Andrew J. Waldera [ISB No. 6608]
Sawtooth Law Offices, PLLC
1101 W River St, Ste 110
PO Box 7985
Boise, ID 83707-7985
Office: (208) 629-7447 x216
Fax: (208) 629-7559
andy@sawtoothlaw.com
Attorneys for Pioneer Irrigation District

Christopher H. Meyer [ISB No. 4461]
Preston N. Carter [ISB No. 8462]
Michael P. Lawrence [ISB No. 7288]
GIVENS PURSLEY LLP
601 W Bannock St
PO Box 2720
Boise, Idaho 83701-2720
Office: 208-388-1200 x236
Fax: 208-388-1300
chrismeyer@givenspursley.com
mpl@givenspursley.com
Attorneys for City of Nampa

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF RIVERSIDE'S PETITION FOR DECLARATORY RULING REGARDING NEED FOR A WATER RIGHT UNDER REUSE PERMIT NO. M-255-01	Docket No. P-DR-2020-01 **SUBMISSION OF EXHIBITS K-T**

The City of Nampa and Pioneer Irrigation District, in cooperation and coordination with Riverside Irrigation District, Idaho Power Company, the Association of Idaho Cities, the Hayden Area Regional Sewer Board, and the Cities of Boise, Caldwell, Idaho Falls, Jerome, Meridian, Pocatello, Post Falls, and Rupert, hereby submit true and correct copies of the documents identified below.

Exhibit K Map Showing Irrigation Districts within Nampa's Area of City Impact 8

Exhibit L Current Agreement between Pioneer Irrigation District and City of Nampa for Municipal Irrigation System (Sept. 9, 1974) 9

Exhibit M 2019 Billing from Pioneer Irrigation District to City of Nampa for 2,984.77 Acres 14

Exhibit N 2019 Billing from Boise Kuna Irrigation District to City of Nampa for 436.90 acres 15

Exhibit O 2019 Billing from Nampa & Meridian Irrigation District to City of Nampa for 4,077.93 Acres 17

Exhibit P Spreadsheet of Pioneer Irrigation District Water Rights 19

Exhibit Q Riverside Comments on Reuse Permit 20

Exhibit R IDEQ's Response to Riverside's Comments 24

Exhibit S Wastewater Re-use Partnership: City of Nampa and Pioneer Irrigation District – Different Source But Hardly Revolutionary (presentation by Andy Waldera) 29

Exhibit T Minutes – Nampa City Council (Feb. 20, 2018) (agenda item #29 – Nampa Wastewater Treatment Plant Facility Plan) (pages 1, 31-47) 31

Respectfully submitted this 11th day of September, 2020.

SAWTOOTH LAW OFFICES, PLLC

Andrew J. Waldera

Attorneys for Pioneer Irrigation District

GIVENS PURSLEY LLP

Christopher H. Meyer
Michael P. Lawrence

Attorneys for City of Nampa

I HEREBY CERTIFY that on this 11th day of September, 2020, the foregoing was filed, served, and copied as shown below.

DOCUMENT FILED:

IDAHO DEPARTMENT OF WATER RESOURCES	☐	U. S. Mail
P.O. Box 83720	☒	Hand Delivered
Boise, ID 83720-0098	☐	Overnight Mail
Hand delivery or overnight mail:	☐	Fax
322 East Front Street	☐	E-mail
Boise, ID 83702		
Fax: (208) 287-6700		

SERVICE COPIES TO:

Albert P. Barker	☐	U. S. Mail
BARKER ROSHOLT & SIMPSON LLP	☐	Hand Delivered
PO Box 2139	☐	Overnight Mail
Boise, ID 83701-2139	☐	Fax
apb@idahowaters.com	☒	E-mail
Fax: (208) 344-6034		
Hand delivery or overnight mail:		
1010 W Jefferson St, Ste 102		
Boise, ID 83702		
(For Riverside Irrigation District Ltd.)		

Charles L. Honsinger	☐	U. S. Mail
HONSINGER LAW, PLLC	☐	Hand Delivered
PO Box 517	☐	Overnight Mail
Boise, ID 83701	☐	Fax
honsingerlaw@gmail.com	☒	E-mail
Fax: (208) 908-6085		
(For City of Meridian and City of Caldwell)		

Abigail R. Germaine Deputy City Attorney BOISE CITY ATTORNEY'S OFFICE PO Box 500 Boise, ID 83701-0500 agermaine@cityofboise.org Fax: (208) 384-4454 Hand delivery or overnight mail: 150 N Capitol Blvd Boise, ID 83702 *(For City of Boise)*	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail
Nancy Stricklin MASON & STRICKLIN, LLP PO Box 1832 Coeur d'Alene, ID 83816-1832 nancy@mslawid.com Fax: (888) 809-9153 *(For Hayden Area Regional Sewer Board)*	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail
Sarah A. Klahn SOMACH SIMMONS & DUNN 2033 11th Street, #5 Boulder, CO 80302 sklahn@somachlaw.com Fax: (720) 535-4921 *(For City of Pocatello)*	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail
Candice M. McHugh Chris M. Bromley MCHUGH BROMLEY, PLLC 380 S 4th St, Ste 103 Boise, ID 83702 cbromley@mchughbromley.com cmchugh@mchughbromley.com Fax: (208) 287-0864 *(For Association of Idaho Cities, City of Jerome, City of Post Falls, and City of Rupert)*	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail

