

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| FLOATING FEATHER PARTNERS, LLC, |) | |
| |) | CASE NO. EAG-W-08-01 |
| COMPLAINANT, |) | |
| |) | |
| vs. |) | |
| |) | |
| EAGLE WATER COMPANY, |) | ORDER NO. 30595 |
| |) | |
| RESPONDENT. |) | |

On June 19, 2008, Floating Feather Partners, LLC (Floating Feather) filed a complaint with the Idaho Public Utilities Commission (Commission) regarding the capability of Eagle Water Company to serve the Floating Feather Mobile Home Park (Mobile Home Park). The Mobile Home Park is located at 10601 Horseshoe Bend Road (Old Highway 55) in Ada County, Idaho and has 74 homes. The Mobile Home Park is presently under an Idaho Department of Environmental Quality (DEQ) Consent Order dated October 10, 2007 due to elevated levels of uranium in the Mobile Home Park's well water. Floating Feather contends that the most effective and efficient solution to the contamination problem and for the long-term provision of safe drinking water to the Mobile Home Park residents is connection to a municipal water source. Floating Feather seeks another municipal water provider. The Commission in this Order gives Eagle Water Company (Eagle Water; Company) until July 18, 2008 to remove regulatory impediments and to provide water service to the Floating Feather Mobile Home Park. Until the Mobile Home Park is interconnected to the Company's water system, Eagle Water is directed to provide the residents of the Mobile Home Park with potable bottled water.

Although the Mobile Home Park lies within the certificated service area of Eagle Water Company (Certificate No. 278), efforts to obtain service from Eagle Water have proved unsuccessful. Floating Feather contends that Eagle Water Company is under a present moratorium on new connections resulting from a Consent Order with DEQ regarding a lack of required redundancy in Eagle Water's system. Floating Feather opines that Mobile Home Park residents, many of whom are lower income, are confused and frustrated and believe they have no viable option but to continue to use and drink the contaminated water from the well. Given the apparent present inability of Eagle Water Company to serve the Mobile Home Park, Floating

Feather requests that the Commission authorize service by United Water Idaho Inc., which has a water main line on Horseshoe Bend Road directly adjacent to the Mobile Home Park. It is Floating Feather's belief that United Water represents the most expedient path to safe drinking water for its tenants. Floating Feather requests an expedited process to recertify the Mobile Home Park into United Water's certificated area and to allow immediate connection.

Finding that exigent circumstances existed to expedite procedure in this matter, the Commission on June 24, 2008 issued a Notice of Show Cause to Eagle Water Company and established a July 2, 2008 hearing date. As reflected in the Commission's Notice

At the Show Cause Hearing, Eagle Water Company should be prepared to demonstrate its capability of providing immediate water service to the Floating Feather Mobile Home Park; or if incapable of doing so, to explain why the Mobile Home Park should not be allowed to request service from United Water Idaho Inc. and why such service should not be authorized by the Commission.

The following parties entered appearances at the Show Cause hearing:

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|---------------------|----------------------|
| Eagle Water Company | Molly O'Leary, Esq. |
| Commission Staff | Scott Woodbury, Esq. |

The City of Eagle represented by Susan Buxton, Esq., requested and was granted intervenor status. IDAPA 31.01.01.075.

Discussion and Findings

The Commission has reviewed the filings of record in Case No. EAG-W-08-01, including the underlying Consent Orders of the Idaho Department of Environmental Quality (DEQ), that form a basis for Floating Feather's need for a new water source and that affect Eagle Water's ability to make new service connections and provide immediate water service to Floating Feather. The Consent Orders that we reviewed are the following:

Exhibit 102 – February 24, 2006 – Consent Order between Eagle Water Company and DEQ

Exhibit 103 – July 6, 2007 – Letter from DEQ to Eagle Water Company which is incorporated by reference into the February 24, 2006 Consent Order

Exhibit 104 – October 15, 2007 – Consent Order between Floating Feather Mobile Home Park and DEQ

A review of the Floating Feather/DEQ Consent Order reveals that the Floating Feather water system “was disapproved due to exceedences of the uranium maximum containment level (MCL).” Exhibit 104, p. 1 ¶ 3. The mitigation options available to Floating Feather include entering into an agreement with an existing public water system for interconnection and service. Exhibit 104, p. 2 ¶ 5(c), Option iii.

Floating Feather lies within the certificated service area of Eagle Water Company. As reflected in its June 13 letter filed with the Commission, Floating Feather initiated discussions with Eagle Water Company in February 2008.

Eagle Water Company at hearing presented the testimony of Robert DeShazo, the Company’s president and Susan Buxton, attorney for the City of Eagle. The Company admits that it operates under a DEQ moratorium on new service connections. Exhibit 103, p. 3 ¶ A.5. Mandatory modifications required by DEQ to meet the requirements of IDAPA 58.01.08 (Idaho Rules for Public Drinking Water Systems) include

- a. interconnection with an adjacent public water system to ensure a sufficient supply of supplemental water . . . and
- b. install an automatic pressure reducing/sustaining valve (PS/RV) in the water system at Floating Feather Road. . . .

