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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF UNITED WATER IDAHO INC. TO) CASE NO. UWI-W-05-4
AMEND AND REVISE ITS CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY) COMMENTS OF THE
NO. 143.) COMMISSION STAFF
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)
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COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Cecelia A. Gassner, Deputy Attorney General, and in response to Order No. 29908, the Notice of Application and Notice of Modified Procedure issued on November 8, 2005, respectfully submits the following comments.

BACKGROUND

On October 21, 2005, United Water Idaho Inc. (United Water; Company) filed an Application seeking to amend and revise its Certificate of Public Convenience and Necessity in order to expand its service territory. United Water seeks to expand the provision of its water services to seven discrete parcels of land. A map depicting United Water's current certificated boundary and United Water's proposed certificated boundary was attached to the Company's Application as Exhibit A. For reference purposes, a copy of the same map is attached to these comments as Attachment A.

United Water states that none of the areas it is proposing to serve are within the authorized territory of any other public utility water corporation under the jurisdiction of the Commission. The Application states that there are no known public utilities, persons, or corporations with whom the expansions are likely to compete. United Water proposes to provide service pursuant to its Tariff No. 1, General Metered Service, and in all respects will provide service pursuant to its Rules and Regulations as approved by the Commission.

STAFF ANALYSIS

The authority of the Commission with regard to expansion of a water utility's certificated areas is spelled out in the *Idaho Code*, in pertinent part, as follows:

61-526. Certificate of convenience and necessity. — No...water corporation shall henceforth begin the construction of a...line, plant, or system or of any extension of such...line, plant, or system, without having first obtained from the commission a certificate that the present or future public convenience and necessity require such construction: provided, that this section shall not be construed to require such corporation to secure such certificate for an extension within any city or county, within which it shall have theretofore lawfully commenced operation, or for an extension into territory whether within or without a city or county, contiguous to its...line, plant, or system, and not therefore served by a public utility of like character,...and provided further, that if any public utility in constructing or extending its lines, plant, or system, shall interfere or be about to interfere with the operation of the line, plant, or system of any other public utility already constructed, or if public convenience and necessity does not require or will require such construction or extension, the commission on complaint of the public utility claiming to be injuriously affected, or on the commission's own motion, may, after hearing, make such an order and prescribe such terms and conditions for the locating or type of the line, plant or system affected as to it may seem just and reasonable...

As provided in § 61-526, United Water can expand its certificated area within Ada County and to unserved areas contiguous to its existing system without explicit Commission approval as long as the service meets the public convenience and necessity and will not interfere with any other public utility. However, in accordance with past practice, United Water is seeking Commission approval to continue serving in areas where it has already expanded and to begin serving in areas where new customers have requested service.

Staff will describe and discuss each of the proposed expansion areas separately below.

1. Cloverdale Road

This proposed expansion would extend United Water's service boundary approximately ¼ mile to the west of its existing location along Cloverdale Road, between Franklin Road and Ustick Road (as described in further detail in Exhibit C to the Application). United Water has already extended its lines and facilities into the area to serve residential development and is currently providing domestic water service in the area pursuant to its standard rules and regulations. As shown on Attachment B prepared by Staff, the expansion would extend the Company's service territory boundary in this area to coincide with the area of impact boundary for the City of Meridian. Staff is not aware of any objection to this expansion; therefore, Staff recommends that it be approved.

2. Eagle & McMillan

This expansion extends United Water's service boundary slightly west of its existing boundary along Eagle Road near McMillan Road (as described in further detail in Exhibit E to the Application). United Water has already extended its lines and facilities into the area to serve residential development and is currently providing domestic water service in the area pursuant to its standard rules and regulations. Also shown on Attachment B prepared by Staff, the expansion would extend the Company's service territory boundary in this area to coincide with the city limits of the City of Meridian. Part of the requested expansion would, however, encroach into the area of impact of the City of Meridian. Because Meridian can control the pace and extent of subdivision development within its area of impact, Staff believes that Meridian, rather than United Water, should serve within the City's area of impact. However, Staff would be supportive of United Water serving a small area within Meridian's area of impact if the two parties can mutually agree.

