

ORIGINAL

Christopher H. Meyer [ISB No. 4461]
Michael P. Lawrence [ISB No. 7288]
GIVENS PURSLEY LLP
601 West Bannock Street
P.O. Box 2720
Boise, Idaho 83701-2720
Office: (208) 388-1200
Fax: (208) 388-1300
www.givenspursley.com
Attorneys for Applicant United Water Idaho Inc.

RECEIVED
NOV 21 2012
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 REPLY IN
COMPLIANCE WITH THE INITIAL
STATEMENT ORDER**

Out of an abundance of caution and respect for the deadlines and expectations set out in the Hearing Officer's *Order Setting Schedule for Parties to Respond and Propose Timetables for Discovery and Hearing* ("Initial Statement Order") (Oct. 19, 2012), Applicant United Water Idaho Inc. ("United Water") submits this Reply. However, because the Boise Project Parties¹ submitted a motion to dismiss the IMAP, and no other parties submitted responses at all, there is nothing substantive for United Water to address at this time.

The *Initial Statement Order*, at 1, required the parties to submit initial statements addressing, among other things, "[m]atters raised at [the October 16, 2012] Status Conference

¹ The "Boise Project Parties" include Boise Project Board of Control, Big Bend Irrigation District, Wilder Irrigation District, and Boise-Kuna Irrigation District.

including recent documents submitted by the parties.” In *United Water’s Initial Statement* at 4 (Oct. 31, 2012) filed pursuant to that order, we explained that, in addition to the matters addressed therein:

United Water has previously responded to a handful of other issues raised in the October 15, 2012 filings by Pioneer [Irrigation District] and the Boise Project Parties at the last status conference. We assume those issues have been put to rest. To the extent they are raised again in the filings due today, United Water will address them in its response briefing.

However, other than United Water, only Pioneer and the Joint Parties² filed initial statements, and they did not address the matters from the October 15 filings or the status conference. As we explained in *United Water’s Response to Initial Statements* at 4 (Nov. 14, 2012):

In their initial statements, neither Pioneer nor the Joint Parties addressed the matters raised at the October 16, 2012, status conference or in “recent documents submitted by the parties,” as the Hearing Officer directed. *Initial Statement Order* at 1. Those matters are addressed in *United Water’s Initial Statement* (Oct. 31, 2012).

United Water has previously responded to a handful of other issues raised in the October 15, 2012 filings by Pioneer and the Boise Project Parties at the last status conference. When we filed *United Water’s Initial Statement*, we assumed those issues had been put to rest, but stated that we were prepared to address them to the extent they were raised again in the parties’ initial statements. *United Water’s Initial Statement* at 4. *Pioneer’s Initial Statement* did not address any of those previously raised issues, and the Boise Project Parties did not file any initial statement. United Water therefore considers them resolved.

Except for the Boise Project Parties (whose filing is addressed below), no party filed a response to *United Water’s Initial Statement*. In short, United Water invited the parties to revisit the

² The “Joint Parties” include “the City of Star (“Star”), City of Middleton (“Middleton”), and Star Water & Sewer District (“Star Water & Sewer”). The Joint Parties’ joint initial statement filed on October 31, 2012, incorrectly listed the City of Eagle (“Eagle”) as a protestant. On this ground, we filed *United Water’s Objection and Motion to Strike the City of Eagle’s Initial Statement* on November 14, 2012. Subsequently, on the same day, Eagle’s and the Joint Parties’ attorney filed a revised “*Joint Initial Statement*” that instead named Eagle as a “participant,” but otherwise was identical to the Joint Parties’ original *Joint Initial Statement*. Because the Joint Parties’ November 14 filing appears to be intended as an amended *Joint Initial Statement* rather than a response to other parties’ initial statements, and because United Water addressed the substance of the Joint Parties’ original and amended *Joint Initial Statement* in its November 14 response, neither *Joint Initial Statement* needs to be further addressed in this Reply.

matters raised at the last status conference and in the “recent documents submitted by the parties,” but no one responded.³ Accordingly, there is nothing for United Water to reply to now.

