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IDAHO PUBLIC
UTILITIES COMMISSION

May 4, 2007

Via Hand Delivery

Jean Jewell, Secretary
Idaho Public Utilities Commission
472 W. Washington Street
Boise, Idaho 83720

Re: Case No. UWI-W-06-04

Dear Ms. Jewell:

Enclosed for filing, please find nine (9) copies of the testimony and exhibits of Wayne S. Forrey, with a copy designated as "Reporter's Copy".

Kindly return a file stamped copy of this letter and Application.

Very Truly Yours,
Kastera Development, LLC

A handwritten signature in black ink, appearing to read "Thomas C. Morris".

Thomas C. Morris

TCM/bb
Enclosures

Tom C. Morris, ISB No. 2974
Kastera LLC
15711 Highway 55
Boise, Idaho 83714
(208) 921-4021
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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

DIRECT TESTIMONY OF WAYNE S. FORREY

May 4, 2007.

1 Q. Please state your name and business address.

2 A. Wayne S. Forrey, 15711 Highway 55, Boise, Idaho, 83714.

3 Q. Please describe your employment with Kastera Development LLC.

4 A. I am employed by Kastera Development LLC (“Kastera”) in the capacity of the
5 Director of Planning and Development. I have been employed by Kastera for
6 approximately one and a half years. In my capacity as the Director of Planning and
7 Development, I oversee the entitlement and development process for all of Kastera’s
8 community development projects, including specifically the Trailhead development.

9 Q. What is the purpose of your testimony?

10 A. I will generally describe the Trailhead development and Kastera’s involvement
11 with the City of Eagle, Idaho (“City” or “City of Eagle”) and United Water Idaho, Inc.
12 (“United Water”) in seeking drinking water for the project and possible annexation into
13 the City of Eagle.

14 Q. Please describe the Trailhead development.

15 A. Kastera is developing 660 acres of property owned by Legacy Investments LLC
16 in an un-incorporated area of Ada County within an area generally referred to a “north
17 Ada County”, with access to Willow Creek Road. The property is sometimes referred to
18 as the Olsen property or the Olsen ranch. Approximately 140 acres in the southeast and
19 southern most part of the property is included in the City of Eagle Area of Impact
20 Boundary. At this time, Kastera does not anticipate that any water service will be
21 necessary from United Water for this 140 acre area. Approximately 520 acres, which is
22 the balance of the property, is not within the City of Eagle’s Area of Impact.

1 Q. Does the Trailhead property have any irrigation or drinking water rights
2 associated with it?

3 A. No.

4 Q. How does Kastera intend to provide water to the Trailhead development?

5 A. I approached the City of Eagle in early February of 2006 to inquiry about water
6 service in the area of the Trailhead property. During this meeting I discovered that the
7 Trailhead property was not included in the City of Eagle's water master plan. I spoke
8 with Vern Brewer of Holiday Engineering, who is the City Engineer for the City of
9 Eagle. We met at Eagle City Hall. Mr. Brewer told me that it would take the City of
10 Eagle at least two to three years before the City would have a well, water right, and the
11 necessary storage, pumping and mainline infrastructure in place to provide water to the
12 Trailhead development. In addition, the City did not master plan to provide water to land
13 north of Beacon Light Road, which is where the Trailhead property is located. Kastera
14 was not willing to wait two or three years to develop the property so we approached
15 United Water to see if they could provide water to the project sooner than the City of
16 Eagle could.

17 Q. What did United Water tell Kastera about its ability to provide water to the
18 Trailhead development?

19 A. I contacted Mr. John Lee of United Water and arranged to have him meet with my
20 assistant, Thomas Fassino. Mr. Fassino met with Mr. Lee in February of 2006. Mr. Lee
21 explained that United Water had the current capacity and the ability to provide all of the
22 water service necessary for the Trailhead development that we were proposing at that
time. I then sent a letter to Mr. Lee on February 21, 2006, formally requesting water

1 service for the Trailhead property via United Water. United Water then filed its
2 Application with the Commission in April of 2006.

