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IDAHO PUBLIC  
UTILITIES COMMISSION

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Attorney for City of Eagle, Idaho

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION OF ) CASE NO. UWI-W-06-04**  
**UNITED WATER IDAHO INC. TO AMEND AND)**  
**REVISE CERTIFICATE OF CONVENIENCE )**  
**AND NECESSITY NO. 143. )**  
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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

REBUTTAL TESTIMONY OF VERN BREWER

1 **Q. Please state your name.**

2 **A.** My name is Vern Brewer.

3 **Q. Have you previously submitted testimony in this matter?**

4 **A.** Yes.

5 **Q. Have you reviewed the testimony of Wayne Forrey and Scott Rhead?**

6 **A.** Yes.

7 **Q. What comments do you have in response to Mr. Forrey's testimony?**

8 **A.** Mr. Forrey states that I informed him in February, 2006 that it would be at least  
9 two (2) years before the City could provide water service to Kastera's  
10 development. At the time of that meeting, February, 2006, I was responding to  
11 Mr. Forrey's questions based on the current status of several items and my  
12 understanding of his development timeline. I indicated to him that it could be up  
13 to two (2) years because there were some pending matters that were still being  
14 undertaken. In fact, several of these matters were completed in 2006 as described  
15 in my September 26, 2006 letter to Mayor Merrill. City of Eagle Exhibit 206.  
16 So there is no misunderstanding, as stated in my initial testimony, the City can  
17 serve Kastera immediately. The problem with Kastera's proposed development  
18 from a service perspective is that Kastera has never provided any details of its  
19 development, including its timing and plan for development.  
20 As Mr. Forrey indicates, approximately 140 acres of the development is in the  
21 City's Area of Impact. The City has an ordinance in place that requires  
22 developments that are annexed into the City to provide water for the development.  
23 This ordinance is attached as Exhibit 207. Kastera has also not, to my knowledge,

1 explained what it intends to do with this parcel which is within the City's Area  
2 of Impact to which the City's Comprehensive Plan is applicable. See City of  
3 Eagle Exhibit 208.

4 Mr. Forrey states that Kastera withdrew its application for annexation, in part,  
5 because of the City's "inability to provide service". If that was the main reason  
6 for withdrawing the application, it was a mistake because the City can provide  
7 services.

8 **Q. Do you have any reply to the testimony of Scott Rhead?**

9 **A.** Yes. Mr. Rhead testifies that service to Kastera would require extension of a 12"  
10 main line from facilities on Floating Feather Road. Previously, United Water had  
11 said it was going to extend a 16" main. United Water should clarify what size  
12 line would be proposed. The size of line that would be used should be clarified.  
13 If it is a 16" main extension, the expected cost of \$600,000.00 would be  
14 underestimated. Also, the City's main line extension to the Kastera property  
15 would be less than United Water's 2.25 mile extension.

16 Mr. Rhead also states that depending on the eventual design of the development,  
17 additional facilities such as a booster station and storage reservoir will be  
18 required. That is likely correct. However, again, Kastera's failure to provide any  
19 detail about its "eventual design" precludes any determination of what might be  
20 required. However, the City will have a storage reservoir in place within six (6)  
21 months.

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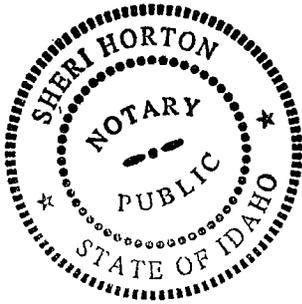
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Dated this 17<sup>th</sup> day of May, 2007.

*Vern Brewer*

Vern Brewer

SUBSCRIBED AND SWORN to before me this 17<sup>th</sup> day of May, 2007.



