

LAW OFFICES
601 W. Bannock Street
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

CHRISTOPHER H. MEYER
DIRECT DIAL: (208) 388-1236
CELL: (208) 407-2792
EMAIL: ChrisMeyer@givenspursley.com

Gary G. Allen
Peter G. Barton
Christopher J. Beeson
Clint R. Bolinder
Erik J. Bolinder
Preston N. Carter
Jeremy C. Chou
William C. Cole
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James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

April 9, 2012

Mathew Weaver, P.E.
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
mathew.weaver@idwr.idaho.gov

Re: Licensing of City of Nampa Water Right No. 63-33022

Dear Mat:

I am writing on behalf of the City of Nampa to follow-up on two letters sent to you by the City's water engineers, SPF Water Engineering, regarding Water Right No. 63-33022. The first, dated February 14, 2012, was sent by Terry Scanlan. The second, dated March 20, 2012, was sent by Roxanne Brown. These letters responded to an email inquiry from you to Terry and Roxanne on January 20, 2012. You and I spoke by telephone on March 27, 2012, and I promised to follow-up by letter. My letter today addresses two points, discussed in turn below.

Well capacity data not required for licensing of RAFN right

Your January 20, 2012 email noted that the field exam for proof of beneficial use for Water Right No. 63-33022 shows a current diversion rate less than the diversion rate sought for this RAFN right (when it is combined with Water Right No. 63-12543 which also diverts out of Well No. 16). Because the full diversion rate was not accomplished at the time of proof, you noted that the right will need to be licensed in accordance with the guidance set out in Application Processing Memorandum No. 63 ("AP 63") for licensing of rights held for future needs.

SPF Water Engineering elected to provide the detailed engineering analysis contained in the above-referenced correspondence. This documented the well's potential pumping capacity, showing that ultimately it will be able to produce at a diversion rate of 8.5 cfs or more, thus supporting 4.0 cfs for No. 63-12543 and 4.5 cfs for 63-33022. This will be accomplished once it

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is equipped with upgraded pumps. I understand from our telephone conversation on March 27, 2012 that the Department is satisfied that the information provided by SPF Water Engineering is satisfactory and sufficient to support licensing of No. 63-33022.

I am writing to ensure that in providing this engineering information the City does not inadvertently establish a precedent for licensing of RAFN rights that cannot be met in the future. Here, it happened that the well was in place. Consequently, the simplest way of satisfying the proof requirement was to document its ultimate pumping capacity. However, there are likely to be situations in the future in which RAFN rights will need to be licensed before one or more wells required for ultimate build-out are constructed. I simply want to make certain that Nampa does not create an expectation that engineering data of the sort that happened to be available here is the "standard operating procedure" for licensing of RAFN rights.

Notably, AP 63 recognizes that all of the infrastructure necessary to support full diversion under a RAFN water right may not be in place at the time of licensing. On the other hand, the guidance establishes that the municipal provider must take steps to demonstrate a firm commitment to full build-out. The guidance provides examples of several factors that should be weighed by the Department in determining whether sufficient infrastructure is in place to support licensing.

One of those factors is set out in the second bullet point on page 4 of the guidance: "acquisition of lands needed for future wells, pumping stations, and other facilities consistent with the overall design for the full capacity system." AP 63 at 4 (emphasis supplied). The inclusion of this factor illustrates that a RAFN right may be licensed before some of the points of diversion are even constructed. That, by the way, is entirely consistent with the nature and purpose of the 1996 Municipal Water Rights Act, which authorizes long-term build out after licensing occurs. As AP 63 explains, requiring the entire system to be constructed at the time of proof would defeat the purpose of the Act.

In sum, while Nampa has provided detailed engineering data in this instance to show that an existing well is capable of supporting this RAFN right, this may not be possible in future licensings. If the Department has occasion in the future to look back at how it handled the licensing of this right, I want be sure there is no suggestion in the record that the engineering analysis provided here is the norm or a prerequisite in some sort.

