

RECEIVED

FORM 202 Rev. 09/16

AUG 19 2020

IDWR / NORTH

84 304

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. 81-12029

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant(s) Athens 2008 Trust, Susan W. Athens, Trustee Phone (918) 671-6980
 Name connector (check one): ☐ and ☐ or ☐ and/or
 Mailing address 2122 East 22nd Place City Tulsa
 State Oklahoma ZIP 74114 Email susanidaho@aol.com
2. Name of representative, if any Albert P. Barker, Attorney at Law Phone 208-336-0700
 Mailing address Barker Rosholt & Simpson, LLP, P.O. Box 2139 City Boise
 State Idaho ZIP 83702-2139 Email apb@idahowaters.com
 - a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
☒ Send original correspondence to the applicant and copies to the representative.
 - b. ☒ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Lochsa River which is a tributary of Middle Fork, Clearwater River
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag #
37N	14E	33			SW	NE	IDAHO	Lochsa River	
37N	14E	33			SW	NE	IDAHO	Lochsa River	

5. Water will be used for the following purposes:
 Amount 0.24 cfs for irrigation purposes from 4/15 to 10/31 (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per year)
6. Total quantity to be appropriated is (a) 0.24 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source. pump in creek; pipe to place of use
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
 - d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
 - e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____

For Department Use

Received by _____ Date _____ Time _____ Preliminary check by _____
 Fee \$ 250⁰⁰ Receipt by TA Receipt No. NP 36333 Date 8-13-2020

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AUG 13 2020

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 (cfs or acre-feet per year)

Amount for purposes from to (both dates inclusive)
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- d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
- e. If well is already drilled, when? ; drilling firm ;
 well was drilled for (well owner) ; Drilling Permit No. .

For Department Use

Received by Date Time Preliminary check by
 Fee \$ 25000 Receipted by Receipt No. N036333 Date 8-13-2020

8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; must complete and attach the Municipal Water Right Application Checklist.
 - Domestic; show number of households _____
 - Other; describe fully. _____

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
37N	14E	33			12														12

Total number of acres to be irrigated: 12

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? _____
11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____
12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. Irrigation of Applicant's property in Lots 5 & 6, Walton Creek Subdivision
13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).
14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Susan W. Athens for Athens 2008 Trust

