



Molly O'Leary

Tel: 208-938-7902 Fax: 208-938-7904
molly@richardsonandoleary.com
P.O. Box 1849 99 East State Street, Eagle, Idaho 83616

RECEIVED
SEP - 2 2003
Department of Water Resources

August 29, 2003

Peter Anderson, Esq.
IDWR Hearing Officer
1301 N. Orchard Street
Boise, Idaho 83706-2237

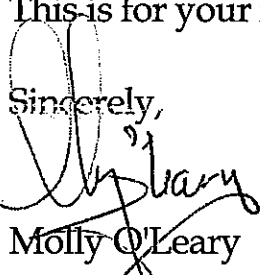
Re: In The Matter Of Amendment Of Application For
Permit No. 63-12448 In The Name Of The City Of Eagle

Dear Mr. Anderson:

We are enclosing a copy of our Notice of Service for our Second Set of
Discovery to the City of Eagle.

This is for your records, and has been served as indicated.

Sincerely,


Molly O'Leary

encl.

Molly O'Leary (ISB No. 4996)
Richardson & O'Leary PLLC
99 East State Street, Suite 200
P. O. Box 1849
Eagle, Idaho 83616
Telephone: (208) 938-7900
Fax: (208) 938-7904

Attorneys for Eagle Water Company

RECEIVED

SEP - 2 2003

Department of Water Resources

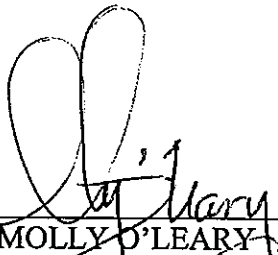
BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF AMENDMENT OF
APPLICATION FOR PERMIT NO. 63-12448
IN THE NAME OF THE CITY OF EAGLE

NOTICE OF SERVICE OF DISCOVERY

Eagle Water Company ("Eagle Water") by and through its attorney of record, Molly O'Leary, hereby gives notice, pursuant to IDAPA 37.01.01.520 *et seq* and the Idaho Rules of Civil Procedure, that a true and correct copy of EAGLE WATER'S SECOND SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS, AND REQUESTS FOR ADMISSIONS UPON THE CITY OF EAGLE was served via facsimile on Bruce M. Smith, Moore Smith Buxton & Turcke, Chtd., counsel for Applicant, City of Eagle, on August 29, 2003.

DATED this 29th day of August, 2003.


MOLLY O'LEARY
Attorney for Eagle Water Company, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of August, 2003, I caused a true and correct copy of the foregoing NOTICE OF SERVICE OF DISCOVERY to be served by the method indicated below, and addressed to the following:

Jim Burton
1896 N. Eagle Rd.
Eagle, Idaho 83616

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail

Bruce Smith, Esq.
Moore Smith Buxton & Turcke, Chtd.
225 N. 9th Street, Suite 420
Boise, Idaho 83702
208.331.1202

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail

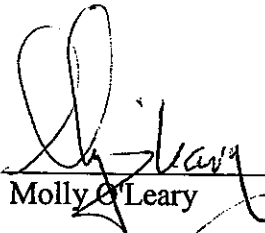
Matt J. Howard
Attorney at Law
P.O. Box 190012
Boise, Idaho 83719
208.333.8409

☐ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☒ Facsimile
☐ Electronic Mail

Weldon Fisher
546 E. Beacon Light Rd.
Eagle, Idaho 83616

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail

Signed


Molly O'Leary

MATT J. HOWARD

ATTORNEY AT LAW

RECEIVED

SEP - 2 2003

Department of Water Resources

P. O. BOX 190012

BOISE, IDAHO 83719

TELEPHONE (208) 333-0622

FACSIMILE (208) 333-8409

EMAIL: MHOWARD@FIBERPIPE.NET

August 29, 2003

Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706-2237

RE: In the Matter of Amendment of Permit No. 63-12448 – City of Eagle

Dear Clerk:

Enclosed for filing with the Idaho Department of Water Resources in the above-referenced matter are the following: Notice of Service of Discovery, and Notice of Taking Deposition of the City of Eagle (Duces Tecum). I have also enclosed an additional copy of those documents that I would ask that you conform and return to me in the enclosed envelope. Thank you very much.

Very truly yours,

Matt J. Howard

Enclosures

CERTIFICATE OF SERVICE

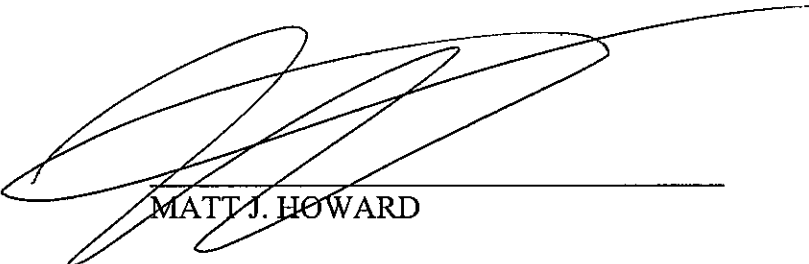
The undersigned certifies that on the 29 day of August 2003, a true and correct copy of the within and foregoing document was sent to the following person(s) as indicated below:

Jim Burton *Via U.S. Mail*
1896 N. Eagle. Rd.
Eagle, ID 83616

Weldon Fisher *Via U.S. Mail*
546 E. Beacon Light Rd.
Eagle, ID 83616

Molly O'Leary, Esq. *Via Facsimile*
Richardson & O'Leary, PLLC
P. O. Box 1849
Eagle, ID 83616

Bruce Smith, Esq. *Via Facsimile*
Moore Smith Buxton & Turcke, Chtd
225 N. 9th St., Ste. 420
Boise, ID 83702



MATT J. HOWARD

SEP - 2 2003

Department of Water Resources

MATT J. HOWARD
 Attorney at Law
 P. O. Box 190012
 Boise, Idaho 83719
 Telephone: (208) 333-0622
 Facsimile: (208) 333-8409

Attorney for the Estate of Eleanor I. Chase

BEFORE THE DEPARTMENT OF WATER RESOURCES
 OF THE STATE OF IDAHO

IN THE MATTER OF AMENDMENT OF	)	
APPLICATION FOR PERMIT NO. 63-12448	)	NOTICE OF TAKING DEPOSITION OF
IN THE NAME OF THE CITY OF EAGLE	)	THE CITY OF EAGLE (DUCES TECUM)
	)	
	)	
	)	

PLEASE TAKE NOTICE that the Protestant, Estate of Eleanor I. Chase, by and through its attorney of record, Matt J. Howard, will pursuant to Rule 30(b)(6) and other applicable rules of the Idaho Rules of Civil Procedure take the testimony on oral examination of the City of Eagle ("deponent" or "City") before a court reporter and notary public for the State of Idaho, on the 10th day of September, 2003, commencing at 1:00 o'clock p.m., and thereafter from day to day until the deposition is adjourned, at the office of ERO Resources, 1106 N. Cole, Ste. C, Boise, ID 83704-8661

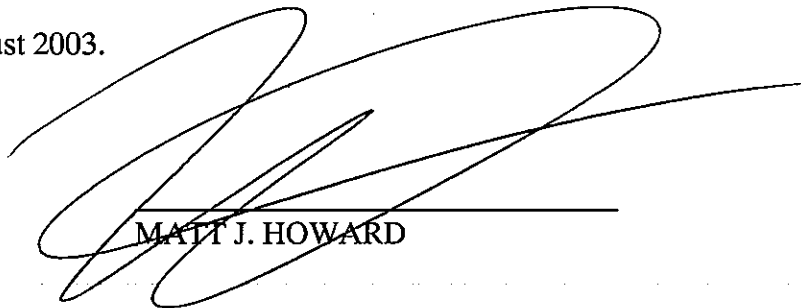
You are required to designate one or more officers, directors, managing agents, or other persons to be examined and testify under oath regarding the following matters:

NOTICE OF TAKING DEPOSITION OF THE CITY OF EAGLE
 (DUCES TECUM) - 1

1. The City's decision to file the Application for Amendment of Permit No. 63-12448, including the filing of the Application for Permit No. 63-12448 and filing of subsequent applications related to the permit.
2. The City's past, present, and future use of its water rights, wells, points of diversion, and water delivery system.
3. Statements contained in the following reports: Brookwood Public Water Supply Well and City of Eagle Municipally-Owned Water System Master Plan and Budget Study.
4. Contracts and agreements entered into by the City and other individuals relating to the City's water rights, water delivery system, points of diversion, and wells.
5. The Floating Feather well and the wells identified as City of Eagle Well nos. 1, 2, 3, and 4.
6. Statements made by the City of Eagle to the Idaho Public Utilities Commission relating to the City of Eagle Municipally-Owned Water System, the City's service area, and delivery of water by the City.
7. Delivery of the City's water rights.
8. The City's water right service area.
9. The use of the City's water delivery system by other individuals or entities.
10. The revenue and expenses associated with the development, maintenance, use, and operation of the City's municipal water system.
11. Admissions and discovery responses made by the City through discovery in this case.

The deponent shall produce for inspection a copy of the following documents in the deponent's possession or control: All agreements, contracts, and/or documents (except those that have already been produced through discovery) between the City and any other individual or entity that relate to the construction, maintenance, use of, or delivery of water from, the Floating Feather well and the wells identified as City of Eagle Well nos. 1, 2, 3, and 4. The term "document" shall mean every writing, recording, or photograph as those terms are defined in Rule 1001, Idaho Rules of Evidence.

DATED this 29 day of August 2003.



MATT J. HOWARD

CERTIFICATE OF SERVICE

The undersigned certifies that on the 29 day of August 2003, a true and correct copy of the within and foregoing document was sent to the following person(s) by the method indicated below:

Jim Burton
1896 N. Eagle. Rd.
Eagle, ID 83616

U.S. Mail

Weldon Fisher
546 E. Beacon Light Rd.
Eagle, ID 83616

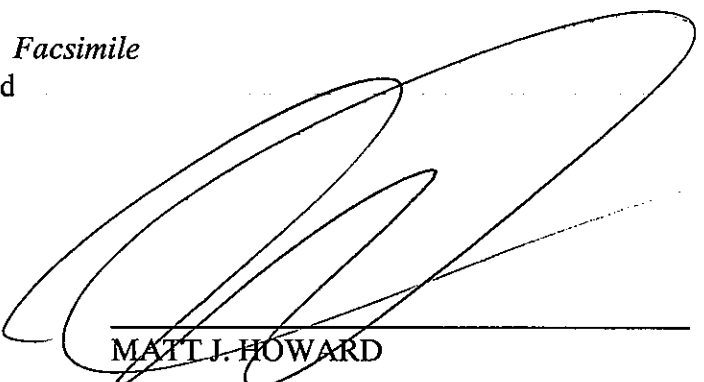
U.S. Mail

Molly O'Leary, Esq.
Richardson & O'Leary, PLLC
P. O. Box 1849
Eagle, ID 83616

Facsimile

Bruce Smith, Esq.
Moore Smith Buxton & Turcke, Chtd
225 N. 9th St., Ste. 420
Boise, ID 83702

Facsimile



MATT J. HOWARD

RECEIVED

JUN - 2 2003

Bruce M. Smith, ISB #3425
Tammy A. Zokan, ISB #5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
Attorneys at Law
225 North 9th Street, Suite 420
Boise, ID 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

Department of Water Resources
RECEIVED
MAY 29 2003
WATER RESOURCES
WESTERN REGION

Attorneys for the City of Eagle

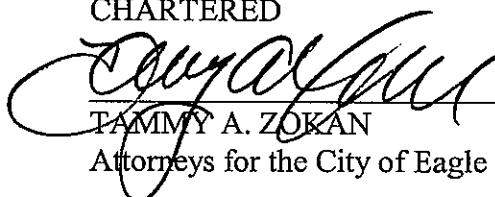
BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF	)	
	)	
CITY OF EAGLE, PETITIONER	)	NOTICE OF ERRATA
	)	APPLICANT'S RESPONSE TO
APPLICATION FOR PERMIT NO. 63-12448	)	THE ESTATE'S SECOND SET OF
	)	DISCOVERY
	)	

COMES NOW, the City of Eagle, and gives notice that the two (2) signature pages attached to the City's response to the Chase Estate's Second Set of Interrogatories and Requests for Production, dated May 23, 2003, were not identical due to individual computer formatting variation. The facsimile signature page containing Mayor Nancy Merrill's signature attached hereto should be substituted for the signature page containing the Mayor's signature, which was signed and served on all parties on May 23, 2003.

DATED this 28 day of May, 2003.

MOORE SMITH BUXTON & TURCKE,
CHARTERED


TAMMY A. ZOKAN
Attorneys for the City of Eagle

NOTICE OF ERRATA - PAGE 1

ORIGINAL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28 day of May, 2003, I caused to be served a true and correct copy of the foregoing NOTICE OF ERRATA by the method indicated below, and addressed to the following:

IDWR
Western Region
2735 Airport Way
Boise, Idaho 83705

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Matt Howard
P.O. Box 190012
Boise, Idaho 83719

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☐ Facsimile

Molly O'Leary
Eagle Water Co.
P.O. Box 1849
Eagle, ID 83616

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Weldon Fisher
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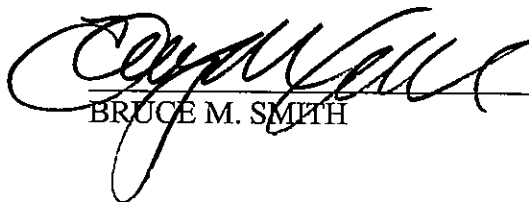
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Glen Saxton
IDWR State Office
1301 N. Orchard Street
Boise, ID 83706

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☐ Facsimile



BRUCE M. SMITH

REQUEST NO.22: Please produce copies of all documents that include data or information relating to the monitoring of the water levels in the Applicant's wells from 1992 to the present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22: See response to request for production number 21.

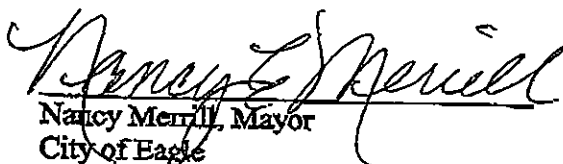
REQUEST NO.23: Please produce copies of all documents that include data or information relating to the monitoring of the water levels in the Estate's wells from 1995 to the present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23: Please see Mr. Terry Scanlan's report dated August 9, 1995, attached hereto. A portion of Mr. Scanlan's August 9, 1995 report is contained in the "Summary of Groundwater Conditions in the Vicinity of Proposed Brookwood Subdivision Well Site" dated August 17, 2001, which was previously identified and disclosed to the Chase Estate in response and supplemental response to the Estate's interrogatories no. 2 and requests for production.

REQUEST NO.24: Please produce copies of all documents that include data or information relating to the amount of water provided to, or diverted by, the Applicant pursuant to the contract(s) referenced in Request for Production Nos. 16 and 17 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24: See response to request for production number 21.

DATED this ____ day of May, 2003.


Nancy Merrill, Mayor
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

Bruce M. Smith, ISB #3425
Tammy A. Zokan, ISB #5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
Attorneys at Law
225 North 9th Street, Suite 420
Boise, ID 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

RECEIVED
MAY 29 2003
Department of Water Resources

Attorneys for the City of Eagle

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF)

CITY OF EAGLE, PETITIONER)

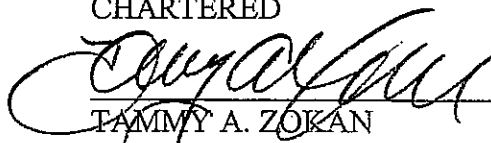
APPLICATION FOR PERMIT NO. 63-12448)

) **NOTICE OF ERRATA**
) **APPLICANT'S RESPONSE TO**
) **THE ESTATE'S SECOND SET OF**
) **DISCOVERY**
)

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DATED this 28 day of May, 2003.

MOORE SMITH BUXTON & TURCKE,
CHARTERED


TAMMY A. ZOKAN
Attorneys for the City of Eagle

COPY

CERTIFICATE OF SERVICE

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2735 Airport Way
Boise, Idaho 83705

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P.O. Box 190012
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Molly O'Leary
Eagle Water Co.
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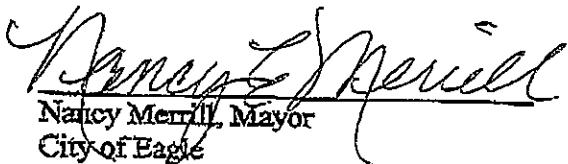
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Nancy Merrill, Mayor
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

RECEIVED

MAY 29 2003

Department of Water Resources

RECEIVED

MAY 27 2003

WATER RESOURCES
WESTERN REGION

BRUCE M. SMITH, ISB # 3425
TAMMY A. ZOKAN, ISB # 5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
225 North 9th, Suite 420
Boise, Idaho 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

Attorney for the City of Eagle

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF AMENDMENT OF
APPLICATION FOR PERMIT NO. 63-12448
IN THE NAME OF THE CITY OF EAGLE

} THE CITY OF EAGLE'S RESPONSE TO
} THE ESTATE'S SECOND SET OF
} INTERROGATORIES AND REQUESTS
} FOR PRODUCTION

THE CITY OF EAGLE BY and through its attorney, MOORE SMITH BUXTON & TURCKE, CHARTERED, hereby responds to the following interrogatories and requests for production by the Estate of Eleanor I. Chase ("Estate"). As a general objection, the City objects to providing any response or producing any documents protected by the attorney client or work product privileges.

DEFINITIONS AND INSTRUCTIONS

In answering these discovery requests, furnish all information available to you, however obtained, including hearsay which is available to you and including information known by or in the possession of yourself, your attorney(s), investigator(s), expert(s), employee(s), or agent(s) retained by you or your attorney, or appearing in your records, and not merely information known of your own personal knowledge.

If you cannot answer the following interrogatories in full, after exercising due diligence to secure the information to do so, so state, and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

If you are unable to produce the requested documents after exercising due diligence to secure the documents, so state and identify the reason for your inability to produce the documents, the whereabouts of the documents if not in your control or possession, and the means whereby you lost control or possession of the documents. Identify any documents which once did exist if not now existing and state whatever information or knowledge you have concerning the information contained in those documents.

The entire discovery herein is deemed continuing. If after responding to these interrogatories, you acquire any documents requested herein, or any information related to any interrogatories or documents requested herein which is not reflected by one of the answers, you must file a supplemental discovery response. Such supplementation is requested herein in addition to any supplementation required by the Idaho Rules of Civil Procedure.

THE FOLLOWING DEFINITIONS APPLY TO THESE DISCOVERY REQUESTS:

1. "Application" means the Application for Amendment of Permit No. 63-12448 in the Name of The City of Eagle.
2. "Applicant" means the City of Eagle.
3. "Applicant's water rights" means water right nos. 63-9331, 63-11413, 63-12017, and 63-12448.

4. "Applicant's wells" means the points of diversion for the Applicant's water rights.
5. "Dairy Well" means the point of diversion for water right nos. 63-5226 and 63-15820.
6. "Document or Documents" means all writing of any kind, including the original and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise including without limitation correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intra-office communications, offers, notations of any sort of conversations, bulletins, printed matter, computer printouts, teletypes, telecopy, invoices, work sheets, and all drafts, alterations, modifications, changes, and amendments of any of the foregoing, graphic or oral records or representation of any kind including without limitations, photographs, charts, graphs, microfiche, microfilm, videotapes, recording, motion pictures and electronic, mechanical, or electrical records or representation of any kind including without limitation, tapes, cassette discs, recordings.
7. "Estate Water Rights" means water right nos. 63-5224, 63-5225, 63-5226, 63-5229, 63-8663, 63-15820, and 63-18731.
8. "Estate's wells" means the points of diversion for the Estate Water Rights.
9. "Fact" or "Facts" mean all circumstances, events, evidence, information, including statements or testimony made by, or knowledge of any person(s), pertaining to or touching upon the item or matter in question.

10. "Issues" means the issues set forth in the Notice of Hearing dated January 10, 2003, which are as follows:

- A. Will other water rights be injured by the amendment?
- B. Will the change constitute an enlargement in the use of the original right?
- C. Will the proposed change conflict with the local public interest?
- D. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

11. "Large Irrigation Well" means the point of diversion for water right no. 63-8663.

12. "Person" includes any natural person, partnership, corporation, joint venture, unincorporated association, governmental entity (or agency or other subdivision thereof), quasi-public entity or other form of entity or combination thereof.

13. "Small Irrigation Well" means the point of diversion for water right no. 63-5229.

14. "West Well" means the point of diversion for water right nos. 63-5225 and 63-18731.

15. "You and Your" means the City of Eagle.

INTERROGATORIES

INTERROGATORY NO. 11: If your response to any of the requests for admissions, below, is not an unqualified admission, for each such request for admission state and identify: (a) the number of the request for admission, (b) all facts, studies, analyses, opinions, or documents upon which you base your response, (c) the names, addresses, and telephone numbers of all individuals who do or may have knowledge of the facts upon which you base your response, and (d) all documents that support, evidence, or relate to your response.

RESPONSE TO INTERROGATORY NO. 11:

(a) Response to Requests for Admission nos. 6-9;

(b) Letter from Matt Howard, counsel for the Chase Estate to Bruce M. Smith, counsel for the City of Eagle, dated November 16, 2003 and containing interlineations made during the November 26, 2002 meeting, and the previously produced minutes of the November 26, 2002 City Council Meeting;

(c) Mayor and City Council members for the City of Eagle, P.O. Box 1520, Eagle, ID 83616, (208) 939-6813;

(d) See (b), above.

(a) Response to Requests for Admission nos. 10-22;

(b) The reports identified and produced to the Chase Estate in response and supplemental response to the Estate's interrogatory no. 2 and requests for production;

(c) The individuals identified to the Chase Estate in response and supplemental response to the Estate's interrogatories nos. 1 - 2;

(d) See (b), above.

INTERROGATORY NO. 12: Please fully describe your basis for requesting the additional points of diversion identified in your Application and describe why you believe it is necessary to locate such additional points of diversion at the points identified in your Application.

RESPONSE TO INTERROGATORY NO. 12: The proposed Brookwood well will provide public drinking water to the City of Eagle system and serve users in the Brookwood and Lexington Hills residential subdivisions. The well will improve the municipal water supply given the performance and water quality issues the City has experienced with the Lexington Well No. 2, strengthen the reliability, capacity, and performance of the City's system, and reduce the City's reliance on service from United Water Idaho to meet standards required by public law for public water systems in Idaho.

The basis for the proposed Brookwood well is further described in The City of Eagle Municipally-Owned Water System Master Plan and Budget Study by Holladay Engineering Company, April 12, 2002 (previously produced), that recommends the Brookwood well be completed and incorporated into the system to fulfill the system's supply-source needs. The April 12, 2002 Study has since been revised and the one-page May 21, 2003 "Revisions and Amendments" document is attached hereto. The City relied upon the City Engineer's analysis and subsequent recommendation that improved water quality and aquifer conditions exist at the proposed point of diversion (SW¼ of SW ¼ of Sec. 4, T.6N, R.1E). The City Engineer's recommendation is described in the report "Summary of Groundwater in the Vicinity of Proposed Brookwood Subdivision Well Site Eagle, Idaho, August 17, 2001". The City Engineer's review and analysis included discussions with United Water Idaho concerning the history of the Lexington Hills wells and reports entitled "Groundwater conditions in the Dry Creek Area, Eagle Idaho" (IDWR, 1991), "Aquifer Test Floating Feather Well" (Scanlan Engineering, 1995), and the "Results of the 30-Day Pumping Test and Aquifer Analysis" (CH2MHill, 1991). The Idaho Department of Environmental Quality has acknowledged that the proposed point of diversion meets the criteria for a municipal public drinking water well site.

INTERROGATORY NO. 13: Please identify all facts, studies, analyses, opinions, or documents that indicate or show that the currently authorized points of diversion for the Applicant's water rights are insufficient and/or inadequate to divert water pursuant to the Applicant's water rights.

RESPONSE TO INTERROGATORY NO. 13: Please see the response to interrogatory no. 12.

INTERROGATORY NO. 14: Please identify and describe all alternatives the Applicant has explored and/or exhausted in seeking and locating additional points of diversion, other than those identified in the Application.

RESPONSE TO INTERROGATORY NO. 14: The City considered several alternative public drinking water supplies to take care of the problems associated with the poor performance of Lexington Hills Well No. 2 and to strengthen the reliability, capacity, and performance of the City's system as a public water purveyor in Idaho. The City explored improvements to the existing Lexington Hills wells, developing additional diversions, and using outside water service from United Water Idaho. In 1998, the City of Eagle acquired an interim supply to provide additional emergency water required for fire protection to the City's system under an agreement with United Water. The present and future needs of City of Eagle water system were evaluated by the City Engineer who recommended that the construction of the Brookwood well and its incorporation into the City's system to meet supply-source needs as a public water purveyor in Idaho.

REQUESTS FOR PRODUCTION

REQUEST NO.16: Please produce copies of all contracts entered into between the Applicant and United Water of Idaho (including subsidiaries thereof).

RESPONSE TO REQUEST FOR PRODUCTION NO. 16: Please see the City's response to Eagle Water Company's Requests for Production nos. 16 and 18, which production was served on the Chase Estate via regular mail on March 14, 2003. In addition, please see the following documents, some of which were produced on March 14, 2003, attached hereto:

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2. August 1997 Water Line Agreement between the City of Eagle, Lexington Hills, Inc., Treasure Valley Village, United Water Idaho, Inc., and EM2;
3. August 1997 Agreement to provide Supplemental Water for Fire Flows between the City of Eagle and United Water Idaho, Inc.;
4. December 1997 Agreement between the City of Eagle and United Water Idaho, Inc.;
5. December 1997 First Amendment to Water Service Contract between the City of Eagle and EM2.

REQUEST NO.17: Please produce copies of all agreements entered into between the Applicant and United Water of Idaho (including subsidiaries thereof) relating to use of the Floating Feather well as referenced in the Application for Amendment of Permit No. 63-12448 dated December 4, 1998.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17: The City is not aware of an agreement dated December 4, 1998. For copies of all the agreements between the City and United Water Idaho and its subsidiaries, please see response to request for production no. 16.

REQUEST NO.18: Please produce a copy of the December 7, 1998, letter from Chris Meyer, which letter is referenced (but not contained in) the water right file for permit no. 63-12448.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18: The City objects to this request because without additional detail it is unduly vague. Notwithstanding its objection,

the City inquired with prior water counsel, Chris Meyer, regarding the requested letter. Mr. Meyer's office could not locate a letter from Mr. Meyer regarding permit no. 63-12448 dated December 7, 1998, however, Mr. Meyer's assistant did locate a letter regarding 63-12448 dated December 6, 1998. The December 6, 1998 letter is attached.

REQUEST NO.19: Please produce a copy of the diagram and description of the current Municipal Service Area for the City of Eagle water rights.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19: Please see the City's Fourth Supplemental Response to the Estate's Request for Production No. 4, which includes descriptions of the service area at the tab entitled "Maps & Diagrams."

REQUEST NO.20: Please produce a copy of all agreements with Engineering, Management, and Maintenance, Inc. (EM2) including a copy of the agreement referenced in the City of Eagle Service Area Description dated April 7, 1998.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20: Please see response to request for production no. 16.

REQUEST NO.21: Please produce copies of production records of water pumped from the Applicant's wells from 1992 to the present.

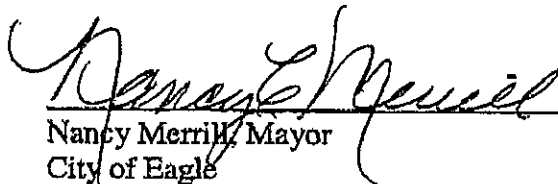
RESPONSE TO REQUEST FOR PRODUCTION NO. 21: See the City's Response and First Supplemental Response to the Eagle Water Company's request for production nos. 18-19, a copy of which production was mailed to the Estate on March 14, 2003 and March 24, 2003, respectively, and the attached "United Water Idaho Water Treatment Records."

Proposed Brookwood Subdivision Well Site" dated August 17, 2001, which was previously identified and disclosed to the Chase Estate in response and supplemental response to the Estate's interrogatories no. 2 and requests for production.

REQUEST NO. 24: Please produce copies of all documents that include data or information relating to the amount of water provided to, or diverted by, the Applicant pursuant to the contract(s) referenced in Request for Production Nos. 16 and 17 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24: See the City's First Supplemental Response to the Eagle Water Company's request for production nos. 18-19, a copy of which production was mailed to the Estate on _____. In addition, _____

DATED this 23 day of May, 2003.


Nancy Merrill, Mayor
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

REQUEST NO.22: Please produce copies of all documents that include data or information relating to the monitoring of the water levels in the Applicant's wells from 1992 to the present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22: See response to request for production number 21.

REQUEST NO.23: Please produce copies of all documents that include data or information relating to the monitoring of the water levels in the Estate's wells from 1995 to the present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23: Please see Mr. Terry Scanlan's report dated August 9, 1995, attached hereto. A portion of Mr. Scanlan's August 9, 1995 report is contained in the "Summary of Groundwater Conditions in the Vicinity of Proposed Brookwood Subdivision Well Site" dated August 17, 2001, which was previously identified and disclosed to the Chase Estate in response and supplemental response to the Estate's interrogatories no. 2 and requests for production.

