

ERICK SHANER  
DEPUTY ATTORNEY GENERAL  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0314  
IDAHO BAR NO. 5214

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UTILITIES COMMISSION

Street Address for Express Mail:  
11331 W CHINDEN BLVD, BLDG 8, SUITE 201-A  
BOISE, ID 83714

Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF NORTH STAR )**  
**WATER, LLC'S APPLICATION FOR A ) CASE NO. NSW-W-21-01**  
**CERTIFICATE OF PUBLIC CONVENIENCE )**  
**AND NECESSITY )**  
**)**  
**) COMMENTS OF THE**  
**) COMMISSION STAFF**  
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**STAFF OF** the Idaho Public Utilities Commission, by and through its attorney of record, Erick Shaner, Deputy Attorney General, submits the following comments.

**BACKGROUND**

On May 26, 2021, North Star Water, LLC (“Company”) applied for a Certificate of Public Convenience and Necessity (“CPCN”) to provide water related services as a public utility in Idaho. The Company is an Idaho limited liability company headquartered in Kuna, Idaho. Application, Exhibit 1. The Company plans to provide in-home potable water, irrigation water, and water for fire protection to the North Star Subdivision (“Subdivision”) in Canyon County, Idaho. *Id.* Construction has begun on the facilities; however, no customers have been connected. Application at 12 and 15. Once the Company begins to provide water service to customers it proposes to charge rates of \$70 per month for domestic service and \$30 per month for irrigation service. *Id.* at 19.

## **STAFF ANALYSIS**

Staff believes the Company's request for a CPCN should be approved by the Commission. This conclusion is based on Staff's review of the Company's Application, appendices, Idaho Department of Environmental Quality ("IDEQ") documentation, and plans for the Subdivision's water system as developed by SPF Water Engineering LLC. Through its review, Staff has come to the following conclusions:

1. The Company's requested service area does not overlap with an existing water utility and the system has a reasonable opportunity to provide reliable service to future customers based on the provided documentation.
2. The system design and construction has been approved by IDEQ and are adequate to provide service to the Subdivision. As designed, the system doesn't allow for separate measurement of domestic and irrigation usage or metered usage. Additional improvements should be made to allow the Commission to set rates that are just, fair, and reasonable. Additional data will need to be collected over time as customers connect to the system, and rates adjusted at some future time within the context of a general rate case.

Each of the conclusions will be discussed in more detail in the sections below along with Staff's recommendations.

### **North Star Water System**

The system is designed to serve the 24-lot North Star Subdivision in Canyon County, Idaho near the City of Caldwell. The system is located on the east side of Wagner Road approximately 1 mile west of the City of Caldwell's current municipal boundary in Canyon County, Idaho. The legal description of the Subdivision is the W ½ of the NW ¼ of Section 8 within Township 3 North, Range 3 West.

Staff believes the service area does not overlap with an existing water utility and has a reasonable opportunity to provide reliable service to future customers based on the Company provided documentation. Staff reviewed the legal description of the requested service area and believes the description is accurate and is not in conflict other water utility service areas. To

evaluate the ability for North Star Water to provide reliable service to future customers, Staff reviewed the water system design, available water rights, and operation and maintenance plan.

These topics are discussed in more detail in the sections below.

### **Water System Design**

Based on the documents provided in the Application and in response to production requests, IDEQ documentation, and the SPF Water Engineering Plan, Staff believes the water system design is sufficient to provide reliable service to future customers. The Subdivision water system was originally constructed in 2008 but not put into service or approved by the IDEQ. Original development costs are unknown. The IDEQ initially approved the system in January 2014; however, the project was never completed. In 2020, additional water quality tests were required and IDEQ subsequently confirmed that the well meets applicable drinking water standards. Final approval as a public water system was again given on May 12, 2021.

The system is a single well configuration, designed to serve domestic, pressurized irrigation, and fire protection needs. From this single well, domestic and fire protection water are distributed through a separate system from the irrigation water, which is supplied through a pressurized irrigation system. A single flow meter tracks consumption for both distribution systems so the consumption for each system cannot be tracked separately. The domestic and fire protection system and irrigation system are separated with a pressure sustaining valve and backflow prevention device to ensure irrigation water is shut off before domestic or fire protection supplies are affected.

The fire protection system includes five fire hydrants within the North Star Subdivision. In order to provide fire protection for individual residences, the City of Caldwell Fire Department signed an agreement allowing the well to be used for fire protection under three criteria:

1. All homes within the Subdivision are required to have fire sprinklers;
2. A separate pressure irrigation system must be provided with a pressure sustaining valve to prevent irrigation demands from drawing flow during a fire event; and;
3. The Company must connect to City of Caldwell municipal water service when it becomes available. SPF Engineering at 4.