John K. Simpson BARKER ROSHOLT & SIMPSON LLP PO Box 2139 Boise, ID 83701-2139 jks@idahowaters.com Fax: (208) 344-6034 Hand delivery or overnight mail: 1010 W Jefferson St, Ste 102 Boise, ID 83702 *(For Idaho Power Company)*	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail
Andrew J. Waldera SAWTOOTH LAW OFFICES, PLLC PO Box 7985 Boise, ID 83707-7985 andy@sawtoothlaw.com Fax: (208) 629-7559 Hand delivery or overnight mail: 1101 W River St, Ste 110 Boise, ID 83702 *(For Pioneer Irrigation District)*	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail
Robert L. Harris HOLDEN KIDWELL HAHN & CRAPO, PLLC PO Box 50130 Idaho Falls, ID 83405-0130 rharris@holdenlegal.com Fax: (208) 523-9518 Hand delivery or overnight mail: 1000 Riverwalk Drive, Ste 200 Idaho Falls, ID 83402 *(For City of Idaho Falls)*	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail

COURTESY COPIES:

Gary L. Spackman Director IDAHO DEPARTMENT OF WATER RESOURCES PO Box 83720 Boise, ID 83720-0098 gary.spackman@idwr.idaho.gov Fax: (208) 287-6700 Hand delivery or overnight mail: 322 E Front St Boise, ID 83702	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail

Garrick L. Baxter Deputy Attorney General IDAHO DEPARTMENT OF WATER RESOURCES PO Box 83720 Boise, ID 83720-0098 garrick.baxter@idwr.idaho.gov Fax: (208) 287-6700 Hand delivery or overnight mail: 322 E Front St Boise, ID 83702	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail
Sean H. Costello Deputy Attorney General IDAHO DEPARTMENT OF WATER RESOURCES PO BOX 83720 BOISE, ID 83720-0098 sean.costello@idwr.idaho.gov Fax: (208) 287-6700 Hand delivery or overnight mail: 322 E Front St, Ste. 648 Boise, ID 83702	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail
Kimberle W. English Paralegal IDAHO DEPARTMENT OF WATER RESOURCES PO Box 83720 Boise, ID 83720-0098 kimberle.english@idwr.idaho.gov Fax: (208) 287-6700 Hand delivery or overnight mail: 322 E Front St, Ste. 648 Boise, ID 83702	☐ ☐ ☐ ☐ ☒	U. S. Mail Hand Delivered Overnight Mail Fax E-mail

