

RECEIVED

JUL 19 2012

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DEPT. OF WATER RESOURCES
SOUTHERN REGION

Transfer No. 77750

Receipt No. 5032689

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

1. Applicant Information CITY OF ROCKLAND
PO BOX 113
135 S. MAIN
ROCKLAND ID 83271
(208)548-2489

Will this transfer result in an ownership change? X Yes No

See attached documentation regarding the transfer of ownership.

2. Current Water Right

Part 2 Attached for Each Right

	Origin/Basis	Rate	Volume	Acre Limit	Total Acres	Source
41-7082	WR/License	0.56				GROUND WATER
41-4023	WR/Decree	0.67				GROUND WATER

3. Purpose of Transfer (Change Proposed)

Part 3A Attached for Each Proposed Right

Part 3B Attached for Each Split Right

Right	Split	POD	POU	Add POD	Period of Use	Nature of Use
41-7082	NO	NO	YES	YES	NO	NO
41-4023	NO	NO	YES	YES	NO	NO

Describe the reason for the proposed changes

- 1) To correct legal description of PODs and to describe an enlarged service area to include land application of waste water for treatment of waste from the system.
- 2) To change ownership from Rockland Water & Sewer Association to the City of Rockland.

4. FOR CHANGES IN NATURE OF USE ONLY

A. Describe the expected quantity of the return flows and location of discharge after the proposed change

N/A

B. Describe the effects on other water uses resulting from the proposed change

N/A

5. Total Amounts Transferred

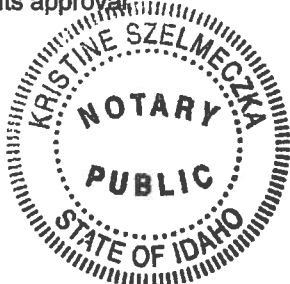
	Rate	Acre Limit	Total Acres	Volume
41-7082	0.56 cfs			
41-4023	0.67 cfs			
TOTAL	1.23 cfs			

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.



Eddy Hansen
(Signature of Applicant)

Mayor
(Title or Office)

Subscribed and sworn to before me this 5th day of June, 2012.

Kristine Szelmecka
(Notary Public)

My commission expires May 31, 2013

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**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 41-7082

Priority Date: March 19, 1990

Origin: Water Right

Basis: License

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
MUNICIPAL	1/01 12/31	0.56 CFS		
	Total Diversion	0.56 CFS		

Source and Point(s) of Diversion:

GROUND WATER SWNENE Sec. 7 Twp 10S Rge 31E POWER County

Conditions/Remarks:

1. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
2. The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. Place of use is located within the city limits of Rockland.

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Documentation of Ownership of the Current Place of Use

N/A

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

NO

Describe the effect on the current place of use for this water right if the place of use is changed pursuant to this transfer

Service area to be expanded to accommodate land application of waste water from the city system.

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

NO

Transfer No. 77750

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**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 41-4023

Priority Date: March 10, 1958

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
MUNICIPAL	1/01 12/31	0.67 CFS		
	Total Diversion	0.67 CFS		

Source and Point(s) of Diversion:

GROUND WATER SWNENE Sec. 7 Twp 10S Rge 31E POWER County

PLACE OF USE: MUNICIPAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S 31E 6																	
10S 31E 7																	
10S 31E 8																	

Conditions/Remarks:

1. TWO POINTS OF DIVERSION LOCATED IN T10S, R31E, S07, SWNENE.
2. PLACE OF USE IS WITHIN CITY LIMITS OF ROCKLAND.
3. THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

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Documentation of Ownership of the Current Place of Use

N/A

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

NO

Describe the effect on the current place of use for this water right if the place of use is changed pursuant to this transfer

Service area to be expanded to accommodate land application of waste water from the city system.

