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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
BAR CIRCLE "S" WATER COMPANY TO) **CASE NO. BCS-W-08-1**
AMEND ITS CERTIFICATE OF)
CONVENIENCE AND NECESSITY)
)
) **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 Notice of Application, Notice of Modified Procedure and Notice of Comment/Protest Deadline issued on December 2, 2008 in Case No. BCS-W-08-1, submits the following comments.

BACKGROUND

On November 21, 2008, Bar Circle "S" Water Company (Bar Circle "S"; Company) filed an Application with the Idaho Public Utilities Commission (Commission) requesting authority to amend its Certificate of Convenience and Necessity No. 296 to include a new subdivision, Double T Estates in Kootenai County, Idaho. *Idaho Code* § 61-526; IDAPA 31.01.01.112.

Bar Circle "S" Water Company provides water service to the Bar Circle "S" Ranch subdivision located on the Rathdrum Prairie in Kootenai County, Idaho approximately seven miles north of the City of Coeur d'Alene. The Company currently serves approximately 156 residential

customers and one commercial customer. Residential customers are typically located on five-acre lots.

An application and plat map for a new subdivision, Double T Estates, has been filed with Kootenai County for approval. The final plat has not yet been approved but approval is expected soon and construction should begin in the next few months. The new subdivision is located on approximately 237 acres in a portion of the West ½ of Section 14, Township 52 North, Range 4 West of the Boise Meridian (W½ S14, T52N, R4W, BM) in Kootenai County, Idaho. This subdivision is located approximately 1,300 lineal feet from the existing Bar Circle “S” service area at the Ohio Match Road and Ramsey Road intersection. A vicinity map is attached to the Company’s Application and shows the location of the existing service area and the proposed new subdivision. Also attached is a copy of the proposed plat map of the new subdivision. A final approved plat map complete with detail of the location of all water system installations will be provided to the Commission when completed.

The subdivision will contain 47 five-acre residential home sites and will be developed in two phases. Phase 1 consists of 16 lots along Ramsey and Chilco Road north of the existing water system. According to the Application, a 10-inch pipe will be required for the full length along Ramsey and Chilco Roads to satisfy fire flow requirements. Double T Estates’ Phase 2 consists of 31 lots south of Chilco Road and east of Ramsey Road. Water service to Phase 2 will be provided by an 8-inch pipe through the development from Ramsey to Chilco and the two cul-de-sacs will be served by 6-inch pipes.

Construction costs of the water distribution system including mains, valves, fire hydrants, customer service line taps, meter boxes, meter bases and the line extension required to interconnect to the existing water system will be paid by the subdivision developer and contributed to Bar Circle “S” Water Company. The only cost to be borne by the Company will be the cost of meters at the time a property is developed and service is requested. The Company claims addition of this service area to the existing system will have no adverse effect on the Company’s existing Bar Circle “S” customers.

Bar Circle “S” recently commissioned a hydraulic engineering study of its water system by Toothman-Orton Engineering. The Company claims in its Application that this hydraulic modeling study determined there is adequate capacity on the Company’s existing system to serve both phases of the Double T Estates subdivision without the need for construction of an additional source of supply or reservoir facilities.

The Company indicates that it is not aware of any other water company in the vicinity of the new subdivision that would be willing and able to provide service to the area being developed.

STAFF ANALYSIS

Staff has reviewed the Company's Application, the response to Staff's production request, and the November 2008 Engineering Report prepared by Toothman-Orton Engineering Company as part of the Application. Staff recommends that the Company's Application for service area expansion be granted for Phase 1. Staff further recommends that all extension costs be recorded on Bar Circle "S" books as a Contribution in Aid of Construction (CIAC).

The Company initially states in its Application that based on the hydraulic modeling study performed by the consulting engineer, there is adequate capacity on the Company's existing system to serve the new Double T Estates subdivision (Phases 1 and 2) without the need for construction of an additional source of supply or reservoir facilities. Based on the Engineering Report, Staff believes that future customers under Phase 1 and current Company customers will be adequately and reliably served by the present water supply.

