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 11 L. L. Nunn Trust, acting on behalf of the Board of Trustees

12
 13
 14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 15 COUNTY OF INYO

16 In re the Matter of

17 L. L. Nunn Trust for the benefit of
 18 Deep Springs College under the Deed
 19 of Trust dated November 5, 1923

CASE No. **SI CV PB 12 53 232**

**DECLARATION OF L. JACKSON
 NEWELL, IN SUPPORT OF
 PETITIONER DAVID HITZ'S PETITION
 FOR COURT ORDER CONSTRUING
 TRUST PROVISIONS, OR, IF
 NECESSARY, MODIFYING THE TRUST
 INSTRUMENT**

DATE: March 9, 2012
 TIME: 9:00 a.m.
 DEPT:
 JUDGE:

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DECL. OF L. JACKSON NEWELL, IN SUPP. OF PET. DAVID HITZ'S PET. FOR COURT ORDER
 CONSTRUING TRUST PROVISIONS, OR, IF NECESSARY, MODIFYING THE TRUST INSTRUMENT

FILED

FEB 06 2012

INYO CO. SUPERIOR COURT
 TAMMY L. GRIMM, CLERK

BY *J. Baker* DEPUTY

1 I, L. Jackson Newell, declare:

2 1. I am a senior professor of the history and administration of higher education
3 in the United States. My formal preparation included an M.A. degree in American History from
4 Duke University, a Ph.D. in the history and administration of American colleges and universities
5 from The Ohio State University, and a post-doctoral fellowship for two years with the University
6 Council for Educational Administration (an association of leading American and Canadian
7 universities). In addition to serving twenty-five years as professor of educational leadership at the
8 University of Utah, I served there as dean of Liberal Education for sixteen years, and was awarded
9 the distinguished faculty rank of University Professor in 1991. I served as president of Deep
10 Springs College from 1995 to 2004, and then returned to the University of Utah where I continue
11 to teach a year-long course for the top twenty-eight first-year students in the Honors College. This
12 experience deepens my understanding of the differences between a coeducational cohort of this
13 type and an all-male cohort.

14 2. I attended Deep Springs College as a student from 1956 to 1959.

15 3. I taught history and economics at Deep Springs College from 1965 to 1967.

16 4. I served on the Deep Springs College Board of Trustees from 1987 to 1994.

17 I served as Chair of the board for the final year of that period.

18 5. I served as President of Deep Springs College from July 1995 through June
19 2004. While I was president I also taught two courses each year: "The History and Philosophy of
20 Higher Education" and "Personal Values and Social Ethics."

21 6. As Chair of the Trustees of Deep Springs, and as President of Deep Springs
22 College, I played leading roles in annual fundraising to obtain the funds necessary to meet Deep
23 Springs College's operational expenses. Further, I orchestrated the largest capital campaign in
24 Deep Springs College's history. That campaign garnered \$18.2 million in gifts and pledges to
25 rebuild almost all aspects of the physical plant at Deep Springs College and to add to the
26 endowment. During the seven years of construction when Deep Springs College invested heavily
27 to renew its physical plant, ranging from building a new student residence, a science center and

1 museum and a greenhouse to completely retrofitting and renovating the Main Building and every
2 other significant structure and dwelling on campus, we also replaced virtually the entire
3 infrastructure of the college—including the water and sewer systems, the electrical service and
4 even added flash flood control. In the process of raising the funds and managing the renewal of
5 the college, I had the occasion to meet with well over half the living alumni of Deep Springs
6 College as well as all of the significant foundation funding sources that Deep Springs College
7 relies upon. In addition, as President, I was responsible for recruiting and supervising all faculty
8 and staff of Deep Springs College and played a role in recruiting new trustees of the college.

9 7. I am a historian of American colleges and universities, specializing in
10 innovative colleges. I have edited one of the two leading journals in my field, *The Review of*
11 *Higher Education*, and co-authored or edited nine books or monographs including: *Maverick*
12 *Colleges: Fourteen Notable Experiments in American Higher Education*; *A History of Thought*
13 *and Practice in Educational Administration*; *Creating Distinctiveness: Lessons from Uncommon*
14 *Colleges and Universities* and *Matters of Conscience: Conversations with Sterling M McMurrin*
15 *on Philosophy, Education and Religion*. Since 2005 I have been researching and writing a
16 biography of Deep Springs College's founder, Lucien L. Nunn ("L. L. Nunn"), and the history of
17 the college. That book is under contract with the University of Utah Press and is scheduled for
18 publication in 2013.

19 8. I have personal knowledge of the following facts and, if called to testify, I
20 could and would competently testify thereto.

21 9. Based on my personal experience and academic knowledge, I am familiar
22 with Deep Springs College, including its founder, its history and culture, its faculty recruiting, its
23 student applications process, fundraising, and standing among American institutions of higher
24 learning.