The Boise Project Parties filed a *Motion to Dismiss Integrated Municipal Application Package, Memorandum in Support Thereof, and Response to Initial Statements* (“*Motion and Response*”) on November 14, 2012. However, the *Motion and Response* does not address the matters discussed in *United Water’s Initial Statement*; it mainly attacks *United Water’s Response to Initial Statements*, which it quotes several times. In any case, because the Boise Project Parties chose to file a motion in addition to its purported “response,” and their substantive arguments are the same for both, United Water has decided to avail itself of the fourteen days allowed to submit answers to motions under the Department’s Rules of Procedure 270.02 and 565, IDAPA 37.01.01.270.02, .565.⁴ United Water will address the substance of the *Motion and Response* by November 28, 2012.

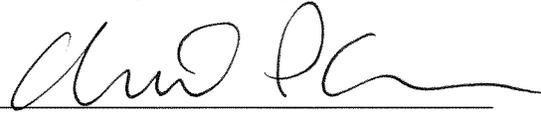
³ Today, United Water received Pioneer’s *Reply in Support of Pioneer Irrigation District’s Statement of Issues and First Supplemental Statement of Issues re United Water Idaho’s IMAP Application* (“*Pioneer’s Reply*”). In it, Pioneer offers no substantive feedback on any of the issues raised in *United Water’s Initial Statement* or *United Water’s Response to Initial Statements*, including whether the proceeding should be bifurcated, or whether Pioneer has any constructive ideas to add to United Water’s suggestions concerning the scope of and timetables for discovery and the hearing. Instead, Pioneer contends that the issues raised in its October 15 filing are still alive even though Pioneer did not respond to the invitation contained in *United Water’s Initial Statement* to keep them alive. Pioneer also contends that it “has complied with both the letter and the spirit of the Department’s [*Initial Statement Order*],” *Pioneer’s Reply* at 4, yet it has provided no detail about which issues raised in any filing might still be of concern to Pioneer.

⁴ Pioneer incorrectly suggests that the Hearing Officer can “end this proceeding altogether in response to the additional issues raised in both Pioneer’s Supplemental Statement and the [Boise Project Parties’] pending motion to dismiss” *Pioneer’s Reply* at 4. Pioneer’s “Supplemental Statement” simply did not ask or advocate for dismissal of the IMAP. Accordingly, dismissal cannot be grounded upon the issues and arguments raised therein, and such arguments are not properly considered in addressing the Boise Project Parties’ motion to dismiss.

Respectfully submitted this 21st day of November, 2012.

GIVENS PURSLEY LLP

By 
Christopher H. Meyer

By 
Michael P. Lawrence

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of November, 2012, the foregoing was filed, served, and copied as follows:

DOCUMENT FILED:

Idaho Department of Water Resources	<input type="checkbox"/>	U. S. Mail
322 East Front Street	<input checked="" type="checkbox"/>	Hand Delivered
P.O. Box 83720	<input type="checkbox"/>	Overnight Mail
Boise, ID 83720-0098	<input type="checkbox"/>	Facsimile
	<input type="checkbox"/>	E-mail

SERVICE COPIES TO:

Albert P. Barker, Esq.	<input type="checkbox"/>	U. S. Mail
Shelley M. Davis, Esq.	<input type="checkbox"/>	Hand Delivered
Barker, Rosholt & Simpson, LLP	<input type="checkbox"/>	Overnight Mail
1010 W. Jefferson, Suite 102	<input type="checkbox"/>	Facsimile
P.O. Box 2139	<input checked="" type="checkbox"/>	E-mail
Boise, ID 83701-2139	<input checked="" type="checkbox"/>	IDWR Website
apb@idahowaters.com		
smd@idahowaters.com		

Thomas H. Barry	<input type="checkbox"/>	U. S. Mail
Public Works Director	<input type="checkbox"/>	Hand Delivered
City of Meridian Public Works Department	<input type="checkbox"/>	Overnight Mail
33 E. Broadway Avenue, Suite 200	<input type="checkbox"/>	Facsimile
Meridian, ID 83642	<input checked="" type="checkbox"/>	E-mail
tbarry@meridiancity.org	<input checked="" type="checkbox"/>	IDWR Website