3 Q. Did you at some point explore the possibility of annexation with the City of
4 Eagle?

5 A. Yes. At about the same time that United Water was filing the Application, I sent a
6 letter to the City of Eagle Mayor Nancy Merrill, dated April 18, 2006, requesting a
7 meeting to discuss possible annexation of the Trailhead property and our Shadow Valley
8 property. Because I had previously owned and developed property in Eagle, I was aware
9 that United Water served other areas within the City of Eagle and believed that
10 annexation and water service were two separate issues. On May 18, 2006, Var Reeve,
11 President of Kastera, and I met with two City of Eagle council members and one staff
12 member to discuss development issues. The issue of water came up at that time and
13 Councilman Stan Bastian and Councilman Scott Nordstrom confirmed that, while the
14 City was taking steps to work faster on the process, their City engineer believed that it
15 could be at least two to three years before the City could provide water to the Trailhead
16 property area. We informed the City Council members and staff member that we were
17 working with United Water to provide water for the project because United Water had
18 immediate capacity and facilities in place to serve Trailhead.

19 Q. Did you have any further contact with the City as a result of the May 18, 2006
20 meeting?

21 A. Yes. When the City found out that we had requested that United Water provide
22 water service to the Trailhead property and that United Water had filed the Application
with the Commission, we were contacted by City Councilman Stan Bastian who claimed

1 that Vern Brewer had been mistaken in his previous assessments of the water situation
2 and that in fact the City could provide water service to Trailhead within one year. We
3 were also informed that annexation into the City of Eagle would not be possible unless
4 we committed to obtain water from the City. Because our goal was to develop our
5 Trailhead property and be annexed into the City of Eagle, but only if the City could
6 assure us of certain zoning, density, and development issues, and provided the City could
7 in fact provide water within our time schedule for development, we decided to further
8 pursue the issue with the City and discussed entering into a Memorandum of
9 Understanding concerning these development issues.

10 Q. Did you believe that the City of Eagle could provide you with water as
11 represented?

12 A. No. We had very serious reservations about the City's ability to perform as
13 represented. We sent a letter to the Commission on July 24, 2006, hoping to get some
14 feedback and help in determining if the City could provide water in 6 months. We did not
15 want to agree to annexation and then be without water for two or three years. At a
16 meeting on August 10, 2006 with the Commission staff, United Water, Mayor Merrill,
17 Councilman Bastian, and City of Eagle attorneys, the City again confirmed that it would
18 not allow annexation if United Water provided water service to the property. At that time
19 the City further informed all parties that the City would pursue legal action to prevent
20 Trailhead from receiving water from United Water even if Kastera did not seek
21 annexation. I felt like the City had put a gun to our head! Wanting to avoid litigation,
22 Kastera determined that it would be prudent to further pursue annexation with the City.

Q. What was going to be the path of annexation for Trailhead?

1 A. Kastera was told on multiple occasions by City Council members, staff members
2 and their attorneys, including in the meeting on August 10, 2006, and in a letter dated
3 August 25, 2006, from Bruce Smith to Thomas Fassino, that the City had, or was in the
4 process of finalizing, contracts and agreements to provide the annexation path for
5 Trailhead. Kastera was never privy to the exact path of annexation but was told by City
6 attorneys Bruce Smith and Susan Buxton, and staff member Nicole Baird Spencer that it
7 would go through the Triple Ridge subdivision to the south of the Trailhead property.
8 Based upon these representations by City staff and their attorneys, Kastera continued to
9 pursue annexation into the City and eventually filed an application with the City for
10 annexation and rezone in December of 2006.

