

IDWR COVER PAGE

APPLICATION 63-32573, M3 EAGLE LLC

INDEX: SCANNED APPLICATION DOCUMENTS

Steve Lester, IDWR Western Region



April 22, 2008

The application consists of the standard application form with numerous attachments and exhibits. The application was scanned and labeled in portions for easier electronic access to the information as follows:

- Application Form & Attachment A, Narrative
- Application Exhibits 1-3, Maps of Project
- Application Exhibit 4, Hydrogeologic Progress Report
- Application Exhibit 5, Data Tables & Graphics
- Application Exhibit 6, Maps of Regional Wells
- Application Exhibit 7-9, Ownership & Financial Information
- Application Exhibit 10, Hydro Logic Inc. Presentations
- Application Attachments B-C, Existing & Proposed M3 Wells
- Application Attachment D, Existing M3 Water Rights

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APR 22 2008

FORM 202
12/99

WATER RESOURCES
WESTERN REGION

Ident. No. 63-32573

SECOND AMENDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant M3 Eagle, LLC Phone 208-939-6263
533 E. Riverside Drive Suite 110
Eagle, ID 83616

Mailing address

2. Source of water supply Ground water which is a tributary of n/a

Points of Diversion Tshp/Rng Sections in the See
Attachment B for

3. Attachment B describes the locations of 12 existing and 15 potential new wells as points of diversion being sought under this application. T5N R1W §§ 15, 21-24, 27, 28, and 33 (new); and §§ 13, 23, 24, 28 and 33 (existing) quarter-quarter information

T5N R1E § 19 (existing)

1/4, 1/4, Govt. Lot _____, B.M., Ada County;

Additional points of diversion, all as alternate points of diversion for each other: Up to fifteen new wells (plus 12 ground water existing points of diversion) to be located within the Planned Community described in section 8(c), below.

4. Water will be used for the following purposes:
Amount 23.18 cfs for municipal purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
2.93 cfs Maximum diversion to storage; 1/1 to 12/31; municipal purposes
1,660 af Maximum diversion from storage; 1/1 to 12/31; municipal purposes
1,836 acre-feet Total storage volume (approx. 100 surface acres of ponds); municipal purposes

5. Total quantity to be appropriated is (a) 23.18 cfs and/or (b) 1,836 acre-feet storage
cubic feet per second acre feet per annum

6. Proposed diverting works:
a. Describe type and size of devices used to divert water from the source Up to 15 new and 12 existing wells diverting from aquifers beneath the project site.

b. Height of storage dam n/a (excavated ponds) feet; active storage pond capacity 1,828 (pond) + 8.04 (potable) acre-feet;

total reservoir capacity 1,828 (pond) + 8.04 (potable) acre-feet

c. Proposed well diameter is 10-18 inches inches; proposed depth of well is from 200-800 feet

See Attachment A for a description of the proposed wells.

d. Is ground water with a temperature of 85°F being sought? No

e. If well is already drilled, when? Twelve existing wells as described in Attachment C. Drilling firm _____

Well was drilled for (well owner) _____ Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 3 years (minimum / 0 year)
Applicant seeks a planning horizon of thirty years pursuant to I.C. §§ 42-202B(7)-(9), 42-202(2), and 42-223(2).

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in kW. n/a
- b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

The place of use is a proposed municipal service area currently consisting of an approximately 6,000-acre M3 Planned Community (the "Property") proposed by Applicant on Applicant's lands north of Eagle, Idaho. At build-out, the project is planned to contain 7,153 dwelling units, plus parks, open space, commercial and government uses, schools, golf courses, playing fields, community gardens and vineyards, and related uses. See Attachment A for more details. The entire Property is proposed as the service area under the municipal right. The Applicant anticipates that the Property will be annexed by the City of Eagle.

d. Domestic; show number of households. _____

e. Other; describe fully. _____

9. Description of place of use: **See Attachment A.**

If water is for irrigation, indicate acreage in each subdivision in the tabulation below. **Irrigation is one of the uses within the overall municipal use, and is described in Attachment A.**

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use

Below. See instructions for standard symbols. **The water in this municipal application will be used for several purposes other than irrigation, as described in Attachment A.**

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
			See Attachment A																	

Total number of acres irrigated _____

10. Describe any other water rights used for the same purposes described above. _____

Applicant owns the water rights described in Attachment D.