To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

NO

Transfer No. 77750

Receipt No. 5032689

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3A**

Proposed Water Right No. 41-7082

Priority Date: March 19, 1990

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
MUNICIPAL	1/01 12/31	0.56 CFS		
	Total Diversion	0.56 CFS		

Source and Point(s) of Diversion:

GROUND WATER NWNENE Sec. 7 Twp 10S Rge 31E POWER County

GROUND WATER SWNENE Sec. 7 Twp 10S Rge 31E POWER County

Describe the proposed diversion system

Point of Diversion # 1 Well No. 1

Point of Diversion # 2 Well No. 2

PLACE OF USE: MUNICIPAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	30E	1								X	X	X				X			
10S	31E	5											X						
10S	31E	6										X	X	X			X	X	
10S	31E	7	X	X	X	X	X												
10S	31E	8						X											

Transfer No. 77750

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**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3A**

Proposed Water Right No. 41-4023

Priority Date: March 10, 1958

Origin: Water Right

Basis: Decreed

Status: Active

Source: GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
MUNICIPAL	01/01 12/31	0.67 CFS		
	Total Diversion	0.67 CFS		

Source and Point(s) of Diversion:

GROUND WATER NWNENE Sec. 7 Twp 10S Rge 31E POWER County

GROUND WATER SWNENE Sec. 7 Twp 10S Rge 31E POWER County

Describe the proposed diversion system

Point of Diversion # 1 Well No. 1

Point of Diversion # 2 Well No. 2

PLACE OF USE: MUNICIPAL

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	30E	1								X	X	X					X		
10S	31E	5											X						
10S	31E	6										X	X	X			X	X	
10S	31E	7	X	X	X	X	X												
10S	31E	8						X											

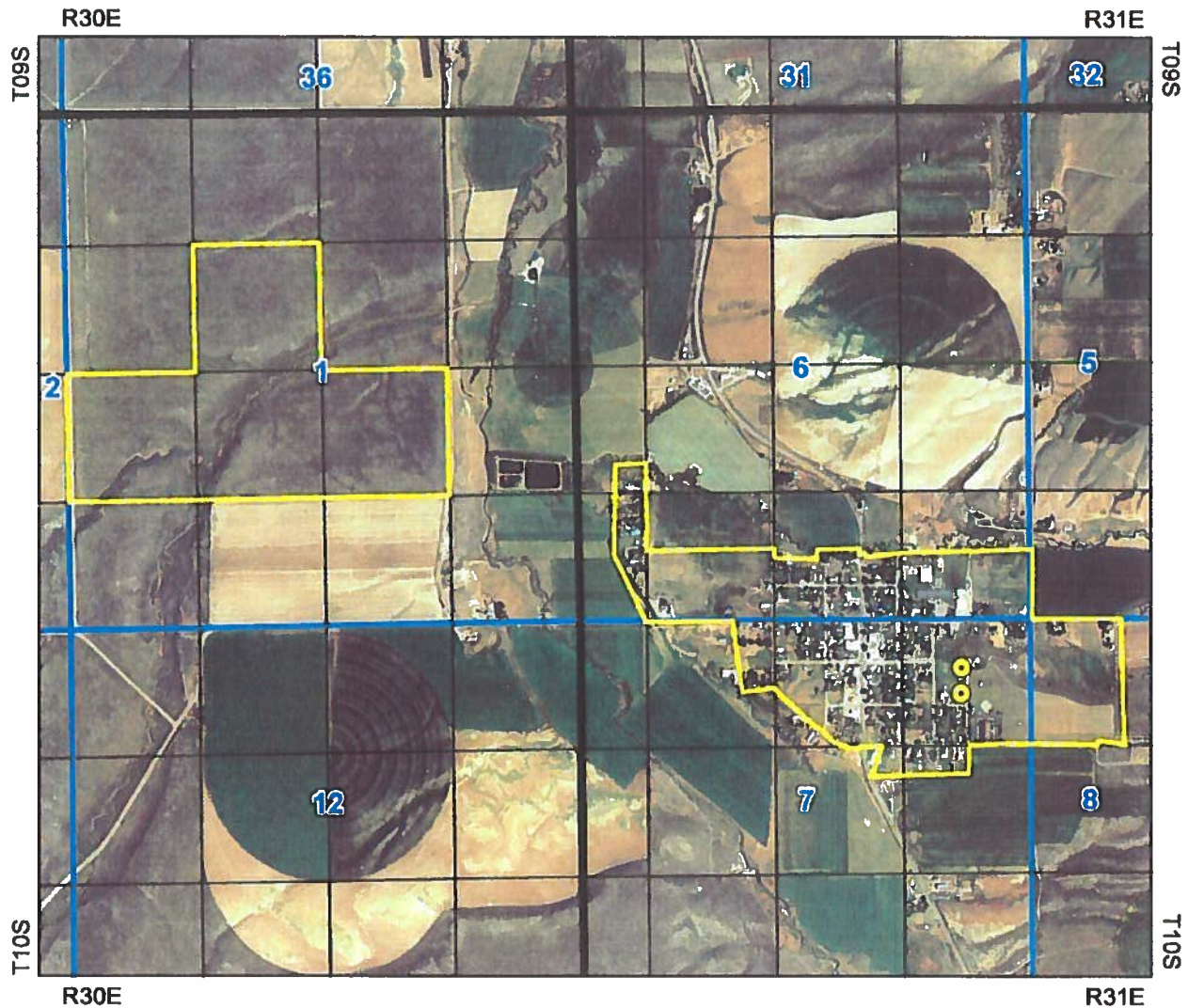
State of Idaho
Department of Water Resources

