

RECEIVED

NOV 30 2012

DEPARTMENT OF
WATER RESOURCES

BRUCE M. SMITH, ISB #3425
MOORE SMITH BUXTON & TURCKE, CHTD.
Attorneys at Law
950 W. Bannock Street, Suite 520
Boise, ID 83702-5716
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

Attorney for City of Eagle

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF	)	
INTEGRATED MUNICIPAL	)	
APPLICATION PACKAGE	)	
("IMAP") OF UNITED WATER	)	CITY OF EAGLE'S RESPONSE TO
IDAHO, INC. BEING A	)	UNITED WATER'S OBJECTION AND
COLLECTION OF INDIVIDUAL	)	MOTION TO STRIKE THE CITY OF
APPLICATIONS FOR	)	EAGLE'S INITIAL STATEMENT
TRANSFERS OF WATER RIGHTS	)	
AND APPLICATIONS FOR	)	
AMENDMENT OF PERMITS.	)	
	)	

COMES NOW, the City of Eagle, by and through its counsel of record, Moore Smith Buxton & Turcke, Chtd., and responds to United Water's Objection and Motion to Strike.

The Director's order issued June 6, 2012, lifted the stay on United Water's ("UW") IMAP submission which was filed in 2001. Because of the extended period between the filing and the lifting of the stay, the participating entities were requested to give notice of their continued participation in the IMAP proceeding. Pursuant to the Director's Order, the City of Eagle provided notice as requested. UW did not object and the City of Eagle has continued to participate in the IMAP proceeding to date. The City has attended all conferences, offered

comments, suggestions, and raised questions at the conferences consistent with its notice. Neither UW nor any other party has objected to the City's participation. UW further has consulted with and sought the City's participation and discussion on matters outside the formal conferences.

The City of Eagle has not objected to or protested any representations or comments by UW. Instead the City has offered what it considered helpful comments in response to the parties' and the Director's questions or suggestions. UW has thus waived any objections at this late date to the City of Eagle's participation.

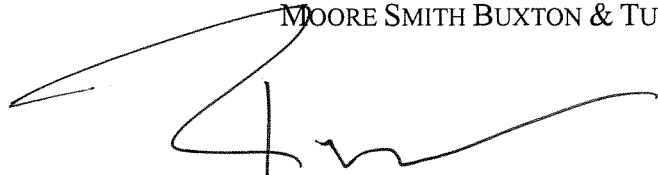
The timing of UW's objection is interesting. The City of Eagle has attempted to communicate with UW and other parties as appropriate to address the novel issues and procedural questions raised by UW's filings and request to lift the stay. It would appear that so long as the City of Eagle agreed to follow whatever proposal or procedure sought by UW, the City's participation was not objectionable. However, if the City does not support UW's position, suddenly UW finds fault with the City's participation. UW is not a municipality. Its interests are not necessarily the same as municipalities. Consistent with its Notice of Continued Participation, the City will make comments as this matter develops.

The City has not sought to participate as a party. However, the City's Notice of Continued Participation was clear. IDAPA Rule 37.01.01.355 provides for comments by public witnesses, and UW is certainly free to object. UW is not entitled to stifle or silence appropriate comments simply because they do not just follow UW's lead or changing positions. This matter is at a sensitive stage given the dated filings, the long stay, the changing positions of UW, and the uncertainties created by a procedure which all participants, including the applicant, parties, participants, agency staff, or the Director, are attempting in good faith to address. The City will

continue in good faith as well to offer suggestions or comments. If the Hearing Officer elects to consider or ignore the comments, that is within his discretion. However, simply attempting to stifle comment is not appropriate.

Respectfully submitted this 28th day of November, 2012.

MOORE SMITH BUXTON & TURCKE, CHTD.



BRUCE M. SMITH
Attorney for City of Eagle

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of November, 2012, a true and correct copy of the foregoing document was served upon the following by the method indicated below:

DOCUMENT FILED:

Idaho Department of Water Resources	☒	U.S. Mail
322 E. Front Street	☐	Hand Delivery
P.O. Box 83720	☒	Facsimile
Boise, ID 83720-0098	☐	Email

COURTESY COPIES TO:

Gary Spackman	☒	U.S. Mail
Director	☐	Hand Delivery
Idaho Department of Water Resources	☐	Facsimile
322 E. Front Street	☐	Email
P.O. Box 83720		
Boise, ID 83720-0098		
<u>Gary.spackman@idwr.idaho.gov</u>		