11. a. Who owns the property at the point of diversion? Applicant (and future residents of the planned community)
- b. Who owns the land to be irrigated or place of use? Applicant (and future residents of the planned community)
- c. If the property is owned by a person other than the applicant, please describe the arrangement enabling the applicant to make this filing _____

The water-bearing zone expected to be developed by the wells described above is the aquifer known as the Pierce Gulch Sand Aquifer at depths ranging from approximately 200 feet to 650 feet bgl. Because this aquifer dips to the west and southwest, well depths can vary significantly across the Property and still be within the same hydrostratographic unit.

12. Remarks: Attachment A and its exhibits provide additional detail concerning this application.

13. **MAP OF PROPOSED PROJECT REQUIRED** – Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

Maps are included as exhibits to Attachment A.

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

William I. Brownlee
 Signature of Applicant (and title, if applicable)
 William I. Brownlee

Received by DB Date 4-22-08 Time 1:30 Preliminary check by SL
 Fee \$ 1090 Received by FL for DN # W034901 # _____ Date 11/21/06
 Publication prepared by DB Date 4/24/2008 Published in **STATEWIDE AD
 Publication approved _____ Date ↑ MAY 1 & 8, 2008

** per original application*

**** PUBLISHED IN IDAHO STATESMAN,
 POST REGISTER, LEWISTON TRIBUNE
 AND TIMES NEWS**

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APR 22 2008

WATER RESOURCES
WESTERN REGION

ATTACHMENT A
to
Second Amended M3 Water Right Application

Overview

April 22, 2008

By this Amended Application,¹ M3 Eagle LLC (“M3 Eagle” or the “Applicant”) seeks a permit for a municipal water right for an annual total of 6,535 acre-feet of diversions from ground water. The requested water right will serve the year-round needs of an approximately 6,000-acre planned community in the foothills of north Ada County, Idaho (the “Planned Community” or the “Project”). In addition to the proposed ground water supply, and to promote maximum use and conservation of water within the Planned Community, M3 Eagle will recapture and reuse for irrigation, tertiary-treated sewage effluent (“Reuse Water”) by means of a sequencing batch reactor or membrane bioreactor (or similar) wastewater treatment plant and separate water distribution systems. All Reuse Water generated by the Project will be treated and reused within the Project.

. At full Project build-out, the overall yearly consumptive use of groundwater is projected to be 5,381 acre feet, of which approximately 1,552 acre feet will be Reuse Water and 3,829 acre feet will be consumptively used from direct ground water diversions. The total annual ground water diversion volume will be 6,535 acre-feet. The average daily rate of diversion from ground water is expected to be 11.66 cubic feet per second (“cfs”) during the 244-day irrigation season and 4.05 cfs during the 121-day non-irrigation season. Averaged over a 365-day period, the annual average daily diversion rate is calculated at 9.03 cfs. The maximum daily (i.e., the “peak day”) rate of diversion from ground water is expected to be approximately 23.18 cfs, or about 10,403 gallons per minute (“gpm”). This peak day diversion rate will accommodate variations in culinary and sanitary uses and, during the warmer months, irrigation of lawns, common areas, parks, community gardens, and golf courses. At full Project build-out, Reuse Water will be used to the extent it is available to supply irrigation for common areas including community gardens, parks, ballfields and playgrounds, and golf courses. Reuse Water also will provide for a portion of aesthetic, wildlife, and recreational use demands. Reuse Water is not projected for use on residential lawns or landscaping.

This ground water right is sought for “municipal” purposes to provide for all water use in the Planned Community including the following major uses:

1. **Housing (i.e., “indoors” domestic/culinary)** water service for approximately 7,153 residential units (a combination of single-family and multi-family units).
2. **Commercial** water service for some 1.2 million square feet of retail, commercial, light industrial, government, and service establishments within approximately 245 acres of commercial development area.

¹ This Second Amended Application amends the application M3 Eagle filed on November 21, 2006, which was then amended on August 27, 2007. Most fundamentally, this amendment reduces the proposed size of the M3 Eagle development and, thus, the amount of ground water sought.