*Sheri Horton*

Notary Public for IDAHO

Residing at *Meridian, Idaho*

My Commission Expires: *4-26-08*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18<sup>th</sup> day of May, 2007 I served a true and correct copy of the foregoing document via the method indicated below to:

Dean J. Miller, Esq.  
McDevitt & Miller LLP  
420 West Bannock Street  
PO Box 2564  
Boise, ID 83701

U.S. Mail, Postage Prepaid  
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 Overnight Mail  
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Gregory P. Wyatt  
United Water Idaho, Inc.  
PO Box 190420  
Boise, ID 83719

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 Overnight Mail  
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Tom C. Morris  
Kastera LLC  
15711 Highway 55  
Boise, ID 83714

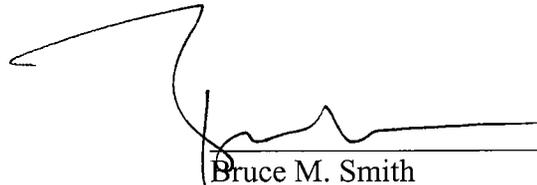
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Jean Jewell, Secretary  
Idaho Public Utilities Commission  
472 West Washington Street  
PO Box 83720  
Boise, ID 83720-0074

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\_\_\_\_\_  
Bruce M. Smith



# HOLLADAY ENGINEERING CO.

ENGINEERS • CONSULTANTS

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(208) 853-6281 • Fax # (208) 853-2831

September 22, 2006

Nancy Merrill, Mayor  
City of Eagle  
P.O. Box 1520  
Eagle, ID 83616

RE: Kastera Water Service (Revised)  
Ref. No. EG052806

Dear Mayor Merrill:

An issue has been made of timing for expansion of the City's water service system to a Kastera property by Mr. Forrey and other Kastera representatives. It has been stated that I represented that the City could not serve the Kastera property northeast of Eagle Road for two years. That representation is partially correct but it is instructive to examine the date and context of that statement.

Bill Vaughan, I, and others, including Mr. Forrey, met on February 23, 2006 to discuss the possibility of annexation and municipal water service to the Kastera property lying partially inside the Eagle Area of Impact and partially outside the Area of Impact north of Homer Road. At the time of our meeting several outstanding issues remained unresolved, including:

1. The City's Water Master Plan had been approved by the Department of Environmental Quality on December 20, 2005 but the City had not yet developed and passed a budget for implementation.
2. The City had petitioned the District Court for Judicial Confirmation to allow the City to proceed with a \$2.59 million water project including a one-million gallon reservoir, well, and trunk line extensions but had no indication of approval.
3. The City had two financing options for the \$2.59 million water expansion project but had no firm offers on financing.
4. The City had received approval of the amended plans and specifications for Eagle Well No. 3 (aka Brookwood Well) from DEQ on December 19, 2005 but had not resolved a schedule for construction.

Source-City's Response to  
Production-Attachment 2,  
Bates 000096-000098

Exhibit No. 206  
Case No. UWI-W-06-04  
Vern Brewer, City of Eagle

5. The City had not received development plans for Thompson Acres which plans provide an important link for the trunk line connection.
6. The City of Eagle had not been approached by any party owning lands above Homer Road to request being included in a planning area. The Council had asked that the focus of the initial Water Master Plan be the area lying south of Homer Road between Linder Road and Hwy. 16 as well as the remainder of properties lying outside any Certificated Areas as identified by the Public Utilities Commission.
7. The City had not held meetings with the property owners of Triple Ridge Place to determine if they would be willing to annex into the City in exchange for fire protection provided by a trunk line extension up Trinity Lane.

At that meeting the question of timing of City water service to the Kastera property was raised. I represented that the City was very interested in working with Kastera to pursue water service to their property. After explaining the status of the water planning and acknowledging the uncertainty of timing for agency approvals, I indicated that it could be up to two years before service could be extended. Since that meeting the following approvals have been received and planning changes have occurred.