John Westra	☒	U.S. Mail
Manager	☐	Hand Delivery
Western Regional Office	☐	Facsimile
Idaho Department of Water Resources	☐	Email
2735 Airport Way		
Boise, ID 83705-5082		
<u>John.westra@idwr.idaho.gov</u>		

Garrick L. Baxter	☒	U.S. Mail
John Homan	☐	Hand Delivery
Deputy Attorney General	☐	Facsimile
Idaho Department of Water Resources	☐	Email
PO Box 83720		
Boise, ID 83720-0098		
<u>Garrick.baxter@idwr.idaho.gov</u>		
<u>John.homan@idwr.idaho.gov</u>		

Clive Strong	☒	U.S. Mail
Natural Resources Division	☐	Hand Delivery
Office of the Attorney General	☐	Facsimile
PO Box 83720-0010	☐	Email
<u>Clive.strong@ag.idaho.gov</u>		

Thomas H. Barry
Public Works Director
City of Meridian Public Works Department
33 E. Broadway Avenue, Suite 200
Meridian, ID 83642
tbarry@meridiancity.org

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Kyle Radek
Assistant City Engineer, Engineering
Division
City of Meridian Public Works Department
33 E. Broadway Avenue, Suite 200
Meridian, ID 83642
kradek@meridiancity.org

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Scott Campbell
Andrew Waldera
Moffatt Thomas Barrett Rock & Fields, Chtd.
PO Box 839
Boise, ID 83701-0829
slc@moffatt.com
ajw@moffatt.com

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

S. Bryce Farris
Ringert Law, Chtd.
PO Box 2773
Boise, ID 83701-2773
bryce@ringerlaw.com

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Charles Honsinger
Honsinger Law, PLLC
PO Box 517
Boise, ID 83701
honsingerlaw@gmail.com

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Brent Orton
Public Works Director, City Engineer
City of Caldwell
621 E. Cleveland Blvd.
Caldwell, ID 83605
borton@ci.caldwell.id.us

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Josephine Beeman
Jane Newby
Beeman & Associates
409 W. Jefferson
Boise, ID 83702
Jo.beeman@beemanlaw.com
Jane.newby@beemanlaw.com

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Kathleen Carr
Office of Field Solicitor
US Department of Interior
960 W. Broadway Avenue, Suite 400
Boise, ID 83706
Kathleenmarion.carr@sol.doi.gov

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Gail McGarry
Matt Howard
U.S. Bureau of Reclamation
Pacific Northwest Regional Office
1150 N. Curtis
Boise, ID 83706-1234
emcgarry@pn.usbr.gov
mhoward@pn.usbr.gov

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

SERVICE COPIES TO:

Christopher Meyer
Michael Lawrence
Givens Pursley, LLP
PO Box 2720
Boise, ID 83701-2720
chrismeyer@givenspursely.com

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Albert P. Barker
Shelley Davis
Barker Rosholt & Simpson, LLP
PO Box 2139
Boise, Idaho 83701-2139
apb@idahowaters.com
smd@idahowaters.com

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Ed Squires
Hydro Logic, Inc.
1002 West Franklin Street
Boise, ID 83702-5431
ed@hydrologicinc.net

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Matthew Wilde
Brenda Bauges
Assistant City Attorneys
City of Boise
PO Box 500
Boise, ID 83701-0500
mwilde@cityofboise.org

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Paul Woods
Environmental Manager
Public Works Department
Boise City Hall
150 N. Capitol Blvd.
Boise, ID 83702
pwoods@cityofboise.org

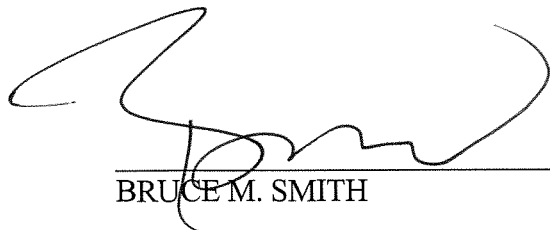
☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Richard Roats
Roats Law Office, PLLC
Plantation Business Center
6126 W. State Street
Suite 203
Boise, ID 83703
rtr@roatslaw.com

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email

Gordon N. Law
City Engineer
City of Kuna
PO Box 13
Kuna, ID 83634
Gordon@cityofkuna.com

☒ U.S. Mail
☐ Hand Delivery
☐ Facsimile
☐ Email



BRUCE M. SMITH