REQUEST NO.24: Please produce copies of all documents that include data or information relating to the amount of water provided to, or diverted by, the Applicant pursuant to the contract(s) referenced in Request for Production Nos. 16 and 17 above.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24: See response to request for production number 21.

DATED this 23 day of May, 2003.

Nancy Merrill, Mayor
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23 day of May, 2003 I caused to be served a true and correct copy of the foregoing CITY OF EAGLE'S RESPONSE TO THE EAGLE ESTATE'S SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO THE CITY via U.S. Mail Postage pre-paid, and addressed to the following:

IDWR (w/o enclosures)
Western Region
2735 Airport Way
Boise, Idaho 83705

Matt Howard
P.O. Box 190012
Boise, Idaho 83719

Molly O'Leary
Eagle Water Co.
P.O. Box 1849
Eagle, Idaho 83616

Glen Saxton (w/o enclosures)
IDWR State Office
1301 N. Orchard Street
Boise, ID 83706


TAMMY A. ZOKAN

RECEIVED

MAY 27 2003

Department of Water Resources

BRUCE M. SMITH, ISB # 3425
TAMMY A. ZOKAN, ISB # 5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
225 North 9th, Suite 420
Boise, Idaho 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

Attorney for the City of Eagle

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF AMENDMENT OF	}	THE CITY OF EAGLE'S RESPONSE TO
APPLICATION FOR PERMIT NO. 63-12448		THE ESTATE'S SECOND SET OF
IN THE NAME OF THE CITY OF EAGLE		INTERROGATORIES AND REQUESTS
		FOR PRODUCTION
	}	
	}	
	}	

THE CITY OF EAGLE BY and through its attorney, MOORE SMITH BUXTON & TURCKE, CHARTERED, hereby responds to the following interrogatories and requests for production by the Estate of Eleanor I. Chase ("Estate"). As a general objection, the City objects to providing any response or producing any documents protected by the attorney client or work product privileges.

DEFINITIONS AND INSTRUCTIONS

In answering these discovery requests, furnish all information available to you, however obtained, including hearsay which is available to you and including information known by or in the possession of yourself, your attorney(s), investigator(s), expert(s), employee(s), or agent(s) retained by you or your attorney, or appearing in your records, and not merely information known of your own personal knowledge.

If you cannot answer the following interrogatories in full, after exercising due diligence to secure the information to do so, so state, and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

If you are unable to produce the requested documents after exercising due diligence to secure the documents, so state and identify the reason for your inability to produce the documents, the whereabouts of the documents if not in your control or possession, and the means whereby you lost control or possession of the documents. Identify any documents which once did exist if not now existing and state whatever information or knowledge you have concerning the information contained in those documents.

The entire discovery herein is deemed continuing. If after responding to these interrogatories, you acquire any documents requested herein, or any information related to any interrogatories or documents requested herein which is not reflected by one of the answers, you must file a supplemental discovery response. Such supplementation is requested herein in addition to any supplementation required by the Idaho Rules of Civil Procedure.

THE FOLLOWING DEFINITIONS APPLY TO THESE DISCOVERY REQUESTS:

1. "Application" means the Application for Amendment of Permit No. 63-12448 in the Name of The City of Eagle.
2. "Applicant" means the City of Eagle.
3. "Applicant's water rights" means water right nos. 63-9331, 63-11413, 63-12017, and 63-12448.

4. "Applicant's wells" means the points of diversion for the Applicant's water rights.
5. "Dairy Well" means the point of diversion for water right nos. 63-5226 and 63-15820.
6. "Document or Documents" means all writing of any kind, including the original and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise including without limitation correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intra-office communications, offers, notations of any sort of conversations, bulletins, printed matter, computer printouts, teletypes, telecopy, invoices, work sheets, and all drafts, alterations, modifications, changes, and amendments of any of the foregoing, graphic or oral records or representation of any kind including without limitations, photographs, charts, graphs, microfiche, microfilm, videotapes, recording, motion pictures and electronic, mechanical, or electrical records or representation of any kind including without limitation, tapes, cassette discs, recordings.
7. "Estate Water Rights" means water right nos. 63-5224, 63-5225, 63-5226, 63-5229, 63-8663, 63-15820, and 63-18731.
8. "Estate's wells" means the points of diversion for the Estate Water Rights.
9. "Fact" or "Facts" mean all circumstances, events, evidence, information, including statements or testimony made by, or knowledge of any person(s), pertaining to or touching upon the item or matter in question.

10. "Issues" means the issues set forth in the Notice of Hearing dated January 10, 2003, which are as follows:

- A. Will other water rights be injured by the amendment?
- B. Will the change constitute an enlargement in the use of the original right?
- C. Will the proposed change conflict with the local public interest?
- D. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

11. "Large Irrigation Well" means the point of diversion for water right no. 63-8663.

12. "Person" includes any natural person, partnership, corporation, joint venture, unincorporated association, governmental entity (or agency or other subdivision thereof), quasi-public entity or other form of entity or combination thereof.

13. "Small Irrigation Well" means the point of diversion for water right no. 63-5229.

14. "West Well" means the point of diversion for water right nos. 63-5225 and 63-18731.

15. "You and Your" means the City of Eagle.

INTERROGATORIES

INTERROGATORY NO. 11: If your response to any of the requests for admissions, below, is not an unqualified admission, for each such request for admission state and identify: (a) the number of the request for admission, (b) all facts, studies, analyses, opinions, or documents upon which you base your response, (c) the names, addresses, and telephone numbers of all individuals who do or may have knowledge of the facts upon which you base your response, and (d) all documents that support, evidence, or relate to your response.

RESPONSE TO INTERROGATORY NO. 11:

(a) Response to Requests for Admission nos. 6-9;

(b) Letter from Matt Howard, counsel for the Chase Estate to Bruce M. Smith, counsel for the City of Eagle, dated November 16, 2003 and containing interlineations made during the November 26, 2002 meeting, and the previously produced minutes of the November 26, 2002 City Council Meeting;

(c) Mayor and City Council members for the City of Eagle, P.O. Box 1520, Eagle, ID 83616, (208) 939-6813;

(d) See (b), above.

(a) Response to Requests for Admission nos. 10-22;

(b) The reports identified and produced to the Chase Estate in response and supplemental response to the Estate's interrogatory no. 2 and requests for production;

(c) The individuals identified to the Chase Estate in response and supplemental response to the Estate's interrogatories nos. 1 - 2;

(d) See (b), above.

INTERROGATORY NO. 12: Please fully describe your basis for requesting the additional points of diversion identified in your Application and describe why you believe it is necessary to locate such additional points of diversion at the points identified in your Application.

RESPONSE TO INTERROGATORY NO. 12: The proposed Brookwood well will provide public drinking water to the City of Eagle system and serve users in the Brookwood and Lexington Hills residential subdivisions. The well will improve the municipal water supply given the performance and water quality issues the City has experienced with the Lexington Well No. 2, strengthen the reliability, capacity, and performance of the City's system, and reduce the City's reliance on service from United Water Idaho to meet standards required by public law for public water systems in Idaho.

The basis for the proposed Brookwood well is further described in The City of Eagle Municipally-Owned Water System Master Plan and Budget Study by Holladay Engineering Company, April 12, 2002 (previously produced), that recommends the Brookwood well be completed and incorporated into the system to fulfill the system's supply-source needs. The April 12, 2002 Study has since been revised and the one-page May 21, 2003 "Revisions and Amendments" document is attached hereto. The City relied upon the City Engineer's analysis and subsequent recommendation that improved water quality and aquifer conditions exist at the proposed point of diversion (SW¼ of SW ¼ of Sec. 4, T.6N, R.1E). The City Engineer's recommendation is described in the report "Summary of Groundwater in the Vicinity of Proposed Brookwood Subdivision Well Site Eagle, Idaho, August 17, 2001". The City Engineer's review and analysis included discussions with United Water Idaho concerning the history of the Lexington Hills wells and reports entitled "Groundwater conditions in the Dry Creek Area, Eagle Idaho" (IDWR, 1991), "Aquifer Test Floating Feather Well" (Scanlan Engineering, 1995), and the "Results of the 30-Day Pumping Test and Aquifer Analysis" (CH2MHill, 1991). The Idaho Department of Environmental Quality has acknowledged that the proposed point of diversion meets the criteria for a municipal public drinking water well site.

INTERROGATORY NO. 13: Please identify all facts, studies, analyses, opinions, or documents that indicate or show that the currently authorized points of diversion for the Applicant's water rights are insufficient and/or inadequate to divert water pursuant to the Applicant's water rights.

RESPONSE TO INTERROGATORY NO. 13: Please see the response to interrogatory no. 12.

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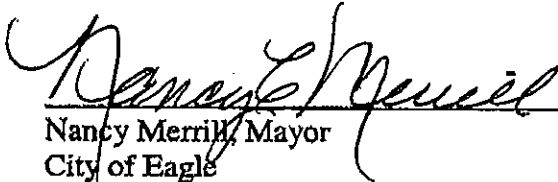
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DATED this 23 day of May, 2003.


Nancy Merrill, Mayor
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

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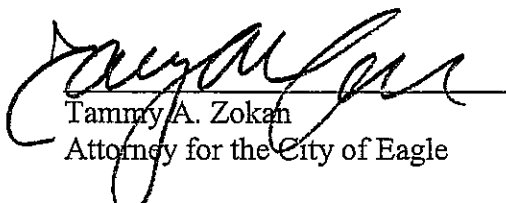
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RESPONSE TO REQUEST FOR PRODUCTION NO. 24: See response to request for production number 21.

DATED this 23 day of May, 2003.

Nancy Merrill, Mayor
City of Eagle



Tammy A. Zokan
Attorney for the City of Eagle

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23 day of May, 2003 I caused to be served a true and correct copy of the foregoing CITY OF EAGLE'S RESPONSE TO THE EAGLE ESTATE'S SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO THE CITY via U.S. Mail Postage pre-paid, and addressed to the following:

IDWR (w/o enclosures)
Western Region
2735 Airport Way
Boise, Idaho 83705

Matt Howard
P.O. Box 190012
Boise, Idaho 83719

Molly O'Leary
Eagle Water Co.
P.O. Box 1849
Eagle, Idaho 83616

Glen Saxton (w/o enclosures)
IDWR State Office
1301 N. Orchard Street
Boise, ID 83706



TAMMY A. ZOKAN

RECEIVED

MAY 19 2003

Department of Water Resources

RECEIVED

MAY 14 2003

WATER RESOURCES
WESTERN REGION

COPY

BRUCE M. SMITH, ISB # 3425
TAMMY A. ZOKAN, ISB # 5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
225 North 9th, Suite 420
Boise, Idaho 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

Attorney for the City of Eagle

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF AMENDMENT OF)
APPLICATION FOR PERMIT NO. 63-12448) THE CITY OF EAGLE'S RESPONSE TO
IN THE NAME OF THE CITY OF EAGLE) THE ESTATE'S SECOND SET OF
REQUESTS FOR ADMISSIONS

THE CITY OF EAGLE BY and through its attorney, MOORE SMITH BUXTON & TURCKE, CHARTERED, hereby responds to the following requests for admissions by the Estate of Eleanor I. Chase ("Estate"). As a general objection, the City objects to providing any response or producing any documents protected by the attorney client or work product privileges.

DEFINITIONS AND INSTRUCTIONS

In answering these discovery requests, furnish all information available to you, however obtained, including hearsay which is available to you and including information known by or in the possession of yourself, your attorney(s), investigator(s), expert(s), employee(s), or agent(s)

retained by you or your attorney, or appearing in your records, and not merely information known of your own personal knowledge.

If you cannot answer the following interrogatories in full, after exercising due diligence to secure the information to do so, so state, and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

If you are unable to produce the requested documents after exercising due diligence to secure the documents, so state and identify the reason for your inability to produce the documents, the whereabouts of the documents if not in your control or possession, and the means whereby you lost control or possession of the documents. Identify any documents which once did exist if not now existing and state whatever information or knowledge you have concerning the information contained in those documents.

The entire discovery herein is deemed continuing. If after responding to these interrogatories, you acquire any documents requested herein, or any information related to any interrogatories or documents requested herein which is not reflected by one of the answers, you must file a supplemental discovery response. Such supplementation is requested herein in addition to any supplementation required by the Idaho Rules of Civil Procedure.

THE FOLLOWING DEFINITIONS APPLY TO THESE DISCOVERY REQUESTS:

1. "Application" means the Application for Amendment of Permit No. 63-12448 in the Name of The City of Eagle.
2. "Applicant" means the City of Eagle.

3. "Applicant's water rights" means water right nos. 63-9331, 63-11413, 63-12017, and 63-12448.
4. "Applicant's wells" means the points of diversion for the Applicant's water rights.
5. "Dairy Well" means the point of diversion for water right nos. 63-5226 and 63-15820.
6. "Document or Documents" means all writing of any kind, including the original and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise including without limitation correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intra-office communications, offers, notations of any sort of conversations, bulletins, printed matter, computer printouts, teletypes, telecopy, invoices, work sheets, and all drafts, alterations, modifications, changes, and amendments of any of the foregoing, graphic or oral records or representation of any kind including without limitations, photographs, charts, graphs, microfiche, microfilm, videotapes, recording, motion pictures and electronic, mechanical, or electrical records or representation of any kind including without limitation, tapes, cassette discs, recordings.
7. "Estate Water Rights" means water right nos. 63-5224, 63-5225, 63-5226, 63-5229, 63-8663, 63-15820, and 63-18731.
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9. "Fact" or "Facts" mean all circumstances, events, evidence, information, including statements or testimony made by, or knowledge of any person(s), pertaining to or touching upon the item or matter in question.
10. "Issues" means the issues set forth in the Notice of Hearing dated January 10, 2003, which are as follows:
- A. Will other water rights be injured by the amendment?
 - B. Will the change constitute an enlargement in the use of the original right?
 - C. Will the proposed change conflict with the local public interest?
 - D. Will the proposed use be contrary to conservation of water resources within the state of Idaho?
11. "Large Irrigation Well" means the point of diversion for water right no. 63-8663.
12. "Person" includes any natural person, partnership, corporation, joint venture, unincorporated association, governmental entity (or agency or other subdivision thereof), quasi-public entity or other form of entity or combination thereof.
13. "Small Irrigation Well" means the point of diversion for water right no. 63-5229.
14. "West Well" means the point of diversion for water right nos. 63-5225 and 63-18731.
- "You and Your" means the City of Eagle.

REQUESTS FOR ADMISSIONS

REQUEST NO. 6: Please admit that the November 16, 2002, letter attached hereto as Exhibit A contains the initial of Nancy Merrill.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Denied.

REQUEST NO. 7: Please admit that Nancy Merrill placed her handwritten initial on the Exhibit A document.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Denied.

REQUEST NO. 8: Please admit that at the time Nancy Merrill initialed the Exhibit A document she was the President of the City Council of the City of Eagle.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Denied.

REQUEST NO. 9: Please admit that Nancy Merrill initialed the Exhibit A document during a city council meeting held on November 26, 2002.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Denied.

REQUEST NO. 10: Please admit that at the time Nancy Merrill initialed the Exhibit A document she was a member of the City Council of the City of Eagle.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Denied.

REQUEST NO. 11: Please admit that diversion of water pursuant to the Application, if approved, will deprive the Estate of its use of water from the Dairy Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Denied.

REQUEST NO. 12: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to change its method or means of diversion of water in order to maintain its right to use water from the Dairy Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Denied.

REQUEST NO. 13: Please admit that diversion of water pursuant to the Application, if approved, will deprive the Estate of its use of water from the Small Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Denied.

REQUEST NO. 14: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to change its method or means of diversion of water in order to maintain its right to use water from the Small Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Denied.

REQUEST NO. 15: Please admit that diversion of water pursuant to the Application, if approved, will deprive the Estate of its use of water from the Large Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Denied.

REQUEST NO. 16: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to change its method or means of diversion of water in order to maintain its right to use water from the Large Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 16: Denied.

REQUEST NO. 17: Please admit that diversion of water pursuant to the Application, if approved, will deprive the Estate of its use of water from the West Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 17: Denied.

REQUEST NO. 18: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to change its method or means of diversion of water in order to maintain its right to use water from the West Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 18: Denied.

REQUEST NO. 19: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to incur increased operational costs in order to maintain its right to use water from the West Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 19: Denied.

REQUEST NO. 20: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to incur increased operational costs in order to maintain its right to use water from the Dairy Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 20: Denied.

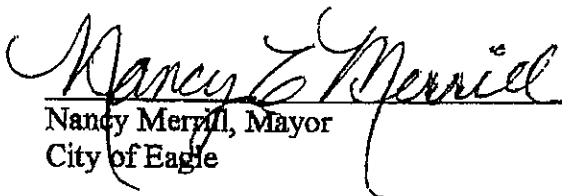
REQUEST NO. 21: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to incur increased operational costs in order to maintain its right to use water from the Small Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 21: Denied.

REQUEST NO. 22: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to incur increased operational costs in order to maintain its right to use water from the Large Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 22: Denied.

DATED this ____ day of May, 2003.


Nancy Merrill, Mayor
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

REQUEST NO. 20: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to incur increased operational costs in order to maintain its right to use water from the Dairy Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 20: Denied.

REQUEST NO. 21: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to incur increased operational costs in order to maintain its right to use water from the Small Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 21: Denied.

REQUEST NO. 22: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to incur increased operational costs in order to maintain its right to use water from the Large Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 22: Denied.

DATED this 13 day of May, 2003.

Nancy Merrill, Mayor
City of Eagle



Tammy A. Zokan
Attorney for the City of Eagle

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of May, 2003 I caused to be served a true and correct copy of the foregoing CITY OF EAGLE'S RESPONSE TO THE EAGLE ESTATE'S SECOND SET OF REQUESTS FOR ADMISSIONS TO THE CITY via U.S. Mail Postage pre-paid, and addressed to the following:

IDWR
Western Region
2735 Airport Way
Boise, Idaho 83705

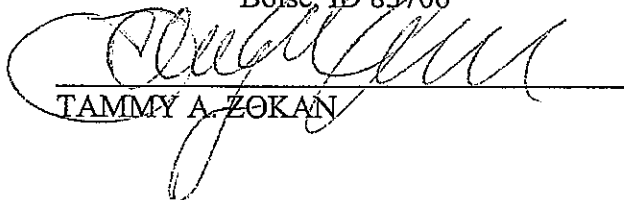
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P.O. Box 190012
Boise, Idaho 83719

Molly O'Leary
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P.O. Box 1849
Eagle, Idaho 83616

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Jim Burton
1896 N. Eagle Rd.
Eagle, Idaho 83616

Glen Saxton
IDWR State Office
1301 N. Orchard Street
Boise, ID 83706


TAMMY A. ZOKAN

RECEIVED

MAY 14 2003

Department of Water Resources

COPY

BRUCE M. SMITH, ISB # 3425
TAMMY A. ZOKAN, ISB # 5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
225 North 9th, Suite 420
Boise, Idaho 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

Attorney for the City of Eagle

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF AMENDMENT OF
APPLICATION FOR PERMIT NO. 63-12448
IN THE NAME OF THE CITY OF EAGLE

} THE CITY OF EAGLE'S RESPONSE TO
} THE ESTATE'S SECOND SET OF
} REQUESTS FOR ADMISSIONS

THE CITY OF EAGLE BY and through its attorney, MOORE SMITH BUXTON & TURCKE, CHARTERED, hereby responds to the following requests for admissions by the Estate of Eleanor I. Chase ("Estate"). As a general objection, the City objects to providing any response or producing any documents protected by the attorney client or work product privileges.

DEFINITIONS AND INSTRUCTIONS

In answering these discovery requests, furnish all information available to you, however obtained, including hearsay which is available to you and including information known by or in the possession of yourself, your attorney(s), investigator(s), expert(s), employee(s), or agent(s)

retained by you or your attorney, or appearing in your records, and not merely information known of your own personal knowledge.

If you cannot answer the following interrogatories in full, after exercising due diligence to secure the information to do so, so state, and answer to the extent possible, specifying your inability to answer the remainder, and stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

If you are unable to produce the requested documents after exercising due diligence to secure the documents, so state and identify the reason for your inability to produce the documents, the whereabouts of the documents if not in your control or possession, and the means whereby you lost control or possession of the documents. Identify any documents which once did exist if not now existing and state whatever information or knowledge you have concerning the information contained in those documents.

The entire discovery herein is deemed continuing. If after responding to these interrogatories, you acquire any documents requested herein, or any information related to any interrogatories or documents requested herein which is not reflected by one of the answers, you must file a supplemental discovery response. Such supplementation is requested herein in addition to any supplementation required by the Idaho Rules of Civil Procedure.

THE FOLLOWING DEFINITIONS APPLY TO THESE DISCOVERY REQUESTS:

1. "Application" means the Application for Amendment of Permit No. 63-12448 in the Name of The City of Eagle.
2. "Applicant" means the City of Eagle.

3. "Applicant's water rights" means water right nos. 63-9331, 63-11413, 63-12017, and 63-12448.
4. "Applicant's wells" means the points of diversion for the Applicant's water rights.
5. "Dairy Well" means the point of diversion for water right nos. 63-5226 and 63-15820.
6. "Document or Documents" means all writing of any kind, including the original and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise including without limitation correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, interoffice and intra-office communications, offers, notations of any sort of conversations, bulletins, printed matter, computer printouts, teletypes, telecopy, invoices, work sheets, and all drafts, alterations, modifications, changes, and amendments of any of the foregoing, graphic or oral records or representation of any kind including without limitations, photographs, charts, graphs, microfiche, microfilm, videotapes, recording, motion pictures and electronic, mechanical, or electrical records or representation of any kind including without limitation, tapes, cassette discs, recordings.
7. "Estate Water Rights" means water right nos. 63-5224, 63-5225, 63-5226, 63-5229, 63-8663, 63-15820, and 63-18731.
8. "Estate's wells" means the points of diversion for the Estate Water Rights.

9. "Fact" or "Facts" mean all circumstances, events, evidence, information, including statements or testimony made by, or knowledge of any person(s), pertaining to or touching upon the item or matter in question.
10. "Issues" means the issues set forth in the Notice of Hearing dated January 10, 2003, which are as follows:
- A. Will other water rights be injured by the amendment?
 - B. Will the change constitute an enlargement in the use of the original right?
 - C. Will the proposed change conflict with the local public interest?
 - D. Will the proposed use be contrary to conservation of water resources within the state of Idaho?
11. "Large Irrigation Well" means the point of diversion for water right no. 63-8663.
12. "Person" includes any natural person, partnership, corporation, joint venture, unincorporated association, governmental entity (or agency or other subdivision thereof), quasi-public entity or other form of entity or combination thereof.
13. "Small Irrigation Well" means the point of diversion for water right no. 63-5229.
14. "West Well" means the point of diversion for water right nos. 63-5225 and 63-18731.
- "You and Your" means the City of Eagle.

REQUESTS FOR ADMISSIONS

REQUEST NO. 6: Please admit that the November 16, 2002, letter attached hereto as Exhibit A contains the initial of Nancy Merrill.

RESPONSE TO REQUEST FOR ADMISSION NO. 6: Denied.

REQUEST NO. 7: Please admit that Nancy Merrill placed her handwritten initial on the Exhibit A document.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Denied.

REQUEST NO. 8: Please admit that at the time Nancy Merrill initialed the Exhibit A document she was the President of the City Council of the City of Eagle.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Denied.

REQUEST NO. 9: Please admit that Nancy Merrill initialed the Exhibit A document during a city council meeting held on November 26, 2002.

RESPONSE TO REQUEST FOR ADMISSION NO. 9: Denied.

REQUEST NO. 10: Please admit that at the time Nancy Merrill initialed the Exhibit A document she was a member of the City Council of the City of Eagle.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Denied.

REQUEST NO. 11: Please admit that diversion of water pursuant to the Application, if approved, will deprive the Estate of its use of water from the Dairy Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 11: Denied.

REQUEST NO. 12: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to change its method or means of diversion of water in order to maintain its right to use water from the Dairy Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 12: Denied.

REQUEST NO. 13: Please admit that diversion of water pursuant to the Application, if approved, will deprive the Estate of its use of water from the Small Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 13: Denied.

REQUEST NO. 14: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to change its method or means of diversion of water in order to maintain its right to use water from the Small Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 14: Denied.

REQUEST NO. 15: Please admit that diversion of water pursuant to the Application, if approved, will deprive the Estate of its use of water from the Large Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 15: Denied.

REQUEST NO. 16: Please admit that diversion of water pursuant to the Application, if approved, will require the Estate to change its method or means of diversion of water in order to maintain its right to use water from the Large Irrigation Well.

RESPONSE TO REQUEST FOR ADMISSION NO. 16: Denied.

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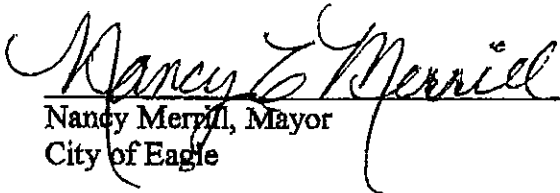
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RESPONSE TO REQUEST FOR ADMISSION NO. 22: Denied.

DATED this ____ day of May, 2003.


Nancy Merrill, Mayor
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

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DATED this 13 day of May, 2003.

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City of Eagle



Tammy A. Zokan
Attorney for the City of Eagle

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13 day of May, 2003 I caused to be served a true and correct copy of the foregoing CITY OF EAGLE'S RESPONSE TO THE EAGLE ESTATE'S SECOND SET OF REQUESTS FOR ADMISSIONS TO THE CITY via U.S. Mail Postage pre-paid, and addressed to the following:

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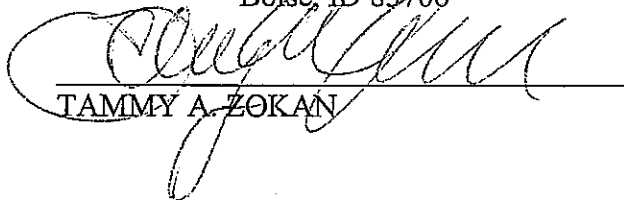
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Eagle, Idaho 83616

Jim Burton
1896 N. Eagle Rd.
Eagle, Idaho 83616

Glen Saxton
IDWR State Office
1301 N. Orchard Street
Boise, ID 83706



TAMMY A. ZOKAN

RECEIVED

MAY 19 2003

Department of Water Resources

RECEIVED

MAY 12 2003

WATER RESOURCES
WESTERN REGION

BRUCE M. SMITH, ISB # 3425
TAMMY A. ZOKAN, ISB # 5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
225 North 9th, Suite 420
Boise, Idaho 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

Attorney for the City of Eagle

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF AMENDMENT OF) THE CITY OF EAGLE'S FOURTH
APPLICATION FOR PERMIT NO. 63-12448) SUPPLEMENTAL RESPONSE TO THE
IN THE NAME OF THE CITY OF EAGLE) ESTATE'S FIRST SET OF
) INTERROGATORIES, REQUESTS FOR
) PRODUCTION OF DOCUMENTS, AND
) REQUESTS FOR ADMISSIONS
)
_____)

THE CITY OF EAGLE BY AND THROUGH ITS ATTORNEY, BRUCE M. SMITH
HEREBY provides its fourth supplemental response to the interrogatories, requests for
production of documents, and requests for admissions by the Chase Estate, dated February 5,
2003. As a general objection, the City objects to providing any response or producing any
documents protected by the attorney client or work product privileges.

REQUESTS FOR PRODUCTION

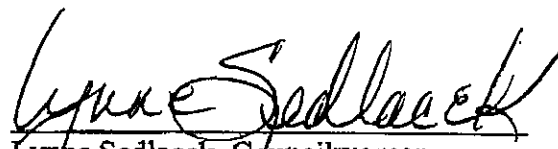
REQUEST NO. 4: Please produce copies of all documents that you may offer as exhibits
at any hearing or trial in this case.

SUPPLEMENTAL RESPONSE TO REQUEST FOR PRODUCTION NO. 4: See
the enclosed copies of (1) the report entitled "Brookwood Public Water Supply Well,"

CITY OF EAGLE'S FOURTH SUPPLEMENTAL RESPONSE TO THE ESTATE'S FIRST
SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS, AND
REQUESTS FOR ADMISSIONS, Page - 1

dated May 2000 and (2) the report entitled "City of Eagle Municipally-Owned Water System Master Plan and Budget Study," dated April 12, 2002.

DATED this ____ day of May, 2003.


Lynne Sedlacek, Councilwoman
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

CERTIFICATE OF SERVICE

The undersigned certifies that on the ____ day of May 2003, a true and correct copy of the City's Fourth Supplemental Response to the Chase Protestants First Set of Interrogatories, Requests for Production and Requests for Admissions was sent to the following person(s) as indicated below:

IDWR State Office *Via U.S. Mail (w/o enclosures)*
Hearing Officer
Glen Saxton
1301 N. Orchard Street
Boise, ID 83706

Jim Burton *Via U.S. Mail (w/o enclosures)*
1896 N. Eagle Rd.
Eagle, ID 83616

Weldon Fisher *Via U.S. Mail (w/o enclosures)*
546 E. Beacon Light Rd.
Eagle, ID 83616

Molly O'Leary, Esq. *Via U.S. Mail*
Richardson & O'Leary, PLLC
P. O. Box 1849
Eagle, ID 83616

Matt Howard, Esq. *Via U.S. Mail*
P.O. Box 190012
Boise, Idaho 83719

TAMMY A. ZOKAN

dated May 2000 and (2) the report entitled "City of Eagle Municipally-Owned Water System Master Plan and Budget Study," dated April 12, 2002.