Christopher H. Meyer

Exhibit K **MAP SHOWING IRRIGATION DISTRICTS WITHIN NAMPA'S AREA OF CITY IMPACT**

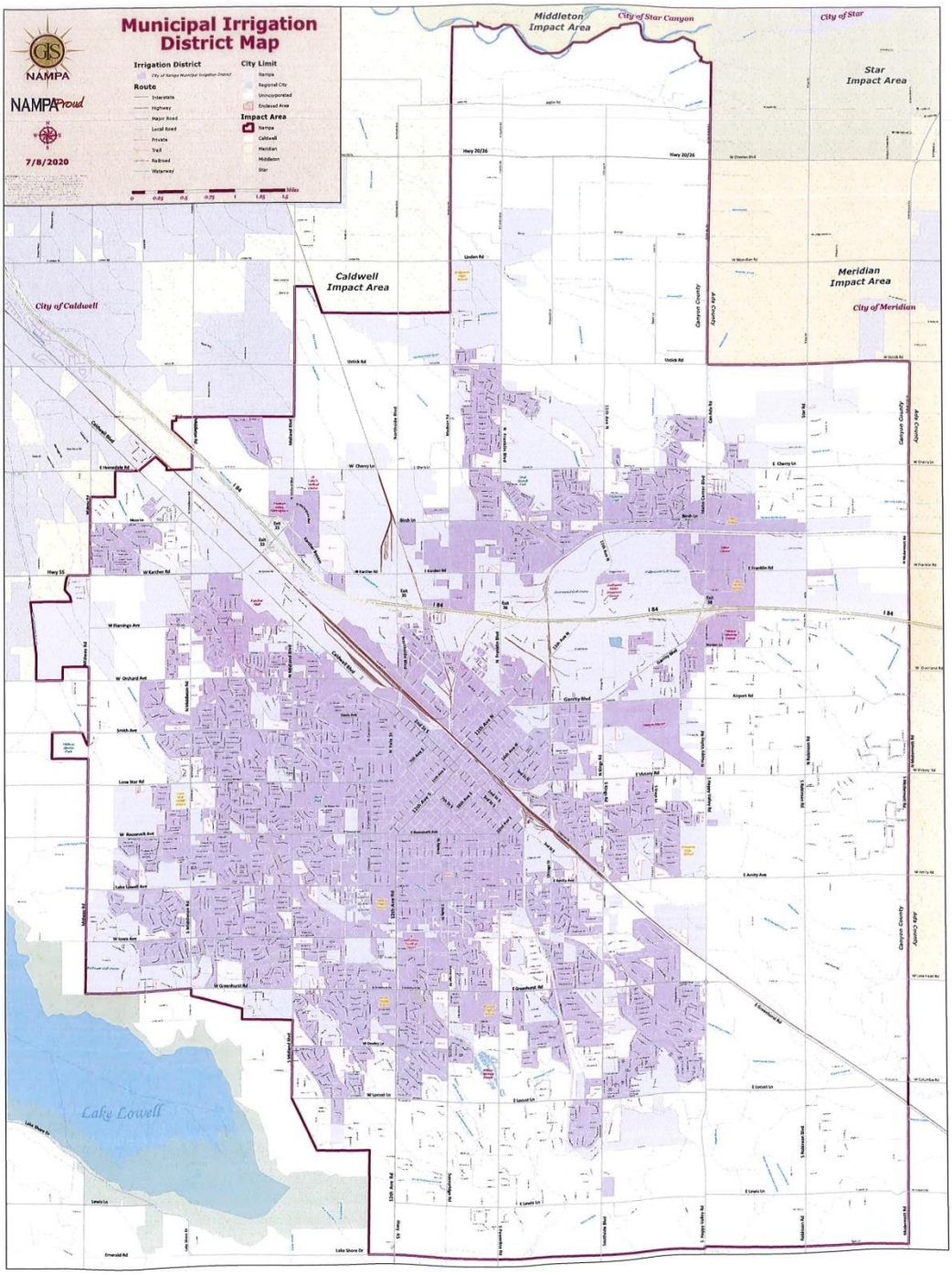


Exhibit L **CURRENT AGREEMENT BETWEEN PIONEER IRRIGATION DISTRICT AND CITY OF NAMPA FOR MUNICIPAL IRRIGATION SYSTEM (SEPT. 9, 1974)**

ELAM, BURKE, JEPPESEN, EVANS & BOYD
ATTORNEYS AT LAW
1010 BANK OF IDAHO BUILDING
P. O. BOX 1539
BOISE, IDAHO 83701

A G R E E M E N T

THIS AGREEMENT, Made and entered into this 9th day of September, 1974, by and between PIONEER IRRIGATION DISTRICT, a quasi municipal corporation, of Canyon and Ada Counties, State of Idaho, party of the first part, hereinafter referred to as District and CITY OF NAMPA in Canyon County, Idaho, party of the second part, hereinafter referred to as City, WITNESSETH:

WHEREAS, the City has established a municipal irrigation system under the provisions of Chapter 18 Title 50 of the Idaho Code (I. C. 50-1801 et seq.) and

WHEREAS, certain of the lands within the said system are also within the boundaries of the District, and

WHEREAS, the parties desire to contract as authorized by the statutes of the State of Idaho for distribution of water and collection and remission of irrigation district assessments;

NOW, THEREFORE, It is hereby mutually agreed that the District shall deliver to designated delivery points in the City hereinafter set forth, and the City assumes the duty of distribution of water from the irrigation works and systems of the District to the persons having the right to the use thereof in such City and served by said municipal irrigation system. The designated delivery point shall be at or near the junction of 8th Avenue and 5th Street North in said City, together with other small related delivery points along the side of the Phyllis Canal. The irrigation water for the irrigation of the property described in Exhibit A which is attached hereto and made a part hereof as if set forth in full herein, shall be in such quantities as may be required for the same so long as there is sufficient water available therefor; provided, that in times of shortage, the amount of irrigation water to be delivered to said lots shall not be less than the amount properly applicable or due to other lands within the District in the same general area under the Phyllis Canal.

ELAM, BURKE, JEPPESEN, EVANS & BOYD
ATTORNEYS AT LAW
1010 BANK OF IDAHO BUILDING
P. O. BOX 1289
BOISE, IDAHO 83701

The City shall receive the water at such delivery point and shall deliver the same to and upon all of the lots covered by the terms of this contract, and shall maintain and operate and make all necessary and proper improvements and repairs to and upon the ditches and other means of such distribution, and shall make and prescribe any and all proper rules and regulations in connection therewith.

It is further agreed that the expenses of distribution of said water under this agreement, including the improvement and repair of ditches, conduits or other means used in such distribution within the boundaries of the District shall be paid by the City.