25 10. Deep Springs College was founded in 1917 by L. L. Nunn, a pioneer in
26 alternating current power generation and long-distance transmission whose interests shifted
27 gradually to educational innovation and leadership development. Founding Deep Springs College

1 was the crowning achievement of his life. L. L. Nunn specified that Deep Springs College has the
2 specific purpose of selecting and educating those who have promise of excelling in "service to
3 humanity" and becoming "trustees of the nation." From my review of his writings both before and
4 after he wrote the Deed of Trust in 1923, L. L. Nunn was single-minded in his commitment to
5 using *highly democratic educational methods* and *lived experience* to inspire gifted students to
6 accept responsibility for themselves and their communities, to excel ethically as well as
7 academically, and to prepare consciously for leadership in their chosen fields. Believing that other
8 colleges and universities were failing to use democratic methods to instill leadership skills, L. L.
9 Nunn began early to experiment with the training of young power plant workers by developing
10 innovative schools at his power stations. Drawing on these experiments, in 1911 he established a
11 scholarship house on the Cornell University campus where his students might continue their
12 studies as undergraduate and graduate students. Founding Deep Springs College six years later as
13 an independent liberal arts college for future leaders culminated his educational dream. His plan
14 was for his students to acquire an unparalleled liberal education foundation at Deep Springs
15 College and then transfer to Cornell University as juniors to pursue their academic major.

16 The following quotations provide direct access to L. L. Nunn's aims and ideals for
17 Deep Springs College. Writing to the student body in 1921: "Your members came [to Deep
18 Springs College] with the understanding that they possessed superior ability and purpose and this
19 understanding must be justified. Average results obtained in ordinary schools will not be accepted
20 as satisfactory at Deep Springs." The same year he wrote that the college's "purpose is the
21 promotion of well-being, it is not limited to the well-being of a nation, or even of mankind, but to
22 the sentient universe." At that time, he was also surfeited with qualified candidates for admission:
23 "I never had so difficult a task to keep within the limit of the number we can take. I have to reject
24 many admirably suited to this place....because of the great number of applications." Two years
25 later, in the Deed of Trust, L. L. Nunn required the trustees to carry on the work of the college "for
26 the education of promising young men, ... in a manner emphasizing the need and opportunity for
27 unselfish service in uplifting mankind from materialism to idealism." In the conduct of this

1 educational work, "democratic self-government by the students themselves shall be a feature as is
2 now the case." Clearly, L. L. Nunn intended for Deep Springs College to attract and select the
3 most exceptional students available and to educate them with the skills, perspectives and
4 knowledge necessary to create a more just and humane society.

5 Based on my long term study of L. L. Nunn, his educational experiments and his
6 other work, I believe the key element of his educational philosophy was that the students must
7 learn by grappling with things themselves—including the ongoing character of the institution. He
8 wrote:

9
10 "Again I say cut me out. Do not use my name. Refer no one to me
11 for any cause. Establish the work on broader lines than individual
12 plan or purpose, always having in mind that the benefits ultimately
 should go to the world and not a class, to the end "that government
 of the people, for the people, shall not perish from the earth."

13 In his writings, L. L. Nunn clearly defined the goal but other than the repeated insistence on
14 democratic self governance, he did not dictate the precise educational methods to best achieve that
15 goal. I conclude that L. L. Nunn's charge to the Trustees of Deep Springs and the students was to
16 continually seek the best way to achieve the overall educational goals that are the reason for Deep
17 Springs College to exist rather than slavishly retaining methods just because they are in place.

18 11. Based on my background, scholarship and professional experience, I am
19 familiar with the changing roles of women in society over the century since Deep Springs College
20 was conceived, and about the evolution of American colleges (including coeducational institutions
21 and traditionally single-sex institutions) and men's and women's educational conditions across
22 these decades. I am specifically knowledgeable about L. L. Nunn's personal history regarding
23 these issues.

24 12. First, it is important to note that L. L. Nunn founded Deep Springs College
25 three years before the Nineteenth Amendment to the U.S. Constitution granted women the right to
26 vote. Ratification did occur before L. L. Nunn drafted the Deed of Trust in 1923, but the values
27 and conditions reflected in the Deed were the product of educational experimentation he had been

1 developing for over four decades.

2 13. The era in which L. L. Nunn pursued active educational experimentation,
3 1890-1923, was one in which coeducation had been widely implemented in public universities but
4 remained to be embraced by the most prestigious private institutions, like Yale and Harvard,
5 which constituted L. L. Nunn's standard of reference. Even at coeducational, state-supported
6 institutions during this period, however, the emerging collegiate system, while granting equal
7 access to women, was aggressively segregating them with restrictive social controls and academic
8 policies that steered them into stereotypic female roles and professions. For example, the Morrill
9 Acts of 1862 and 1890 created land grant universities in every state and they adopted new
10 meritocratic admissions standards, but the new women students were guided explicitly into teacher
11 education, home economics and other academic majors and professions that reinforced traditional
12 definitions of femininity. Females were discouraged from entering engineering, law, medicine
13 and other fields that were associated in the public mind with power and influence.

14 14. Two observations can be advanced at this point: First, the elite intellectual
15 milieu in which L. L. Nunn was enmeshed had not yet come to accept the admission of women
16 alongside men in the nation's most prestigious colleges. Second, public universities, as well as
17 many private institutions, that had opted to educate women were doing so in ways that
18 discouraged females from aspiring to or preparing for the very societal, professional and political
19 leadership positions for which L. L. Nunn specifically and exclusively sought to prepare students.