DATED this 9th day of May, 2003.

Lynne Sedlacek, Councilwoman
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

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TAMMY A. ZOKAN, ISB # 5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
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Boise, Idaho 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

Attorney for the City of Eagle

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF AMENDMENT OF	)	THE CITY OF EAGLE'S FOURTH
APPLICATION FOR PERMIT NO. 63-12448	)	SUPPLEMENTAL RESPONSE TO THE
IN THE NAME OF THE CITY OF EAGLE	)	ESTATE'S FIRST SET OF
	)	INTERROGATORIES, REQUESTS FOR
	)	PRODUCTION OF DOCUMENTS, AND
	)	REQUESTS FOR ADMISSIONS
	)	
	)	

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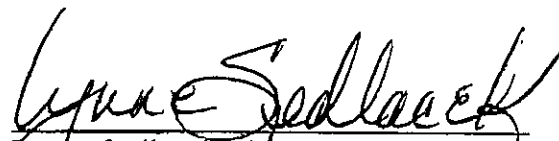
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DATED this ____ day of May, 2003.


Lynne Sedlacek, Councilwoman
City of Eagle

Tammy A. Zokan
Attorney for the City of Eagle

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P.O. Box 190012
Boise, Idaho 83719

TAMMY A. ZOKAN

MATT J. HOWARD

ATTORNEY AT LAW

RECEIVED

P. O. BOX 190012

BOISE, IDAHO 83719

TELEPHONE (208) 333-0622

FACSIMILE (208) 333-8409

APR 30 2003

EMAIL: MHOWARD@FIBERPIPE.NET

Department of Water Resources

April 29, 2003

Bruce M. Smith
Moore Smith Buxton & Turcke, Chtd
225 N. 9th St., Ste. 420
Boise, ID 83702

Re: Protest to Application for Amendment of Permit No. 63-12448 in the Name of the City of Eagle

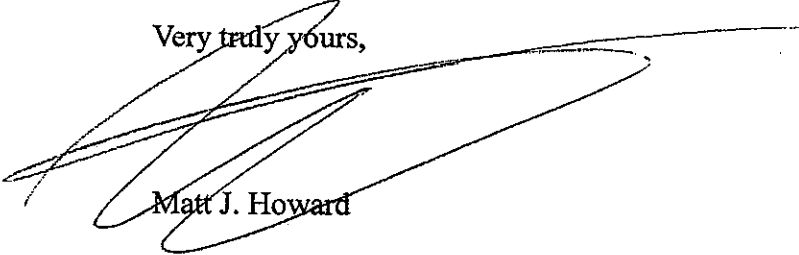
Dear Bruce:

Enclosed is a copy of the documents identified in the Estate's Response to Applicant's First Set of Interrogatories, Requests for Admissions and Production and the Estate's Response to Applicant's Second Set of Interrogatories, Requests for Admissions and Production. As indicated in those responses, the documents have been available for inspection at my office; however, you have requested that the documents be copied and mailed to you.

Based on our earlier correspondence, I had understood that I would mail copies of the requested documents to you *after* you first mailed me copies of all the documents requested of your client. To date, your client has failed to produce all of the documents requested of it; nonetheless, I am enclosing the documents your client has requested from the Estate. If you believe there are any documents missing *or* any other or further discovery responses to which your client is entitled, please let me know immediately.

I have not enclosed copies of the Strowd reports, the Scanlan report, the CH2M Hill report, the IDWR report, or the City's minutes because I understand you already have a copy of those. If that is not the case, please let me know. Thank you.

Very truly yours,


Matt J. Howard

Cc: Client

Glen Saxton, IDWR hearing officer (w/enclosures) ✓

Protestants (w/o enclosures)

13950

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-08663
Date Received: 6/21/1989
Receipt No: 007697
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ELEANOR I. CHASE 208-939-6226
Address: 70 WEST FLOATING FEATHER RD.
EAGLE, ID 83616

OR

Name: H. BRYAN CHASE II 208-939-6226
Address: 70 WEST FLOATING FEATHER RD.
EAGLE, ID 83616

2. Date of Priority: APR 06, 1977

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04N	01E	5	NE	NW	SE		ADA

5. Description of diverting works:
WELL, PUMP & DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.000		
STOCKWATER	01/01	12/31	0.040		

7. Total Quantity Appropriated is:
2.000 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is 300.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/200 DAIRY CATTLE

A63-08663

Page 1

Date: 06/21/89

MICROFILMED

AUG 24 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	01E	5	NW	SE		IRR	40.0
			SW	SE		IRR	30.0
			SE	SE		IRR	30.0
						Section Acres	100.0
						Total Acres	100.0

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

A63-05229, -05227, -05224, -05225, -05226

14. Remarks:

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): X Eleanor E. Chase Date: June 21, 1989
Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 21st day
of June 19 89

Anna Baunhoff
Notary Public

Seal

Residing at Anna Baunhoff, Notary Public
Residing at Boise, Idaho
My Commission Expires December 7, 1994

Idaho Department of Water Resources

Claim Number: 63-08663

Legal: T4N, R1E, S5

Reviewed By:

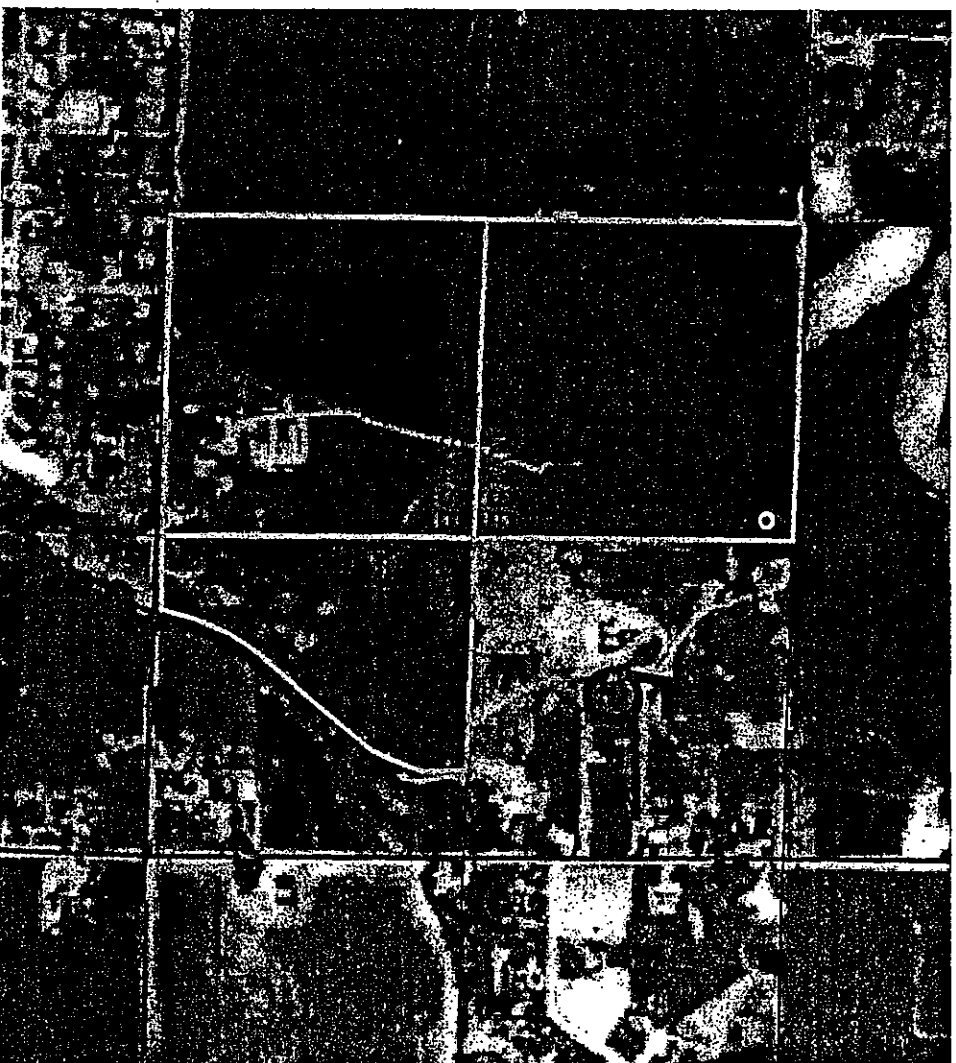
○ Point of Diversion

□ Place of Use

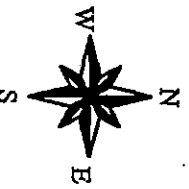
□ Section Lines

□ Quarter Quarter Lines

1987 Napp Photo



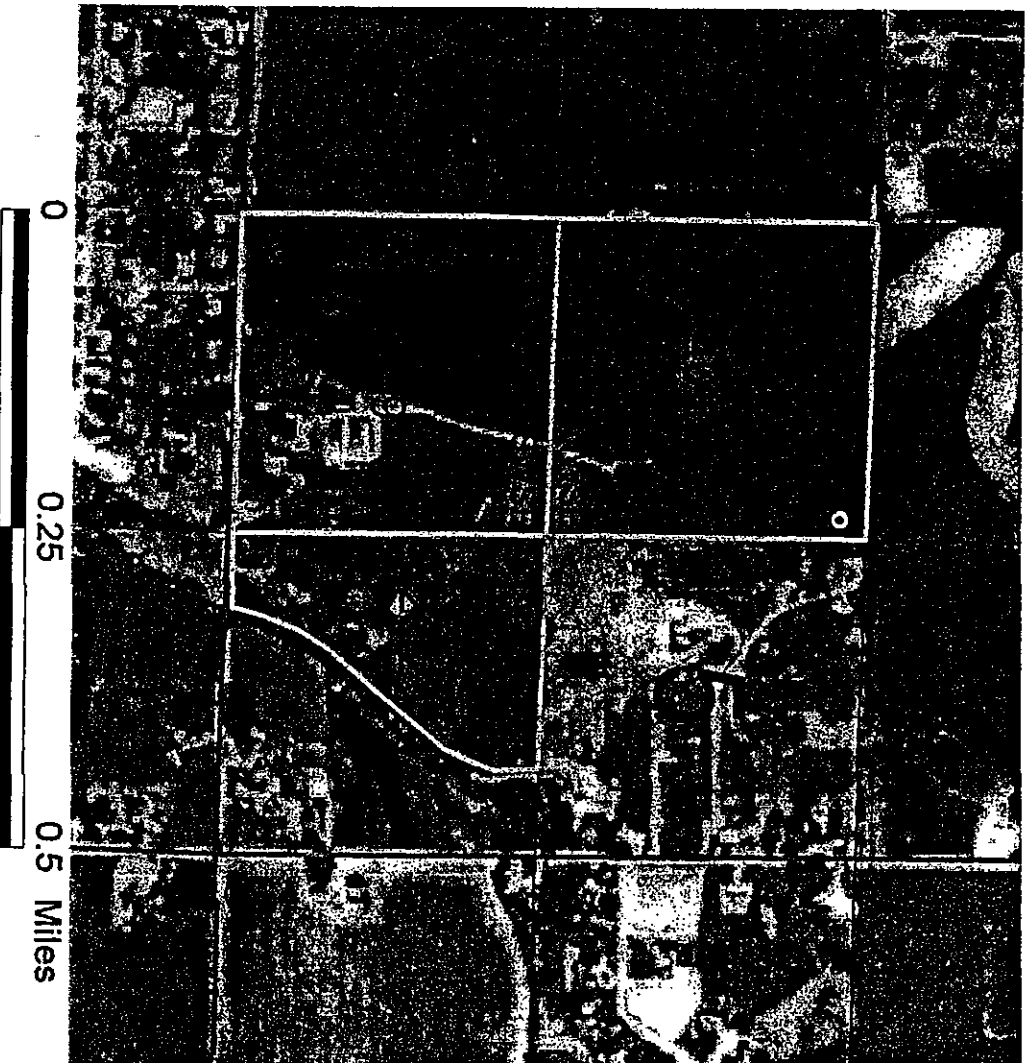
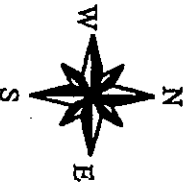
0 0.25 0.5 Miles



Idaho Department of Water Resources

Claim Number: 63-08663
Legal: T4N, R1E, S5
Reviewed By:

- ☒ Point of Diversion
- ☐ Place of Use
- ☐ Section Lines
- ☐ Quarter Quarter Lines



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 63-8663 Priority April 6, 1977 Amount 2.0 cfs

THIS IS TO CERTIFY, that Eleanor I. Chase
of Eagle, Idaho, has complied with the terms and conditions of Permit
No. 63-8663 issued pursuant to Application for Permit dated April 6, 1977
and has submitted proof to the Department of Water Resources on April 9, 1982
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 2.17 cfs of water from a groundwater source
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Irrigation	from <u>March 15</u> to <u>November 15</u> at <u>2.00</u> cfs and	<u>450.0</u> acre feet	
Stockwater	from <u>January 1</u> to <u>December 31</u> at <u>0.04</u> cfs and	<u>2.7</u> acre feet	
	from _____ to _____ at _____ cfs and		

(both dates inclusive)

Subject, however, to the condition that no more than 2.0 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
452.7 acre feet per year, said waters to be diverted within the NW1/4 SE1/4 Section 5,
Twp 4N, Rge 1E in the County of Ada

Description and location of place of use:

Twp.	Range	Sec.	NE1/4				NW1/4				SW1/4				SE1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
4N	1E	5													40	30	30		100

Total number of acres irrigated 100

MICROFILMED

Identification No. _____

Application No. 63-8663

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

APPROVED

1. Name of applicant Eleanor I. Chase Phone: 939-6226
post office address Route 1, Eagle, ID
2. Source of water supply groundwater which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 5 Township 4N
Range 1E B.M. Ada County; additional points of diversion if any: _____

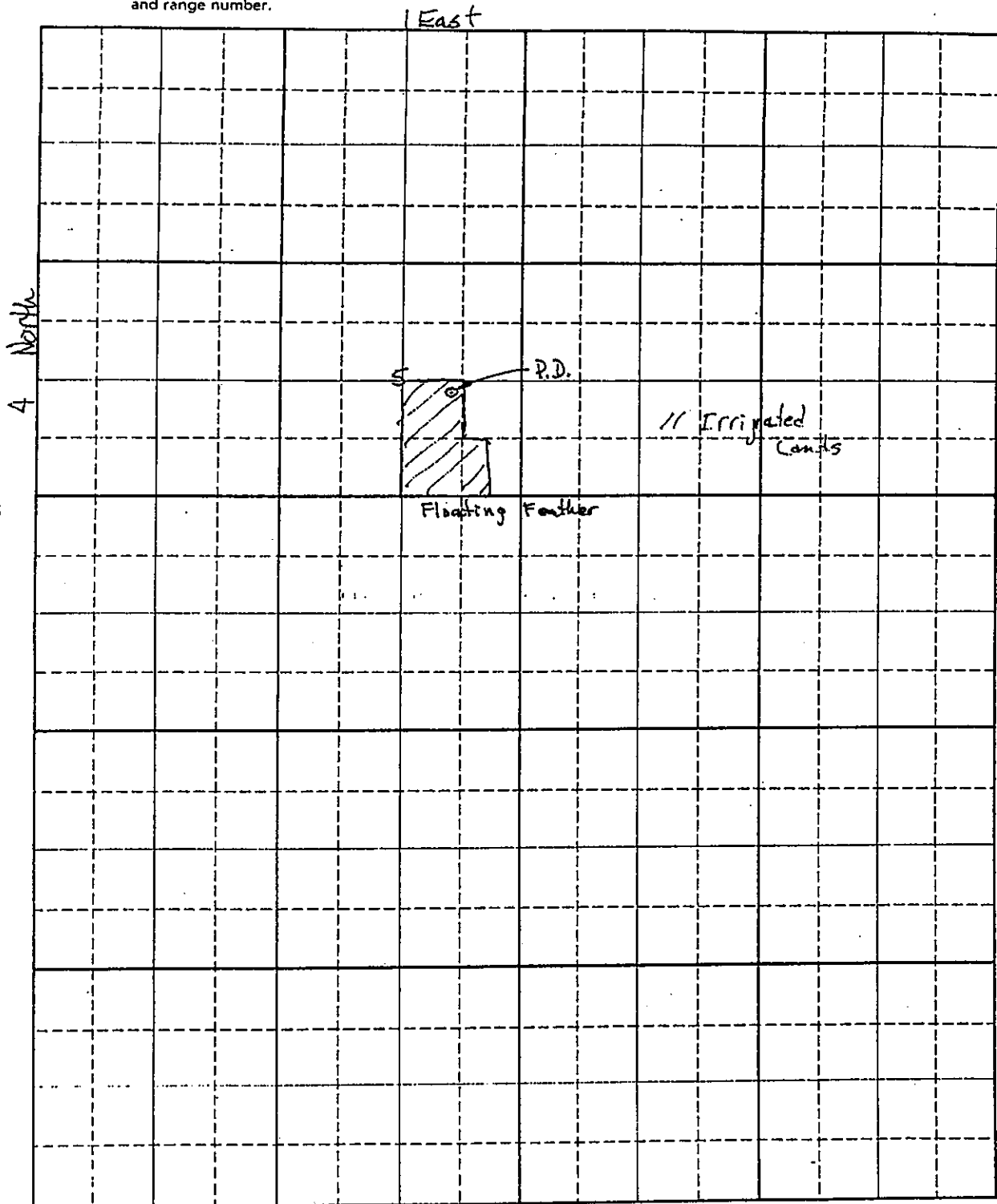
b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 2.0 for irrigation purpose from Mar 15 to Nov 15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.04 for Stockwater purpose from Jan 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 2.0 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. well, pump, & ditches

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is 12 inches; proposed depth of well is 200 feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.
b. Estimated construction cost is \$ 6500.
8. Description of proposed uses:
a. If water is not for irrigation:
Same as irrigated land
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered 200 head of cattle

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water: _____
(5) If water is to be used for other purposes describe: _____

RECORDED

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Elmer A. Chase
(Applicant)

State of Idaho
DEPARTMENT OF WATER RESOURCES
FIELD REPORT

63-8663

Permit No.

CONTACT WITH PERMIT HOLDER

	DATE	INITIALS	REMARKS
☐ Appointment letter mailed:	N/A		
☐ Telephone call made: (List Telephone No. used)	6/28/82	JG	BRIAN CHASE PHONED FOR EXAM.
☐ Appointment scheduled for: (Date, time, location)	6/30/82	JG	CORNER OF EAGLE RD. & FLOATING FERTILIZER (W. CORNER)

EXAMINATION

Date 6/30/82 Accompanied by BRIAN CHASE Total Q measured 2.17 CFS
If source is surface water, estimate total flow of source _____
Methods of measurement 6" ORIFICE & PLASTIC TUBE Meets Permit requirements? YES

Measurement calculations: ~~ON PICTURE~~

MEAS. 39.5" FOR 6" ORIFICE IN AN 8" PIPE = 974 GPM
 $974 \div 448.8 = 2.17 \text{ CFS}$ (SEE WATER MEASUREMENT BULLETIN NO. 552)
 $V = 100 \text{ AC AT } 4.3 \text{ AF/AC} = 430 \text{ AF/ANN. } 200 \text{ HD STOCK} = 2.7 \text{ AF}$
 $V = 2.0 \times 1.9835 \times 245 = 971.4 \text{ AF}$

WELL/DIVERSION* NO.	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEV.	REMARKS
	25	U.S. ELEC.	R-7181-02	WELLINE	T-81253	6" ORIFICE	EXCEL.	

System Description 25 HP U.S. ELEC. MOTOR, 3 PHASE W/WELLINE PUMP, 8" PIPELINE
W/OPEN DISCHARGE INTO DITCH SYSTEM. GRAVITY IRRIGATION W/SYRHOAL
TUBES & CORRUGATED.

*Code with map on reverse side. Disregard code if only one.

RECOMMENDED AMOUNTS

USE	Q (cfs)	V (afa)	FROM	TO
IRRIGATION - 100 AC	2.0 ✓	450 AF ✓	3/15 ✓	11/15 ✓
STOCK WATER 200 HD	0.04 ✓	2.7 AF ✓	1/1 ✓	12/31 ✓
Total	2.0 ✓	452.7 AF ✓		

Remarks

MICROFILMED



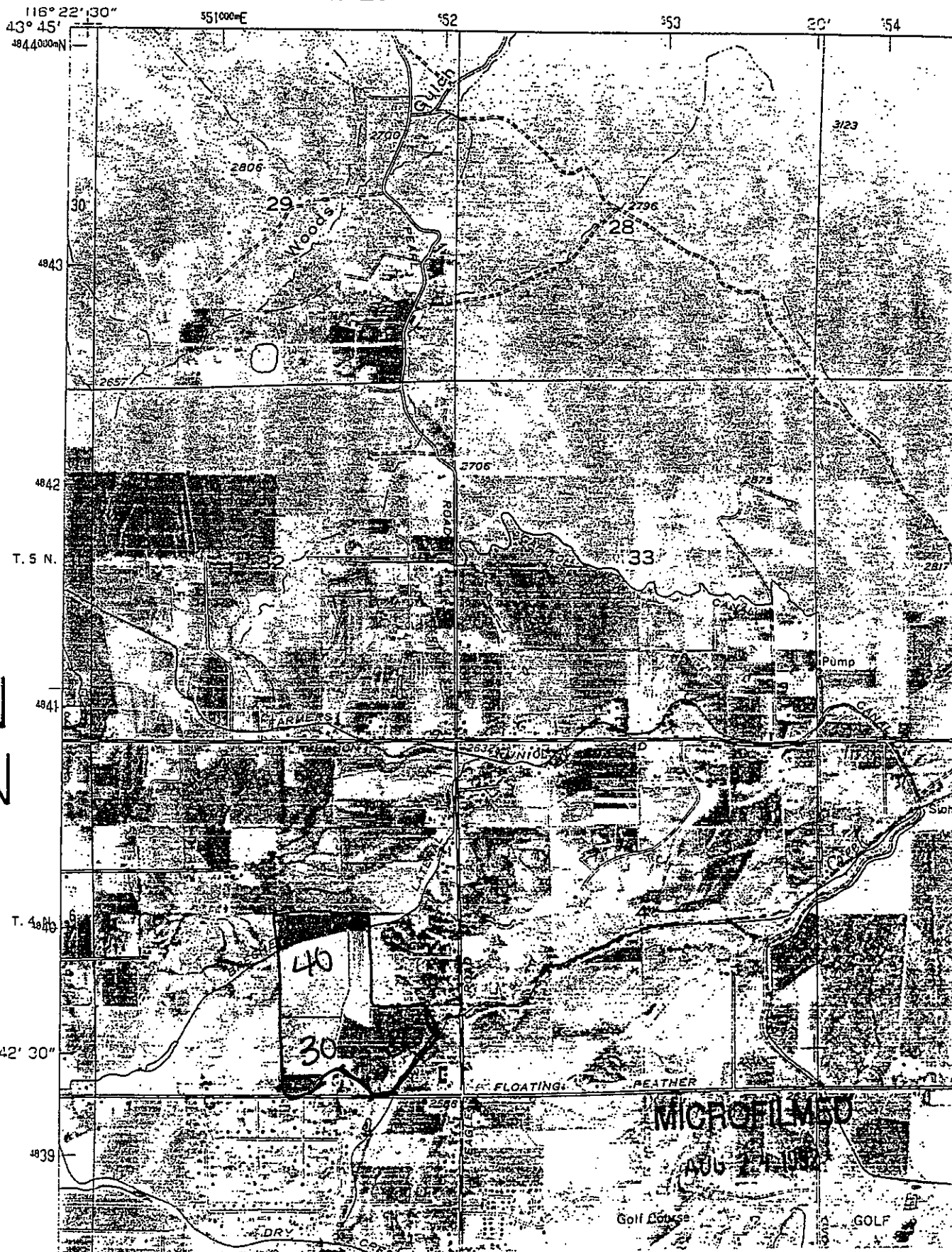


State of Idaho

DEPARTMENT OF WATER RESOURCES

A63-08668

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



T5N
T4N

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-5229
Date Received: 6/21/1989
Receipt No: C007697
Received By:

RECEIVED

AUG 26 2002

WATER RESOURCES
WESTERN REGION

AMENDED NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

ESTATE OF ELEANOR I CHASE Phone: (208)939-6226
70 W FLOATING FEATHER RD
EAGLE ID USA 83616

2. Date of Priority: ~~04/01/1927~~ 10-27-1925

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	01E	5	NE SE SE	ADA	

5. Description of diverting works:

WELL 280' DEEP, 2 HP PUMPED ACROSS CREEK TO DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/01	11/15	0.4	
STOCKWATER	1/01	12/31	0.02	
DOMESTIC	1/01	12/31	0.04	

7. Total Quantity Appropriated is:

0.42 C.F.S.
0.46 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

COPY

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	01E	5		SE SE	IRRIGATION	20
				SE SE	STOCKWATER	
				SE SE	DOMESTIC	
					Section Acres	20
					Total Acres	20

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Beneficial Use

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____-0-_____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Matthew D. Cook Date: 7/29/02

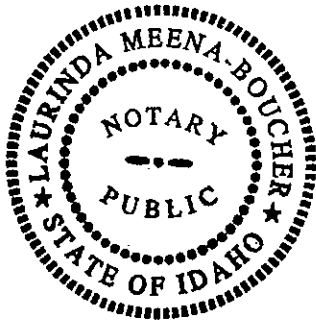
Date: _____

State of Idaho)
County of Canyon) SS.

Subscribed and sworn (or affirmed) before me this
of 29 July 2002

Laurinda Meena Boucher
Notary Public

Residing at Nampa, ID
My commission Expires 4-8-2006



70th

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-05227
Date Received: 6/21/1989
Receipt No: 007697
Received By: AB

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ELEANOR I. CHASE 208-939-6226
Address: 70 W. FLOATING FEATHER RD.
EAGLE, ID 83616

OR

Name: H. BRYAN CHASE II 208-939-6226
Address: 70 W. FLOATING FEATHER RD.
EAGLE, ID 83616

2. Date of Priority: JAN 01, 1872

3. Source: WASTE WATER Trib. to: DRY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
04N	01E	5	NE	SE	SE		ADA
			SE	SE	SE		ADA

5. Description of diverting works:
CULVERTS TO DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		
STOCKWATER	01/01	12/31	0.020		

7. Total Quantity Appropriated is:
0.420 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 60.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/100 HEAD DAIRY CATTLE

A63-05227

Page 1

Date: 06/21/89

MICROFILMED
AUG 21 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	01E	5	SE	SE		IRR	20.0
			SE	SE		STOCK	

Section Acres 20.0

Total Acres 20.0

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

A63-08663, -05224, -05225, -05226, -05229

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): X Eleanor J. Chase Date: June 21, 1989

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 21st day
of June 1989

Chene Baunert
Notary Public

Seal

Residing at Boise Idaho
My Commission Expires 2/7 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

A63-0527

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY



T5N
T4N

MICROFILMED
AUG 21 1992

RECEIVED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, **AUG 26 2002**
IN AND FOR THE COUNTY OF TWIN FALLS

WATER RESOURCES
WESTERN REGION

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-5226
Date Received: 6/21/1989
Receipt No: C007697
Received By:

**AMENDED NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

ESTATE OF ELEANOR CHASE Phone: (208)939-6226
70 W FLOATING FEATHER RD
EAGLE ID USA 83616

2. Date of Priority: 01/01/1950

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	01E	5	SE SE SE	ADA	

5. Description of diverting works:

WELL 240' DEEP, 2 3/4 HP PUMPS, PIPED TO HOUSE & BARN.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
STOCKWATER	1/01	12/31	0.2	
COMMERCIAL	1/01	12/31	0.2	
DOMESTIC	1/01	12/31	.04	

7. Total Quantity Appropriated is:
0.31 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

COPY

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	01E	5	SE	SE	COMMERCIAL	
			SE	SE	STOCKWATER	
			SE	SE	DOMESTIC	

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Beneficial Use

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____ -0- _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Kathryn L. Cook Date: 7/29/02

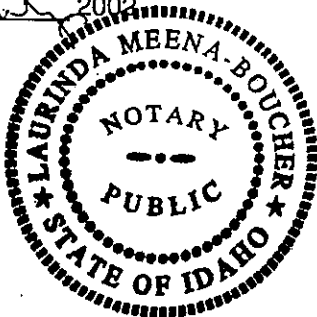
Date: _____

State of Idaho)

County of Carson) SS.

Subscribed and sworn (or affirmed) before me this

of 29 July 2002



Laurinda Meena-Boucher

Notary Public

Residing at Nampa, ID

My commission Expires 4-8-2006

Proposal

Page No.

of

Pages

PETE COPE DRILLING CO., INC.