Attachment To Transfer Of Water Right

Transfer No. 77750

Rights: 41-4023, 41-7082

This map depicts the MUNICIPAL place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 0.225 0.45 0.9 Miles

● Point of Diversion

□ Water Service Area Boundary

□ Townships

□ PLS Sections

□ Quarter Quarters





City of Rockland
PO Box 113
Rockland, ID 83271
208-548-2489

Eddy Hansen, Mayor
208-548-2783

Denise Ralphs, Clerk
208-548-2421

Jim Kariger, Maintenance
208-548-2715

OFFICE HOURS
Monday and Wednesday
9:00 am - 1:00 pm

June 1, 2012
Idaho Department of Water Resources
ATTN: Allen Merritt
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

RE: WATER RIGHT OWNERSHIP TRANSFER

Dear Mr. Merritt:

The City of Rockland is submitting this letter and water right transfer application to establish correct information in regard to its municipal drinking water rights #41-7082 and #41-4023. The Rockland Water & Sewer Association was established around 1969 when the wastewater treatment system was being designed and constructed. In the late 1990's, the City was in the planning stages for a water project. The City had been acting as the officers of the Water & Sewer Association for many years collecting revenues, making payments, and maintaining the system. The Rockland Water & Sewer Association was dissolved in 2000.

The City has not been able to find any formal documentation of the transfer of ownership of the system. Upon your recommendations emailed to our engineer, Keller Associates, on April 24, 2012. We have collected as much information as we could find. The Mayor at the time, Dan Ralphs, provided a letter explaining his recollections of the transfer. The available information is attached to this letter. The local DEQ office searched their records and could also not find any documentation of the transfer.

The City has been operating and maintaining this system for many years. We would like to have the correct information in your database for the system. Let us know if there are any questions.

Sincerely,

Eddy Hansen
Mayor, City of Rockland

attachments: Last Annual Report of the Rockland Water & Sewer Association dated July 15, 1998
Letter from USDA-RD dated February 3, 1998
Meeting minutes from December 9, 1997 and February 19, 1998
Letter from Dan Ralphs dated May 1, 2012



United States
Department of
Agriculture

**Rural
Development**

745 West Bridge, Suite H
Blackfoot, ID 83221
Phone: (208) 785-5840
FAX: (208) 785-6561

February 3, 1998

Katie Hering
GMAC
Phone # 1-888-335-4622
Fax # 215-328-3266

RE: Rockland Water & Sewer Association

Rockland has applied to USDA Rural Development, formerly Farmers Home Administration, for funds to make improvements to their water system. We previously had a loan with them that was sold to GE Capital which they sold to GMAC.

In the original documents that you now have it stated that Rockland could not sell, transfer, or encumber the system without the Governments consent. Since you are now the holder of these instruments we need your concurrence.

We are exploring two options to extend them further credit. The first is to loan additional funds to the Association. The second is to have the association transfer the water and sewer system to the City of Rockland and have the City continue to make your payments as well as borrow the additional money and make payments on the new loan. The City has been acting as the officers of the association and collecting revenues, making your payment, and maintaining the system for many years. We believe that it would be advantageous to everyone to eliminate the association and only deal with the City of Rockland.

