

SCOTT WOODBURY  
DEPUTY ATTORNEY GENERAL  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0320  
IDAHO BAR NO. 1895

RECEIVED  
MAY 23 10 51 23 AM '06  
IDAHO PUBLIC UTILITIES COMMISSION

Street Address for Express Mail:  
472 W. WASHINGTON  
BOISE, IDAHO 83702-5983

Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION OF )  
UNITED WATER IDAHO INC. TO AMEND AND ) CASE NO. UWI-W-06-4  
REVISE CERTIFICATE OF CONVENIENCE )  
AND NECESSITY NO. 143. )  
)  
) **COMMENTS OF THE  
) COMMISSION STAFF****

---

**COMES NOW** the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Scott Woodbury, Deputy Attorney General, and in response to the Notice of Application, Notice of Modified Procedure and Notice of Comment/Protest Deadline issued on May 8, 2006, submits the following comments.

**BACKGROUND**

On April 26, 2006, United Water Idaho Inc. (United Water; Company) filed an Application with the Idaho Public Utilities Commission (Commission) for authority to amend and revise its Certificate of Public Convenience and Necessity No. 143, as amended. Reference *Idaho Code* § 61-526; IDAPA 31.01.01.112. United Water seeks to add an area known as the Trailhead Community to its certificated service territory. The area of expansion is located in Ada County north of the City of Eagle in an area more particularly described as: a parcel of land being all of the West 1/2 of the

Southwest 1/4 of Section 27 and all of Section 28, Township 5 North, Range 1 East, Boise Meridian, Ada County, Idaho.

The developer of the Trailhead Community has requested that United Water extend water service facilities to the area. United Water contends that the Trailhead Community area is not within the authorized service territory of any other public utility water corporation under the Commission's jurisdiction nor, it contends, will the extension interfere with the operations of any other water utility under the Commission's jurisdiction. United Water further contends that there are no known public entities, persons or corporations with whom the expansion is likely to compete.

## **ANALYSIS**

Staff has prepared a map showing the area United Water wishes to add to its certificated area. The map also shows the boundaries of the property owned and planned for development by Kastera Homes. The map also shows the current service territory boundaries of United Water, Eagle Water Company, and the City of Eagle. A copy of the map is included as Attachment A.

United Water asserts in its Application that there are no known public entities, persons or corporations with whom the expansion is likely to compete. However, on May 11, 2006, a letter was submitted by counsel for the City of Eagle stating that the defined area of expansion requested by United Water includes an area and development that will be served by the City of Eagle municipal system. A copy of the letter is included as Attachment B. According to the letter, Kastera Homes has previously contacted the City of Eagle regarding annexation into the City. The City of Eagle states that it is taking steps to accommodate the developer's request. The City included a copy of a letter from Kastera Homes documenting the developer's alleged request for annexation. That letter is included as Attachment C. In subsequent conversations with the City's engineer, Staff was reassured that Kastera had agreed to be served by the City of Eagle and that the City of Eagle had adequate capacity to serve the proposed development.

Staff contacted a representative of Kastera Homes to clarify whether it was seeking water service from United Water or from the City of Eagle. As represented by Kastera, City representatives met with Kastera on May 19, 2006 to discuss water service. Kastera alleges that the City, despite its desire to provide service, admitted that it did not have the capability to provide service to the area for at least two years. In response, Kastera informed the City that it would renew its request for service with United Water. Kastera claims that the City accepted Kastera's decision to receive service from United Water. Following the meeting, on May 24, 2006, Kastera sent a

letter to United Water restating its request for water service from United Water. A copy of that letter is included as Attachment D. Kastera further claims that it agreed with the City of Eagle to prepare a memorandum of understanding spelling out the terms under which the City would provide service should Kastera choose to develop property in the future that lies within the City's Area of Impact.

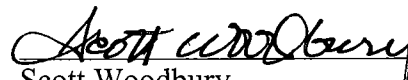
As a result of this turn of events, Staff also contacted the City of Eagle to verify Kastera's latest claim that the City had conceded that United Water would provide service to Trailhead. The City's engineer and attorney both contest Kastera's representation. The City's representatives contend that the City still has the desire and the ability to serve Kastera's proposed development. The City maintains that it has the ability to immediately serve 1300 additional homes north of Eagle with no additional wells or storage facilities. Kastera's development will total approximately 700 homes at full build-out.