Staff confirmed that the agreement with the City of Caldwell is still in force. The agreement states that in lieu of the typical 1,500 gpm fire flow requirement, the Caldwell Fire

Department signed an agreement stating that the system well would only need to supply 450 gpm as long as every home within the Subdivision is equipped with fire sprinklers.

### **Water Rights and Production**

The system water rights should be adequate to meet the expected demand of the fully built-out Subdivision. Water right 63-32262 allows the diversion of up to 0.22 CFS (~100 gpm) of groundwater for domestic uses within the Subdivision and water right 63-33225 allows the diversion of up to 0.62 CFS (~280 gpm) of groundwater for irrigation within the Subdivision.

Both domestic and irrigation system demands were calculated using IDEQ design flow tools. Based on the Subdivision of twenty-four lots, maximum daily domestic demand is estimated at approximately 32 gpm with an estimated peak hour demand of approximately 62 gpm. Domestic average daily is estimated at approximately 20 gpm. These demand values are lower than the 0.22 CFS (99 gpm) diversion limit set by water right 63-32262 so the system is adequately permitted to meet peak domestic demands. SPF Engineering at 4.

### **Operation and Maintenance**

Staff believes the Company Operation and Maintenance (“O&M”) Plan is reasonable because the Company has a contract with a certified water operator and included reasonable O&M items in the expense budget. Staff does have concern with the estimated cost of electric power provided by the Company in the O&M budget.

Black Water LLC, Michael J Williams-Black will provide O&M for the North Star Water System. Michael J Williams-Black is a certified Drinking Water Distribution Operator – Class 1.<sup>1</sup> Michael Williams-Black is also listed with the Idaho Secretary of State as the Registered Agent for North Star Water LLC.

Since North Star Water is a new company with no history of the system providing service to customers, no financial operating records are available. However, the Company provided a range of estimated annual O&M expenses of \$25,130 for year 1 to \$28,284 for year 5. Application Appendix 8. Staff examined the Company’s estimates and believes that some O&M expenses could be underestimated. Of particular concern is the estimated cost of electric power.

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<sup>1</sup> DWD1 – 18682 Original Date of Issue 7/16/2012

Staff encourages the Company to keep complete and accurate records of power costs, paying particular attention to costs as the system adds customers.

### **Power Costs**

Staff believes the Company should be permitted to recover annual power costs of \$5,339 based on Staff calculations. In the Application, the Company provided an annual power cost estimate of \$3,000. In response to Production Request No. 13, the Company stated the power cost provided in the Application was a random estimate of what they thought the power bill would be. Additionally, in Response No. 13, the Company stated that after doing more research and comparing to another water system, the power expense should be \$5,400 to \$6,000 per year.

Staff estimated domestic and irrigation system demand calculations that were created using IDEQ design flow tools. These demand numbers were used to estimate the total gallons used per month by the system. Using these estimates for demand, Staff calculated the amount of electricity that would be consumed using pump curves and the depth of the well as installed. By applying the amount of electricity needed to pump the estimated water demand using Idaho Power's Schedule 9 rates, Staff was able to determine annual power costs for the system.

The Company takes power under Idaho Power's Schedule 9 (Large General Service). Schedule 9 has a \$16 per month service charge and uses a declining block rate structure whereby the Company pays approximately \$0.098 per kilowatt hour ("kWh") for the first 2,000 kWh of energy, and \$0.046 per kWh for each additional kWh. The Company also pays a monthly demand charge and Basic Load Capacity charge for all power in excess of 20 kilowatts.

### **Hookup Fee**

In response to Production Request No. 3, the Company provided the "Water System Agreement for North Star Water, LLC" and the Water System Agreement mentions a one-time hookup fee of \$3,125. Staff asked a production request to determine the purpose for this hookup fee paid by Elevation Partners, LLC. *See* Production Request No. 8. The Company stated that the purpose of the hookup fee paid by the developer is to provide the Company with reserves to have sufficient revenue to operate and is not related to a hookup fee for end-use customers. Response to Production Request No. 8.

Staff believes a hookup fee is not required for new customers. This conclusion is based on the Company not incurring additional cost when a new customer installs their service line to the Company's distribution system. The Company did not propose a hookup fee in the Application, but Staff reviewed the information provided in this case and responses to production requests to ensure a hookup fee is not required. Both the domestic and irrigation water distribution systems were paid for by developers and the Company does not have to incur additional cost when a new customer hooks up to either distribution system.

