September 20 2014 - STATUS OF GROUND WATER REMOVAL SYSTEM (UNDERDRAINS/FRENCH DRAINS)
 IN SILVER SPRINGS SINGLE FAMILY HOMEOWNERS ASSOCIATION PHASE 1A and 1B

**WHERE IT IS** — 6’-10’ under the ground surface on Phase 1A and 1B Members private property
 -- on incomplete 1978 design maps for Silver Springs East
 -- 69 lots w/underdrains along front road easement
 -- 17 lots w/underdrains along the side easement of the lot
 -- 12 lots w/underdrains along the back easement of the lot
 -- 10 lots w/underdrains on two sides of lot
 -- at least one lot with underdrains down the middle ( Lot 36), others?

**WHERE IT IS NOT** – **88 lots with no underdrains on the property**
 - The underdrains are not on our subdivision recorded plat maps.
 - The underdrains are not shown in the easements with the other utilities.
 - The underdrains are not dedicated to the County nor to any HOA.
 - Underdrains are not installed in any other SSSF phases or neighboring subdivisions.
 - Underdrains are not in any SS**SF**HOA recorded documents.

**WHAT IS THE UNDERGROUND WATER SITUATION IN SILVER SPRINGS SINGLE FAMILY SUBDIVISION** - Six or so homes in Silver Springs Phase 1B, Lots 65 – 171 along East Meadows Drive have experienced water issues during the 30+ years since the first home was built.
 **WHY WERE THE UNDERDRAINS INSTALLED?** The 1974 developers purchased 857 acres naming the area Silver Springs East, situated on high ground subsurface ground water that included artesian activity and a number of streams. On July 3, 1979 Stan Strebel, Planning Director, Paul Kelly, Consultant, Rinehart Pursell from J.J. Johnson, Terry Christiansen, Deputy Co. Attorney, met with the County Commission to discuss development of Silver Springs East. A motion was made to approve Silver Springs East plat 1A with four stipulations. 1. Developer to conform to Dames and Moore engineering plans for draining the land to prepare it for construction of homes and condos. 2. The County would hold the underdrains bond for three years. 3. If drains failed during the next three years the developer would fix them. 4. Developer to record a **“Special Notice” to all buyers and builders** (completed on Entry 157606) **“**to avoid possible structural damage from abnormal subsurface water fluctuation by using wider footings or extending the foundation down to the gravel base. Any basements constructed will be at the owner’s risk.” Beginning in 1979 other water collection and removal systems were installed in Silver Springs: drainage channels, storm drains, sewers, retention ponds (lakes), curbs and gutters.

As a result of the meeting and the “Special Notice” required above, three years later, on July 6, 1982 the County considered fulfilled the agreement for plats 1A and 1B by releasing to "**that** Association” the $150,000 bond money. Entry 193367. This document known as the Ray Fry Agreement, is what Noland calls his ‘prime directive,’ was fulfilled and is now void. Thirty-six years later “**that** Association” no longer exists. Summit County’s Chief Civil Deputy Attorney, David Thomas wrote:” The ownership and maintenance of the underdrains is a private matter between the landowners within the subdivision and the owner’s association.

**SO WHO IS RESPONSIBLE FOR THE SYSTEM** – The system was abandoned by the developers, the master association, the homeowners association, and the homeowners, decades ago. When Silver Springs **Single Family** HOA was organized in 1984 the SSSFHOA attorneys were instructed by the developer Vern Hardman and attorney/partner Don Stringham to not include responsibility for the underdrains in the organizing charter documents. This agreement was accepted by the majority vote of the Single Family homeowners. Entry 244975. To this date the underdrains are not mentioned in any SSSFHOA charter documents. The flow of water into Silver Springs East, our community, has greatly diminished over the years by the development of upper elevation subdivisions, Canyons Resort, and by harnessing the streams inside concrete viaducts, and into retention ponds (lakes), thru drainage channels, to Swaner Nature Preserve and on to Spring Creek.

