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DEPARTMENT OF
WATER RESOURCES

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF INTEGRATED MUNICIPAL APPLICATION PACKAGE ("IMAP") OF UNITED WATER IDAHO INC., BEING A COLLECTION OF INDIVIDUAL APPLICATIONS FOR TRANSFERS OF WATER RIGHTS AND APPLICATIONS FOR AMENDMENT OF PERMITS.	**UNITED WATER'S OBJECTION AND MOTION TO STRIKE THE CITY OF EAGLE'S INITIAL STATEMENT**

Applicant United Water Idaho Inc. ("United Water") hereby objects to, and moves to strike, City of Eagle's ("Eagle") submission on October 31, 2012 entitled *Protestor City of Eagle, City of Star, City of Middleton and Star Water & Sewer District's Joint Initial Statement* ("*Joint Initial Statement*"). Eagle withdrew as a party from this proceeding on July 31, 2007. The other parties to the joint submission (City of Star, City of Middleton, and Star Water & Sewer District) are parties to this proceeding, and United Water does not object to their filing a joint initial statement. This objection and motion to strike targets only Eagle's submission of an initial statement.

The Hearing Officer's *Order Setting Schedule for Parties to Respond and Propose Timetables for Discovery and Hearing* ("*Initial Statement Order*") (Oct. 19, 2012) invited

"parties to submit information setting out their position on a number of preliminary issues." *Initial Statement Order* at 1. Eagle is not a party to this proceeding, but rather is an "interested person." *See Order Affirming Party Status and Notice of Status Conference* at 2 (Aug. 8, 2012); IDAPA 37.01.01.158 ("Persons not parties who have an interest in a proceeding are called 'interested persons.'"). Under the Department's Rule of Procedure 158, an interested person is entitled to participate only as a "public witness," which means it "do[es] not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties." IDAPA 37.01.01.355. Eagle's participation is limited to that of a "public witness" unless it becomes a party, *i.e.* an intervenor, under the Department's Rules of Procedure (a request that United Water would oppose). In any case, at this time Eagle is not a party and it simply has no right to submit an initial statement pursuant to the Hearing Officer's *Initial Statement Order*, or to otherwise influence the course of proceedings or the evidence in the record prior to hearing. IDAPA 37.01.01.355 ("public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing").

Prior to filing this motion, undersigned counsel communicated by email with counsel for the City of Eagle, requesting that Eagle's filing be withdrawn. Eagle agreed to "clarify" its filing, but not to withdraw it. If Eagle "clarifies" that it is withdrawing the filing, then this motion is moot. Otherwise, United Water respectfully requests the Hearing Officer to strike from the record Pocatello's *Initial Statement*.

United Water respectfully requests the Hearing Officer strike from the record City of Eagle's October 31, 2012 filing, either by ordering that Eagle be excluded from the *Joint Initial Statement*, or by requiring the Joint Parties to file a new Initial Statement excluding the City of Eagle.

Respectfully submitted this 14th day of November, 2012.

GIVENS PURSLEY LLP

By _____
Christopher H. Meyer

By _____
Michael P. Lawrence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of November, 2012, the foregoing was filed, served, and copied as follows:

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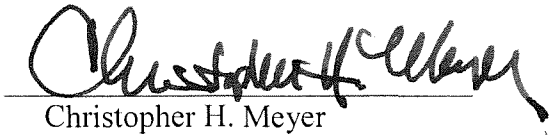

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