3. **Irrigation** for approximately 1,252 acres, including: residential and commercial lawns, xeriscape and landscaping; public areas including common area turf, xeriscape, and other landscaping; open space, common areas, parks, community gardens; and recreation fields; and two 18-hole golf courses, each having about 120 acres of irrigated turf (including practice facilities) and landscaping. As Project build-out progresses, the entire volume of Reuse Water available will be used to the greatest extent possible to irrigate public common areas, recreation fields, and golf courses. Reuse Water will be used both directly as it is produced and as diversions from storage. In addition to the 1,252 acres described above, 197 acres will be irrigated under Farmers' Union Ditch Company shares.
4. Water supplies for **aesthetic, wildlife, irrigation peaking storage and recreational** uses in approximately 100 surface acres of ponds, streams, and similar water amenities associated with these features. As Project build-out progresses, Reuse Water will also be used to fulfill these water demands.
5. **Municipal diversions to storage and diversions from storage** for the above uses, including approximately half of the ponds and water features noted above, and 2.62 million gallons of enclosed active storage for potable water peak demands and fire protection throughout the Planned Community. All storage involves multiple refills annually to efficiently serve these needs. As Project build-out progresses, Reuse Water will be used to fulfill some of the non-potable storage water demands.

Specifics

Multiple wells as mutual alternate points of diversion. In addition to twelve existing wells on the Property, M3 Eagle proposes to construct up to fifteen additional wells to be operated as alternate points of diversion for the water right in the Planned Community's water supply system. It is expected that fewer wells ultimately will be necessary, but that determination will depend on further hydrogeologic testing as the water supply is developed. Other than the existing twelve Project water wells, the precise locations of the points-of-diversion (i.e., wells) will be identified as the Project develops and as local monitoring and hydraulic testing of each well serves to guide optimum spacing of the well field. The Amended Application form lists the points of diversion for the 27 wells—twelve existing and up to fifteen new. These also are described in Attachment B.

A map of the M3 Eagle Project area with respect to the City of Eagle Area of Impact is attached as Exhibit 1.

A 1:62,500 USGS Topographic Series base map locating the Project with regard to township, range, and section is attached as Exhibit 2.

A map displaying the anticipated Project features is attached as Exhibit 3.

Aquifer characteristics. Under the supervision of hydrogeologist Ed Squires of Hydro Logic, Inc. (“Hydro Logic”), M3 Eagle is evaluating ground water availability and development potential beneath the Project through a number of regional scale hydrogeologic, geophysical, and geological investigations. M3 Eagle’s water resources plan includes: 1) aquifer characterization, 2) hydraulic testing, 3) geochemical modeling, 4) numerical modeling, and 5) ground water monitoring. M3 Eagle has enlisted Boise State University’s Geosciences Department and the University of Idaho’s Department of Geological Sciences to conduct geophysical investigations and numerical simulations, and to provide peer review of all of Hydro Logic’s completed reports. In addition, M3 Eagle has sponsored a Masters of Science thesis through the University of Idaho to construct an independent ground water model as an additional means to evaluate the effects of M3 Eagle’s ground water development.

Hydro Logic began the ground water studies in March 2006. Attached to this Amended Application as Exhibit 4 is Hydro Logic’s May 4, 2007 *M3 Eagle Regional Hydrogeologic Characterization North Ada, Canyon and Gem Counties, Idaho: Year-One Progress Report* (“Year 1 Progress Report”). M3 Eagle already has made copies of this available to interested parties and to the Idaho Department of Water Resources (“IDWR”). Future M3 Eagle-sponsored research by Hydro Logic, including reports on structural geology, geochemical ground water modeling, water budget, and numerical ground water modeling, will be made available to the IDWR as these studies are completed. It is anticipated that some of these reports will be available in time to support IDWR’s processing of this application.

Further studies, including aquifer tests, are planned. As a part of this work, Hydro Logic has evaluated the results of other ground water investigations in the area. Hydro Logic is also developing a prospectus for a proposed long-term multiple-well aquifer test using existing wells on the Project property and adjacent domestic wells as observation wells and a proposed new production/test well as a pumping well. This prospectus will be submitted to IDWR. M3 Eagle anticipates that IDWR and nearby well owners/water users will participate in the testing.