- The City developed and adopted a budget and capital improvement for implementation of the Water Master Plan.
- The City received approval of the Judicial Confirmation on April 7, 2006.
- The City applied for and received approval of a Drinking Water State Revolving Loan on July 21, 2006. Design is proceeding and the schedule for completion of the water reservoir is October, 2007.
- In accordance with Brookwood Well Plans and Specifications, a well driller has been selected, a contract awarded and the well should be completed by May, 2007.
- The City received application for annexation and development of Thompson Acres and has approved the Preliminary Plat.
- The City has had numerous inquiries about the expansion of water service to areas lying north of Homer Road and is in the process of reviewing master planning documents to consolidate various planning efforts into a cohesive master plan for updating and amending its Water Master Plan.
- The City has met with the property owners of Triple Ridge and is in the process of working out the details for annexation.

Mayor Merrill  
September 22, 2006  
Page 3

With the foregoing approvals and continuing work effort, it appears that the initial estimate of time was correct. The City appears capable of providing service to the Kastera property well within the two year window as stated in that initial meeting.

Sincerely,

HOLLADAY ENGINEERING CO.

A handwritten signature in black ink, appearing to read "Vernon E. Brewer". The signature is fluid and cursive, with a large initial "V" and "E".

Vernon E. Brewer, Project Manager

**6-5-23: DONATION OF WATER SYSTEMS TO THE CITY:**

A.Design Standards: All newly constructed water systems shall be designed according to the city construction and design standards as it pertains to water systems.

B.Water Systems Shall Be Dedicated To The City: All newly constructed domestic drinking water systems, constructed after the enactment of this chapter within the water service area, must be dedicated to the city, at the city's option, after the city inspects such system for compliance with the construction and design standards. Included in the public dedication of the water system, the water system owner must also provide a reasonable right of way and easement to allow for maintenance and service of the water system. (Ord. 202, 5-26-1992)

C.Conditions Of Annexation And/Or Approval Of New Development: As a condition of annexation into the city and/or as a condition of approval of new development within the city, the landowner and/or developer shall:

1. Secure suitable surface water rights adequate to satisfy all irrigation, aesthetic, amenity, or recreation needs of the proposed development and/or property proposed to be annexed. Said water rights must be valid, existing water rights recognized by the Idaho department of water resources (the "department"). If any transfer, amendment or other proceedings are required under Idaho Code or department rule or regulation for the city's use of such water, the owner and/or developer shall be solely responsible for the city's costs of completing the same and the city's costs of obtaining all necessary approvals from the department as a condition of annexation and/or development, including costs associated with mitigation;

2. Secure suitable ground water rights adequate to satisfy all ground water needs of the proposed development and/or property proposed to be annexed and transfer or assign said water rights to the city for inclusion into the city's municipal water supply system. Said water rights must be valid, existing water rights permitted or licensed by the department. If any transfer, amendment or other proceedings are required under Idaho Code or department rule or regulation for the city's use of such water, the owner and/or developer shall be solely responsible for the city's costs of completing the same and the city's costs of obtaining all necessary permits and approvals from the department as a condition of annexation and/or development, including costs of mitigation;

3. Pay for the city's costs of construction of municipal supply well(s) necessary to meet the demands of the proposed annexed property and/or new development. The city engineer shall determine the necessary location, number, and capacity of well(s) based upon the proposed development or other improvements. Said wells shall be constructed to city standards. The owner and/or developer shall be solely responsible for the city's costs of obtaining all necessary permits and approvals for such wells as a condition of annexation and/or development, including the costs of any required mitigation. The design and construction of municipal supply wells shall be reviewed and inspected by the city engineer;

a. At the option of the city, demands arising from more than one development may be served by a single well or centralized well with the costs thereof apportioned to the participating developments in proportion to their water demands.

4. Any well construction or development of ground water resources shall be prohibited

Exhibit No. 207  
Case No. UWI-W-06-04  
Vern Brewer, City of Eagle

within the city's municipal water service area except as may be set forth in a development agreement or by a special purpose permit issued by the building official and approved by the city council.