Kyle Radek	<input type="checkbox"/>	U. S. Mail
Assistant City Engineer, Engineering Division	<input type="checkbox"/>	Hand Delivered
City of Meridian Public Works Department	<input type="checkbox"/>	Overnight Mail
33 E. Broadway Avenue, Suite 200	<input type="checkbox"/>	Facsimile
Meridian, ID 83642	<input checked="" type="checkbox"/>	E-mail
kradek@meridiancity.org	<input checked="" type="checkbox"/>	IDWR Website

Scott L. Campbell, Esq.
Andrew J. Waldera, Esq.
Moffatt Thomas Barrett Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
P.O. Box 829
Boise, ID 83701-0829
slc@moffatt.com
ajw@moffatt.com

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

S. Bryce Farris, Esq.
Ringert Law, Chtd.
455 S. Third Street
P.O. Box 2773
Boise, ID 83701-2773
bryce@ringertlaw.com

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Charles L. Honsinger, Esq.
Honsinger Law, PLLC
P.O. Box 517
Boise, ID 83701
honsingerlaw@gmail.com

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Brent Orton
Public Works Director, City Engineer
City of Caldwell
621 East Cleveland Blvd.
Caldwell, ID 83605
borton@ci.caldwell.id.us

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Bruce M. Smith, Esq.
Moore, Smith, Buxton & Turcke, Chartered
950 W. Bannock St, Ste. 520
Boise, ID 83702
bms@msbtlaw.com

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Ed Squires
Hydro Logic, Inc.
1002 West Franklin St.
Boise, ID 83702-5431
ed@hydrologicinc.net

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Matthew K. Wilde, Esq.
Brenda Bauges, Esq.
Assistant City Attorneys
Boise City Attorney's Office
150 N. Capitol Blvd.
P.O. Box 500
Boise, ID 83701-0500
mwilde@cityofboise.org

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Paul Woods
Environmental Manager
Public Works Department
Boise City Hall
150 N Capitol Blvd
Boise, ID 83702
pwoods@cityofboise.org

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

COURTESY COPIES TO:

Gary L. Spackman
Director
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
gary.spackman@idwr.idaho.gov

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

John Westra
Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082
john.westra@idwr.idaho.gov

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Garrick L. Baxter, Esq.
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
garrick.baxter@idwr.idaho.gov

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

John W. Homan, Esq.
Deputy Attorney General
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
john.homan@idwr.idaho.gov

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Jeff Peppersack
Water Allocation Bureau Chief
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
jeff.peppersack@idwr.idaho.gov

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Clive J. Strong, Esq.
Natural Resources Division
Office of the Attorney General
700 W. State St.
P.O. Box 83720
Boise, ID 83720-0010
clive.strong@ag.Idaho.gov

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Josephine P. Beeman, Esq.
Jane M. Newby, Esq.
Beeman & Associates PC
409 West Jefferson
Boise, ID 83702-6049
jo.beeman@beemanlaw.com
jane.newby@beemanlaw.com

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Kathleen Marion Carr, Esq.
Office of the Field Solicitor
U.S. Department of the Interior
960 Broadway Ave., Ste. 400
Boise, ID 83706
kathleenmarion.carr@sol.doi.gov

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Gordon N. Law
City Engineer
City of Kuna
P.O. Box 13
Kuna, ID 83634
gordon@cityofkuna.com

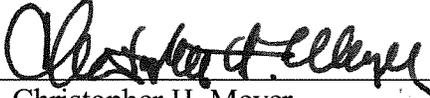
- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

E. Gail McGarry
Matt J. Howard
U.S. Bureau of Reclamation
Pacific Northwest Regional Office
1150 N. Curtis Road
Boise, ID 83706-1234
emcgarry@ usbr.gov
mhoward@ usbr.gov

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website

Richard T. Roats, Esq.
Roats Law Office, PLLC
Plantation Business Center
6126 W. State Street, Ste. 203
Boise, ID 83703
rtr@roatslaw.com

- U. S. Mail
- Hand Delivered
- Overnight Mail
- Facsimile
- E-mail
- IDWR Website



Christopher H. Meyer