11 Q. Did the promised annexation path ever materialize?

12 A. No. Kastera subsequently determined that the Triple Ridge subdivision had no
13 agreement with the City for annexation and in fact did not want to be annexed. This was
14 confirmed with Nicole Baird Spencer, Eagle City staff member and Susan Buxton, Eagle
15 City attorney. Based on the City of Eagle's inability to identify any existing or planned
16 annexation path or contractual agreements to support such a path, (*See CITY OF*
17 *EAGLE'S RESPONSES TO THE FIRST PRODUCTION REQUEST OF KASTERA*
18 *LLC TO THE CITY OF EAGLE, IDAHO, Response to Request No. 4, a copy of which*
19 *is attached hereto*), it appears that no annexation path was ever secured. As a result of a
20 lack of an annexation path and the City's inability to provide water service plus inability
21 to commit to certain development requests that Kastera deemed critically necessary,
22 Kastera notified the City by letter dated February 15, 2007, that it was withdrawing its

1 application for annexation and rezone. Kastera also requested a refund of its application
2 fees.

3 Q. What are Kastera's current development plans for the Trailhead property?

4 A. Kastera is pursuing development of Trailhead within Ada County. Our application
5 is nearly ready for filing, and Kastera has had several pre-application meetings with Ada
6 County staff. It is still Kastera's desire that United Water provide water services to the
7 Trailhead development.

8 Q. Are you confident United Water can provide immediate water service to
9 Trailhead?

10 A. Yes.

11 Q. Is Kastera able to develop the Trailhead property in Ada County with water
12 service from United Water?

13 A. Yes.

14 Q. Does that conclude your testimony?

15 A. Yes.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 4th DAY OF MAY, 2007, CAUSED TO BE SERVED BY THE MEHOD(S) INDICATED BELOW, A TRUE AND CORRECT COPY OF THE FOREGOING DOCUMENT:

Dean J. Miller, Esq.
McDevitt & Miller LLP
420 West Bannock Street
PO Box 2564
Boise, ID 83701
joe@mcdevitt-miller.com

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile
 Email

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Greg.wyatt@unitedwater.com

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 Hand Delivered
 Overnight Mail
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Bruce M. Smith
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& Turcke, Chartered
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 Overnight Mail
 Facsimile
 Email

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

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile



Tom C. Morris

REQUEST NO. 1: Please provide a copy of all documentation in your possession, including all letters, memoranda and emails, that in any way deals with the Kastera annexation request for the Trailhead Community.

RESPONSE TO REQUEST NO. 1: See Attachment No. 1.

REQUEST NO. 2: Please provide a copy of all documentation in your possession, including all letters, memoranda and emails, that in any way deals with the City of Eagle's plan to provide water service to the Trailhead Community.

RESPONSE TO REQUEST NO. 2: See Attachment No. 2.

REQUEST NO. 3: Please provide a copy of all written or electronic communications with any outside or third party consultants (not including legal counsel) concerning the City of Eagle's ability to provide water service to the Trailhead Community.

RESPONSE TO REQUEST NO. 3: See Attachment No. 2.

