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IDAHO PUBLIC
UTILITIES COMMISSION

Robert B. Burns, ISB No. 3744
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
rbb@moffatt.com
17-047.11

Attorneys for Capital Development, Inc.

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

DIRECT REBUTTAL
TESTIMONY OF INTERVENOR
J. RAMON YORGASON IN
SUPPORT OF APPLICANT
UNITED WATER IDAHO INC.**

1 Q. Please state your name and identify your position with Intervenor
2 Capital Development Inc.

3 A. My name is J. Ramon Yorgason, and I am the president of Capital
4 Development, Inc.

5 Q. Are you the same Ramon Yorgason who provided direct testimony
6 in this proceeding?

7 A. Yes.

8 Q. What is the purpose of your rebuttal testimony?

9 A. I would like to respond to certain statements contained in the direct
10 testimony of Mayor Nancy Merrill and of Vern Brewer.

11 Q. Mayor Merrill, at pages 3-4 of her direct testimony, and Vern
12 Brewer, at pages 2-3 of his direct testimony, have expressed concern that your
13 Lanewood Estates development conform with the City of Eagle's comprehensive
14 plan. Do you know whether your development application to Ada County is in
15 substantial compliance with Eagle's comprehensive plan, as well as its planning
16 and zoning requirements?

17 A. Yes, it is. We have undertaken a review of our Ada County
18 application to determine its compatibility with Eagle's comprehensive plan and its
19 planning and zoning requirements and believe our Lanewood Estates
20 development both substantially complies with Eagle's requirements—other than
21 with respect to who would provide water service to the development—and would
22 be approved by Eagle with but possible minor revisions if our property were
23 annexed by it.

24

1 Q. Has the City of Eagle initiated annexation proceedings with respect
2 to your Lanewood Estates development?

3 A. No. Although we have been invited by representatives of the City
4 of Eagle to request annexation, Eagle has neither initiated annexation proceedings
5 itself nor requested our consent to its annexation of our property.

6 Q. At pages 6-7 of his direct testimony, Vern Brewer expressed
7 concern that allowing United Water to serve the Lanewood Estates development
8 would frustrate completion of Eagle's water system and associated services. Is
9 this a legitimate concern?

10 A. I don't think so. I believe Mr. Brewer's primary concern has to do
11 with the extension of a 16" water main through the Lanewood Estates
12 development. This water main can obviously be extended through Lanewood
13 Road already, and I also have no problem with Eagle extending the water main
14 beneath the streets of our development if Eagle will construct the main in
15 conjunction with the orderly improvement of our project. Capital Development
16 Inc. will provide Eagle with an easement to this effect, if it requests one.

17 Q. Do you have a response to Mr. Brewer's additional concern that
18 excluding Lanewood Estates from Eagle's system would raise the cost of storing
19 water to the remaining residents of Eagle?

20 A. Yes. Eagle should reduce the size of its planned storage reservoirs
21 and related improvements to accommodate the reduced number of users of
22 Eagle's services resulting from United Water's service of the Lanewood Estates
23 development. By doing so, those connected to Eagle's system will pay for only
24

1 those lesser improvements they use, and the residents of Lanewood Estates will
2 not be asked to subsidize the residents of Eagle.

3 Q. Do you have a concern that the residents of Lanewood Estates
4 might be required to subsidize the residents of Eagle?

5 A. Yes, I do. I have been advised by legal counsel that because our
6 property is not within the city boundaries of Eagle, Eagle would have the right
7 under the law to discriminate in multiple respects against those living in
8 Lanewood Estates, such as by charging them more for water or limiting service in
9 the event of a water shortage. In fact, I was advised that Section 6-5-4G of the
10 Eagle Municipal Code specifically provided for the preferential treatment of the
11 residents of Eagle with respect to water service until last month when it was
12 amended because of this PUC case. Of course, Eagle can also amend its
13 municipal code again as soon as this PUC case is decided, or at any time later, to
14 discriminate in any manner it chooses without recourse by me or the future
15 residents of Lanewood Estates or the PUC. That concern is part of the reason I
16 asked United Water—which I have found to be a tested and reliable provider
17 whose rates and services are regulated by the PUC—to provide water service to
18 Lanewood Estates.

