

JUN 07 2017

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

IDWR / NORTH

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the Application for Transfer Instructions for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☐ Change diversion point(s) ☒ Add diversion point(s) ☐ Ownership change ☐ Ownership split

1. APPLICANT(S) City of Athol Phone 208.683.2101
 2. MAILING ADDRESS 30355 N. 3rd Street City Athol
 State Idaho Zip 83801 Email cityclerk@cityofathol.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the fee schedule.

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 95-9572; 95-9877; 95-9456

- ☒ Attach a copy of the water right(s) as recorded, available at www.idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. TOTAL AMOUNT OF WATER transferred is 2.43 cubic feet per second and/or _____ acre-feet per annum.
 (diversion rate) (storage volume)

5. POINT OF DIVERSION – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at www.idwr.idaho.gov, *Water Right Transfers, Online Resources*.

New?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
			SE	SW	9	53N	03W	Kootenai	Ground water	
			NW	NE	16	53N	03W	Kootenai	Ground water	
X			SE	SW	10	53N	03W	Kootenai	Ground water	

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

The wells to the City water system as depicted on the attached map.

- b. Who owns the property at the point(s) of diversion? HJ Grathol, a California general partnership.

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

HJ Grathol has agreed to deed the portion of land for the diversion system to the City. See Annexation Agreement.

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. MAP - ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. The Map Tool, available at maps.idwr.idaho.gov/TransferApplicationLayouts/ provides a satisfactory template for creating the required map.

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


Signature of applicant or authorized agent

Robert Wachter, Mayor
Print name and title if applicable

5-31-17
Date

Signature of applicant or authorized agent

Print name and title if applicable

Date

9. FEE - ☒ The application filing fee provided in Section 42-221, Idaho Code, must be submitted with the application for transfer. The Application fee is based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov, Water Right Transfers, Step 4 and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments.

Received by _____ Date _____

Fee paid 660 Date 6-1-17

Received by NS Receipt # N032677

Preliminary review by _____ Date _____ Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐ Name on W-9 _____ W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

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42-222 POD - 09/14

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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[illegible]

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☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

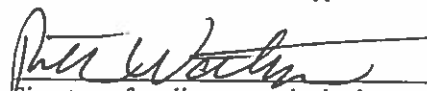
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FOR DEPARTMENT USE ONLY

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Date _____

Fee paid \$100.00 Date 6-1-17

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Preliminary review by _____

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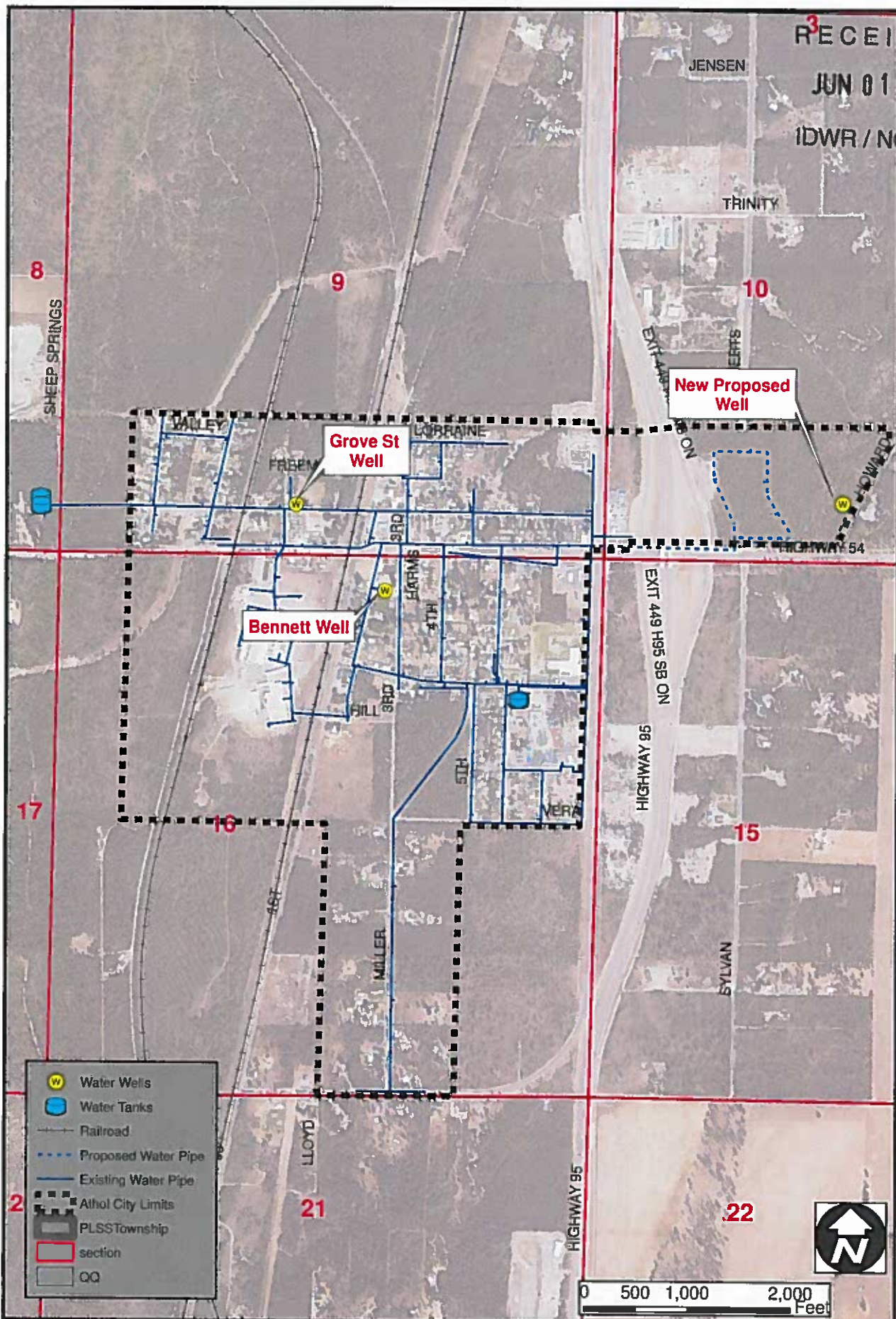
W-9 received? Yes ☐ No ☐

Name on W-9 _____

W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

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STATEMENT AUTHORIZING
CITY OF ATHOL'S
POINT OF DIVERSION

HJ Grathol, a California general partnership, holds title to the property in the South Half of the Southwest Quarter of Section 10, Township 53 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, on which the City of Athol's new proposed point of diversion is located under the attached Application for Transfer of Water Right - Point of Diversion (the "Application"). On behalf of HJ Grathol, I have reviewed the Application and HJ Grathol consents to the use of its land, as described in the Application.

DATED this 30th day of May, 2017.

HJ GRATHOL, a California general partnership

BY: HJ BAYVIEW GATEWAY, LLC,
a Delaware limited liability company,
Managing Partner

By: 
William W. Hughes, Jr.
Managing Member

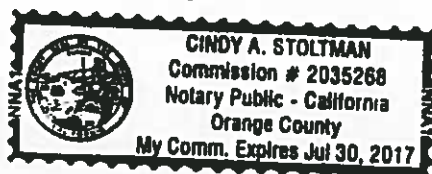
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF ORANGE)

On May 30, 2017, before me, Cindy A. Stoltman
a Notary Public, personally appeared William W. Hughes, Jr., who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.




Signature of Notary Public

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**ANNEXATION AGREEMENT
HJ Grathol / CITY OF ATHOL**

THIS AGREEMENT is made this 25th day of May, 2017, by and between the CITY OF ATHOL (hereinafter the "City"), a municipal corporation organized pursuant to the laws of the State of Idaho and HJ Grathol, a California general partnership, PO Box 999, Coeur d'Alene, ID, 83816 (hereinafter the "Owner"). City and Owner may collectively be referred to herein as "Parties."

WHEREAS, the Owner owns two parcels of real property described in Exhibit A which Owner wishes to annex into the City and to develop in accordance with zoning designation applied by the City of Athol. Said property consists of two parcels which total approximately 40.49 acres. The parcels are more particularly described as follows:

(See Exhibit A, attached.)

hereinafter referred to as "Described Lands";

WHEREAS, Kootenai County owns a parcel of land described in Exhibit A-1, ("County Trail Parcel") and has consented to annexation of said parcel in conjunction with the annexation of the Described Lands; and

WHEREAS, the City acknowledges that Owner enters into this Agreement in reliance upon the current provisions of its City Code providing for uses permitted within the Commercial Zone and upon the City's designation of the Described Lands as being within the commercial (C) zone, and that down-zoning of the Described Lands could result in a claim for material economic damage to Owner;

WHEREAS, the Mayor and City Council of the City of Athol have determined it to be in the best interests of the City to annex both the Described Lands and the County Trail Parcel, as depicted in Exhibit B, subject to the Owner performing the covenants and conditions hereafter set forth;

NOW THEREFORE, IN CONSIDERATION of the covenants and conditions set forth herein, the Parties agree as follows:

1. Purpose. Owner enters into this Agreement to obtain annexation of the Described Lands, while City seeks to obtain as partial mitigation of the effects of annexation of the Described Lands, the water system improvements described herein. Owner acknowledges that City has no duty to annex the Described Lands and that the obligations of Owner set forth herein constitute an inducement for City to do so. The term "Owner" is deemed to include any successor in interest in all or any part of the Described Lands. For the Purposes of this

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Agreement, the term "development" shall include but is not limited to boundary line adjustment, subdivision or construction on any portion of the Described Lands.

2. General Description of Project. Owner is proposing a multi-parcel, multi-tenant/user commercial project, ("Project") on the Described Lands. The Project is expected to include a regional grocery store, and may include areas for office space, overnight accommodations, gas station and/or travel plaza, and other uses consistent with all of the uses permitted and conditionally permitted under the commercial zoning designated for the Project.

3. Phased project. The initial phase of the Project ("Phase 1") is intended to occur on one of two parcels, (hereafter, "Parcel A") as created and established pursuant to the recorded Quitclaim Deeds for a boundary line adjustment ("Boundary Line Adjustment") effected in order to facilitate construction of the grocery store. The depiction of Parcel A and Parcel B are illustrated on Exhibit B, and described in the legal descriptions set forth in Exhibit A, each attached. Phase 1 shall include construction of infrastructure improvements necessary to service the grocery store on Parcel A. Other than the aforementioned infrastructure improvements necessary to service the grocery store on Parcel A, no development shall occur in Phase 2 prior to subdivision approval by the City of one or more lots in Phase 2. Subdivision approval shall not be conditioned upon: (i) any off-site infrastructure improvements; (ii) dedication of the Access Road, as defined in Section 5 below, but not including the public access easement set forth in Section 5 below, or any interior access roads; or (iii) any requirements not imposed pursuant to the City's current subdivision ordinance; in each case other than those required herein.

4. Municipal Utilities.

4.1 Water. Owner desires to use and City agrees to permit the use of the City's water system for the domestic and fire flow requirements of the Project subject to the following terms and conditions:

4.2 Owner shall construct a water line extension and related facilities ("Water System Improvements") from a point at or near the intersection of Old Highway 95 and Idaho State Highway 54, to serve the Project, as detailed in the City's Will-Serve Letter. The Water System Improvements shall service the entirety of the Described Lands and no connection fees (with the exception of standard water meter installation fees which shall apply) shall be charged for any connection to the Water System Improvements on the Described Lands during the development of Phases I and II or during the four (4) years following annexation, whichever occurs first. Thereafter, all current fees apply to the Described Lands as prescribed in the City's then current fee schedule.

4.3 As consideration for the expense incurred by Owner to construct the Water System Improvements detailed in Exhibit C the City agrees that for a period of ten (10) years from Annexation, Owner shall be entitled to develop uses within the Described Lands either (a) in accordance with the commercial zoning as of the date of Annexation, as described

in Exhibit D (Vested Uses Site Illustration) and Exhibit D-1 (Vested Uses Zones), notwithstanding any subsequently adopted revisions to the City Code, or (b) as otherwise permitted in the City Code at the time of application for construction.

4.3.1 The Water System Improvements shall include any required on-site temporary or permanent fire hydrant(s) as may be required by the Fire District and as otherwise reasonably required by construction within the Project.

4.3.2 Owner shall pay all expenses to design and construct the Water System Improvements from the City Water Connection Point, in accordance with the City's Will-Serve letter attached as Exhibit C, to and within the Project together with all costs for distributing the water service within the Project. Owner will have no responsibility or obligation, financial or otherwise, for improvements to the City's water system upstream of the Water Connection Point beyond those shown and included in Exhibit C. Owner shall construct an on-site water loop for the Project as required by Timberlake Fire Protection District, ("Fire District") and with capacity sufficient to meet the reasonably anticipated needs of the Project. Any upsizing or further upgrading of the Water System Improvements to serve property outside of the Described Lands shall not be the responsibility of Owner. The Water System Improvements shall be constructed substantially as set forth in Exhibit C. City and Owner agree to co-operate with regard to applying for any grants that may be applicable to the design and construction of the Water System Improvements, such as a new well, pumps, etc., at no cost to City.

4.3.2.1 In accordance with Athol City Code, the waterline shall be extended to the northern property boundary and located within the easement dedicated herein at the sole cost of Owner.

4.3.3 City hereby grants Owner a limited revocable license, to enter City property for the purposes of exercising Owner's duties to construct the Water System Improvements hereunder, subject to reasonable notice to and coordination with the City and provided further that the license will not be revoked so long as Owner complies with the requirements of this Agreement. This license will terminate upon completion of construction and acceptance of the Water System Improvements by the City. The City will issue all other permits or regulatory approvals required to facilitate Owner's construction and connection to the City water system.

4.3.4 Owner agrees to transfer to the City upon hook-up and activation of the Water System Improvements to the City's water system, any water rights attached to the Described Lands. The transfer of water rights does not eliminate Owner's obligation to design and construct the Water System Improvements as provided herein. Upon completion of the Water System Improvements, City agrees to provide water to the Project at its normal published rates through its water system.

