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IDAHO PUBLIC
UTILITIES COMMISSION

16 October 2008

Ms. Jean Jewell
Commission Secretary
Idaho Public Utilities Commission
P O Box 83720
Boise ID 83720-0074

Hand Delivered

RE: Case No. EAG-W-07-01

Dear Ms. Jewell:

I am enclosing an original and seven (7) copies of the EAGLE WATER COMPANY, INC.'S PETITION FOR RECONSIDERATION.

Also enclosed is a copy to be date stamped and returned for our files.

Sincerely,

Nina Curtis
Richardson & O'Leary, PLLC

Molly O'Leary (ISB # 4996)
Richardson & O'Leary, P.L.L.C.
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IDAHO PUBLIC
UTILITIES COMMISSION

Attorneys for Eagle Water Company, Inc.

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF EAGLE WATER)	
COMPANY' S CAPITAL IMPROVEMENT)	CASE NO. EAG-W-07-01
REPORT AND APPLICATION TO)	
CONTINUE THE EXISTING)	PETITION FOR
SURCHARGE)	RECONSIDERATION
)	

COMES NOW, Eagle Water Company, Inc. ("Eagle Water" or "the Company") and, by and through undersigned counsel, files this Petition for Reconsideration of the Commission's Order No. 30654, pursuant to Section 61-626, Idaho Code and Rule 331.01 of the Rules of Procedure of the Idaho Public Utilities Commission.

ISSUES FOR RECONSIDERATION

Eagle Water respectfully requests the Commission's reconsideration of the following issues:

1. Interim Continuation of the Surcharge

Until reading the Commission's October 7th Order, Eagle Water was unaware that there was any proposal to discontinue the current surcharge. To

the contrary, in a meeting with Staff on July 24, 2008, the parties discussed the need for Eagle Water to file a new application upon completion of this case to continue the surcharge to help defray ongoing capital improvement expenditures that the Company has incurred and continues to incur pursuant to the Final Engineering Report that was filed with the Commission on August 6, 2007, and pursuant to the Idaho Department of Environmental Quality's ("DEQ") directive dated July 6, 2007, accepting the Final Engineering Report and outlining the system improvements that Eagle Water is required to bring online within the next six years. See **Exhibit EWCO 1**, attached.

Due to the delay caused by DEQ's initial refusal to accept Eagle Water's proposed Peaking Factor of 2.58 used in its Preliminary Engineering Report dated May, 2006, Eagle Water was forced to move forward with development of Well # 7 in the interim to stay ahead of system demands. That capital project has cost the Company approximately \$600,000.00, which it has had to find private financing for outside of the current Surcharge Account.

In addition, the Company has had to privately finance the rebuilding of Well #4 to maximize its performance, as determined by the computer modeling conducted for the Final Engineering Report. That improvement has cost the Company an additional \$33,500.00 outside of the Surcharge Account.

The Company likewise has had to find private financing for installation of a Pressure Reducing Valve ("PRV") in its Floating Feather Road mainline (at a cost of approximately \$42,000.00) and a 100-horse power motor addition to the Main Booster Station located off of old Horseshoe Bend (at a cost of approximately

\$93,500.00).

Against this background, the Company is currently in the process of bringing Well # 8 online, as dictated by the Final Engineering Report and DEQ's July 2007 letter. That capital improvement project is expected to cost the Company approximately \$720,000, not including legal, engineering or accounting fees.

Lastly, until Well #8 comes online, the Company is contractually bound to pay the City of Eagle \$10,000.00 per month ("Intertie Fee") for an intertie between Eagle Water's system and the City's new reservoir to provide an interim solution to any system pressure deficiencies in the event of the failure of one of the Company's wells. This intertie was mandated by the DEQ in its July 2007 letter. In addition to the monthly Intertie Fee, the actual construction of the intertie cost the Company approximately \$15,235.