It is further agreed that in view of the services to be rendered by said City in distributing the water to the lands covered by this Agreement, the amount to be levied or assessed each year by said District for operation and maintenance and the Anderson Ranch payment against the lots and lands covered by this Agreement, shall be the same amount levied for the operation and maintenance, and Anderson Ranch payment per acre on lands of said District not included in the amount levied by said City and by it paid to said District on or before March 1st of each year during the term of this Agreement as a toll in the same manner as other tolls levied by said District are paid.

It is further agreed that this Agreement shall not affect the making of such additional levies and assessments against lots included within this contract as may be required for the payment of bond and interest and other charges against the said lots as have heretofore or may hereafter be apportioned; that the City shall have no interest in redemptions for taxes or assessments levied by the District on said lots covered by this Agreement or in the proceeds of the property acquired by the District by tax sale, it being understood that the City is to accept the cash

collected by it in full of the amount due it under the terms of this Agreement.

IT IS MUTUALLY UNDERSTOOD AND AGREED That this Agreement shall become effective on the 9th day of September, 1974, and shall continue in force and effect until terminated by resolution of either party, which resolution must be adopted and notice given the other party prior to February 1st of the year in which such termination shall take effect.

The lands covered by this Agreement are described in Exhibit A attached hereto and by this reference made a part hereof as if set out in full.

This Agreement is entered into pursuant to resolutions of the respective parties hereto duly and regularly adopted authorizing the same.

PIONEER IRRIGATION DISTRICT

By Wayne Naugle
Chairman

ATTEST:

Hazel A. Robinson
Secretary

CITY OF NAMPA

By Ernest E. Starr
Mayor

ATTEST:

Charlene Baltzer
Secretary

ELAM, BURKE, JEPPESEN, EVANS & BOYD
ATTORNEYS AT LAW
1010 BANK OF IDAHO BUILDING
P. O. BOX 1559
BOISE, IDAHO 83701

STATE OF IDAHO)
) ss.
County of Canyon)

On this 9th day of September, 1974, before me, the undersigned, a Notary Public in and for said State, personally appeared Wayne Naugle and Hazel A. Robinson known to me to be the Chairman and Secretary respectively of Pioneer Irrigation District, and acknowledged to me that they executed the same on behalf of said corporation.

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

Alice L. Moore
Notary Public for Idaho
Residing at ~~Caldwell~~ Nampa, Idaho

STATE OF IDAHO)
) ss.
County of Canyon)

On this 8th day of August, 1974, before me, the undersigned, a Notary Public in and for said State, personally appeared Ernest E. Stauss and Charlene Baltzer known to me to be the Mayor and ~~Secretary~~ City Clerk respectively of the City of Nampa, and acknowledged to me that they executed the same on behalf of the City of Nampa.

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

Josephine Horn
Notary Public for Idaho
Residing at Nampa, Idaho
My Commission expires July 9, 1977

ELAM, BURKE, JEPPESEN, EVANS & BOYD
ATTORNEYS AT LAW
1010 BANK OF IDAHO BUILDING
P. O. BOX 1539
BOISE, IDAHO 83701

GLAM, BURKE, JEPPESEN, EVANS & BOYD
ATTORNEYS AT LAW
1010 BANK OF IDAHO BUILDING
P. O. BOX 1500
BOISE, IDAHO 83701

EXHIBIT "A"

The lands covered by this contract are all those portions of Griffith and King Addition, Duffee's Addition and Young's Addition, which are within the limits of both City and District, described as follows:

Commencing at the intersection of the North line of Third Street North with the right of way of the Boise Branch of the Oregon Short Line Railroad Company; thence East to the Phyllis Canal; thence Southeast between Lots 8 and 9 and Lots 4 and 5, Block 131, Griffith & Kings Addition to Nampa; thence Southwest to the center line of Fifth Street North; thence Southeast to the center line of Eleventh Avenue; thence Southwest on Eleventh Avenue to a point opposite the line between Lots 10 and 11, Block 116, Griffith & King Addition; thence Southeast to alley of said block; thence Southwest fifty (50) feet; thence Southeast on a line between Lots 3 and 4, Block 116 and Lots 9 and 10 and 3 and 4, Block 117 to center line of Thirteenth Avenue; thence Northeast to center line of Fifth Street North; thence Southeast to center line of Fourteenth Avenue; thence Southwest to center line of Fourth Street North; thence Southeast to center line of Fifteenth Avenue; thence Southwest to center line of First Street North; thence Northwest to alley in Block 85 Duffee's Addition; thence Northeast to South corner of Lot 12 in said Block 85; thence Northwest to center line of Ninth Avenue; thence Northeast to center line of Second Street North; thence Northwest to center line of Eighth Avenue; thence Southwest to center line of First Street North; thence Northwest to O.S.L. RR right of way; thence North along said right of way to the place of beginning.

Containing 100 acres more or less.

