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May 18, 2007

Via Hand Delivery

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

Re: UWI-W-07-02

Dear Ms. Jewell:

Enclosed for filing, please find nine (9) copies of the Rebuttal Testimony and exhibits of Gregory P. Wyatt, and the Rebuttal Testimony and exhibits of Scott Rhead, with a copy of each designated as "Reporter's Copy". A computer disc containing the testimony and is also enclosed.

An additional copy of the documents and this letter is included for return to me with your file stamp thereon.

Very truly yours,

McDEVITT & MILLER LLP



Dean J. Miller

DJM/hh
Enclosures

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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-07-02**

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

REBUTTAL TESTIMONY OF GREGORY P. WYATT

May 18, 2007

1 Q. Please state your name.

2 A. Gregory P. Wyatt.

3 Q. Are you the same Gregory P. Wyatt who provided Direct Testimony in this
4 proceeding?

5 A. Yes, I am.

6 Q. What is the purpose of your Rebuttal Testimony?

7 A. I will respond to certain statements contained in the Amended Direct Testimony
8 of Mayor Nancy Merrill filed on behalf of the City of Eagle.

9 Q. Do you have a general observation regarding Mayor Merrill's testimony?

10 A. Yes. Mayor Merrill makes various references to the effect that Lanewood should
11 be or will be within or be part of the City of Eagle, (See Merrill Testimony page
12 2, line 13, and lines 17-18; page 3, lines 3-4; and page 4, line 3, and line 19). I
13 believe this more represents Mayor Merrill's desire rather than fact. The future
14 Eagle City limits cannot be known with certainty. It is a prediction of future
15 events, and like all predictions of the future is subject to some degree of
16 uncertainty. More specifically, it is not at all clear that the City can annex either
17 Lanewood or other developments in the absence of the landowner's consent.

18 As I discuss later in my testimony, many aspects of the City's case depend
19 on the predicted occurrence of future events, all of which are subject to
20 uncertainty. In contrast, United Water's case is based on currently existing facts
21 that are not subject to uncertainty.

1 Q. At page 2 of her testimony Mayor Merrill describes the Lanewood development
2 as being “adjacent to the City limits and generally surrounded by other
3 development”. Is this an accurate description?

4 A. Only in a very loose sense. As illustrated by Exhibit 3 attached the Lanewood
5 development only touches the City boundary along a small area at the south end
6 of the Lanewood development, so it is “adjacent” only along a small border. And,
7 it is not “surrounded by other development.” As illustrated on Exhibit 3, virtually
8 all of the land surrounding Lanewood is currently agricultural ground.

9 Q. On pages 2—3 of her testimony Mayor Merrill argues that Lanewood should be
10 part of the City because it will use City amenities and will have the advantage of
11 the benefits of the City without paying for them. Please respond.

12 A. Mayor Merrill does not define the words “amenities” or “benefits” so there is no
13 way to know what the so-called “amenities” or “benefits” are intended to
14 encompass. I would note that the Lanewood development is 3.5 miles west and
15 1.5 miles north of the City’s business center.

16 Q. Does the City of Eagle currently provide water service to the majority of its
17 residents?

18 A. No. The City of Eagle currently provides water service to only a small portion of
19 its residents; those who live in the Lexington and Brookwood subdivisions areas.
20 At the end of April 2007, the City’s water system served 1,328 customers, which
21 when converted to population using a 3X multiplier, equates to a population of
22 less than 4,000 persons, or only 19% of the 20,951 City of Eagle, 2007 population

1 estimated by the Community Planning Association (COMPASS) as found on the
2 COMPASS website.

3 Q. If the city of Eagle currently serves water to only about 19% of its residents, who
4 provides water service to the remaining City residents?

5 A. Predominantly, water service is provided to Eagle City residents by Eagle Water
6 Company and United Water Idaho. Eagle Water Company's 2007 Annual Report
7 to the Idaho Public Utilities Commission indicates that they provide water service
8 to 2,885 residential customers or a population of about 8,655, using the 3X
9 multiplier. United Water Idaho currently serves 1,672 customers within Eagle
10 City limits, representing a population of about 5,000. The remaining population
11 within the City of Eagle likely receives their water service from individual and
12 private wells.

13 Q. Does the City of Eagle provide sewer services to its residents?

14 A. No. Sewer service to the residents of Eagle is provided by the Eagle Sewer
15 District, which is not a part of the City of Eagle.

16 Q. Does the City of Eagle provide roadway services to its residents?

17 A. No. Roadway services within Eagle and all of Ada County are provided by the
18 Ada County Highway District (ACHD).

19 Q. What "amenities" then might be provided by the City of Eagle?

20 A. I as I stated previously, as used by Mayor Merrill in her testimony it is impossible
21 to know what the word is intended to encompass. However I searched the City's
22 website and found that they do offer five parks with one more under development.
23 They also offer a library.