### **Reserve Fund**

In its response to Production Request No. 8, the Company explained that the purpose of the \$3,125 hookup fee per lot paid by the developer is for reserves and will not be used to hook up new customers. The Company does not yet have a revenue stream to cover expenses and these reserve funds will be used to cover operational expenses.

Staff recommends that these funds should be placed in a separate account, and their usage be restricted to emergencies and major unplanned capital expenditures such as leak repairs and other unplanned replacements. Staff recommends the Company establish and maintain an auditable paper trail for all expenditures paid from this reserve Fund. The Company should be required to file notice to the Commission when money from this reserve fund is used. In order to have the funds available for emergencies, Staff recommends that the Commission allow the Company immediate access to the reserve funds, and the Company should seek Commission approval of the withdrawals by filing an application after-the-fact.

### **Revenue Requirement and Rate Base**

Pursuant to Idaho Administrative Code Rule 31.36.01.102. Section 31.36.01.102 - PRESUMPTION OF CONTRIBUTED CAPITAL "In issuing certificates for a small water company or in setting rates for a small water company, it will be presumed that the capital investment in plant associated with the system is contributed capital, i.e., that this capital investment will be excluded from rate base. (7-1-93)" The Company is under-capitalized because the water system infrastructure costs were recovered through the sale of lots. Because the system is funded with contributed capital, the Company does not have plant-in-service that qualifies for rate base treatment. Without rate base, the Company's revenue requirement is the

amount necessary to cover its operating expenses. Staff adjusted the Company proposed expenses and recommends a revenue requirement of \$19,869 for the Company, as shown on Attachment A.

### **Repairs**

The Company estimated Repairs and Maintenance Expenses totaling \$500 annually. Because Staff is recommending the Company establish a reserve account for emergency repairs, Staff has removed the estimated Repair and Maintenance Expense from the Company's proposed revenue requirement. As discussed previously in these comments, emergency repairs and unplanned capital expenses should be recovered from the reserve account.

### **Lab Testing Fees**

In setting rates for small water companies, Staff typically adjusts Water Testing Expenses to recover a multi-year average of annual testing expenses. Because water tests are required at different times on different schedules, some tests only being required once every nine years, the multi-year averaging methodology spreads the recovery of all testing expenses equally over time. Staff recommends an annual level of Water Testing Expense of \$600, which is the annual average of all required tests, required by the IDEQ. As shown on Attachment B.

### **Equipment and Spares Parts**

The Company included in its estimated expenses \$1,000 for inventory and spare parts. Staff removed this amount from the Company's revenue requirement because inventory should be included in rate base after it is incurred. As the Company builds inventory, it may include the balances and seek recovery in a future proceeding.

### **Rate Design**

In its initial Application with the Commission, the Company proposed to charge the flat rates for residential customers of \$70 per month with additional \$30 per month for irrigation water. Staff recognizes the Company's desire to keep all the rates simple and because the system is not individually metered, Staff believes that maintaining a flat rate design is appropriate. However, Staff recommends that all customers be charged a single flat rate for both domestic

residential water and irrigation water until the Company can sufficiently separate usage and associated costs of the two systems.

As indicated previously, the Staff-adjusted annual revenue requirement for the Company is \$19,869. Using this adjusted revenue requirement, Staff calculated the new single monthly flat rate of \$66.25 for residential and irrigation water combined. A comparison of the Company's proposed rates and Staff proposed rates are shown in the summary table below.

**Table 1: Rates Comparison**

<b>Customer Class - Flat Rates</b>	<b>Number of Cust</b>	<b>Months of Service</b>	<b>Company Proposed</b>		<b>Staff's Proposal</b>	
			<b>Proposed Rates \$/Month</b>	<b>Proposed Rate Revenue</b>	<b>Proposed Rates \$/Month</b>	<b>Proposed Rate Revenue</b>
<b>Residential - Domestic</b>	24	12	\$70.00	\$20,160		
<b>Residential - Irrigation</b>	24	12	\$30.00	\$ 8,640		
<b>Total</b>				\$28,800		
<b>Residential Domestic &amp; Irrigation</b>	25	12			\$66.25	\$19,869

**Reporting and Records**

Utilities regulated by the Idaho Public Utilities Commission are required to file annual reports. Annual reports contain company information, revenue and expense detail, an income statement, plant in service detail, accumulated depreciation, a balance sheet, a statement of retained earnings, capital stock detail, long-term debt detail, system engineering data, and customer statistics. If the Company's Application is approved, Staff will supply the Company an Annual Report for Water Utilities template in Excel format. Staff encourages the Company to utilize the template and implement records management according to GAAP (Generally Accepted Accounting Principles).