Also:

A subdivision known as Lincoln Park Manor as now of record in the Canyon County Recorder's office, Canyon County, Idaho, consisting of 14.1 acres, more or less, and all within the Corporate limits of the City of Nampa and being in Section 21, Township 3 North, Range 2 West, Boise Meridian.

A subdivision known as West Park Subdivision as now of record in the Canyon County Recorder's office, consisting of 4.5 acres and lying within the Corporate limits of the City of Nampa, Canyon County, Idaho, in Section 20, Township 3 North, Range 2 West, Boise Meridian, Canyon County, Idaho.

Exhibit M **2019 BILLING FROM PIONEER IRRIGATION DISTRICT TO CITY OF NAMPA FOR 2,984.77 ACRES**

2402 Done 10/23/19 LC

Pioneer Irrigation District

FY19 5308070-5526 LD

P.O. BOX 426 • CALDWELL, IDAHO 83606
(208) 459-3617
www.pioneerirrigation.com

October 10, 2019

Nampa Municipal Irrigation District - City of Nampa
Attention: Accounts Payable
224 11th Avenue South
Nampa, ID 83651
Fax: 465-2248 & 468-5731

RE: 2019 Irrigation Assessments – Pioneer Account #7777

Please be advised that the Nampa Municipal Irrigation District is being assessed as follows:

2019 irrigation assessment on 100 acres at 2/3 of regular rate ($79.00 per acre x 2/3 = $52.67 per acre)	$5,267.00
2019 irrigation assessment on previous annexations of 2,804.4 acres at $79.00 per acre	$221,547.60
Annexations since 2018 billing Ordinance #4403 Dated 9/17/18 0.95 acres Ordinance #4417 Dated 2/19/19 79.42 acres 80.37 acres	
2019 irrigation assessment on current annexations of 80.37 acres at $79.00 per acre	$6,349.23

I HEREBY CERTIFY THE AMOUNT OF **$233,163.83** IS NOW DUE AND PAYABLE. If you have questions regarding this billing, please do not hesitate to call me.

Sincerely,

Amber O'Neal

Amber O'Neal
Secretary/Treasurer

100
2804.4
80.37
2,984.77

Exhibit N **2019 BILLING FROM BOISE KUNA IRRIGATION DISTRICT TO CITY OF NAMPA FOR 436.90 ACRES**

Boise-Kuna Irrigation District - Parcel Payment Information

Code: 480 B **Precinct:** 2

Customer: Nampa, City of

Contact / Address:
c/o Lyndsee Dunbar
24 1st S S
Nampa, ID 83651-0000

Subdiv:
Acres: 436.90 **County:** C
Camp: C-3 **County**
Rider: 9
Legal: See Comments
Sec.3,4,9 2N 2W
Sec.31,32,33 3N 2W

Comments: 0.33 Ac.(480) 10/3/95 for 1995 Fall. 39.78 Ac. (487 A), 80.66 Ac.(495 B) Ord# 2678, 10/20/97. 16.66 Ac. (480 D), 7.78 ac (490), 3.00 ac (485 A) Ord #2778 12/1/98. 20.79 Ac (494) Ord #2887, 3/7/00. De-Annex 65.15 ac Ord#2946, 9/5/00. 5.40 ac (480 C) Ord#3012. 9.80 ac (484), 10.04 ac (495 B) Ord#3014, 7/3/01. 1.33 ac (488 A) Ord#3032. (490) (489-1) Ord#3048. 8.35 Ac. 10/12/01, 4.28 Ac. 1.13 ac (491A) .69 ac (494 A3) .26 ac (494 A6) 1.24 ac (494 B1) 56 ac (494 B2) Ord #3116 6/4/02. 0 .63 ac (491 B) 0.67 ac (494 A1) Ord#3137 8/6/02. 14.78 Ac. Ord#3164 (495 B,Pt.) 10/7/02. 16.73 Ac Ord#3190 (Pt.495B) 1/7/03. 21.70 Ac Ord#3231 (495 B) 7/1/03. 1.90 ac Ord#3278 (495 D) 12/2/03. 1.91 Ac Ord#3363 (480A) 7/6/04. 18.4 Ac (481), 5.37 (514 A) Ord#3403 12/04. 16.35 ac (481) Ord#3616 9/5/06. 7.96 ac Ord #3646 (Pt 124 B) 11/20/06. 0.52 ac (125 D1) & 0.60 ac (125 D2) Ord#3716 6/18/07. 16.96 ac (120) & 16.76 (117) Ord#3742 10/15/07. 2.63 ac (514) Ord #3870 5/18/09. 9.72 ac (481) Ord #3904 2/3/10. 17.96 ac (124 B) Ord #3930 10/31/10. 24.82 ac (121) Ord #3962 4/18/11. Moved 15.29 ac back to 124 B to correct Ord #3930 transfer 7/1/13. 15.24 ac (pt 114-116) Ord #4125 7/17/14. 13.15 ac (pt 114-116) Ord #4184 7/15/15. 10.66 ac (pt 114-116) Ord #4226 2/29/16. 13.41 ac (pt 114-116) Ord #4328

Boise-Kuna Irrigation District - Parcel Payment Information

9/8/17. 33.22 ac (118), 23.77 ac (pt 112) Ord #4486 2.4.2020.