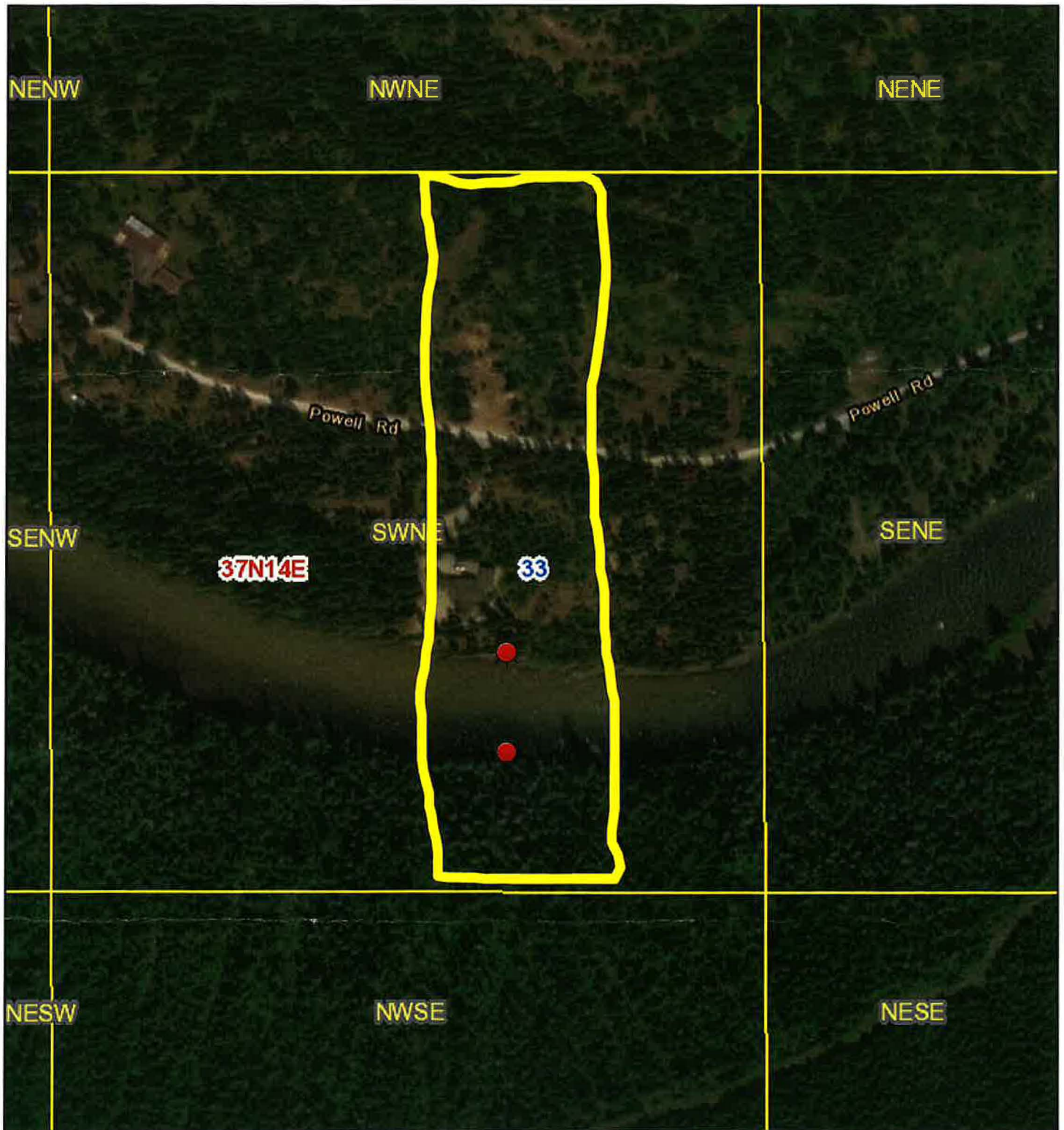
Signature of Applicant

Signature of Applicant

Athens 2008 Trust, Susan W. Athens, Trustee
Print Name (and title, if applicable)

Print Name (and title, if applicable)

ArcGIS Web Map

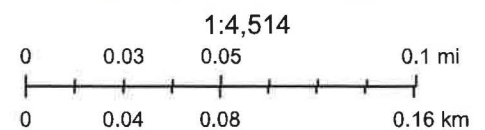


7/20/2020, 11:52:57 AM

 Quarter Quarter

 Section

 Township/Range



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri, HERE, Garmin, (c) OpenStreetMap contributors, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Idaho



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN Region • 7600 N MINERAL DR STE 100 • COEUR D ALENE, ID 83815-7763

Phone: (208)762-2800 • Fax: (208)769-2819 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

August 26, 2020

ATHENS 2008 TRUST
ATTN: SUSAN W ATHENS
2122 E 22ND PL
TULSA, OK 74114-2902

RE: Application for Permit No. 81-12029

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the IDAHO COUNTY FREE PRESS on 9/2/2020 and 9/9/2020. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Tammy Alleman
Administrative Assistant

CC:
ALBERT P BARKER
BARKER ROSHOLT & SIMPSON LLP
PO BOX 2139
BOISE, ID 83701-2139

Alleman, Tammy

From: Alleman, Tammy
Sent: Wednesday, August 26, 2020 9:54 AM
To: 'Sujata.Connell@deq.idaho.gov'; 'Swearingen,Zachary'; Skoro, Emily; Golden, Kala; 'sspencer@fs.fed.us'; 'bknapton@fs.fed.us'
Subject: Request for Comments on WR#81-12029

Dear Interested Agencies:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced Water Right applications. You can find copies of the applications at: <http://www.idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of the application(s), you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication. The deadline for comments on the applications is September 21, 2020.

Please contact the Northern Region Office at (208) 762-2800 if you have any questions regarding the applications.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*

Alleman, Tammy

From: Alleman, Tammy
Sent: Wednesday, August 26, 2020 9:41 AM
To: 'IFP Legals'
Subject: Legal Notice
Attachments: 81-12029 Legal Notice.docx

Please publish the enclosed legal notice in the **Idaho County Free Press** on the dates indicated **September 2nd & September 9th, 2020** (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. Please send a proof once you have the article ready for print for our review.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before **September 21, 2020**. Your cooperation is appreciated.

Thank you,

Tammy

*Tammy Alleman
Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Drive, Suite 100
Coeur d'Alene, ID 83815-7763
Phone: (208) 762-2800
Fax (208) 762-2819*

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

81-12029

ATHENS 2008 TRUST

2122 E 22ND PL

TULSA, OK 74114-2902

Point of Diversion SWNE

S33 T37N R14E

IDAHO County

Source LOCHSA RIVER

Tributary CLEARWATER RIVER

Point of Diversion SWNE

S33 T37N R14E

IDAHO County

Source LOCHSA RIVER

Tributary CLEARWATER RIVER

Use: IRRIGATION

04/15 to 10/31

Total Diversion: 0.24 CFS

Date Filed: 08-13-2020

Place Of Use: IRRIGATION

T37N R14E S33 SWNE

Application 81-12029 proposes the diversion and use of water from surface water tributary to the Lochsa River, a Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water uses proposed in these applications will benefit from the subordination provision because the diversion rate and acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact the Northern office at (208)762-2800; or for a full description of the right(s), please see <https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/>. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Northern Region, 7600 N MINERAL DR STE 100, COEUR D'ALENE ID 83815-7763 together with a protest fee of \$25.00 for each application on or before 9/21/2020. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 9/2/2020 and 9/9/2020