3. Hidden Springs/Cartwright Ranch

This expansion would take in the Cartwright Ranch property, which is adjacent to United Water's existing service territory encompassing the Hidden Springs planned community (as described in further detail in Exhibit H to the Application). The developers of Hidden Springs anticipate building between 1350 and 1450 new homes on the Cartwright Ranch property, and have submitted a request to United Water for extension of water service into the area. Water

service facilities will be extended into the area pursuant to United Water's Rules and Regulations governing extensions. These line extension rules require a contribution by the developer of the full cost of the onsite and offsite facilities necessary to provide service. The rules also include provisions to charge the developer for special facilities (such as booster pumps and storage reservoirs) should they be necessary. Because of the developer contribution provisions under the Company's line extension rules, Staff believes that all other existing ratepayers are not harmed. Thus, Staff recommends approval of expansion of the Company's certificate to serve this area.

4. LDS Church at Eagle Road

This expansion is located west of Eagle Road and south of Lake Hazel Road (as described in further detail in Exhibit K to the Application). Water service facilities will be extended into the area pursuant to United Water's standard Water Main Extension Agreement.

The LDS Church at Eagle Road, along with the LDS Church at Linder Road and the Iron Horse proposed expansions discussed later in more detail, all lie outside of the city limits of the cities of Meridian and Kuna. They are also outside of the current area of impact boundaries of both cities. Attachment C is a map prepared by Staff showing the location of the Meridian and Kuna area of impact boundaries in relation to the proposed expansion areas sought by United Water.

The LDS Church has requested service to a 10-acre site in the area, but United Water is seeking to add 320 acres to its certificated area. Even though the Company's requested area is much larger than the Church's property, Staff believes the request reflects a logical expansion that encompasses the Church property and surrounding area defined by quarter section lines.

It is Staff's understanding that the City of Meridian, despite not currently having facilities to provide service, has a desire to extend its facilities to this area. In Case No. UWI-W-05-1, Order No. 29785, United Water was granted authority to add 1280 acres located immediately north and west of this area to its certificated area in order to serve the Black Rock, LLC proposed development. Even though United Water was granted the authority to serve the Black Rock area, the City of Meridian instead appears to be extending its facilities to serve this area. The same thing could happen to the LDS Church at Eagle Road requested area. Neither United Water nor the Commission has any authority to prevent the City of Meridian from serving any areas it desires to serve.

If the Commission grants approval to United Water to serve an area that ultimately becomes served by the City of Meridian instead, an inefficient duplication of facilities could occur. Staff recommends that United Water attempt to negotiate a settlement with the developer and the City of Meridian on who will serve this area. If United Water emerges as the preferred provider, Staff recommends approval of the Company's certificate expansion in this area.

5. *LDS Church at Linder Road*

This expansion is located west of Linder Road and south of Columbia Road (as described in further detail in Exhibit L to the Application). It is adjacent to United Water's existing non-contiguous Danskin service area. The LDS Church has requested service to a 10-acre site in the area, but United Water is seeking to add 160 acres to its certificated area. Even though the Company's requested area is much larger than the Church's property, Staff believes the request reflects a logical expansion that encompasses the Church property and surrounding area defined by quarter section lines. Water service facilities will be extended into the area pursuant to United Water's standard Water Main Extension Agreement.

This area, along with another proposed expansion identified as Iron Horse, lies within the corridor south of the city of Meridian and north of the city of Kuna. These areas are shown on Attachment C prepared by Staff. Neither of these areas is located within the area of impact boundaries of either city. There are no other regulated water utilities providing service in any of these areas, thus there is no opportunity for interference. Moreover, Staff does not believe that service by United Water to these areas would interfere with any existing unregulated or municipal water service providers.