Kastera's current plan is to develop property that lies outside of the City of Eagle's Area of Impact. However, maps provided to Staff indicate that a portion of the property owned by Kastera encroaches into the City's Area of Impact (See Attachment E). Kastera is aware that part of its property lies within the Area of Impact, but it insists that no development will occur on that property at this time. Kastera understands that future development within the City's Area of Impact will be served by the City.

## **RECOMMENDATION**

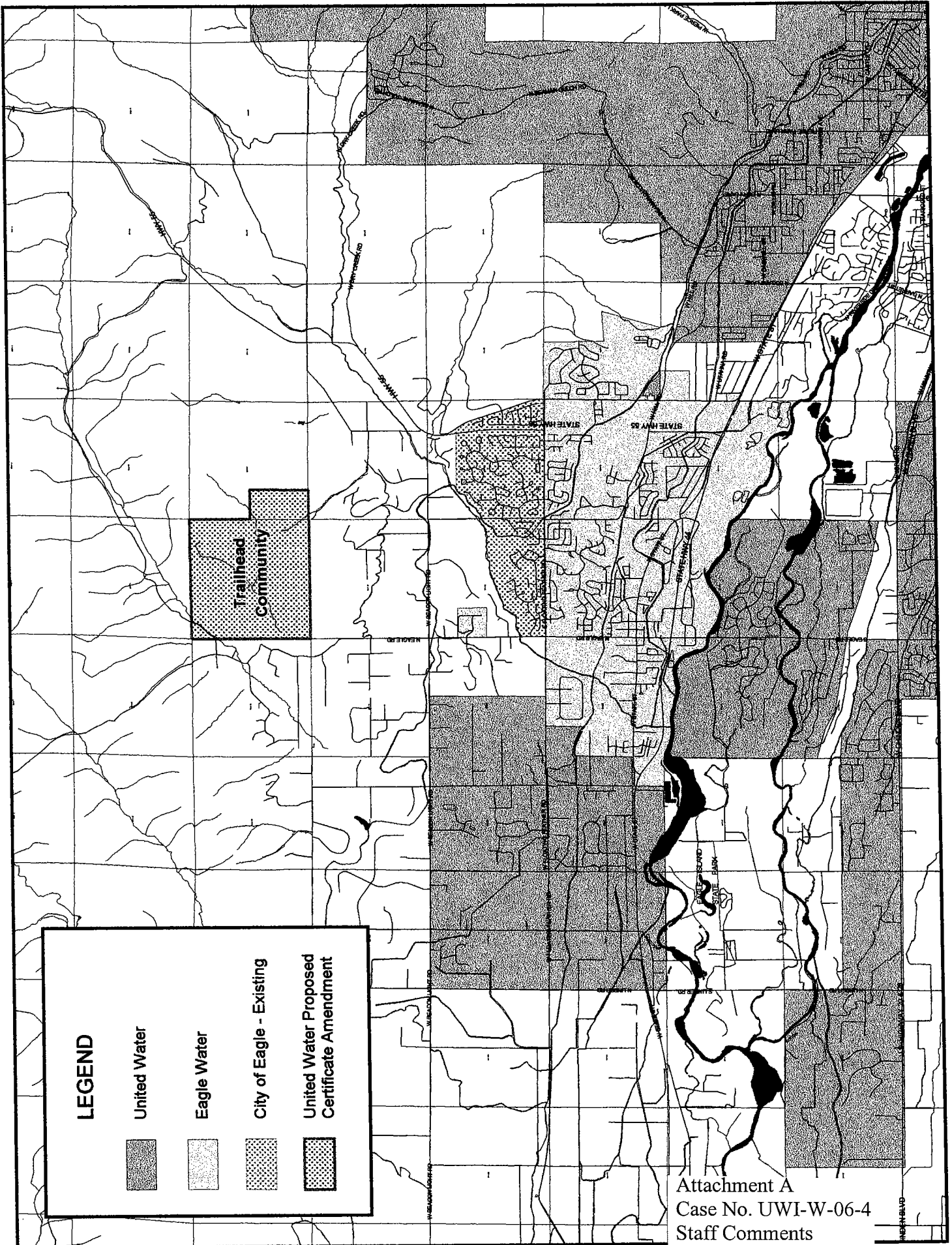
As last represented to Staff, the City of Eagle stands by its objection letter position and its intention to serve the Kastera property. The City maintains that it has the physical capability of serving the Trailhead Community. United Water is also capable of serving the development. As long as United Water follows its established line extension rules, other customers of United Water should not be adversely affected by the addition of Trailhead. United Water maintains that the City of Eagle has no authority to extend water services beyond its political boundaries. The City is proceeding along an annexation path. The City objects to the continued use of Modified Procedure. Staff recommends that a hearing date be set to establish a more formal record for decision.