Reuse Water. M3 Eagle is collaborating with licensed professional engineers to develop a system to recapture and reuse wastewater accumulated by the Project. M3 Eagle will construct one or more wastewater treatment plants that will treat sewage effluent to Class A standards (i.e., potable), and lined ponds to hold the treated water until it is reused. All of this Reuse Water will be used within the Project for irrigating common areas, golf courses, parks, community gardens and similar areas, aesthetic storage, and/or (subject to future IDWR approval) aquifer recharge or aquifer storage and recovery. As Reuse Water becomes available, it will be provided for these purposes using water lines and facilities that are separate from the Project’s potable water supply systems.

M3 Eagle’s existing surface and ground water rights. M3 Eagle holds 17.27 shares, and anticipates obtaining 0.66 additional shares, of stock in Farmers’ Union Ditch Co., Ltd. (the “Ditch Company”), a mutual irrigation company diverting water from the Boise River. These shares entitle M3 Eagle to delivery, as available, of 3.94 cfs of flows during the irrigation season for irrigation of approximately 197 acres in the southwest corner of the Project lands. These shares also entitle M3 Eagle to receive storage water under the Ditch Company’s contracts with the U.S. Bureau of Reclamation. M3 Eagle intends to continue using the irrigation water to

which it is entitled under these shares on 197 acres of Project land to which they are appurtenant. M3 Eagle anticipates that the lands to be served by the Ditch Company water will be primarily equestrian and common areas, as well as parks and ballfields. Descriptions of the Ditch Company water rights are included in Attachment D.

M3 Eagle also holds various ground water rights, the most substantial being no. 63-10669, for 2.22 cfs to irrigate 111 acres in the southwest portion of the Project. This water right appears to be supplemental to the Ditch Company water supply described above.

Integrated water supply system. M3 Eagle plans to include all of its wells, water supply infrastructure, and water rights (with the exception of the Ditch Company and Reuse Water) in an integrated water supply system that it will operate (or establish a separate entity to operate) to supply the municipal uses, including residential irrigation. The Project's overall water system will also include a non-potable component for non-residential irrigation and storage uses of Reuse Water, surface water, and ground water. M3 Eagle intends, at some time in the future, to convey its water rights and water system to the City of Eagle if the City annexes the Project and is willing and able to serve the Planned Community. If the City of Eagle does not annex the Project, or is unwilling or unable to provide service, M3 Eagle will operate the water system itself or will form or contract with another appropriate public water provider, such as a private utility, to operate and/or own it.

Water conservation measures. M3 Eagle will implement water conservation programs and integrate them into the Project's design. These programs may include measures such as mandating xeric landscaping and minimal lawn sizes. Although this Amended Application does not assume that alternate day or similar watering restrictions will be imposed, M3 Eagle believes such techniques should be imposed provided there is community support for them. All water diversions in the Planned Community will be metered. M3 Eagle will encourage or impose water fee structures that increase charges with increasing water use from all water sources.

Elements of M3 Eagle's water conservation programs currently under consideration include the following:

1. Require metering of all water sources and service connections, including all residential use and other irrigation from ground water, and charge users at rates that are comparable to municipal water rates in the Treasure Valley.
2. Provide a separate system of water supply pipes and pumps for Reuse Water and Ditch Company water for irrigation use. To the extent it is available, all Reuse Water generated by the Project will be used to irrigate equestrian and common areas and golf courses; no Reuse Water will leave the Planned Community.
3. Seek to limit turf in residential yards, multi-family projects, commercial projects and common areas to 50% of the landscapable area. The remainder would be non-irrigated or drip-irrigated landscaping.
4. Limit the size of swimming pools.
5. Require mulch in non-turf areas to reduce evaporation.
6. Require drip irrigation for all non-turf areas.

7. Require automatic sprinkler systems and solid state irrigation controllers with multiple start/stop times and zone capabilities for all irrigations systems.
8. Sponsor soil moisture monitoring program to assess irrigation needs.
9. Regulate watering days and times based on time of year.
10. Require “water smart” homes and buildings that use water efficient fixtures and appliances.
11. Implement water budgets for established golf courses.
12. Use native and drought tolerant plant materials that are acclimated to the area.
13. Set water rates that provide incentives to use less.