GL Code	Amount	Type	Date	Paid by	Season
2019.5	664.84	Bill	10/31/2019		D
2019.5	(664.84)	Credit	12/19/2019		D
2019.6	20.00	Bill	10/31/2019		D
2019.6	(20.00)	Credit	12/19/2019		D
2020.1	26,213.79	Bill	10/31/2019		S
2020.1	(26,213.79)	Credit	12/19/2019		S
2020.2	(7,218.29)	Credit	10/31/2019		S
2020.2	7,218.29	Credit	12/19/2019		S
Total	$0.00				

Exhibit O 2019 BILLING FROM NAMPA & MERIDIAN IRRIGATION DISTRICT TO CITY OF NAMPA FOR 4,077.93 ACRES

NAMPA & MERIDIAN IRRIGATION DISTRICT
1503 FIRST STREET SOUTH, NAMPA, ID 83651-4395
Assessment Number Report

Assessment #
5000 X - -

MailTo: CITY OF NAMPA - WATERWORKS
24 1ST ST S
NAMPA ID 83651-3707

Deeded_1: CITY OF NAMPA

Canyon County Parcel #:
This is a City Association

Legal Description:
NAMPA CITY INCLUSIONS PER CONTRACT

Status:	Active
Roll:	Tax_Roll
Tax Group:	Regular
TCCA:	No
LID:	
Bankruptcy:	No
Delinquent:	No

Actual Acres:	4,077.93
District Land:	No
Urban Irrigation:	
Pending Segregation:	No
Pending Exclusion:	No
Tax Deed:	No

Tax Roll 2018

Assessment Expense:	16.75
District Drainage:	21,217.76
Ridenbaugh Maintenance:	154,103.97
Project Maintenance:	306,706.96
Urban Irrigation:	0.00

Project Operation & Maintenance

Project O&M 2019:	305,772.93
Excess Delivery 2018:	0.00

Unpaid Receivables:

Description	Tax	Penalty	Interest	Fees/Costs	Other	Total
(none)						

TOTAL DUE 11-Oct-2019 $0.00

Prepared: 25-Sep-2019 2:34 pm sla

Page 1 of 20

NAMPA & MERIDIAN IRRIGATION DISTRICT
1503 FIRST STREET SOUTH, NAMPA, ID 83651-4395
Assessment Number Report

Assessment #
5000 X - -

Paid Receivables:

Till Date	Pmt Amt	Description	Tax	Penalty	Interest	Fees/ Costs	Other	Total	Status
29-Nov-2018	482,045.44	Tax Roll 2018	482,045.44					482,045.44	Paid
06-Nov-2017	478,094.01	Tax Roll 2017	478,094.01					478,094.01	Paid
18-Nov-2016	471,761.17	Tax Roll 2016	471,761.17					471,761.17	Paid
28-Oct-2015	447,415.66	Tax Roll 2015	447,415.66					447,415.66	Paid
17-Nov-2014	152,028.13	Tax Roll 2014	152,028.13					152,028.13	Paid
21-Mar-2014	265,290.59	Project O&M 2014	265,290.59					265,290.59	Paid
05-Nov-2013	387,086.67	Tax Roll 2013	387,086.67					387,086.67	Paid
12-Dec-2012	122,246.19	Tax Roll 2012	122,246.19					122,246.19	Paid
22-Feb-2012	249,284.72	Project O&M 2012	249,284.72					249,284.72	Paid
12-Dec-2011	114,343.67	Tax Roll 2011	114,343.67					114,343.67	Paid
29-Mar-2011	249,105.02	Project O&M 2011	249,105.02					249,105.02	Paid
03-Nov-2010	113,160.53	Tax Roll 2010	113,160.53					113,160.53	Paid
23-Feb-2010	257,399.94	Project O&M 2010	257,399.94					257,399.94	Paid
17-Nov-2009	122,146.44	Tax Roll 2009	122,146.44					122,146.44	Paid
17-Feb-2009	236,542.28	Project O&M 2009	236,542.28					236,542.28	Paid
10-Nov-2008	102,238.85	Tax Roll 2008	102,238.85					102,238.85	Paid
02-Sep-2008	191,997.88	Project O&M 2008	191,997.88					191,997.88	Paid
29-Oct-2007	279,536.28	Tax Roll 2007	279,536.28					279,536.28	Paid
29-Nov-2006	85,233.06	Tax Roll 2006	85,233.06					85,233.06	Paid
07-Mar-2006	156,250.76	Project O&M 2006	156,250.76					156,250.76	Paid
29-Nov-2005	82,954.78	Tax Roll 2005	82,954.78					82,954.78	Paid
30-Mar-2005	142,205.82	Project O&M 2005	142,205.82					142,205.82	Paid
24-Nov-2004	67,344.78	Tax Roll 2004	67,344.78					67,344.78	Paid
21-Apr-2004	131,366.87	Project O&M 2004	131,366.87					131,366.87	Paid
17-Dec-2003	67,196.36	Tax Roll 2003	67,196.36					67,196.36	Paid
30-May-2003	32,847.76	Tax Roll 2002 2nd Half	32,847.76					32,847.76	Paid
25-Mar-2003	126,707.35	Project O&M 2003	126,707.35					126,707.35	Paid
20-Dec-2002	32,847.77	Tax Roll 2002 1st Half	32,847.77					32,847.77	Paid
25-Mar-2002	30,692.27	Tax Roll 2001 2nd Half	30,692.28					30,692.28	Paid
25-Mar-2002	99,688.57	Project O&M 2002	99,688.57					99,688.57	Paid
12-Dec-2001	30,692.30	Tax Roll 2001 1st Half	30,692.29					30,692.29	Paid
30-May-2001	30,832.21	Tax Roll 2000 2nd Half	30,832.21					30,832.21	Paid
27-Mar-2001	95,178.01	Project O&M 2001	95,178.01					95,178.01	Paid
14-Dec-2000	30,832.23	Tax Roll 2000 1st Half	30,832.23					30,832.23	Paid

