

DECISION MEMORANDUM

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

FROM: SCOTT WOODBURY

DATE: FEBRUARY 12, 2007

SUBJECT: CASE NO. GNR-W-04-01 (Water Service – Eagle Area)
UNCERTIFICATED WATER SERVICE AREA – PROPOSED
ALLOCATION

Background

On October 14, 2004, the Commission issued Order No. 29610 in Case No. EAG-W-04-02 addressing service territory issues raised by Eagle Water Company, Inc. (“Eagle Water”). The Commission’s Order approved a settlement reached by Eagle Water and United Water Idaho Inc. (“United Water”) to allocate five parcels between the two companies. In regard to William and Ellene Parr’s request for water service and the need for a comprehensive allocation of uncertificated territory in the growing community of Eagle, the Commission wrote:

We understand that the parties are working with William and Ellene Parr to determine if and how water service can be provided to their property. The Commission asks that the parties keep us informed as to the status of the Parrs’ request for service. Finally, we open a new docket in Case No. GNR-W-04-1 to consider allocation of the uncertificated service territory in the Eagle area. The Commission directs Staff to establish workshops to work through the requisite issues of such an undertaking. Tr. at 17-18, 20-21.

Order No. 29610 at 3.

On November 19, 2004, a workshop to investigate issues related to the allocation of the uncertificated service territory in the Eagle area, including the property owned by William and Ellene Parr, was held in Boise, Idaho. What followed was an informal stay of proceedings to allow Eagle Water Company and United Water Idaho an opportunity to negotiate a proposed split of the uncertificated area.

On December 30, 2004, the Commission awarded intervenor status to the City of Boise in Case No. GNR-W-04-01. Order No. 29671.

Stipulation and Proposed Allocation

On January 4, 2007, United Water and Eagle Water filed a Joint Motion with the Commission requesting approval of a proposed Stipulation and division of the uncertificated territory. See Exhibit A attached. The proposed Stipulation and division is prompted by additional requests for service and public concerns regarding the water table and water quality in private wells in the area. The proposed division results in an approximately equal division of the uncertificated area. In consequence, potential customers within the area will be able to obtain service from the utility closest to their location, thus minimizing line extension charges for those potential customers.

On January 17, 2007, the Commission issued Notices of Stipulation and Modified Procedure in Case No. GNR-W-04-01. The deadline for filing comments was February 9, 2007. Comments were filed by Commission Staff, the City of Boise and a number of affected property owners.

Public Comments

All property owners support resolution of this matter. One property owner relates that the tentative division line between Eagle Water and United Water is drawn between her two lots. The owner, Donna Murphy of Spring Creek, Nevada, requests that both lots be within the service territory of the same utility. The two lots are located on West State Street, Lot 5, Block 1, Randall Acres Subdivision No. 9 (R7334200041) and Lot 6, Block 1, Randall Acres Subdivision No. 9 (R7334200051).

City of Boise

The City of Boise strongly objects to the stipulated agreement. The City recommends that the entire area be served by United Water. As reflected in previous correspondence dated December 7, 2004, the entire area in question lies within Boise City's area of impact and the City anticipates that it will be annexed into Boise City in the near future. The City notes that it has already extended municipal sanitary sewer service into this area. Monthly sewer bills are based on the winter water consumption from the water provider once a customer is connected to public water. Boise City states that it has an excellent working relationship with

United Water. If Eagle Water provides water service to the area, a new franchise agreement will need to be negotiated and additional coordination efforts will be required. Should the Commission approve the stipulated agreement, the City requests that Eagle Water Company provide monthly water readings to Boise at no charge for the purpose of preparing sewer bills in the same manner that United Water provides similar information.

Comments of William and Ellene Parr

Though the Parrs have not formerly intervened in this proceeding, they have been involved in the underlying subject matter from the outset. The Parrs wish to develop their property into multiple residences. They own a private well on their property but it possesses insufficient capacity and/or water quality to serve the intended development. Under the proposed allocation the Parrs would receive water service from United Water. The Parrs believe that the proposed allocation is reasonable and recommend approval of the Stipulation.