20 15. It is also important to understand the vocational culture and personal
21 environment in which L. L. Nunn lived and worked throughout his life. A lifelong bachelor, his
22 career began as a hard scrabble western entrepreneur in the early days of mineral extraction, labor
23 strife, railroad expansion and electrical engineering developments—all areas in which he
24 competed successfully. His competitors, associates and workers, as well as the public servants and
25 political personalities with whom he constantly dealt, were all men. Even his personal secretaries,
26 valets and cooks were consistently men. This was the world L. L. Nunn inhabited, and when he
27 thought about improving it by inspiring and educating a new generation of leaders, men alone

came to mind. While he accorded notable respect to his sisters and nieces, and to the wives and daughters of his associates, these women never entered the equation for creating ideas, institutions or socio-political change.

16. In writing the Deed of Trust for Deep Springs College, therefore, L. L. Nunn stated that the college was designed for the preparation of "promising young men" for lives of selfless leadership and service. These words signified his focus on leadership development, and coincidentally reflected his deeply imbedded assumption that men had been leading almost all the important institutions in America, and would continue to do so. Significantly, L. L. Nunn did not state that the college was *only* for the education of young men. For him, men were simply the ones who merited acculturation for roles he believed they alone were destined to assume.

17. Since 1923, the field of education as it relates to education of women has changed drastically. Today, all public and almost all private colleges and universities admit women. Today, only four non-religious institutions remain all-male. The four institutions are Deep Springs College, Hampden-Sydney College, Morehouse College and Wabash College. Additionally, today, women are no longer guided towards fields that perpetuate stereotypical female gender roles. Women are encouraged to enter into all fields of study, including fields that were traditionally men-only such as law, medicine, engineering and other fields associated with power and leadership.

18. Based on my background, knowledge, and over forty-five years experience in teaching gifted undergraduate students, I am familiar with the learning styles, classroom conditions and gender factors that bear upon the educational outcomes for students today.

19. Research has verified that college men and women often differ in the ways they respond to human conditions, whether the situations are real or are portrayed in course material through works of literature, history, philosophy and the social sciences. Whereas men tend primarily toward analytical responses to phenomena around them, women's responses more often also include deep feelings about human challenges and predicaments. These differences have been found to exist across time and cultures, revealing a complementarity in learning and behavior

1 between women and men.

2 20. For over twenty years, I have taught an honors level humanities course
3 titled "Personal Values and Social Ethics" or "What Matters Most?" I initiated the course for the
4 Honors College at the University of Utah, then taught it at Deep Springs College for the nine years
5 I served as president and senior professor there, and have continued to teach it since returning to
6 the Honors College in Utah. Among the works I typically require and discuss in depth with
7 students are Steinbeck's *Grapes of Wrath*, Camus' *The Plague* and Dostoyevsky's *The Brothers*
8 *Karamazov*. My aim is to help students come to grips simultaneously with the power of doctrines
9 and ideas on the one hand, and the strength of personal emotions and spiritual needs (in the largest
10 sense) on the other. I start class discussions of these works by analyzing their social, political and
11 doctrinal content, and then move the conversation to consideration of the emotional needs and
12 forces that appear to be experienced by the major characters in these classic works. It is not easy to
13 transition from analyzing plots and themes to expressing the feelings one experiences when
14 encountering poverty and hunger, love and hate, and birth and death through the lives of
15 compelling fictional characters. In my experience, women in my classes almost always lead the
16 shift from the head to the heart--from rational analysis to sympathetic understanding of human
17 situations. At Deep Springs College, where there were no women in class, I found it difficult and
18 often impossible to engage students on an empathic level. My current teaching in the Honors
19 College of the University of Utah and at Westminster College in Salt Lake City reveals the same
20 benefits of coeducational classrooms that I had known before my decade at Deep Springs.
21 Inasmuch as democratic self-governance is central to the Deep Springs College method, the more
22 fully students are able to engage one another and the issues they confront, the greater the
23 educational benefits that will accrue them. Based on my experience I believe that, especially in
24 the Deep Springs College approach, the inclusion of women in the student body will enhance
25 educational benefits for all students.

26 21. L. L. Nunn was unequivocal about the importance of preparing future
27 leaders as whole human beings. His aim was to imbue his students with "whole lives—not one-

tenth, or one-half or three-quarters." If others inquired about what was being accomplished at Deep Springs College, he wrote, "there will be no pointing with the material finger to a fortune achieved or to a mechanistic invention." Rather, "the few have always had an abundance of heart and out of that abundance they have spoken. The developing influence of Deep Springs College should make the student conscious of that abundance of heart—should make that abundance coherent, and should bring it to expression." My own teaching experience and research literature suggest strongly that the abundance of heart L. L. Nunn sought to engender is more likely to develop in college students when men and women are educated together.

22. Based on my background, knowledge, and professional experience, including my service as a Trustee of Deep Springs College from 1987 to 1994 and as President of Deep Springs College from 1995 to 2004, I am familiar with the contemporary academic marketplace and in particular the processes and challenges of recruiting trustees, presidents and deans, faculty, staff and students for Deep Springs College.