Respectfully submitted this 31<sup>st</sup> day of May 2006.





  
Scott Woodbury  
Deputy Attorney General

Technical Staff: Rick Sterling

SW:/umisc/comments/uwiw06.4swrps



**LEGEND**

-  United Water
-  Eagle Water
-  City of Eagle - Existing
-  United Water Proposed Certificate Amendment

Attachment A  
 Case No. UWI-W-06-4  
 Staff Comments  
 5/31/06

# MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9<sup>TH</sup> STREET, SUITE 420  
BOISE, ID 83702  
TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

STEPHANIE J. BONNEY  
SUSAN E. BUXTON\*  
MICHAEL C. MOORE†  
BRUCE M. SMITH  
PAUL A. TURCKE‡  
CHRISTOPHER E. YORGASON  
TAMMY A. ZOKAN\*

JOHN J. MCFADDEN\*\*  
Of Counsel

\* Also admitted in Oregon  
† Also admitted in Washington  
‡ Also admitted in South Dakota  
\*\* Also admitted in New Mexico

May 10, 2006

Idaho Public Utilities Commission  
472 W. Washington Street  
Boise, ID 83720

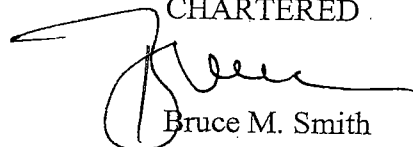
Re: Case No. UWI-W-06-04

Dear Commissioners:

On April 26, 2006, United Water Idaho Inc. filed an Application with the Idaho Public Utilities Commission (Commission) seeking to amend and revise its Certificate of Public Convenience and Necessity No. 143, as amended. The referenced Application seeks to add an area known as the Trailhead Community to UWI's service territory. UWI stated at paragraph VI. that "There are no known public entities, persons or corporations with whom the expansion is likely to compete." This is incorrect. The defined area of expansion includes an area and a development that will be served by the City of Eagle municipal system. The developer, Kastera Homes, has already contacted the City of Eagle regarding annexation into the City, and the City is taking steps to accommodate the developer's request. (See attached copy of letter from Kastera Homes.) Under existing City ordinances the development will be served by the City. Therefore, the City objects to extension of the UWI certificate to this area.

Sincerely,

MOORE SMITH BUXTON & TURCKE,  
CHARTERED

  
Bruce M. Smith

BMS:jj  
Enclosure  
cc: client  
Joe Miller, Esq.  
Scott Woodbury

RECEIVED  
MAY 11 AM 8:06  
IDaho PUBLIC UTILITIES COMMISSION

Attachment B  
Case No. UWI-W-06-4  
Staff Comments  
5/31/06



RECEIVED & FILED  
CITY OF EAGLE  
APR 20 2006  
File: \_\_\_\_\_  
Route to: \_\_\_\_\_

April 18, 2006

Honorable Mayor Nancy Merrill  
and Eagle City Council Members  
City of Eagle  
660 E. Civic Lane  
Eagle, Idaho 83616

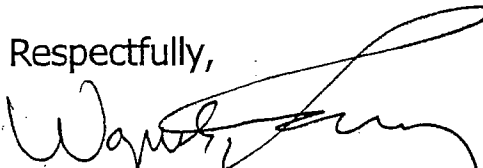
RECEIVED  
CITY OF EAGLE  
MAY 11 AM 8:07  
PUBLIC UTILITIES COMMISSION

Dear Mayor Merrill and Eagle City Council Members:

Kastera Homes has recently purchased 660 acres of land north of the City of Eagle near Willow Creek Road. We have also acquired an additional 278 acres along State Highway 55 north of Brookside Lane near the Shadow Valley Golf Course. Kastera Homes is considering annexation of these lands into the City of Eagle.

