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DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

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.	**CITY OF EAGLE'S RESPONSE TO UNITED WATER'S OBJECTION AND MOTION TO STRIKE THE CITY OF EAGLE'S INITIAL STATEMENT**

COMES NOW, the City of Eagle, by and through its counsel of record, Moore Smith Buxton & Turcke, Chtd., and responds to United Water's Objection and Motion to Strike.

The Director's order issued June 6, 2012, lifted the stay on United Water's ("UW") IMAP submission which was filed in 2001. Because of the extended period between the filing and the lifting of the stay, the participating entities were requested to give notice of their continued participation in the IMAP proceeding. Pursuant to the Director's Order, the City of Eagle provided notice as requested. UW did not object and the City of Eagle has continued to participate in the IMAP proceeding to date. The City has attended all conferences, offered

comments, suggestions, and raised questions at the conferences consistent with its notice. Neither UW nor any other party has objected to the City's participation. UW further has consulted with and sought the City's participation and discussion on matters outside the formal conferences.

The City of Eagle has not objected to or protested any representations or comments by UW. Instead the City has offered what it considered helpful comments in response to the parties' and the Director's questions or suggestions. UW has thus waived any objections at this late date to the City of Eagle's participation.

The timing of UW's objection is interesting. The City of Eagle has attempted to communicate with UW and other parties as appropriate to address the novel issues and procedural questions raised by UW's filings and request to lift the stay. It would appear that so long as the City of Eagle agreed to follow whatever proposal or procedure sought by UW, the City's participation was not objectionable. However, if the City does not support UW's position, suddenly UW finds fault with the City's participation. UW is not a municipality. It interests are not necessarily the same as municipalities. Consistent with its Notice of Continued Participation, the City will make comments as this matter develops.

The City has not sought to participate as a party. However, the City's Notice of Continued Participation was clear. IDAPA Rule 37.01.01.355 provides for comments by public witnesses, and UW is certainly free to object. UW is not entitled to stifle or silence appropriate comments simply because they do not just follow UW's lead or changing positions. This matter is at a sensitive stage given the dated filings, the long stay, the changing positions of UW, and the uncertainties created by a procedure which all participants, including the applicant, parties, participants, agency staff, or the Director, are attempting in good faith to address. The City will

continue in good faith as well to offer suggestions or comments. If the Hearing Officer elects to consider or ignore the comments, that is within his discretion. However, simply attempting to stifle comment is not appropriate.

Respectfully submitted this 28th day of November, 2012.

MOORE SMITH BUXTON & TURCKE, CHTD.

BRUCE M. SMITH
Attorney for City of Eagle

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of November, 2012, a true and correct copy of the foregoing document was served upon the following by the method indicated below:

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