23. Deep Springs College has, and desires to keep, a very high academic rating so it can recruit some of the most promising students to fulfill its mission of training leaders for public service. As a result, Deep Springs College requires a president, dean and faculty with impeccable credentials. Because there are so few academic leaders—usually the president, the dean and three other long-term professors—in residence at Deep Springs College at any one time, each individual has to possess a wide range of skills to fit well in the community while performing a variety of governance, mentoring, counseling and teaching roles. There is, therefore, a very limited pool of people who are fully qualified to teach at Deep Springs College and to lead the institution. Yet to maintain its high standards of education, the college must be successful in finding, hiring and retaining such unusual professionals. Generally, each professor that Deep Springs College seeks to hire has significant competing opportunities and a very promising career ahead of him or her. In addition, due to its small size, remote location and intensity, Deep Springs College limits faculty appointments to a maximum of six years. As a result, all but the most senior faculty, deans and presidents who serve at Deep Springs College must be keenly aware of

1 the impact of their time at Deep Springs College on the career opportunities that will be available
2 to them in the future. Having recently presided over the appointment of trustees and the hiring of
3 faculty and staff at Deep Springs College, I know that an all-male student body has dissuaded
4 many otherwise promising applicants. Based on my interviews with applicants, the problem is not
5 so much personal preference but the systemic concern in academia about single-gender higher
6 education institutions—especially male-only student bodies.

7 24. In my experience a significant number of prospective and qualified male
8 students have chosen not to apply for admission to Deep Springs College because of its single-sex
9 student body. During the student recruitment process in 1985 and 2008, Deep Springs College
10 conducted formal surveys of potential applicants. The two surveys revealed a consistent response
11 to the all-male student body. It was identified as one of the four worst (or most negative) features
12 of the school by 59% in 1985 and 56% in 2008. The total percentage of respondents ranking the
13 all-male policy as a negative were 75% of the 1985 respondents and 74% of the 2008 respondents.
14 Further, some who have been offered admission have chosen not to attend Deep Springs College
15 because of its all-male policy.

16 25. In my capacity as President of Deep Springs College for nine years, I was
17 the individual primarily responsible for fund raising. Deep Springs College benefits greatly from
18 a loyal alumni group that helps support the college financially, but there are many foundations,
19 corporations and interested individuals who rule out supporting Deep Springs College, often
20 categorically, simply because it is a single-sex male institution. This fact makes procuring major
21 grants to support new construction projects and academic development particularly difficult when
22 coupled with Deep Springs College's small size. To my knowledge, none of the foundations and
23 outside individuals who provide grants to strengthen the college offer their support because it has
24 an all-male student body.

25 26. Before, during and after my presidency of Deep Springs College, the single-
26 sex admission policy of the board of trustees has caused some key wealthy and influential alumni
27 to withhold financial support from the college. This issue has interfered with alumni fund raising

1 since the first official consideration of coeducation by the trustees in 1979-80. Among these
2 dissenting alumni, some have felt so strongly that they have actively dissuaded their peers from
3 giving to the college annual fund drive or arranging bequests to Deep Springs College. In fact, a
4 core group of these alumni created a "coeducational trust fund" to which they contributed in lieu
5 of Deep Springs College—and they encouraged others to give to it as well. The terms of this trust
6 fund, which eventually exceeded \$80,000 mostly in small gifts from younger alumni, called for its
7 transference to Deep Springs College if and when the college admitted women students.
8 Ultimately, the fund was mostly used to finance Deep Springs College's coeducation
9 investigations including the expenses for the Impact Commission on Student Body Composition
10 and Size in the early 1990's. The prospect of converting college policy to coeducational
11 admissions has prompted many donor holdouts to line up in support of Deep Springs.

12 27. Deep Springs College's sister institution, Telluride Association, now
13 located on the Cornell University campus ("Telluride"), was founded by L. L. Nunn in 1911.
14 When he subsequently founded Deep Springs College, L. L. Nunn urged Telluride to provide
15 financial assistance to Deep Springs. Beginning in the early 1920's, Telluride responded and
16 initially underwrote one-quarter of the annual operating revenue for Deep Springs College.
17 Although it declined significantly as a proportion of Deep Springs College's expenses, Telluride's
18 financial support to Deep Springs College remained important until the 1960's when Telluride
19 experienced financial difficulties of its own. In addition, Deep Springs College's all-male
20 admissions policy began to complicate relations between the two institutions. The tension over
21 the all-male policy at Deep Springs College continues to negatively impact the relationship
22 between the two institutions. Although there is no assurance that financial support from Telluride
23 will increase if Deep Springs College becomes coeducational, the change will remove a significant
24 impediment and may provide Deep Springs College with additional significant benefits from
25 Telluride.