However, as indicated in the Engineering Report, service to the 31 additional lots under Phase 2 would be considered a substantial modification to the water system by the Idaho Department of Environmental Quality (IDEQ). A substantial modification would require Bar Circle "S" to provide a back-up well for the system. The IDEQ Rule states:

Section 501.07.b of the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08) establishes conditions for a substantially modified water system;

b. Existing community public water systems that are substantially modified after April 15, 2007 shall meet the requirements of Subsection 501.07 in those portions of the system affected by the modifications. (3-30-07)

i. For the purposes of Subsection 501.07., the Department shall consider a system to be substantially modified when there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the following factors:
(3-30-07)

- (1) Population served or number of service connections. (3-30-07)
- (2) Total length of transmission and distribution water mains. (3-30-07)
- (3) Peak or average water demand per connection. (3-30-07)

513. FACILITY AND DESIGN STANDARDS - NUMBER OF GROUND WATER SOURCES REQUIRED. New community water systems served by ground water and constructed after July 1, 1985, or existing community water systems served

by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) homes or equivalent. Under normal operating conditions, with any source out of service, the remaining source or sources shall be capable of providing either the peak hour demand of the system or maximum day demand plus equalization storage. See Subsection 501.17 for general design requirements concerning fire flow capacity. For the purpose of Section 513 only, the Department shall consider a system to be "substantially modified" when there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the following factors: (3-30-07)

01. Population Served or Number of Service Connections. (3-30-07)

02. Length of Water Mains. (3-30-07)

03. Peak or Average Water Demand per Connection. (3-30-07)

It is Staff's understanding under IDEQ rules that the additional customers in Phase 2 would require that another water source be installed. That water supply (well) would need to have sufficient capacity to meet the requirements for Peak Hour flow. Staff contacted IDEQ, Northern Idaho Region and confirmed that this is the case. See IDEQ's comments on Bar Circle "S" Water System Extension for Double T Estates Phase 1 (Attachment 1).

Therefore, Staff recommends that only Phase 1 of the requested additional service area for Double T Estates be granted to the Company, until the Company has shown to the Commission that it has satisfied the Rules and Regulations promulgated by IDEQ applicable to Phase 2, and the cost of required facilities are properly allocated.

Staff requested the Company through Production Request to provide a detailed cost estimate of the construction of the extended water distribution system and the effects on Bar Circle's Revenue Requirements. The Company did not provide a cost estimate but explained that all costs of expansion of the service area will be borne by the development company. At some time in the future, when Phase 2 of Double T Estates is developed, there may be some system improvements required (the additional well) that will benefit both existing customers and expansion area customers. Bar Circle "S" would propose at that time a reasonable sharing of system improvement costs between the Company and the development company. Staff agrees that allocation of those future costs should be determined when the additional well is installed. Staff recommends that all construction costs incurred in extending the water service to Phase 1 of Double T Estates be recorded on Bar Circle "S" books as a Contribution in Aid of Construction (CIAC).

Staff also requested a copy of the signed Water Main Extension Agreement between the Company and Double T Estates. The Company provided a copy of the fully executed agreement on January 9, 2009. The Double T Estates is an Idaho limited liability company and is also owned by

Robert N. Turnipseed, owner of Bar Circle "S" Water Company. The agreement is quite extensive and makes reference, among others, to the following key provisions: 1) Double T Estates agrees to pay any and all costs of construction of the water main extension and related water system improvements servicing Double T Estates; 2) Double T Estates contributes the water main extension and related system improvements servicing Double T Estates built by the Bar Circle "S" to Bar Circle "S."; 3) the agreement is subject to the Commission's Customer Relations Rules and Bar Circle "S" filed tariffs which shall apply to the expanded service territory, and 4) in the event that any governmentally mandated improvements to the Bar Circle "S" system are required for system reliability or quality of service purposes during the period of development of Double T Estates, Bar Circle "S" and Double T Estates will share the costs of such improvements based upon the number of building lots within Bar Circle "S" current service area (215 lots) and Double T Estates (47 lots), a ratio of 82% Bar Circle "S" to 18% Double T Estates. Staff believes that the above contract provisions, with the exception of Item 4, appear reasonable and generally adhere to the Commission's Uniform Main Extension Rule for Water Utilities. On Item 4, the Company and Double T Estates are proposing the sharing of the costs of governmentally mandated improvements in the future. Staff believes that it is still premature to set the allocation of these costs between the Company and the developer. Staff reserves the right to analyze this issue after additional development has been completed and a new rate case is filed with the Commission to recover the costs of the mandated improvements.

