

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

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Department of Water Resources

IN THE MATTER OF APPLICATION)
FOR PERMIT TO APPROPRIATE)
WATER NO. 63-33321 IN THE NAME)
OF ELK CREEK CORP.)
_____)

**IDAHO CITY'S POINTS
AND AUTHORITIES**

Elk Creek Corp. has applied for a water permit. Elk Creek Corp. proposes to drill a well on property for use by fourteen mobile homes adjacent to the city limits so they can be disconnected from the Idaho City water system. The application should be denied on the basis that it will conflict with the local public interest, I.C. § 42-203A(5)(e).

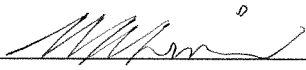
The property is a high density property with sixteen to eighteen mobile homes. Currently the property is served by city water, city sewer, city fire, and city police. As such, this property has a high likelihood of annexation in the future. Elk Creek Corp. wants to use its proposed well for less than fourteen connections so that the well need not comply with public drinking water standards. Drilling an individual well not constructed to DEQ public drinking water standards carries with it the potential for contamination of the aquifer. The city is already drilling new wells to augment its existing water system that will be constructed to DEQ public drinking water standards. It would therefore not be in the public interest to risk drilling another well into the aquifer when the property is already being serviced by city water and sewer services and is likely to be annexed.

The drilling of an additional well conflicts with the local public interest because it would be for the purpose of allowing property owners to withdraw from the city water system. Water systems are expensive to install and operate, and the one serving this property is already in place. The costs are shouldered by property owners within the city. Property owners withdrawing from the system would make it more expensive for the remaining property owners.

Finally, Idaho Code Section 50-606 states that the mayor shall have jurisdiction over all matters vested in him by ordinance, except taxation, within one mile of the city limits. While the property is not actually within the city limits, it is adjacent to the city

limits and is currently part of the city's water and sewer system. It would therefore be subject to Idaho City Code Section 9-1-35 which prohibits the drilling of a well in the city without first obtaining a permit from the city. Elk Creek Corp. has not applied for a permit and would not be granted a permit by the city based upon the conflicts with the local public interest as discussed above. Additionally, Idaho City's ordinance prohibits use of a private well (except for irrigation water) when the property is within the city and within 250 feet of city water services. Idaho City Code § 9-1-35D. Code Section 9-1-35F prohibits property in the city that has once been connected to city water services from using a private well for any purpose other than irrigation water.

For the above reasons, Elk Creek Corp.'s application for water permit should be denied.



Richard K. Linville, Idaho City Attorney

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**IDAHO CITY'S
EXHIBITS**

The following are Idaho City's Exhibits:

- A) Idaho Code Section 50-606, Police Power of Mayor
- B) Idaho City Code Section 9-1-35, Private Wells
- C) Idaho Rules for Public Drinking Water Systems (Table of Contents)



Richard K. Linville, Idaho City Attorney