Staff is uncertain as to whether either city is likely to be able to provide service to these areas in the near future. If neither city is immediately able to provide service and if the Commission were to deny United Water's Application to serve these three areas, it would effectively deny water service for an indefinite period of time. Staff believes the Commission would satisfy the public convenience and necessity by approving the Company's request to expand its certificate in the LDS Church at Linder Road and Iron Horse areas.

6. *Lexington Meadows Subdivision*

This expansion is west of McDermott Road and south of Overland Road in Canyon County, Idaho (as described in further detail in Exhibit N to the Application). It is adjacent to

United Water's existing non-contiguous Belmont Heights service area. The proposed expansion would encompass only the boundaries of the Lexington Meadows subdivision, which consists of 26 building sites. Water service facilities will be extended into the area pursuant to United Water's standard Water Main Extension Agreement.

The requested expansion area lies within the City of Nampa Area of Impact as shown on Attachment D prepared by Staff. However, the nearest Nampa municipal water facilities are located along Happy Valley Road, approximately 1-½ miles west of the proposed Lexington Meadows subdivision. The City of Nampa appears unlikely to extend water service to this area for several years in the future; therefore, Staff recommends that United Water be permitted to extend service to this area.

7. Iron Horse

This expansion would extend the boundaries of United Water's Danskin non-contiguous service area to include a proposed subdivision known as Iron Horse, located at W. Columbia Road and S. Black Cat Road (as described in further detail in Exhibit R to the Application). The expansion would add approximately 240 acres to the Danskin non-contiguous area. The developer of Iron Horse has requested service from United Water.

As discussed previously, this area is located between the area of impact boundaries of Meridian and Kuna. For the reasons stated above, Staff recommends approval of the Company's request to expand its certificate in this area.

The cities of Boise, Meridian, Nampa, Kuna, and Eagle have been notified of the Application and comment deadline. Staff understands that Meridian has filed a protest in this matter and has requested a hearing, and also that Nampa has submitted a comment stating some concerns with the Company's requested changes.

STAFF RECOMMENDATION

Staff recommends that United Water be granted approval to expand its certificated area to include those areas identified in its Application, with the exception of the small area at Eagle Road and McMillan where United Water's requested area encroaches into the City of Meridian's area of impact. For the requested expansion to serve the LDS Church at Eagle Road, Staff

recommends that United Water try to negotiate a settlement with the developer of the property and the City of Meridian by January 10, 2006 regarding who will serve the area. If United Water and Meridian are unable to reach a settlement by that date, Staff recommends that United Water's Application to serve the LDS church at Eagle Road be approved. Staff further recommends that the Commission direct the Company to prepare and file an Amended Certificate No. 143 to include those expansion areas approved by the Commission.

Respectfully submitted this 6th day of December 2005.