As time is of the essence we would like your concurrence in proceeding with either of the above two options as soon as possible. Neither option should have any effect on your loan.

If you have any questions regarding the above please call me.

Sincerely,

R. CRAIG THURGOOD
Rural Development Specialist

2-9-97 - met with City Council + Mayor
Went over Notice of Application Review.
Explained problems we saw with Assoc. and
why we were requiring the City to take over
the ownership of the System and Borrowing the
Funds.

They asked a few questions and
agreed to proceed with setting up a Bond
Electron.

2-19-98. Public Mtg Set For 2-9 @ 6pm
Electron Set for 3-24.

May 1, 2012

To Whom It May Concern:

I am writing this letter as requested, by the City of Rockland. Forgive me if I don't have all the facts and details correct—it was over 13 years ago.

When I was mayor of the city, we were involved in obtaining loan money for our new water project, which consisted of replacing all the old city water lines, building a new water tank, and establishing a second well for the city. We were working with USDA in obtaining these loan funds. The council and I were advised by Mr. Craig Thergood from the USDA that it wasn't necessary to have two separate entities in the city—one for water and the other for sewer. On his advice, we proposed and the council voted to combine the two entities together creating the current Rockland Water and Sewer entity by itself, making for easier book-keeping, and keeping track of the loan money. As far as I can remember, our city attorney guided us through this process. Hope this helps.

Sincerely



Dan Ralphs

Former Mayor of Rockland

MEMORANDUM

Date: July 23, 2012
To: Transfer 77750 File – City of Rockland
From: Jeanie Robertson
Re: Evaluation of Sufficiency of Information Submitted

This transfer corrects the legal description of the points of diversion, describes an enlarged service area to include land application of waste water for treatment of waste from the system, and changes ownership from Rockland Water & Sewer Association to the City of Rockland on two water rights currently authorized for the combined diversion of 1.23 cfs for municipal use. There was no clear ownership documentation available such as chain of title between the two entities, so at IDWR's recommendation, the city submitted a letter detailing the history between the entities; a 1998 letter from the USDA encouraging the City to take over ownership of the rights for loan purposes; minutes from city council meetings in 1997 and 1998 showing the situation was discussed; a copy of the Idaho Secretary of State's Page showing that Rockland Water & Sewer was dissolved in 2000; and a letter from the mayor at the time regarding his memory of the events. IDWR attorneys and State Office personnel felt that there was enough information provided to allow the ownership change in this unusual situation. The points of diversion are not actually changing, only the descriptions, so advertising should not be required. The location of the place of use is within the municipal boundary of the City of Rockland.

- **Authority to File:**
The application was filed by and signed by Eddy Hansen, mayor of the City of Rockland.
- **Water Right Validity:**
Right 41-4023 was decreed on 3/12/2001; right 41-7082 was licensed on 5/30/1994.
- **Injury to Other Water Rights:**
None anticipated.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No negative impacts anticipated.
- **Beneficial Use/Conservation of Water Resources:**
Municipal use is recognized as a beneficial use of water.

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.



City of Rockland
PO Box 113
Rockland, ID 83271
208-548-2489

Eddy Hansen, Mayor
208-548-2783

Denise Ralphs, Clerk
208-548-2421

Jim Kariger, Maintenance
208-548-2715

OFFICE HOURS
Monday and Wednesday
9:00 am - 1:00 pm

January 30, 2012

Idaho Department of Water Resources – Southern Regional Office
ATTN: Allen Merritt
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

RECEIVED
FEB 06 2012
DEPT. OF WATER RESOURCES
SOUTHERN REGION

RE: City of Rockland – Water Right Service Area Modification
Water Right No. 41-4023 and 41-7082

Transfer 77750

Dear Mr. Merritt,

The City of Rockland is in the process of completing a wastewater system improvements project. A major component of the project is the construction of a land application site that will be used to dispose of the City's treated wastewater. Currently the City discharges its treated wastewater to Rock Creek. An Environmental Information Document was completed to identify and concerns that agencies had with the proposed project. You had commented in your agency consultation letter dated April 8, 2011 that the land application site, which has no water rights associated with the property, needs to be covered under a water right.