In the Company's Application separate rates for domestic and irrigation service were proposed. Given available information, Staff is unable to reasonably establish distinct rates for domestic and irrigation services. In order to establish rates for multiple customer classes,



additional data is required. Of particular concern are cost and production data by use type. Staff recommends that the Company keep detailed and accurate monthly data for operating costs, customer count by type, domestic water production, irrigation water production, common area irrigation use, and revenue by use.

### **Tariffs**

In response to Production Request No. 2, the Company submitted a draft tariff based on the Commission's Model Tariff. The Company included Rate Schedule 1 Category 1 - Portable Water Monthly Base Charge I: \$70 flat fee, and Rate Schedule 2 Category 2 Irrigation Water Monthly Base Charge: \$30 flat fee (year round). The Company's irrigation right is restricted to March 1 - November 15; however the Company believes that a twelve-month charge for irrigation prevents the customer from being "hit with a large bill during irrigation season.

Staff agrees with a twelve-month bill; however based on the lack of metering to separate the costs of domestic usage and irrigation usage, Staff recommends a single monthly rate until such time as the Company can identify the costs associated with domestic usage and irrigation usage. The Subdivision also includes a commons area that will be irrigated and the cost carried by the Homeowners Association. Because this account will have no domestic water usage, Staff believes a separate rate should be set for that account when additional data is collected.

Staff recommends in the interim that all lots including the commons area pay Domestic and Irrigation Monthly Flat Rate - \$66.25 per lot  
When data is available the rates should be adjusted to reflect

Domestic Monthly Flat Rate (TBD)

Irrigation Monthly Flat Rate (TBD)

HOA Commons Area Monthly Flat Rate (TBD)

Staff has reviewed the Non-Recurring Charges included in the draft tariff and suggests the additional charges as described below. Staff will assist the Company in completion of its tariff as well as other Commission required documentations such as late notices, disconnection notices, the annual explanation of rate and the annual rules summary.

### **Returned Transaction Fee**

Idaho Code § 28-22-105 allows a company to charge no more than \$20.00 for dishonored checks. Although the Company did not ask for such a fee Staff recommends that a \$20.00 returned transaction fee when a payment has been returned for insufficient funds.

### **Late Payment Charge**

In response to Staff's Production Requests, the Company provided a proposed tariff that the Company would file with the Commission if the CPCN is approved. The Company asked for a late payment charge of 1% monthly on unpaid balances at the time of the next billing date. Staff supports a late payment charge to encourage prompt payment of bills and a 1% charge has previously been allowed to all utilities that have requested it in past cases.

### **Reconnection Fee**

In its Application, the Company has asked for a reconnection fee when the account has been disconnected for non-payment. The Company has asked a \$35.00 fee when reconnected during normal business hours, and \$70.00 when the request for reconnection is after normal business hours. Staff agrees that a reconnection charge is appropriate following an involuntary disconnection of service for non-payment. Historically, the Commission has allowed a portion of actual costs to be recovered through a direct charge to affected customers. However, Staff believes the amount requested by the Company is unreasonable and inconsistent with charges authorized by the Commission for other regulated utilities.

Staff instead recommends a \$20 reconnection charge for reconnections following an involuntary disconnection of service for nonpayment during normal business hours. Staff also proposes a \$40 reconnection charge for reconnections following an involuntary disconnection of service for non-payment to be applied when the reconnection is requested outside of normal business hours. This \$40 charge is within the range of charges previously approved by the Commission for other regulated utilities under similar circumstances. Staff and the Company agree that normal business hours are defined as 8:00 am and 5:00 pm, Monday through Friday, excluding legal holidays.

## **CUSTOMER NOTIFICATION AND COMMENTS**

Rule 125 of the Commission's Rules of Procedure does not require direct customer notification unless the Company is requesting a rate change. IDAPA 31.01.01.125. While the Company is requesting that the Commission set a rate as part of the process of granting a Certificate of Public Convenience and Necessity the Company currently has no customers.