Cecelia A. Gassner
Deputy Attorney General

Technical Staff: Rick Sterling

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UWID PROJECTED EXPANSIONS

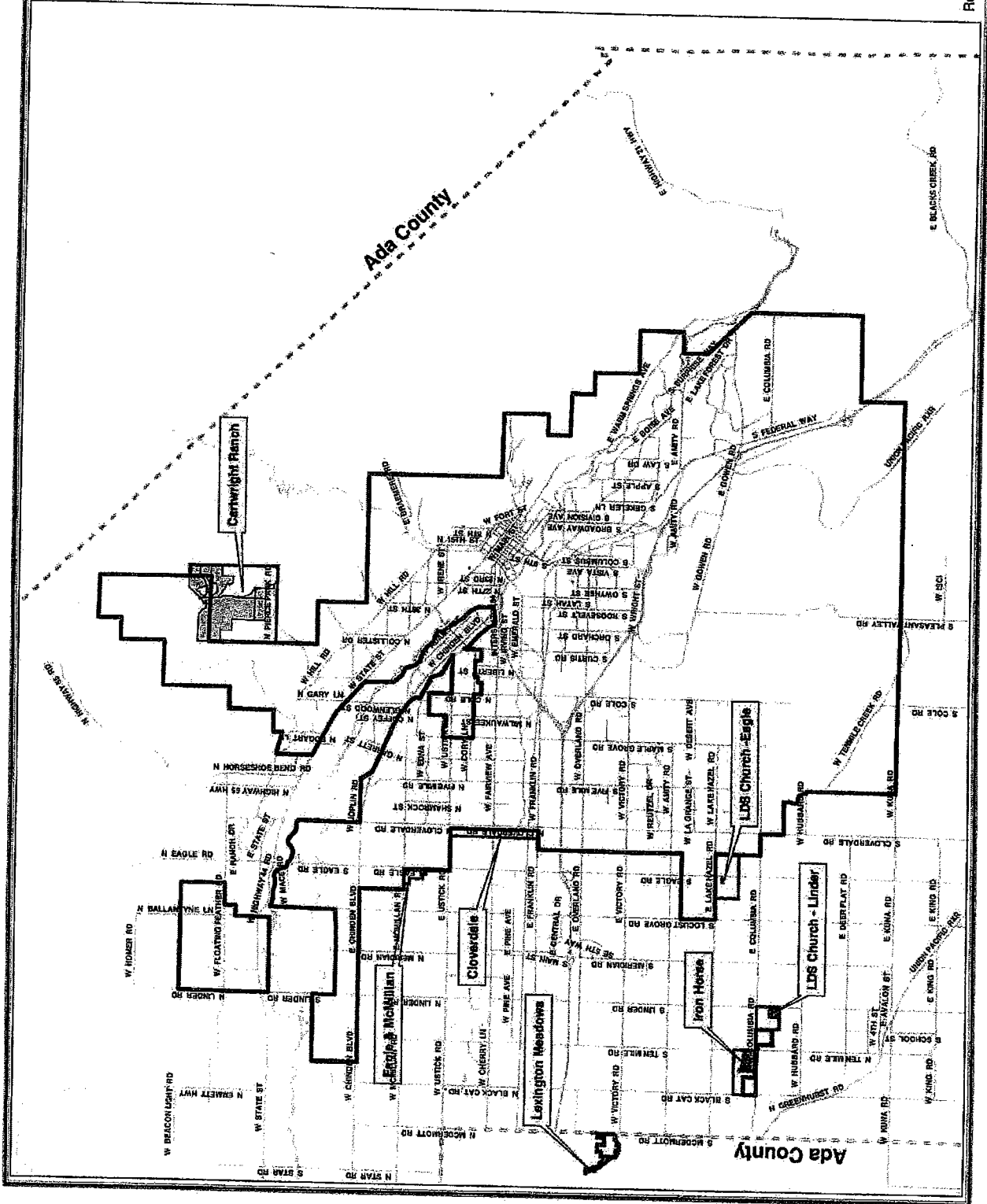
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-  Proposed Certified Area