- 1 Q. Where are these parks located in relation to the Lanewood development?
- 2 A. All the parks are located east of Eagle Road with all but one clustered between
3 Eagle Road and Highway 55. From Lanewood the closest park is about 4 miles
4 away and the farthest is over 5 miles away. In reality, the City of Eagle's parks
5 are closer to some residents of the cities of Boise and Garden City than they are to
6 Lanewood.
- 7 Q. You mentioned that the City of Eagle has a library. Please identify its location
8 and proximity to Lanewood.
- 9 A. The Eagle City Library is located at 100 North Stierman Way in Eagle, which is
10 east of Eagle Road and just north of East State Street. The library is also over
11 four miles away from Lanewood.
- 12 Q. Similarly, on page 3 of her testimony, Mayor Merrill says that Lanewood
13 homebuyers will "be able to take advantage of the benefits of the City without
14 paying for them." Do you agree?
- 15 A. Again, the word "benefits" is not defined, so it is impossible to know if this is the
16 same thing as "amenities" or something different.
- 17 Q. On page 3 of her testimony Mayor Merrill refers to Exhibit 201 and states that it
18 indicates properties around Lanewood that are in some phase of being included
19 within the City. Have you reviewed Exhibit 201 and does it show properties
20 along with their phases of being included within the City?
- 21 A. I have reviewed the exhibit and it appears to indicate the City's planning area and
22 area of impact, but does not indicate anything related to phases of lands with
23 regard to inclusion within the City of Eagle.

1 Q. On page 3 of her testimony Mayor Merrill describes the development of a City
2 Comprehensive Plan and indicates that Exhibit 202 is a portion of the Plan
3 addressing water. Have you reviewed Exhibit 202 and does it relate to water?

4 A. I have reviewed the exhibit and the only significant portion relating to water is
5 page 19 from the exhibit which identifies five items referring to water rates and
6 Eagle's future water system.

7 Q. What do you make of Exhibit 202?

8 A. The City appears to have an ambitious goal of developing its own municipal
9 water system, but is in the very early stages of implementation. As Mr. Yorgason
10 indicated in his direct testimony I believe developers who are ready to construct
11 now do not wish to be exposed to the "risk and uncertainty arising out of the
12 City's desire to enter into a new and complex venture: the establishment,
13 construction and operation of a municipal water system." (Yorgason Direct, pg.
14 3).

15 Q. On page 4 of her testimony Mayor Merrill states that "Lanewood will be located
16 in the midst of the City of Eagle," and that how Lanewood is developed will
17 "have a significant influence on the City." Do you concur?

18 A. As I noted previously Lanewood is 3.5 miles from the City's business center and
19 is bordered to the west by agricultural grounds. Currently, and for the foreseeable
20 future, it is difficult to see how Lanewood is "in the midst" of the City. Nor is it
21 immediately apparent how Lanewood's choice of water provider will have a
22 "significant influence on the City". As previously noted, United Water provides

1 water service to approximately 25% of the City of Eagle's residents without
2 detrimental affects to the City of Eagle.

3 Q. Mayor Merrill also indicates on page 4 of her testimony that United Water did not
4 participate in development of the City's Plan. Please comment.

5 A. If United Water received notice of the planning effort, it was only a general public
6 notice. United Water's participation was not specifically requested by the City
7 and our views were not solicited. In any event, whether United Water did or did
8 not participate does not seem relevant to the question of which water provider is
9 currently better prepared to provide service to Lanewood.

10 Q. On page 4 of her testimony Mayor Merrill indicates the City will participate in
11 Lanewood's Ada County plat approval proceeding and "recommend that the
12 county disallow the application and direct the developer to file a request for
13 annexation with the City and include using City water." The Mayor indicates
14 there will be "significant detrimental effects on the City" and it would "disrupt the
15 City's planning process and would negatively affect the City's water system
16 development, roads and open spaces..." Do you concur?

17 A. No. I do not understand how water service to Lanewood by United Water could
18 result in the detrimental effects and planning process disruption the Mayor refers
19 to. In the first place, Mayor Merrill provides no specifics as to how the purported
20 detrimental effects and planning process disruption would occur. Additionally,
21 although the City's Water Master Plan shows a future water main in a small
22 portion of the southwest corner of the Lanewood development, this location
23 follows Ada County's planned future alignment of Floating Feather Road, and

1 Eagle would have ability to install its water main in the road right of way
2 regardless of who provides water service to Lanewood. Finally, as previously
3 stated, United Water currently serves about 25% of Eagle residents without any
4 identified detrimental effects or disruptions to the City of Eagle.

5 Q. Mayor Merrill, on page 5 of her testimony, claims that "By the time Lanewood
6 completes the County approval process and is ready to utilize water, the City's
7 system will be ready." Do you agree?

8 A. No. As I have noted above, this, again, is a prediction of future events which is
9 subject to significant uncertainty. Mr. Rhead, on pages 1 through 3 of his
10 Rebuttal Testimony, clearly points out that Eagle's contention that it will be able
11 to provide service to Lanewood in the near term is highly speculative and fraught
12 with potential delays.

13 Q. On page 5 of her testimony Mayor Merrill also says the City can provide water
14 less expensively than United Water. Do you agree?

15 A. Not necessarily. It is true that currently the City's tariff rate for water service is
16 somewhat less than United Water's. The City's current rates, however, may not
17 include recovery of the costs associated with the City's ambitious plan to build a
18 municipal water system. These costs are unknown but potentially huge. Whether
19 those costs are eventually recovered through consumption rates, connection fees,
20 surcharges, or some other mechanism, they will create upward pressure on the
21 City's overall cost of service.

22 Q. Does that conclude your testimony?

23 A. Yes it does.

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of May, 2007, I caused to be served, via the method(s) indicated below, true and correct copies of the foregoing document, upon:

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BY: Heather Horle



**LANEWOOD ESTATES
EXPANSION**

 Proposed
Certificated Area

 Current
Certificated Area

Eagle City Limits

Scale

1 inch equals 1,000 feet

Ada County Basemap
Update: 05/10/07

Exhibit 3
UWI-W-07-02
Wyatt Rebuttal
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Revised Date: 05-16-07