

GIVENS PURSLEY LLP

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

MICHAEL P. LAWRENCE
DIRECT DIAL: 208 388-1294
EMAIL: Michael.Lawrence@givenspursley.com

Gary G. Allen
Peter G. Barton
Christopher J. Beeson
William C. Cole
Michael C. Creamer
Thomas E. Dvorak
Jeffrey C. Fereday
Martin C. Hendrickson
Steven J. Hippler
Debra K. Kristensen
Anne C. Kunkel
Jeremy G. Ladle
Michael P. Lawrence
Franklin G. Lee

David R. Lombardi
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson
Deborah E. Nelson
W. Hugh O'Riordan, LL.M.
Angela M. Reed
Scott A. Tschirgi, LL.M.

J. Will Varin
Conley E. Ward
Robert B. White
Terri R. Yost

RETIRED
Kenneth L. Pursley
Raymond D. Givens
James A. McClure

Via Hand Delivery

August 27, 2007

Mr. Steve Lester
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: M3 Eagle LLC's Amended Application for Permit
Our file: 8526-1

Dear Steve:

On behalf of M3 Eagle LLC ("M3 Eagle"), I am submitting the enclosed Amended Application for Permit for a municipal water right ("Amended Application") for filing with the Department. As you know, M3 Eagle submitted an application for a municipal water right permit to the Department on November 21, 2006 ("Original Application"), and it was subsequently assigned the identification number 63-32573. M3 Eagle is now amending its Original Application because it has changed some elements of its planned community project (the "Project") and because it has been able to obtain better and more detailed information on water use since the Original Application was filed.

The greatest change in M3 Eagle's Project is the reduction in residential dwelling units proposed within the Project from 12,010 units to 8,160. This roughly one-third reduction in the number of residential units required M3 Eagle to re-analyze the Project's future water needs. The recalculations, however, were not as simple as merely reducing all numbers by one-third because, as explained below, other components of the Project's water system (e.g., the quantity of treated wastewater effluent, known as "Reuse Water" generated, discussed below) are impacted differently by the reduction in units. In addition, M3 Eagle has developed more specific information about the Project since the Original Application was filed, and its

consultants have refined the assumptions used to calculate the Project's water demands. The end result is an Amended Application proposing an overall reduction in ground water diversions.

The following information is provided to explain the noteworthy differences between the two applications:

- **The Original Application proposed peak daily ground water diversions of 42.5 cubic feet per second (cfs), whereas the Amended Application proposes 27.47 cfs.** This roughly one-third reduction in peak daily diversions is primarily attributable to the Project's one-third reduction in proposed residential dwelling units in conjunction with a reduction in estimated daily maximum indoor demand, and revised daily schedules for irrigation of public areas.
- **The Original Application estimated 4,404 acre-feet of yearly Reuse Water supply, whereas the Amended Application estimates 2,247 acre-feet.** This difference is partially due to the one-third reduction in residential dwelling units within the Project. That is, because roughly one-third fewer units are proposed, there logically will be roughly one-third less effluent entering the Reuse Water system. In addition, the Amended Application uses a reassessed average daily indoor residential demand estimate of 274 gallons per day per unit (gpd/unit), which is about 17% less than the 330 gpd/unit assumed in the Original Application, making less potable water available to produce effluent and thereby lowering the volume of Reuse Water generated.

The other major cause of the reduction in Reuse Water supply is an increase in estimated indoor consumptive use. The Original Application assumed indoor consumptive use would occur at a rate of 10%; however, based on new information obtained by M3 Eagle's consultants, the Amended Application assumes indoor consumptive use will occur at rates between 25% and 40%. Thus, the Amended Application conservatively estimates that consumptive use will occur at rates that are 15% to 30% higher than the Original Application, resulting in less effluent produced for each gallon of ground water diverted.