The Company indicates in the Application that it is not aware of any other company in the vicinity of the new subdivision that would be willing and able to provide service to the area being developed. Additional information was provided by the Company through Staff production request, including a map showing locations of public water systems in the vicinity. Staff reviewed the submitted water utility information and found that no other public water utilities regulated by the Commission are operating close to Double T Estates. However, several public water systems operated by homeowner associations or water districts are within one to three miles of the proposed development, with the exception of Ashley Estates Homeowners Association Water System which is immediately east of the proposed Double T Estates subdivision. Further investigation by Staff revealed that the Ashley Estates HOA is a very small water system serving only 16 customers. Staff believes that the Ashley water system, with a capacity of 18 gpm, is inadequate to serve the needs of Double T Estates.

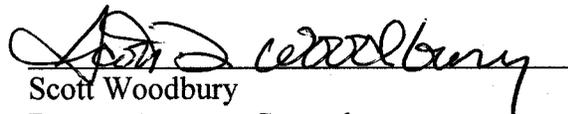
As part of its review, Staff investigated potential water right issues affecting the Application to assure that the proposed expansion is adequately and legally covered by the Company's current water rights. Staff contacted the Idaho Department of Water Resources (IDWR) and confirmed that Bar Circle "S" has a valid water permit which is currently being processed by the IDWR for final issuance of water license. However, based on Staff's investigation, it appears that the proposed service area of expansion (Phase 1 and Phase 2 of Double T Estates) is not covered by the current water permit. Staff recommends that the Company contact or notify the Idaho Department of Water Resources concerning the additional area to be covered by the existing water permit as soon as the Commission has approved the requested expansion.

RECOMMENDATIONS

Staff recommends that the Commission:

1. Grant the request for service area expansion to serve Phase 1 of Double T Estates.
2. Require that all water main extension costs be recorded as Contribution in Aid of Construction on Bar Circle "S" books.
3. Staff reserves the right in analyzing the sharing of cost between the Company and Double T Estates after additional development has been completed and a new rate case is filed with the Commission to recover the costs of the mandated improvements.
4. Direct the Company to notify the IDWR concerning the additional service area being proposed by the Company after approval by the Commission.

Respectfully submitted this 15th day of January 2009.


Scott Woodbury
Deputy Attorney General

Technical Staff: Gerry Galinato

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STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

2110 Ironwood Parkway • Coeur d'Alene, Idaho 83814 • (208) 769-1422

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

December 4, 2008

Mr. Robert Turnipseed
Bar Circle S Water Company
PO Box 1870
Hayden Lake, ID 83835
avonco@imbris.com

RE: Bar Circle S Water System Extension for Double T Estates Phase I

Dear Mr. Turnipseed:

On November 14, 2008 Ben Weymouth, P.E. from Toothman-Orton Engineering Company submitted to this office information responding to our September 23, 2008 letter to you regarding expansion of the Bar Circle S Ranch public drinking water system to serve both phases of your proposed 243-acre subdivision called **Double T Estates**. Phase I (plat) of this development is identified as sixteen (16) 5-acre residential lots located along the east side of Ramsey Road and the south side of Chilco Road on the perimeter of the property. Phase II is planned for the remaining, consisting of thirty (30) additional lots.