At this time, we would like to notify IDWR that the City of Rockland would like to modify the service area of its two municipal water rights to cover the land application site. The City understands that the municipal water rights may not be directly applied for irrigation purposes. The service area will be expanded to include the land application site because that is where the water will be used to extinction after being used for municipal drinking water supply and treated at the wastewater treatment lagoons. The current place of use listed on the water right is T10S R31E Section 6, 7, and 8. The new land application site is located in T10S R30E Section 1 and covers 160 acres comprised of the N2SW, NWSE, and SENW. See the attached map showing the current place of use and the new proposed place of use.

If there are any questions or concerns, please contact us

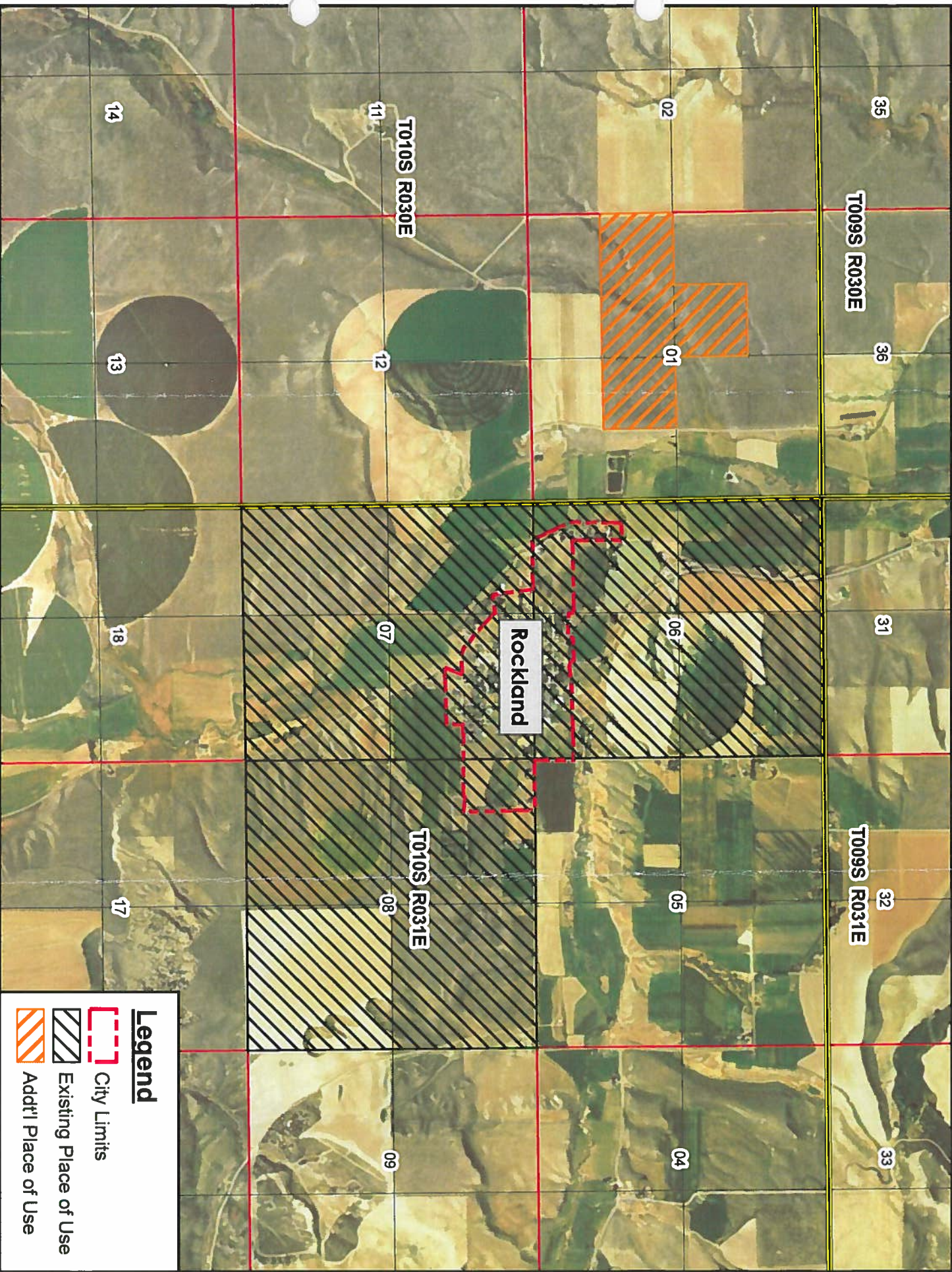
Sincerely,

City of Rockland

Eddy Hansen - Mayor

attachment(s): none

cc: Michael R. Jaglowski, P.E., Keller Associates





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

April 8, 2011

Matthew B Hill
Keller Associates, Inc.
305 North 3rd Ave, Suite A
Pocatello, ID 83201

Sent via e-mail
mhill@kellerassociates.com

RE: City of Rockland Wastewater Improvements Project

Transfer #
77750

Dear Mr. Hill:

Our office has been forwarded your company's letter dated March 16th sent to Dennis Dunn in IDWR's Idaho Falls Office. Please note that the Rockland Wastewater Project is located in IDWR's Southern Region service area.

I have reviewed your letter requesting comment along with your description of the project and the map of the project.

Based on my understanding of the project I wish to comment on the following:

Although the description provided did not describe in detail what construction activity may be involved in improving the collection system or moving waste water from the storage lagoons on the east side of Rock Creek to the land application site on the west side of Rock Creek, if stream channels are altered please be advised that a Stream Channel Alteration permit from the state may be required. You should also contact the Army Corp of Engineers to determine what they may require regarding this project. Forms for SCA permits may be obtained at:

<http://www.idwr.idaho.gov/RulesStatutesForms/StreamChannel/StreamChannelForms.htm>

There may be a question about the need for a water right for use of the waste water at the land application site. Apparently the law regarding use of waste water by municipalities has not been fully developed in Idaho. I have attached two IDWR memorandums for your review. The first is the subject of "Waste water" and the second is the subject of "Water right transfers". I have also attached a proof report of water right 41-4023 which I presume is associated with this project being the municipal water right serving the area.