4.4 Sewer. Phase 1 of the Project will utilize a subsurface sewage septic disposal and treatment system ("Septic Treatment System") to be approved by Panhandle Health District ("PHD"), which Septic Treatment System shall not exceed 2250 gallons per day (GPD) of wastewater. Any construction beyond Phase 1 that would cause the 2250 GPD wastewater maximum to be regularly exceeded, as determined by Panhandle Health District, will require construction of additional or alternate sewage treatment facilities ("Sewage Treatment System") to be constructed according to plans approved, as may be required, by DEQ. Provided the wastewater maximum of 2250 GPD is not exceeded, Owner may, as approved by Panhandle Health District, and notwithstanding anything to the contrary contained herein, utilize the Septic Treatment System for development occurring in Phase 1, but not for any wastewater generated outside of the Described Lands.

Use of the Septic Treatment System may continue until the Sewage Treatment System is completed, at which time the property in Phase 1 and any development in Phase 1 connected to the Septic Treatment System shall be connected to the Sewage Treatment System and the use of the subsurface septic treatment system shall be discontinued.

Such Sewage Treatment System shall, unless transferred by Owner to the City under terms acceptable to Owner and City, remain under the ownership and operation of Owner or Owner's assignee, contractor or designee. Owner or its assignee, contractor or designee shall at all times operate the Sewage Treatment System in compliance with the lawful requirements of DEQ. In addition, in the event Owner elects to sell the Sewage Treatment System to any party other than City, Owner shall first offer for sale the Sewage Treatment System to City at the price, terms, qualifications, and conditions, as proposed and agreed to by a bona fide offer from a third party. Owner shall notify City in writing of Owner's decision to sell the Sewage Treatment System including the offered price, terms, and conditions. City shall thereafter have thirty (30) days from the date City received notice from Owner to notify Owner in writing of City's election to accept or reject the purchase of the Sewage Treatment System. If City rejects the offer or fails to timely accept the offer within a thirty (30) day period, Owner may then make available the Sewage Treatment System for sale at the same price, terms and conditions offered to City and Owner shall thereafter not be required to again offer for sale the Sewage Treatment System to the City, unless the price, terms, or conditions have changed.

The Sewage Treatment System shall not be used to provide sewage treatment services to any property outside of the Described Lands without the express approval of the City.

The City acknowledges that nothing herein will alter Owner's entitlement to one or more Equivalent Residential Unit ("ERU") to serve commercial development of the 3.87 acres of Parcel B lying west of the current U.S. Highway 95 right of way/Interchange and Owner may install one or more improved septic and drain field systems pursuant to said ERU to serve such commercial development commencing at such time as the septic and drain field system utilized for Phase 1 is abandoned, subject to meeting the existing approval requirements of DEQ and PHD.

5. Access. All access improvements to the Project shall be provided for or constructed by Owner generally in accordance with the site plan ("Site Plan"), attached as Exhibit E. The primary access to the Project shall be provided via a permitted approach from Idaho State Highway 54, which approach shall be constructed as required by a permit duly issued by Idaho Transportation Department ("ITD"). Such approach shall be illuminated, in accordance with ITD requirements. All work shall be completed no later than the date the grocery store opens for business to the public. All roads within the Project shall be privately owned and maintained, generally following the design shown on the Site Plan, provided that any such road may be altered in Owner's discretion, subject to City's approval, which shall not be unreasonably withheld. The Access Road, as identified on the Site Plan, shall connect to N. Roberts Road, as approved by Lakes Highway District with the issuance of an Approach Permit. A public access easement, sixty (60) feet in width, (i.e., 30 feet on each side of the centerline), located on the centerline of the Access Road from Roberts Road to State Highway 54 shall be dedicated to the City and recorded contemporaneously with this Agreement, provided that the effective date of such easement and use by the public may be deferred until such time as the road surface is constructed and the grocery store has opened for business. Access to Roberts Road and the private road connecting Roberts Road to State Highway 54 shall be constructed and paved prior to or contemporaneous with the grocery store in Phase 1 being opened for business. Connection to Howard Road, as depicted on Exhibit E, is hereby approved by the City, subject to approval by Lakes Highway District, and their issuance of an Approach Permit. Any additional connections to Howard Road will be evaluated at the time of subdivision platting for Phase 2.

6. Traffic Circulation, Parking and Landscaping. Internal traffic circulation, parking, striping and landscaping for Phase 1 of the Project will be constructed as hereby approved by the City generally in conformity with the Site Plan.

7. Walking Trails/Bike Path. The City desires to construct a walking trail/bike path within the Highway 54 right-of-way in a location on the north side, as acceptable to ITD, from the east side of Old Highway 95 to the west side of the Described Lands. Prior to the City's commencement of said construction, and upon evidence of a signed construction contract for same, Owner shall pay City the cash sum of Ten Thousand and No/100 Dollars (\$10,000.00 within thirty (30) days of a request for said payment.

8. Building Location/Land Use Permits. The City does not currently require compliance with the International Building Code and related building safety codes. Owner has applied for and will comply with a Building Location/Land Use Permit for Phase 1 which has been reviewed and approved by the City subject to verification of the following permits or approvals:

- A. ITD has issued the necessary permit(s) for the approach to Highway 54
- B. Panhandle Health District has issued a permit for the Phase 1 subsurface septic treatment system.

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C. Timberlake Fire District has approved the site plan for fire apparatus access and hydrant spacing, as well as approved the construction plans for compliance with the applicable Fire Code requirements.

D. DEQ and the City have approved the construction plans for construction of the water system improvements described in Section 4.3.2 above.

E. Approach permit from Lakes Highway District.

Prior to occupancy of the grocery store in Phase 1, the City shall require verification of the following:

A. Completion and approval by ITD of the access road approach to Highway 54 and associated improvements.

B. Completion and approval by PHD of the subsurface septic treatment system for the grocery store.

C. Approval by PHD of the necessary food service and related permits for the grocery store.

D. Approval of the fire safety requirements from the Timberlake Fire District.

E. Completion, approval and acceptance by the City of the Water System Improvements described in Section 4 above.

Any improvements constructed within four (4) years of the effective date of the annexation in any future phases within the Project shall be subject only to the requirements in effect at the time of annexation as set forth in I.C. § 67-6511(2)(d), and not to subsequently enacted requirements.

9. Zoning. Owner's application for annexation and its obligations under this Agreement are contingent upon the City zoning the Described Lands for commercial uses under its existing City Code. After ten (10) years from the effective date of the annexation, Owner may construct the permitted uses under the zoning code and designation as provided at that time, subject to the terms of this Agreement.

10. Construction to City Standards: Owner and City each agree that all on or off-site improvements required by this Agreement or by City codes and for which a Building Location/Land Use Permit is issued within four (4) years of annexation shall be built to City standards in effect at the time of annexation or to the standards of any other public agency having jurisdiction over the construction of said improvements, adhering to all City policies and procedures including, but not limited to: the sanitary sewer improvements, water lines, fire protection and storm water management. All utilities shall be located within appropriate utility easements or within public road rights of way. Any upsizing of utility lines as may be required by the City at the time of annexation or in the future to serve property other than the Described Lands shall be at the City's or other provider jurisdiction's sole expense and shall not result in any adverse effect on the Project. *For a period of five (5) years from the date of the installation and/or upgrade of the public water main and related infrastructure, for which Owner has borne the initial cost and expenses, including extension of the water line pursuant to*

4.3.2.1, Owner shall be entitled to proportionate refunds to be paid by future connections to the improvements in accordance with City Code Title 6 Chapter 2 as it currently exists or is subsequently amended.

11. Applicable Standards. The Owner and City each agree that all laws, standards, policies and procedures regarding public improvement construction occurring within four (4) years of annexation that the Owner is required to comply with or otherwise meet pursuant to this Agreement or City codes shall be those in effect at the time of annexation as set forth in I.C. § 67-6511(2)(d). If Owner fails to comply with applicable laws in the course of constructing improvements, public or otherwise, on the Described Lands subject to this Agreement, Owner consents to the issuance of stop work orders, suspension of issuance of permits by the City until such compliance is attained.

12. As-Built Drawings: Accurate as-built drawings of the Water System Improvements, ("As-builts") shall be provided to the City within thirty (30) days of the date of substantial completion of construction of the same. If As-builts are not provided as required by this agreement, City is authorized to suspend further issuance of permits or site approvals upon the Described Lands or to suspend water service until such time as the As-builts required herein are provided. In no event shall City accept the Water System Improvements for maintenance or allow use of water from the City's water system upon the Described Lands until suitable "As-builts" are provided and until inspection requirements are satisfied and the Water System Improvements has been accepted for City maintenance. The use of sureties may be allowed when in the public interest and consistent with City Code requirements.

12.1 All required public improvements associated with development of the Described Lands shall be inspected and tested during construction by Owner's engineer(s) with all such costs of testing and inspection to be borne by the Owner. The Owner shall provide the City Engineer or Public Works Director with inspection field reports and test results indicating that such improvements have been installed in compliance with applicable City requirements. A representative of the City shall be present at the pressure testing of all water lines. The City shall be notified at least twenty-four (24) hours before testing.

13. Requirements.

13.1 Owner agrees to comply with Timberlake Fire Protection District requirements at the time of development.

13.2 In the event the Described Lands, or any portion of it, are not actively developed, Owner shall maintain the property free of noxious weeds and at a length that will not promote the rapid spread of wildfire, which maintenance, subject to the approval of ITD, shall include any unimproved right-of-way along State Highway 54 as it adjoins the Described Lands, until such time as the Described Lands are developed.

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14. Contingency/Effective Date. This Agreement shall become legally binding on the Parties only upon the last of all the following events to occur, each of which shall be a contingency of such legal effect: (a) enactment and publication of the City's ordinance approving the annexation as requested; and, (b) execution by the City and Owner and recordation of this Annexation Agreement.

15. Phasing of Project. All Parties recognize that all public improvements to be completed by Owner may be completed in phases consistent with the development of each phase such that each phase can stand alone should the project or development not otherwise be further completed.

16. Covenant to Run with the Land. The covenants herein to be performed by Owner shall be binding upon Owner and Owner's heirs, assigns, and successors in interest, and shall be deemed to be covenants running with the land. Notwithstanding anything to the contrary in this Agreement, the term "Owner" shall be deemed to mean each owner of fee title to all or any portion of the Described Lands, but only to the extent applicable to the Described Lands owned by such Owner. Upon any Owner's transfer of all or any portion of the Described Lands to one or more new Owners, each transferee Owner shall be deemed to have assumed all of the transferor Owner's obligations under this Agreement to the extent applicable to the Described Lands so transferred and to the extent arising from and after the date of such transfer, and the transferor Owner shall be released from all such obligations.

17. Severability. Should any provision of this Agreement be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and be interpreted to effectuate the purposes of the entire Agreement to the greatest extent possible.

18. Merger and Amendment. All promises and prior negotiations of the Parties merge into this Agreement and there are no agreements between the Parties other than as set forth herein. The Parties agree that this Agreement shall only be amended in writing and signed by both Parties. Except as otherwise expressed in this Agreement, the Owner and City each agree that this Agreement shall not be amended by a change in law. The Parties agree that Agreement is not intended to replace any other requirement of City Code and that its execution shall not, except as may be expressly herein provided, constitute a waiver of requirements established by City ordinance or other applicable provisions of law.

19. Enforcement - Attorney's Fees. Should either party require the services of legal counsel to enforce compliance with the terms of this Agreement, the prevailing Party shall be entitled to its reasonable attorney's fees and related costs of enforcement.

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IN WITNESS WHEREOF, the City of Athol has caused this Agreement to be executed by its Mayor and City Clerk, and the Owner has executed this Agreement to be effective the day and year first above written.

CITY OF ATHOL



Robert Wachter, Mayor

Attest:



Lori Yarbrough, City Clerk

OWNER

HJ GRATHOL

a California general partnership

HJ BAYVIEW GATEWAY, LLC

a Delaware limited liability company

its Manager Partner

By:



William W. Hughes, Jr.
Managing Member

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STATE OF IDAHO)
) ss.
County of Kootenai)

On this 25th day of May, 2017, before me, a Notary Public, personally appeared Robert Wachter and Lori Yarbrough known to me to be the Mayor and City Clerk, respectively, of the City of Athol that executed the foregoing instrument and acknowledged to me that said City of Athol executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.



Jamie S. Cunningham
Notary Public for the State of Idaho
Residing at: Bayview club
Commission expires: 10/10/20

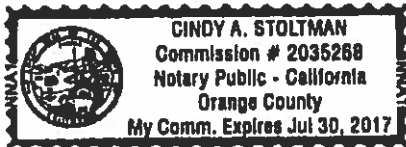
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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
 :SS
County of ORANGE)

On this 19th day of May, 2017, before me, a Notary Public for the State of California, personally appeared William W. Hughes, Jr., who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Cindy A. Stoltman

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EXHIBITS

- A - Legal Description - Described Lands (HJ Grathol)
- A-1 - County Trail Parcel (Kootenai County)
- B - Annexation Map
- C- City Will-Serve Letter
- D - Vested Uses Site Illustration
- D-1 - Vested Uses Zones
- E - Site Plan

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www.welchcomer.com

208-664-9382

877-815-5672 (toll-free)

208-664-9940 (fax)

350 E. Kathleen Ave.

Coeur d'Alene, ID 83816

**HJ GRATHOL PARCEL A
LEGAL DESCRIPTION**

That portion of the South Half of the Southwest Quarter of Section 10, Township 53 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, described as follows;

COMMENCING at the Southwest section corner of said section 10; Thence North $80^{\circ}06'28''$ East a distance of 1132.66 feet to the southeast corner of a parcel of land described as schedule 2 in a Deed of Release recorded as Instrument Number 2371740000, records of Kootenai County, Idaho, said point being on the northerly right of way of Highway 54; Thence along said northerly right of way South $89^{\circ}43'20''$ East a distance of 583.33 feet to the beginning of a non-tangent curve to the right, having a radius of 236.74 feet, said point being the **TRUE POINT OF BEGINNING**.