P.O. BOX 561
MERIDIAN, IDAHO 83642
PHONE 467-6810

PROPOSAL SUBMITTED TO Eleanor Chase		PHONE 939-6226	DATE Sept. 27, 1980
STREET		JOB NAME	
CITY, STATE AND ZIP CODE Eagle, Idaho 83616		JOB LOCATION	
ARCHITECT	DATE OF PLANS	JOB PHONE	

We hereby submit specifications and estimates for:

300 L.F. Drilling 28" Hole @ 20.00	\$ 6000.00
220 L.F. 16" x .250 Casing @ 12.50	2750.00
<u>Alt.</u> 220 L.F. 16" x .312 Casing @ 15.50	3410.00
80 L.F. 16" Roscoe Moss Screen Casing @ 25.00	2000.00
30 C.Y. Gravel Pack @ 20.00	600.00
50 L.F. Concrete Surface Seal @ 8.50	425.00
<u>Alt.</u> 50 L.F. 5" Tremie Pipe @ 5.00	250.00
<u>Alt.</u> 1 L.S. Engineering	300.00
Est. Total	\$11775.00
Est. Alt. Total	\$12985.00

Customer to furnish water.
Cash on completion or 2% per month.
Prices subject to rise in material prices.

County Ada Owners Permit No. _____

Location of Well _____ $\frac{1}{2}$ _____ $\frac{1}{2}$ Sec. _____ T. _____ N/S, R. _____ E/W

We Propose hereby to furnish material and labor — complete in accordance with above specifications, for the sum of:

_____ dollars (\$ _____)

Payment to be made as follows:

PETE COPE DRILLING CO. INC.

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control: ~~Owner to carry fire, tornado and other necessary insurance.~~
Our workers are fully covered by Workmen's Compensation Insurance.

Authorized
Signature _____

Pete Cope
Pete Cope, President

Note: This proposal may be
withdrawn by us if not accepted within _____ days.

Acceptance of Proposal — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: _____

Signature _____

Signature _____



NO

DATE OCT. 24, 1980

146' TO FIRST SCREENS.

TERMS — 10th of month following invoice date--1% Interest charged per month on Past Due Invoices.

PETE COPE DRILLING CO., INC.

P.O. BOX 561
MERIDIAN, IDAHO 83642DATE: Oct. 18, 1980

Eleanor Chase

Eagle, Idaho 83616

Charges and Credits	Balance
338 L.F. Drilling @ 20.00	\$ 6760.00
174 L.F. 16" x .312 Casing @ 15.50	2697.00
160 L.F. 16" Roscoe Moss Screen Casing @ 25.00	4000.00
36 C.Y. Gravel Pack @ 20.00	720.00
70 L.F. Concrete Surface Seal @ 8.50	595.00
83 L.F. 3" Tremie Pipe @ 2.50	207.50
1 L.S. Engineering	<u>300.00</u>
	\$ 15279.50

KEITH E. STOKES, P.E.
P.O. BOX 7361
BOISE, IDAHO 83707

October 22, 1980

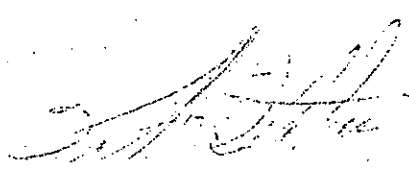
Mr. Pete Cope
Cope Drilling
P.O. BOX 561
Meridian, Idaho 83642

RE: Eleanor Chase, Eagle

Dear Pete,

After some research, the thing for Mrs. Chase to do on her permit with the state is as follows;

1. Leave the existing permit in force and go ahead and and prove out on it for the irrigation and stock watering rights by 1982.
2. When it appears that the land may be ready to subdivide and the water is needed for domestic purposes, then file a new application and there will be up to five years to reprove on the domestic use. To file now for domestic use would not be practical since water would have to be used for this purpose within five years or the domestic use will be voided.



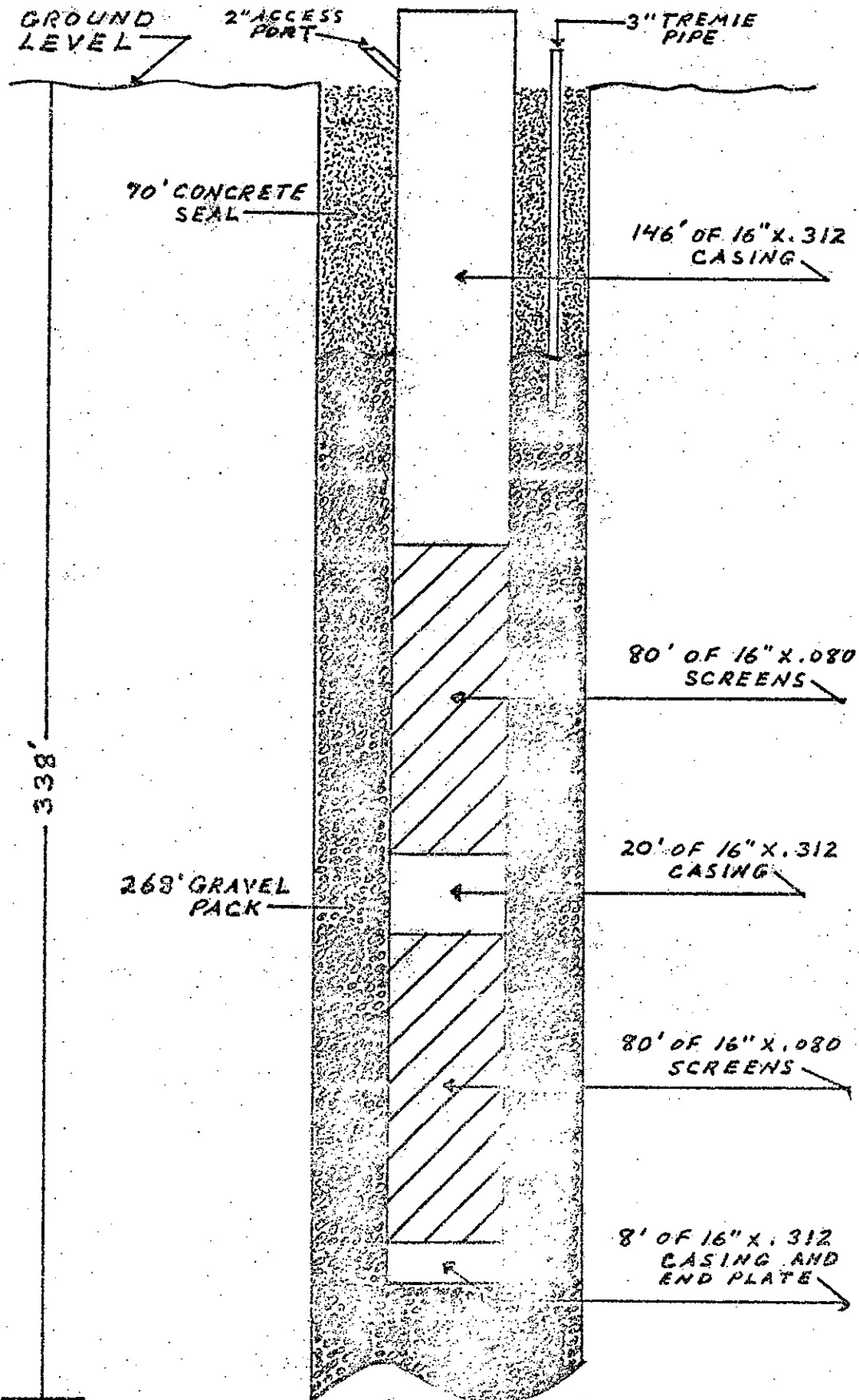
KEITH E. STOKES, P.E.
Consultant

KES:rg

28" HOLE

WELL FOR:
ELEANOR CHASE
EAGLE, ID. 83616

WELL LOCATION:
NW 1/4 OF SE 1/4
SECTION 5;
T.4N; R.1E
ADA COUNTY, ID.



*Certified
As Constructed*

REGISTERED
1352
STATE OF IDAHO
WELLS
WELTH E. STOKES

Oct 22, 1980

NOT TO SCALE

5100

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-05224
Date Received: 6/21/1989
Receipt No: 007197
Received By: B

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ELEANOR I. CHASE 208-939-6226
Address: 70 W. FLOATING FEATHER RD.
EAGLE, ID 83616

OR
Name: H. BRYAN CHASE II 208-939-6226
Address: 70 W. FLOATING FEATHER RD.
EAGLE, ID 83616

2. Date of Priority: JAN 01, 1872

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	01E	5	SW	SE	SE		ADA

5. Description of diverting works:
WELL 240' DEEP, WITH 3/4 HP PUMP.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.030		
STOCKWATER	01/01	12/31	0.030		
DOMESTIC	01/01	12/31	0.040		

7. Total Quantity Appropriated is:
0.100 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 3.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/50 DAIRY CATTLE; D/ ONE HOUSE

A63-05224

Page 1

Date: 06/21/89

MICROFILMED

AUG 21 1992

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
04N	01E	5	SE		SE		IRR	1.0
			SE		SE		STOCK	
			SE		SE		DOMEST	

Section Acres 1.0

Total Acres 1.0

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A63-08663

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Eleanor E. Chase Date: June 21, 1989
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 21st day
of June 19 89
Anna Baunhoff
Notary Public

Seal

Residing at Anna Baunhoff, Notary Public
Residing at Boise, Idaho
My Commission Expires December 7, 1994

Idaho Department of Water Resources

Claim Number: 63-05224

Legal: T4N, R1E, S5

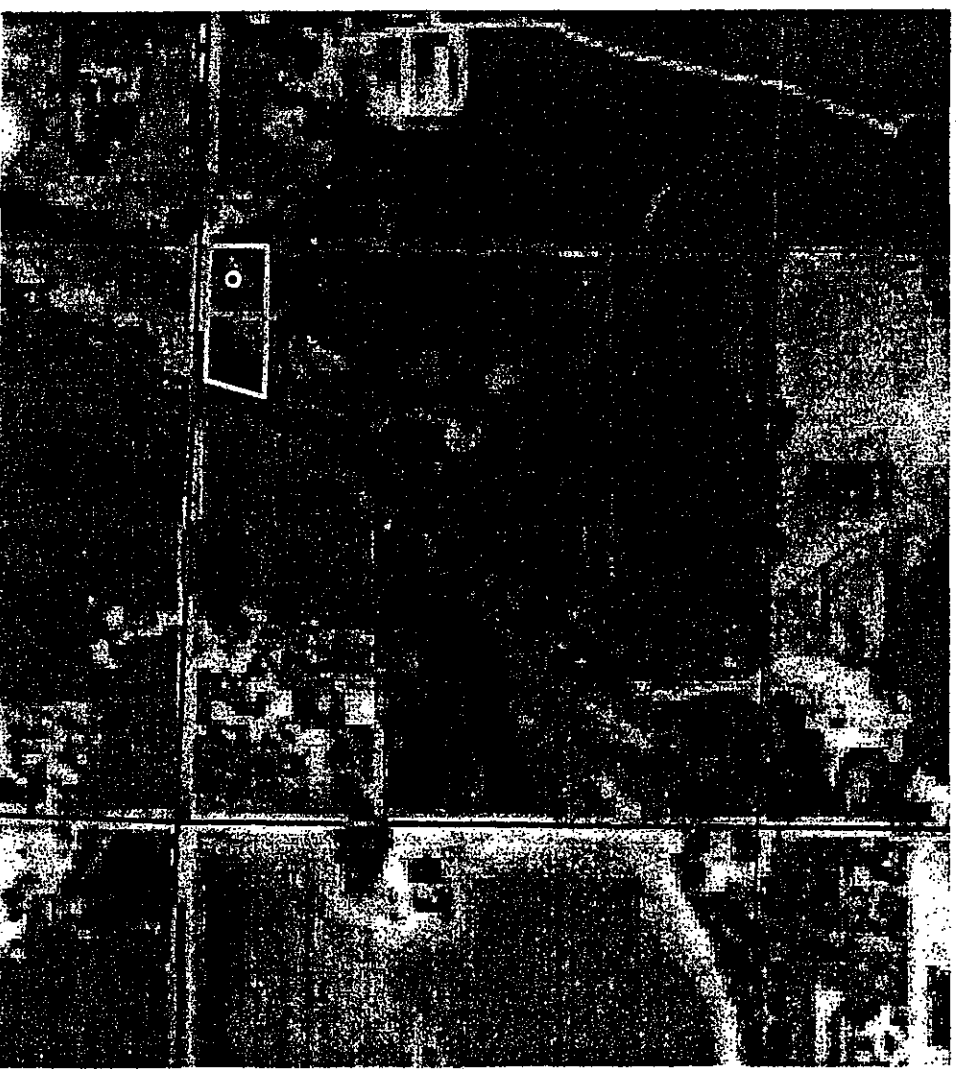
Reviewed By:

⊙ Point of Diversion

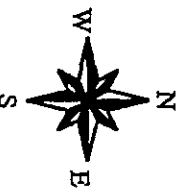
▭ Place of Use

▭ Section Lines

▭ Quarter Quarter Lines



1987 Napp Photo



0 0.25 Miles

Idaho Department of Water Resources

Claim Number: 63-05224
Legal: T4N, R1E, S5
Reviewed By:

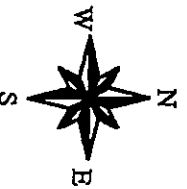
⊙ Point of Diversion

▭ Place of Use

▭ Section Lines

▭ Quarter Quarter Lines

1987 Nepp Photo



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-15820

NAME AND ADDRESS: ELEANOR I CHASE
N BRYAN CHASE II
70 W FLOATING FEATHER RD
EAGLE, ID 83616

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1920

POINT OF DIVERSION: T04N R01E S05 SESESE Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS

PLACE OF USE: Domestic Within Ada County
T04N R01E S05 SESE

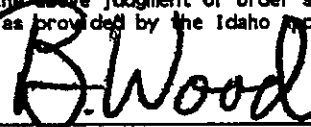
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-18731

NAME AND ADDRESS: ELEANOR I CHASE
H BRYAN CHASE II
70 W FLOATING FEATHER RD
EAGLE, ID 83616

SOURCE: GROUNDWATER

QUANTITY: 0.04 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 07/01/1982

POINT OF DIVERSION: T04N R01W S05 SESWSE Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS

PLACE OF USE: Domestic Within Ada County
T04N R01W S05 SWSE

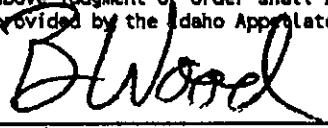
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

David B. Shaw

SUMMARY:

David Shaw is an engineer and principal in the firm of ERO Resources Corp, a Denver based natural resources consulting firm. David manages the Boise ERO Resources Corp. office. His experience in water resources and management dates from 1974. He specializes in the identification, analysis, and resolution of water issues including coordination with other professionals in multi-disciplinary projects.

AREAS OF EXPERTISE:

Surface and ground water supply and use studies, water rights evaluations, project management, alternative dispute resolution, litigation support and expert witness testimony, and technical input on legislative and administrative matters.

EDUCATION:

B.S., Agricultural Engineering
University of Idaho, 1966

M.S., Agricultural Engineering
University of Idaho, 1972

EXPERIENCE:

1996 to present

Engineer, Project Manager ERO Resources Corporation, Boise, ID

- Provide technical expertise and coordination to the State and water users for the resolution, through mediation or litigation, of federal law based water right claims filed by the United States and certain Indian tribes in the Snake River Basin Adjudication of water rights.
- Develop and implement water quality monitoring programs for various water user organizations.
- Assist a variety of water users with technical expertise to resolve issues and conflicts relative to their continued use of water. Activities have included collection of field data, including stream flow measurements and gaging, evaluation of existing data, and data analysis to facilitate agreements or to offer expert opinion.

1985 to 1996

Water Rights Adjudication Bureau Chief Department of Water Resources, Boise, ID

- Responsibilities included the design, implementation and management of the Snake River Basin Adjudication (SRBA) program involving the processing of 170,000 claims to water rights; staff selection and training, budget preparations,

implementation and monitoring for main office and four regional offices; established rules and regulations pertaining to the SRBA; educational presentations for professionals, public and the media.

- Served as co-chair of the state, Indian, federal and private technical advisory committee for the Shoshone-Bannock reserved water right determination that resulted in the 1990 Fort Hall Indian Water Right Agreement.
- Lead responsibility for preparation of the first water distribution rules developed and adopted in Idaho. Participated and testified before Legislature in two rewrites of Idaho's adjudication statutes.
- Designated as an expert witness in water right adjudications by the SRBA court.

1978 to 1985

Western Region Manager

Department of Water Resources, Boise, ID

Responsibilities included management of a separate office including budget and staff needs, work assignments and responsibility and supervision for the department's regulatory programs for Southwest Idaho.

1974 to 1978

Technical Support Section Manager

Department of Water Resources, Boise, ID

Responsibilities included management of staff that provided technical support in the areas of engineering, economics, soils, geohydrology, geology, geothermal, remote sensing and computer operations. Provided technical support for completion of the original State Water Plan. After completion of the state water plan, managed the Water Allocation Section responsible for water right processing, water distribution and adjudications.

RELATED EXPERIENCE:

Assistant Professor – College of Engineering, Department of General Engineering, University of Idaho 1968-1973. Courses taught: Engineering Graphics, Slide Rule, Engineering Science (Statics & Dynamics), Introduction to Fortran Programming and Advanced Fortran Programming, Freshman Engineering Design.

David was raised on an irrigated farm and has operated and managed an irrigated orchard in the Emmett Valley since 1982. As a result, he has gained insight into water use and water users that may not be available in any other way.

Emmett Irrigation District Board Member, 1992
Licensed Professional Engineer and Land Surveyor in Idaho
Licensed Private Pilot
Proficient in a variety of personal computer applications.

PUBLICATIONS:

Shaw and Molnau. 1974. "Problem Oriented Languages – Statistics and Hydrology." COED Transactions.
Shaw and Molnau. 1975. "Why Use Problem Oriented Languages." ASAE Transactions.

PROFESSIONAL AFFILIATIONS:

American Society of Agricultural Engineers
U.S. Committee on Irrigation and Drainage
Idaho Society of Professional Land Surveyors

REGISTERED
2677

Farmers' Union Ditch Co., Ltd.

INCORPORATED, IOWA

CAPITAL STOCK \$50,000.00

This ~~Certificate~~ *Cash* of *Share* *Share* *Share* is the receipt
of *One* *Share* of the Capital Stock of

Farmers' Union Ditch Co., Ltd.

transferable only on the books of the Corporation by the holder hereof in
person or by attorney upon surrender of this Certificate properly endorsed

IN WITNESS WHEREOF the said Corporation has caused this Certificate to be
signed by its duly authorized officers and its Corporate Seal to be hereunto affixed
this *29th* day of *August* *1902*

SECRETARY

John A. Smith

60 Bond Street, New York City, N.Y. 10036
ORGANIZED UNDER THE LAWS OF THE STATE OF IOWA

2678

Farmers' Union Ditch Co., Ltd.

CAPITAL STOCK \$200,000.00

This Office of the Secretary of the Capital Stock of
Farmers' Union Ditch Co., Ltd.

transferable only on the books of the Corporation by the holder thereof in
person or by attorney upon surrender of this Certificate properly endorsed

IN WITNESS WHEREOF the said Corporation has caused this Certificate to be
signed by its duly authorized officers and its Corporate Seal to be hereunto affixed
this 29th day of August 1951

Secretary

President

2679

Farmers' Union Ditch Co., Ltd.

CAPITAL STOCK \$50,000.00

Farmers' Union Ditch Co., Ltd.

*bonafidely only on the books of the Corporation by the holder thereof or
person or by Attorney upon surrender of this Certificate properly indorsed*

*IN WITNESS WHEREOF, the said Corporation has caused this Certificate to be
signed by its duly authorized officers and its Corporation Seal to be hereunto affixed
this 29th day of August 1902*

Secretary

Manager

48 Acres of Alluvial Land 18 Acres of Cultivated Land
ORGANIZED UNDER THE LAWS OF THE STATE OF IDAHO

2680

Farmer's Union Ditch Co., Ltd.

CAPITAL STOCK, \$50,000.00

This Certifies that *Estad of Eleanor Anne Chase* is the owner of
5.0 _____ Shares of the Capital Stock of

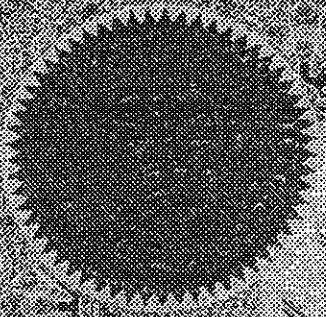
Farmer's Union Ditch Co., Ltd.

Transferrable only on the books of the Corporation by the written consent in
person or by attorney upon surrender of this Certificate properly endorsed

IN WITNESS WHEREOF the said Corporation has caused this Certificate to be
signed by its duly authorized officers and its Corporate Seal to be hereunto affixed
this 29th day of August 1912

John H. Smith
SECRETARY

W. C. Smith
TREASURER



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 63-05225

NAME AND ADDRESS: ELEANOR I CHASE
H BRYAN CHASE II
70 W FLOATING FEATHER RD
EAGLE, ID 83616

SOURCE: GROUNDWATER

QUANTITY: 0.17 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 01/01/1900

POINT OF DIVERSION: T04N R01W S05 SESWSE Within Ada County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Stockwater	01-01 TO 12-31	0.13 CFS
	Domestic 1 HOME	01-01 TO 12-31	0.04 CFS

PLACE OF USE:	Stockwater		Within Ada County
	T04N R01W S05	SWSE	
	Domestic		Within Ada County
	T04N R01W S05	SWSE	

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

MATT J. HOWARD

ATTORNEY AT LAW

P. O. BOX 190012
BOISE, IDAHO 83719
TELEPHONE (208) 333-0622
FACSIMILE (208) 333-8409

EMAIL: MHOWARD@FIBERPIPE.NET

November 16, 2002

Bruce M. Smith
Moore Smith Buxton & Turcke, Chtd
225 N. 9th St., Ste. 420
Boise, ID 83702

Re: Protest to Application for Amendment of Permit in the Name of the City of Eagle

Dear Bruce:

I have reviewed your November 12, 2002, letter which I understand is intended to outline the basic framework of a potential settlement agreement between our clients. While I am not authorized to make a formal offer, counteroffer, or acceptance, I concur generally with the framework set out in your letter, subject to the following:

1. With respect to the dairy well, the final agreement will need to incorporate the provisions set out in my March 15, 2002, letter relating to (a) annual fluctuations in water use, (b) the City's compliance with environmental regulations and a promise by the City to indemnify the Chases for any failure by the City to comply with such regulations, and (c) the right to receive mitigation water so long as Chases or their successors continue to use the water for authorized agricultural/dairy and/or domestic uses.
2. With respect to the small irrigation well, the City will need to pay the Chases a fixed dollar amount that reflects the fair market value of the type and amount of pipe necessary to connect the small irrigation well to the large well. The Chases will be responsible to purchase the pipe, if and when they need it. As you can understand, it does not make sense for the Chases to purchase the pipe until they receive transfer approval from the Idaho Department of Water Resources (IDWR) to add a point of diversion for their water right.
3. With respect to the large irrigation well, the agreement will need to include language that the Chases or their successors will receive mitigation so long as the well is used for agricultural purposes.

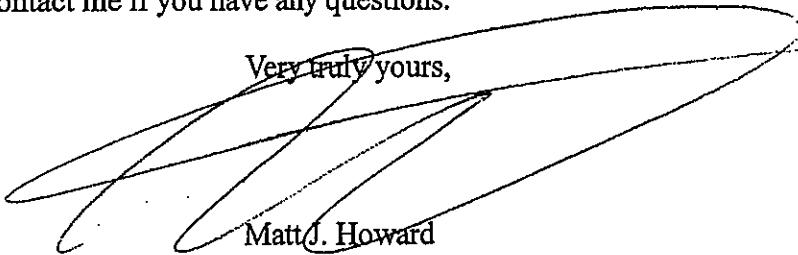
NOVEMBER 16, 2002

4. As for reimbursement of professional fees, I am only authorized to accept the ~~\$14,968.00~~ ^{12,000} set out in my September 24, 2002, letter. Because the issue of professional fees can be a deal breaker, it will be necessary for our clients to reach an agreement on that issue before any time is spent drafting a final agreement. *mf Chase 11-26-02*

The February 26, 2003, hearing date is also an issue of concern. If our clients are unable to execute a written agreement by December 13, 2002, it will be necessary for the City to vacate the February 26 hearing date to allow the parties more time to finalize the settlement agreement. This action will avoid the necessity to commence discovery, which would otherwise burden the parties with more expense.

Please feel free to contact me if you have any questions.

Very truly yours,


Matt J. Howard

Cc: Estate of Eleanor I. Chase
Mike Chase ✓

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9TH STREET, SUITE 420
BOISE, ID 83702
TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

RANSOM J. BAILEY
SUSAN E. BUXTON*
MICHAEL C. MOORE†
BRUCE M. SMITH
PAUL A. TURCKE‡
CHRISTOPHER E. YORGASON
TAMMY A. ZOKAN*

JOHN J. MCFADDEN*
Of Counsel

* Also admitted in Oregon
† Also admitted in Washington
‡ Also admitted in South Dakota
* Also admitted in New Mexico

November 12, 2002

Matt J. Howard, Esquire
2402 W. Jefferson
Boise, ID 83702

RE: City of Eagle/ Chase Protest

Dear Matt:

Given the long history of negotiations on this matter and what I believe is the basis for a final agreement, I wanted to put in writing where I understand we are. I have based this on the numerous letters between us, including your March 15, 2002, June 7, 2002, and September 24, 2002, letters and the communications between our clients. I have tried to keep the concepts as simple as possible to avoid confusion but I want to confirm the basic outline before going to the expense of putting an agreement together.

Dairy Well (water right nos. 63-05226 and 63-15820)

The City would provide mitigation water for .17 cfs and 12.4 ac-ft/yr and pay for the installation of the piping to get the water to the present water taps. The mitigation water would be provided so long as the Chases or their successors maintain the current dairy operation. As for the backup supply, the City would reimburse the Chases for a water truck to deliver water in the event the City's system goes down and emergency water is needed for the dairy.

Small Irrigation Well (water right no. 63-05229)

The City will provide the Chases with PVC pipe to connect to the large irrigation well. The Chases will be responsible for hooking it up to the well if they decide to use it.

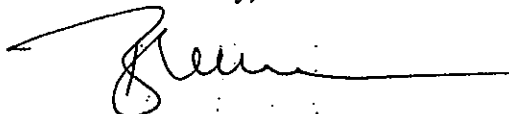
Large Irrigation Well (water right no. 63-08663)

The City will pay for monitoring of this well in accordance with Dave Shaw's letter of October 22, 2001. If there is an increased pumping lift resulting from the Brookwood well, the City will pay for the increased power cost and, if necessary, lowering the bowls. This mitigation

City of Eagle/ Chase Protest
November 12, 2002
Page 2

in the form of payments will be provided so long as the Chases or their successors maintain the current dairy operation. On attorney fees, I am only authorized to offer the \$7500.00 in attorney fees that the City agreed to pay. As to the water rights, the Chases would keep their water rights. Obviously, I do not mean this to be the final document but I would like to confirm the basis before we put one together. Thank you.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Bruce M. Smith', with a long horizontal stroke extending to the right.

Bruce M. Smith

BMS/aad

Matt Howard

From: David Shaw [dshaw@eroresources.com]
Sent: Friday, December 21, 2001 2:12 PM
To: holladay@srvinet.com
Cc: Matt Howard; Tammy Zokan
Subject: Re: Chase Small Irrigation Well

Vern:

I am encountering the same questions as you but we may be trying to get ahead of ourselves. This well is in a pit that, as I recall, is at least 10' deep. The casing below the pump is not accessible to measure either depth to water or diameter until the pump is pulled. The existing pump is a 2 hp centrifugal standing on end with the suction line going down the well. For this configuration to work, the depth to water below the pit is probably 20' or less. As I recall, the pump discharge is about 2" and goes into a 5" pipe. The head above the pit is minor, probably in the 5' to 10' range. The suction size of the pump cannot be measured until it is pulled.

My suggestion Vern, is to pull the pump so we can get good measurements on what we have to work with. With a 10' pit it may be possible to stay within reach of the water with the existing or similar system, we just don't know and will not know perhaps, until the new well is tested.

Once we know what we have to deal with (head, casing diameter) we will also know how creative the solution will need to be.

Dave

----- Original Message -----

From: "Vern Brewer" <holladay@srvinet.com>
To: "Dave Shaw" <dshaw@eroresources.com>
Cc: "Tammy Zokan" <TAZ@msbtlaw.com>
Sent: Friday, December 21, 2001 10:59 AM
Subject: Chase Small Irrigation Well

> Dave: I have checked with a couple of pump specialists as well as our
> own engineers and am having trouble coming up with a configuration of
> fixes for the referenced well. Are you certain that the configuration
> described will actually produce 0.42 cfs? The information I need to
> complete our offer to the Chases is as follows: What is the
> horsepower of the motor? What type of pump (name, model number and
> discharge
> diameter) is currently being used? What is the static head of the
> well? How many actual acres are being irrigated? Would a lessor
> production rate, for example, 0.25 cfs, for a prolonged pumping period
> suffice for the use employed? Have you been able to envision a system
> using the existing 5 inch casing for producing the 0.42 cfs?