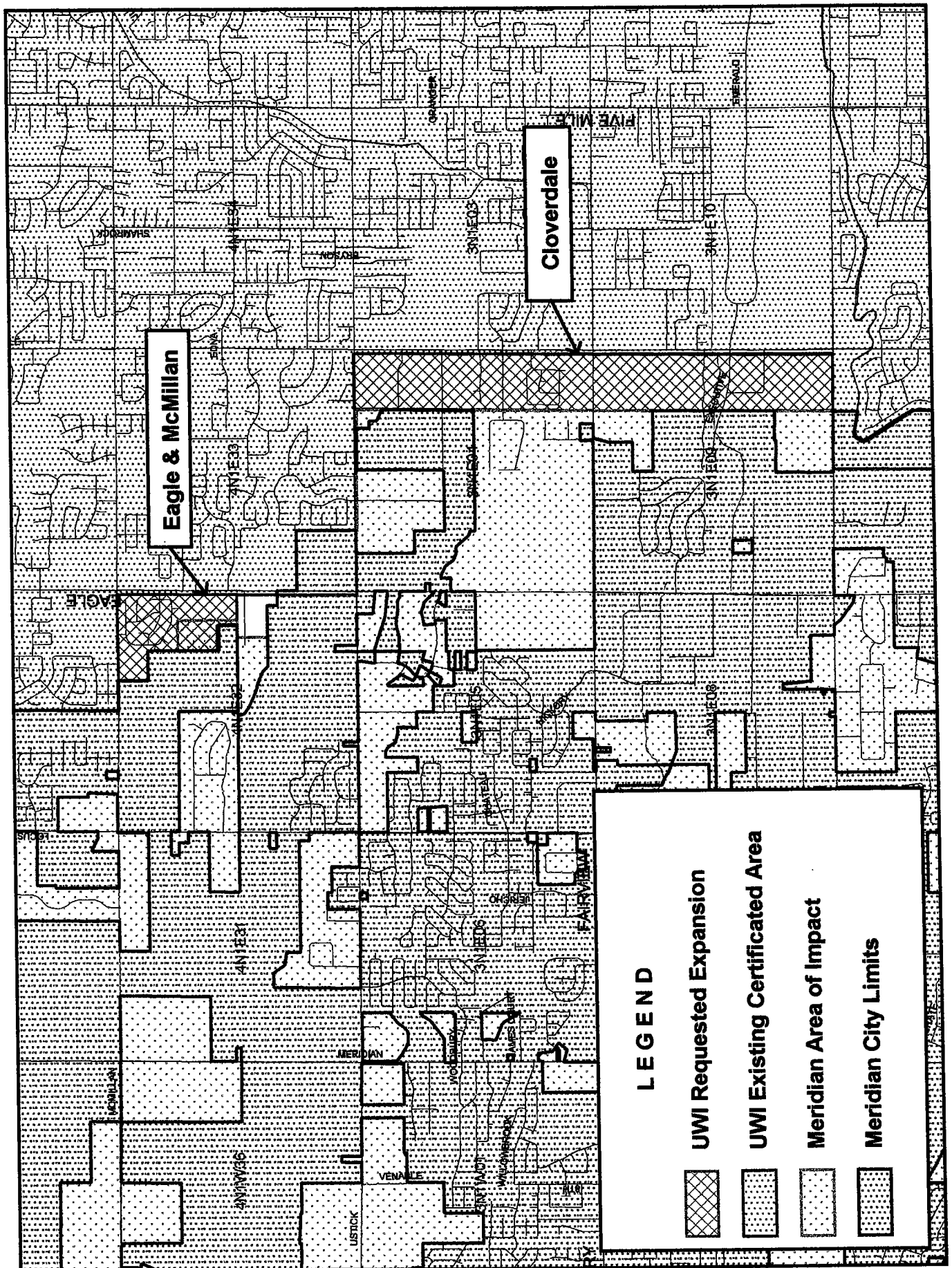


NO SCALE







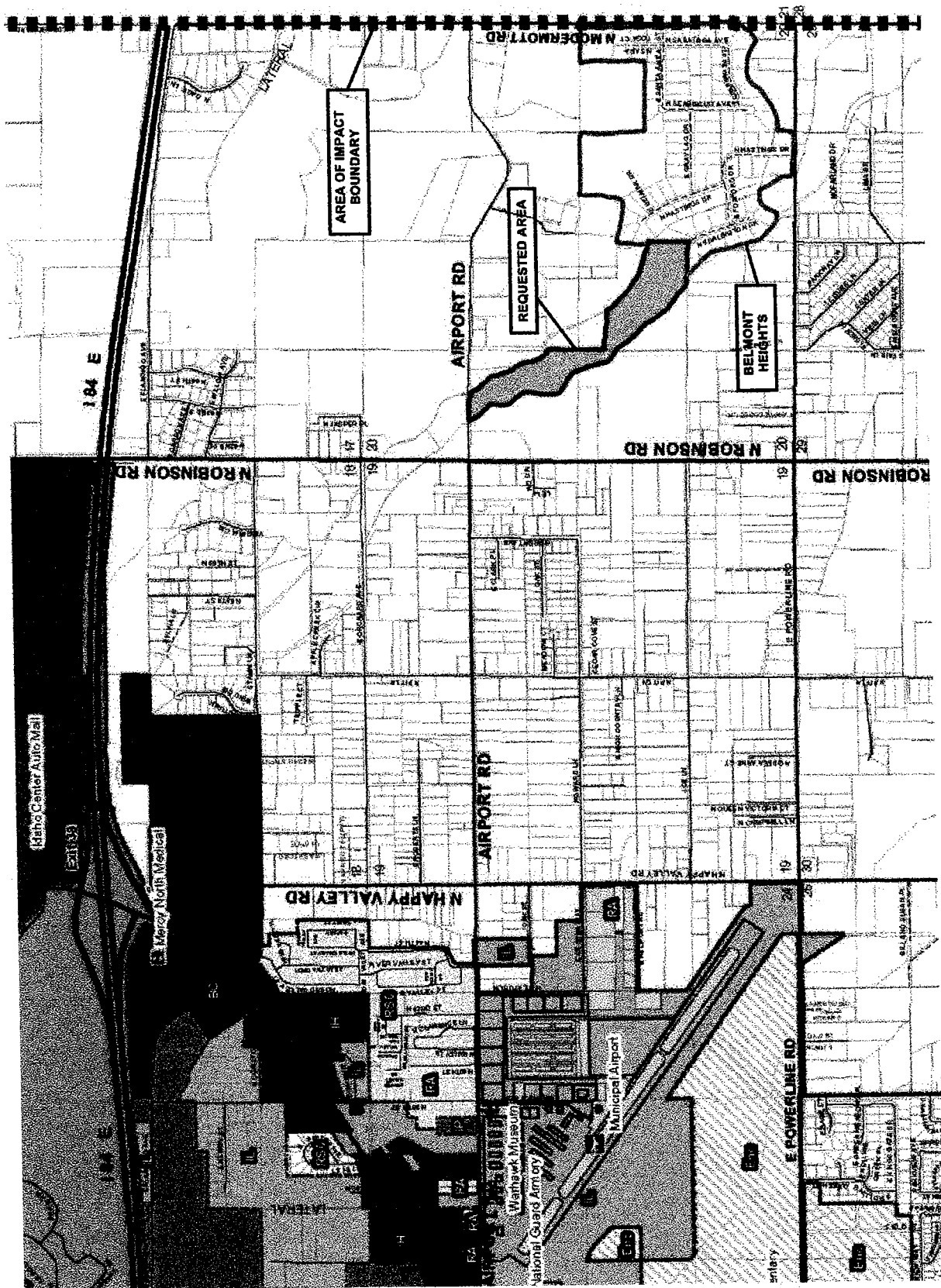
Revised Date: 10-17-05





LEGEND

-  UWI Requested Expansion
-  UWI Existing Certificated Area
-  Meridian Area of Impact
-  Meridian City Limits



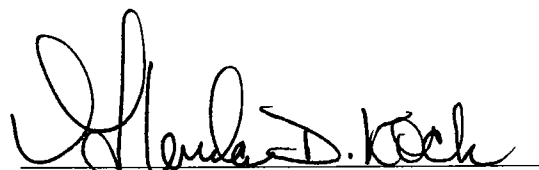
Attachment D
 Case No. UWI-W-05-4
 Staff Comments
 12/06/05

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 6TH DAY OF DECEMBER 2005, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. UWI-W-05-4, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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