supreme Court of the United States and a decision has been made and an opinion published. It is Asarco, Inc., et al., vs. Kadish, et al., U.S. \_\_\_\_\_, 109 S.Ct. 2037, 104 L.Ed.2d 696, 57 U.S.L.W. 4574, decided May 30, 1989. The citation of this United States Supreme Court Opinion in the Kadish case should be added to Appellants' brief at each place the Arizona Supreme Court decision in this same Kadish case is cited.

Also, Defendants/Appellants, The Utah Division of State Lands, et al., have discovered a decision of the Supreme Court of Utah on the subject of the State's responsibility with regard to School Trust Lands, which was not cited in their brief. That case is Van Wagoner vs. Whitmore, 58 Ut. 418, 199 P. 670 (1921). The citation of the Whitmore case should be added to Appellants' brief as follows:

Add "see also Van Wagoner vs. Whitmore, 58 Ut. 418, 199 P. 670 (1921)" at line 6 page 16 after "Id. at 758", at line 12 page 33

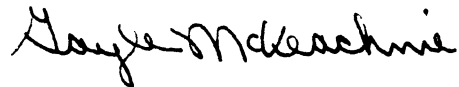
Mr. Butler  
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after "Id. at 343", and at line 10 page 34 after "at 952". Add the citation of the Van Wagoner case as the final case listed in the table of authorities in each of the consolidated cases.

This letter is sent to you with nine (9) copies.

Respectfully submitted,

NIELSEN & SENIOR

A handwritten signature in cursive script, appearing to read "Gayle McKeachnie".

Gayle F. McKeachnie

GFM/jc  
cc: Calvin L. Rampton  
Hugh Garner  
James Elegante  
Keith Taylor