Commission Staff

Staff recommends that the proposed Stipulation and division of the uncertificated territory be treated in a bifurcated manner. In the case of United Water, Staff recommends that (1) the United Water proposed area of service be approved, and (2) that United Water be directed to submit an amended Certificate of Convenience and Necessity and stand ready to provide service to affected customers requesting service as soon as reasonably possible. Staff believes that United Water currently has sufficient water supply at acceptable pressures to serve its share of the uncertificated area. United Water has two supply pipelines located east, and immediately adjacent, to the uncertificated area.

In the case of Eagle Water, Staff notes that Eagle Water is subject to an Idaho Department of Environmental Quality (DEQ) moratorium that precludes new hook ups in the service area requested. Staff recommends that the Commission defer action on the requested expansion of Eagle Water's certificated service area and not authorize Eagle Water to serve any new customers within the area described in the Stipulation unless and until DEQ lifts its moratorium. Staff recommends that Eagle Water be required to make a filing with the Commission after the moratorium is lifted demonstrating its ability to provide water service in the proposed certificated area of service.

On January 19, 2007, Eagle Water submitted its final Engineering Report to the Commission pursuant to Order Nos. 29840 (EAG-W-05-1) and 30213 (EAG-W-05-2). The

report was also submitted to DEQ on the same day, as required by DEQ's Consent Order 1076/16RO. The final Engineering Report shows that with minor improvements, Eagle Water is currently capable of providing its existing customers with adequate system working pressure under accepted modeling scenarios in which one critical well is assumed to be out of service. The report indicates the need for an additional water source or an increase in booster station capacity in order to fully utilize the combined flow from two of the system's major wells. Because the report was only submitted two weeks ago, both the Commission Staff and DEQ require more time for review to fully evaluate system adequacy. In any case, as of the date of filing these comments, DEQ has not lifted the moratorium on new connections. Staff is informed by DEQ that the moratorium must remain in place while the report is under review. Staff believes it is likely that DEQ will require at least some additional improvements to Eagle Water's system before the moratorium will be lifted.

Because the uncertificated area is presently served by private wells, Staff contends it is uncertain how many residents of the area will immediately request service. As a result, those few residents who may request service will likely be faced with fairly substantial line extension charges depending on their proximity to existing main lines. The one customer requesting service in Eagle Water's half of the uncertificated area is located on the extreme western edge of the area, which coincidentally is the farthest from United Water's existing main lines on the opposite eastern edge of the uncertificated area. Thus, if the Commission chooses not to accept the Stipulation and instead orders United Water to serve the entire uncertificated area, line extension charges for the customer on the western edge of the area may be so high that he cannot realistically afford to take service from United Water.

COMMISSION DECISION

Eagle Water Company and United Water Idaho have submitted a Stipulation and proposed division of an uncertificated area near Eagle in Ada County. Eagle Water is presently under a moratorium established by DEQ and Consent Order and is presently unable to serve customers located within the uncertificated area under consideration. Staff recommends that the portion identified as area for United Water be awarded to United Water and recommends that the remaining area remain uncertificated until such time as Eagle Water is able to make a filing with the Commission indicating that the moratorium has been lifted and demonstrating that it is capable of providing service. Does the Commission find the proposed split of the uncertificated

area to be reasonable? One customer providing comments owns adjacent lots on either side of the proposed division. That customer requests that the two lots be assigned to either Eagle Water or United Water. Does the Commission find it reasonable to treat the Stipulation and proposed division in a bifurcated manner as requested by Staff? The City of Boise recommends that the entire area be awarded to United Water. How does the Commission wish to treat the Stipulation and the proposed allocation of uncertificated water service area?