Availability of surface water supplies. Because only a relatively small amount of M3 Eagle’s property has appurtenant surface water under Ditch Company shares, and because additional surface water supplies may not reasonably be made available to the Project lands, M3 Eagle is not subject, except on these limited acres, to certain ordinances or statutes purporting to require developers to install a separate non-potable water supply system for irrigation of lawns and landscaping. As noted above, however, M3 Eagle intends to give the same attention and controls to surface water use as it does ground water use so as to promote conservation and limit overwatering and waste of surface water supplies. M3 Eagle’s aim is to promote water conservation from all sources, and for all uses.

Municipal purposes, planning horizon, future needs. This Amended Application seeks to use water for municipal purposes as defined by I.C. § 42-202B(6), which includes “water for residential, commercial, industrial, irrigation of parks and open space, and related purposes” The system serving the entire Planned Community will be a “public water supply” as defined in I.C. § 39-103(12). Accordingly, M3 Eagle (or any lessee/assignee) will be a “municipal provider,” which is:

[a] corporation or association which supplies water for municipal purposes through a water system regulated by the state of Idaho as a “public water supply” as described in section 39-103(12), Idaho Code.

I.C. § 42-202B(5)(c).² Because this is a unified Planned Community project, and all proposed uses are within the definition in section 42-202B(6), all proposed uses of ground water, and the Reuse Water, under this Amended Application will occur under the same municipal water right. In the future, M3 Eagle may seek to transfer its existing ground water rights to municipal uses as well.

The M3 Eagle potable water (i.e., ground water) system is planned to be fully integrated, with production from each well available for delivery to any part of the Project. It is anticipated that all ground water deliveries will be minimally treated (i.e., disinfection only). Approved backflow prevention devices will be installed and a cross-connection control program will be implemented in all sprinkler systems using potable water and in portions of the Project where

² If M3 Eagle’s water rights and water supply system are ultimately conveyed to the City of Eagle or some other public water provider, the successor would presumably fall within one of I.C. § 42-202B(5)’s other definitions of “municipal provider.”

Ditch Company water or Reuse Water will be used for irrigation. To the extent potable water will be needed for public area irrigation, it will be supplied and metered into the irrigation system upstream of the treatment site.

Generally described place of use and service area. This Amended Application proposes an initial place of use and service area generally described as the approximately 6,010 acre private parcel comprising the Planned Community site. See Exhibits 1 and 2. Such a general description is authorized by Idaho law, which states that a municipal provider's

service area need not be described by legal description nor by description of every intended use in detail, but the area must be described with sufficient information to identify the general location where the water under the water right is to be used and the types and quantities of uses that generally will be made.

I.C. § 42-202(2). In addition, while this application makes every attempt to describe the types and amounts of water uses that will be involved, it does not describe every intended or potential use in detail.

Project planning horizon and reasonably anticipated future needs. The water right sought here is intended to cover the full complement of water that is reasonably anticipated to be needed by the Project at full build-out (in 30 years). The water code provides:

[a] water right held by a municipal provider to meet reasonably anticipated future needs shall be deemed to constitute a beneficial use, and such rights shall not be lost or forfeited for nonuse unless the planning horizon specified in the license has expired and the quantity of water authorized for use under the license is no longer needed to meet reasonably anticipated future needs.

I.C. § 42-223(2). Full build-out of the Project is anticipated to take twenty years from the date the water permit is granted. However, because the exact date of full build-out can depend on a variety of factors, this Amended Application seeks a planning horizon of thirty years, which is well within a reasonable planning horizon for a municipal water right.

Exhibit 5, attached hereto, describes the water supply system and amount of water needed for all anticipated uses. Exhibit 5.1 contains a flow chart depicting the water supply system. Exhibits 5.2 and 5.3 graphically depict estimated water demand cumulatively for the project and by individual phase. Note that the project water demand is met by a combination of sources including existing surface water rights, the requested diversion from groundwater per this water rights application and reuse of this diverted groundwater. As a result, the demands shown in these exhibits are greater than the diversions applied for in this application which reflects the reduction accomplished with the use of surface water rights and more importantly the use of treated effluent or reuse water for non-potable irrigation in place of additional groundwater diversion. The charts in Exhibits 5.4 and 5.5 show annual ground water diversion and consumptive use estimates for the various uses within the Project, and Exhibit 5.6 shows the

estimated maximum daily ground water diversions during the irrigation season (i.e., the peak day). Finally, Exhibit 5.7 contains a spreadsheet showing the calculations used to supply the estimated water supply and use figures used in this Amended Application, including monthly demand estimates and a reasonable estimation of the Reuse Water the Project will generate.

