

Barb Jekel
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TO: Mr. Gary Spackman, IDWR Hearing Officer
RE: Application for Water Right-Groundwater Permit No. 63-32573
M3 Eagle LLC

DATE: June 19, 2009

*Appeared on
6/23/09 as a
public witness*

Dear Mr. Spackman,

I'm a protestant to this application so I've attended most of the hearings. I wanted to learn just what was known and what was still undetermined about the aquifer M3 Eagle LLC proposes to use. The IDWR staff testimony at these hearings was extremely professional. They were thorough in their research and analysis of received data. It seems they would do an exacting job on PGSA findings. Therefore, I hope this request will not be granted until IDWR has completed its study of the foothills area water reserves, preferably not granted at all as a municipal provider.

There are points I'd like to address in response to testimony and cross examination. As a lay person hearing very technical data, it sounds to me that pertinent issues concerning the hydrologic boundaries and recharge mechanisms have not been resolved. The ancestral water verses contemporary recharge seems to indicate questions of long term sustainability. Complete water flow direction from source to discharge site has open areas of determination. It appears the upper 1000 feet of ground has not been thoroughly analyzed for water flow blockage from point of recharge to pumping site for interference due to earthquakes in the 1980's and/or other potential inhibitors.. The transference and recharge connections between the overlaying aquifer and the termed PGSA are still questionable. Many surface and/or ground water users receive their well water from these areas. So it could follow that senior water right holders beyond the M3 Eagle PUD and beyond the PGSA discharge site could be very negatively affected by the tremendous request M3 PUD has applied for of 23 cfs water rights. The anomaly in the SVR#7 well test of not full recovery prior to test termination has not been ascertained as to what it may indicate and should be retested.

Patricia Minkiewicz's recent published letter pointed out that if the city of Eagle has to eventually pull water from the Boise River to support new businesses and the already approved housing units, it would entail millions of dollars. Having water wars or water

shortages would be extremely harmful to the efforts of trying to attract new capital commercial investments to the area.

I'm concerned that M3 Eagle's community wells could cause a bathtub effect, water going to the lowest and strongest point of pumping. M3's PUD would still have available water but surrounding users would be gravely impacted.

I gather from testimony that the average M3 large projects have around 2,000 to 3,000+ dwelling units. Now they are escalating to over 7,000 dwelling units, plus commercial space, at their Eagle site. To me, this adds to the imperative need to further address the definition section for purpose of the Idaho statute, as define and describe, "municipal provider", of the Idaho statute 42-222. Going by the definition and the requirements that I heard read into the record, it sounded to me that M3 Eagle LLC didn't qualify under this Idaho statute.

M3 Eagle's testimony also indicates that they are unwilling to accept phased in water rights. I see this as a contradiction to their acceptance of phased in financing, infrastructure, amenities and dwelling parcels. It would seem that phased in water rights could correlate with phased in dwelling, conditional upon approval from IDWR monitoring. This approach could allow for resolution of unanswered issues surrounding the PGSA, quantified by additional study and monitoring. I ask the hearing officer to consider phased in water rights at most, since the goal of phasing in is to assure adequate water for all parties, without senior right or permit holders having to deepen or re-drill wells due to lower water levels. IDWR could establish monitoring wells, which may be a necessary consideration, given the domestic and commercial growth Eagle's had in the previous ten years and what potential impact could stem from a large M3 water right. The M3 request for 23 cfs makes the amount of locally available water an imperative question to answer. There are other requests that amount to 92 cfs ahead of this M3 Eagle request. I believe Mr. Vincent of IDWR testified that he had not encountered a denser well field than the one in the Eagle area.

The proposed M3 Eagle LLC pond reclaim system is a great idea but I believe it was testified to as being on line at full build out, which was said to be 30 years. In the interim, will there be use beyond the stated average 9.3 cfs until its fully functioning?

As I listened to the construction plan of their reclaim system, I thought of the enormous capital investment it will take. To me, this further supports the need for certified accounting and compliance with Idaho State Law as to the SHALL DEMONSTRATE letter of financial commitment, especially in light of the recent financial issues and bankruptcy with the Tamarack Development that used the same 1996 long planning horizon type of water right.

This process has been very costly and time consuming, certainly not for M3 Eagle LLC alone. But, what are the costs and ramifications of not getting it right? It's not surprising to me that M3's water study has been extensive, sounds like an equal correlation to the 23 cfs requested water right.

It's also not surprising that M3 Eagle has added so much to the bank of knowledge concerning the PGSA. I wouldn't think a lot of time or tax payer's dollars would have been previously extended on what was an area of extremely low density housing.

Testimony from April 15 as to M3 Eagle LLC proposing to turn the water system over to the city of Eagle concerns me when I think of the tax dollars involved and also recall citizen reprisal after the City Council plan to purchase Eagle Water Company.

As to the 13 water conservation methods under consideration by M3 Eagle for their PUD, I didn't hear an exact amount planned for actual implementation. I also noted a 45% drip irrigation use on housing lots was figured by M3 when calculating average water use for this PUD. Which of these are set to be a part of the governing CCR's, so as to stay within the upper end of irrigation efficiencies as M3 used in their reports, and to maintain M3 Eagle's stated average use of 9.3 cfs ?

During April 16 testimony I recall hearing that the M3 Eagle spreadsheet didn't incorporate their surface area or well rights. This is further water drain on the PGSA and/or overlying aquifer in addition to the requested 23 cfs.

If it turns out that there isn't the water quantity or flow availability in the termed PGSA that M3 Eagle LLC and their consultants assert, Eagle would find itself in a crisis situation similar to that which afflicts other communities in water shortage dilemmas. Personally, I would lose value in my home, not be able to afford re-drilling my well and if the financial recession continues, I may not be able to obtain a loan to cover the well expenditures. There would be further job loss in the area which could affect my household. These are my personal considerations. Beyond those there's the well being of the Eagle area and the concern for knowing what finite amount of local water reserve is really there for all of us.

I appreciate the hearing officer's time in reviewing my letter. For the good of the Treasure Valley, I hope the goal of IDWR completing their independent analysis holds as a prevailing issue. Thank you for your consideration of my concerns.

A handwritten signature in black ink, appearing to read "Barb Jekel". The signature is written in a cursive, flowing style with a large initial "B" and "J".

Barb Jekel