Exhibit 103, pp. 1-2 ¶A.3a &b.

By its terms, the Company’s 2006 Consent Order with DEQ remains in full force and effect until the Department acknowledges in writing that the Consent Order is terminated and Eagle Water has fulfilled all requirements of the Consent Order. Exhibit 102, p. 5 ¶ 10.

Eagle Water at hearing represents that it has negotiated the principal terms of an intertie agreement with the City of Eagle that will satisfy the terms and conditions of the moratorium and DEQ’s redundancy and fireflow requirements. As represented, the intertie agreement, which is only in draft form, has not been executed, requires approval by the Eagle City Council, and requires a \$4,000 per month payment by Eagle Water to the City. The agreement will be for an initial 18-month term, subject to renewal upon request of Eagle Water and terms agreeable to both parties.

The Company and City represent that an executed intertie agreement can be presented to Eagle City Council for approval at its July 8, 2008 council meeting. Construction of City and Company intertie facilities can be completed in one to two days. Construction of Company

interconnect facilities with the Mobile Home Park can be completed in two to three days. The Company expects that upon completion of interconnection to the City system, Company application to DEQ and inspection of the as-built facility by DEQ, the requirements of the Consent Order will be satisfied and the moratorium will be lifted. The Company requests a short period to accomplish this task.

Floating Feather has an immediate need for water. As the Mobile Home Park lies within Eagle Water's certificated area, we find the Company has the right and obligation to provide service. The Commission's concern is that Eagle Water has been aware of Floating Feather's need for service since February of this year and has not effected a fix to the system deficiencies identified by DEQ in 2006 and to date has failed to extend service to Floating Feather.

To the extent that Eagle Water Company operates under regulatory impediments to its present service capability, we find that the Company is unable to demonstrate that it is "ready, willing and able" to provide water service to Floating Feather. We find no excuse for the Company's failure to address and remedy its system deficiencies in a timely manner. Floating Feather's situation is a health issue requiring immediate and prompt action. If the Company were ready to serve, it would not be subject to DEQ's moratorium service conditions. We expect the Company to be proactive with service requests within its certificated area and not await Commission direction.

Based on the Company's representations and commitments, we find it reasonable to give the Company two weeks, until Friday, July 18, 2008, to provide this Commission with a written notice that the DEQ moratorium has been lifted and that water service to Floating Feather Mobile Home Park has been initiated. The Commission expects that the Company will proceed along parallel paths with the City and DEQ and Floating Feather to provide the Mobile Home Park with water service. Failing timely provision of service to the Mobile Home Park, we find it reasonable without further notice to authorize the Floating Feather Mobile Home Park to request water service from United Water Idaho Inc. and commit to approving an application by United Water to amend its certificate to include the Mobile Home Park area. Recognizing Eagle Water's commitment at hearing, the Commission further finds it reasonable to require it to provide the residents of the Floating Feather Mobile Home Park with potable bottled water from

the service date of this Order until the Company is able to interconnect the Mobile Home Park to its water system or until further order by the Commission.

CONCLUSIONS OF LAW

The Commission has jurisdiction over Eagle Water Company, a public water utility, and the service issues raised in this case, pursuant to Idaho Code, Title 61, and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

The Commission has jurisdiction as a condition of Eagle Water Company's Certificate of Convenience and Necessity No. 278 to review the extension of service into an unserved area within an already certificated area. Reference *Cambridge Telephone Co. v. Pine Telephone System*, 109 Idaho 875, 712 P.2d 576 (1985).

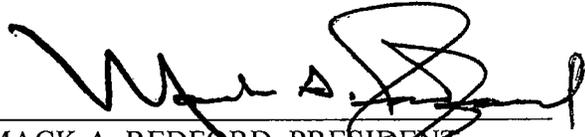
ORDER

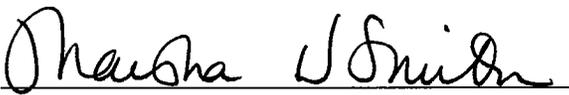
In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and Eagle Water Company is directed to provide this Commission on or prior to Friday, July 18, 2008, with written notice that it has initiated water service to the Floating Feather Mobile Home Park.

IT IS FURTHER ORDERED and Eagle Water Company is directed to provide the residents of the Floating Feather Mobile Home Park with potable bottled water from the service date of this Order until the customers are interconnected to and receiving water from the Company's water system or until further order of this Commission.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

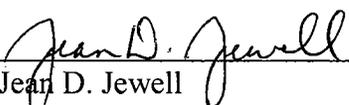
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 3rd
day of July 2008.


MACK A. REDFORD, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


JIM D. KEMPTON, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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