Specific water use descriptions.

Domestic and commercial use (indoor). In this Amended Application, domestic and commercial use refers to all water uses within or immediately associated with single-family homes, condominiums, apartments, townhouses, and other multi-family dwellings, schools, hotels and service facilities (such as fire and police), as well as all water uses in all commercial establishments and Planned Community management facilities. All housing is presumed to demand approximately 274 gallons per day per dwelling unit, a standard figure in the industry that is comparable to known water demand in the area. Uses for various commercial purposes are also based on standard figures in the industry. Daily peak hour usage has been calculated as 292% of the daily average rates and maximum daily use is estimated at 150% of the average daily rates, both in accordance with standard reference data. This Second Amended Application seeks a permit for annual indoor potable water diversions of 2,932 acre-feet with corresponding total annual indoor consumptive use expected to be 848 acre-feet. All of this potable water will be diverted from ground water.

Irrigation of residential and commercial lawns and landscaping (exterior use) (through the potable system). Irrigation of residential and commercial lawns and landscaping, including those associated with multi-family dwellings, will involve approximately 487 acres. This irrigation water demand is estimated at 1,936 acre-feet with total annual consumptive use projected to be 1,627 acre-feet. Neither Ditch Company nor Reuse Water is being considered for residential or commercial irrigation.

Irrigation of public areas including common areas, community gardens, golf courses and ballfields, and storage for irrigation, aesthetics, wildlife, and recreational uses through non-potable delivery systems. The Project will have approximately 765 acres of irrigated common area, including landscaped areas, community gardens, plant nurseries, ballfields, playgrounds, and golf courses. The irrigation water demand for the 765 acres of common area irrigation is approximately 3,079 acre-feet per year, 1,660 acre-feet of which will be supplied from Reuse Water. In addition, the Project will have approximately 100 surface acres of ponds which will store 1,828 acre-feet of water while also providing aesthetic, wildlife, and recreational uses. This storage water demand will be fulfilled using Reuse Water as it becomes available and as ponds are constructed throughout the phasing of the Project, and will include diversions from wells as necessary.

The overall diversion volume for irrigation—whether golf course, residential, common area, or parks—will never exceed and is projected to be substantially less than the annual volume that would be diverted if all uses met the statutory diversion rate of 0.02 cfs/acre. To the extent that existing Ditch Company shares become available for use within the Project, and to the extent that

more Reuse Water than estimated becomes available, the corresponding amounts of municipal ground water needed under this application at full build-out will be reduced.

Water storage in ponds, and diversions from storage for irrigation, aesthetics, wildlife, and recreation. Of the approximately 1,828 acre-feet of water to be stored in ponds, approximately 1,000 acre-feet are aesthetic ponds with the remainder 828 acre-feet expected to be active storage comprised of 225 acre-feet of operational storage and 603 acre-feet of effluent storage available for daily release for irrigation and repeated refill. In addition, the ponds will provide for aesthetic, wildlife, fire protection, and recreational uses. The precise pond phasing and locations have not yet been established, but they are expected to be excavated structures entirely within the Planned Community and will comply with IDWR dam safety requirements if applicable.

Storage and diversions from storage for residential and commercial uses and for fire protection. In addition to the open reservoirs described above, the project will incorporate approximately 3.14 million gallons of enclosed, drinking-water-quality storage into its potable domestic and commercial water supply system. Approximately 2.62 million gallons is expected to be active storage that will supplement supply from wells for peak hour domestic uses and irrigation and provide the storage necessary for fire protection flows. The total potable storage quantity of 3.14 million gallons includes approximately 0.52 million gallons of inactive storage, representing an additional approximate twenty percent of the 2.62 million gallons of active storage. The locations of the storage tanks for these purposes have yet to be established, but will be within the Project area. It is possible that one or more of these tanks will be owned and operated jointly with the City of Eagle (if the City takes over water supply responsibilities for the Planned Community), in which case the locations could be jointly determined with the City.