In short, the Company has stretched its borrowing capabilities as far as it can without reliance on the Surcharge Account for the development of Well #7, as well as upgrading the Main Booster Station and installing the Floating Feather PRV, pending Commission approval of recovery of some, if not all, of those expenditures from the Surcharge Account. This fact, coupled with the current state of affairs regarding local, national and international credit markets, makes it impossible for the Company to secure additional financing to pay for Well #8 improvements as they come due. And, due to the \$10,000 per month Intertie Fee, it is imperative that Eagle Water complete Well # 8 and get it online as

quickly as possible.¹

Prior to receiving the Commission's Order on October 7, 2008, Robert V. DeShazo, Jr., president of Eagle Water, had preliminary discussions with Becky Fowers, Vice President and Eagle Branch Manager for Idaho Banking Company, regarding a possible loan to the Company to help cover some of the pending costs associated with Well # 8. Idaho Banking Company has provided Mr. DeShazo documentation of these discussions in the form of a Financing Proposal for a loan of \$500,000.00, secured by Surcharge Account funds, assuming the continued collection of the current surcharge fee at historic levels. See **EWCO Exhibit 2**, attached. Securing this financing is critical to Eagle Water's ability to meet its obligations for development of Well #8. And, at this juncture, although Eagle Water is cognizant of the fact that the Commission is not prepared at this time to render a decision regarding the propriety of the aforementioned expenditures, continuation of the surcharge on an interim basis pending further application by the Company for Commission approval to recover some, if not all, of the foregoing expenditures from the Surcharge Account is critical to securing the proposed financing.

Thus, the Company respectfully requests that the surcharge be continued pending further application from the Company for recovery of the foregoing expenditures, as well as related legal, engineering and accounting fees. This application will be submitted to the Commission upon conclusion of the current case. The Company further requests authorization from the Commission to

¹ Well #8 has been approved by the DEQ as well as the Idaho Department of Water Resources and has been drilled. It is expected that the well and related infrastructure will be completed by mid-November, 2008.

borrow funds for Well # 8 expenditures from Idaho Banking Company, secured by the Surcharge Account, subject to refund by the Company to the extent recovery of any such expenditures from the Surcharge Account is not ultimately approved by the Commission.

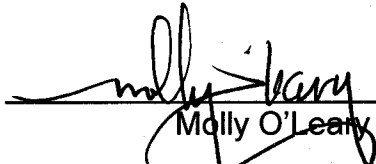
2. Surcharge Billing for October 2008 Service

The Company will bill its customers between October 29th and November 15th for October usage. Given that timing, and the Commission's workload, the Company is concerned that it may need to send October billing statements out before the Commission is able to render a decision on the merits of its Petition for Reconsideration. Thus, the Company respectfully requests that the Commission issue an interim order authorizing it to bill for any surcharge that accumulates prior to the Commission's Order on Reconsideration, subject to refund by the Company. The Company believes this approach will result in the least amount of confusion for its customers.

DATED this 16th day of October, 2008.

Richardson & O'Leary P.L.L.C.

By


Molly O'Leary

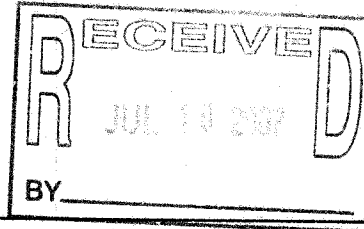
Attorneys for Eagle Water Company, Inc.

EXHIBIT

EWCO - 1



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY



1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

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

TSP&S-150/2007

July 6, 2007

Mr. Robert V. DeShazo, Jr.
Eagle Water Company, Inc.
172 W. State Street
Eagle, Idaho 83616

Subject: Eagle Water Company (*City of Eagle, Ada County*)
Approval of Final Engineering Report

Dear Mr. DeShazo:

The Idaho Department of Environmental Quality (DEQ) hereby approves the Final Engineering Report dated June 2007 for the Eagle Water Company (EWC) water system in accordance with the procedures set forth in the DEQ/EWC Consent Order signed by both parties on February 17, 2006.

A. Action Items:

As part of this approval, the following plans, schedules or related activities (Action Items) set forth below and in the Final Engineering Report shall be incorporated by reference into the Consent Order and be enforceable as provided by applicable law. Restrictions and conditions pertaining to these Action Items are presented in Section B.

1. EWC shall monitor system water usage during the summer of 2007 to determine the peak hour flow and maximum day demand during that period. EWC shall compare that information with the values used to prepare the Final Engineering Report and present the findings to DEQ in a brief report by no later than October 31, 2007.
2. EWC shall submit an application for financing the proposed system modifications to the Idaho Public Utility Commission (IPUC) by July 15, 2007.
3. EWC shall proceed as expeditiously as possible to make the following system modifications listed as "mandatory" in the Final Engineering Report for correcting deficiencies in the existing system:
 - a. Interconnect with an adjacent public water system to ensure a sufficient supply of supplemental water so that the EWC water system satisfies all applicable Idaho Rules for Public Drinking Water System pressure and flow requirements with the largest (most critical) EWC water source out of service. EWC shall provide the Preliminary Engineering Report for this interconnection to DEQ for approval by no later than July 31, 2007. EWC shall have the interconnection installed and operational by no later than December 31, 2007. EWC shall operate and maintain this connection until such time as an alternative source or sources of water are provided such that EWC can continue to satisfy Idaho Rules for Public Drinking Water System pressure and flow requirements with the largest (most critical) EWC water source out of service.