26 28. The reputation of Deep Springs College in the academic community has
27 often been at risk because of its all-male student body. Over the years and continuing into the

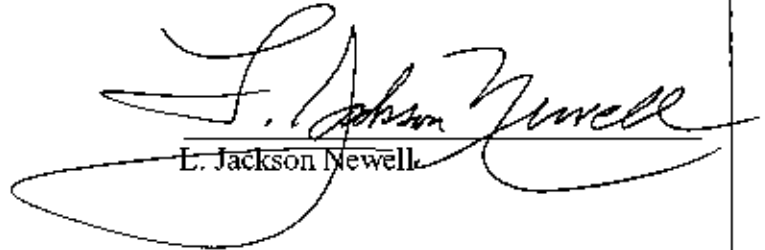
1 present, I have spoken frequently at professional meetings, before academic and civic
2 organizations and to students and prospective students and their parents about the purpose,
3 methods and outcomes of the Deep Springs College's unique educational program. Invariably, I
4 am quizzed about, and asked to defend, the single-sex admission policy. Knowing what I know,
5 and what I have testified to above, I strain to provide a satisfying explanation. Believing that the
6 Deed of Trust accords the board of trustees power to make the change, historical precedent and the
7 resistance of aging, well-healed alumni have been my only defense. The consternation and even
8 anger, especially among high school and traditional college-age students, and faculty colleagues,
9 is palpable. The damage to Deep Springs College's interests—in terms of academic reputation,
10 student and faculty recruiting, and moral and fiscal support—needs no further explication.

11 29. To summarize, in my professional judgment L. L. Nunn's primary passion
12 and interest was the preparation of principled leaders for the nation and the world. This conclusion
13 is vouched safe in his letters and in the three formal documents known as "The Deed of Trust,"
14 "*The Purpose*," and "The Man Required for Deep Springs." True and correct copies of these
15 documents are attached to this Declaration as Exhibits "A," "B" and "C" respectively. His charge
16 that the college should educate "promising young men" for this purpose was a function of his
17 personal acculturation in the emerging American west, the times in which his career and life
18 crested and the purpose to which he dedicated his final years. His choice was not to exclude
19 women, but to focus on those he anticipated would take the reins. The reins are now held as
20 comfortably by women as by men. To serve L. L. Nunn's purpose more fully today, his college
21 can double the talent pool from which it draws students by embracing a coeducational admissions
22 policy. And by doing so, in all likelihood it will also enrich the education accorded to its students,
23 enhance its academic reputation, widen the field for finding excellent faculty and staff, and expand
24 the base of its financial support. Decades of wrangling over coeducation have been costly in trust
25 and have robbed the college of the unity it needed to thrive. Widespread support of the trustees'
26 policy change to initiate coeducation at the college promises a brighter future for Deep Springs
27 College.

1 30. Further, it is clear from L. L. Nunn's writings that he did not anticipate
2 present circumstances, including the dramatically increased presence and influence of women in
3 societal and educational leadership roles. If the Trust terms were narrowly construed to prohibit
4 the Trustees from supporting coeducation at Deep Springs College, then I believe the
5 accomplishment of the Trust's purposes would be substantially impaired or even defeated.

6 31. I declare under penalty of perjury under the laws of the State of California
7 that the foregoing is true and correct and that this declaration was executed on February 2, 2012,
8 at Salt Lake City, Utah.

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L. Jackson Newell

EXHIBIT A
DEED OF TRUST

(1) The South-East of the County contains the following places:
 (2) The North-West of the County contains the following places:
 (3) The West of the County contains the following places:
 (4) The East of the County contains the following places:
 (5) The South of the County contains the following places:
 (6) The North of the County contains the following places:

[illegible]

Respecting all existing legislation, however, all of the contents of the building are either personal property contained in the classrooms in the quarters building at May Springs which have never been even accepted by grantor, or are contained within the building of the school at May Springs. The contents of the storehouse, which is situated between the quarters building and the school at May Springs, together with the right to use and use of the rooms in the quarters building, are hereby conveyed to the State of Nevada. The storehouse, which is situated between the quarters building and the school at May Springs, together with the right to use and use of the rooms in the quarters building, are hereby conveyed to the State of Nevada. The storehouse, which is situated between the quarters building and the school at May Springs, together with the right to use and use of the rooms in the quarters building, are hereby conveyed to the State of Nevada.

Nothing has to hold all the singulars above mentioned and described together, but it stands off by itself, and is not connected with the others, but it may have these singulars and all of them, or any of them, and they may be applied in exchange of the terms of the singulars and all of them, or any of them, for the purpose of the law, and upon the same and condition hereafter more fully set forth, to wit:

1. The purpose of this document is to provide information to the public regarding the results of the 1990 Census of the United States. The results of the 1990 Census are available in a variety of formats, including printed reports, computer files, and microfiche. The results of the 1990 Census are available to the public through the Census Bureau's Data User Guide, which provides information on the various data products available and how to access them. The results of the 1990 Census are also available through the Census Bureau's Data User Guide, which provides information on the various data products available and how to access them.

governance and the exercise of the powers incident may deferential to a central authority pending young men, recruited by a local Christian or a group of private citizens, who would administer the land and community for several years, in order to allow the natives to become acculturated to a life in accord with the spirit of the community, and to develop a responsible self government. This assistance, however, shall be a financial aid, not the loan of men, land, or tools, and which will have to be repaid out of the profits of the land, for the management of the European directors and agents.