19 Q. What other reason did you have for asking United Water to
20 provide water service to Lanewood Estates?

21 A. Although both Mayor Merrill and Mr. Brewer have testified about
22 the anticipated construction of the necessary improvements to Eagle's water
23 system for Eagle to timely serve Lanewood Estates, Mr. Brewer admits in his
24

1 direct testimony at page 3 that Eagle does not have established water rights to
2 provide this service and that Eagle's pending applications for such water rights
3 have been protested. Thus, even assuming Eagle's pending applications are
4 initially approved, a judicial appeal could deprive the City of Eagle of the
5 necessary water rights to provide water service for an indeterminate period, and
6 perhaps forever. Considering the fact that we are currently paying \$76,000 a
7 month in interest on our purchase of the first half of the land and, as a result of
8 our recent negotiations with the seller of the property, will be paying more than
9 double that amount as we take down the second half of the land in two increments
10 over the next two years, we simply cannot afford to run the risk that Eagle's hopes
11 with respect to getting its water system operational this summer will prove
12 unfounded.

13 Q. Finally, Mayor Merrill also expressed concern at pages 2-3 of her
14 direct testimony that the City of Eagle will be adversely impacted by your
15 Lanewood Estates development because the residents of the development will use
16 the amenities that Eagle offers. What is your response to this concern?

17 A. As I earlier indicated, Lanewood Estates will be developed in
18 substantially identical form whether or not it is annexed by the City of Eagle.
19 Accordingly, whether United Water or Eagle provides water service—which is
20 really what the present controversy is all about—the impacts on Eagle will be the
21 same. Further, the principal impacts of our proposed development will be on the
22 roads, sewers, schools, and fire and sheriff's departments, and the City of Eagle is
23 not responsible for any of these "amenities." Finally, if Eagle wants the residents
24

1 of Lanewood Estates to be residents of the City of Eagle, Eagle can always annex
2 their property.

3 DATED this 18th day of May 2007.

4
5 J. Ramon Yorgason
6 J. Ramon Yorgason

7 SUBSCRIBED AND SWORN to before me this 18th day of May
8 2007.



9 Christopher E. Yorgason
10 NOTARY PUBLIC FOR IDAHO
11 Residing at Boise, Idaho
12 My Commission Expires Aug 11, 2012

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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on this 18th day of May 2007, I caused
3 a true and correct copy of the foregoing **DIRECT REBUTTAL TESTIMONY**
4 **OF INTERVENOR J. RAMON YORGASON IN SUPPORT OF**
5 **APPLICANT UNITED WATER IDAHO INC.** to be served by the method
6 indicated below, and addressed to the following:

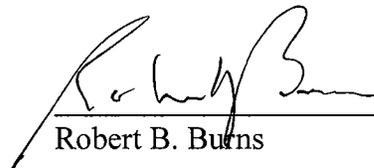
7 Gregory P. Wyatt (X) U.S. Mail, Postage Prepaid
8 UNITED WATER IDAHO, INC. () Hand Delivered
9 P. O. Box 190420 () Overnight Mail
10 Boise, ID 83719 () Facsimile
11 E-mail: greg.wyatt@unitedwater.com

12 Dean J. Miller (X) U.S. Mail, Postage Prepaid
13 McDEVITT & MILLER, LLP () Hand Delivered
14 420 West Bannock Street () Overnight Mail
15 P. O. Box 2564 () Facsimile
16 Boise, ID 83701
17 E-mail: joe@mcdevitt-miller.com

18 Scott Woodbury (X) U.S. Mail, Postage Prepaid
19 Deputy Attorney General () Hand Delivered
20 IDAHO PUBLIC UTILITIES COMMISSION () Overnight Mail
21 472 West Washington Street () Facsimile
22 P. O. Box 83720
23 Boise, ID 83720-0074
24 E-mail: scott.woodbury@puc.idaho.gov

15 Bruce M. Smith (X) U.S. Mail, Postage Prepaid
16 MOORE, SMITH, BUXTON & TURCKE, () Hand Delivered
17 CHTD. () Overnight Mail
18 950 West Bannock Street, Suite 520 () Facsimile
19 Boise, ID 83702
20 E-mail: bms@msbtlaw.com

19 J. Ramon Yorgason, President (X) U.S. Mail, Postage Prepaid
20 Capital Development, Inc. () Hand Delivered
21 6200 N. Meeker Place () Overnight Mail
22 Boise, ID 83713 () Facsimile
23 E-mail: capdev@cableone.net

22
23 
24 Robert B. Burns