

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL**

FROM: SCOTT WOODBURY

DATE: JULY 22, 2004

**RE: CASE NO. DIA-W-04-1 (Diamond Bar Water)
APPLICATION FOR AMENDED CERTIFICATE
BOEKEL ESTATES SUBDIVISION**

On June 7, 2004, Diamond Bar Water Company, a water utility in Kootenai County, Idaho, filed an Application with the Idaho Public Utilities Commission (Commission) to amend its Certificate of Public Convenience and Necessity No. 413 and to extend its certificated service territory to provide water service to Boekel Estates Subdivision (Boekel Estates). Reference IDAPA 31.01.01.112; *Idaho Code* § 61-526. Boekel Estates consists of approximately 70 acres of land in the SE ¼ of Section 33, Township 52 North, Range 4 West, Boise-Meridian, Kootenai County, Idaho, that will be platted as 14 five-acre lots. As part of the Application, Diamond Bar has submitted a Water Main Extension Agreement (Agreement) between Diamond Bar and Walter and Grace Singer, the developers of Boekel Estates. Diamond Bar intends to provide domestic and irrigation water under the terms of the Agreement and an attached exhibit setting forth General Rules and Regulations governing the Agreement. The Company has requested expeditious treatment of its service request, as construction is due to start July 15, 2004.

On June 23, 2004, the Commission issued a Notice of Application and Modified Procedure in Case No. DIA-W-04-1. The deadline for filing written comments was July 23, 2004. The Commission Staff was the only party to file comments. Staff's Comments can be summarized as follows:

Certificated Area Expansion

Staff believes the Company has an adequate source of water supply to provide service to Boekel Estates in a safe and reliable manner. Staff believes also that the extension of Diamond Bar facilities to serve Boekel Estates is consistent with the public convenience and

necessity. Staff recommends that the Company's request for certificated area expansion be granted.

Water Main Extension Agreement

Staff recommends, however, that the submitted June 2, 2004 Water Main Extension Agreement between Diamond Bar and the developers of Boekel Estates be rejected in its entirety. The Agreement is quite extensive and makes reference to service quality, customer relations and rate issues. In many instances the Agreement conflicts with the Commission's rules and the Company's existing tariffs. Staff believes that many of the issues addressed in the submitted Agreement are already adequately covered by the requirements of either the Idaho Department of Environmental Quality, the Idaho Department of Water Resources, the Commission's Rules, or Diamond Bar's existing tariffs. Staff also believes, that as drafted, the proposed Agreement gives a preference to the Company's existing customers and discriminates against the new customers in Boekel Estates.

As reflected in Staff's Comments, the extension of service to Boekel Estates will require excavation, installation of mains, fire hydrants, services, meter boxes; grating; backfill; compaction; inspection; and testing. The estimated cost for this project is \$136,321, all of which will be paid by the developer pursuant to an understanding of the parties as will be more particularly referenced in a revised Water Main Extension Agreement. Staff recommends that the transaction be recorded as CIAC on Diamond Bar's books.

Staff has discussed its recommendations with the Company and the developer. Diamond Bar has indicated that it will submit a revised Water Main Extension Agreement to reflect the contribution by the developer of Boekel Estates of main line and service line improvements and a recitation that the Commission's Customer Relations Rules and Diamond Bar's filed tariffs and rules apply to the expanded service territory.

Meter Installation Fee

Although not proposed in the submitted Agreement, Staff recommends that a \$200 meter installation fee tariff be authorized. In the Commission's prior Diamond Bar Certificate case, Order No. 29247 (Case No. GNR-W-02-3), the Commission rejected Diamond Bar's request for a \$1,000 hook-up fee for the installation of water meters. In that case no additional customers were anticipated and the Company reported that all lots within the original development had paid a hook-up fee prior to regulation. Diamond Bar is now requesting to serve

an expanded area that could allow for 14 new houses or an additional 14 regulated customers. All backbone and main line improvements will be contributed to the Company as a contribution in aid of construction (CIAC). However, there are no provisions in place to recover the costs for meter installation from the additional individual customers. The Company, pursuant to production request, provides an estimated cost of \$200 to install a water meter. Staff believes the Company's cost estimate is reasonable and is within the range of other regulated water system hook-up fees in the area.

Water Fee – Fire Fighting

Staff notes that in the submitted Water Main Extension Agreement at paragraph 2.16, the Company alludes to the imposition of a fire fighting water fee for customers in the service area expansion. The Company currently has no tariff with this fee and does not charge existing Diamond Bar Water customers such a fee. In response to a Staff production request, the Company confirms its inability to accurately determine the amount of water used for fire fighting. The Company indicates that it can determine an electrical demand charge that could be levied should the Company's much larger fire pump be initiated but can only provide local fire district estimates for the water used. Staff recommends that the Commission reject the Company's request for a charge for fire fighting water.

Should the Company wish to pursue a fire fighting water tariff, Staff believes that it should submit a request under a separate application. The Company's request if later submitted, should include a method of determining actual costs incurred and water used for fire fighting. The Company in such a filing, Staff contends, must also be prepared to demonstrate that the costs can be directly attributable to a specific customer and expenses such as demand charges are not the result of hydrant flushing, line breakage, or excessive irrigation usage.

COMMISSION DECISION

Diamond Bar Water requests an amended Certificate of Public Convenience and Necessity and authority to extend water service to the Boekel Estates subdivision. The Company submitted a Water Main Extension Agreement between Diamond Bar and the developer and related rules and regulations. Staff recommends that the Commission:

- (1) Grant the request of Diamond Bar for a Certificate amendment and expansion of its service area to include the Boekel Estates subdivision.

(2) Require that all water main extension costs be recorded by Diamond Bar as a Contribution in Aid of Construction on the Company's books.

(3) Authorize a one time meter installation fee of \$200 and require the filing of a related tariff.

(4) Require the Company to execute a revised Water Main Extension Agreement with the developer of Boekel Estates conforming with the Commission's Order and that includes (a) a provision requiring the contribution by the developer of Boekel Estates subdivision of main line and service line improvements, (b) and a recitation that the Commission's Customer Relations Rules and Diamond Bar's filed tariffs and rules apply to the expanded service territory.

(5) Deny the Company proposed fire fighting charge.

Diamond Bar concurs with Staff's recommendations. Does the Commission find Staff's recommendations reasonable? If not, how does the Commission wish to proceed?

Scott Woodbury

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