> Thanks for your input on this matter. Merry Christmas! Vern

> --

> This communication contains proprietary business information and may
> contain confidential information. If the reader of this message is
> not the intended recipient, or the employee or agent responsible to
> deliver it to the intended recipient, you are hereby notified that any
> dissemination, distribution, or copying of this communication is
> strictly prohibited. If you have received this communication in
> error, please immediately destroy, discard, or erase this information.

>

ERO Resources Corp.
1106 N. Cole Rd., Suite C
Boise, ID 83704-8661
(208) 373-7983
Fax: 373-7985

ERO

Denver • Boise

www.eroresources.com
eroboise@eroresources.com

October 22, 2001

Vern Brewer
Holladay Engineering Comp.
32 N. Main
P.O. Box 235
Payette, ID 83661

Via Fax

RE: Monitoring Proposal For Chase Irrigation Well.

Dear Mr. Brewer:

The purpose of this proposal is to determine the impact of the proposed Brookwood well on the Chase irrigation well represented by water right 63-8663. The August 2000 report prepared by Bill Strowd, P.G. indicates the new well will have an impact on the Chase irrigation well when the new well is put into production. The Chase irrigation well is difficult to measure due to oil in the well bore as is typical of many irrigation wells. The oil was noted by Terry Scanlan in his 1995 work on the Floating Feather municipal well and is still present as confirmed by my own measurement on October 3 of this year.

In order to circumvent the oil problem an air line should be installed that extends below the oil water interface. The air line can be installed with a plug and the plug blown clear or the air line can simply be installed and be blown clear with air to obtain a clear water column. This proposal assumes the air line can be installed through an existing access port and the pump and motor will not need to be pulled to install the air line.

Once the air line is installed, depth-to-water can be measured accurately with an electric tape but I believe installation of a recorder will provide more useful data to determine the impacts of the proposed Brookwood well. We must assume the water level in the Chase irrigation well is currently impacted by the Floating Feather well and perhaps other wells in the area. Random individual measurements with an electric tape may not create an adequate record to detect water level fluctuations presently occurring in the Chase irrigation well. The recorder, however, would detect current fluctuations and should allow them to be isolated so they would not be attributed to the Brookwood well. Once the Brookwood well is installed, we would ask that it be test pumped until the draw down in the new Brookwood well and the Chase irrigation well stabilize. The recorder record prior to and during the test pump of the new well and the recovery period should be sufficient to isolate the impacts of the Brookwood well on the Chase irrigation well.

Our proposal to install and maintain the recorder and air line through the pump test of the Brookwood well and the recovery period is about \$3000. This includes installation of the air line and the recorder, verification of the recorder record, and removal of the

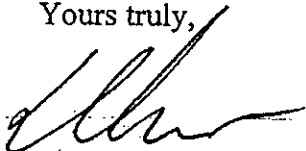
*Consultants in
Natural Resources
and the Environment*

record prior to the beginning of test pumping the Brookwood well. The recorder would remain in place during the test pump and recovery period and could remain in place beyond that time if it would be desirable to do so.

Since we expect fluctuations in the ground water level in the Chase irrigation well to be occurring at the present time, installation of the recorder sooner rather than later will give better background information to later isolate the impacts of the Brookwood well.

Please call if you have questions about this proposal or if you need additional information.

Yours truly,



David B. Shaw
Project Manager

cc: Eleanor Chase
Mike Chase
Matt Howard

PETE COPE DRILLING CO., INC.
P.O. BOX 561
MERIDIAN, IDAHO 83642

DATE: Oct. 19, 1980

Eleanor Chase
Eagle, Idaho 83616

Charges and Credits	Balance
338 L.F. Drilling @ 20.00	\$ 6760.00
174 L.F. 16" x .312 Casing @ 15.50	2697.00
150 L.F. 16" Roscoe Moss Screen Casing @ 25.00	4500.00
36 G.V. Gravel Pack @ 20.00	720.00
76 L.F. Concrete Surface Seal @ 3.50	595.00
83 L.F. 3" Tremie Pipe @ 2.50	207.50
1 L.S. Engineering	<u>306.00</u>
	\$ 15279.50

Pd

10,000.00

10-30-80

11-14-80

Pd in full
Pete Cope Drilling Co. Inc.
By: W.D. LeBaron

Pd
5279.50
11-14-80

PETE COPE DRILLING CO., INC.

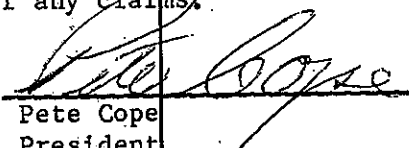
P.O. BOX 561
MERIDIAN, IDAHO 83642DATE: Oct. 18, 1980

Eleanor Chase

Eagle, Idaho 83616

Charges and Credits	Balance
338 L.F. Drilling @ 20.00	\$ 6760.00
174 L.F. 16" x .312 Casing @ 15.50	2697.00
160 L.F. 16" Roscoe Moss Screen Casing @ 25.00	4000.00
36 C.Y. Gravel Pack @ 20.00	720.00
70 L.F. Concrete Surface Seal @ 8.50	595.00
83 L.F. 3" Tremie Pipe @ 2.50	207.50
1 L.S. Engineering	<u>300.00</u>
	\$ 15279.50

I, Pete Cope, hereby certify that all bills for labor and materials used in the above work have been paid in full and hold you harmless of any claims.


Pete Cope
President

Subscribed and sworn before me this 28th day of October,
1980.


Notary Public for Idaho
My Commission Expires 8-8-81

MATT J. HOWARD

ATTORNEY AT LAW

P. O. BOX 190012

BOISE, IDAHO 83719

TELEPHONE (208) 333-0622

FACSIMILE (208) 333-8409

EMAIL: MHOWARD@FIBERPIPE.NET

March 15, 2002

Via Facsimile and U.S. Mail

Bruce M. Smith

Moore Smith Buxton & Turcke, Chtd

225 N. 9th St., Ste. 420

Boise, ID 83702

Re: Protest to Application for Amendment of Permit in the Name of the City of Eagle

Dear Bruce:

I am in receipt of your February 14, 2002, letter outlining the City's offer, which I have reviewed with my clients. My clients are very disappointed with your letter. Instead of moving forward, the letter represents a significant step backwards from what was agreed to at the settlement conference.

Early on in this process, Chris Meyer and I recognized that there was a feeling of mutual respect between our respective clients and that both our clients wanted to treat the other fairly. Our goal as attorneys in this matter was to find the most efficient and economical manner in which to allow our clients to resolve this matter. Rather than have attorneys repeatedly send written offers and counteroffers back to each other (i.e., spend our clients' money "papering" the case), we decided that given the amicable relationship between our clients, we would have them sit down around a table and work out the terms of a settlement. That is exactly what we did on December, 12, 2001.

The settlement conference was a success. Our clients worked out the basic framework and terms of a settlement. As identified below, there were only a few issues left unresolved that the City wanted to think about a bit more. As for those unresolved issues, the parties had discussed a "range of options" for the City to consider. The net result is everyone left the settlement conference expressing their satisfaction as to the productive nature of the conference and recognizing that the basic settlement framework had been agreed to.

Your letter is inconsistent with the framework agreed to at the settlement conference. Your letter advances the "Option A" approach (as sketched out in Chris Meyer's October 9, 2001, letter), where the Chases would convey their water rights to the City. That approach was rejected by the Chases for a variety of reasons, two of which I will repeat here: (1) The Chases expressed

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the need to maintain ownership of their water rights, and (2) the offer of a discount on future water hookups is too speculative to be of any value to the Chases. The offer in your letter is directly contrary to the Option B approach (which is also outlined in Chris Meyer's letter) that would allow the Chases to maintain ownership of their water rights and receive temporary mitigation. The parties agreed to that approach at the settlement conference.

Putting aside your letter, it is my clients' intent to stick with the terms of settlement agreed to at the settlement conference. Please do not interpret this statement as a counteroffer. It's not. We're well beyond that. The terms have already been negotiated and agreed to, and my clients are not going to go through the expense to cover that ground again. Outlined below are the terms of the settlement conference, which my clients are still willing to standby:

Dairy Well (Water right nos. 63-05226 and 63-15820)

1. Chases retain ownership of the water rights.
2. City will provide mitigation water for 0.17 cfs and 12.4 ac-ft/yr.
3. City will allow for annual fluctuations in water use.¹
4. Mitigation water will be provided to the Chases only for as long as the Chases (or their successors) continue to operate their wells in accordance with current agricultural/dairy operations at the present location.²
5. Chases will not use their water rights while receiving mitigation water.³
6. In the future, when the Chases sell the land several options were discussed: (a) the Chases could sell the land with the water and the successor would receive mitigation water per #4. above; (b) Chases could transfer their water to other lands, (c) Chases could sell their water to the highest bidder, or (d) the City would accept a forced sale of the water rights based on fair market value as determined by a licensed appraiser.
7. City will pay for the labor and materials for installing the necessary infrastructure to get the mitigation water to the water taps currently on the Chase property. Dave Shaw and Vern Brewer will design the system; Chases will hire a private contractor to do the work; and the City will pay the private contractor to do the work. Chases will also convey an easement to the City for installation and maintenance of its vault (enclosure for meter and backflow preventer).

¹ The range of fluctuation was never agreed to at the settlement conference. However, the 110% fluctuation range for the diverted volume of water set out in your February 14, 2002, letter is acceptable, except that the Chases would only pay for water usage exceeding the 110% cap.

² This language mirrors the language set out in Chris Meyer's October 9, 2001, letter and fairly reflects what was agreed to at the settlement conference.

³ To avoid forfeiture of their water rights and to allow the City to obtain some benefit from those water rights, the parties, pursuant to Chris Meyer's suggestion, considered having the water rights put into the water bank and allow the City to receive the benefit of rental payments. The Chases are still agreeable to this approach.

8. City will indemnify Chases for any loss of cattle or to the dairy operation caused by failure of the City's water system.⁴
9. City will ensure compliance with all environmental, EPA, and DEQ regulations. The concern here is that the City's proposed well will be located in close proximity to the dairy and lagoons. To the extent environmental regulations prohibit the use of a public well in such close proximity to a dairy, it would be the well, not the Chase dairy that would have to shut down. I am assuming the City already investigated the environmental compliance issues before filing its transfer application, so this issue should not be a problem for the City.
10. The Chases will withdraw their protest.

Small Irrigation Well (Water right no. 63-05229)

The City agreed to mitigate based upon the most technically and economically viable option as to be recommended by Dave Shaw and Vern Brewer. At the settlement conference, there was insufficient information for Dave and Vern to recommend the best option. It was agreed that Dave and Vern would do some follow-up work and recommend the best option. The range of options discussed at the settlement conference included:

1. Lowering the pump.
2. Increasing the size of the casing and retrofitting existing well.
3. Construct and equip a new well.
4. Tying into the large irrigation well.
5. Tying into the City's system.

Large Irrigation Well (Water Right no. 63-08663)

1. City will pay for monitoring of the large irrigation well as outlined in Dave Shaw's letter.
2. If monitoring shows a reduction in ground water levels attributable to the City's well, the City will (a) reimburse Chases for additional power costs attributable to interference from the City's well, and (b) pay for the costs of lowering the bowls in the large irrigation well, if the drawdown is too great.

Professional Fees

No agreement was reached on the issue of reimbursing the Chases for the professional fees they have incurred in this matter. However, Lynne Sedlacek asked for hard numbers, which were provided to the City in the amount of \$12,049. Your letter offers \$4,000. I personally feel that number is far too low given that we are now spending money caused by the backtracking in your letter. My preference at this point is to see if we still have an agreement concerning the terms

⁴ There was no agreement reached on this issue. While Chris Meyer thought it was a reasonable request, Bruce, you expressed some reservations. My clients concerns are, and remain, that the City is asking my clients to "give up" control of their water supply to the City. After the City starts pumping from its new well, in all likelihood, the dairy well will go dry, and the Chases will have no means to get water to their cattle except through the City's system. The City has represented that its system has so many built in redundancies that it is virtually impossible for the Chases not to have their water available 24/7. That is fine. However, in the unlikely event that the City's water system fails, it is the City, not the Chases, who should bear the costs for the losses sustained to the dairy.

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outlined above. If we do, then we can discuss the fees issue. If not, there is no sense in going there.

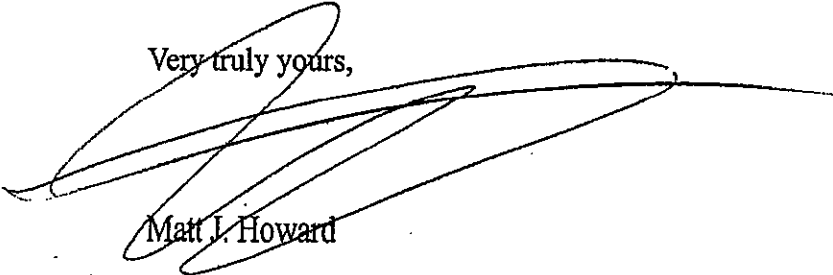
I still believe that settlement, albeit fragile at this point, is possible if the City wishes to stick by the terms reached at the settlement conference. I recognize that Lynne cannot speak for the Council. We understood that at the settlement conference. However, we also recognize the practical reality that Lynne's recommendation will greatly influence the Council's decision. Therefore, at this point, what we need is a commitment by Lynne that she is going to stick with the framework agreed to at the settlement conference. If we have that, then I think we can move forward. On a more personal note, I like to think I am a fair judge of character. Lynne has struck me as a person who stands by her word, much like we all knew Eleanor to be and much like we know her son, Mike, to be. If she possesses that character trait, I think we will get this thing back on track.

I do not wish to end this letter on an adversarial tone, but I think in light of recent developments, it is best that we do not tiptoe around. If the City does not wish to follow the framework agreed to at the settlement conference, I do not believe any further discussions would be fruitful. If the City wishes to pursue the matter to a contested case hearing, we will, of course, engage in discovery and seek appropriate time to complete necessary studies and complete discovery. As you know, the City carries the burden of proof and persuasion to satisfy the elements required for transfer approval. Additionally, based on the facts of this case, *Parker v. Wallentine*, 103 Idaho 506, 650 P.2d 648 (1982) applies. As you know, *Parker* stands for the proposition that well owners such as the Chases are protected to the maintenance of historic ground water pumping levels for their domestic well. That poses a significant obstacle for the City. As for the other wells, the task does not get any easier. The City would need to produce studies and evidence as to what would constitute "reasonable" ground water pumping levels. My understanding is that the Department has not established reasonable ground water pumping levels for Basin 63. The City would be breaking new ground and would be expending significant time, resources, and money necessary to cover that ground. As you know, United Water confronts these same issues. However, from my experience, United Water has opted to reach a settlement with affected water users and make them whole, rather than expend the significant time and resources involved in contested case proceedings and judicial review.

My clients would rather settle this matter pursuant to the terms earlier agreed to. However, if settlement is not possible, they have no choice but to go the litigation route. The livelihood of their dairy and farming operation and the efficacy of their water rights are at stake. Simply put, the Chases have no choice but to be involved in this case. It is up to the City to elect which direction this case is going to go. I will await your reply.

MARCH 15, 2002

Very truly yours,



Matt J. Howard

Cc: Clients
Dave Shaw, ERO
Chris Meyer, Esq.

P. S. I understand from your earlier correspondence and from recent ex parte communications your office has had with my client, the City is interested in purchasing or otherwise acquiring the Chase water rights and obtaining a commitment from the Chases that they will not protest future applications to be filed by the City. I also understand that the City may be willing to help facilitate increasing the density of the Chase land. These are additional issues that were not discussed at the settlement conference, but which my clients would be willing to discuss with the City. Finally, while Lynne and other members of the City Council are free to talk with my clients about these issues, I would request that all further communications to my clients from the City's legal counsel be directed through this office.

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9TH STREET, SUITE 420

BOISE, ID 83702

TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

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SUSAN E. BUXTON*
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BRUCE M. SMITH
PAULA A. TURCKE*
CHRISTOPHER E. YORCASON
TAMMY A. ZOKAN*

JOHN J. McFADDEN*
Of Counsel

* Also admitted in Oregon
* Also admitted in Washington
* Also admitted in South Dakota
* Also admitted in New Mexico

December 10, 2002

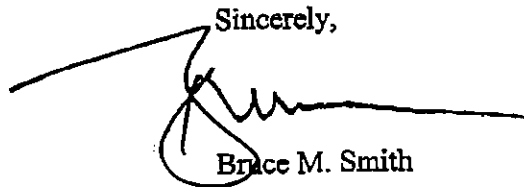
Matt J. Howard, Esquire
2402 W. Jefferson
Boise, ID 83702

RE: City of Eagle/ Chase Protest

Dear Matt:

It is my understanding that Mike Chase was able to reach a settlement with the City of Eagle and that you were putting together the settlement documents. I'm glad this has been resolved. Could you please let me know when you anticipate having the documents to review. Thank you.

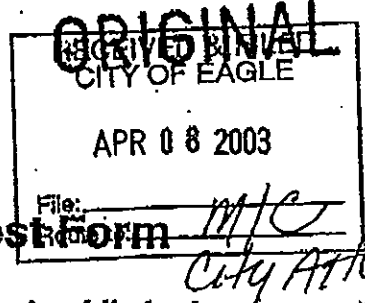
Sincerely,



Bruce M. Smith

BMS/aad

cc City of Eagle
Susan E. Buxton



City of Eagle Public Records Information Request Form

In accordance with I.C.9-348, No agency or independent public body corporate and politic may distribute or sell for use as a mailing list or a telephone number list any list of persons without first securing the permission of those on the list.

Name: Mike Chase

Address: 3482 Hwy 30 W New Plymouth

Telephone: 278-3845/939-6226 Fax Number (optional): 880-9423

Date of Request: 4-8-03

Information Requested (Please be specific):

Review of Water right files, including Contracts/Agreements with United Water IDAHO, Lexington Hills, Brookwood, Acres Development, etc.

4-18 1:30 PM
called 880-9423 - no answer
set up time 278-3845 - Wed - 23rd April - 1:30
talked to Mike

4-22 4:00 PM
called Mike - 278-3845 - left a message - Thurs after 1:30
880-9423 - talked to Mike - Thurs @ 1:30

City Employee Processing Request: Sharon K Moore

Date Completed: 4-24-03 Fees Collected & Receipt #: _____

Notes: Eagle City Council Resolution # 7-96, requires payment for copies of all documents at a rate of \$.10 per page (copies under 10 pages, please refer to resolution).

I.C. 9-339(1) - If more than three (3) working days are needed to process this request, the requestor shall be notified, with the documents or response following within ten (10) days.

City of Eagle
P.O. Box 1520
Eagle, ID 83616
Clerk's Office: 939-6813 - Planning Dept.: 939-0227
fax: 939-6827

K:\CLERKS\FORMS\PUBLIC RECORDS REQUEST

4-24-03 Mike Chase in office & reviewed files

RECEIVED & FILED
CITY OF EAGLE

APR 24 2003

City of Eagle
Public Records Information Request Form

In accordance with I.C.9-348, No agency or independent public body corporate and politic may distribute or sell for use as a mailing list or a telephone number list any list of persons without first securing the permission of those on the list.

Name: Mike ChaseAddress: 3482 Hwy 30 W New Plymouth ID 83655Telephone: 278-3845/800-9423 Fax Number (optional): _____Date of Request: 4-24-03

Information Requested (Please be specific):

~~Copy~~ Copies of All contracts / ^{or} Agreements with Emz
and City of Eagle. ~~Also copies of~~

City Employee Processing Request: _____

Date Completed: _____ Fees Collected & Receipt #: _____

Notes: Eagle City Council Resolution # 7-96, requires payment for copies of all documents at a rate of \$.10 per page (copies under 10 pages, please refer to resolution).

I.C. 9-339(1) - If more than three (3) working days are needed to process this request, the requestor shall be notified, with the documents or response following within ten (10) days.

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K:\CLERKS\FORMS\PUBLIC RECORDS REQUEST

ORIGINAL

EAGLE CITY COUNCIL
Minutes
November 26, 2002

CITY OF EAGLE, IDAHO

CERTIFIED COPY

Stacy E. Gobel
DEPUTY CITY CLERK
DATED: 1/29/03

PRE-COUNCIL AGENDA 6:30 p.m. - 7:30 p.m.

1. Planning & Zoning Commissioner, Scott Nordstrom, will address the Council regarding the Commissions desire to hire a consultant. (10 minutes) Scott Nordstrom provides Council an overview of the Idaho Power issue that came before the Planning and Zoning in regards to overhead power poles along the alternate route. Scott discusses the need to hire a consultant to study underground lines and other options that could be available. General discussion. John Franden, Planning and Zoning, the only thing I want to add is that Bill Clark and the major landowners along the alternate route spoke at the hearing. Bill Clark stated that they would never have gone ahead with their project if they had known about the power lines. General discussion.

Layne Dodson, Idaho Power, we would like to have input with the consultant. From the company standpoint I think we are going where we need to go. This is a complicated issue. With the City on board it does open up some other options to look at. I think this is a great way to go.

General Council discussion.

2. Introduction of Stacy Gobel, Eagle's Asset Builder. (5 minutes) Mayor introduces Stacy Gobel, Eagle's Asset Builder that the City is sharing with the Boise YMCA. Stacy discusses her background and discusses the asset builder program. Starting next week I will be in Eagle more. I have been doing training so far. I will be working in Eagle schools. General discussion.

3. Tal Trautman with Trautman Lawn & Landscape will discuss the Cottonwood trees in Heritage Park and the trimming of street trees. (15 minutes)
Tal Trautman, the large cottonwood in Heritage Park is 30% on top are dead branches and it seems to drop back every year. Big trees don't do well you lay asphalt around them. The trees are starting to lift the sidewalks and brick pavers. There is also the potential to damage the vaults. I think the big tree is probably hollow inside because we have had some problems with honeybees. I think we need to actually remove one or all three trees in order to plant new trees. These trees cause a major problem with the fountain. General discussion. Council concurs to take the trees out and clean the root area up and then plant trees that are clean as far as what they drop and the root structure would also be important. The tree canopy is also important. Council would like to have the trees taken out during the winter.
Street trees. We have been pruning the trees. General discussion on yearly trimming of the trees.

4. Mayor and Council's Report:

Sedlacek: I'm getting calls about the weeds on the lot between Wright Brothers and the Chinese Restaurant on State Street. Discussion on the action taken by the City. The weeds are in the right-of-way. Zoning Administrator will follow up with ACHD. Discussion on the dirt Wright Brothers has piled on the Oppenheimer's corner lot across the street. Discussion on recourse if no response to letters sent by the City.

Eagle Sewer District: The candidates for the Board are Ron Bath, Jim Brooks, Brad Herrick and Bob Harryman. The Board will be meeting with the candidates on December 2nd.

Eagle Volunteer Fire Department and the Chamber would like to get on a pre-council agenda to discuss Eagle Fun Days and using Merrill Park for the breakfast and the nut feed.

Chamber of Commerce and Economic Development Committee are going to have a meeting on December 19th at Terri Bath's house at 6:00 p.m. I have asked staff to put this on the City calendar.

Senior Citizen Board elections are December 3rd.

Discussion on Council meetings for December. Regular Council meetings for December are on the 10th and 17th.

Discussion on the ACHD joint meeting on December 3rd. Council concurs that this meeting is not necessary.

Discussion on the December 30th joint meeting with P&Z and DR. Council would like to postpone this meeting until after the first of the year.

Bastian: Discussion on the Library looking for a new director. Discussion on splitting the costs of the advertising, interviewing and the moving costs with the Library. Council concurs on splitting the advertising costs and waiting to see what other costs may be incurred.

Merrill: Merrill Park is coming along. The climbing wall is up. Discussion on the soft wood surface in the restrooms.

Parks and Pathway met last week and received their Statement of Interest books. They will be narrowing the applicants to two on December 11th.

I have had calls from kids on the BMX track at the Ada County Park. General discussion.

Report on the Governor's Blue Ribbon Committee. General discussion.

Visionary Committee is still meeting. We are getting real close on the signs. We have two more meetings. This has been a good process.

We need to make sure that the public hearing signs are taken down when they are no longer needed.

I would like Larry Sales, ACHD, to look into the hearing on Mace Road.

Guerber: No Air Quality Meeting.

The ITD Board meeting is on December 12th.

Lets Talk Trash Committee. The people who expressed interest are being contacted for a meeting on December 18th. We will probably have two meetings and then bring it back before Council.

5. City Engineer Report: Moved to end of agenda
6. City Clerk/Treasurer Report: Moved to end of agenda
7. Zoning Administrator's Report: Moved to end of agenda
8. City Attorney Report: Moved to end of agenda

REGULAR COUNCIL AGENDA: 7:30 p.m.

1. **CALL TO ORDER:** Mayor Yzaguirre calls the meeting to order at 7:40 p.m.
2. **ROLL CALL:** BASTIAN, MERRILL, SEDLACEK, GUERBER. All present. A quorum is present.
3. **PLEDGE OF ALLEGIANCE:**
4. **CONSENT AGENDA:**

- ♦ Consent Agenda items are considered to be routine and are acted on with one motion. There will be no separate discussion on these items unless the Mayor, a Councilmember, member of City Staff, or a citizen requests an item to be removed from the Consent Agenda for discussion. Items removed from the Consent Agenda

will be placed on the Regular Agenda in a sequence determined by the Rules of Order.

- ♦ Any item on the Consent Agenda which contains written Conditions of Approval from the City of Eagle City Staff, Planning & Zoning Commission, or Design Review Board shall be adopted as part of the City Council's Consent Agenda approval motion unless specifically stated otherwise.
- ♦ All design review applications will be appealed by the Zoning Administrator to the City Council for their review and approval.
 - A. Claims Against the City.
 - B. Minutes of November 12, 2002.
 - C. Minutes of November 19, 2002.
 - D. **DR-48-02 - Deck and Building Addition and Change of Use to include a Coffee Bar for Rembrandts (within the Old Baptist Church Facility) - Jeremiah Properties:** Jeremiah Properties, represented by Bruce Poe with Cole Associates Architects, is requesting design review approval to construct a 3,412-square foot addition to the existing building, to create a plaza area with the construction of a deck, and to change the use of a portion of the building to include a coffee bar for Rembrandts (within the Old Baptist Church facility). The site is located at the northwest corner of Eagle Road and Aikens Road at 93 South Eagle Road. (WEV)
 - E. **DR-52-02 - Construct a Second Drive-up Service Lane, To Install an Automatic Teller Machine with Associated Drive-up Lane, for the Parking Layout, and Site Landscaping for Pioneer Federal Credit Union - Pioneer Federal Credit Union:** Pioneer Federal Credit Union, represented by Phil Hull with The Land Group, is requesting design review approval to construct a second drive-up service lane and to install an automatic teller machine with associated drive-up lane at the existing Pioneer Federal Credit Union. This application is also for the parking lot layout and site landscaping. The site is located on the northeast corner of State Street and Stierman Way at 560 East State Street. (WEV)
 - F. **DR-55-02 - Monument Sign for Eagle Counseling Center - Stephanie and Brent Hadley:** Stephanie and Brent Hadley are requesting design review approval for a monument sign for the Eagle Counseling Center. The site is located on the east side of Academy Avenue within the Casa Escuela Subdivision at 136 South Academy Avenue. (WEV)
 - G. **DR-57-02 Monument Sign for The Lettuce Leaf Restaurant - Kathryn Wilson:** Kathryn Wilson is requesting design review approval to construct a monument sign for The Lettuce Leaf Restaurant. The site is located on the north side of State Street approximately 100-feet east of 2nd Street at 342 East State Street. (WEV)
 - H. **DR-58-02 - Common Area Landscaping within Brookwood Subdivision No. 7 - Aries Development LLC:** Aries Development LLC, represented by Phil Hull with The Land Group, is requesting design review approval of the common area landscaping within Brookwood Subdivision No. 7. The site is located north of Floating Feather Road and east of Eagle Road. (WEV)

Bastian removes Item #4B from the Consent Agenda
Merrill removes Item #4D from the Consent Agenda

Sedlacek moves to approve the amended Consent Agenda. Seconded by Merrill. ALL AYE: MOTION CARRIES.....

4B. Minutes of November 12, 2002.

Mayor introduces the issue.

Bastian: There needs to be a correction on Page 6. The minutes should state: The Library Board Chairman will be sending each of you an e-mail to respond to the Library Board.

Bastian moves to approve the minutes of November 12, 2002, with the corrections.

Seconded by Guerber. ALL AYE: MOTION CARRIES.....

4D. DR-48-02 - Deck and Building Addition and Change of Use to include a Coffee Bar for Rembrandts (within the Old Baptist Church Facility) - Jeremiah Properties: Jeremiah Properties, represented by Bruce Poe with Cole Associates Architects, is requesting design review approval to construct a 3,412-square foot addition to the existing building, to create a plaza area with the construction of a deck, and to change the use of a portion of the building to include a coffee bar for Rembrandts (within the Old Baptist Church facility). The site is located at the northwest corner of Eagle Road and Aikens Road at 93 South Eagle Road. (WEV)

Mayor introduces the issue.

Merrill: The reason I pulled this off is that Mr. Poe is here tonight and he does have a mock up and I would like Council to see what is going on this property. General discussion.