- **The Original Application proposed 8,145 acre-feet of total annual ground water diversions, whereas the Amended Application proposes 7,827 acre-feet.** This reduction is due to the lower number of proposed residential dwelling units and reduction in estimated average daily indoor demand mentioned above. The reduction, however, is offset somewhat by the reduction in the amount of Reuse Water available. In other words, because the Amended Application estimates that less Reuse Water will be available to irrigate nearly the same number of irrigated public common area acres within the Project as proposed in the Original Application, the Amended Application recognizes that some direct ground water diversions will be used in conjunction with Reuse Water to satisfy public common area irrigation requirements. The Original Application, by contrast, assumed that Reuse Water supply would fully satisfy all public common area irrigation demands and did not anticipate the direct use of ground water for such purposes.

- **The Original Application proposed annual total consumptive use of 6,770 acre-feet, whereas the Amended Application proposes 6,486 acre-feet.** Similar to the explanation of annual diversion volumes above, the annual consumptive use of water in the Amended Application does not decrease linearly with the reduction in proposed residential dwelling units primarily because of the significant reduction in Reuse Water and the corresponding use of ground water.

When comparing the annual consumptive use figures in the Original and Amended Applications, one should take care to compare apples-to-apples (i.e., consumptive use of ground water *including Reuse Water*). The Original Application's Attachment A estimated the consumptive use of direct ground water diversions at 2,333 acre-feet and the consumptive use of Reuse Water at 4,437 acre-feet, for a total annual consumptive use of 6,770 acre-feet. The Amended Application addresses annual consumptive use of both original diversions from ground water and Reuse Water more directly in all of its consumptive use calculations. The upshot is that the Amended Application estimates a decrease of 284 acre-feet in overall consumptive use as compared to the Original Application.

- **The Original Application proposed 6.9 cfs of average daily ground water diversions during the non-irrigation season, whereas the Amended Application proposes 5.03 cfs.** This difference reflects the reduction in the number of residential dwelling units and the reduction in estimated daily indoor demand, although a portion of the reductions are somewhat offset by the addition of a 10% factor to anticipate age-related distribution system leakage.
- **The Original Application proposed 14.04 cfs of average daily ground water diversions during the irrigation season use, whereas the Amended Application proposes 13.84 cfs.** The portion of this quantity attributable to indoor use (i.e., 5.03 cfs) is reduced for the same reasons described in the previous paragraph. As for the remainder (i.e., the irrigation portion), the Amended Application reflects the decrease in residential dwelling units and a reduction in irrigable area at multi-family dwellings, but also the reduction in Reuse Water supply described above. As discussed, the net result of the reduction in Reuse Water supply is that some ground water diversions will be used in conjunction with Reuse Water to meet irrigation demands.
- **The Original Application estimated higher costs for constructing the proposed water and sewer systems than contained in the Amended Application.** The primary reason for the cost estimate reductions in the Amended Application is the roughly one-third decrease in proposed residential dwelling units in the Project. A revised sewer layout has further decreased the estimated sewer cost. Meanwhile, the estimated cost of the pressurized irrigation system remains nearly the same in the Amended Application; it was not influenced by the Project's reduction in units because neither the earlier nor the current cost estimates contemplate M3 Eagle's installation of pressurized irrigation service to individual lots. Finally, certain infrastructure costs—such as for the proposed

Steve Lester
August 27, 2007
Page 4 of 4

waste water treatment plant—have been adjusted because M3 Eagle now has more specific information regarding the facility's size and specifications.

Finally, to simplify the numbers used in the Amended Application, the table on the last page of Attachment A now reflects peak and average diversion rates in cfs rather than in gpm (gallons per minute). And, since the table is meant only to show well diversion figures, its figures account for M3 Eagle's Farmer's Union Ditch Company shares and the Reuse Water supply without separately listing them.

Thank you for your attention to this matter. Please do not hesitate to call me if you have any questions.

Very truly yours,



Michael P. Lawrence

cc: Bill Brownlee, M3 Eagle, LLC
Ed Squires, Hydro Logic, Inc.
Steve Holt, Toothman-Orton Engineering Co.
Scott Wonders, Stanley Consulting, Inc.
Jeffrey C. Fereday, Givens Pursley LLP

MPL:la S:\CLIENTS\8526\Amended App Cover Letter GP02.DOC