Ground water monitoring. M3 Eagle will monitor and report aquifer pressures, ground water levels in wells, production well flow rates, and total volume produced in each well it constructs pursuant to this application. The monitoring program will be described in a report to be prepared and updated by Hydro Logic.

Compliance with Water Appropriation Rule 40.05. The Applicant's responses to the Additional Information Requirements of Rule 40.05 (IDAPA 37.03.08.40.05) are as follows:

Rule 40.05(c)(ii) (plat showing springs and wells within 1/2 mile of proposed wells): The plat, which actually shows many more wells than those within 1/2 mile, is attached as Exhibit 6.1. Exhibit 6.2 illustrates well density in the region. M3 Eagle is aware of no springs within the Project or within one-half mile outside the Project boundary.

Rule 40.05(c)(iii) (design, construction, or operation techniques to eliminate or reduce impacts on other water rights): See comments above concerning conservation and monitoring. As shown in Exhibit 6, the Project generally is remote from most other wells in the area. Each well will be constructed with full-depth casing seals to the top of the aquifer to prevent waste and reduce the chance of interference with other wells. All wells will be constructed to meet or exceed IDWR's and the Idaho Department of Environmental Quality's ("IDEQ's") municipal

drinking water well standards. In addition, M3 Eagle's commitment to reuse treated waste water for irrigation and aesthetic purposes is intended to reduce the Project's overall diversion volume from the aquifer, thus further reducing the potential for adverse effects on existing and future water rights.

Rule 40.05(d) (information about sufficiency of water supply): See Exhibit 4 for Hydro Logic's completed hydrogeologic characterization report. Hydro Logic will submit additional information as other in-progress studies are completed.

Rule 40.05(d)(i) (information about water requirements of proposed project): This information is discussed generally in this Attachment A and displayed in full detail in Exhibit 5.

Rule 40.05(d)(ii) (information about aquifer properties): This information is contained in Exhibit 4. Additional information will be provided as part of Hydro Logic's ongoing reports on the hydrogeologic framework beneath the Project and surrounding area.

Rule 40.05(e)(i) (copies of deeds, easements, leases and similar documents): The relevant deeds are attached as Exhibit 7.³

Rule 40.05(e)(ii) (copies of applications for other needed approvals): M3 Eagle will be filing as needed, or is seeking approvals and permits as required, through various agencies, including, but not limited to, Ada County Highway District (ACHD), IDEQ, U.S. Environmental Protection Agency (EPA), U.S. Federal Emergency Management Agency (FEMA), U.S. Army Corps of Engineers', U.S. Bureau of Land Management (BLM), Farmers Union Ditch Company, Idaho Department of Transportation (ITD), City of Eagle and the Eagle Sewer District. These approvals and permits as required will cover the public drinking water supply; wastewater collection and wastewater reuse; non-potable irrigation water use; transportation system approvals; Nationwide Section 404 permit; construction plan approvals; notice of intent to construct, and storm water pollution prevention plans.

M3 Eagle also has received approval of its applications to the City of Eagle for annexation, zoning approvals, and comprehensive plan amendments. The development agreement between the City of Eagle and M3 Eagle was recorded with the Ada County Recorder on December 27, 2007. M3 Eagle's applications and other permit materials are available from M3 Eagle's counsel upon request.

M3 Eagle also anticipates filing a water right application and/or a water right transfer application to serve certain vineyards that the applicant intends to pursue.

Rule 40.05(f)(i) (financial statement or financial commitment letter): M3 Eagle is attaching a financial statement as Exhibit 8.

³ As of August 27, 2007, title to one 10 acre parcel of land proposed for inclusion within the Project is in escrow and M3 Eagle therefore does not yet own the parcel. Nevertheless, because this parcel represents less than 0.17% of the Project's land area, and because closing on this parcel is expected to occur prior to approval of the proposed water right permit, IDWR staff has indicated that this Amended Application is considered complete. More information regarding this parcel is available upon request.