Bruce Poe, Cole Associates Architects, discusses the alley vacation and shows the council the mock up of the development of the site. Discussion on the location of the irrigation ditch. General discussion.

Merrill moves to approve DR-48-02 - Deck and Building Addition and Change of Use to include a Coffee Bar for Rembrandts (within the Old Baptist Church Facility). Seconded by Guerber. ALL AYE: MOTION CARRIES.....

Merrill moves and to hear Items #8A and B together and to hear Item #6C as Item #8B and to add several items to the Agenda: Under New Business as Item #8L. Discussion on hiring a consultant in regards to the Idaho Power poles being proposed; #8M. Heritage Park Change Orders; #8N. Discussion on the cottonwood trees in Heritage Park and #8O. Discussion on the Zoning Administrator waiving the 45 days for Ada County. Seconded by Sedlacek. ALL AYE: MOTION CARRIES.....

5. FINAL PLATS: None

6. UNFINISHED BUSINESS:

A. ORDER TO SHOW CAUSE: Robert DeShazo shall be given the opportunity to present a specific course of action and time line to bring code violations at 846 N. Eagle Road and 10255 Horseshoe Bend Road into compliance with Eagle City Code. *This item was continued from the November 12, 2002 meeting.* (WEV)

Mayor introduces the issue.

Zoning Administrator Vaughan: Darrel and I have been talking. They need additional time to prepare a landscape plan. I have talked to Darrel about the screening requirements and the landscape design. Darrel has conferred with Pete Cintorino about the landscaping and I have talked to Pete. They want to do the minimum but I do not want to do the design for them. This is the reason for the request for the continuance.

Bastian moves to continue to the Order to Show Cause to the December 10, 2002 Council meeting. Seconded by Merrill. Discussion. ALL AYE: MOTION CARRIES.....

B. Resolution No. 02-13: A resolution of the City of Eagle, Ada County, Idaho, approving the execution of a municipal real estate lease purchase agreement, between the City of Eagle and Wells Fargo Brokerage Services LLC; authorizing the Mayor and City Clerk to execute and attest the municipal real estate lease purchase agreement; and providing an effective date. *This item was continued from the November 12, 2002 meeting.*

Mayor introduces the issue.

City Attorney Buxton: Last week we received a copy of a lawsuit filed against that parcel from somebody who owned a different parcel of property in the subdivision that had a lien place on it. The lawyer for the people liening the property encumbered the entire subdivision including the lots that had nothing to do with the lien. We are working to have the lien released, as the bank would like to see this lien released before we proceed with entering into the Resolution. General discussion. I

Merrill moves continue Resolution No. 02-13 to the December 10, 2002, City Council meeting. Seconded by Bastian. ALL AYE: MOTION CARRIES.....

C. Discussion regarding the Chase Well Agreement:

Mayor: The City Engineer, Vern Brewer, has requested that this item be continued to later in the Agenda.

This item is to be heard at Item #8B.

7. PUBLIC HEARINGS:

A. RZ-10-98/CU-9-98/PPUD-2-98/PP-8-98 MOD - Quarter Circle Ranch Planned Unit Development (Two Rivers) Modification -- T. R. Company L.L.C: T. R. Company L.L.C., represented by Dan Torfin, is requesting a second public hearing to present additional information regarding private streets and gated streets, as an amendment to the modification of the conditional use, preliminary development plan, and preliminary plat for Quarter Circle Ranch (now called Two Rivers) planned unit development. The site is generally located on the west side of Eagle Road approximately 1600-feet south of Island Woods Drive. (WEV)

Mayor introduces the issue and opens the Public Hearing.

Mayor swears in Dan Torfin.

Dan Torfin, representing T.R. Company, displays an overhead of the site plan for Two Rivers, and provides an overview of the development and the modification. General discussion.

Dennis Baker, developer of Two Rivers, discusses the private road issue, the Chevron Pipeline and the connectivity to Mace Road. We are providing additional public parking. General discussion.

Zoning Administrator: No report

Mayor closes the Public Hearing

Council discussion.

Sedlacek moves to modify the motion for the original approval; RZ-10-98/CU-9-98/PPUD-2-98/PP-8-98 MOD - Quarter Circle Ranch Planned Unit Development (Two Rivers) Modification with the following changes: The two streets specifically Rivermoor and

Rivermont will be allowed to be private, gated communities with the stipulation that they are 36' wide as presented by the applicant tonight and that the public access will be the same width for public parking at the trailhead. Seconded by Merrill. Discussion. Sedlacek amends the motion to approve the gate at the Southerly cul-de-sac. Seconded concurs. TWO AYES: TWO NAYS: MAYOR: AYE: MOTION CARRIES.....

Mayor calls a recess at 8:50 p.m.

Mayor reconvenes at 9:05 p.m.

B. PP-5-02/FP-14-02 - Merrill Subdivision No. 3 (Rocky Mountain Business Park) - Dave Evans Construction: Dave Evans Construction, represented by Anna Powell with B & A Engineers, is requesting combined preliminary plat and final plat approval for Merrill Subdivision No. 3 (a re-subdivision of Lot 13, Block 3, Merrill Subdivision No. 2, formally known as Rocky Mountain Business Park). The 1.19-acre, 4-lot commercial subdivision is located on the southwest corner of East Iron Eagle Drive and South Fitness Place at 461 South Fitness Place. (WEV)

Mayor introduces the issue and opens the Public Hearing.

Mayor swears in Anna Powell

Anna Powell, B & A Engineers, representing the applicant, displays an overhead of the preliminary plat and the final plat and discusses the same.

Zoning Administrator Vaughan: This application complies with Eagle City Code to combine a Preliminary Plan and Final Plat in one process. General discussion.

Mayor closes the Public Hearing.

Guerber moves to approve PP-5-02/FP-14-02 - Merrill Subdivision No. 3 (Rocky Mountain Business Park). Seconded by Bastian. ALL AYE: MOTION CARRIES.....

C. VAC-4-02 - Vacation to the final plat of Aikens Second Addition to Eagle - Jeremiah Properties: Jeremiah Properties, represented by Bruce Poe with Cole Associates, is requesting City approval to vacate the public alley right-of-way from the final plat of Aikens Second Addition to Eagle. The alley right-of-way is located approximately 150-feet south of State Street within Aikens Second Addition to Eagle, generally located on the northwest corner of the intersection of Eagle Road and Aikens Street. *This item will be continued to the December 10, 2002 meeting.*

Mayor: I would entertain a motion to continue this item to the December 10, 2002, City Council meeting.

Guerber moves to continue VAC-4-02 - Vacation to the final plat of Aikens Second Addition to Eagle to the December 10, 2002, City Council meeting. Seconded by Sedlacek. ALL AYE: MOTION CARRIES.....

D. ZOA-5-02 (Proposed Ordinance No. 433) - City of Eagle: An ordinance for the City of Eagle, Idaho, amending Eagle City Code, Title 8 "Zoning", Chapter 2 "Zoning Districts and Map", Article A "DR Design Review Overlay District", Section 8 "Sign Regulations", creating a new subsection N, providing for penalties for violations of the sign ordinance; and, amending section 13 (A) "Procedure For Approval" to dispense with the requirement that public hearings be conducted for board level design review applications providing an effective date. (WEV)

Mayor introduces the issue.

Zoning Administrator Vaughan: discusses the proposed changes to the City Code.

General discussion on the proposed changes.

Bastian moves to continue ZOA-5-02 (Proposed Ordinance No. 433) City of Eagle to the December 10, 2002, City Council agenda with the Public Hearing left open. Seconded by Merrill. Discussion. ALL AYE: MOTION CARRIES.....

8. **NEW BUSINESS:**

A. **Review of application and brochures for the Merrill Park Public Art project.** This item was forwarded by the Eagle Arts Commission.

Review and action on the proposal submitted by Crane Johnson for an Elementary School Quilt Project. This item was forwarded by the Eagle Arts Commission.

Mayor introduces the issue.

Bastian moves to approve application and brochures for the Merrill Park Public Art Project and the proposal submitted by Crane Johnson for an Elementary School Quilt Project. Seconded by Sedlacek. Discussion. ALL AYE: MOTION CARRIES.....

B. **Discussion regarding the Chase Well Agreement:**

Mayor introduces the issue.

Vern Brewer, Holladay Engineering, discusses the letters in regards to the Chase Well Agreement and the negotiations with the other Protestants. Discussion on the attorney's fees should be done in Executive Session. On the Chase Well Agreement all issues have been agreed upon except for the attorney's fees. General discussion.

Bastian moves to add an Executive Session to the Agenda as Item #9 for the purpose of discussing litigation. Seconded by Merrill. ALL AYE: MOTION CARRIES.....

C. **Review and action regarding change order No. 8 submitted by Jensen Belts Associates for the Merrill Park project.** (SKM)

D. **Review and action regarding change order No. 9 submitted by Jensen Belts Associates for the Merrill Park project.** (SKM)

E. **Review and action regarding change order No. 10 submitted by Jensen Belts Associates for the Merrill Park project.** (SKM)

F. **Review and action regarding change order No. 11 submitted by Jensen Belts Associates for the Merrill Park project.** (SKM)

G. **Review and action regarding change order No. 12 submitted by Jensen Belts Associates for the Merrill Park project.** (SKM)

H. **Review and action regarding change order No. 13 submitted by Jensen Belts Associates for the Merrill Park project.** (SKM)

Mayor introduces Item #C, D, E, F, G and H.

Merrill: We have discussed several of these change order previously. Discussion on the change orders.

Bastian moves to approve Change Orders No. 8, 9, 10, 11, 12 and 13 for Merrill Park. Seconded by Merrill. Discussion. Bastian: AYE; Merrill: AYE; Sedlacek: AYE; Guerber: NAY: THREE AYES: ONE NAY: MOTION CARRIES.....

I. Review and action regarding participation in AIC's proposed online compensation survey system. (SKM)

Mayor introduces the issue.

City Clerk Moore: The online compensation survey system was presented at the Clerk's Institute in September. I'm bringing it to your attention to see if you want to participate. The cost to the City would be \$200 a year. General discussion.

Merrill moves to approve the participation in AIC's online compensation survey system. Seconded by Bastian. Bastian: AYE; Merrill: AYE; Sedlacek: AYE; Guerber: AYE: ALL AYE: MOTION CARRIES.....

J. Discussion regarding recommendations from the COMPASS Restructure Committee.(RY)

Mayor introduces the issue and would like to see this come back on a later agenda.

Guerber moves to continue Item #8J at a Council meeting at which the Mayor feels it is appropriate to add the matter to the agenda. Seconded by Bastian. Discussion. ALL AYE: MOTION CARRIES.....

K. Discussion of purchase of water shares. (LS)

Mayor introduces the issue.

Sedlacek: Discusses the purchase of the water shares. We need to have a place to use these water shares if we purchase the. I don't know if we have a delivery system to use this water at the Hill Road Park and I don't know the legality of using the water at the Ada County Park.

City Attorney: Discusses the uses and where the City can use the water. It is our recommendation that you purchase these water shares as soon as possible. I believe the \$400 per share is reasonable. General discussion.

Sedlacek moves to purchase from Dick Phillips the 4.5 shares of water at \$400 per share. Seconded by Merrill. Bastian: AYE; Merrill: AYE; Sedlacek: AYE; Guerber: AYE: ALL AYE: MOTION CARRIES.....

Council directs the City Clerk to call Stacy with Dick Phillip's office and purchase the 4.5 shares and send a check for the payment.

L. Discussion on hiring a consultant in regards to the Idaho Power Poles.

Mayor introduces the issue.

Merrill moves to direct staff to move forward and hire a consultant to study the Idaho Power Pole issue and to look at the alternatives to underground lines and the financing for such a project. Seconded by Sedlacek. Discussion. ALL AYE: MOTION CARRIES.....

Council concurs that the funds for this consultant will come from SAG #8.

M. Heritage Park Change Orders:

Mayor introduces the issue.

Merrill discusses the proposed change orders. The sidewalk and the trash enclosure gates are required by Eagle City Code. The proposed lock mechanism for the restroom door needs to be discussed. I would like to take a look at the lock mechanism for the restroom and get more information. We are proposing to have these types of locks at Merrill Park.

General discussion.

Guerber moves to approve Heritage Park Restroom additional expenses up to \$1,600 to put in the sidewalk and up to \$1,500 to install the trash enclosure gate. Seconded by Merrill. Discussion. ALL AYE: MOTION CARRIES.....

N. Discussion on the cottonwood trees at Heritage Park.

Mayor introduces the issue.

Merrill moves to have staff get a bid from the company that removed the tree in Plaza Park and award the bid to the lowest bidder. Seconded by Guerber. Discussion. ALL AYE: MOTION CARRIES.....

Council discussion on the replacement trees.

O. Discussion on the Zoning Administrator waiving the 45 day transmittal period for Ada County.

Mayor introduces the issue.

Zoning Administrator Vaughan: Ada County has request a waiver of the 45 day transmittal period for approval of the FEMA maps. General discussion.

Merrill moves to direct Staff to write a letter to Ada County Planning and Zoning to waive the 45 day transmittal period. Seconded by Sedlacek. ALL AYE: MOTION CARRIES.....

Larry Sales, ACHD liaison to the City, discusses a meeting with the County Landfill and the possibility of a land exchange. Discussion on moving the gravel at the Hill Road property.

Mayor calls a recess at 10:10 p.m.

Mayor reconvenes at 10:20 p.m.

9. Executive Session for the discussion of Litigation. IC 67-2345 (f)

Bastian moves to go into Executive Session for the discussion of litigation. Seconded by Guerber. Bastian: AYE; Merrill: AYE; Sedlacek: AYE; Guerber: AYE: ALL AYE: MOTION CARRIES.....

Council discusses threatened litigation.

During Executive Session the City Attorney and the City Engineer were asked to leave and Mike Case was invited into the Executive Session.

Mike Chase, representing the Chase Estate, is included in the Executive Session discussion.

Council leaves Executive Session.

General discussion.

Guerber moves to send a letter to the Chase family with a copy to their attorney indicating our agreement that we would provide service to the house and the dairy as discussed and that we would handle the pump test monitoring, that we would pay additional power if necessary on the main pump should it be necessary to pump additional footage out of that well. That we will provide a pipe from the main pump to the lower portion of the farm in acknowledgement of the small well below. That we will reimburse \$12,000.00 in attorney's fees and all of these items would result in withdrawal of the protest to the City well with the Department of Water Resources. Seconded by Merrill. Discussion. Guerber amends the motion to include: Clarification on the Record: In the November 16, 2002 Matt J.

Howard letter, item #1 refers only to the residence and that the motion is subject to the City Attorney's final approval. Bastian, AYE; Merrill: AYE; Sedlacek: AYE; Guerber: AYE: ALL AYE: MOTION CARRIES.....

General discussion.

Pre-Council Reports:

City Engineer Report: No report

Zoning Administrator's Report: Discusses the landscaping at the corner of Eagle Road and Alternate Route. Albertson's has declined to pay a third of the cost. They did agree to do the maintenance with their current maintenance crew. Council has set aside \$5,000 for this project. Due to budget restraints I am trying to get the cost down to \$10,000 and see if Pete would still be willing to put in \$7,000. General discussion.

Discusses the process of how Ada County applications are handled. General discussion.

Displays overheads of the berms and discusses whether this meets certain conditions of approval for Arbor Ridge Subdivision. General discussion.

Discussion on the Eagle Hotel. Provides Council an overview of the development history of the hotel. General discussion.

City Clerk/Treasurer Report: You have already discussed most of my issues. I do need to know how many will be attending the Chamber meeting on December 19th. If there is a quorum I need to post an agenda. All of Council will be attending, an agenda needs to be posted.

City Attorney Report: No report

10. ADJOURNMENT:

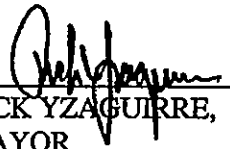
Bastian moves to adjourn. Seconded by Merrill. ALL AYE: MOTION CARRIES.....

Hearing no further business, the Council meeting adjourned at 11:40 p.m.

Respectfully submitted:


SHARON K. MOORE
CITY CLERK/TREASURER

APPROVED:


RICK YZAGUIRRE,
MAYOR



December 11, 2001

Vern Brewer
Holladay Engineering Comp.
32 N. Main
P.O. Box 235
Payette, ID 83661

Via Fax

RE: Water Use from Chase Dairy and Small Irrigation Wells

Dear Mr. Brewer:

At Chris Meyer's request, I am providing you with my analysis of the water use from the Chase dairy well and small irrigation well. (This irrigation well is located adjacent to Eagle Road near Dry Creek.) *This information is privileged and confidential and is provided solely for settlement purposes.*

The irrigation well was analyzed using available power records to determine the amount of water diverted in the past. Based upon that analysis, up to 60 ac-ft per year of water has been diverted from this well. The well is used as a supplemental water supply for irrigation purposes.

The analysis of the dairy well includes a dairy water requirement analysis using the IDWR dairy analysis spreadsheet. A system check shows the existing system is reasonably capable of meeting the estimated water requirement. Additionally, water right 63-15820 for the domestic use of Mrs. Eleanor Chase in the home located at the dairy is diverted from this well. This domestic right is decreed to be 0.04 cfs for domestic use from the same well used for dairy purposes.

Please call if you have questions about any of this information. I look forward to meeting with you tomorrow.

Yours truly,



David B. Shaw
Project Manager

Enc.

cc: Eleanor Chase
Mike Chase
Matt Howard

Chase Dairy Well
63-5226

The attached dairy water use worksheet describes the water requirements for the Chase dairy. The elements of this spreadsheet are those used by the Idaho Department of Water Resources to determine dairy water requirements. The spreadsheet has been utilized for a number of years by IDWR and compares favorably with similar spreadsheets prepared by the University of Idaho Extension Service and other consultants.

The attached spreadsheet reflects the conditions specific to the Chase dairy. The water requirement for the dairy is a diversion rate of 0.13 cfs and an annual volume of 11.2 ac-ft. The formula below is provided as a check of the diversion capacity of the existing system which consists of 2 - ¾ hp pumps which operate together to meet peak demand but can also operate independently to provide redundancy (backup) for the water supply. The total head (TDH) for the system is estimated to be 90 feet.

$$cfs = \frac{8.8 \times hp \times efficiency}{TDH} = \frac{8.8 \times 1.5 \times 0.9}{90} \approx 0.13 cfs$$

This analysis indicates the existing system is capable of providing the water requirements of the dairy as shown on the attached spreadsheet. Both the system capacity and the water requirement calculations indicate a diversion rate less than the diversion rate claimed. The diversion rate determined in this analysis should be a better representation of the actual water use than that shown on the claim to water right.

Chase Small Irrigation Well
63-5229

Power records are available for 1979 - 1983 with ~~2210 KWH~~ used in ~~1980~~. The installed system is a 2 hp single-phase 240-volt centrifugal pump. Estimated total pumping head (TDH) is 30 feet. The estimated volume of water diverted in 1980 is determined by the following formula.

$$ac - ft = \frac{KWH \times efficiency}{1.025 \times TDH} = \frac{2210 \times 0.85}{1.025 \times 30} \approx 60 ac - ft$$

The diversion capacity of this system is determined by the following formula.

$$cfs = \frac{8.8 \times hp \times efficiency}{TDH} = \frac{8.8 \times 2 \times 0.9}{30} \approx 0.53 cfs$$

The estimated diversion capacity is in excess of the claimed amount of 0.42 cfs indicating the claimed amount should control.

FILE NUMBER - _____ Chase
REVIEWER _____ DAS

DAYNIE: WATER USE WORKSHEET

REQUIRED DAILY DATA

NUMBER OF MILKING CATTLE _____	155
NUMBER OF DRY CATTLE _____	135
NUMBER OF REPLACEMENT CATTLE: 0-2 MONTHS _____	4
3-4 MONTHS _____	5
5-8 MONTHS _____	5
9-12 MONTHS _____	5
13-15 MONTHS _____	5
16-24 MONTHS _____	5
ENTER 1 FOR MANUAL COW WASHING, 2 FOR AUTOMATIC, OR 3 IF	
SPRINKLERS ARE USED TO FLUSH HOLDING PEN AND WASH COWS _____	1
IF SPRINKLERS ARE USED: NUMBER OF SPRINKLERS IN HOLDING PEN _____	
NOZZLE DISCHARGE (USE 5.0 GPM IF UNKNOWN) _____	
OPERATION TIME OF SPRINKLERS (MIN/DAY) _____	
NUMBER OF MILKINGS PER DAY _____	2
AVG. LBS. OF MILK PRODUCED PER DAY PER ANIMAL (IDAHO AVG IS 70 LBS.) _____	85
HOURS PER DAY PUMP OPERATES FOR STOCKWATER USE _____	4.0
HOURS PER DAY PUMP OPERATES FOR COMMERCIAL USE _____	2.0
IS RECYCLED WATER USED TO FLUSH MILKHOUSE AND PARLOR FLOORS? _____	N
IS RECYCLED WATER USED TO WASH COWS? _____	N
IS A PLATE COOLER USED? _____	N
IS RECYCLED WATER USED FOR PLATE COOLER? (IF NO PLATE COOLER, LEAVE BLANK) _____	
IF CORRAL MISTERS ARE USED: NUMBER OF MISTERS IN HOLDING PEN _____	
NOZZLE DISCHARGE (GPM) _____	
OPERATION TIME OF MISTERS (MIN/DAY) _____	
DAYS PER YEAR MISTERS ARE USED _____	

CALCULATIONS

DIVERSION RATE (CFS):

STOCK/WATER	
MILKING CATTLE (BASED ON MILK PRODUCTION)	0.05
DRY CATTLE @ 17.0 GPD/HD	0.02
REPLACEMENT CATTLE	0.00
TOTAL	0.07

COMMERCIAL

TOTAL

TOTAL DIVERSION RATE _____ 0.13

DIVERSION VOLUME (AFA):

STOCKWATER	
MILKING CATTLE	6.4
DRY CATTLE	2.9
REPLACEMENT CATTLE	0.2
TOTAL	9.6

COMMERCIAL	
WASHING OF BULK TANK AND RELATED EQUIPMENT	0.4
BACKLUSH	0.2
PARLOR MILKHOUSE HOLDING PEN CLEANUP	2.0
CATTLE WASHING BASED UPON METHOD OF WASHING	0.2
PLATE COOLER	0.0
CORRAL MISTERS	0.0
TOTAL	2.6

TOTAL DIVERSION VOLUME _____ 112

CONSUMPTIVE USE VOLUME (AFA)(assuming 100% consumptive):

STOCKWATER	8.6
COMMERCIAL	2.6
TOTAL CONSUMPTIVE USE	11.2

December 14, 2001

Vern Brewer
Holladay Engineering Comp.
32 N. Main
P.O. Box 235
Payette, ID 83661

Via E-Mail

RE: Anticipated Costs Associated with Chase Small Irrigation Well

Dear Vern:

Thank you for your comments at the settlement conference yesterday. I think it was a very worthwhile meeting and am hopeful we can move your project along quickly.

One of my assignments was to find the cost of removing the pump from the Chase small irrigation well. I contacted a local pump installer and he estimated the cost to remove the pump and install a sanitary well seal to be less than \$150.00. I think he can do the work with a relatively short lead-time once approval is received.

Since yesterday I have given some more thought to the small irrigation well and offer the following for your consideration. Once the pump is removed we can measure the depth to water and, perhaps, sound the depth of the well. We should also be able to visually inspect some of the casing and confirm it is 5" casing. If I have a recorder and transducer on hand that will work in that well, we could install a recorder in this well in addition to the large irrigation well. I do not recommend purchasing a new recorder for this well.

Either with a recorder or with electric tape measurements, or both, the depth to water in this well should be measured during the pump test of the new city well. (I don't anticipate finding oil on the water surface of this well.) The additional data will be valuable and we also should be able to identify the best solution to provide the future water supply previously diverted from the small irrigation well.

I anticipate the additional cost to collect the depth to water data for this well will be less than \$500. Once we have the data, recommending a solution for a future water supply should be straightforward.

Vern Brewer
December 14, 2001

Page 2

Please call if you have questions about any of this information. I look forward to working with you to protect the Chase's water supply and get the city's new well in production.

Yours truly,

/s/

David B. Shaw
Project Manager

Enc.

cc: Eleanor Chase
Mike Chase
Matt Howard

Glen Saxton

Molly O'Leary ISB No. 4996
Richardson & O'Leary PLLC
99 East State Street, Suite 200
P.O. Box 1849
Eagle, Idaho 83616
Telephone: (208) 938-7900
Fax: (208) 938-7904

RECEIVED

APR 28 2003

Department of Water Resources

RECEIVED

APR 15 2003

WATER RESOURCES
WESTERN REGION

Attorneys for Eagle Water Company, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF	)	EAGLE WATER COMPANY
	)	INC.'S RESPONSES TO
CITY OF EAGLE, PETITIONER	)	APPLICANT'S FIRST SET OF
	)	INTERROGATORIES,
APPLICATION FOR PERMIT NO. 63-12448	)	REQUESTS FOR ADMISSIONS,
	)	AND REQUESTS FOR
	)	PRODUCTION

The Petitioner, Eagle Water Company, Inc. ("Eagle Water"), by and through its attorneys of record, RICHARDSON & O'LEARY, PLLC, submits the following Responses to the Applicant's First Set of Interrogatories, Requests for Admissions and Requests for Production of Documents.

GENERAL OBJECTIONS AND QUALIFICATIONS

The Petitioner, Eagle Water, has not yet completed its own discovery. Therefore, the responses that follow are based upon the best knowledge, information and belief of Eagle Water at this time. Eagle Water reserves the right to provide any further responses if it appears that any omission or error has been made in connection with these answers or that more accurate information is or has become available. These answers are made

without prejudice to Eagle Water's right to use at trial such evidence that may later be discovered or evaluated. These responses are provided in accordance with the Idaho Rules of Civil Procedure irrespective of any definitions or instructions that may accompany the interrogatories, requests for admissions, and requests for production. These responses are made subject to all objections as to competence, relevance, and admissibility. These responses are subject to all objections that would require the exclusion of any statement or information provided herein. All such objections are reserved and may be interposed at the time of hearing or trial. Eagle Water specifically objects to these discovery requests to the extent they seek information protected by the attorney-client privilege, work-product protections, and the rules governing the discovery of information from experts. This objection applies to all discovery requests that may be interpreted to seek such information. Eagle Water will supplement these responses pursuant to Rule 26(e) as new or additional information becomes available. Objection is also made to the Applicant's definitions of "injury," "maintenance," "primary water right," and "supplemental water right." The responses herein shall be made in accordance with the common understanding of such terms and as such terms may be regarded by the Idaho Department of Water Resources.

I. INTERROGATORIES

INTERROGATORY NO. 1: Please identify each person who participated in responding to the City's interrogatories, requests for admissions and requests for production, and describe that person's role in doing so.

RESPONSE TO INTERROGATORY NO. 1:

Robert V. DeShazo, Jr., President
Eagle Water Company, Inc.
846 N. Eagle Road
Eagle, Idaho 83616

David B. Shaw, P.E., AgE/LS
ERO Resources Corp
1106 N. Cole Road
Boise, Idaho 83704

Molly O'Leary, attorney
99 E. State Street, Suite 200
Eagle, Idaho 83616

INTERROGATORY NO. 2: Please identify each and every person you intend to call as an expert witness in this matter and state:

- (a) The opinions the expert will or is expected to give, and his/her qualifications for rendering said opinion;
- (b) All facts, documents, data, or other information relied upon in forming his/her opinions.

RESPONSE TO INTERROGATORY NO. 2: Eagle Water objects to this interrogatory on the basis that the Applicant bears the burden of establishing that Eagle Water will not be injured by the Applicant's proposed amendment to its permit.

Without waiving the foregoing objection, Eagle Water anticipates calling Mr. David B. Shaw, P.E., AgE/LS, as an expert witness in this case. Mr. Shaw may testify regarding his analysis of the groundwater conditions in the vicinity of the proposed well and his opinion regarding the well's impact on Eagle Water's wells. Mr. Shaw's opinions and testimony may be based on the documents provided, to date, by the Applicant in response to Eagle Water's First Set of Interrogatories, Requests for Admissions, and Requests for Production to the Applicant. Mr. Shaw may also base his testimony on

other, as yet unidentified, documents and/or data. Because Applicant has failed to fully and adequately respond to Eagle Water's interrogatories requesting that the Applicant set forth specific facts, studies, analysis and data, including the substance of the opinion(s) to which its expert will testify and the specific underlying facts and data supporting such opinion(s), Eagle Water is unable to formulate a more complete response to this interrogatory. After Applicant fully responds to Eagle Water's discovery requests, Eagle Water will supplement its response to this interrogatory.

Eagle Water may identify and disclose additional expert witnesses as this case progresses and thus reserves the right to call additional experts at hearing.

INTERROGATORY NO. 3: Please identify each lay and/or fact witness you intend to call and the facts and/or opinion the witness will give and the person's qualifications for giving any opinion or factual testimony.

RESPONSE TO INTERROGATORY NO. 3: Objection is made to this interrogatory on the basis that it seeks attorney work product. Witnesses and exhibits will be disclosed pursuant to I.R.C.P. 16 and/or pretrial order.

INTERROGATORY NO. 4: Please identify every document or item you intend to introduce as evidence at the hearing on this matter and identify the source of the document, the custodian of the document, and how you came to be in possession of such document or item.