Thence northeast along said curve through an arc length of 38.92 feet, a central angle of $09^{\circ}25'11''$, a chord bearing of North $04^{\circ}18'23''$ East and a chord distance of 38.88 feet to the beginning of a non-tangent compound curve to the left, having a radius of 223.91 feet;

Thence northwest along said curve through an arc length of 177.48 feet, a central angle of $45^{\circ}24'55''$, a chord bearing of North $13^{\circ}41'29''$ West and a chord distance of 172.87 feet;

Thence North $28^{\circ}53'13''$ West a distance of 38.03 feet to the beginning of a non-tangent curve to the left, having a radius of 120.00 feet;

Thence northwest along said curve through an arc length of 111.59 feet, a central angle of $53^{\circ}16'48''$, a chord bearing of North $63^{\circ}04'56''$ West and a chord distance of 107.61 feet;

Thence North $89^{\circ}43'20''$ West a distance of 371.43 feet;

Thence North $21^{\circ}04'46''$ West a distance of 296.76 feet;

Thence North $00^{\circ}16'40''$ East a distance of 290.84 feet;

Thence South $89^{\circ}43'44''$ East a distance of 521.25 feet;

EXHIBIT A

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JUN 01 2017

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Thence South $00^{\circ} 27' 57''$ West a distance of 402.34 feet to the beginning of a curve to the left, having a radius of 173.50 feet;

Thence southeast along said curve through an arc length of 111.76 feet, a central angle of $36^{\circ} 54' 29''$, a chord bearing of South $17^{\circ} 59' 18''$ East and a chord distance of 109.84 feet;

Thence South $36^{\circ} 26' 32''$ East a distance of 137.74 feet to the beginning of a curve to the right, having a radius of 276.50 feet;

Thence southeast along said curve through an arc length of 178.93 feet, a central angle of $37^{\circ} 04' 38''$, a chord bearing of South $17^{\circ} 54' 14''$ East and a chord distance of 175.82 feet to the beginning of a non-tangent compound curve to the left, having a radius of 295.00 feet;

Thence southeast along said curve through an arc length of 42.48 feet, a central angle of $08^{\circ} 15' 03''$, a chord bearing of South $03^{\circ} 29' 26''$ East and a chord distance of 42.44 feet to the beginning of a non-tangent compound curve to the right, having a radius of 305.00 feet;

Thence southeast along said curve through an arc length of 28.96 feet, a central angle of $05^{\circ} 26' 25''$, a chord bearing of South $04^{\circ} 53' 45''$ East and a chord distance of 28.95 feet to said North right of way;

Thence along said North right of way, North $89^{\circ} 43' 20''$ West a distance of 63.75 feet; to the TRUE POINT OF BEGINNING.

CONTAINING 302,045 square feet or 6.934 acres, more or less.

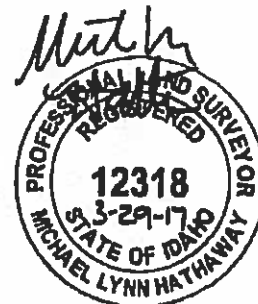


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**HJ GRATHOL PARCEL B
LEGAL DESCRIPTION**

That portion of the South Half of the Southwest Quarter of Section 10, Township 53 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, described as follows;

COMMENCING at the Southwest section corner of said section 10; Thence North 03°32'25" East a distance of 628.90 feet to a point on the East right of way of Old Highway 95, said point being the **TRUE POINT OF BEGINNING**.

Thence along said East right of way, North 01° 29' 39" East a distance of 592.35 feet to the South line of a strip of land appropriated by the United States of America in a Decree of Condemnation recorded in Book 20 of Misc, Page 436, records of Kootenai County, Idaho;

Thence along said South line, South 89° 43' 44" East a distance of 256.24 feet to the westerly right of way of Existing Highway 95 and the beginning of a non-tangent curve to the right, having a radius of 1738.51 feet;

Thence southeast along said curve and said westerly right of way, through an arc length of 595.26 feet, a central angle of 19° 37' 05", a chord bearing of South 00° 51' 32" East and a chord distance of 592.36 feet;

Thence along a portion of said westerly right of way, North 89° 43' 20" West a distance of 280.56 feet to the **TRUE POINT OF BEGINNING**.

TOGETHER WITH

That portion of the South Half of the Southwest Quarter of Section 10, Township 53 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, described as follows;

COMMENCING at the Southwest section corner of said section 10; Thence North 80°06'28" East a distance of 1132.66 feet to the southeast corner of a parcel of land described as schedule 2 in a Deed of Release recorded as Instrument Number 2371740000, records of Kootenai County, Idaho, and the beginning of a non-tangent curve to the left, having a radius of 1173.00 feet, said point being the **TRUE POINT OF BEGINNING**.

EXHIBIT A

Thence northwest along said curve and the East line of said parcel, through an arc length of of 364.28 feet, a central angle of $17^{\circ} 47' 36''$, a chord bearing of North $12^{\circ} 11' 14''$ West and a chord distance of 362.82 feet;

Thence along said East line, North $21^{\circ} 05' 02''$ West a distance of 715.04 feet to the South line of a strip of land appropriated by the United States of America in a Decree of Condemnation recorded in Book 20 of Misc, Page 436, records of Kootenai County, Idaho;

Thence along said South line, South $89^{\circ} 43' 44''$ East a distance of 1911.38 feet;

Thence South $01^{\circ} 19' 00''$ West a distance of 244.87 feet to the northwest right of way of East Howard Road;

Thence along said northwest right of way, South $27^{\circ} 32' 55''$ West a distance of 872.56 feet to the North right of way of Highway 54;

Thence along said North right of way, North $89^{\circ} 43' 20''$ West a distance of 521.29 feet to the beginning of a non-tangent curve to the left, having a radius of 305.00 feet;

Thence northwest along said curve, through an arc length of of 28.96 feet, a central angle of $05^{\circ} 26' 25''$, a chord bearing of North $04^{\circ} 53' 45''$ West and a chord distance of 28.95 feet to the beginning of a non-tangent compound curve to the right, having a radius of 295.00 feet;

Thence northwest along said curve, through an arc length of of 42.48 feet, a central angle of $08^{\circ} 15' 03''$, a chord bearing of North $03^{\circ} 29' 26''$ West and a chord distance of 42.44 feet to the beginning of a non-tangent compound curve to the left, having a radius of 276.50 feet;

Thence northwest along said curve, through an arc length of of 178.93 feet, a central angle of $37^{\circ} 04' 38''$, a chord bearing of North $17^{\circ} 54' 14''$ West and a chord distance of 175.82 feet;

Thence North $36^{\circ} 26' 32''$ West a distance of 137.74 feet to the beginning of a curve to the right, having a radius of 173.50 feet;

Thence northwest along said curve, through an arc length of of 111.76 feet, a central angle of $36^{\circ} 54' 29''$, a chord bearing of North $17^{\circ} 59' 18''$ West and a chord distance of 109.84 feet;

Thence North $00^{\circ} 27' 57''$ East a distance of 402.34 feet;

EXHIBIT A

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Thence North $89^{\circ} 43' 44''$ West a distance of 521.25 feet;

Thence South $00^{\circ} 16' 40''$ West a distance of 290.84 feet;

Thence South $21^{\circ} 04' 46''$ East a distance of 296.76 feet;

Thence South $89^{\circ} 43' 20''$ East a distance of 371.43 feet to the beginning of a curve to the right, having a radius of 120.00 feet;

Thence southeast along said curve, through an arc length of 111.59 feet, a central angle of $53^{\circ} 16' 48''$, a chord bearing of South $63^{\circ} 04' 56''$ East and a chord distance of 107.61 feet;

Thence South $28^{\circ} 53' 13''$ East a distance of 38.03 feet to the beginning of a non-tangent curve to the right, having a radius of 223.91 feet;

Thence southeast along said curve, through an arc length of 177.48 feet, a central angle of $45^{\circ} 24' 55''$, a chord bearing of South $13^{\circ} 41' 29''$ East and a chord distance of 172.87 feet to the beginning of a non-tangent compound curve to the left, having a radius of 236.74 feet;

Thence southwest along said curve, through an arc length of 38.92 feet, a central angle of $09^{\circ} 25' 11''$, a chord bearing of South $04^{\circ} 18' 23''$ West and a chord distance of 38.88 feet to the North right of way of Highway 54;

Thence along said north right of way, North $89^{\circ} 43' 20''$ West a distance of 583.33 feet to the TRUE POINT OF BEGINNING.

CONTAINING 1,461,822 square feet or 33.559 acres, more or less.



EXHIBIT A

**Kootenai County Parcel
Legal Description**

Assessor's Parcel No. 53N03W-10-6600; 62,778 Sq. Ft (1.441 Acres)

A strip of land, 100 feet in width, being a portion of the southwest quarter of the southwest quarter (SW4 SW4) of Section 10, Township 53 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

COMMENCING at the Southwest corner of said Section 10, marked by a found railroad spike as referenced by Corner Perpetuation and Filing Record No. 2076540000; thence along the westerly line of said Section 10, North 1°27'15" East, a distance of 2652.41 feet to the West quarter corner of said Section 10, marked by a found 2-1/2 inch diameter aluminum cap monument, as referenced by Corner Perpetuation and Filing Record No. 1213669; thence South 1°27'15" West, a distance of 1431.97 feet to the south line of that Parcel of land taken by the United States of America by Decree of Condemnation, recorded in Book 20 of Miscellaneous Records, Page 436, records of Kootenai County, Idaho and the TRUE POINT OF BEGINNING;

thence South 89°43'43" East, a distance of 23.30 feet to the East right of way line of State Highway 95;

thence continuing along the southerly boundary of said Parcel, South 89°43'43" East, a distance of 620.53 feet;

thence North 16°26'51" West, a distance of 104.41 feet to the north line of said Parcel;

thence on the northerly boundary of said Parcel, North 89°43'43" West, a distance of 588.36 feet to the East right of way line of State Highway 95;

thence continuing North 89°43'43" West, a distance of 23.37 feet to the west line of said Section 10;

thence on the west line of said Section 10, South 1°27' 15" West, a distance of 100.02 feet, more or less, to the POINT OF BEGINNING.

Said Parcel contains 62,778 square feet or 1.441 acres, more or less.

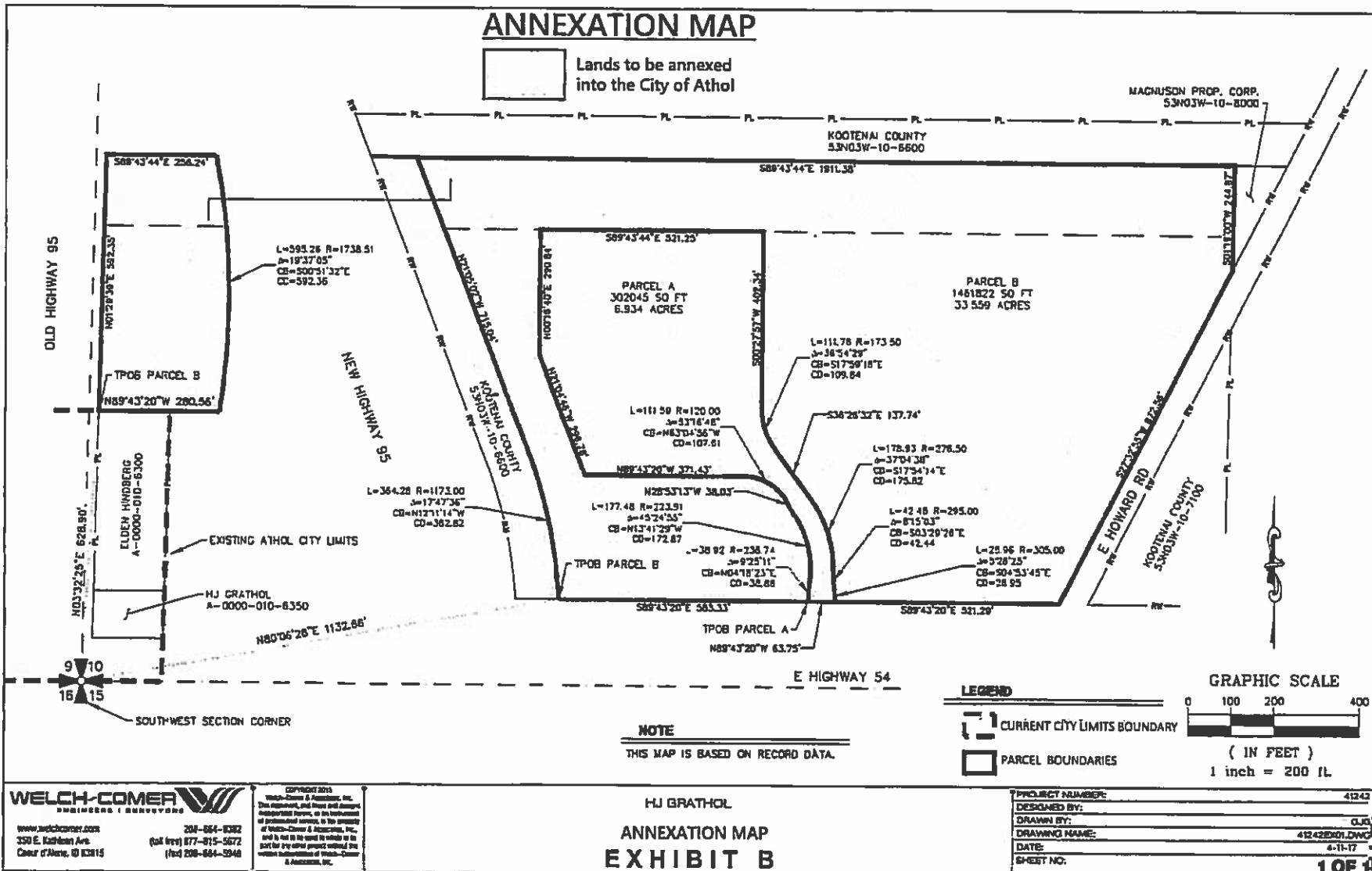
Together with and subject to covenants, easements and restrictions of record.

