(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF EAGLE WATER COMPANY, INC.  FOR AUTHORITY TO EXPAND ITS CERTIFICATED AREA AND AMEND CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 278. | )  )  )  )  )  )  ) | CASE NO. EAG-W-97-1  ORDER NO.  27165 |

On July 28, 1997 Eagle Water Company, Inc.  (Eagle Water; Company) filed an Application and on August 18, 1997 an Amended Application with the Idaho Public Utilities Commission (Commission) for authority to amend its Certificate of Public Convenience and Necessity No. 278 and to expand its certificated area of service by enlarging and extending its boundaries.

Specifically, Eagle Water proposes to expand its certificated area to include the property known as the Chase property, approximately 120 acres located on the corner of Floating Feather and Eagle Roads in Ada County, Idaho.  Reference Idaho Code 61-526; Commission Rules of Procedure, IDAPA 31.01.01.112.

It is reflected in the Application that the land owners of the Chase property wish to determine a water supplier with known rates and services that is able to provide such services in a reasonable time.  The area sought is contiguous to that already certificated to Eagle Water.  The timetable of development of the Chase property is currently unknown.  The Company contends that the main lines of Eagle Water are already stubbed to the south and to the east of the subject property, that expansion of the certificate to include the area sought would allow immediate access to water by the land owner, and that no physical expansion of facilities is needed.  It estimates that 240 to 250 additional customers could be served at the time the subject property is developed.

The Application and Amended Application were filed with the Commission together with related exhibits including a description of the Chase property and a map.

Notices of Application and Modified Procedure were issued on August 26, 1997.  The deadline for filing written comments was September 17, 1997.  Timely comments were filed by the City of Eagle, United Water Idaho, Inc. and Commission Staff.

As reflected in Staff comments, the Chase property lies within an area previously requested for certification by both Eagle Water Company and United Water Idaho in Case Nos. EAG-W-95-1 and EWU-W-94-1. As a result of those cases, the Commission designated an area bounded by the north/south half section line of Section 5, Township 4N, Range 1E, Beacon Light Road, Eagle and Floating Feather Roads as an uncertificated “buffer zone”.  In Order Nos. 26337 and 26338 the Commission said:

Those areas currently served by the municipal water system are specifically excluded from the area granted to either utility.  Also excluded, are two presently uncertificated buffer areas more specifically described as follows:

The uncertificated area north of Floating Feather Road and west of Eagle Road and generally described as the east half of Section 5, Township 4 North, Range 1 East, Boise Meridian....

The Commission further stated:

We find it reasonable not to certificate these areas between the United Water and Eagle service areas where service has not yet been requested.  Leaving this “buffer zone” will allow the service provider decision for these areas to be made in the future when specific requests for service are pending and better information will be available to use in determining which company should serve.

All commenting parties request denial of the Company’s Certificate Amendment Application.  Comments of the parties can be summarized as follows:

City of Eagle, noting that it is an area water provider, requests that the area remain uncertificated until such time as an applicant applies for a development permit to the City.

United Water, also an area water provider, contends that the underlying request for service is premature and speculative and is unsupported by any specific development plans or demonstration of actual current need.  The preference of a land owner without specific development plans should not take precedence over the general public interest.  United Water raises concerns regarding Eagle Water service and capacity, ability to provide fire flows, and financial ability to provide infrastructure upgrade in wells and lines.

United Water stated that the Application for expansion is premature and contrary to the spirit of the Commission’s Orders in the prior Certificate cases establishing buffer zones and an uncertificated area.  Reference Order Nos.  26337,  26338,  26524 and 26525.  Should the Commission determine that a sufficient showing has been made to consider approval of the Application, United Water recommends a hearing on questions regarding the showing of necessity and the financial ability of  Eagle Water to provide service.

Commission Staff notes that no identified developers have requested water service and no identified projects have been proposed.  Staff contends that it is premature to certificate this area to Eagle Water based on a service request from a land owner who has no plans to retain ownership or develop the property.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. EAG-W-97-1, including the filed comments of the City of Eagle, United Water and Commission Staff.  The Commission has also reviewed and considered its prior Orders and the related certificate cases of Eagle Water and United Water.  Reference Order Nos. 26337, 26338, 26524 and 26525.

We continue to find that the issues presented in this case are appropriate for processing pursuant to Modified Procedure and that the public interest does not require a public hearing.  Reference IDAPA 31.01.01.204.

We concur with the commenting parties and find that the request for service and related application in this instance is premature.  Of significance, we find that the request for service is not supported by any proposed development plans for the identified area.  We anticipated in our prior certificate Orders that the request for service would follow after there is a plan for actual development.  We find that the Company has not demonstrated significant evidence of present and future need for service.  We further find that the public interest, convenience and necessity does not require a present identification of service provider for the Chase property.  Reference Idaho Code §§ 61-526 and 61-528; IDAPA 31.01.01.112.  We therefore find it reasonable to deny the Company’s Application for certificate amendment at this time without prejudice to its refiling if and when an actual need for service can be demonstrated.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over the issues raised in Case No. EAG-W-97-1 and over Eagle Water Company, Inc., a water utility, pursuant to Idaho Code Title 61 and the Commission’s Rules of Procedure IDAPA 31.01.01.000 et seq.

O R D E R

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED that the Application (and Amended Application) of Eagle Water Company, Inc. in Case No. EAG-W-97-1 for authority to amend its Certificate of Public Convenience and Necessity No. 278 and to expand its certificated area of service by enlarging and extending its boundaries to include the property known as the Chase property is denied.

THIS IS A FINAL ORDER.  Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order.  Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration.  See Idaho Code § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of October 1997.

                                                                                                                                      DENNIS S. HANSEN, PRESIDENT

                                                                                           RALPH NELSON, COMMISSIONER

MARSHA H. SMITH, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

vld/O:EAG-W-97-1.sw2

**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

October 20, 1997