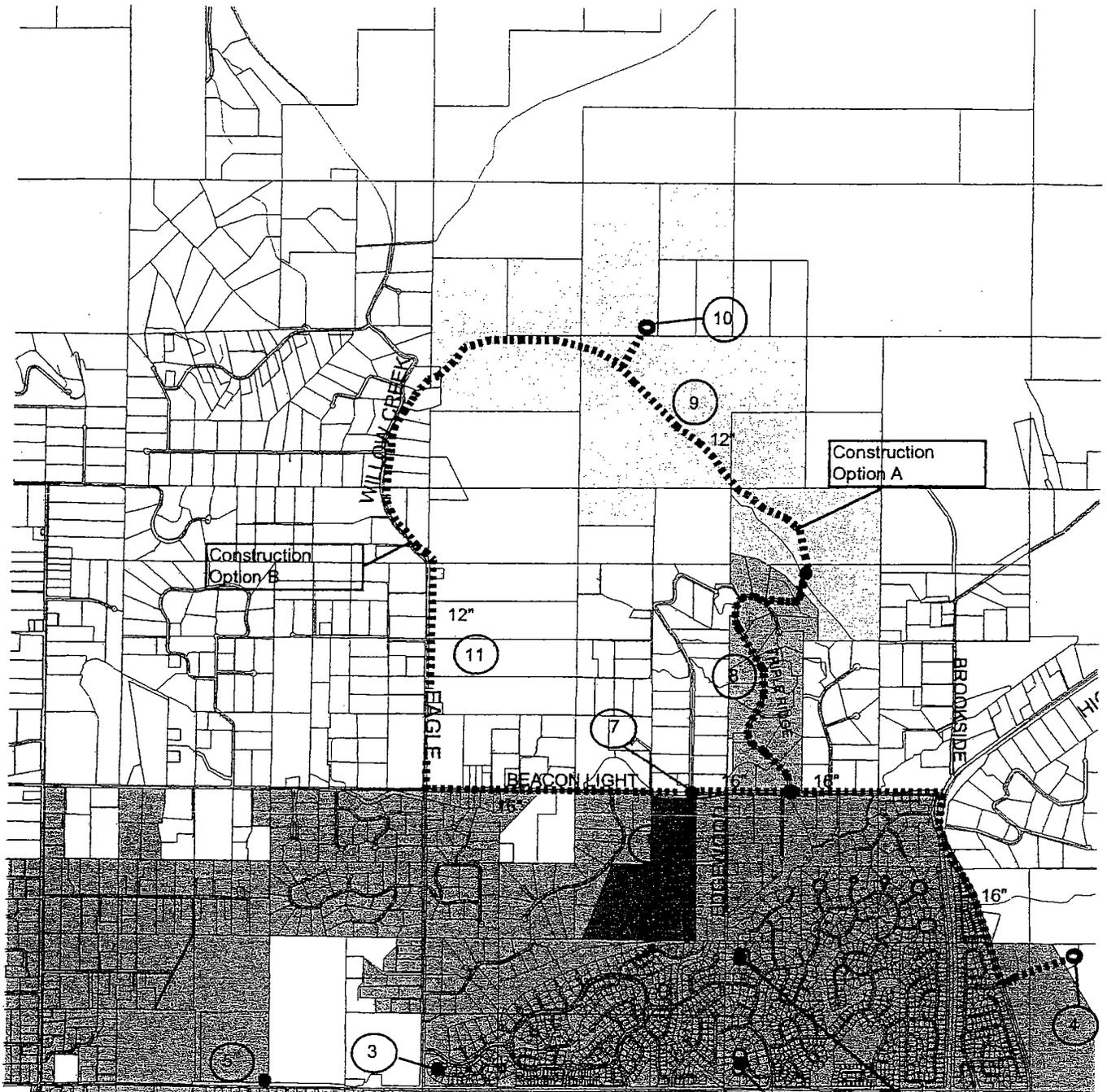
REQUEST NO. 4: If the City of Eagle has, as of this date, an enforceable annexation path for the Trailhead Community, please identify in detail such path of annexation, including all parties involved and the agreements in place to establish such path. If an annexation path does not currently exist, please provide a copy of all letters, contracts, agreements, memoranda of understanding, development agreements or similar documents that the City of Eagle has used in its attempt to establish an annexation path for the Trailhead Community. Please include any map or maps that show the existing, intended or anticipated path of annexation for the Trailhead Community.

RESPONSE TO REQUEST NO. 4: See Attachment No. 3.

ATTACHMENT 3

RESPONSE TO REQUEST NO. 4

CASE NO. UWI-W-06-04



City of Eagle Kastera/Triple Ridge Area

Legend

-  Roads
-  Kastera
-  Triple Ridge
-  Thompson Acres
-  Parcels
-  Eagle City
-  Eagle AOI

1. City Well No. 1 (existing)
2. City Well No. 2 (not in operation)
3. City Well No. 3, construct 2006 (by City)
4. Million-gallon storage reservoir, construct 2007 (by City)
5. Floating Feather Well (existing)
6. Trunk line (Thompson Acres - in process)
7. Booster Pump Station(Kastera)
8. Trunk Line(Kastera)
9. Loop line (Kastera)
10. Storage reservoir - (option to be determined - Kastera)
11. Trunk line (Kastera)