Basis of bearing is North 1°27'15" East, a distance of 2652.41 feet, between the found railroad spike, see Corner Perpetuation and Filing Record No. 2076540000 marking the Southwest corner of Section 10, and the found 2-1/2 inch diameter aluminum cap monument, see Corner Perpetuation and Filing Record No. 1213669 marking the South quarter corner of Section 10, both in Township 53 North, Range 3 West, Boise Meridian.

5662769_1

ANNEXATION MAP

 Lands to be annexed into the City of Athol



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City of Athol
PO Box 249 30355 3rd St.
Athol, ID. 83801
208-683-2101

April 3, 2017

Jim Coleman, P.E.
Coleman Engineering, Inc.
8382 N. Wayne Drive, Suite 201
Hayden, ID 83835

RE: CONDITIONAL WILL-SERVE LETTER FOR THE CROSSINGS COMMERCIAL
DEVELOPMENT IN ATHOL, ID

Dear Mr. Coleman:

The City is continuing its review of the proposed annexation of the HJ Grathol property to the City of Athol. The project, identified as "The Crossings" is located on 2 parcels adjacent to the City, with parcel numbers 53N03W-10-5000 and -6100.

As we are discovering in the process of our water master plan efforts, the City's water system has numerous deficiencies when measured against the current standards. While the development is not required to address all of the system's deficiencies, some improvements are necessary to provide water service to the proposed development in a manner which meets the Fire District's requirements for fire flow and the State's standards for public drinking water systems. The improvements are commensurate with the impact of the development on the City's system.

The necessary improvements generally consist of drilling a new well and installation of the associated equipment which will become part of the City's system. The improvements are more specifically addressed in the attached Preliminary Design Report, dated March 22, 2017 (stamped March 24, 2017), prepared by R. James Coleman, P.E. With the completion of those improvements by the developer to DEQ and the City's standards, the City will have the willingness and capacity to provide water service to this proposed development, provided the following conditions are met:

1. Annexation to the City is completed;
2. A new water supply well and other improvements to extend the City's water system are completed, as conceptually outlined in your preliminary design report for the water supply well, dated March 22, 2017 (or as subsequently amended), and as outlined in the Water System Hydraulic Analysis for Fire Flow dated December 20, 2016, revised January 3, 2017 and March 8, 2017.

EXHIBIT C

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City of Athol

PO Box 249 30355 3rd St.

Athol, ID. 83801

208-683-2101

3. Well facility should meet the requirements described in Keller Associates' Technical Memorandum dated March 30, 2017 on Hughes Development Water System Impact including 500 gallons per minute supply well, standby power, pressure tank, and pressure relief/sustaining valves at connection to the City's existing system.
4. Complete plans and specifications for the well and water system improvements must be approved by the City and DEQ prior to construction. It is anticipated that the facility will include, but not be limited to CMU block construction (to match Super 1 color and architecture), variable frequency drives, SCADA connection to the existing system, permanent standby power and automatic transfer switch, and a chlorine injection system as outlined in Keller Associates' Technical Memorandum dated March 30, 2017.

Please contact me if you have any questions on this matter. We look forward to working with you on this development.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Wachter".

Robert Wachter
Mayor

Att: Coleman Prelim Design Report
Hughes Development Water System Impact Technical Memorandum
Prepared by Keller Associates dated March 30, 2017

EXHIBIT C

JUN 01 2017

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**KELLER**
associates**Technical
Memorandum**

PREPARED FOR: Robert Wachter, Mayor
City of Athol
P.O. Box 249
Athol, ID 83801

PREPARED BY: Stillman Norton, P.E. / James Bledsoe, P.E. / Michael Schulz, E.I.
Keller Associates, Inc.
733 5th Street, Suite A
Clarkston, WA 99403

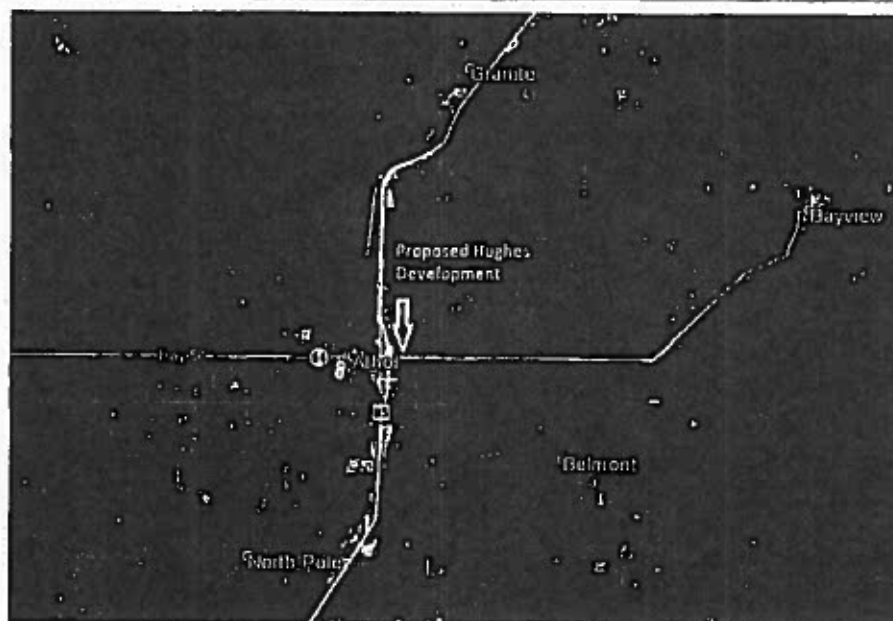
DATE: March 30, 2017

SUBJECT: Hughes Development Water System Impact

**PROJECT BACKGROUND**

The proposed Hughes Development is seeking annexation and is located on the eastern side of Highway 95, adjacent to the City of Athol (Figure 1). The first phase of the development is for a grocery store with an average day demand of about 2,000 gallons per day. Eventually, the development will incorporate several small retail/restaurants as well as a hotel with a build-out average day demand of about 20,000 gallons per day. Currently, the City is in the process of completing a Water System Master Plan with Keller Associates. The City has asked Keller Associates to evaluate the impact of adding the development to the water system.

Figure 1: Vicinity Map



PLANNED DEVELOPMENT WATER SYSTEM

The Hughes Development plans to connect to the City's water system near the intersection of Highway 54 and Old Highway 95. A 12-inch water main will connect to the City's existing 10-inch water main. The 12-inch main will cross Highway 95 and connect to a 10-inch loop around the development property. Provisions will be included in the development water lines for routing water to future additions. A new production well will be drilled onsite to provide the City with another source of water and provide improved fire protection for the development. The development will operate about at a pressure that is about 20 pounds per square inch (psi) higher than the existing water system. At the connection point, a combination pressure relief/sustaining/reducing valve as well as a bypass check valve will be installed to allow each system to beneficially serve the other. The well will be equipped with two pumps, one will be a smaller jockey pump to provide daily flows and the other will be a larger 500+ gallon per minute (gpm) pump. To help provide low demands of the development, a pressure tank is recommended at the well to reduce pressure surge and provide low flows to the development. The development's water system should include pipe stubs to the north and south with valves in place to facilitate system expansion as additional development warrants. Additionally, the following requirements must be met for this new well facility:

- Compliant with both APWA and Idaho DEQ standards.
- Exterior Walls – CMU block to match Super 1 store color and look. If colored, preference is for colored block rather than painted.
- Roof – A metal roof is preferred and should match the Super 1 store color scheme.
- Interior Floors – Epoxy coated concrete.
- Pump Roof Access – Removable skylights.
- Exterior Lighting – Building mounted lighting; no specific preference on type.
- Building Access – Double leaf metal doors with quality hardware. Match City Hall type of locks. Coordinate with Stephen Williams on type.
- Site Security – Chain link fenced lot with lockable gate.
- Vehicle Access – Fenced area should be large enough to be able to pull City vehicle completely off of the adjacent roadway. Preference is for a paved vehicle driveway access, but this can be discussed.
- Telemetry/SCADA – Connect to existing system at City Hall. Provide ability to monitor flow (mag meter inside of building), well level (pressure transducer), pressure (pressure transducer and gauge), alarms (high, low pressures, pump fail, ect.)
- Well Lot – Provide a 115' x 100' lot. Fence should follow along the perimeter.
- Standby Power – Automatic transfer switch, 1-foot thick pad with sound attenuation, integral 24 hour fuel tank. A portable option could be considered, but DEQ will need approve. If a portable is used it would need to stay normally connected to the well as if it were a permanent generator.
- Pumps Control – VFDs
- Chlorine Injection System – Space should be reserved for a 25-gallon chlorine drum and a chlorine injection system provided.
- Shop drawing information and color selections should be provided to the City for review prior to installation.

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DEQ WATER SYSTEM REQUIREMENTS

The DEQ requirements for municipal water systems include:

- Providing 40+ psi pressures throughout the system during peak hour demands. This criteria must be met with the largest pump out of services.
- Maintaining at least 20 psi during maximum day demands with fire flow. This criteria must be met with the largest pump out of service, or a waiver must be obtained by the local fire authority.
- Supplying maximum day demands with the largest well out of service
- Providing adequate storage/supply for emergency operation, peak events, fire flow, and daily operational storage.

A breakdown of the effect on each category by including the development in the City's water system follows.

PEAK HOUR PRESSURE

The development cannot provide the minimum 40 psi pressures by simply connecting to the existing distribution system. The development can meet peak hour pressures using the jockey pump and pressure tank(s) at the new well site. Peak hour pressures are anticipated to be 50-55 psi throughout the development. Redundancy requirements will be met by having two pumps at the well capable of meeting peak hour demands. Additionally, the well will be installed with dedicated standby power for both pumps. Peak hour pressures throughout the rest of the City's system will not be adversely affected by the development. Existing pressure deficiencies present in the existing City's service area will be mitigated by future upgrades to be completed by the City.

MAXIMUM DAY DEMAND PLUS FIRE FLOW

Fire Chief Bill Steele has required that all new developments in the City be able to provide 1,500 gpm of fire flow. Without any supply upgrades, the existing system can provide about 1,000 gpm during maximum day demands during phase 1 of the development. Once the new well is drilled and operational, available fire flow in the first phase of the development is anticipated to meet the 1,500 gpm fire flow requirement based on model results for the system (Model output is included as Attachment X.1 and X.2). All model runs were performed with the Grove Well on, the Bennett Well off, the New Well on (if applicable), and all three tanks at a starting elevation of 2489' (6-feet from top of elevated tank, 1-foot above cemetery tank bottoms). A comparison of the two attachments, shows that the new well provides additional flow to some of the City's existing areas and does not reduce available flow at any point. Inadequate fire flow throughout the rest of the system will be addressed by future City upgrades.

Because the system cannot deliver the full 1,500 gpm of fire protection with the New Well offline, approval from Fire Chief Bill Steele is required to waive the pump redundancy requirement for fire protection. As the development expands to the extent of the property, the available fire flow changes minimally. If existing system pressures in the City are maintained, the well should be increased from about 500 to 550 gpm to meet fire flow requirements. However, if the City raises pressures by about 20 psi, adequate fire flow will be available throughout the development.

SUPPLY REQUIREMENTS

Currently, the City does not have sufficient well supply to meet maximum day demands with the largest well out of service. By drilling a new production well as a part of the development, the City's system will be able to meet this requirement. The firm capacity (capacity with the largest pump out of service) will increase from 225 gpm to at least 625 gpm (assuming the new well is 400+ gpm), sufficient to meet existing and projected 2036 max day demand requirements. The City will need to have an additional diversion point be added to their water rights to accommodate the new well. The City currently has 465 gpm of excess water rights beyond the existing well capacity. It is recommended that the City begin applying for additional water rights as the new well will consume the City's remaining water rights allocation.

STORAGE REQUIREMENTS

The City currently has a total of about 349,000 gallons of storage capacity, however, about 33,000 gallons of the total volume is not useable due to differences in elevation between the City's elevated tank and their two tanks near the cemetery. This leaves a total of 316,000 gallons of storage available to meet DEQ's requirements for operational and peaking storage, emergency operation, and fire suppression storage. Table 1 shows a summary of the existing storage needs broken down by each category for the City of Athol. The approximate existing storage deficiency is about 31,000 gallons.

Table 1: Existing Storage Requirements

Recommended Existing Storage (Fire Flow = 1,500 gpm for 2 hours)	
Operational and Peaking	125,300
Fire Suppression (Minimum)	180,000
Emergency Operation	41,767
Recommended Existing Storage	347,067
Existing Storage Volume	316,000
Existing Storage Deficiency	31,067
Proposed Standby Power Adjustment	(41,767)
Proposed Surplus Capacity Adjustment	(50,000)
Existing Storage Surplus	60,700

The City plans to offset the emergency operation storage by having standby power at both the Bennett Well and the new well at the development. Additionally, peaking storage could be offset with surplus supply from the wells. After the completion of the new well, the system's firm capacity will be at least 625 gpm which is greater than the existing peak hour demand of 522 gpm. It is anticipated that around 2021 peak hour demands will exceed the minimum firm capacity of the City's system. The reduction in operational and peaking storage needs is anticipated to be 50,000 to 75,000 gallons. It should be noted that the reduction in emergency operation and peaking storage requires that the new well be connected to the City's system to supplement flows with appropriate controls and valving.