Scott Woodbury

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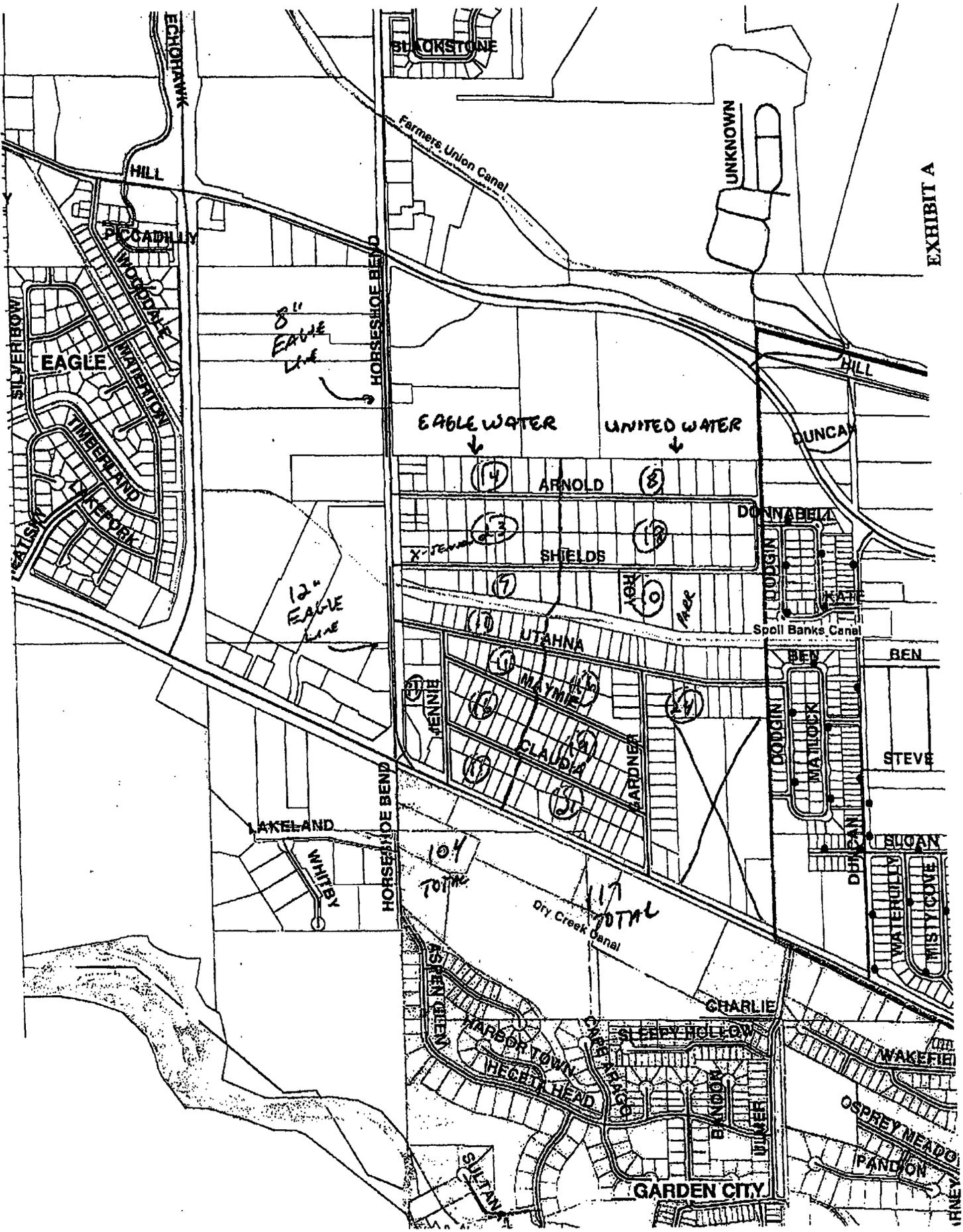


EXHIBIT A

BLACKSTONE

Farmers Union Canal

UNKNOWN

HILL

PICCADILLY

8" EAGLE Line

HORSESHOE BEND

EAGLE

EAGLE WATER

UNITED WATER

HILL

DUNCAN

(14)

ARNOLD

(8)

(13)

SHIELDS

(12)

DONNABELLA

12" EAGLE Line

(7)

(6)

Free

Spill Banks Canal

(10)

UTAHNA

BEN

BEN

(11)

MAYNIE

(15)

(16)

CLAUDIA

(18)

GARDNER

(17)

LAKELAND

WHITEBY

HORSESHOE BEND

104 TOTAL

117 TOTAL

Dry Creek Canal

DODGIN

MATLOCK

STEVE

DUNCAN

SUGAN

WATERLOO

CRISTY COVE

WEDDINGTON

MARSH TOWN

HEGEL HEAD

CHARLIE

SLEEPY HOLLOW

WAKEFIELD

OSPREY MEADOW

PANDON

GARDEN CITY

SUZANNE

COMPTON

BANDON

WILMER

IRVING