## **STAFF RECOMMENDATIONS**

Staff recommends that the Commission:

1. Approve a CPCN for North Star Water.
2. Approve a single rate of \$66.25 per month per lot for both domestic and irrigation usage for all lots until additional data is available.
3. Approve a late payment fee of 1% of the past due balance at the time of the next billing statement.
4. Approve a reconnection fee of \$20.00 for a reconnection during normal business hours and a \$40.00 reconnection fee for a reconnection requested after normal business hours.
5. Approve a \$20 insufficient funds charge.
6. Direct the Company to work with Staff to revise its Tariff and Rules and Regulations so that they are consistent with the Commission's Rules and Regulations, and to create required documents, e.g., disconnection notices and an annual customer notice.
7. Direct the Company to submit a signed copy of its Tariff within 30 days of the effective date of the Order.
8. Collect and report additional data in its Annual Report to the Commission.

Respectfully submitted this 8<sup>th</sup> day of September 2021.



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Erick Shaner  
Deputy Attorney General

Technical Staff: Chris Hecht  
Michael Eldred  
Johan Kalala-Kasanda  
Kevin Keyt

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**Staff Calculation of Annual Expenses  
NSW-W-21-01**

<u>Expenses</u>	<b>Company CY 2021</b>	<b>Staff Adjustment</b>	<b>Staff Recommendation</b>
Contract Operator	\$ 5,400	-	\$ 5,400
Routine Maintenance (Labor + Materials)	\$ 250	-	\$ 250
Repairs	\$ 500	500	\$ -
Equipment and Spare parts	\$ 1,000	1,000	\$ -
Power	\$ 3,000	2,339	\$ 5,339
Lab testing fees	\$ 1,200	600	\$ 600
Insurance	\$ 1,440	-	\$ 1,440
Office and Billing	\$ 2,400	-	\$ 2,400
Office Supplies, Postage, Notifications	\$ 240	-	\$ 240
Other Utilities	\$ 600	-	\$ 600
Professional Services fees	\$ 2,400	-	\$ 2,400
Landscape / Weed control	\$ 1,200	-	\$ 1,200
Property taxes			\$ -
Bank charges			\$ -
Subtotal	<u>\$ 19,630</u>		<u>\$ 19,869</u>
Reserve Debt service	\$ 5,500	\$ 5,500.00	\$ -
<b>Total O&amp;M Expenses</b>	<b><u>\$ 25,130</u></b>		<b><u>\$ 19,869</u></b>

<b>Lab Testing Required by IDEQ</b>			
<b>Frequency</b>	<b>Types</b>	<b>Price</b>	<b>Total / year</b>
Every 3 years	<b>Inorganic Contaminants:</b> Antimony, Arsenic, Barium, Beryllium, Cadmium, Chromium, Fluoride, Mercury, Nickel, Selenium, Sodium, Thallium	Antimony: \$14, Arsenic: \$22, Barium: \$ 14, Beryllium: \$22, Cadmium: \$22, Chromium: \$22, Fluoride: \$, Mercury: \$30, Nickel: \$14, Selenium: \$22, Sodium: \$14, Thallium: \$22	\$ 71.00
Quarterly for at least 1 year, then every 3 years.	<b>Synthetic Organic Contaminants:</b> Carbamates, Chlorinated Herbicides, Diquat, EDB/DBCP, Endothall, Glyphosate, Chlorinated Pesticides/PCBs	Carbamates: \$175, Chlorinated Herbicides: \$190, Diquat: \$190, EDB/DBCP: \$140, Endothall: \$175, Glyphosate: \$ 150, Chlorinated Pesticides/PCBs: \$190	\$ 400.00
Annually	<b>Nitrate</b>	Nitrate: \$35	\$ 35.00
Every 9 years	<b>Nitrite</b>	Nitrite: \$35	\$ 3.89
Quarterly for 1 year, then reduced anywhere from 3 years to 9 years depending on the	<b>Radionuclides:</b> Gross Alpha, Uranium, Radium 226, Radium 228	Gross Alpha: \$70, Uranium: \$30, Radium 226: \$90, Radium 228: \$130	\$ 34.44
5 samples every 6 months. After two six-month rounds, reduced to annual. After two annual rounds, reduce to every 3 years.	<b>Lead and Copper</b>	\$34.00	\$ 11.33
Annually	<b>Total coliform and <i>E. coli</i></b>	\$45	\$ 45.00
			<b>\$600.67</b>

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 8<sup>TH</sup> DAY OF SEPTEMBER 2021, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. NSW-W-21-01, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

MIKE BLACK  
NORTH STAR WATER LLC  
PO BOX 3723  
NAMPA ID 83653  
E-MAIL: [blackwaterllc.idaho@gmail.com](mailto:blackwaterllc.idaho@gmail.com)

  
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SECRETARY