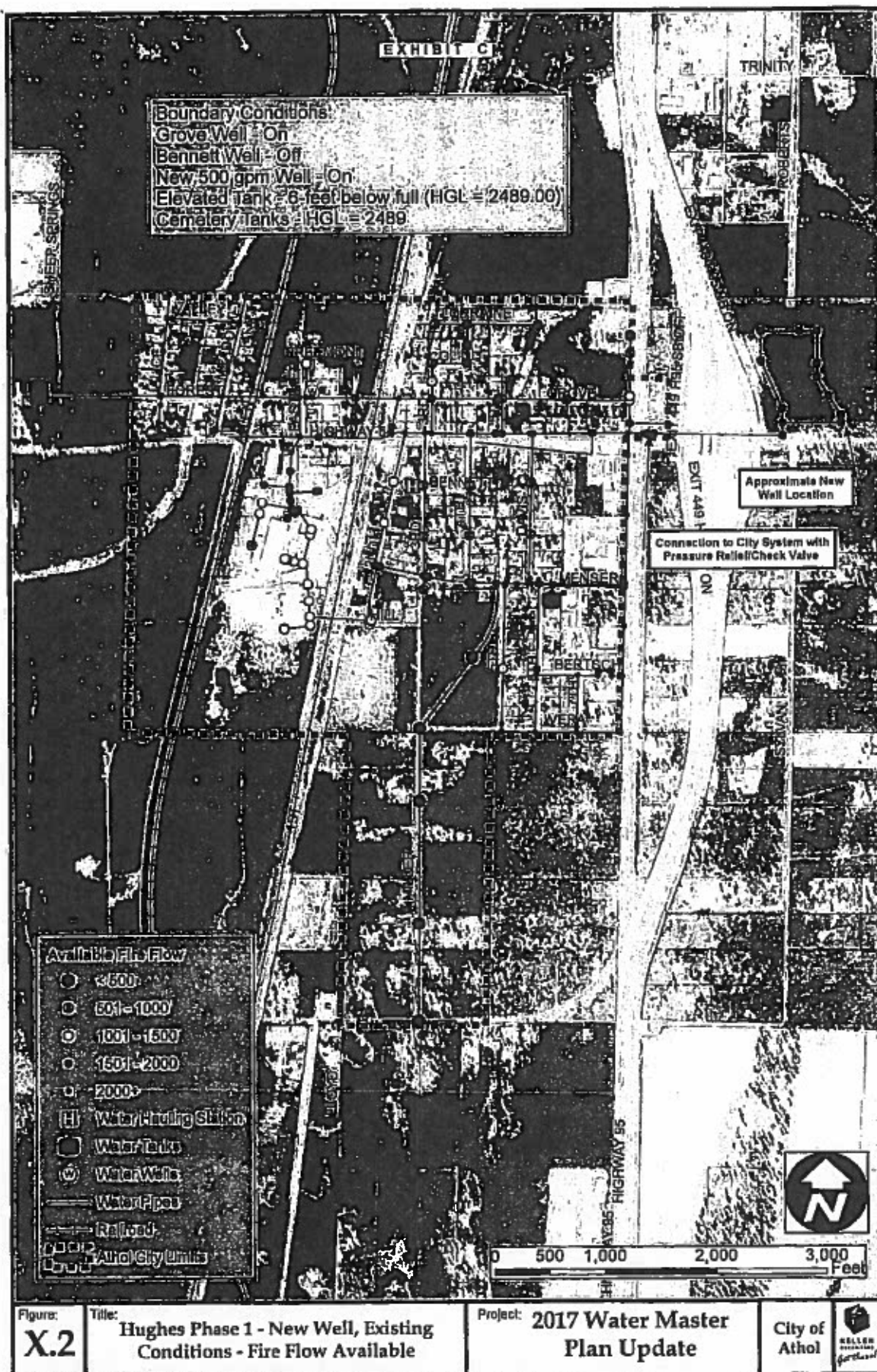
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Coleman Engineering, Inc.
8382 N. Wayne Dr., Suite 201
Hayden, ID 83835
208-762-4704 (p)
208-762-4620 (f)

March 22, 2017

Preliminary Design Report - City of Athol, Idaho Water Supply Well at The Crossings Commercial Development

Introduction

The Technical Memorandum from Keller Associates to the City of Athol dated March 17, 2017 identified several deficiencies in the Athol water system with or without service being extended to The Crossing Development. Overall the impact of The Crossings development first phase to the water system is minimal with an estimated maximum day demand of 5,000 gallons per day compared to the current maximum day demand of 487,620 gallons per day (339 gpm). Even at full build out The Crossings will represent less than 7% of the maximum day demand for the current Athol water system.

However, the current Athol system is not capable of supplying the current maximum day demand with one source off-line. In addition, improvements at the development are necessary to improve water pressure for the commercial users.

The current City system is also not capable of supplying the Crossing Development with a water supply pressure of 40 psi as required by IDEQ Rules (IDAPA 542.13). The Keller Technical Memorandum concurred with the recommendation to construct a new water supply well at the development to increase operating pressure at the development and provide a new and adequate water supply well for the City of Athol. However, the capacity of the proposed well and its primary function is not fully defined in the Memorandum.

This report will discuss the preliminary design of the water supply well to obtain concept/preliminary design approval from the City to proceed with the development of the first phase. However, the improvements to the Athol water system as part of the first phase development will serve the City and the entire development well into the future. This report references and supplements the hydraulic analysis report provided to the City in December 2016. The hydraulic analysis was revised with new data received from the City of Athol after it was found that a 10" valve was partially closed. A copy of the report is included as an attachment to this report.

Prepared by:
R James Coleman, P.E.

Page 1

EXHIBIT C

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Proposed Development Water System Requirements

The first phase of the development will consist of a retail grocery store. Water use data was obtained from stores previously built and currently operated by the same owner. It was found that the average daily flow for water use is 2,000 gallons per day (gpd). Maximum day is estimated at 2.5 times average day or 5,000 gpd. Peak instantaneous flow estimated by fixture count in the store is 50 gpm.

Future phases will bring the average daily flow to an estimated 20,000 gallons per day with a maximum day of 32,000 gpd. The diversified peak instantaneous flow rate at full build-out is estimated to be 120 gpm. Based on the above it will be necessary to have a water supply at sufficient pressure to meet the needs of the development sized at 100 gpm.

IDEQ rules require 40 psi minimum pressure for commercial development. Multi-story buildings over 2-stories are prohibited if pressures are less than 40 psi. Based on the current and future development the pressure at the development will average 60 psi with a range of 55 psi to 65 psi. Emergency periods, such as firefighting will likely see pressures much lower but not less than 20 psi as required by DEQ rules.

Based on our hydraulic calculations, the current system will provide 1500 gpm fire flow at greater than 20 psi at the Crossings. The recent fire flow testing at the hydrant at Old 95 and SH 54, completed by the City of Athol produced a calculated/adjusted flow of 1500 gpm at 35.8 psi with a full tank level and 29.3 psi with a tank level 15 feet below full. Keller completed several hydraulic model runs and the results agree substantially with the hydraulic calculations completed specifically for the development system design.

The ability of the current system to provide fire flow requirements is important in the capacity, reliability and emergency response design of the new water supply. It is important the hydraulic capacity of the system be fully and accurately defined before the final water supply design can go forward. Based on our hydraulic analysis, it is our opinion, the current Athol water system can meet the Fire flow requirements at The Crossings. The recommended water supply well and pump design will be based on additional water supply for the City of Athol and will supplement fire flow for the City and The Crossings commercial development.



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City of Athol – Water Supply Well

The City of Athol currently has a maximum day demand of 391,000 gallons per day or 272 gpm. Currently the City has two wells for water supply rated at 225 gpm and 175 gpm. The system water supply does not meet the DEQ rule requirement of maximum daily flow with the largest supply source off-line. To meet the current maximum day requirement a new supply well of 275 gpm will need to be constructed. However, to provide for growth a new supply well with a total capacity of 350+ gpm is recommended. It was also reported that the City has excess water rights for 465 gpm. It is recommended that the new water supply well be constructed with a total capacity of 350 to 400 gpm to meet the current and future maximum day flow requirements.

The Keller Memorandum dated March 17, 2017 indicated that the new supply well should be sized at 400+gpm. Based on hydraulic conditions, the existing system will meet fire flow requirements with the water tank full or near full. The addition of a new water supply at the proposed development of 500 gpm capacity will meet the fire flow requirements at the development at a duration of 2 hours by supplementing the water flow from the City water system as the tanks are drawn down during an emergency event.

Based on the project requirements and our understanding of the Athol water system needs we recommend that a single well be constructed with a capacity of 500 gpm. The well pump would be equipped with a primary pump of 400 gpm and second jockey pump of 100 gpm. With both pumps operating the water supply capacity would be 475 to 500 gpm.

Project Groundwater Analysis

Dr. Dale Ralston, P.E., P.G. completed a groundwater analysis for the project in 2012. A copy of the memorandum is included as an attachment. Based on Ralston's analysis the aquifer thickness increases from south to north. The aquifer thickness is greater than 400 feet anywhere on the site. It is estimated that the aquifer saturated water surface is 2040 ft. or 380 feet below ground surface.

Based on this study, a new well should be constructed at 450 feet to 480 feet deep to fully develop the aquifer thickness for a reliable well. The location of the proposed well is shown on Figure 1. This site was selected based on ease of access for maintenance

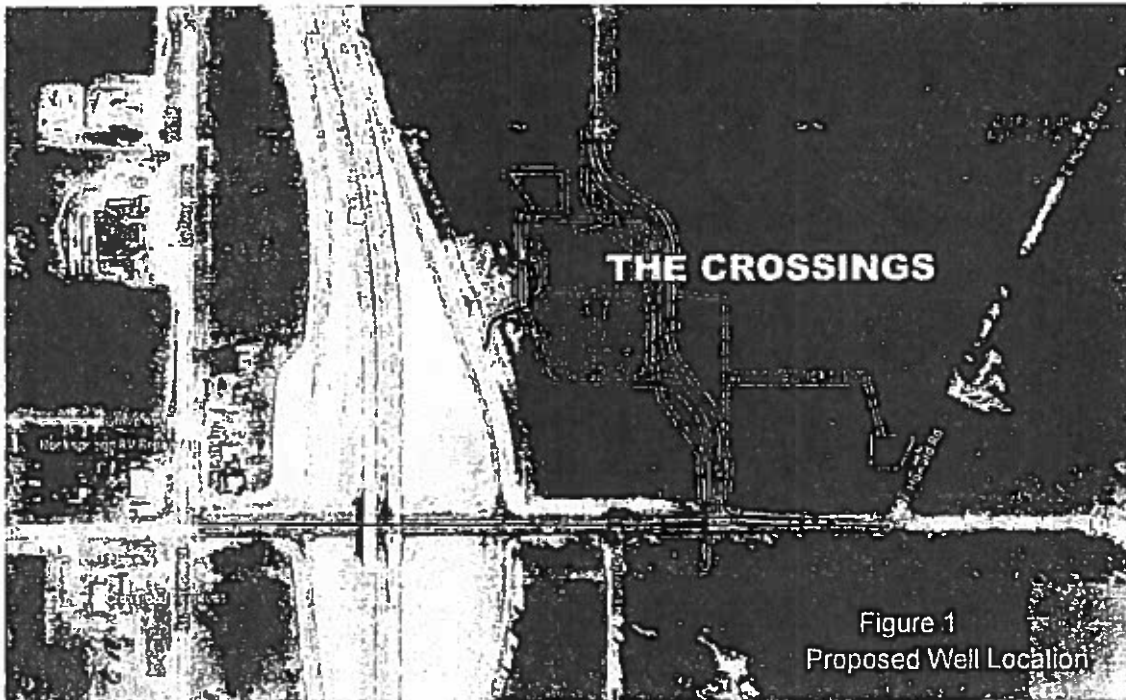
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and operations as well as aquifer access. Other groundwater details as it related to the site are contained in the Ralston Memorandum.



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Preliminary System, Well and Pump Design

Based on the needs of the Development and the City of Athol Water system it is proposed to develop a single 12" diameter well to accommodate two pumps. The well is expected to be 450 to 480 feet deep with a water level of 360 feet to 380 feet below surface. The well would be constructed per IDEQ Drinking Water Rules, IDAPA 58.01.08 Sections 510 through 512.

The well will be equipped with two pumps. One pump would be sized to supply water primarily to the development at a nominal capacity of 100 gpm at 60 psi delivery pressure (25 horsepower). The well pump will be controlled by pressure controls via a variable speed drive on the pump motor. Water not used by the development will flow through an altitude valve into the City's water system. The pump controls would stop the pump if the City's water tank is full and the pump does not need to supply water to the system.

The second pump would be sized at 400 gpm at 60 psi delivery pressure (75 horsepower). Both pumps on will be 475 to 500 gpm total capacity. The second pump will be primarily controlled based on water level in the City's tanks. Secondary pump control for low pressure condition in The Crossings system which would signal an emergency or high flow event is occurring within the high-pressure zone.

To mount the two pumps in a single 12-inch well it will be necessary to use a Wesley Tool mount for the pumps. The Wesley Tool is a fabricated pump mounting system to properly set two pumps in the same well casing. Using the Wesley tool will allow both pumps to pump into the same discharge pipe to the surface.

The water supply well will be equipped with a standby power system. The power utility serving the site has historically been reliable. A standby generator system with automatic transfer switching will be installed as part of the water supply development project. The generator will be sized to operate both pumps for reliability to the development as well as the City water system. It is proposed the standby generator be natural gas fueled, but will have to be approved by the Fire District per the International Fire Code.

The pump house will be designed in accordance with IDEQ rules and requirements. We have also received some proposed design standards from the City of Athol which will be part of the design.