RESPONSE TO INTERROGATORY NO. 4: Objection is made to this interrogatory on the basis that it seeks attorney work product. Witnesses and exhibits will be disclosed pursuant to I.R.C.P. 16 and/or pretrial order. Without waiving this objection, Applicant may review Eagle Water's non-privileged documents by prior

appointment at 99 E. State Street, Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 5: Please identify all water right claims, licenses or permits which you contend allow the diversion and use by you of water within Sections 8 and 9 of Township 4 North, Range 1 East of the Boise Meridian.

RESPONSE TO INTERROGATORY NO. 5: Water Right Nos. 63-7368; 63-7618; 63-9245; and 63-12147.

INTERROGATORY NO. 6: For each water right claim, license or permit you identified in your response to interrogatory no. 5, please identify the water right claim, license or permit and each point of diversion associated therewith.

RESPONSE TO INTERROGATORY NO. 6: The requested information may be obtained from the notices of claim and/or partial decrees for said water rights, which information is a matter of public record. The Applicant may review Eagle Water's non-privileged documents, which include the notices of claim and partial decrees, by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 7: Please identify all pending applications for water rights in the name of the Eagle Water Company, Inc. or the Eagle Ranch Water Company, Inc.

RESPONSE TO INTERROGATORY NO. 7: Eagle Water objects to this interrogatory as ambiguous, vague, overbroad and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, Eagle Water responds that it has no pending applications for water rights.

INTERROGATORY NO. 8: Please identify each individual water right you allege would be injured by the City's proposal.

RESPONSE TO INTERROGATORY NO. 8: Eagle Water objects to this interrogatory as ambiguous and vague. Without waiving its objection, Eagle Water responds that the Applicant has the burden of proving that its proposed diversion will not injure Eagle Water's water rights. Eagle Water further responds that it is not required to prove a negative. Eagle Water's water rights are:

- 1) 63-7368
- 2) 63-7618
- 3) 63-9245
- 4) 63-11798
- 5) 63-12147, and
- 6) 63-12559

INTERROGATORY NO. 9: For each individual water right you identified in your response to interrogatory no. 8, please specifically describe the water right, including the priority date, the location of the diversion, the amount of the diversion, the amount of use, the place of use, the purpose of use, and the nature of the water right (i.e. permit, license, etc.).

RESPONSE TO INTERROGATORY NO. 9 The requested information may be obtained from the notices of claim and/or partial decrees for said water rights, which information is a matter of public record. The Applicant may review Eagle Water's non-privileged documents, which include the notices of claim and partial decrees, by prior

appointment at 99. E. State Street, Suite, 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 10: For each individual water right you identified in your response to interrogatory no. 8, please specifically describe in full and complete detail, including the opinions of any expert, how the water right is allegedly injured by the City's proposal.

RESPONSE TO INTERROGATORY NO. 10: Eagle Water objects to this interrogatory as ambiguous and vague. Without waiving its objection, Eagle Water responds that the Applicant has the burden of proving that its proposed diversion will not injure Eagle Water's water rights. Eagle Water is not required to prove a negative. Please also see response to Interrogatory No. 2.

INTERROGATORY NO. 11: For each individual water right you identified in your response to interrogatory no. 8, please specifically describe how the water right is diverted, including a detailed description of any well and power supply and/or associated diversion works.

RESPONSE TO INTERROGATORY NO. 11:

- a) 63-7368 – Is diverted by Eagle Well No. 1, using a 50 horsepower, submersible electric pump, and 8- to 12-inch main lines.
- b) 63-7618 - Is diverted by Eagle Well No. 2, using a 20 horsepower, submersible electric pump, and 8- to 12-inch main lines.
- c) 63-9245 – Is diverted by Eagle Water Well No. 3, using a 30 horsepower, submersible electric pump, and 8- to 12-inch main lines.
- d) 63-11798 - Is diverted by Eagle Water Well No. 4, using a 250 horsepower variable speed electric pump, and 8- to 12-inch main lines.

- e) 63-12147 - Is diverted by Eagle Water Well No. 6, using a 250 horsepower variable speed electric pump, and 8- to 12-inch main lines.
- f) 63-12559 - Will be diverted by Eagle Water Well No. 7, using an electric pump, and 8- to 12-inch main lines.

Additional information regarding the above points of diversion may be obtained from the notices of claim and/or partial decrees for said water rights, which information is a matter of public record. The Applicant may review Eagle Water's non-privileged documents, which include the notices of claim and partial decrees, by prior appointment at 99. E. State Street, Suite, 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 12: For each diversion of each individual water right you described in your response to interrogatory no. 8, please specifically describe the age and condition of the diversion, well and/or associated diversion works.

RESPONSE TO INTERROGATORY NO. 12:

- a) 63-7368 - Well No. 1 was drilled in June 1980. The current pump was installed July 31, 1985. The well and associated diversion works are in excellent condition.
- b) 63-7618 - Well No. 2 was drilled in January 1976. The current pump was installed November 4, 1982. The well and associated diversion works are in excellent condition.
- c) 63-9245 - Well No. 3 was drilled in August 1977. The current pump was installed January 1994. The well and associated diversion works are in excellent condition.
- d) 63-11798 - Well No. 4 was drilled in November 1992. The current pump was installed in February 1994. The well and associated diversion works are in excellent condition.
- e) 63-12147 - Well No. 6 was drilled in May 1996. The current pump was installed in January 1998. The well and associated diversion works are in excellent condition.
- f) 63-12559 - Well No. 7 has not been drilled.

INTERROGATORY NO. 13: For each individual water right identified in your response to Interrogatory No. 8, please state on what date you filed a claim for each water right in the Snake River Basin Adjudication.

RESPONSE TO INTERROGATORY NO. 13: Eagle Water objects to this interrogatory on the grounds of relevancy. Without waiving this objection, Eagle Water responds that this information may be obtained from the notices of claim and/or partial decrees for said water rights, which are a matter of public record. The Applicant may review Eagle Water's non-privileged documents, which include the notices of claim and partial decrees, by prior appointment at 99. E. State Street, Suite, 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 14: For each individual water right you identified in your response to interrogatory no. 8, please specifically describe how the water right was used during the ten (10) year period immediately preceding the date you filed your claim to each water right in the Snake River Basin Adjudication, including:

- (a) the amount of water pumped and used;
- (b) the place of use;
- (c) the purpose of use;
- (d) the permit/license number(s) associated with the well or other means of diversion;
- (e) its location and depth;
- (f) The static water level, pumping levels, wellhead pressure for each year.

RESPONSE TO INTERROGATORY NO. 14: Eagle Water objects to this interrogatory as overly broad and burdensome. The water rights have been used as

claimed and in accordance with the respective permit for same. Without waiving this objection, Eagle Water further responds:

63-7368 – Well No. 1

(a) the amount of water pumped and used:

- 1993 – 54,077,000 Total Production Gallons
- 1994 – 86,593,000 Total Production Gallons
- 1995 – 62,660,000 Total Production Gallons
- 1996 – 76,073,000 Total Production Gallons
- 1997 – 36,565,000 Total Production Gallons
- 1998 – 50,816,000 Total Production Gallons
- 1999 – 95,881,000 Total Production Gallons
- 2000 – 75,276,00 Total Production Gallons
- 2001 – 67,658,00 Total Production Gallons
- 2002 – 78,356,000 Total Production Gallons

(e) its location and depth – Well No. 1 is located in the SW ¼ of the NW ¼ of Section 9, T 4N, R1E, Ada County; the depth is 328 feet.

(f) The pumping level is 165 feet. The static water level is currently available for the following dates only:

- June 24, 1980 – 38 feet
- March 15, 1987 (Record available from IDWR)
- May 20, 1991 (Record available from IDWR)
- February 28, 1992 – pump on, 54 feet; pump off, 39 feet
- April 14, 1992 – pump on, 55 feet; pump off, 41 feet
- August 6, 1992 – pump on, 56 feet; pump off, 43 feet

63-7618- Well No. 2

(a) the amount of water pumped and used:

- 1993 – 111,136,000 Total Production Gallons
- 1994 – 99,453,000 Total Production Gallons
- 1995 – 104,540,000 Total Production Gallons
- 1996 – 110,003,000 Total Production Gallons
- 1997 – 7,140,000 Total Production Gallons
- 1998 – 12,489,000 Total Production Gallons
- 1999 – 22,700,000 Total Production Gallons
- 2000 – 18,629,000 Total Production Gallons
- 2001 – 20,847,000 Total Production Gallons
- 2002 – 30,231,000 Total Production Gallons

- (e) its location and depth – Well No. 2 is located in Lot No. 2, Block No. 3 of the Eagle Ranch Subdivision, located in Section 9, T4N, R1E, Ada County. The depth of the well is 230 feet.
- (f) The pumping level is 125 feet. The static water level is currently available for the following dates only:
 - o January 1976 – 39 feet
 - o February 28, 1992 – pump on, 129 feet; pump off, 48 feet
 - o April 14, 1992 – pump on, 132 feet; pump off 61 feet
 - o August 4, 1992 – pump on, 146 feet; pump off, 57 feet

63-9245 – Well No. 3

- (a) the amount of water pumped and used:
 - o 1993 – 43,554,000 Total Production Gallons
 - o 1994 – 32,500 Total Production Gallons
 - o 1995 – 210,000 Total Production Gallons
 - o 1996 – 5,000 Total Production Gallons
 - o 1997 – 0 Total Production Gallons; back-up use only
 - o 1998 – 7,500 Total Production Gallons
 - o 1999 – 7,500 Total Production Gallons
 - o 2000 – 45,000 Total Production Gallons
 - o 2001 – 15,000 Total Production Gallons
 - o 2002 – 17,500 Total Production Gallons
- (e) its location and depth: Well No. 3 is located in the SE ¼ of the NE ¼ of Section 9, T4N, R1E, Ada County; its depth is 466 feet.
- (f) The pumping level is 120 feet. The static water level is available for the following dates only:
 - o August 28, 1977 – 58 feet
 - o February 28, 1992 – pump on, 72.5 feet; pump off, 67.5
 - o August 6, 1992 – pump on, 71 feet; pump off, 64 feet

63-11798 – Well No. 4

- (a) the amount of water pumped and used:
 - o 1994 – 90,973,000 Total Production Gallons
 - o 1995 – 166, 591,000 Total Production Gallons
 - o 1996 – 198,430,000 Total Production Gallons
 - o 1997 – 390,750,000 Total Production Gallons
 - o 1998 – 343,911,000 Total Production Gallons
 - o 1999 – 379,780,000 Total Production Gallons

- 2000 – 426,810,000 Total Production Gallons
- 2001 – 422,167,000 Total Production Gallons
- 2002 – 484,318,000 Total Production Gallons

(e) its location and depth: Well No. 4 is located in the NW ¼ of the NW 1/4 of Section 15, T4N, R1E, Ada County; the well depth is 385 feet.

(f) The pumping level varies from within two feet of the surface to an unknown depth depending on demand. As of November 8, 1992, the static level was recorded at 2 feet below the surface.

63-12147 – Well No. 6

(a) the amount of water pumped and used:

- 1998 – 47,422,000 Total Production Gallons
- 1999 - 84,195,000 Total Production Gallons
- 2000 – 116,497,000 Total Production Gallons
- 2001 – 142,762,000 Total Production Gallons
- 2002 – 125,295,000 Total Production Gallons

(e) its location and depth: Well No. 6 is located in the SW ¼ of the SE ¼ of Section 8, T4N, R1E, Ada County. The depth of the well is 440 feet.

(g) Well No.6 is a continuously flowing artesian well.

63-12559 – Well No. 7

(a) the amount of water pumped and used – Not drilled yet

(e) its location and depth – Not drilled yet

(f) The static water level, pumping levels, well head pressure for each of the past five years – Not drilled yet

INTERROGATORY NO. 15: For each water right you identified in your response to interrogatory no. 8, please state how long it is has been since you have diverted the water right and applied it to beneficial use.

RESPONSE TO INTERROGATORY NO. 15: The identified water rights have been in continual use since the date of inception.

INTERROGATORY NO. 16: Please describe in complete detail the basis for the Eagle Water Company's protest to the City's application.

RESPONSE TO INTERROGATORY NO. 16: Eagle Water objects to this interrogatory as ambiguous and vague. Without waiving its objection, Eagle Water responds that the Applicant has the burden of proving that its proposed diversion will not injure Eagle Water's water rights. Eagle Water further responds that it is entitled to require Applicant to meet its burden, and that Eagle Water is not required to prove a negative.

INTERROGATORY NO. 17: Please advise whether the Eagle Water Company has any water lines that run outside of your Public Utility Commission certificated area.

RESPONSE TO INTERROGATORY NO. 17: Eagle Water objects to this interrogatory as vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Eagle Water further objects on the grounds of relevancy.

INTERROGATORY NO. 18: Please identify any Eagle Water Company water lines that run outside of your Public Utility Commission certificated area in the vicinity of the point of diversion which is the subject of the City's application.

RESPONSE TO INTERROGATORY NO. 18: Eagle Water objects to this interrogatory as vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Eagle Water further objects on the grounds of relevancy.

INTERROGATORY NO. 19: Please identify any future plans, studies, letters of commitments, contracts or verbal agreements by the Eagle Water Company to provide water service outside of the areas presently certificated by the Public Utility Commission.

RESPONSE TO INTEROGATORY NO. 19: Eagle Water objects to this interrogatory as vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Eagle Water further objects on the grounds of relevancy.

INTEROGATORY NO. 20: If you deny any of the City's Requests for Admission, for each denial please describe the basis for the denial.

RESPONSE TO INTEROGATORY NO. 20: Eagle Water objects to this interrogatory as overly broad, vague, and unduly burdensome. Without waiving its objections, the explanations are set forth in the responses to the Requests for Admission.

VI. REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the Department's approval of the City's application would not injure the Eagle Water Company's water rights.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Denied. See responses to Interrogatory Nos. 2, 8 & 10.

REQUEST FOR ADMISSION NO. 2: Please admit that the primary City of Eagle well, well no. 1, located in the Southwest ¼ of the Southwest ¼ of Section 3, Township 4 North, Range 1 East of the Boise Meridian, is, according to an IDWR published Open File Report upgradient (sic) of the points of diversion belonging to the Eagle Water Company.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Denied. "[A]n IDWR published Open File Report" is ambiguous and Eagle Water cannot determine what report is being referenced.

REQUEST FOR ADMISSION NO. 3: Please admit that the City's application for an additional point of diversion, downgradient (sic) from the point of diversion for the City's well no. 1, shall distribute withdrawal impacts and thereby improve static water levels in the Eagle Water Company wells.

RESPONSE TO REQUEST FOR ADMISSION NO. 3 Eagle Water is without sufficient information at this time to admit or deny this Request for Admission and thus denies the same.

REQUEST FOR ADMISSION NO. 4: Please admit that on a public water system basis, multiple points of diversion provide a more reliable and stable water system less susceptible to catastrophic failure than a single well system.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Eagle Water objects to this Request for Admission as vague and ambiguous and thus denies the same.

REQUEST FOR ADMISSION NO. 5: Please admit that on a public water system basis, multiple points of diversion provide a broader safety net for the public in the event of vandalism or contamination of a single source point.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Eagle Water objects to this Request for Admission as vague and ambiguous and thus denies the same.

REQUEST FOR ADMISSION NO. 6: Please admit that the City is not by its proposal seeking to increase the volume of withdrawal or flow rate permitted under the City's existing water rights.

RESPONSE TO REQUEST FOR ADMISSION NO. 6 : The City of Eagle's Application speaks for itself.

REQUEST FOR ADMISSION NO. 7: Please admit that the Eagle Water Company has not had to modify its pump and motor assemblies due to declining water levels within a one mile radius of the point of diversion the City is seeking to add through its application.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Admit.

REQUEST FOR ADMISSION NO. 8: Please admit that the Eagle Water Company has multiple points of diversions for its water rights.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Admit.

REQUEST FOR ADMISSION NO. 9: Please admit that the Eagle Water Company is authorized to divert water right no. 63-9245 from two different points of diversion.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Admit.

REQUEST FOR ADMISSION NO. 10: Please admit that the addition of the City's proposed point of diversion will not result in any change to water quality in the Eagle Water Company's water system.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Eagle Water is without sufficient information at this time to admit or deny this Request for Admission, and thus denies the same.

VII. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce a curriculum vitae for each expert you intend to call as a witness.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Please see attached *Curriculum Vitae* for David B. Shaw. As noted in response to Interrogatory No. 2, Eagle Water may identify and disclose additional expert witnesses as this case progresses and thus reserves the right to call additional experts at hearing. In such event, Eagle Water will supplement this response as appropriate.

REQUEST FOR PRODUCTION NO. 2: Please produce each and every document or item you intend to introduce as evidence at the hearing on this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Please see response to Interrogatory No. 4.

REQUEST FOR PRODUCTION NO. 3: Please produce all pumping records for each well identified in your response to interrogatory no. 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Eagle Water objects to this request as overly broad, vague, ambiguous, burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, Eagle Water responds that it did not identify any wells in response to Interrogatory No. 11.

REQUEST FOR PRODUCTION NO. 4: Please produce all maintenance reports and maintenance bills for each well and diversion you identified in your response to interrogatory no. 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Eagle Water objects to this request as overly broad, vague, ambiguous, burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, Eagle Water responds that it did not identify any wells in response to Interrogatory No. 11.

REQUEST FOR PRODUCTION NO. 5: Please produce all power supply bills for the wells you identified in your response to interrogatory no. 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Eagle Water objects to this request as overly broad, vague, ambiguous, burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, Eagle Water responds that it did not identify any wells in response to Interrogatory No. 11.

REQUEST FOR PRODUCTION NO. 6: Please produce copies of all reports, memoranda, analyses or other correspondence related to the City's application prepared by the Eagle Water Company, Robert DeShazo, or in cooperation

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Eagle Water objects to this request on the grounds that it seeks attorney work product and confidential attorney-client communications. Eagle Water further objects to this request as vague, ambiguous and overly broad. Without waiving said objections, the Applicant may review Eagle Water's non-privileged documents by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

REQUEST FOR PRODUCTION NO. 7: Please produce all documents that form the basis for your responses to interrogatory nos. 4 - 20.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Eagle Water objects to this request on the grounds that it seeks attorney work product and confidential attorney-client communications. Eagle Water further objects to this request as vague, ambiguous and overly broad. Without waiving said objections, the Applicant may review Eagle Water's non-privileged documents by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

REQUEST FOR PRODUCTION NO. 8: Please produce any documents relied upon by your experts for any opinion rendered by him/her related to the Eagle Water Company's protest of the City's application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Please see response to Interrogatory No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce any report, test result, or other document or information that you contend supports the Eagle Water Company's protest to the City's proposal.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Eagle Water objects to this request on the grounds that it seeks attorney work product and confidential attorney-client communications. Eagle Water further objects to this request as vague, ambiguous and overly broad. Without waiving its objection, Eagle Water responds that the Applicant has the burden of proving that its proposed diversion will not injure Eagle Water's water rights. Eagle Water further responds that it is entitled to require Applicant to meet its burden, and that Eagle Water is not required to prove a negative. Without waiving said objections, the Applicant may review Eagle Water's non-privileged

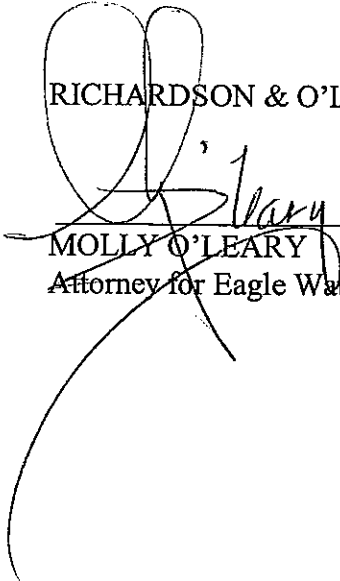
documents by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

REQUEST FOR PRODUCTION NO. 10: If you denied any of the City's requests for admission, please produce all the evidence for each individual denial that you contend supports your denial.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Eagle Water objects to this request on the grounds that it seeks attorney work product and confidential attorney-client communications. Eagle Water further objects to this request as vague, ambiguous and overly broad. Without waiving said objections, the Applicant may review Eagle Water's non-privileged documents by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

DATED this 14th day of April, 2003.

RICHARDSON & O'LEARY, PLLC


MOLLY O'LEARY

Attorney for Eagle Water Company, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of April, 2003 I caused to be served a true and correct copy of the foregoing EAGLE WATER COMPANY, INC.'S RESPONSES TO THE APPLICANT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR ADMISSIONS AND PRODUCTION TO EAGLE WATER via U.S. Mail Postage pre-paid, and addressed to the following:

IDWR
Western Region
2735 Airport Way
Boise, Idaho 83705

Matt Howard
2402 W. Jefferson
Boise, Idaho 83702

Bruce Smith, Esq.
Moore, Smith, Buxton & Turcke
225 N. 9th Street, Suite 240
Boise, Idaho 83702

Weldon Fisher
546 E. Beacon Light Rd.
Eagle, Idaho 83616

Jim Burton
1896 N. Eagle Rd.
Eagle, Idaho 83616

Glen Saxton
IDWR State Office
1301 N. Orchard Street
Boise, ID 83706

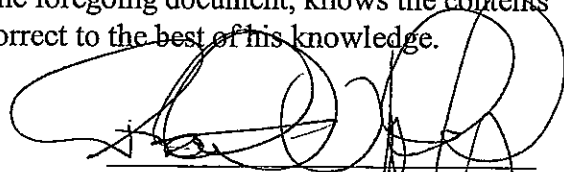


Nina M. Curtis

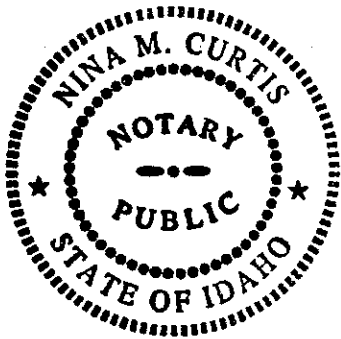
VERIFICATION

State of Idaho)
)
County of Ada)

Robert V. DeShazo, Jr., President, Eagle Water Company, being first duly sworn upon oath, depose and say that he has read the foregoing document, knows the contents thereof, and states the same to be true and correct to the best of his knowledge.


Robert V. DeShazo, President
Eagle Water Company

SUBSCRIBED AND SWORN to before me this 14th day of April, 2003.




Notary Public for Idaho
Residing at Boise, ID
My Commission Expires 3/09

RESPONSE TO REQUEST FOR PRODUCTION No. 1

David B. Shaw

SUMMARY:

David Shaw is an engineer and principal in the firm of ERO Resources Corp, a Denver based natural resources consulting firm. David manages the Boise ERO Resources Corp. office. His experience in water resources and management dates from 1974. He specializes in the identification, analysis, and resolution of water issues including coordination with other professionals in multi-disciplinary projects.

AREAS OF EXPERTISE:

Surface and ground water supply and use studies, water rights evaluations, project management, alternative dispute resolution, litigation support and expert witness testimony, and technical input on legislative and administrative matters.

EDUCATION:

B.S., Agricultural Engineering
University of Idaho, 1966

M.S., Agricultural Engineering
University of Idaho, 1972

EXPERIENCE:

1996 to present

Engineer, Project Manager ERO Resources Corporation, Boise, ID

- Provide technical expertise and coordination to the State and water users for the resolution, through mediation or litigation, of federal law based water right claims filed by the United States and certain Indian tribes in the Snake River Basin Adjudication of water rights.
- Develop and implement water quality monitoring programs for various water user organizations.
- Assist a variety of water users with technical expertise to resolve issues and conflicts relative to their continued use of water. Activities have included collection of field data, including stream flow measurements and gaging, evaluation of existing data, and data analysis to facilitate agreements or to offer expert opinion.

1985 to 1996 **Water Rights Adjudication Bureau Chief**

Department of Water Resources, Boise, ID

- Responsibilities included the design, implementation and management of the Snake River Basin Adjudication (SRBA) program involving the processing of 170,000 claims to water rights; staff selection and training, budget preparations, implementation and monitoring for main office and four regional offices; established rules and regulations pertaining to the

SRBA; educational presentations for professionals, public and the media.

- Served as co-chair of the state, Indian, federal and private technical advisory committee for the Shoshone-Bannock reserved water right determination that resulted in the 1990 Fort Hall Indian Water Right Agreement.
- Lead responsibility for preparation of the first water distribution rules developed and adopted in Idaho. Participated and testified before Legislature in two rewrites of Idaho's adjudication statutes.
- Designated as an expert witness in water right adjudications by the SRBA court.

1978 to 1985 Western Region Manager

Department of Water Resources, Boise, ID

Responsibilities included management of a separate office including budget and staff needs, work assignments and responsibility and supervision for the department's regulatory programs for Southwest Idaho.

1974 to 1978

Technical Support Section Manager

Department of Water Resources, Boise, ID

Responsibilities included management of staff that provided technical support in the areas of engineering, economics, soils, geohydrology, geology, geothermal, remote sensing and computer operations. Provided technical support for completion of the original State Water Plan. After completion of the state water plan, managed the Water Allocation Section responsible for water right processing, water distribution and adjudications.

RELATED EXPERIENCE:

Assistant Professor – College of Engineering, Department of General Engineering, University of Idaho 1968-1973. Courses taught: Engineering Graphics, Slide Rule, Engineering Science (Statics & Dynamics), Introduction to Fortran Programming and Advanced Fortran Programming, Freshman Engineering Design.

David was raised on an irrigated farm and has operated and managed an irrigated orchard in the Emmett Valley since 1982. As a result, he has gained insight into water use and water users that may not be available in any other way.

Emmett Irrigation District Board Member, 1992
Licensed Professional Engineer and Land Surveyor in Idaho
Licensed Private Pilot
Proficient in a variety of personal computer applications.

PUBLICATIONS:

Shaw and Molnau. 1974. "Problem Oriented Languages – Statistics and Hydrology."
COED Transactions.
Shaw and Molnau. 1975. "Why Use Problem Oriented Languages." ASAE
Transactions.

PROFESSIONAL AFFILIATIONS:

American Society of Agricultural Engineers
U.S. Committee on Irrigation and Drainage
Idaho Society of Professional Land Surveyors

Molly O'Leary ISB No. 4996
Richardson & O'Leary PLLC
99 East State Street, Suite 200
P.O. Box 1849
Eagle, Idaho 83616
Telephone: (208) 938-7900
Fax: (208) 938-7904

RECEIVED

APR 15 2003

Department of Water Resources

Attorneys for Eagle Water Company, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF	)	EAGLE WATER COMPANY
	)	INC.'S RESPONSES TO
CITY OF EAGLE, PETITIONER	)	APPLICANT'S FIRST SET OF
	)	INTERROGATORIES,
APPLICATION FOR PERMIT NO. 63-12448	)	REQUESTS FOR ADMISSIONS,
	)	AND REQUESTS FOR
	)	PRODUCTION

The Petitioner, Eagle Water Company, Inc. ("Eagle Water"), by and through its attorneys of record, RICHARDSON & O'LEARY, PLLC, submits the following Responses to the Applicant's First Set of Interrogatories, Requests for Admissions and Requests for Production of Documents.

GENERAL OBJECTIONS AND QUALIFICATIONS

The Petitioner, Eagle Water, has not yet completed its own discovery. Therefore, the responses that follow are based upon the best knowledge, information and belief of Eagle Water at this time. Eagle Water reserves the right to provide any further responses if it appears that any omission or error has been made in connection with these answers or that more accurate information is or has become available. These answers are made

without prejudice to Eagle Water's right to use at trial such evidence that may later be discovered or evaluated. These responses are provided in accordance with the Idaho Rules of Civil Procedure irrespective of any definitions or instructions that may accompany the interrogatories, requests for admissions, and requests for production. These responses are made subject to all objections as to competence, relevance, and admissibility. These responses are subject to all objections that would require the exclusion of any statement or information provided herein. All such objections are reserved and may be interposed at the time of hearing or trial. Eagle Water specifically objects to these discovery requests to the extent they seek information protected by the attorney-client privilege, work-product protections, and the rules governing the discovery of information from experts. This objection applies to all discovery requests that may be interpreted to seek such information. Eagle Water will supplement these responses pursuant to Rule 26(e) as new or additional information becomes available. Objection is also made to the Applicant's definitions of "injury," "maintenance," "primary water right," and "supplemental water right." The responses herein shall be made in accordance with the common understanding of such terms and as such terms may be regarded by the Idaho Department of Water Resources.

I. INTERROGATORIES

INTERROGATORY NO. 1: Please identify each person who participated in responding to the City's interrogatories, requests for admissions and requests for production, and describe that person's role in doing so.

RESPONSE TO INTERROGATORY NO. 1:

Robert V. DeShazo, Jr., President
Eagle Water Company, Inc.
846 N. Eagle Road
Eagle, Idaho 83616

David B. Shaw, P.E., AgE/LS
ERO Resources Corp
1106 N. Cole Road
Boise, Idaho 83704

Molly O'Leary, attorney
99 E. State Street, Suite 200
Eagle, Idaho 83616

INTERROGATORY NO. 2: Please identify each and every person you intend to call as an expert witness in this matter and state:

- (a) The opinions the expert will or is expected to give, and his/her qualifications for rendering said opinion;
- (b) All facts, documents, data, or other information relied upon in forming his/her opinions.