[illegible]

(a) To Hold, this Party agrees, submits, places, maintains, transmits, and
 transmits, transmits, and to any and all other persons, firms, companies, corporations, or
 persons, or any portion of its assets, information, for use, in whole or in part,
 and upon such terms and conditions as the transmitting party shall determine.
 In the event of any such or any other transmission or disclosure of information, the
 transmitting party shall be deemed to have authorized the use of such information
 for the purpose of the transmission or disclosure, and the receiving party shall be
 deemed to have agreed to use such information for the purpose of the transmission or
 disclosure, and the receiving party shall be deemed to have agreed to use such
 information for the purpose of the transmission or disclosure, and the receiving party
 shall be deemed to have agreed to use such information for the purpose of the transmission or
 disclosure.

[illegible][illegible]

(4) To hold meetings in conformity with the requirements of clause (c) of article 10 of the constitution, define the powers and duties of each of the directors and officers and agents, including a chairman, secretary and treasurer, and to employ such other persons as may be necessary or convenient, and pay any (agents and employees) such salaries and the salaries of the directors and officers and agents and such other persons as may be necessary or convenient.

[illegible]

at any meeting or at any other time concerning the subject of the
will and action thereon shall be considered as evidence of the facts herein stated.
The said trustees and said student body representative shall be subject to removal
out of the trust estate for all their fraudulent and illegal acts in connection
with the trust meeting.

At witness hand of Deporter has set his hand and seal to these presents, and the
granteees to evidence their acceptance thereof have likewise executed their names
on this day and year first above written.

Walter L. Hays (S12)

Deporter

Witness to signature of Walter L. Hays

Robert T. Gentry, Arthur Herman, Melabarger

Paul F. Dunn (S21)

Witness to signature of Paul F. Dunn

James C. Dunn, John Hamilton

William A. Griffith (S21)

Witness to signature of William A. Griffith

William A. Griffith, John Hamilton

William A. Griffith (S21)

Witness to signature of William A. Griffith

William A. Griffith, John Hamilton

William A. Griffith (S21)

Witness to signature of William A. Griffith

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Witness to signature of William A. Griffith

William A. Griffith, John Hamilton

William A. Griffith (S21)

Witness to signature of William A. Griffith

William A. Griffith, John Hamilton

William A. Griffith (S21)

State of California

City and County of Los Angeles

On this 10th day of November, 1922, before me, Arthur Hamilton, a Notary Public
in and for the County and State of California, residing therein and duly qualified and
duly sworn, personally appeared Walter L. Hays, known to me to be the person whose name
is subscribed to the foregoing instrument, and acknowledged to me that he executed the
same as his free and voluntary act and deed, and that he is entitled to the
benefits thereof.

Given under my hand and seal of office, at Los Angeles, California, this 10th day of November, 1922.

By my commission Expires Dec. 12, 1922

State of California

County of San Diego

On this 15th day of November, 1922, before me, the undersigned, a Notary Public in and for the State of California, personally appeared Paul H. Smith, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 15th day of November, 1922.

Notary Public

County of San Diego

On this 15th day of November, 1922, before me, the undersigned, a Notary Public in and for the State of California, personally appeared Paul H. Smith, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 15th day of November, 1922.

Notary Public

County of San Diego

On this 15th day of November, 1922, before me, the undersigned, a Notary Public in and for the State of California, personally appeared Paul H. Smith, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 15th day of November, 1922.

Notary Public

County of San Diego

On this 15th day of November, 1922, before me, the undersigned, a Notary Public in and for the State of California, personally appeared Paul H. Smith, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 15th day of November, 1922.

Notary Public

County of San Diego

Witness my hand and official seal this day and year last above written.

Notary

My Comm. expires May 10, 1926

My Comm. expires May 10, 1926

State of New York

County of Monroe

On this 25th day of January, A.D. 1925, before me, Charles H. Williams, Notary Public in and for the County and State aforesaid, residing in said County and State, personally appeared Paul Y. Colman, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed.

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EXHIBIT B

THE PURPOSE

The Purpose

It is a fact of social evolution that the few always dominate. This is because the mass is dull-witted, sluggish, incapable. It follows only the blazed trail. In the progress of the race toward God, only the few have the vision of the Divine plan and purpose. They have always been the leaven in the lump. These forerunners, pacemakers, who anticipate progress perhaps by decades are those who break the trails and point the way. They are the voice "crying in the wilderness" and, as John foretold the coming of the "Great Spirit," they tell of the Great Light to come. It is the few who stand on the mountain tops of spiritual vision that compel a struggling race towards "life more abundant."

And the few have often come out of the wilderness—the eternal silence of the desert. When Jesus saw the vision of a blind and wandering people, he went apart to pray. "Come ye out from among them and be ye separate," and this is not to a fanatic life of asceticism but to a short season of preparation for the work of the few, the great work—the heavy toil of leadership.

Now the burden of leadership is in part the consciousness of the call—the vision of the need—but the acceptance of the calling to be one of the few is half of the labor accomplished.

Throughout the whole historic story of mankind there has been the terrible conflict between the spirit and the flesh. Sometimes it has been called the conflict between good and evil or between darkness and light, righteousness and sin, but it is always the same conflict and often it has been expressed in the combat between material and spiritual forces to dominate the soul of men. Now it is a principle of conflict that one side usually wins. In the great human family which we call society, the masses have not yet been developed to a place where they understand that there is a conflict in progress. For the most part, they have yielded unconsciously to the rule of the material, which the Prophets so aptly characterized as "the flesh pots of Egypt." But the few have seen that only the things of the Spirit endure; that Righteousness and Liberty, and Justice, and Love, are the attributes of God.