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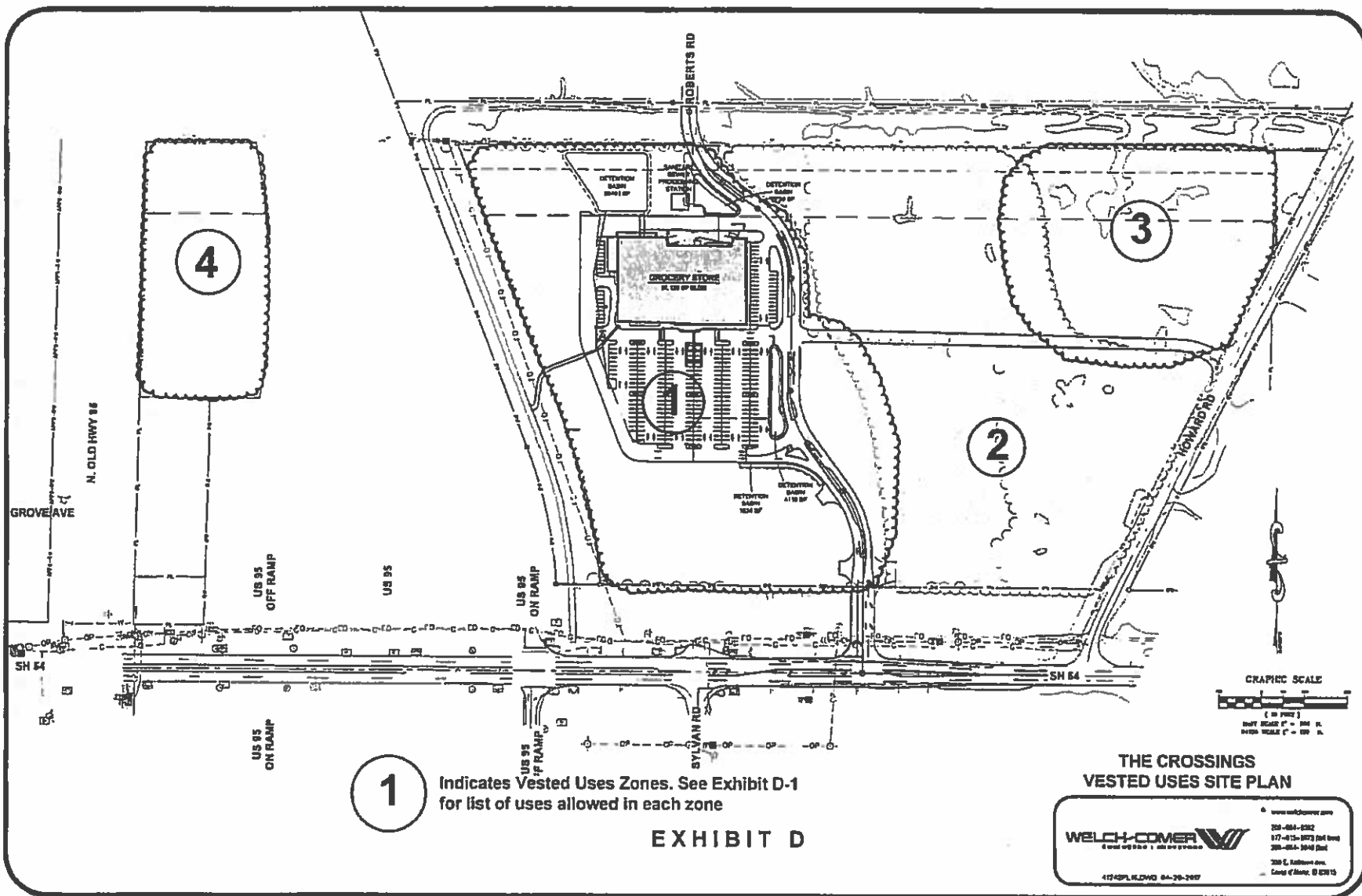
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Either a two-way altitude valve or pressure reducing valve with a bypass control valve will be installed at or near the connection to the existing Athol City system. The valve system will allow water to pass into the City system while maintaining the required upstream pressure for the Development. In addition, at any time the pressure drops to on the development side, such as a fire flow event, the valve system must be capable of passing adequate flow to the high pressure zone.



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EXHIBIT D-1
VESTED USES ZONES

ZONE 1

Any wholesale, retail and service business.

Banks and other financial services.

Business and professional offices, including medical, dental, emergency care clinics, and public or private office buildings.

Food stores and markets, including drug stores, pharmacies and delicatessans.

Jewelry manufacturing and sales.

Nurseries and garden supplies.

Restaurants and any other eating or drinking establishments, including but not limited to cafeterias, catering services, lounges and taverns.

Sports and athletic facilities whether indoor, outdoor or in combination.

Other uses which the city council determines to be similar in nature, function, and operation to permitted primary commercial uses in the zone.

OTHER USES

Government buildings and uses operated by federal, state, county, or municipal government entities, or operated by special purpose districts.

Publicly or privately operated public utility uses, structures, or transmission facilities.

SPECIAL (CONDITIONAL) USES

Off premises advertising signs.

ZONE 2

All uses included in Zone 1 above, plus the following uses:

Churches, mosques, synagogues, temples, and similar houses of worship.

Contractors' offices, shops, and storage, including electrical, masonry, tile, plumbing, heating and ventilating, plastering, carpentry, roofing, glass, insulation, iron work, and similar services.

Daycare, nursery school, or preschool facilities and services.

Hospitality businesses, including but not limited to hotels, motels, bed and breakfast inns, lodging houses, meeting and convention facilities.

Manufacture, sales, and service of windows, window screens, rain gutters, shades and awnings.

Theaters

Veterinary offices, including hospitalization and boarding services.

OTHER USES

Elementary and secondary schools, public or private.

Libraries.

Museums.

Parks and recreation uses, including, but not limited to, tennis courts, swimming pools, play fields, and other similar uses as determined by the city council.

Publicly or privately operated public utility uses, structures, or transmission facilities.

SPECIAL (CONDITIONAL) USES

Hospitals and long term medical care facilities.

Dance halls, skating rinks, arcades, or other commercial amusement places.

ZONE 3

Any wholesale, retail and service business.

Churches, mosques, synagogues, temples, and similar houses of worship.

Contractors' offices, shops, and storage, including electrical, masonry, tile, plumbing, heating and ventilating, plastering, carpentry, roofing, glass, insulation, iron work, and similar services.

Convalescent homes; sanitariums, or retirement homes.

Daycare, nursery school, or preschool facilities and services.

Electronic instrument and other technology businesses.

Fraternal or philanthropic lodges and institutions and other community meeting facilities.

Hospitality businesses, including but not limited to hotels, motels, bed and breakfast inns, lodging houses, meeting and convention facilities.

Manufacture, sales, and service of windows, window screens, rain gutters, shades and awnings.

Medical and dental laboratories.

Mini-storage facilities on parcels of not less than 3.5 acres, provided outside storage must be within a slight obscuring fence or other enclosure.

Nurseries and garden supplies.

Sports and athletic facilities whether indoor, outdoor or in combination.

Theaters

Vehicle and machinery repair and storage.

Veterinary offices, including hospitalization and boarding services.

Vocational, trade or private instructional schools.

Welding and metal fabricating shops.

Other uses which the city council determines to be similar in nature, function, and operation to permitted primary commercial uses in the zone.

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OTHER USES

Government and utility facilities, including, but not limited to:

Elementary and secondary schools, public or private.

Government buildings and uses operated by federal, state, county, or municipal government entities, or operated by special purpose districts.

Libraries.

Museums.

Open space/conservation areas.

Parks and recreation uses, including, but not limited to, tennis courts, swimming pools, play fields, and other similar uses as determined by the city council.

Publicly or privately operated public utility uses, structures, or transmission facilities.

SPECIAL (CONDITIONAL) USES

Any special (conditional) use listed in the residential (R) zone which is not a permitted primary use in the commercial (C) zone.

Hospitals and long term medical care facilities.

Uses permitted in the residential (R) zone, including multi-family housing, manufactured, mobile, and modular accommodations, and manufactured home parks; provided, at a minimum, that such uses comply with all provisions of chapter 8, article A, and chapters 10 and 11 of this title.

Recreational vehicle parks and campgrounds.

Dance halls, skating rinks, arcades, or other commercial amusement places.

Transfer, storage and warehouse facilities which are not a permitted primary use in the commercial (C) zone, provided outside storage must be within a sight obscuring fence or other enclosure.

Manufacture and assemblage of components, provided that such activity: (a) is carried on in such a manner and with such precautions against fire and explosion hazards as provided by the International Building Code, (b) emits no obnoxious odor or noise, (c) exhausts no waste or dust into the air, and (d) shall be conducted so that direct and indirect illumination shall not exceed 0.2 foot-candles across lot lines of the subject property.

ZONE 4

Any wholesale, retail and service business.

Banks and other financial services.

Business and professional offices, including medical, dental, emergency care clinics, and public or private office buildings.

Mini-storage facilities on parcels of not less than 3.5 acres, provided outside storage must be within a sight obscuring fence or other enclosure.

Nurseries and garden supplies.

Restaurants and any other eating or drinking establishments, including but not limited to cafeterias, catering services, lounges and taverns.

Sports and athletic facilities whether indoor, outdoor or in combination.

Other uses which the city council determines to be similar in nature, function, and operation to permitted primary commercial uses in the zone.

OTHER USES

Government and utility facilities, including, but not limited to:

Elementary and secondary schools, public or private.

Government buildings and uses operated by federal, state, county, or municipal government entities, or operated by special purpose districts.

Libraries.

Museums.

Parks and recreation uses, including, but not limited to, tennis courts, swimming pools, play fields, and other similar uses as determined by the city council.

Publicly or privately operated public utility uses, structures, or transmission facilities.

SPECIAL (CONDITIONAL) USES

Any special (conditional) use listed in the residential (R) zone which is not a permitted primary use in the commercial (C) zone.

Hospitals and long term medical care facilities.

Off premises advertising signs.

Uses permitted in the residential (R) zone, including multi-family housing, manufactured, mobile, and modular accommodations, and manufactured home parks; provided, at a minimum, that such uses comply with all provisions of chapter 8, article A, and chapters 10 and 11 of this title.

Dance halls, skating rinks, arcades, or other commercial amusement places.

Transfer, storage and warehouse facilities which are not a permitted primary use in the commercial (C) zone, provided outside storage must be within a sight obscuring fence or other enclosure.

GRAPHIC SCALE

[10 FEET]

1" = 10' SCALE
1" = 10' SCALE

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5/19/2017

Water Right Report

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IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

5/19/2017

WATER RIGHT NO. 95-9456

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CITY OF ATHOL PO BOX 249 ATHOL, ID 83801-0249 (208)683-2101

Priority Date: 01/26/1995

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MUNICIPAL	01/01	12/31	1.5 CFS	
Total Diversion			1.5 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SESW	Sec. 09	Township 53N	Range 03W	KOOTENAI County
GROUND WATER	NWNE	Sec. 16	Township 53N	Range 03W	KOOTENAI County

Place(s) of use: Large POU Info

Conditions of Approval:

1. Place of use is within the city limits of Athol. Place of use generally described as T53N, R3W, Sections 9-16.
2. 01M After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.

5/19/2017

Water Right Report

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- 3.004 The issuance of this right does not grant any right-of-way or easement across the land of another.
4. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
5. Rights 96-7956 and 95-9456 when combined shall not exceed a total diversion rate of 2.05 cfs.
- 6.174 This right authorizes the diversion of ground water within the Rathdrum Prairie Ground Water Management Area (RPGWMA). Use of water under this right shall be subject to the provisions of the management plan approved by the director for the RPGWMA.

Dates:

Licensed Date: 02/11/2008

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

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IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

5/19/2017

WATER RIGHT NO. 95-9877

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CITY OF ATHOL PO BOX 249 ATHOL, ID 83801-0249 (208)683-2101

Priority Date: 04/17/1981

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MUNICIPAL	1/01	12/31	0.55 CFS	
Total Diversion			0.55 CFS	

Location of Point(s) of Diversion:

GROUND WATER|NWNE|Sec. 16|Township 53N|Range 03W|KOOTENAI County

Place(s) of use: No POUs found for this right

Conditions of Approval:

1.||P/U LOCATED WITHIN THE CITY LIMITS OF ATHOL.

Dates:

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5/19/2017

Water Right Report

Licensed Date: 03/15/1983
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

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IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

5/19/2017

WATER RIGHT NO. 95-9572

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CITY OF ATHOL PO BOX 249 ATHOL, ID 83801-0249 (208)683-2101

Priority Date: 11/15/1968

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MUNICIPAL	1/01	12/31	0.38 CFS	122.5 AFA
Total Diversion			0.38 CFS	

Location of Point(s) of Diversion:

GROUND WATER|SESW|Sec. 09|Township 53N|Range 03W|KOOTENAI County

Place(s) of use: Large POU Info

Conditions of Approval:

1.||P/U WITHIN CITY OF ATHOL.

Dates:

Licensed Date: 07/18/1979

Decreed Date:

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Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Water Supply Bank Enrollment Date Accepted:
Water Supply Bank Enrollment Date Removed:
Application Received Date:
Protest Deadline Date:
Number of Protests: 0

Other Information:

State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

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State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 95-09456

Priority: January 26, 1995

Maximum Diversion Rate: 1.50 CFS

It is hereby certified that CITY OF ATHOL
PO BOX 249
ATHOL ID 83801-0249 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated January 26, 1995 and has
submitted Proof of Beneficial Use on May 11, 1999. An examination indicates that the works have a
diversion capacity of 1.5 cfs of water from:

SOURCE

GROUND WATER

and a water right has been established as follows:

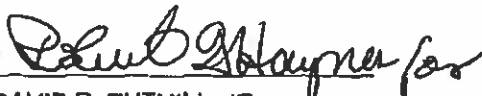
<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
MUNICIPAL	01/01 to 12/31	1.50 CFS

LOCATION OF POINT(S) OF DIVERSION:GROUND WATER, NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 16, Twp 53N, Rge 03W, B.M., KOOTENAI CountyGROUND WATER, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 9, Twp 53N, Rge 03W, B.M., KOOTENAI County**CONDITIONS OF APPROVAL**

1. Place of use is within the city limits of Athol. Place of use generally described as T53N, R3W, Sections 9-16.
2. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
5. Rights 96-7956 and 95-9456 when combined shall not exceed a total diversion rate of 2.05 cfs.
6. This right authorizes the diversion of ground water within the Rathdrum Prairie Ground Water Management Area (RPGWMA). Use of water under this right shall be subject to the provisions of the management plan approved by the director for the RPGWMA.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 11th day of February, 2008.