Bates, Luke

From: Albert Barker <apb@idahowaters.com>
Sent: Monday, August 17, 2020 12:08 PM
To: Bates, Luke
Subject: RE: Application for Water Permit Athens 2008 Trust

I did confirm that the lots owned by the Trust are Lot 5 & Lot 6 of Walton Creek Subdivision (RP043000000060 & RP043000000060 respectively. It looks like the boundary line on the map was a little askew.

From: Albert Barker
Sent: Monday, August 17, 2020 9:54 AM
To: Bates, Luke <Luke.Bates@idwr.idaho.gov>
Subject: RE: Application for Water Permit Athens 2008 Trust

Luke-

I am checking on the legal description of the lots and will let you know when I can confirm the right lot numbers.

As for the PODs, the intent is to have a pump on either side of the River, that why the applications shows a POD on both sides. Both PODs on either side of the River are in the same $\frac{1}{4}$ $\frac{1}{4}$ section. Do I understand that the Department wants the applicant to enter the same $\frac{1}{4}$ $\frac{1}{4}$ section twice and put a duplicate entry below the existing entry for the POD? I read Section 4 to require the location of the PODs and both are in the same location and each one is shown on the map. If you need that clarification, we can provide it. I had not ever heard of that requirement.

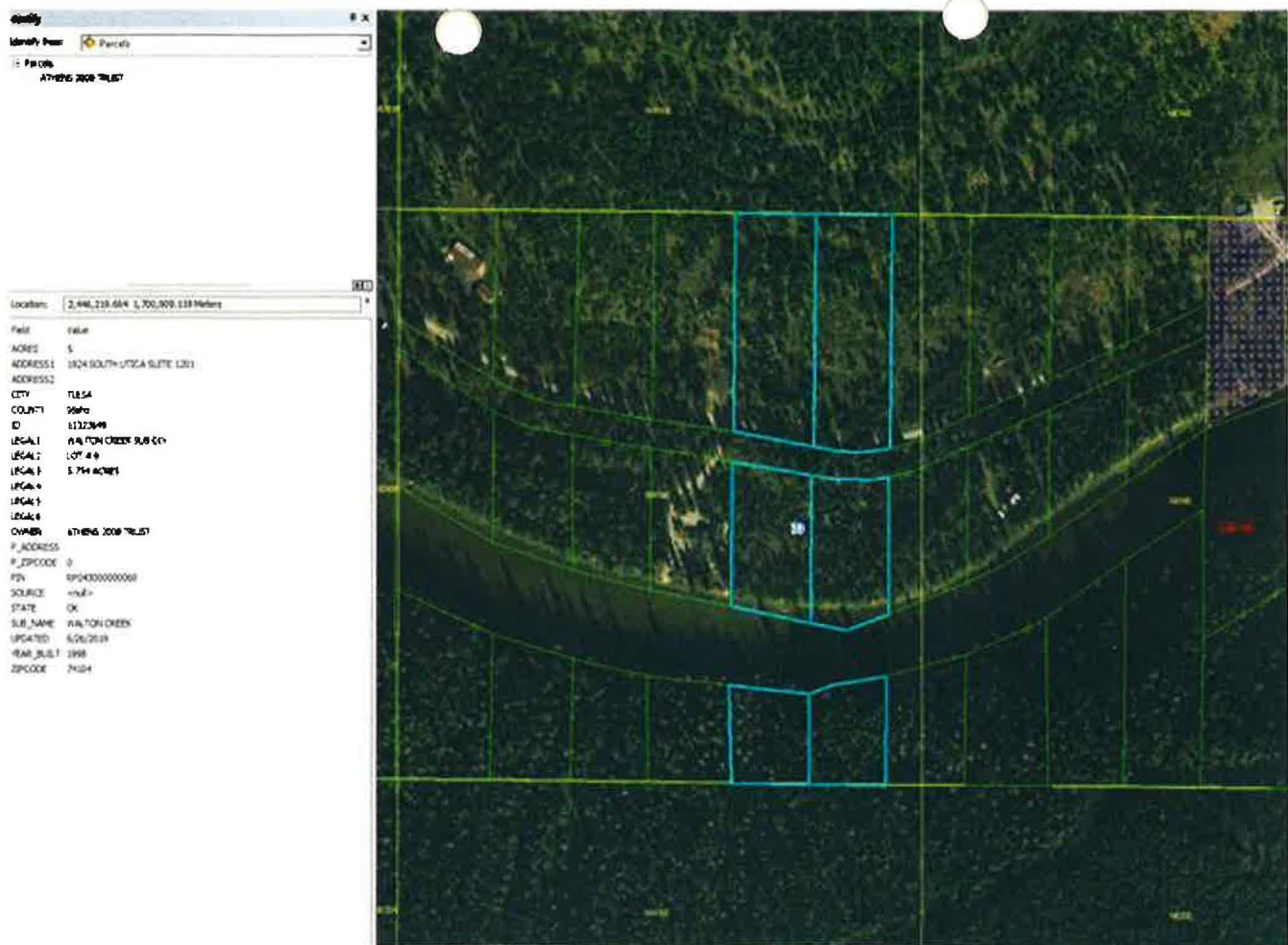
From: Bates, Luke <Luke.Bates@idwr.idaho.gov>
Sent: Thursday, August 13, 2020 5:29 PM
To: Albert Barker <apb@idahowaters.com>
Subject: Application for Water Permit Athens 2008 Trust