I have sought clarification from Department Administration about the need for covering the land application site with a water right. It is the Department's desire and requirement that some sort of water right recording be made to cover the site. The primary purpose of the recording would be for the Department to be able to track the water uses and distinguish them from unauthorized water uses during review of imagery and water right shapefiles.

Under current policy of the Department, a water right filing is not required if the land application of waste water is proposed on a place of use with an existing water right providing a supply of water for irrigation. (This is the situation common to dairy waste water land application sites where waste water is normally mixed with other water sources to irrigate crop land with valid water rights.) I find no record of a water right for irrigation at the proposed Rockland waste water land application site. Normally for most water users if the disposal of waste water is proposed by land application to cultivated fields or other beneficial use of the waste water, and a water right does not exist for the beneficial use at the proposed location, then a transfer is required to describe the location under the water right from which the waste water originates. A transfer to add the location of the land application of waste water will not be considered an enlargement of the right, but must meet other statutory criteria for approval. In the situation of a "municipal" water right, a transfer may not be required to be filed to change the location of the place of use (See attached "Water right transfers" memo) but at a minimum the Department must be provided an accurate map of the service area of the municipal use. Note that "municipal purpose" is defined by Section 42-202B of the IDAHO CODE as:

"Municipal purposes" refers to water for residential, commercial, industrial, irrigation of parks and open space, and related purposes, excluding use of water from geothermal sources for heating, which a municipal provider is entitled or obligated to supply to all those users within a service area, including those located outside the boundaries of a municipality served by a municipal provider.

The Department interprets "related purposes" to include application of waste water from the municipal system since adequate disposal of the waste is obligated to the city. This interpretation by the Department does not include direct application of water from the municipal system for growing of crops on agricultural land. The Department makes a distinction between the fresh water and waste water from a municipal system.

An alternative that the Department has applied in the past would be for the landowner (city) to file an application for permit for the beneficial use of waste water at the land application site. The use would not be considered a new consumptive use requiring mitigation (if in a moratorium or fully appropriated area) as long as the waste water supply is delivered directly from the city to the land application site for the purpose of treatment of the waste water.

If you have questions, please feel free to contact this office.

Regards,



Allen Merritt, PE
Southern Region Manager

Encl