Extended Project O&M/Excess:

Description	Tax
Project O&M 2018	305,236.00
Project O&M 2017	300,620.39
Project O&M 2016	297,717.60
Project O&M 2015	295,796.67
Project O&M 2013	258,386.53
Project O&M 2007	183,389.83

Water and Drainage Rights:

Ridenbaugh Miner's Inches:	1,740.34	Ridenbaugh Drainage Acres:	2,595.63	Ridenbaugh Acre Feet:	844.92
Ridenbaugh Acres:	2,594.24	Project Drainage Acres:	5,156.26	Project Acre Feet:	7,821.79
Project Miner's Inches:	3,227.37	Settlers Drainage Acres:		Arrowrock Acre Feet:	170.96
Project Acres:	5,154.01	New York Drainage Acres:			

Water Delivery:

Delivery Agent	Lateral	Tap	Rotate	RMI	RA	PMI	PA
NMID	BRAY	1988	No	176.53	252.27	2.94	4.69
NMID	CONY	1775	No	32.87	49.88	56.13	89.79
NMID	CONY	4512	No			1.04	1.66

Prepared: 25-Sep-2019 2:34 pm sla

Exhibit P SPREADSHEET OF PIONEER IRRIGATION DISTRICT WATER RIGHTS

Exhibit 6 - List of Pioneer Irrigation District Water Rights									
Type	Basin	Sequence	Suffix	Basis	Priority Date	Div. Rate (cfs)	Source	Water Use	Owner
WR	63	161	BU	Decreed	5/1/1866	21.715	BOISE RIVER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	224		Decreed	9/1/1890	200	BOISE RIVER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	225		Decreed	4/1/1904	56.34	BOISE RIVER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	294		Decreed	4/1/1905	306.56	BOISE RIVER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	295		Decreed	4/1/1908	54.5	BOISE RIVER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	371		Decreed	6/1/1884	53.1	BOISE RIVER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	2114		Decreed	10/15/1909	8.64	INDIAN CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	2275		Decreed	9/8/1915	60	WILSON DRAIN	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	2276		Decreed	9/8/1915	43	MASON CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	2294		Decreed	4/3/1916	50	FIVEMILE CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	2529	A	Decreed	12/21/1936	87.1	GROUND WATER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	2529	B	Decreed	12/21/1936	10	INDIAN CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	2891		Decreed	1/23/1952	10	WILSON DRAIN	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	5199		Decreed	10/15/1950	3.8	GROUND WATER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	5200		Decreed	6/18/1958	7.56	GROUND WATER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	5219		Decreed	8/1/1961	18	INDIAN CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	5237		Decreed	8/15/1929	16	INDIAN CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	5255		Decreed	5/24/1920	2.17	INDIAN CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	9109		Decreed	1/25/1978	5.04	GROUND WATER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	10169		Decreed	8/11/1983	0.04	GROUND WATER	DOMESTIC	PIONEER IRRIGATION DISTRICT
WR	63	11622		License	1/17/1992	4.91	GROUND WATER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	21706		Decreed	4/1/1961	0.1	BOISE RIVER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	21713		Decreed	4/1/1913	15	PIPE GULCH DRAW CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	21714		Decreed	10/3/1963	0.04	GROUND WATER	DOMESTIC	PIONEER IRRIGATION DISTRICT
WR	63	21716		Decreed	3/7/1939	0.04	GROUND WATER	DOMESTIC	PIONEER IRRIGATION DISTRICT
WR	63	21731		Decreed	6/1/1918	76.6	FIVEMILE CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	21739		Decreed	5/1/1957	9.64	ELIJAH DRAIN	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	32496		Decreed	2/11/1977	0.44	GROUND WATER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	32514		Decreed	5/1/1935	35	FIVE MILE CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	32515		Decreed	5/1/1935	53	MASON CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	32584		Decreed	10/15/1910	1.56	INDIAN CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	32832		Decreed	4/25/1977	1.2	GROUND WATER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR	63	32834		Decreed	4/25/1977	0.6	GROUND WATER	IRRIGATION	PIONEER IRRIGATION DISTRICT
WR App	63	34644			11/29/2018	30	MASON CREEK	IRRIGATION	PIONEER IRRIGATION DISTRICT