- b. Install an automatic pressure reducing/sustaining valve (PS/RV) in the water system at Floating Feather Road. EWC shall provide the Preliminary Engineering Report for this PS/RV to DEQ for approval by no later than July 31, 2007. EWC shall have the PS/RV installed and operational by no later than December 31, 2007.
4. EWC shall proceed in a timely manner to make the following system modifications required to satisfy system demand requirements forecast for the year 2010:
 - a. Develop a 2,365 gallon-per-minute (gpm) alternative source or sources of water supply such that Idaho Rules for Public Drinking Water System pressure and flow requirements are satisfied system-wide with the largest (most critical) EWC water source out of service. This supplemental water may come from new wells, modifications to existing wells, interconnections with other public drinking water systems or combinations thereof. EWC shall provide the Preliminary Engineering Report for this alternative source or sources to DEQ for approval by no later than September 30, 2007. The Preliminary Engineering Report shall provide a more detailed implementation schedule that will then be incorporated by reference into the Consent Order. EWC shall have the new source or sources, as approved by DEQ, installed and operational by no later than December 31, 2008.
 - b. Modify the Well #2 booster pump station so that the new station can produce a combined flow of 640 gpm at 148-feet total dynamic head while satisfying Idaho Rules for Public Drinking Water Systems redundancy requirements (largest pump out of service). EWC shall provide the Preliminary Engineering Report for the booster station modifications to DEQ for approval by no later than March 31, 2008. EWC shall have the modifications to the booster station, as approved by DEQ, installed and operational by no later than November 30, 2008.
5. EWC shall proceed in a timely manner to make the following system modification required to satisfy system demand requirements forecast for the year 2014: Install a more direct pipeline connection between the service area around Well #6 and the pipeline along Floating Feather Road as set forth in the Final Engineering Report in order to improve fire flows at the west end of the EWC service area whenever Well #6 is out of service. EWC shall provide the Preliminary Engineering Report for this pipe connection to DEQ for approval by no later than March 31, 2012. EWC shall have the loop installed and operational by no later than December 31, 2012.

B. Restrictions and Conditions:

With regards to the above Action Items, DEQ imposes the following restrictions and conditions:

1. The Consent Order Final Engineering Report is the functional equivalent of a Facility Plan as defined in Section 003.34 of the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08). To conform to requirements set forth in Section 503 of the Idaho Rules for Public Drinking Water Systems, EWC shall submit a Preliminary Engineering Report (see definition in Section 003.72 in the Idaho Rules for Public Drinking Water Systems) for any material modification to the water system. After DEQ approves that Preliminary Engineering Report, EWC shall then submit the plans and specifications for that modification to DEQ for approval. The Action Items involving system modifications reflect this requirement. DEQ

recognizes that the Final Engineering Report provided sufficient technical details for some of the proposed modifications (namely Action Items A.3.b and A.4.b) such that their Preliminary Engineering Reports could be fairly simple documents, perhaps even letter-style, referencing the Final Engineering Report.