RESPONSE TO INTERROGATORY NO. 2: Eagle Water objects to this interrogatory on the basis that the Applicant bears the burden of establishing that Eagle Water will not be injured by the Applicant's proposed amendment to its permit.

Without waiving the foregoing objection, Eagle Water anticipates calling Mr. David B. Shaw, P.E., AgE/LS, as an expert witness in this case. Mr. Shaw may testify regarding his analysis of the groundwater conditions in the vicinity of the proposed well and his opinion regarding the well's impact on Eagle Water's wells. Mr. Shaw's opinions and testimony may be based on the documents provided, to date, by the Applicant in response to Eagle Water's First Set of Interrogatories, Requests for Admissions, and Requests for Production to the Applicant. Mr. Shaw may also base his testimony on

other, as yet unidentified, documents and/or data. Because Applicant has failed to fully and adequately respond to Eagle Water's interrogatories requesting that the Applicant set forth specific facts, studies, analysis and data, including the substance of the opinion(s) to which its expert will testify and the specific underlying facts and data supporting such opinion(s), Eagle Water is unable to formulate a more complete response to this interrogatory. After Applicant fully responds to Eagle Water's discovery requests, Eagle Water will supplement its response to this interrogatory.

Eagle Water may identify and disclose additional expert witnesses as this case progresses and thus reserves the right to call additional experts at hearing.

INTERROGATORY NO. 3: Please identify each lay and/or fact witness you intend to call and the facts and/or opinion the witness will give and the person's qualifications for giving any opinion or factual testimony.

RESPONSE TO INTERROGATORY NO. 3: Objection is made to this interrogatory on the basis that it seeks attorney work product. Witnesses and exhibits will be disclosed pursuant to I.R.C.P. 16 and/or pretrial order.

INTERROGATORY NO. 4: Please identify every document or item you intend to introduce as evidence at the hearing on this matter and identify the source of the document, the custodian of the document, and how you came to be in possession of such document or item.

RESPONSE TO INTERROGATORY NO. 4: Objection is made to this interrogatory on the basis that it seeks attorney work product. Witnesses and exhibits will be disclosed pursuant to I.R.C.P. 16 and/or pretrial order. Without waiving this objection, Applicant may review Eagle Water's non-privileged documents by prior

appointment at 99 E. State Street, Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 5: Please identify all water right claims, licenses or permits which you contend allow the diversion and use by you of water within Sections 8 and 9 of Township 4 North, Range 1 East of the Boise Meridian.

RESPONSE TO INTERROGATORY NO. 5: Water Right Nos. 63-7368; 63-7618; 63-9245; and 63-12147.

INTERROGATORY NO. 6: For each water right claim, license or permit you identified in your response to interrogatory no. 5, please identify the water right claim, license or permit and each point of diversion associated therewith.

RESPONSE TO INTERROGATORY NO. 6: The requested information may be obtained from the notices of claim and/or partial decrees for said water rights, which information is a matter of public record. The Applicant may review Eagle Water's non-privileged documents, which include the notices of claim and partial decrees, by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 7: Please identify all pending applications for water rights in the name of the Eagle Water Company, Inc. or the Eagle Ranch Water Company, Inc.

RESPONSE TO INTERROGATORY NO. 7: Eagle Water objects to this interrogatory as ambiguous, vague, overbroad and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, Eagle Water responds that it has no pending applications for water rights.

INTERROGATORY NO. 8: Please identify each individual water right you allege would be injured by the City's proposal.

RESPONSE TO INTERROGATORY NO. 8: Eagle Water objects to this interrogatory as ambiguous and vague. Without waiving its objection, Eagle Water responds that the Applicant has the burden of proving that its proposed diversion will not injure Eagle Water's water rights. Eagle Water further responds that it is not required to prove a negative. Eagle Water's water rights are:

- 1) 63-7368
- 2) 63-7618
- 3) 63-9245
- 4) 63-11798
- 5) 63-12147, and
- 6) 63-12559

INTERROGATORY NO. 9: For each individual water right you identified in your response to interrogatory no. 8, please specifically describe the water right, including the priority date, the location of the diversion, the amount of the diversion, the amount of use, the place of use, the purpose of use, and the nature of the water right (i.e. permit, license, etc.).

RESPONSE TO INTERROGATORY NO. 9 The requested information may be obtained from the notices of claim and/or partial decrees for said water rights, which information is a matter of public record. The Applicant may review Eagle Water's non-privileged documents, which include the notices of claim and partial decrees, by prior

appointment at 99. E. State Street, Suite, 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 10: For each individual water right you identified in your response to interrogatory no. 8, please specifically describe in full and complete detail, including the opinions of any expert, how the water right is allegedly injured by the City's proposal.

RESPONSE TO INTERROGATORY NO. 10: Eagle Water objects to this interrogatory as ambiguous and vague. Without waiving its objection, Eagle Water responds that the Applicant has the burden of proving that its proposed diversion will not injure Eagle Water's water rights. Eagle Water is not required to prove a negative. Please also see response to Interrogatory No. 2.

INTERROGATORY NO. 11: For each individual water right you identified in your response to interrogatory no. 8, please specifically describe how the water right is diverted, including a detailed description of any well and power supply and/or associated diversion works.

RESPONSE TO INTERROGATORY NO. 11:

- a) 63-7368 – Is diverted by Eagle Well No. 1, using a 50 horsepower, submersible electric pump, and 8- to 12-inch main lines.
- b) 63-7618 - Is diverted by Eagle Well No. 2, using a 20 horsepower, submersible electric pump, and 8- to 12-inch main lines.
- c) 63-9245 – Is diverted by Eagle Water Well No. 3, using a 30 horsepower, submersible electric pump, and 8- to 12-inch main lines.
- d) 63-11798 - Is diverted by Eagle Water Well No. 4, using a 250 horsepower variable speed electric pump, and 8- to 12-inch main lines.

- e) 63-12147 - Is diverted by Eagle Water Well No. 6, using a 250 horsepower variable speed electric pump, and 8- to 12-inch main lines.
- f) 63-12559 - Will be diverted by Eagle Water Well No. 7, using an electric pump, and 8- to 12-inch main lines.

Additional information regarding the above points of diversion may be obtained from the notices of claim and/or partial decrees for said water rights, which information is a matter of public record. The Applicant may review Eagle Water's non-privileged documents, which include the notices of claim and partial decrees, by prior appointment at 99. E. State Street, Suite, 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 12: For each diversion of each individual water right you described in your response to interrogatory no. 8, please specifically describe the age and condition of the diversion, well and/or associated diversion works.

RESPONSE TO INTERROGATORY NO. 12:

- a) 63-7368 - Well No. 1 was drilled in June 1980. The current pump was installed July 31, 1985. The well and associated diversion works are in excellent condition.
- b) 63-7618 - Well No. 2 was drilled in January 1976. The current pump was installed November 4, 1982. The well and associated diversion works are in excellent condition.
- c) 63-9245 - Well No. 3 was drilled in August 1977. The current pump was installed January 1994. The well and associated diversion works are in excellent condition.
- d) 63-11798 - Well No. 4 was drilled in November 1992. The current pump was installed in February 1994. The well and associated diversion works are in excellent condition.
- e) 63-12147 - Well No. 6 was drilled in May 1996. The current pump was installed in January 1998. The well and associated diversion works are in excellent condition.
- f) 63-12559 - Well No. 7 has not been drilled.

INTERROGATORY NO. 13: For each individual water right identified in your response to Interrogatory No. 8, please state on what date you filed a claim for each water right in the Snake River Basin Adjudication.

RESPONSE TO INTERROGATORY NO. 13: Eagle Water objects to this interrogatory on the grounds of relevancy. Without waiving this objection, Eagle Water responds that this information may be obtained from the notices of claim and/or partial decrees for said water rights, which are a matter of public record. The Applicant may review Eagle Water's non-privileged documents, which include the notices of claim and partial decrees, by prior appointment at 99. E. State Street, Suite, 200, Eagle, Idaho, by calling Eagle Water's attorney.

INTERROGATORY NO. 14: For each individual water right you identified in your response to interrogatory no. 8, please specifically describe how the water right was used during the ten (10) year period immediately preceding the date you filed your claim to each water right in the Snake River Basin Adjudication, including:

- (a) the amount of water pumped and used;
- (b) the place of use;
- (c) the purpose of use;
- (d) the permit/license number(s) associated with the well or other means of diversion;
- (e) its location and depth;
- (f) The static water level, pumping levels, wellhead pressure for each year.

RESPONSE TO INTERROGATORY NO. 14: Eagle Water objects to this interrogatory as overly broad and burdensome. The water rights have been used as

claimed and in accordance with the respective permit for same. Without waiving this objection, Eagle Water further responds:

63-7368 – Well No. 1

(a) the amount of water pumped and used:

- 1993 – 54,077,000 Total Production Gallons
- 1994 – 86,593,000 Total Production Gallons
- 1995 – 62,660,000 Total Production Gallons
- 1996 – 76,073,000 Total Production Gallons
- 1997 – 36,565,000 Total Production Gallons
- 1998 – 50,816,000 Total Production Gallons
- 1999 – 95,881,000 Total Production Gallons
- 2000 – 75,276,00 Total Production Gallons
- 2001 – 67,658,00 Total Production Gallons
- 2002 – 78,356,000 Total Production Gallons

(e) its location and depth – Well No. 1 is located in the SW ¼ of the NW ¼ of Section 9, T 4N, R1E, Ada County; the depth is 328 feet.

(f) The pumping level is 165 feet. The static water level is currently available for the following dates only:

- June 24, 1980 – 38 feet
- March 15, 1987 (Record available from IDWR)
- May 20, 1991 (Record available from IDWR)
- February 28, 1992 – pump on, 54 feet; pump off, 39 feet
- April 14, 1992 – pump on, 55 feet; pump off, 41 feet
- August 6, 1992 – pump on, 56 feet; pump off, 43 feet

63-7618- Well No. 2

(a) the amount of water pumped and used:

- 1993 – 111,136,000 Total Production Gallons
- 1994 – 99,453,000 Total Production Gallons
- 1995 – 104,540,000 Total Production Gallons
- 1996 – 110,003,000 Total Production Gallons
- 1997 – 7,140,000 Total Production Gallons
- 1998 – 12,489,000 Total Production Gallons
- 1999 – 22,700,000 Total Production Gallons
- 2000 – 18,629,000 Total Production Gallons
- 2001 – 20,847,000 Total Production Gallons
- 2002 – 30,231,000 Total Production Gallons

- (e) its location and depth – Well No. 2 is located in Lot No. 2, Block No. 3 of the Eagle Ranch Subdivision, located in Section 9, T4N, R1E, Ada County. The depth of the well is 230 feet.
- (f) The pumping level is 125 feet. The static water level is currently available for the following dates only:
 - o January 1976 – 39 feet
 - o February 28, 1992 – pump on, 129 feet; pump off, 48 feet
 - o April 14, 1992 – pump on, 132 feet; pump off 61 feet
 - o August 4, 1992 – pump on, 146 feet; pump off, 57 feet

63-9245 – Well No. 3

- (a) the amount of water pumped and used:
 - o 1993 – 43,554,000 Total Production Gallons
 - o 1994 – 32,500 Total Production Gallons
 - o 1995 – 210,000 Total Production Gallons
 - o 1996 – 5,000 Total Production Gallons
 - o 1997 – 0 Total Production Gallons; back-up use only
 - o 1998 – 7,500 Total Production Gallons
 - o 1999 – 7,500 Total Production Gallons
 - o 2000 – 45,000 Total Production Gallons
 - o 2001 – 15,000 Total Production Gallons
 - o 2002 – 17,500 Total Production Gallons
- (e) its location and depth: Well No. 3 is located in the SE ¼ of the NE ¼ of Section 9, T4N, R1E, Ada County; its depth is 466 feet.
- (f) The pumping level is 120 feet. The static water level is available for the following dates only:
 - o August 28, 1977 – 58 feet
 - o February 28, 1992 – pump on, 72.5 feet; pump off, 67.5
 - o August 6, 1992 – pump on, 71 feet; pump off, 64 feet

63-11798 – Well No. 4

- (a) the amount of water pumped and used:
 - o 1994 – 90,973,000 Total Production Gallons
 - o 1995 – 166, 591,000 Total Production Gallons
 - o 1996 – 198,430,000 Total Production Gallons
 - o 1997 – 390,750,000 Total Production Gallons
 - o 1998 – 343,911,000 Total Production Gallons
 - o 1999 – 379,780,000 Total Production Gallons

- 2000 – 426,810,000 Total Production Gallons
- 2001 – 422,167,000 Total Production Gallons
- 2002 – 484,318,000 Total Production Gallons

(e) its location and depth: Well No. 4 is located in the NW ¼ of the NW 1/4 of Section 15, T4N, R1E, Ada County; the well depth is 385 feet.

(f) The pumping level varies from within two feet of the surface to an unknown depth depending on demand. As of November 8, 1992, the static level was recorded at 2 feet below the surface.

63-12147 – Well No. 6

(a) the amount of water pumped and used:

- 1998 – 47,422,000 Total Production Gallons
- 1999 - 84,195,000 Total Production Gallons
- 2000 – 116,497,000 Total Production Gallons
- 2001 – 142,762,000 Total Production Gallons
- 2002 – 125,295,000 Total Production Gallons

(e) its location and depth: Well No. 6 is located in the SW ¼ of the SE ¼ of Section 8, T4N, R1E, Ada County. The depth of the well is 440 feet.

(g) Well No.6 is a continuously flowing artesian well.

63-12559 – Well No. 7

(a) the amount of water pumped and used – Not drilled yet

(e) its location and depth – Not drilled yet

(f) The static water level, pumping levels, well head pressure for each of the past five years – Not drilled yet

INTERROGATORY NO. 15: For each water right you identified in your response to interrogatory no. 8, please state how long it is has been since you have diverted the water right and applied it to beneficial use.

RESPONSE TO INTERROGATORY NO. 15: The identified water rights have been in continual use since the date of inception.

INTERROGATORY NO. 16: Please describe in complete detail the basis for the Eagle Water Company's protest to the City's application.

RESPONSE TO INTERROGATORY NO. 16: Eagle Water objects to this interrogatory as ambiguous and vague. Without waiving its objection, Eagle Water responds that the Applicant has the burden of proving that its proposed diversion will not injure Eagle Water's water rights. Eagle Water further responds that it is entitled to require Applicant to meet its burden, and that Eagle Water is not required to prove a negative.

INTERROGATORY NO. 17: Please advise whether the Eagle Water Company has any water lines that run outside of your Public Utility Commission certificated area.

RESPONSE TO INTERROGATORY NO. 17: Eagle Water objects to this interrogatory as vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Eagle Water further objects on the grounds of relevancy.

INTERROGATORY NO. 18: Please identify any Eagle Water Company water lines that run outside of your Public Utility Commission certificated area in the vicinity of the point of diversion which is the subject of the City's application.

RESPONSE TO INTERROGATORY NO. 18: Eagle Water objects to this interrogatory as vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Eagle Water further objects on the grounds of relevancy.

INTERROGATORY NO. 19: Please identify any future plans, studies, letters of commitments, contracts or verbal agreements by the Eagle Water Company to provide water service outside of the areas presently certificated by the Public Utility Commission.

RESPONSE TO INTEROGATORY NO. 19: Eagle Water objects to this interrogatory as vague, ambiguous, and not reasonably calculated to lead to the discovery of admissible evidence. Eagle Water further objects on the grounds of relevancy.

INTEROGATORY NO. 20: If you deny any of the City's Requests for Admission, for each denial please describe the basis for the denial.

RESPONSE TO INTEROGATORY NO. 20: Eagle Water objects to this interrogatory as overly broad, vague, and unduly burdensome. Without waiving its objections, the explanations are set forth in the responses to the Requests for Admission.

VI. REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Please admit that the Department's approval of the City's application would not injure the Eagle Water Company's water rights.

RESPONSE TO REQUEST FOR ADMISSION NO. 1: Denied. See responses to Interrogatory Nos. 2, 8 & 10.

REQUEST FOR ADMISSION NO. 2: Please admit that the primary City of Eagle well, well no. 1, located in the Southwest ¼ of the Southwest ¼ of Section 3, Township 4 North, Range 1 East of the Boise Meridian, is, according to an IDWR published Open File Report upgradient (sic) of the points of diversion belonging to the Eagle Water Company.

RESPONSE TO REQUEST FOR ADMISSION NO. 2: Denied. "[A]n IDWR published Open File Report" is ambiguous and Eagle Water cannot determine what report is being referenced.

REQUEST FOR ADMISSION NO. 3: Please admit that the City's application for an additional point of diversion, downgradient (sic) from the point of diversion for the City's well no. 1, shall distribute withdrawal impacts and thereby improve static water levels in the Eagle Water Company wells.

RESPONSE TO REQUEST FOR ADMISSION NO. 3 Eagle Water is without sufficient information at this time to admit or deny this Request for Admission and thus denies the same.

REQUEST FOR ADMISSION NO. 4: Please admit that on a public water system basis, multiple points of diversion provide a more reliable and stable water system less susceptible to catastrophic failure than a single well system.

RESPONSE TO REQUEST FOR ADMISSION NO. 4: Eagle Water objects to this Request for Admission as vague and ambiguous and thus denies the same.

REQUEST FOR ADMISSION NO. 5: Please admit that on a public water system basis, multiple points of diversion provide a broader safety net for the public in the event of vandalism or contamination of a single source point.

RESPONSE TO REQUEST FOR ADMISSION NO. 5: Eagle Water objects to this Request for Admission as vague and ambiguous and thus denies the same.

REQUEST FOR ADMISSION NO. 6: Please admit that the City is not by its proposal seeking to increase the volume of withdrawal or flow rate permitted under the City's existing water rights.

RESPONSE TO REQUEST FOR ADMISSION NO. 6 : The City of Eagle's Application speaks for itself.

REQUEST FOR ADMISSION NO. 7: Please admit that the Eagle Water Company has not had to modify its pump and motor assemblies due to declining water levels within a one mile radius of the point of diversion the City is seeking to add through its application.

RESPONSE TO REQUEST FOR ADMISSION NO. 7: Admit.

REQUEST FOR ADMISSION NO. 8: Please admit that the Eagle Water Company has multiple points of diversions for its water rights.

RESPONSE TO REQUEST FOR ADMISSION NO. 8: Admit.

REQUEST FOR ADMISSION NO. 9: Please admit that the Eagle Water Company is authorized to divert water right no. 63-9245 from two different points of diversion.

RESPONSE TO REQUEST FOR ADMISSION NO. 9:

Admit.

REQUEST FOR ADMISSION NO. 10: Please admit that the addition of the City's proposed point of diversion will not result in any change to water quality in the Eagle Water Company's water system.

RESPONSE TO REQUEST FOR ADMISSION NO. 10: Eagle Water is without sufficient information at this time to admit or deny this Request for Admission, and thus denies the same.

VII. REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please produce a curriculum vitae for each expert you intend to call as a witness.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1: Please see attached *Curriculum Vitae* for David B. Shaw. As noted in response to Interrogatory No. 2, Eagle Water may identify and disclose additional expert witnesses as this case progresses and thus reserves the right to call additional experts at hearing. In such event, Eagle Water will supplement this response as appropriate.

REQUEST FOR PRODUCTION NO. 2: Please produce each and every document or item you intend to introduce as evidence at the hearing on this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Please see response to Interrogatory No. 4.

REQUEST FOR PRODUCTION NO. 3: Please produce all pumping records for each well identified in your response to interrogatory no. 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3: Eagle Water objects to this request as overly broad, vague, ambiguous, burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, Eagle Water responds that it did not identify any wells in response to Interrogatory No. 11.

REQUEST FOR PRODUCTION NO. 4: Please produce all maintenance reports and maintenance bills for each well and diversion you identified in your response to interrogatory no. 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4: Eagle Water objects to this request as overly broad, vague, ambiguous, burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, Eagle Water responds that it did not identify any wells in response to Interrogatory No. 11.

REQUEST FOR PRODUCTION NO. 5: Please produce all power supply bills for the wells you identified in your response to interrogatory no. 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5: Eagle Water objects to this request as overly broad, vague, ambiguous, burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, Eagle Water responds that it did not identify any wells in response to Interrogatory No. 11.

REQUEST FOR PRODUCTION NO. 6: Please produce copies of all reports, memoranda, analyses or other correspondence related to the City's application prepared by the Eagle Water Company, Robert DeShazo, or in cooperation

RESPONSE TO REQUEST FOR PRODUCTION NO. 6: Eagle Water objects to this request on the grounds that it seeks attorney work product and confidential attorney-client communications. Eagle Water further objects to this request as vague, ambiguous and overly broad. Without waiving said objections, the Applicant may review Eagle Water's non-privileged documents by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

REQUEST FOR PRODUCTION NO. 7: Please produce all documents that form the basis for your responses to interrogatory nos. 4 - 20.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7: Eagle Water objects to this request on the grounds that it seeks attorney work product and confidential attorney-client communications. Eagle Water further objects to this request as vague, ambiguous and overly broad. Without waiving said objections, the Applicant may review Eagle Water's non-privileged documents by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

REQUEST FOR PRODUCTION NO. 8: Please produce any documents relied upon by your experts for any opinion rendered by him/her related to the Eagle Water Company's protest of the City's application.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8: Please see response to Interrogatory No. 2.

REQUEST FOR PRODUCTION NO. 9: Please produce any report, test result, or other document or information that you contend supports the Eagle Water Company's protest to the City's proposal.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9: Eagle Water objects to this request on the grounds that it seeks attorney work product and confidential attorney-client communications. Eagle Water further objects to this request as vague, ambiguous and overly broad. Without waiving its objection, Eagle Water responds that the Applicant has the burden of proving that its proposed diversion will not injure Eagle Water's water rights. Eagle Water further responds that it is entitled to require Applicant to meet its burden, and that Eagle Water is not required to prove a negative. Without waiving said objections, the Applicant may review Eagle Water's non-privileged

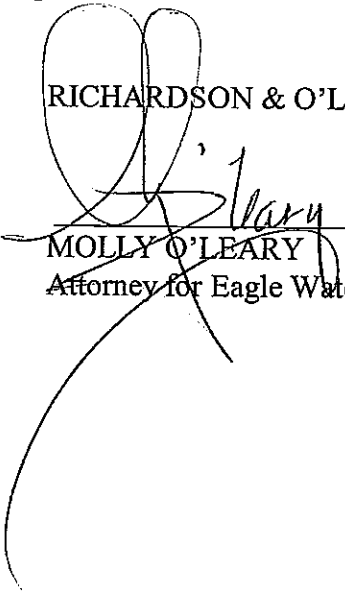
documents by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

REQUEST FOR PRODUCTION NO. 10: If you denied any of the City's requests for admission, please produce all the evidence for each individual denial that you contend supports your denial.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10: Eagle Water objects to this request on the grounds that it seeks attorney work product and confidential attorney-client communications. Eagle Water further objects to this request as vague, ambiguous and overly broad. Without waiving said objections, the Applicant may review Eagle Water's non-privileged documents by prior appointment at 99. E. State Street. Suite 200, Eagle, Idaho, by calling Eagle Water's attorney.

DATED this 14th day of April, 2003.

RICHARDSON & O'LEARY, PLLC


MOLLY O'LEARY
Attorney for Eagle Water Company, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of April, 2003 I caused to be served a true and correct copy of the foregoing EAGLE WATER COMPANY, INC.'S RESPONSES TO THE APPLICANT'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR ADMISSIONS AND PRODUCTION TO EAGLE WATER via U.S. Mail Postage pre-paid, and addressed to the following:

IDWR
Western Region
2735 Airport Way
Boise, Idaho 83705

Matt Howard
2402 W. Jefferson
Boise, Idaho 83702

Bruce Smith, Esq.
Moore, Smith, Buxton & Turcke
225 N. 9th Street, Suite 240
Boise, Idaho 83702

Weldon Fisher
546 E. Beacon Light Rd.
Eagle, Idaho 83616

Jim Burton
1896 N. Eagle Rd.
Eagle, Idaho 83616

Glen Saxton
IDWR State Office
1301 N. Orchard Street
Boise, ID 83706

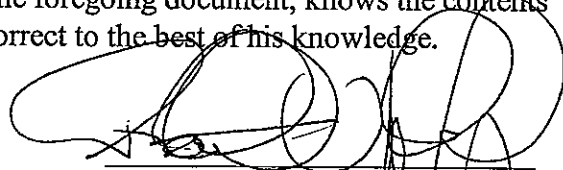


Nina M. Curtis

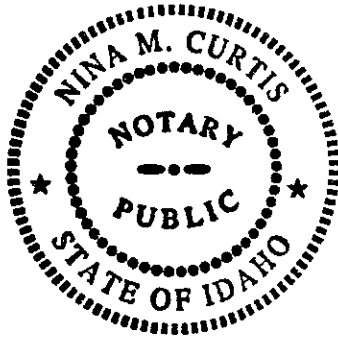
VERIFICATION

State of Idaho)
)
County of Ada)

Robert V. DeShazo, Jr., President, Eagle Water Company, being first duly sworn upon oath, depose and say that he has read the foregoing document, knows the contents thereof, and states the same to be true and correct to the best of his knowledge.


Robert V. DeShazo, President
Eagle Water Company

SUBSCRIBED AND SWORN to before me this 14th day of April, 2003.




Notary Public for Idaho
Residing at Boise, ID
My Commission Expires 3/09

RESPONSE TO REQUEST FOR PRODUCTION No. 1

David B. Shaw

SUMMARY:

David Shaw is an engineer and principal in the firm of ERO Resources Corp, a Denver based natural resources consulting firm. David manages the Boise ERO Resources Corp. office. His experience in water resources and management dates from 1974. He specializes in the identification, analysis, and resolution of water issues including coordination with other professionals in multi-disciplinary projects.

AREAS OF EXPERTISE:

Surface and ground water supply and use studies, water rights evaluations, project management, alternative dispute resolution, litigation support and expert witness testimony, and technical input on legislative and administrative matters.

EDUCATION: B.S., Agricultural Engineering
University of Idaho, 1966

M.S., Agricultural Engineering
University of Idaho, 1972

EXPERIENCE:

1996 to present

**Engineer, Project Manager
ERO Resources Corporation, Boise, ID**

- Provide technical expertise and coordination to the State and water users for the resolution, through mediation or litigation, of federal law based water right claims filed by the United States and certain Indian tribes in the Snake River Basin Adjudication of water rights.
- Develop and implement water quality monitoring programs for various water user organizations.
- Assist a variety of water users with technical expertise to resolve issues and conflicts relative to their continued use of water. Activities have included collection of field data, including stream flow measurements and gaging, evaluation of existing data, and data analysis to facilitate agreements or to offer expert opinion.

1985 to 1996 **Water Rights Adjudication Bureau Chief**

Department of Water Resources, Boise, ID

- Responsibilities included the design, implementation and management of the Snake River Basin Adjudication (SRBA) program involving the processing of 170,000 claims to water rights; staff selection and training, budget preparations, implementation and monitoring for main office and four regional offices; established rules and regulations pertaining to the

SRBA; educational presentations for professionals, public and the media.

- Served as co-chair of the state, Indian, federal and private technical advisory committee for the Shoshone-Bannock reserved water right determination that resulted in the 1990 Fort Hall Indian Water Right Agreement.
- Lead responsibility for preparation of the first water distribution rules developed and adopted in Idaho. Participated and testified before Legislature in two rewrites of Idaho's adjudication statutes.
- Designated as an expert witness in water right adjudications by the SRBA court.

1978 to 1985 Western Region Manager

Department of Water Resources, Boise, ID

Responsibilities included management of a separate office including budget and staff needs, work assignments and responsibility and supervision for the department's regulatory programs for Southwest Idaho.

1974 to 1978

Technical Support Section Manager

Department of Water Resources, Boise, ID

Responsibilities included management of staff that provided technical support in the areas of engineering, economics, soils, geohydrology, geology, geothermal, remote sensing and computer operations. Provided technical support for completion of the original State Water Plan. After completion of the state water plan, managed the Water Allocation Section responsible for water right processing, water distribution and adjudications.

RELATED EXPERIENCE:

Assistant Professor – College of Engineering, Department of General Engineering, University of Idaho 1968-1973. Courses taught: Engineering Graphics, Slide Rule, Engineering Science (Statics & Dynamics), Introduction to Fortran Programming and Advanced Fortran Programming, Freshman Engineering Design.

David was raised on an irrigated farm and has operated and managed an irrigated orchard in the Emmett Valley since 1982. As a result, he has gained insight into water use and water users that may not be available in any other way.

Emmett Irrigation District Board Member, 1992
Licensed Professional Engineer and Land Surveyor in Idaho
Licensed Private Pilot
Proficient in a variety of personal computer applications.

PUBLICATIONS:

Shaw and Molnau. 1974. "Problem Oriented Languages – Statistics and Hydrology."
COED Transactions.

Shaw and Molnau. 1975. "Why Use Problem Oriented Languages." ASAE
Transactions.

PROFESSIONAL AFFILIATIONS:

American Society of Agricultural Engineers
U.S. Committee on Irrigation and Drainage
Idaho Society of Professional Land Surveyors