DAVID R. TUTHILL, JR.
Director

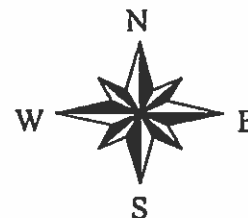
Page 2

State of Idaho
Department of Water Resources
Water Right License
NO. 95-09456
Digital Boundary for CITY OF ATHOL
February 11, 2008



0.5 0 0.5 1 Miles

-  GCDB 53N03W GCDB
-  Recommendation POD
-  Recommendation POU
-  Pou.shp
-  Pod.shp
-  Administrative Basins Adminbas.shp



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Form No.42-1409-1 (Internet 12/08)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE COEUR D'ALENE-SPOKANE RIVER
BASIN WATER SYSTEM

CIVIL CASE NUMBER: 49576

Ident. Number 95-9456Date Received: 7-1-09Receipt No: NO 2008AReceived By: caNOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

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Please type or print clearly

1. Name of Claimant (s) City of Athol Phone (208) 683-2101
Mailing Address PO Box 249 Athol Id ZIP 83801
Street or Box City State
2. Date of Priority (Only one (1) per claim) January 26, 1995
Month Day Year (YYYY)
3. Source of water supply (Check one) Ground Water (☒) or Other () (a) _____
which is tributary to (b) Rathdrum Prairie Groundwater
4. a. Location of Point of Diversion is: Township 53N, Range 03W, Section 16
NW, 1/4 of NE, 1/4 Govt. Lot 4, BM., County of Kootenai County (Lot 4, Block 2. Town of Athol)
- Parcel (PIN) no. _____
- Additional points of diversion if any: 5525 Grove Ave, Athol, ID
- If available, GPS Coordinates _____
- b. If instream flow, beginning point of claimed instream flow is:
Township 53N, Range 03W, Section 9, SE, 1/4 of Sw, 1/4
Govt. Lot 6, BM., County of Kootenai Lot 6 B 5 Bennet
- ending point is: Township 53N, Range 03W, Section 9, SE, 1/4 of SW, 1/4
Govt. Lot 6, BM., County of Kootenai Lot 5 B 5 Bennet
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. _____
Well : Bennett Ave 60hp

SCANNED

JUL - 2 2009

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JUN 01 2017

IDWR / NORTH

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Municipal purposes from 01/01 to 12/31 amount 1.50 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.50 (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																			D

Parcel (PIN) no(s) _____

Total number of acres irrigated _____

10. In which county (ies) are lands listed above as place of use located? Kootenai

11. Do you own the property listed above as place of use? Yes () No (✓)

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

Permit No.'s 95-09456, 95-9877, 95-9572

or None ()

13. Remarks: SEE ATTACHEDMunicipal Water System, City of Athol.Last Name City of Athol

Identification No. _____

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JUN 01 2017

IDWR / NORTH

14. Basis of Claim (Check One) Beneficial Use () Posted Notice () License () ☒ Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 95-09456

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Coeur d'Alene-Spokane River Basin Adjudication." (b.) I/We do () do not () wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature] Date 6/30/09

Title and Organization Mayor Lanny Spurlock

16. Notice of Appearance:

Notice is hereby given that I, _____, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address _____

Last Name _____ Identification No. _____

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JUN 01 2017
IDWR / NORTH

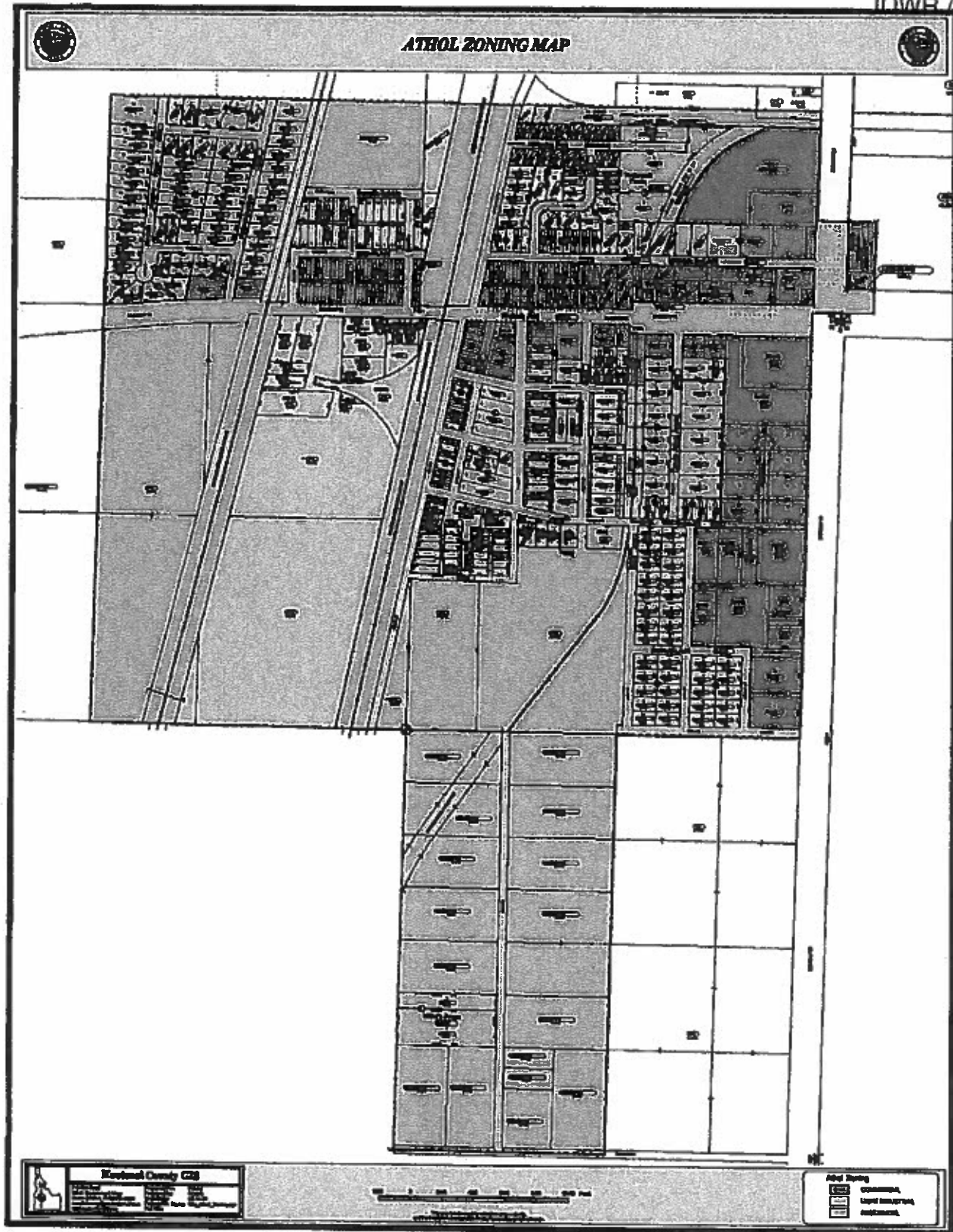
CITY OF ATHOL



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JUN 01 2017

IDWB / NORTH



RECEIVED

JUN 01 2017

IDWR / NORTH

Form No.42-1409-1 (Internet 12/08)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE COEUR D'ALENE-SPOKANE RIVER
BASIN WATER SYSTEM

CIVIL CASE NUMBER: 49576

Ident. Number 95-9877Date Received: 7-1-09Receipt No: N021208BReceived By: cmNOTICE OF CLAIM
TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

JUL - 1 2009

IDWR/North

Please type or print clearly

1. Name of Claimant (s) City of Athol Phone (208) 683-2101Mailing Address PO Box 249 Athol Id ZIP 838012. Date of Priority (Only one (1) per claim) April 17, 1981 City State
Month Day Year (YYYY)3. Source of water supply (Check one) Ground Water (✓) or Other () (a) _____
which is tributary to (b) Rathdrum Prairie Groundwater4. a. Location of Point of Diversion is: Township 53N, Range 03W, Section 9
SE, 1/4 of SW, 1/4 Govt. Lot 6, BM., County of Kootenai County (Lot 6, Block 5, Bennett 2nd ed)

Parcel (PIN) no. _____

Additional points of diversion If any: 5875 Bennett Ave, Athol, ID, Grove ST Lot 5 rights diverted to 95-9877

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township 53N, Range 03W, Section 9, NE, 1/4 of NW, 1/4Govt. Lot 4, BM., County of Kootenai, L4B2 TownAtholending point is: Township 53N, Range 03W, Section 9, SE, 1/4 of SW, 1/4Govt. Lot 5, BM., County of Kootenai Lot 5 B 5 Bennet5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed
and as enlarged and the depth of each well. _____Well ; Grove Ave 40hp

SCANNED

JUL - 2 2009

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JUN 01 2017

IDWR / NORTH

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Municipal purposes from 01/01 to 12/31 amount .55 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .55 (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																			D

Parcel (PIN) no(s) _____

Total number of acres irrigated _____

10. In which county (ies) are lands listed above as place of use located? Kootenai

11. Do you own the property listed above as place of use? Yes () No (✓)

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

Permit No.'s 95-08456, 95-9877, 95-9572 or None ()13. Remarks: SEE ATTACHEDMunicipal Water System, City of Athol.Last Name City of Athol Identification No. _____

RECEIVED

JUN 01 2017

IDWR / NORTH

14. Basis of Claim (Check One) Beneficial Use () Posted Notice () License (✓) Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 95-9877

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Coeur d'Alene-Spokane River Basin Adjudication." (b.) I/We do () do not (✓) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 3

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature] Date 30 JUN 2017

Title and Organization Mayor Lanny Spurlock, City of Athol

16. Notice of Appearance:

Notice is hereby given that I, N/A, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

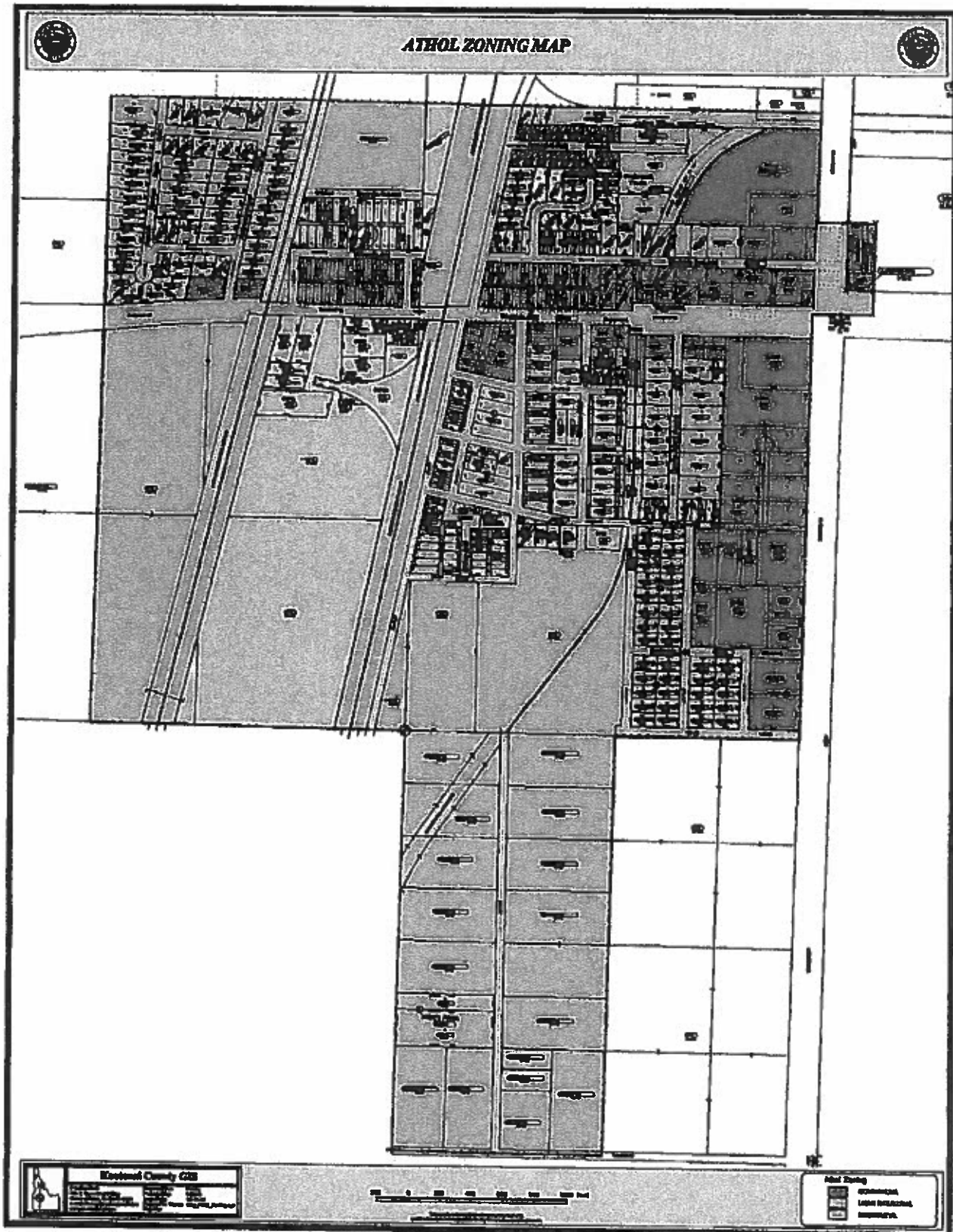
Signature _____ Date _____

Address _____

Last Name City of Athol Identification No. _____

JUN 01 2017

IDWR / NORTH



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JUN 01 2017

IDWR / NORTH

CITY OF ATHOL



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JUN 01 2017

IDWR / NORTH

Form No.42-1409-1 (Internal 12/08)

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE COEUR D'ALENE-SPOKANE RIVER
BASIN WATER SYSTEM

CIVIL CASE NUMBER: 49576

Ident. Number 95-9572Date Received: 7-1-09Receipt No: W021208CReceived By: am

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

RECEIVED

JUL - 1 2009

IDWR/North

Please type or print clearly

1. Name of Claimant (s) City of Athol Phone (208) 883-2101Mailing Address PO Box 249 Athol Id ZIP 838012. Date of Priority (Only one (1) per claim) November 15, 1968 City State Id
Month Day Year (YYYY)3. Source of water supply (Check one) Ground Water (✓) or Other () (a) _____
which is tributary to (b) Rathdrum Prairie Groundwater4. a. Location of Point of Diversion is: Township 53N, Range 03W, Section 9
SE, 1/4 of SW, 1/4 Govt. Lot 5, BM., County of Kootenai County Lot 5 B 5 Bennett

Parcel (PIN) no. _____

Additional points of diversion if any: 5875 Bennett Ave 95-09458, Grove ST Lot 6 rights diverted to 95-9877

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township 53N, Range 03W, Section 18, NE, 1/4 of NW, 1/4Govt. Lot 4, BM., County of Kootenai, L4B2 Town Atholending point is: Township 53N, Range 03W, Section 9, SE, 1/4 of SW, 1/4Govt. Lot 6, BM., County of Kootenai (L6, B5, Bennett)

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Well ; Rights diverted to 95-09458, 95-9877

RECEIVED

JUN 01 2017

IDWR / NORTH

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For Municipal purposes from 01/01 to 12/31 amount .38 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .38 (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic)

in the corresponding place of use below. See instructions for standard symbols.