2. The Consent Order Preliminary Engineering Report implementation schedules for individual system modifications do not address the requirement for providing Preliminary Engineering Reports. Rather than delaying the project by requiring such information to be provided in the Final Engineering Report, DEQ elected to work with EWC's engineer, MTC Engineers, Inc., to establish the dates indicated in this letter. In all cases, the plans and specifications will be submitted within 30 days after DEQ approves the Preliminary Engineering Report. By agreement, these dates will become part of the overall implementation schedule for the Consent Order. For both the Preliminary Engineering Report and related plans and specifications, the review and approval process shall be as described in Paragraph 5 of the Consent Order.
3. With this approval of the Final Engineering Report, projects involving only water mains (sewer mains are handled separately by the Eagle Sewer District) may be approved for construction, only, by either DEQ or a Qualified Licensed Professional Engineer working on behalf of EWC. However, Sanitary Restrictions may not be lifted by either DEQ or a Qualified Licensed Professional Engineer until written authorization is provided by DEQ. DEQ will provide this authorization after 1) Action Items A.1 and A.2 are completed and 2) the system modifications listed in Action Item A.3 are operational (or close enough that DEQ is satisfied that completion is assured).
4. For system modifications involving interconnections (Action Items A.3.a and possibly A.4.a), the Preliminary Engineering Reports shall include calculations or modeling results from the supplemental water suppliers' demonstrating that they can satisfy the needs of the EWC system while continuing to meet Idaho Rules for Public Drinking Water Systems requirements in their own systems. This demonstration shall be based on the EWC and supplemental water supplier simultaneously experiencing similar demand situations (i.e., maximum daily demand with fire flow and peak hour demand) with all of the supplemental water supplier's sources and booster pumps operational.
5. EWC shall not make any new service connections in the system's high pressure zone until all Idaho Rules for Public Drinking Water Systems redundancy requirements for the main booster station have been met. If redundancy is achieved by an interconnection covered under another Action Item, then EWC shall provide a Preliminary Engineering Report for DEQ's approval that demonstrates that Idaho Rules for Public Drinking Water pressure and flow requirements in the high pressure zone are met with the booster pump out of service. If redundancy is achieved through a system modification not covered under another Action Item, EWC shall follow standard Idaho Rules for Public Drinking Water Systems procedures by first submitting a Preliminary Engineering Report for DEQ's approval followed by plans and specifications.
6. Assuming redundancy requirements at the main booster station have been satisfied, the number of total service connections in the system's high pressure zone shall not exceed 125% of the total number of existing connections until EWC has demonstrated to DEQ's satisfaction that all Idaho Rules for Public Drinking Water Systems standby power requirements have been satisfied.

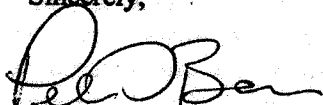
C. Recommendations:

DEQ feels that the following Final Engineering Report Suggested Actions are particularly important and encourages EWC to take the appropriate action:

1. Notify all customers in the system's high pressure zone that the main booster station currently does not have pumping redundancy or standby power.
2. Keep the City of Eagle's plumbing inspectors and developers informed as to what parts of the service area have service pressures greater than 80 pounds per square inch (psi).

Please call me with any questions at 373-0514, or contact me via e-mail at peter.bair@deq.idaho.gov.

Sincerely,



Peter S. Bair, P.E.
Technical II Engineer

PSB:sjt

Attachment: Approved copy of Final Engineering Report

- C: Tiffany Floyd, Drinking Water Manager, Boise Regional Office
Mark Mason, P.E. Engineering Manager, Boise Regional Office
Stephanie Ebright, Attorney General's Office, DEQ State Office
Monty Marchus, P.E., Boise Regional Office
James M. Rees, P.E., MTC, Inc., 707 N. 27th St., Boise, Idaho 83702 (w/ approved copy of Final Engineering Report)
Molly O'Leary, Richardson & O'Leary PLLC, P.O. Box 7218, Boise, Idaho 83707
Randy Lobb, Idaho Public Utilities Commission
BRO Source File – Eagle Water Company (w/ approved copy of Final Engineering Report)
TSP&S Reading File

EXHIBIT

EWCO - 2



October 16, 2008

Eagle Water Company
Attn: Robert DeShazo, Jr.

Dear Robert,

Pursuant to our recent conversation, here is an estimate of anticipated loan costs associated with your request.

- Loan Amount: \$500,000.00
- Term: 5 Years given similar collections
- Variable Interest Rate: WSJ Prime + 2.00%, floor of 6.75%
(today's rate = 6.75%)
- Interest Only Payment
(full advance): \$2,773.97/mo. given no change in rate
- Principle Reduction required quarterly – all available funds drawn
from controlled surcharge account.
- Loan Fee: 1% of Loan Amount

Please note that this is not to be considered a commitment to finance by Idaho Banking Company, but simply for discussion purposes only.

If you should have any further questions please call me at (208) 939-0554.

Sincerely,

Becky Fowers
VP & Branch Manager
Idaho Banking Company

▪ Eagle
402 S. Eagle Rd.
Eagle, Idaho 83616
208-939-7040

▪ Fairview
6010 Fairview Ave.
Boise, Idaho 83704
208-472-4700

▪ Meridian
1875 S. Eagle Rd.
Meridian, Idaho 83642
208-955-0686

▪ ParkCenter
449 E. Parkcenter Blvd.
Boise, Idaho 83706
208-395-1505

▪ Mortgage
2965 E. Tarpon Dr., Ste. 150
Meridian, Idaho 83642
208-378-1013

▪ Construction
2965 E. Tarpon Dr., Ste. 150
Meridian, Idaho 83642
208-947-5588