

Bruce M. Smith, ISB # 3425
 Tammy A. Zokan, ISB # 5450
 MOORE SMITH BUXTON & TURCKE, CHARTERED
 Attorneys at Law
 225 North 9th Street, Suite 420
 Boise, Idaho 83702
 Telephone: (208) 331-1800
 Facsimile: (208) 331-1202
 bms@msbtlaw.com
 taz@msbtlaw.com

RECEIVED
 FILED

SEP -2 PM 3: 27
 IDAHO PUBLIC
 UTILITIES COMMISSION

Attorneys for Intervenor-applicant, City of Eagle, Idaho

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE)	Case No. EAG-04-02
APPLICATION OF EAGLE WATER)	
COMPANY, INC. TO AMEND ITS)	CITY OF EAGLE'S PETITION TO
CERTIFICATE OF PUBLIC)	INTERVENE
CONVENIENCE AND NECESSITY)	
NO. 278)	
_____)	

The City of Eagle, Idaho, ("City") by and through its attorneys of record, Moore Smith Buxton & Turcke, Chartered, hereby petitions the Public Utilities Commission ("PUC") for intervention in the above-entitled matter in accordance with PUC Order No. 29560 dated August 6, 2004 and the PUC's Rules of Procedure.

1. The City of Eagle has a Direct and Substantial Interest in the Proceeding.

The Eagle Water Company's application which is the subject of this proceeding seeks to expand Eagle Water Company's service area to five (5) parcels in Ada County east of Old Highway 55/Horseshoe Bend Road and south of the Farmer's Union Canal. Order at p. 1. The proposed expansion area is outside the City's service area. Therefore, the City has no objection to Eagle Water Company's application to expand its service area to the five (5) parcels as described in Order No. 29560.

The City objects to PUC staff's recommendation to expand this case and decide issues unrelated to Eagle Water Company's application. According to PUC Order No. 29560, PUC staff recommend that Eagle Water Company and United Water "negotiate further apportionment of uncertificated areas surrounding [the City of] Eagle...." Order at p. 1. The City has a direct and substantial interest in the apportionment of uncertificated areas in and around the City of Eagle. The City owns and operates a municipal water supply system in accordance with Idaho Law. Idaho Code § 50-323. Although Order No. 29560 does not specifically identify the areas for apportionment, there is significant likelihood of substantial overlap in the areas to be served

by the City and the areas deemed “uncertificated” and recommended for apportionment by PUC staff. Consequently, any apportionment of such areas would injuriously affect the City’s interest.

It is not appropriate for the PUC to take action on matters that are not the subject of Eagle Water Company’s application to amend its Certificate of Public Convenience and Necessity. Eagle Water Company’s application does not concern uncertificated areas other than the five (5) parcels described above. Consequently issues concerning other areas are not ripe for review. Once the certification of other uncertificated areas around the City is ripe for review before the PUC, the City must be given an opportunity to participate in any such proceedings due to the City’s direct and substantial interest.

The City’s participation in the above-entitled matter will not unduly broaden the issues raised by PUC staff in the above-entitled matter.

2. The City of Eagle’s Petition is Timely

The City received PUC Order No. 29560 on August 9, 2004. Order No. 29560 imposed a September 3, 2004 deadline for the filing of a Petition to Intervene. Order at p. 2. The City’s Petition, filed before the September 3, 2004 deadline, is timely. See PUC Rules of Procedure 73.

DATED this 2 day of September, 2004.

MOORE SMITH BUXTON & TURCKE,
CHARTERED

By:  _____
Tammy A. Zokan
Attorney for City of Eagle, Idaho

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS ^{2nd} DAY OF SEPTEMBER 2004, SERVED THE FOREGOING **CITY OF EAGLE'S PETITION TO INTERVENE**, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

Mr. Don Howell
Idaho Public Utilities Commission
472 West Washington Street
Boise, ID 83720-0074

U.S. Mail
 Facsimile
 Hand Delivered
 Overnight Mail

Ms. Molly O'Leary
Richardson & O'Leary
P.O. Box 1849
Eagle, ID 83616

U.S. Mail
 Facsimile
 Hand Delivered
 Overnight Mail

Mr. Dean J. Miller
McDevitt & Miller LLP
P.O. Box 2564-83701
Boise, ID 83701

U.S. Mail
 Facsimile
 Hand Delivered
 Overnight Mail



Tammy A. Zokan
Attorney for City of Eagle, Idaho