5. The requirements for obtaining surface water rights for irrigation, aesthetic, amenity, or recreation needs may be waived if the city determines that the landowner and/or developer is entitled to a waiver under subsection 9-4-1-9C2 of this code and that the landowner and/or developer cannot secure surface water rights by appropriation or transfer to the proposed development and/or property proposed to be annexed.

6. Nothing in this subsection shall require the transfer or assignment of a water right represented by shares of stock in a canal company. (Ord. 530, 10-18-2005)

**ORDINANCE NO. 623**

AN ORDINANCE AMENDING ADA COUNTY CODE TITLE 9, CHAPTER 2, SECTION 2 AND 3, PROVIDING FOR THE ADOPTION OF AN AMENDED CITY OF EAGLE COMPREHENSIVE PLAN AS ADOPTED BY THE CITY OF EAGLE ON SEPTEMBER 14, 2004.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ADA COUNTY, IDAHO THAT TITLE 9, CHAPTER 2, SECTION 9-2-3 OF THE ADA COUNTY CODE BE AMENDED AS FOLLOWS, WITH THE TEXT OF THE FOOTNOTES IDENTIFIED HEREIN REMAINING UNCHANGED:

Section 1: Ada County Code Sections 9-2-1 is amended as follows:

9-2-1: AREA OF CITY IMPACT BOUNDARY:

A. Eagle Area Of City Impact And Urban Service Planning Area Boundary Map:

1. The Eagle area of city impact and urban service planning area are the areas designated on the Eagle area of city impact and urban service planning area boundary map, fully incorporated by reference, copies of which are available for inspection at the Ada County development services department.

2. Amendments to the map are as follows:

- a. Ordinance 199, May 25, 1989.
- b. Ordinance 309, June 25, 1996.
- c. Ordinance 355, March 25, 1998.
- d. Ordinance 367, December 2, 1998.
- e. Ordinance 539, April 28, 2004.
- f. Ordinance 602, December 28, 2005.
- g. Ordinance 623, June 28, 2006.

B. Division By Boundary Line: In case a property under single ownership is divided by the boundary line of the Eagle area of city impact, if such line divides such property so that one or both of the parts has a depth of three hundred feet (300') or less, such part may be included in the jurisdiction within which the remainder and larger portion of the property is located.

Section 2: Ada County Code Section 9-2-3 is amended as follows:

ORDINANCE NO. 623 - PAGE 1

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9-2-3: APPLICABLE PLAN POLICIES AND ORDINANCES:

A. The Eagle comprehensive plan, as amended by the city of Eagle ~~February 16, 2004, by resolution 04-01~~ September 14, 2005 by Resolution 04-15, shall apply within the Eagle area of city impact.

B. Applications for subdivision development in the Eagle area of city impact shall be evaluated for conformance to the design and improvement standards contained in the Eagle city code, title 9, chapter 3, and in chapter 4, sections 9-4-1-1 through 9-4-1-12.

C. All subdivision plats situated within the area of city impact shall be submitted to the city of Eagle for their recommendation.

D. The Ada County zoning ordinance shall be used to implement this chapter.

E. Ada County shall use the following standard in calculating density of residential development: the total number of dwelling units within a proposed development, divided by the total land area. Fractional amounts greater than those designated on the Eagle comprehensive plan land use map will not be allowed except where the Eagle comprehensive plan details a fractional density and then the density shall not exceed the number described in the Eagle comprehensive plan. Floodway areas and land used for public uses such as schools or public service facilities will not be included in the total land area calculation.

**ADOPTED** this 28th day of June, 2006.

**Board of Ada County Commissioners**

By: \_\_\_\_\_  
Rick Yzaguirre, Chairman

By: \_\_\_\_\_  
Judy M. Peavey-Derr, Commissioner

By: \_\_\_\_\_  
Fred Tilman, Commissioner

ATTEST:

\_\_\_\_\_  
J. David Navarro, Ada County Clerk

PUBLISHED: July 13, 2006

ORDINANCE NO. 623 - PAGE 2

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