The submittal included the following items:

- Water Engineering Report for Bar Circle S Water System Double T Estates Expansion as prepared and revised by Mr. Weymouth and dated November 2008.
- Double T Estates Preliminary Plat prepared by Inland Northwest Consultants dated July 5, 2005.
- Roadway/Water System Improvement plans for Double T Estates Phase I prepared by Steven Syrcle, P.E. from Tri-State Consulting Engineers Inc dated November 11, 2008.
- Specialty Products Grading and Utility Plan record drawings stamped on September 30, 2008 by James Coleman, P.E. with Coleman Engineering. These record drawings were accepted by DEQ in a letter dated November 21, 2008.
- Addendum No.1 to the Water Engineering Report dated November 17, 2008.
- A will serve letter from Bar Circle S Water Company for all of Double T Estates' forty-six (46) proposed 5-acre lots.
- Two letters from Fire Inspector Tyler Dreschel with Northern Lakes Fire Protection District dated August 29, 2008 and October 1, 2008 regarding fire protection requirements.

Water Engineering Report: The revised report addressed our September 23, 2008 comment reflecting the requirements of the Idaho Rules for Public Drinking Water Systems (Rules) in IDAPA 58.01.08 as follows:

- 1) **Water Production:** Since the flow meter on the Well #1 discharge was providing inconsistent data, two short pump tests were done by the engineer from which a production rate of 483 gpm was used for the hydraulic model. As soon as the flow meter is calibrated and reinstalled, water production information needs to be secured from Well #1 and reported to the engineer and DEQ. If the actual production of Well #1 is less than that used in the analysis, the report needs to be revised to reflect the corrected rate.

Attachment 1
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Production from Well #2 was given at 55 gpm for total water production from the two wells of 538 gpm. The Rules specify that water production of at least 800 gallons per day per residence plus irrigation flows must be produced from the sources. Using the report's maximum daily demand of 3200 gpd/ERU as the production criterion, the two wells are capable of supplying 242 ERUs. With 154 existing users, 58 commitments for future users, and 46 potential uses in the new subdivision for a total of 258 ERUs, it appears the ultimate water production capacity needs to be increased.

The report proposes drilling of a third well as part of Phase II in order to satisfy the requirement in the Rules that substantially modified water systems must have a minimum of two sources of water production such that with the largest well out of service (Well #1), the remaining well(s) can satisfy maximum day demand. DEQ agrees with the recommendation in the report that Phase II needs completion of another well (Well #3) with a capacity of about 600 gpm.

Before Phase II can proceed, the following source development steps need to be completed:

- The site of Well #3 needs to be approved by DEQ as being located on a properly sized well lot meeting separation distances specified in the Rules.
 - Well drilling plans and specifications prepared by an engineer must be approved by DEQ.
 - Information on the completed well must be submitted to DEQ to certify quantity and quality compliance.
- 2) **Water Demand:** The revised report contained well production and service meter water data for 2006-8 and indicated average annual demand of almost 1000 gpd per equivalent residential user (ERU). A maximum day demand of about 3200 gpd/ERU and peak hourly demand of 1.5 times the maximum day demand or 3.33 gpm/ERU was used with the hydraulic analysis. Since this information is based on actual data and reflects high irrigation demands by the users, it is acceptable.
- 3) **Peak Demand:** The ability of the four 10 Hp booster pumps to satisfy peak demand imposed by existing and future users remains unknown. The report indicated a very short test of two of the 10Hp pumps suggested the units were operating as predicted by pump curves. However, conclusive evidence that the four boosters can satisfy the peak demand by the future users was not provided.

In a meeting on August 6, 2002 and in our October 27, 2005 letter to you, we identified the requirement in the Rules that flow measuring devices needed to be installed on these booster pumps. We had allowed for the installation of an elapsed time meter and cycle counter on each pump in lieu of installing an instantaneous and totalizing flow meter on the combined discharge for the four pumps. Since the water usage data did not report booster pump data, it appears you did not comply with this requirement. Before Phase II can be considered, a recording flow meter needs to be installed on the output of the four booster pumps.

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- 4) **Fire Protection:** Northern Lakes Fire Protection District has established a minimum fire flow of 1000 gpm residential and 1500 gpm commercial for two hours. The hydraulic analysis had modeled distribution system performance and concluded that the 1500 gpm fire pump is capable of satisfying fire protection requirements throughout the service area.
- 5) **Calibration:** The report discussed efforts to calibrate the model to verify the accuracy of the predictions. The analysis was done using a 10-inch diameter water main on Ramsey and Chilco Roads and with completion of a short section of 10-inch diameter water main to loop the system southwest of the storage reservoir (P-85 in the model).