Perhaps the few are more numerous today than they were two centuries ago. Perhaps in the large we can measure an infinitely small progress of the whole human race but yet today the conflict is as bitter, if not more bitter, than it has ever been at any period in the Christian era. And if the few are more numerous, there is still a tremendous burden on them to lead—to secure the progress and to assure its continuance.

"Enoch walked with God, and was not; because God took him." This is the story so often repeated by the prophets and seers of the power of selflessness. It is Jesus saying that if a man would have his life he must lose it. Tennyson puts this with rare genius in his story of The Siege Perilous—that great seat at Arthur's table in which a knight who dared to sit was lost.

The growth of the human race toward God is inevitably in the hands of the few. In a sense they are doomed to lead. This is the burden of the vision.

The purpose of Deep Springs is to help in the training of the few. It is to create an environment where young men of sound character may find religious influence which will help them build the character for full employment in the service of their fellowmen.

This environment consists:

(1) In intimate association with a small group of young men who have declared themselves ready to accept the purpose of Deep Springs. To each of these individuals and to the group which they comprise is entrusted the fostering and the furtherance of the Deep Springs ideal. This is their first and fundamental responsibility. It follows that those who are called do not come seeking what they can acquire but rather to accept a sacred trust. In them the Purpose must be fulfilled; their failure in that trust is a menace to the very life of the ideal.

This environment consists:

(2) In the association of youth and maturity through a Guide and through certain chosen guests—men of achievement who have counted high the Things of the Spirit. The service of these to those who are called shall be: to present each one his particular subject so that it may emphasize the spiritual values together with, but primary to, the intellectual values of the Humanities, the Sciences, and all human achievement. The Guide shall hold in trust the principle that his Art, his Science, his information, his experience, must be so available that students may draw from it for the building of character as defined in the Purpose.

This environment consists:

(3) In the directed use of a library which contains all of the proven classics.

This environment consists:

(4) In the direct responsibility of the individual for his own conduct and for the group conduct of the Student Body. Also in the solemn obligation to make full use of all the means available for development of character in harmony with the Purpose.

This environment consists:

(5) In the performance of such tasks as are assigned for the conduct of the business of the ranch and school and in the care of such property as may from time to time be entrusted to the students.

It follows from the above:

(1) That the developing influences are found in part in the acceptance of the call to be one of the few. This must come from the student himself and it will surely find expression in his will to know the Truth—his desire to know it, his willingness to sacrifice—to take up the burden of the few. It will find expression in his loyalty to his trust and to the Student Body in its trust. And this development will come through suggested and supervised reading from the pages of the great masters who themselves have seen the vision, who have been numbered with the few and who have left their witness to the glory of God in their written words. Finally, there will be the contact with the experience of the mature. And in all this the student is left to discover and achieve from within. Only guidance is given from without. The few have always had an abundance of heart and out of that abundance they have spoken. The developing influences of Deep Springs should make the student conscious of that abundance of heart—should make that abundance coherent, and should bring it to expression. Yet such expression is not necessarily in any particular vocation. The abundance of heart may be evident in the blacksmith as well as in the great preacher or master surgeon. But wherever the heart is abundant there will be a leader no matter how great or how small the following. And the blacksmith or the teacher or the surgeon who fulfills in himself the Purpose of Deep Springs will be a good blacksmith, a good teacher, and a good surgeon, even as Christ must have been a good carpenter.

(2) Under such conditions no candidate can be truly called who has uppermost in his mind the fulfillment of stereotyped academic requirements for entrance to a given class, rank, or grade of a university. No one can come to Deep Springs for units. In fact many may stay the maximum period with true loyalty to the trust and profit to themselves, without making a single unit.

Nevertheless, a student may desire to spend a certain portion of his time in a given preparation for a future step, and faithful application to a directed course of study in the spirit of the Purpose may lead to formal credit.

(3) It appears, then, that the Guide must be free from all the details of administration—must delegate them. He must give himself to those who are called—his experience, his understanding, his vision. He must

spend much time in fulfilling the fountain, in reading, in meditation, in writing, in travel, and in contact with men and institutions. He must bring experience; he must be ready to give, and he must even stimulate the desire to ask. He must find those whose lives and works are worthy examples and must invite them to bring their experiences to the young men at Deep Springs. His failure, likewise, strikes at the life of the ideal.

But someone will say "How can these things be?" The masses follow curricula in the search for unics. That is not their fault. They are yielding unconsciously to the materialism of their day, expressed in the educational institutions of their society. At Deep Springs it shall be the aim of all to share in the purpose to build lives—whole lives—not one-tenth, or one-half, or three-quarters. And this can be done, perhaps, through simple residence with no further instruction than a careful course of reading of good books, for a student may learn style and English from Milton's prose far better than he can learn it in a formal class in rhetoric and composition. A student may learn history for himself in reading Gibbon. He may learn experience in reading Plutarch. Where a knowledge of the native tongue of a great author may be desired, he will find instruction in it. If his development takes him into finding the majesty of God in the wonders of Science, he may have guidance in mathematics and an open door to the knowledge of what has been achieved, from which may come the vision of what may yet be done. In short, he may live at Deep Springs, perchance fulfilling only the humble tasks which are assigned to him, yet absorbing from the organic whole the consciousness of the call—of the election of the few.

