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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  COMMENTS OF THE  COMMISSION STAFF |

COMES  NOW  the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Scott Woodbury, Deputy Attorney General, and in response to the Notices and Order No. 27113 in Case No. EAG-W-97-1 issued on August 26, 1997, submits the following comments.

On July 28, 1997 Eagle Water Company (Eagle Water; Company) filed an application and on August 18 filed an amended application with the Idaho Public Utilities Commission for authority to amend its Certificate of Public Convenience and Necessity No. 278.  The Company specifically proposes to expand its certificated area of service to include an area known as the Chase property, approximately 120 acres located on the northwest corner of Floating Feather and Eagle Roads.

In support of the proposed expansion, the Company provides a letter from Mrs. Eleanor Chase, the owner of the property, requesting that Eagle Water Company provide for any water consumption necessary on her property.  Eagle Water further states that although the timetable for development is unknown, the owner of the property wishes to determine who the water provider will be, what rates will be charged and how long it will take to render service.  Finally, the Company states that the property is contiguous to its existing certificated area and will require no physical expansion of Company facilities.

STAFF ANALYSIS

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 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.

The language of the Commission’s Order states that a decision on service provider will be made in the future when specific requests for service are pending and better information is available.  Staff believes that the request for service to the Chase property does not provide

sufficient specificity regarding future development plans for the subject property, and that the Company’s filing is therefore premature.  Based on information presented, it does not appear that conditions have changed significantly since Commission Order Nos. 26337 and 26338 were issued.

The request for service received by Eagle Water is from a current landowner that has no intentions of developing the property or obtaining actual water service from the Company.  In response to Staff’s production requests, Eagle Water indicates that developers have approached Mrs. Chase about potential purchase of her property and it is these unnamed developers that would ultimately require service.  In response to Staff’s questions regarding the timing of such service, the Company states that “service might be required within a few months if a developer starts purchase procedures for the Chase property in the near future,....”.  The Company also indicates that it is unaware of any preliminary plat maps or site plans proposed for the property.  Without a specific water service request from a developer, a time frame for development or even general plans regarding the nature of the development, Staff does not believe the Company has provided any better information to the Commissioners on which to make a decision regarding appropriate certification in this area.

A map of the area designated as Attachment A has been attached to show the area requested by Eagle Water and the relative locations of Eagle Water and United Water’s existing certificated territories.  The map also shows that nearby facilities owned by both companies are much the same as they were when the Commission made its decision in the earlier cases.  Eagle Water has main lines on Eagle and Floating Feather Roads, and United Water owns a supply well on the west side of the Chase property.  With these facilities in place, both companies are generally capable of providing service to the Chase property depending upon how development actually occurs.

In summary, Staff believes that it is premature to certificate this entire area to Eagle Water based on a service request from a landowner who has no plans to retain ownership or develop the property.  No developers have requested water service and no projects have been proposed.  Therefore, a decision to certificate this area to Eagle Water would require developers to take service from the Company regardless of how the area is actually developed.  Staff believes this lack of information regarding the nature of development is why the Commission refused to certificate this area in the previous cases.

Respectfully submitted this                    day of September 1997.

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Deputy Attorney General

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