Is it possible that we could be invited to attend a work session with the City Council to discuss the possible annexation of our properties? Thank you for your assistance in evaluating future annexation of our land. Keep up your good work!

Respectfully,

  
Wayne S. Forrey, AICP  
Director of Planning and Entitlements

Enclosed: Vicinity Map

Mayor/ City Council \_\_\_\_\_  
City Clerk \_\_\_\_\_  
P & Z Dept. \_\_\_\_\_ ✓ original  
Bldg. Dept. \_\_\_\_\_  
Attorney \_\_\_\_\_  
Engineer \_\_\_\_\_

Attachment C  
Case No. UWI-W-06-4  
Staff Comments  
5/31/06

# Kastera HOMES™

24 May 2006

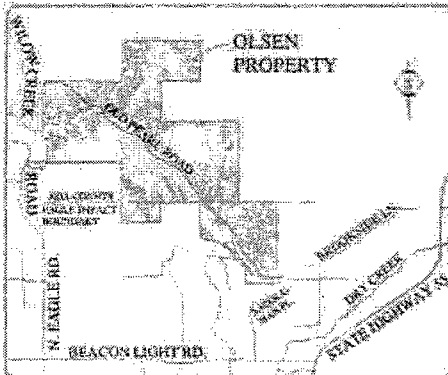
Mr. John Lee, Manager  
United Water Idaho  
8248 West Victory Road  
Boise, Idaho 83719-0420

Regarding: Request for Water Service

Dear Mr. John Lee:

On behalf of Kastera Homes and Mr. Gregg Olsen, I am writing to formally restate our request for extension of water mains and water service facilities to serve our 660 acre property in the foothills north of Eagle, Idaho. It is our desire to have water service to our property via United Water Idaho facilities because United Water has the ability to provide immediate water service.

Because a portion of this property is within the Eagle Area of City Impact, we have conceptually discussed possible annexation of this property with Eagle City officials. No commitments have been made. (Please see vicinity map for reference.)



At this point, it is undetermined if we will ever be annexed into the City of Eagle. Annexation may happen in the future...and it may not. However, one thing is certain; we need water service immediately and United Water is the only water service provider that can meet our time schedule. Therefore, we are requesting water service from United Water to serve our property outside of the Eagle Area of Impact Boundary.

If you need any additional information from Kastera Homes or Gregg Olsen, please let me know. We appreciate your efforts to anticipate growth in the valley and implement your plans for water system expansion. Keep up your good work!

Respectfully;