SEE ATTACHMENT MAP OF ATHOL.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
																			D

Parcel (PIN) no(s) _____

Total number of acres irrigated _____

10. In which county (ies) are lands listed above as place of use located? Kootenai

11. Do you own the property listed above as place of use? Yes () No (✓)

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

Permit No.'s 95-09456, 95-9877, 95-9572

or None ()

13. Remarks: SEE ATTACHEDMunicipal Water System, City of Athol.Last Name City of Athol

Identification No. _____

RECEIVED

JUN 01 2017

IDWR / NORTH

14. Basis of Claim (Check One) Beneficial Use () Posted Notice () License (✓) Permit () Decree ()

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 95-9572

15. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Coeur d'Alene-Spokane River Basin Adjudication." (b.) I/We do () do not (✓) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

_____ of _____,
Title Organization

that I have signed the foregoing document in the space below as

_____ of _____,
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature] Date 30 JUN 09

Title and Organization Mayor Lanny Spurlock, City of Athol

16. Notice of Appearance:

Notice is hereby given that I, N/A, will be acting as attorney at law of behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address _____

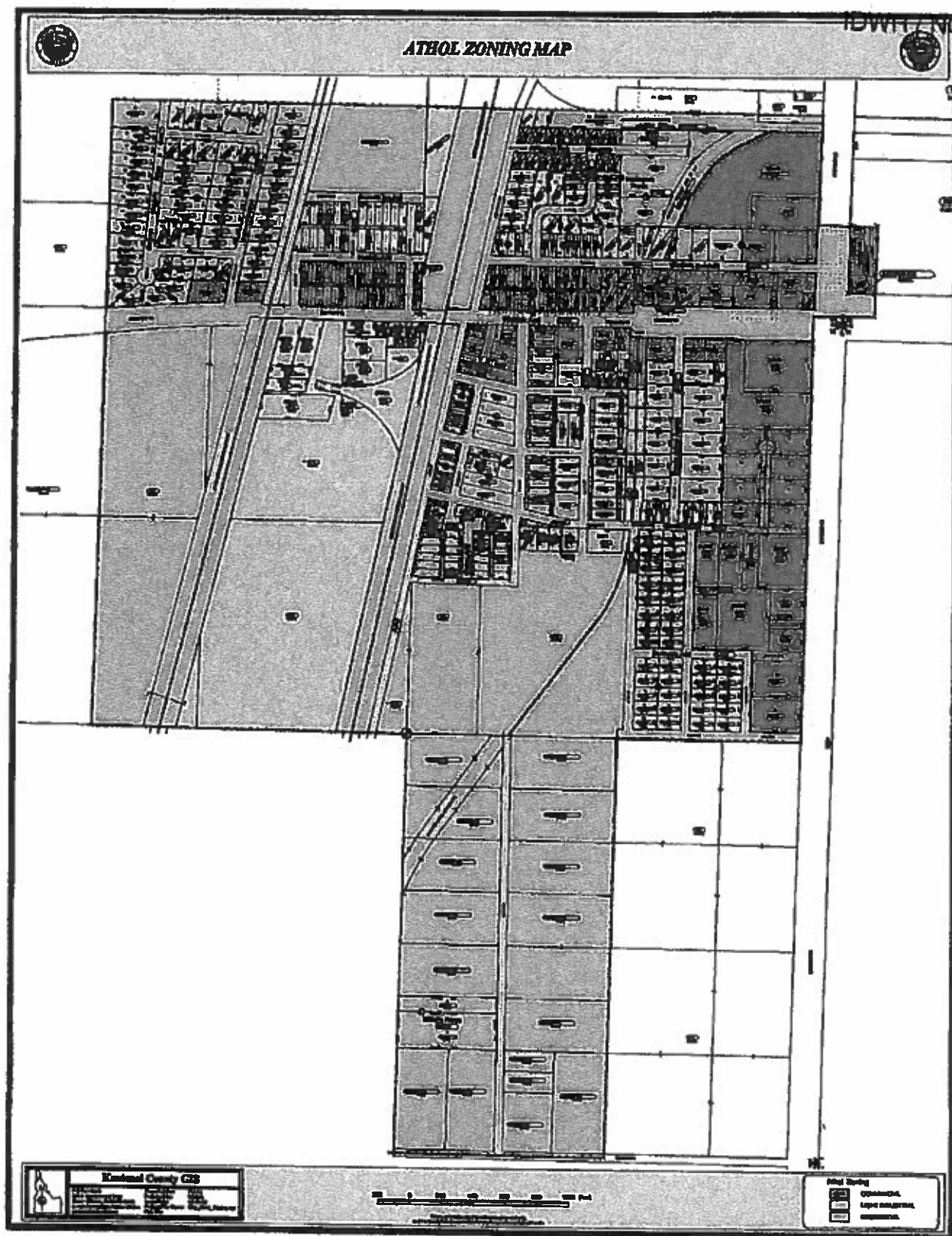
Last Name City of Athol Identification No. _____

RECEIVED

JUN 01 2017

EDWINTON NORTH

ATHOL ZONING MAP

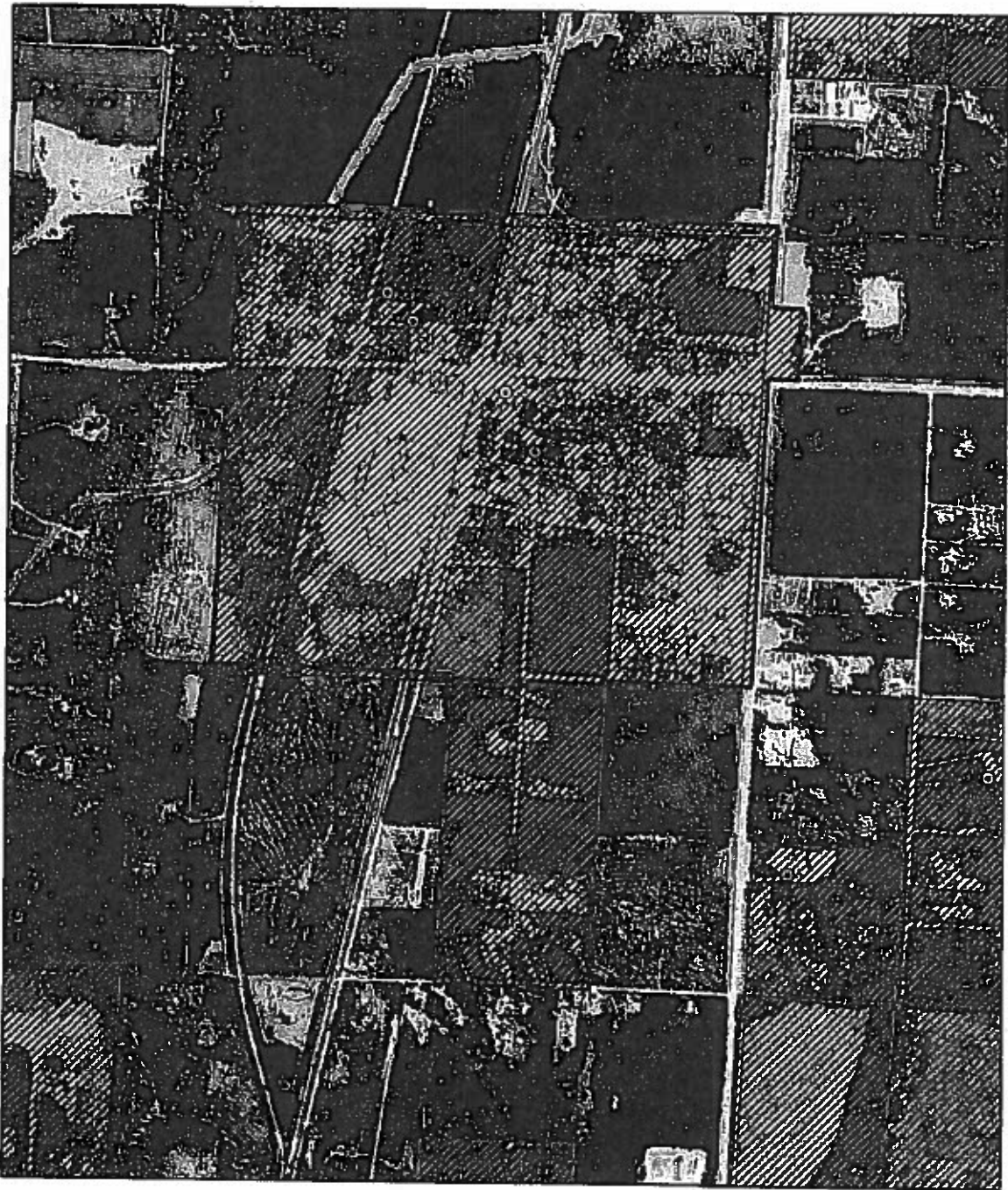


RECEIVED

JUN 01 2017

IDWR / NORTH

CITY OF ATHOL 95-9456





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763
Phone: (208) 762-2800 • Fax: (208) 762-2819 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 30, 2017

CITY OF ATHOL
PO BOX 249
ATHOL, ID 83801-0249

RE: Transfer No. 81733, Water Right No(s). ,95-9456, 95-9572, 95-9877

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the COEUR D ALENE PRESS on 7/6/2017 and 7/13/2017. 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 approval document.

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

Sincerely,

Adam Frederick
Water Resource Agent, Senior

cc:
Caitlin Kling
Hawley Troxell
250 NW Boulevard, Ste 204
Coeur d'Alene, ID 83814

Steading, Natalie

From: Steading, Natalie
Sent: Friday, June 30, 2017 2:38 PM
To: 'legals@cdapress.com'
Subject: Application for Transfer no. 81733
Attachments: CdA Press 7-6-17 transfer.doc

Hi Holly,
Hi Geri,

Please publish the enclosed legal notice on July 6th and July 13th (one a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately. Prior to publication, please send a proof for my 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 7/24/2017.

If you have any questions, please contact me at (208) 762-2800.

Sincerely,

Natalie Steading

Idaho Dept. of Water Resources, Northern
7600 N Mineral Drive, Ste 100
Coeur d'Alene, ID 83815
Ph. (208) 762-2800
Fax (208) 762-2819

NOTICE OF PROPOSED CHANGE OF WATER RIGHT
TRANSFER NO. 81733

CITY OF ATHOL, PO BOX 249, ATHOL, ID 83801-0249; has filed Application No. 81733 for changes to the following water rights within KOOTENAI County(s): Right No(s). 95-9456, 95-9572, 95-9877; to see a full description of these rights and the proposed transfer, please see www.idwr.idaho.gov/apps/wr/QueryNewTransfers/QueryNewTransfers.aspx. The purpose of the transfer is to change a portion of the above rights as follows: This transfer proposes to add a new point of diversion to the City of Athol's existing groundwater rights in the SE1/4SW1/4 of Section 10, Twp 53N, Rge 03W.

For additional information concerning the property location, contact Northern Region office at (208) 762-2800. Protests may be submitted based on the criteria of Idaho Code Sec. 42-222.

Any protest against the proposed change must be filed with the Department of Water Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 7/24/2017. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 7/6/2017 and 7/13/2017

Frederick, Adam

From: Caitlin Kling <CKling@hawleytroxell.com>
Sent: Monday, June 12, 2017 9:38 AM
To: Frederick, Adam
Subject: Cith of Athol application for transfer

Hi Adam,

With respect to the address on the City's application, the physical address is 30355 N. 3rd Street, but the mailing address is P.O. Box 249 Athol, ID 83801. It is okay to add the P.O. Box to the application. Sorry for any confusion.

Thanks,

CAITLIN D. KLING
Attorney
direct 208.667.1300
fax 208.954.5263
email ckling@hawleytroxell.com

HAWLEY TROXELL

Attorneys and Counselors



Member

LexMundi
World Ready

Lex Mundi is the world's leading network of independent law firms with in-depth experience in 100+ countries worldwide.

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Please consider the environment before printing this email.

MEMORANDUM

Date: June 12, 2017
To: Transfer 81733
From: Adam Frederick *AF*
Re: Legal Notice Remarks

This transfer proposes to add a new point of diversion to the City of Athol's existing groundwater rights in the SE1/4SW1/4 of Section 10, Twp 53N, Rge 03W.