And if someone will say, "But what have you done?", there will be no pointing with the material finger to a fortune achieved or to a mechanistic invention. There will be the witness of the fruits of the Spirit, for as out of the abundance of the heart the mouth speaketh, so out of the knowledge of life the soul beareth fruit.

L. L. NUNN

Los Angeles, California
December 30, 1924

EXHIBIT C

THE MAN REQUIRED FOR DEEP SPRINGS

The Man Required for Deep Springs

No one can realize the difficulty of obtaining the man for this place without giving considerable thought to the requirements. In one sense the general charge of Deep Springs would not be extensive. In a more complete sense it would be very extensive. One difficulty almost universally experienced is in the fact that a man conscious of ability and of executive power would see hundreds of matters different from his conventional ideas and would at once start a revolution of methods and, to a certain extent, of purpose. It is doubtful whether the right man would not do better to live on the proposition and study it thoroughly for six months or more without giving an order of any kind and perhaps it would be better if he did not even reveal the fact that he was at the head. Burke in his masterpiece "The French Revolution" says that the development of society and government owes little to philosophy or theory, but almost entirely it is the work of experience which would have been much more effective than it has been but for the conduct of those having selfish purposes and more or less power to enforce them. Deep Springs is not conventional in its methods and any attempt to introduce conventional methods or any radical change would destroy its usefulness altogether. It requires a big man to study such a proposition deliberately and not use the authority which he possesses to obtain more efficient conventional results. The impatient boy digs down to see whether his seed has started to grow. The impatient executive remedies an incidental matter at the expense of the basic law which he has not fully learned.

Again, there is the financial difficulty. The country is enormously rich in cheap dollars. Methods have changed with the inflated condition and the value of the dollar, so that it sometimes appears that the old fortunes, depending on the moderate interest of past issues of bonds and suffering from the excessive taxation and other general expenses, are outclassed by the new fortunes of cheap dollars and unable to perform what they were expected to perform. Deep Springs endowment is at least six hundred thousand dollars and should have a gross income of not less than forty thousand dollars a year:—more than ample under the old order of things for giving sixteen or eighteen students the very best opportunities but apparently entirely inadequate to meet all kinds of income and other taxation and the excessive cost of everything including a very great increase in salaries and wages. I hope the institution will be permanent but I sometimes fear it will suffer financial destruction. Much more money is expended than would be necessary under management having the spirit of twenty years ago. But the danger is that in the future a manager will have the spirit of the present, which is much more extravagant than the practice at Deep Springs. The present age is not to control expenses but to be control-

led by them. You remind a young man that he has overdrawn his allowance and he replies with an injured air that he has spent nothing that was not necessary, without realizing that it was not necessary for him to spend a quarter of what he did spend. You criticize the expenses of a superintendent and he assumes no responsibility except to the extent of insisting that he has spent nothing that wasn't necessary, without recognizing at all that only such expenditures as can be paid for are necessary; but that which seems necessary is usually ordered leaving the payment as a matter to be dealt with in the future. This I find thoroughly ingrained into the present generation, occasioned largely I suppose by the enormous amount of cheap dollars, which would have vastly less purchasing power than they have now were it not for the fact that they are sharing the actual value of the old dollars which represent many times the amount of actual labor.

The man, therefore, for Deep Springs should be a careful student of affairs, conservative and slow to make changes in the present institution, which has grown up during practically a half a century and which is the embodiment of the truest democratic spirit. He should be an executive of financial ability and economical almost to the point of penuriousness. He should be a great student himself, finding much broadening society in the lives of men who have done things worth while. He should be a teacher from the abundance of his learning and enthusiasm, obtained from his own studies. He should not live constantly at Deep Springs but be a visitor of universities and other educational institutions and broadly known as an educator and a writer and speaker on educational topics. He should return to Deep Springs and bring the best that he has acquired from the outside. His aim should be to produce in students the highest type of ethical and religious character and to mature and stabilize in them the purpose for which Deep Springs stands, securing for God and mankind, men of service. He should respond to the Bishop of Exeter's call,

*Give us men
Strong and stalwart ones:
Men whom highest hope inspires,
Men whom purest honor fires,
Men who trample Self beneath them,
Men who made their country wreath them
As her noble sons,
Worthy of their sires,
Men who never shame their mothers,
Men who never fail their brothers,
True, however false are others:*

*Give us men—I say again,
Give us Men!*

Give us Men!

*Men who, when the tempest gathers,
Grasp the Standard of their fathers*

In the thickest fight:

*Men who strike for home and altar,
(Let the coward cringe and falter)*

God defend the right:

*True as truth though torn and lonely
Tender, as the brave are only:*

*Men who tread where saints have trod,
Men for Country—Home—and God:*

*Give us Men: I say again—again—
Give us such Men!*