**ARE THE UNDERDRAINS COMMON AREAS?** In 1989, the County required Silver Springs East land buyers and developers, Barnes-Widdows-Spieker, to take over the former Silver Springs East developers’ responsibilities by incorporating the Silver Springs East Development Subdivisions Homeowners Association as the **Silver Springs Master Homeowners Association** to hold title, manage, maintain all of SSE common areas for the (500+) housing units. Utah Community Association Act, Utah Code Ann. Section 57-8a-101, et seq.  defines “common areas” as property that the association “(a) owns; (b) maintains; (c) repairs; **or** (d) administers.” The Silver Springs Master Association does not recognize the underdrains as common areas and has never participated in terms (a) thru (d).

**UNDERDRAINS HARMFUL TO NATURE** - Around 2006 a formal scientific assessment including flora, fauna, local hydrographs and the development of Swaner Nature Preserve and Willow Creek Open Spaces revealed that water discharged from the Silver Springs underdrain system contains undesirable concentrations of sediment, nitrates, phosphorous, herbicides, and other contaminants that enter their receiving waters, as compared, and preferred, with naturally occurring runoff. Underdrains have the undesirable function of leaching out homeowner landscape water. Groundwater reserves are a valuable and shrinking asset in Summit County and in Utah. Unearthing a long defunct system that removes groundwater and benefits very few homeowners is a fool’s errand, and a costly one.

**WHY HAS THE DEFUNCT UNDERDRAINS SYSTEM BECOME AN ISSUE 30+ YEARS LATER** -- A retired engineer on East Meadows Drive, lost a water heater in his crawlspace to rust. He began to pursue the underdrains project to remedy his problem. He collected anecdotal evidence of random high water problems in a handful of neighbor lots. This resident placed continual pressure on the HOA Board of Trustees to pay for repairs to the system (the board has paid since 2007) and to receive Board authority to dig around private property; he obtained a bid for exploration ($91,000) and maintenance (10 times more?). The Board sought legal advice. A number of attorneys provided inconclusive opinions that could serve to make the HOA-BOT culpable to lawsuits by the homeowners.
The County Commissioners advised the HOA-BOT **not** to place the underdrain system under its auspices.

**WHAT WILL IT COST EACH HOMEOWNER** – Maintenance of the underdrain system is intrusive into neighborhood private property whether a lot is experiencing ground water issues or not. 1/188th of $91,000 for the “exploration phase” is $484. Roto-rooting work to depths of 6’-10’ may cause damage or removal of trees, fences, mailboxes, rock work, landscaping, driveways, decks, this can add “100s of thousands of dollars to the cost.”

**NOV. 13, 2013 HOA ANNUAL MEETING** (22 attendees), six underdrain proponents shouted down a motion for disclosure to the homeowners information about the underdrains and expenditures. The Board is paying with HOA funds for the commercial Roto-Rooter work to clear isolated drain blockages (owner responsibility: sump pumps,
 unlined pore drain, tubewells) without the required Membership/homeowner knowledge or right to vote. More piecemeal expenditures were authorized by the Board on 09/2/2014. Still no proof the SSSFHOA is responsible for the underdrain system maintenance. Next Annual Meeting is on Tuesday, October 14, 2014. **Please attend**.

**RECOMMENDATION** -- To alleviate continued confusion with the 1979-1984 Developer documents that served as the source for all Silver Springs subdivision**s** Bylaws and CCRs, our SF documents need to be updated and rewritten.

VOTE ON OCTOBER 14, 2014 TO STOP ALL WORK ON THE UNDERDRAIN SYSTEM IN OUR NEIGHBORHOOD UNTIL THE **B**OARD **O**F **T**RUSTEES PROVIDES FULL DISCLOSURE OF COSTS AND INTRUSION TO THE HOMEOWNERS. A MAJORITY VOTE MUST BE RECEIVED ON WHETHER TO CONTINUE OR STOP SUPPORTING THE DIGGING.

All the Entry numbers provided on this document can be found at [http:/www.silverspringscommunity.com/our-community/silver-springs-sf/index-hoa-docs/](http://www.silverspringscommunity.com/our-community/silver-springs-sf/index-hoa-docs/) [www.silverspringscommunity.com SSSF Menu: “Documents Index”]