In conclusion, the Water Engineering Report was found to be **acceptable** and fulfills the requirements in the Rules for a preliminary engineering report. .

Roadway/Water System Improvement Plans for Double T Estates Phase I: Plans and specifications for construction of about 7500 feet of 10-inch diameter C900 water main, five standard fire hydrants, 450 feet of 8-inch diameter main extension in three locations with blowoffs, and sixteen water service connections serving Phase I of Double T Estates have been reviewed.

The submitted plans and specifications were found to be in accordance with the Rules and are **approved** for construction purposes in accordance with Section 39-118 of Idaho Code.

This approval is contingent upon the design engineer submitting and securing DEQ approval of an addendum to the plans and specifications that calls for construction of the 10-inch diameter water main needed to loop the system at pipeline section P-85. This approval needs to be secured before the approved construction work is completed with record drawings for this segment included with the record drawings for the larger project.

Inspection of construction of the Phase I water system improvements approved herein must be done by an Idaho licensed Professional Engineer (P.E.) or by someone under the direct supervision of a P.E. The submittal indicated that inspection services for this project will be provided by Tri-State Consulting Engineers Inc.

Within thirty (30) days of completion of construction, Section 39-118(3) of Idaho Code requires that record plans and specifications be submitted to DEQ complying with the following requirements:

- Based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee.
- Depict the actual construction of facilities.
- Contain certification by the professional engineer in responsible charge of construction observation.
- Confirm material compliance with approved construction plans and specifications or disclose any material deviations therefrom.

If construction is not completed within one year of the date of this letter, the DEQ construction approval expires. An extension may be granted if the design engineer submits a written request that DEQ re-approve the plans and specifications

RE: **Bar Circle S Water System Extension for Double T Estates Phase I**

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Phase II Double T Estates: Before DEQ can review plans and specifications for completion of the water distribution system needed to extend drinking water to the thirty (30) residential 5-acre lots in Phase II of Double T Estates the following items need to be completed:

- 1) Well #3 as described above must be completed.
- 2) A flow meter must be installed on the discharge from the four booster pumps with the operator recording actual water usage, and the engineer establishing the maximum pumping rate from these pumps to verify capacity to meet peak demand.
- 3) Information regarding the output from Well #1 based on the reinstalled flow meter must be provided.
- 4) Submittal of an annual summary of water usage data collected by the system operator and analyzed by the design engineer that reinforces water demand criteria used in the hydraulic model.
- 5) Further engineering examination of the recommendation in Addendum No. 1 of the Water Engineering Report that calls for installation of a booster pump out in the distribution system to provide sufficient pressures to the Phase II lots. It is not clear to us how reactivating the 55,000-gallon steel standpipe and a single in-line booster pump will alleviate low pressures in Phase II or be the best solution to the low pressure situation. A more detailed addendum to the Water Engineering Report discussing alternatives to correct this problem such as upgrading the capacities of the existing booster pumps or looping the distribution system into Phase II needs to be provided.

To ensure that you are in agreement with these conditions and provide a clear pathway for Phase II of this development, we ask that you provide this office with a letter indicating your agreement with the five items listed above and outlining a schedule for completion of each item. If you are not in agreement with any of the items, we suggest you propose alternative approaches. To resolve this in a timely manner, we ask that this agreement letter be provided by you to this office before December 31, 2008.

Sincerely,



Gary J. Gaffney, P.E.

Gary.Gaffney@deq.idaho.gov

- . c: Steven Syrcle, ssyrcle@tristateid.com
Ben Weymouth, bweymouth@toengrco.com
Dean Marchus, dmarcus@northernlakesfire.com
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Jim Coleman, jcoleman@colemaneng.com
Ellen Mueller, emueller@phd1.idaho.gov
(#10744, drawings at F-24, Report at B-93 specs)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 15TH DAY OF JANUARY 2009, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. BCS-W-08-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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SECRETARY

CERTIFICATE OF SERVICE