

**BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 63-32573 IN THE ) **PREHEARING ORDER**  
NAME OF M3 EAGLE LLC ASSIGNED )  
TO THE CITY OF EAGLE )  
\_\_\_\_\_ )

On September 2, 2011, the Idaho Department of Water Resources (“Department”) held a prehearing conference in the above-captioned matter for purposes of discussing the scope of the remand proceedings and hearing, identifying legal issues, and establishing a timetable for hearing preparation. The prehearing conference was attended by the Hearing Officer, Deputy Attorney General John Homan, representatives and legal counsel for M3 Eagle LLC and the City of Eagle, representatives for Protestant Eagle Pines Water Users Association, and Protestant Alan Smith. Protestant Norman Edwards and North Ada County Ground Water Users Association did not attend, but are not disqualified from participating in the remand proceedings in accordance with this Prehearing Order.

**PREHEARING ORDER**

IT IS HEREBY ORDERED that the following deadlines shall govern the discovery process and information exchange prior to the remand hearing scheduled for October 18 through 20:

**Friday, September 9:** Parties shall disclose to the other parties the identities of their respective expert and lay witnesses, including their names, addresses, telephone numbers, and summaries of the matters to which they are expected to testify.

**Friday, September 9:** IDWR shall disclose to the parties any additional IDWR expert reports or staff memoranda relevant to the remand proceedings.

**Thursday, September 22 at 9:00 a.m.:** IDWR staff employee and expert witness Mat Weaver shall be made available to provide testimony, under oath, concerning his evaluation of population projections and water needs entitled *RAFN Evaluation for the City of Eagle in Connection with Application for Permit 63-32573* (“RAFN Evaluation”). Mr. Weaver shall bring to the deposition all documents examined, analyzed, relied upon, incorporated or

utilized by him in connection with the RAFN Evaluation, in addition to all documents reviewed by him in preparing for the deposition. The deposition shall take place at 322 East Front Street, Boise, Idaho, and shall continue until completed.

**Friday, September 23 at 1:00 p.m.:** IDWR expert witness Don Reading shall be made available to provide testimony, under oath, concerning the RAFN Evaluation. Mr. Reading shall bring to the deposition all documents examined, analyzed, relied upon, incorporated or utilized by him in connection with the RAFN Evaluation, in addition to all documents reviewed by him in preparing for the deposition. The deposition shall take place at 322 East Front Street, Boise, Idaho, and shall continue until completed.

**Friday, October 14:** Depositions and written discovery shall be completed.

**Friday, October 14:** Parties shall exchange all exhibits and expert reports intended to be offered into evidence or relied upon at the hearing.

IT IS FURTHER ORDERED that discovery in this matter shall be governed as follows:

1. Responses to written discovery requests must be served within 14 days of the request;
2. Parties must provide other parties no less than 7 days notice for depositions, and all deponents are ordered to bring to their respective depositions all documents examined, analyzed, relied upon, incorporated or utilized by them in connection with the subject matter of this remand proceeding;
3. Discovery is limited to the following issues to be addressed in the remand hearing:
  - a. The City of Eagle's annexation of the M3 Eagle planned community project lands;
  - b. The City's planning horizon and reasonably anticipated future municipal water needs for City's service area, including the M3 Eagle planned community project, based on City's current water rights portfolio and planning information; and
  - c. The quantity of water requested in the M3 Application for the M3 Eagle planned community project in relationship to the water needs of the rest of the City's service area.

The parties shall not conduct discovery or offer evidence at the hearing concerning other matters such as technical water supply issues, hydrogeology, and potential injury from pumping.

Dated this 8<sup>th</sup> day of September, 2011.

  
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Gary Spackman  
Interim Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th of September, 2011, the foregoing was served on the following, or copied as follows:

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