Good afternoon Mr. Barker,

IDWR Northern Region Office has received an application for Athens 2008 Trust, Susan W. Athens, Trustee today. Initial review of the application identified a couple questions that I need clarification on before I can process.

Question 4 – Point(s) of diversion. On the form there is a single POD entered. The map product provided with application shows two separate PODs (red dots). To clarify, does the applicant want a POD on each side of the river? If so, the application would require two separate POD lines entered on step 4. **If two PODs are desired, IDWR requires an updated PG 1 of the application submitted by mail, with initials next to the 2nd line in step 4. No additional fees are required, I just need the corrected PG 1.** If 1ea POD is desired, just annotate the one (red dot) you would like to keep and I can update the record.

Question 14 – Map requirement. The map you submitted shows the Place of Use incorporating a house. IDWR aerial imagery shows lot 5 & lot 6 being to the right of the lot with the house. It is likely a imagery system issue that shifted the image. Can you validate that the two lots in question are Lot 5 & Lot 6 of Walton Creek Subdivision (RP043000000060 & RP043000000060 respectively). I have highlighted lot 5 & 6 below.



Thank you for your consideration of these questions, that will assist me in developing this water permit application. Feel free to give me a call if you have questions or concerns.

v/r,

Luke Bates
Water Resource Agent
Idaho Dept. of Water Resources
Northern Regional Office
P: (208) 762-2800
F: (208) 762-2819
Luke.bates@idwr.idaho.gov

MEMORANDUM

To: Water Right Permit 81-12029

From: Luke Bates 

Date: 8/18/2020

Re: Application for a Permit to Appropriate Water within the State of Idaho.

An application for permit for irrigation use in the name(s) of Athens 2008 Trust, Susan W Athens, Trustee was received on 8/13/2020. During initial review it was discovered that the map product provided by applicant, Athens 2008 Trust, Susan W Athens, Trustee showed the place of use (POU) shifted to the left one parcel including a house not located on the 2 parcels owned by the applicant. Email correspondence with applicant's representative, Albert P Barker Attorney at Law, validated the boundary line of the applicant's map being "a little askew", and the two parcels in question, Lot 5 and Lot 6 of Walton Creek Subdivision is the correct POU for this application. The POU was identified as such during application processing prior to advertising review.



**Barker Rosholt
& Simpson LLP**

Albert P. Barker

EMAIL: apb@idahowaters.com

PHONE: 208.336.0700

WEB: idahowaters.com

Boise

1010 W. Jefferson St. Suite 102

Boise, Idaho 83702

p. 208.336.0700

f. 208.344.6034

Attorneys

Albert P. Barker

John K. Simpson

Travis L. Thompson

Scott A. Magnuson

Jonas A. Reagan

John A. Rosholt
(1937-2019)

August 11, 2020

VIA U.S. MAIL

Idaho Department of Water Resources

Northern Regional Office

7600 Mineral Drive, Suite 100

Coeur d'Alene, ID 83815-7763

Re: Applications for Permit in the Name of Athens 2000 Trust, Susan W. Athens, Trustee.

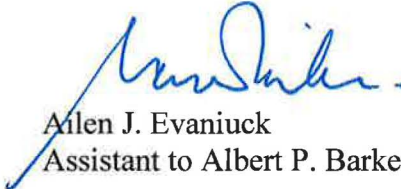
Dear Clerk:

Enclosed please find an Application in the name of Athens 2008 Trust, Susan W. Athens, Trustee. Also enclosed is a map of the POD and POU and a check in the amount of \$250.00 to Idaho Department of Water Resources. Please return file-endorsed copy in the enclosed self-addressed, stamped envelope for our file.

If you have any questions, please contact our office. Thank you for your assistance.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP


Ailen J. Evaniuck
Assistant to Albert P. Barker

/aje

Encl. a/s