I do not mean to suggest that a municipal provider may sit back and do nothing, and expect RAFN rights to be licensed as a matter of course. AP 63 makes quite clear that the right holder has the burden of providing evidence of its commitment to system completion. The strength of that commitment will be evaluated based on the factors laid out in the guidance. My point is simply that, where that commitment may be demonstrated in other ways, licensing may occur even when some wells or other infrastructure are not in place.

Based on our most recent conversation, it appears that we are in agreement on this. Accordingly, I am offering this letter simply to make a record of this discussion.

No need to update RAFN quantification

Idaho Code § 42-217(4) requires that, at time of proof, a RAFN water right holder shall provide “a revised estimate of the reasonably anticipated future needs, a revised description of the service area, and a revised planning horizon, together with appropriate supporting documentation.”

Roxanne Brown addressed this requirement in her letter to you of March 20, 2012. When you and I spoke the other day, you suggested that some further explanation and documentation might be helpful.

Let me begin by confirming that the City is not, at this time, seeking to expand its planning horizon. It remains set at December 31, 2030 (roughly 21 years from the date of the permit). That date is the end point of a 23-year forecast of population trends contained in the *Demographics Forecast and Land Use Analysis for the Nampa Study Area and South Study Area 2007-2030* published by J-U-B Engineers in association with Taylor Planning (2008) (hereinafter “*Demographics Forecast*”).

Second, the City’s service area has not changed since the permit was issued. The current service area remains as described in the GIS shape file that the City has previously provided to the Department. Nor has the City adopted a different “planning area” for purposes of establishing future needs.

Third, let me turn to the issue of revising the RAFN quantification. Ordinarily, five to ten years will elapse from the time of permit issuance to the time proof of beneficial use is made—and even more time will have elapsed from the time the RAFN quantification supporting the permit was prepared. In this case, because the well was already constructed, the permit was issued with a two-year deadline for proof of beneficial use. Accordingly, the beneficial use field report was submitted November 26, 2010, some thirteen months after the permit was issued.

The question is to what extent, under these circumstances, does the City need to provide a “revised estimate of the reasonably anticipated future needs” in order to satisfy the licensing requirement?

Particularly given the short lapse of time between permitting and proof, the City urges that it should be sufficient for the City to show that there is no reason to believe that the future needs will be less than earlier projected. Accordingly, I offer the following.

The City’s RAFN quantification was provided to the Department in a letter from me dated July 28, 2009, which forwarded a letter report of the same date prepared by SPF Water Engineering. The SPF report relied on two prior studies: the *Demographics Forecast* mentioned above and the *Water Master Plan* for the potable water system prepared by CH2M Hill in 2009.¹

¹ These reports are referenced in footnotes 1 and 2 to SPF’s letter report of July 28, 2009.

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The future water demand projections in the CH2M Hill report and the SPF report were driven primarily by population growth projections for the City of Nampa and its area of city impact set out in the *Demographics Forecast*.

As part of its ongoing planning duties under the Local Land Use Planning Act, the City of Nampa produced the *Nampa 2035 Comprehensive Plan* in February 2012. This document discussed the same *Demographics Forecast* that provided the foundation of the City's RAFN quantification.² The *Comprehensive Plan* contains this key point: The most recent census data shows that the projections in the *Demographics Forecast* are proving accurate or even a bit low. The 2012 plan states:

In 2007 a Demographic Forecast and Land Use Analysis for the Nampa Study Area 2007-2030 was conducted. The study area included the current City limits as well as the City of Nampa Area of City Impact. See Exhibit 10. Projections in 2008 suggested that the population of the City of Nampa would grow to 80,000 by 2010, but the actual population count was 81,557 based upon the 2010 census.

Comprehensive Plan at page 42 (copy attached). This census data, of course, is the most accurate demographic information available. It provides important corroboration that the projections employed by the RAFN analysis are proving out.

Moreover, the City is aware of no long-term changes in population dynamics, water supply plans, zoning, annexations, commercial activity, or other factors that might call its 2009 RAFN quantification into doubt. In other words, all indications are that demand by the end of the year 2030 should be in line with (or above) what was described in SPF's 2009 submission.

