(text box: 1)BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE INVESTIGATION OF THE EARL REAMY WATER SYSTEM (POST FALLS, IDAHO). | )  )  )  )  )  )  ) | CASE NO. GNR-W-96-3  ORDER NO.  26643 |

The Commission received an initial complaint regarding the Earl Reamy Water System in March 1994.  Mr. Reamy operates a water system serving about 22 residences and one “cow-waterer.”  Staff’s investigative report (dated October 3 - 4, 1994) concludes that the water system is structured and operated in such a manner as to require regulation by this Commission.  No action toward regulation was taken because Mr. Reamy expressed an interest in exploring the feasibility of creating a homeowners association, a non-profit corporation, or a water district to run the system.  Staff agreed to work with the Company and its customers.

In February 1996, Mr. Reamy was advised by letter that having been unsuccessful in his attempts to transfer the water system to a homeowners association, a water district, or an otherwise qualifying non-profit corporation, it was now necessary to take steps to bring the water utility under the Commission’s regulation.  Mr. Reamy responded by telephone on March 6, 1996.  As reflected in Staff’s correspondence to Mr. Reamy dated March 7, 1996, it was Staff’s understanding that Mr. Reamy was going to meet with his customers.  Mr. Reamy represented that the customers had formed a homeowners association.  Mr. Reamy further agreed to provide the Commission by April 12, 1996 with an executed Memorandum of Understanding (MOU) setting forth the time of purchase and a time line for transfer of facilities.  Staff suggested that the exchange should be consummated in no less than 90 days.  Mr. Reamy was advised that should a timely Memorandum of Understanding not be filed with the Commission, Staff would petition the Commission to open a formal docket and proceed on a path for regulation of his water system.

The promised Memorandum of Understanding was never filed with the Commission.  Mr. Reamy continues to operate his water system.  The Commission’s  Consumer Staff has recently received an additional customer complaint.  Staff recommends that a case docket be opened and that Mr. Reamy be directed to file an Application for a Certificate within 30 days.

 Commission Findings

The Commission has reviewed Staff’s investigative report in this matter regarding the Earl Reamy water system and subsequent correspondence. The Commission agrees with the Staff’s analysis that the Earl Reamy system falls within the statutory definition of public utility and must be regulated.   The Commission finds it reasonable to direct Mr. Reamy to make application to the Commission within 30 days for a Certificate of Public Convenience and Necessity.  Reference Idaho Code §§ 61-526, 61-528; Rule 111, Commission Rules of Procedure (IDAPA 31.01.01.111).  The Commission Secretary is directed to provide Mr. Reamy with copies of the state statutes regarding public utilities (Idaho Code Title 61), the Commission’s Rules of Procedure (IDAPA 31.01.01.000 et seq.), and the Customer Relation Rules for Water Utilities (IDAPA 31.21.01.000 et seq.).

CONCLUSIONS OF LAW

The Commission has jurisdiction over public water utilities and the Earl Reamy Water System pursuant to the authority granted in Idaho Code Title 61 and the Commission’s Rules of Procedure IDAPA 31.01.01.000 et seq.   The Commission is vested “with power and jurisdiction to supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the provisions of [the Public Utilities Law].”  Idaho Code § 61-501.

Under Idaho Code § 61-129, the term “public utility” includes “every water corpora­tion, . . . as [that] term is defined in [Title 61 Chapter 1] . . .”  Idaho Code § 61-125 defines “water corporation” as “every corporation or person . . . owning, controlling, operating or managing any water system for compensation within this state.”  The term “corporation” does not include “a municipal corporation, or mutual non-profit or cooperative . . . water . . . corporation or any other public utility organized and operated for service at cost and not for profit, . . . .” Idaho Code § 61-104.

O R D E R

In Consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and Mr. Earl Reamy is hereby directed to file an Application with the Idaho Public Utilities Commission for a Certificate of Public Convenience and Necessity for the Earl Reamy Water System within 30 days.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this                  day of October 1996.

                                                                                                                                      RALPH NELSON, PRESIDENT

                                                                                           MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Myrna J. Walters

Commission Secretary

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**COMMENTS AND ANNOTATIONS**

Text Box 1:

**TEXT BOXES**

Office of the Secretary

Service Date

October 15, 1996