Wayne S. Forrey, AICP  
Director of Planning and Development

Attachment D  
Case No. UWI-W-06-4  
Staff Comments  
5/31/06



# KASTERA HOMES DEVELOPMENT SITES

FOOTHILL PROPERTY BETWEEN STATE HIGHWAY 55 AND STATE HIGHWAY 16

CONCEPT PLAN LEGEND	
	OLD PEARL ROAD
	HILLSIDE SLOPES @ 25% OR GREATER
	FLATER TERRAIN BELOW 25% SLOPE

BUCHANAN  
PROPERTY

OLSEN  
PROPERTY

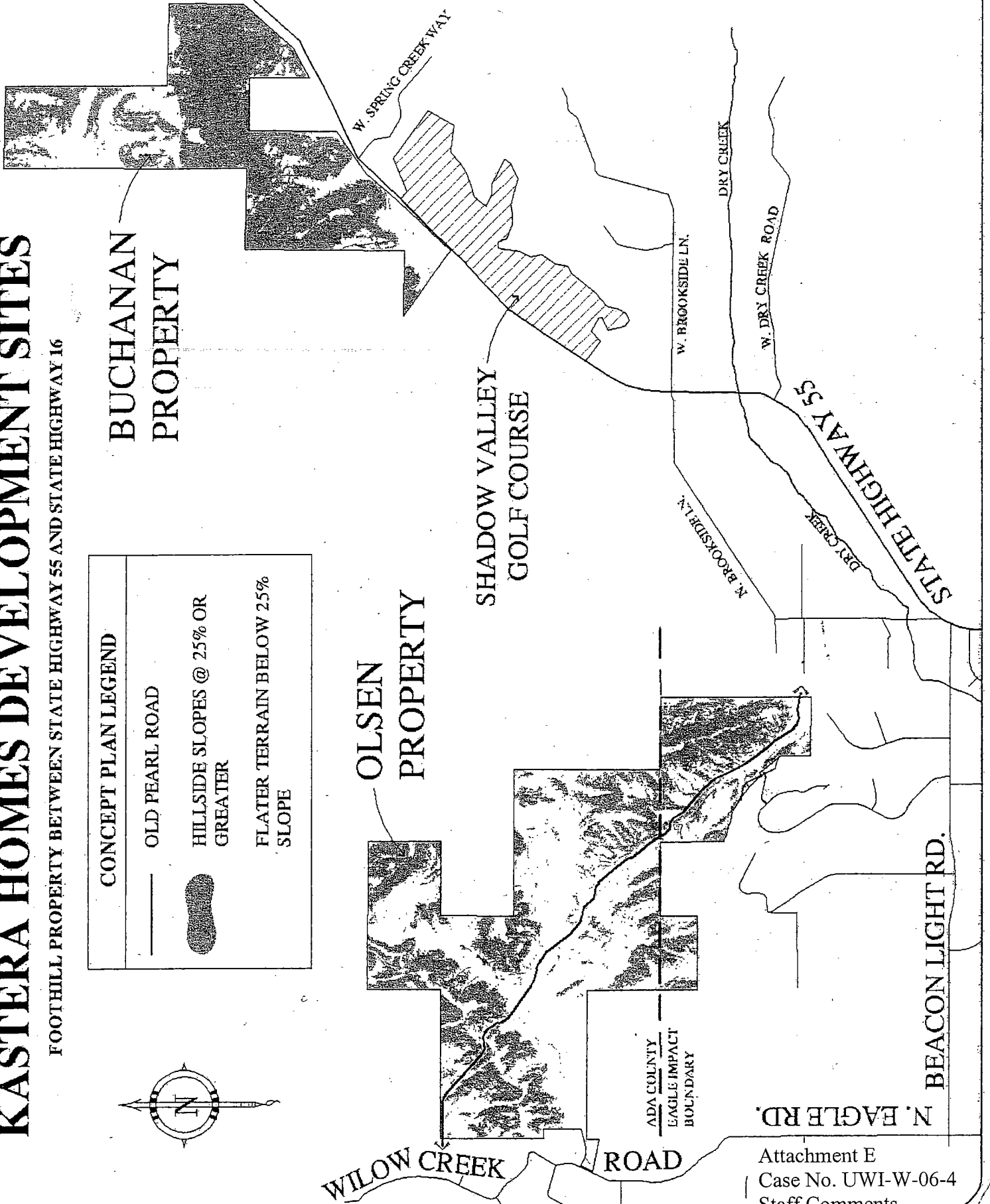
SHADOW VALLEY  
GOLF COURSE

ADA COUNTY  
EAGLE IMPACT  
BOUNDARY

N. EAGLE RD.

BEACON LIGHT RD.

Attachment E  
Case No. UWI-W-06-4  
Staff Comments  
5/31/06

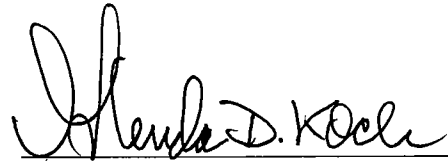


## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 31ST DAY OF MAY 2006,  
SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE  
NO. UWI-W-06-4, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE  
FOLLOWING:

GREGORY P. WYATT  
UNITED WATER IDAHO INC  
PO BOX 190420  
BOISE ID 83719-0420

DEAN J MILLER ESQ  
McDEVITT & MILLER LLP  
PO BOX 2564  
BOISE ID 83701

  
\_\_\_\_\_  
SECRETARY