Any straight line projection, of course, will vary from the actual experience as events unfold. The City, at great expense, could update its projections based on the latest information available. But that seems hardly necessary. The census data strongly suggest that the result would be that the RAFN quantification would be the same or go up. Accordingly, given the short amount of time that has elapsed since 2009, and the fact that the current trend is consistent with the prior quantification, the City submits that this is sufficient documentation to satisfy the requirement in Idaho Code § 42-217(4) for a "revised estimate of the reasonably anticipated future needs." In short, the City's "revised estimate" is that future demand will be consistent with the 2009 RAFN quantification. The intent of the 1996 legislation was to take a second look at the time of licensing to ensure that nothing fundamental has changed or, if it has, to allow municipal providers to extend the planning horizon. If substantial time has passed or if fundamental conditions have changed, that might require a more thorough revision of the RAFN

² The *Demographics Forecast* is referred to on page 42 of the *Comprehensive Plan* as a 2007 study. Presumably, that is because 2007 was the starting point for the 2007-2030 projection. It is my understanding, however, that the study was released in 2008.

SW 1/4 NW 1/4 21 3N 1W
Tim @ Timberline with camp.
com
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SCHOOL CAMP
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analysis. The data available here show that further analysis is unlikely to result in a lowered projection. Consequently, it makes more sense to put available resources into system improvements than into further analysis.

Please let me know if this is satisfactory to the Department. As always, we would be pleased to answer any further questions you may have. I thank you and the rest of the Department's staff for your assistance.

Sincerely,



Christopher H. Meyer

Encl: Excerpt from *Comprehensive Plan* (cover and page 42)

cc: Michael J. Fuss, Director, Public Works Department
Lenard Grady, City Engineer
Kim Lord, Water Superintendant
Terry Scanlan and Roxanne Brown, SPF Water Engineering

CHM:ct

NAMPA 2035

Comprehensive Plan



Robert Noelle

February 2012

2.3 POPULATION PROJECTIONS AND FORECASTS

In 2007 a Demographic Forecast and Land Use Analysis for the Nampa Study Area and South Study Area 2007-2030 was conducted. The study area included the current City limits as well as the City of Nampa Area of City Impact. See Exhibit 10. Projections in 2008 suggested that the population of the City of Nampa would grow to 80,000 by 2010, but the actual population count was 81,557 based upon the 2010 census.

Persons per household have increased from 2.87 in 2000 to a rate of 2.94 in the 2010 census. The 2007 study suggests that there would be a decline in persons per household from 2.61 in 2010 and 2015, to 2.63 (2020), 2.66 (2025), and 2.67 (2030).

According to the U.S. Census, the median age has increased from 28.5 to 30.1 percent, which suggests that the population of Nampa is getting older, but is still younger than both the state and nation. See Exhibit 2-4.

In analyzing population projections this plan is using the data from Community Planning Association of Southeastern Idaho (COMPASS). It is suggested that Nampa growth will not be in the 40-60 percent ratios in the near future, but more like 20 percent for a 10 year period, as rates projected by COMPASS. See Exhibit 2-9 for future population estimates.

EXHIBIT 2-9 – NAMPA PROJECTED GROWTH RATES 2010-2035

YEAR	2010	2015	2020	2025	2030	2035
Population	81,557*	91,262	99,658	110,421	118,481	132,935
Population % Change	0.00%	11.9	9.2	10.8	7.3	12.2

SOURCE: U. S. CENSUS, STATE OF IDAHO DEPARTMENT OF COMMERCE, 2010* AND COMPASS JUNE 2010.

Based upon conversations, during the Comprehensive Plan Subcommittee (CPS) process, families seem to continue to move to Nampa for various reasons, such as a family friendly atmosphere, schools, recreation and employment opportunities.

Land use assumptions regarding roadway and utility needs seem not to be in conflict with the change in demographics.