Rule 40.05(f)(ii) (plans, specifications, and estimated construction costs): Plans and technical specifications for the wells are included in Hydro Logic’s report, Exhibit 4. The Planned Community’s overall concept design is shown in Exhibit 3. Detailed building and engineering plans and drawings will be made available upon request, but these will not be completed until after necessary approvals are obtained.

Estimated costs of ground water supply wells are as follows:⁴

7 wells averaging 550 feet deep X \$350/ft =	~\$ 1.5M
7 pumping tests X 10K =	~\$ 0.7M
7 pumping plants X \$ 60K =	~\$ 0.42M
7 fully equipped pump houses X \$200K =	~\$1.5M
Geotechnical inspection and services =	~\$ 0.2M
<u>Total estimated costs for wells =</u>	<u>~\$ 4.3M</u>

As detailed in Exhibit 9, estimated costs for the potable water supply system are \$44.5 million, with an additional \$12.4 million for the pressurized irrigation system, and \$44 million for the wastewater treatment plant and other sewer infrastructure.

Rule 40.05(g) (information relative to the local public interest): This information is being compiled relative to the applications for approvals mentioned above. M3 Eagle will make these comments available when they are received. In the meantime, Exhibit 10 lists the presentations M3 Eagle has made or the entities to whom it has provided information concerning the Project.

Summary

- Wells: Up to 27 water supply wells plus 3 permanent multi-completion monitoring wells.
- Irrigation: 1,252 total acres, including irrigated residential and commercial landscaping, common areas, community gardens, and golf facilities, with 197 acres irrigated under Ditch Company shares; plus, approximately 100 surface acres of ponds and water amenities associated with these.
- Housing and commercial: 7,153 housing unit equivalents including incidental residential irrigation; 1.2 million square feet of commercial space, services, and related commercial uses, schools and hotels.

⁴ As noted earlier, although M3 Eagle requests 15 new points of diversion (wells) in this Amended Application, given the current level of understanding of the aquifer system beneath the Project, it is hoped that the needed water supply can be provided from a minimum of 7 wells. The 15 points of diversion requested are to provide for the scenario that wells are not as productive as predicted or to remedy cases where wells are needed adjacent to specific uses which cannot now be determined.

Peak diversion rate: 23.18 cfs from ground water during the peak day of the irrigation season.

Average diversion rate: 9.03 cfs from ground water (averaged over 365 days)

Storage: Approximately 100 surface acres (1,828 acre-feet total; 828 acre-feet active storage) of ponds on private land to fill, divert from, and refill for irrigation of common areas and parks (including golf courses), irrigation storage, aesthetics, wildlife, and recreation. Approximately 2.62 million gallons of enclosed active storage for domestic uses and fire protection in housing and commercial areas.

Yearly acre-feet diverted from ground water: 6,535 acre-feet.

Yearly ground water consumptive use: 5,381 acre-feet (3,829 acre-feet of direct ground water diversions; 1,552 acre-feet of Reuse Water)

Yearly Reuse Water supply: 1,818 acre-feet of effluent generation, with 1,660 acre-feet of Reuse Water available for non-potable irrigation after 158 acre-feet of evaporation from storage ponds.

**Estimated well diversion and consumptive use (C.U.) amounts for
M3 Eagle's Planned Community at build-out**

Type of Use	Peak Diversion Rate (cfs)	Average Diversion Rate (cfs)	Annual Diversion Vol. (acre-feet)	Annual C.U. (acre-feet)
Indoor Potable	6.08	4.05	2,932	848
Residential and Commercial Potable Irrigation	9.74 (w/ water management measures)	4.00	1,936	1,627
Public Area Non-Potable Irrigation	6.27	2.93	1,419	2,556
Pond Evaporation	1.10	0.68	248	350
Irrigation season total	23.18	11.66	5,563	5,100
Non-irrigation season total	6.08	4.05	972	281
TOTAL	23.18 (peak day)	9.03 (365-day average)	6,535	5,381

1. Well diversions include credit for irrigation of 197 acres using Ditch Company shares.
2. Well diversions take into account the planned use of Reuse Water.
3. Totals in this table and the narrative may not equal sum of components due to round-off. Totals are correct quantities.