Exhibit Q RIVERSIDE COMMENTS ON REUSE PERMIT

Barker Rosholt & Simpson LLP

Boise
1010 W. Jefferson St. Suite 102
Boise, Idaho 83702
p. 208.336.0700
f. 208.344.6034

Attorneys
John A. Rosholt
Albert P. Barker
John K. Simpson
Travis L. Thompson
Scott A. Magnuson
Jonas A. Reagan

Albert P. Barker
EMAIL: apb@idahowaters.com
PHONE: 208.336.0700
WEB: idahowaters.com

November 27, 2019

Via Email: ***valerie.greear@deq.idaho.gov***

Valerie Greear
Senior Water Quality Engineer
DEQ Boise Regional Office
1445 N. Orchard St.
Boise, ID 83706

Re: Comments and Objections to DEQ Reuse Permit M-25501 for the City of Nampa

Dear Ms. Greear,

This submission is made on behalf of Riverside Irrigation District, Ltd. with respect to the draft waste water reuse permit proposed to be issued to the City of Nampa. The Department stated it will accept public comment on this draft through November 29, 2019.

Riverside Irrigation District, Ltd. (Riverside) is an irrigation delivery entity formed under the laws of the State of Idaho. It delivers water to 10,000 acres of irrigated land west of Nampa, on the south side of the Boise River. Indian Creek is a primary source of water for Riverside. Riverside diverts from Indian Creek at the Riverside Canal west of the City of Caldwell. Riverside has the right to divert approximately 180 cfs of water from Indian Creek under Water Rights 63-2279 and 63-2374 with priority dates reaching back to 1915 and 1922. In recent years Riverside has invested significant amounts of money to automate its headgates and operate its system to maximize its ability to use its Indian Creek water rights.

Riverside is disturbed by the proposal from the City of Nampa and Pioneer Irrigation District (Pioneer) to gift Pioneer approximately 20 cfs of water, which water is currently returned to Indian Creek from the City of Nampa's outfall. As IDEQ Staff Analysis for the proposed reuse permit describes, Pioneer will take all of this 20 cfs of water during the irrigation season that otherwise would be released and discharged to Indian Creek to supplement the natural flow of Indian Creek. Pioneer then proposes to utilize this 20 cfs of water during the irrigation season on 17,000 acres of land within Pioneer's district boundaries to the north and west of the City of Nampa. The proposed reuse permit does not require any of the reuse water to be reused within the City of Nampa's municipal irrigation district, irrigation system or the City's service area. Rather all the water is to be discharged to the Phyllis Canal for use by Pioneer water users, as it

sees fit with no conditions and without regard whether the water users are within the City of Nampa delivery system.

Significantly, Pioneer does not have a water right to use any of this 20 cfs of water on any land within the Pioneer Irrigation District boundaries. In this reuse scheme, Pioneer is not recapturing its own waste water, but instead is attempting to capitalize on the City of Nampa's concern over phosphorous limitations that will in the future apply to the outfall from its waste water treatment plant into Indian Creek. Yet, under Idaho law, no person may "apply water to land" without having a valid water right to do so. Idaho Code § 42-201(2). Pioneer has no valid water right to use this water and has not made any application to obtain a water right to use this new source of water on Pioneer land.

Under IDAPA § 58.17.01.600.01.d the Department is required to account for legal considerations relative to land use and water rights. Nothing in the City's application, the proposed permit or the staff analysis even attempts to undertake any evaluation of water rights for Pioneer, the City or the impact to other water rights. Any reuse permit should be expressly conditioned to require the City and Pioneer to protect existing water rights diverted from Indian Creek, including Riverside's water rights including providing appropriate mitigation for injury. Riverside attempted to work with Pioneer to come up with such conditions, but Pioneer has refused to engage with Riverside to discuss any potential conditions on the use of the City of Nampa's waste water that would offer any protection to the Indian Creek water users. At the very least, the Department should condition approval of the reuse permit on the City and Pioneer obtaining approval of the water use from IDWR.

Neither the draft permit nor the staff analysis evaluates the impact of shifting water away from the discharge outfall at Indian Creek on the beneficial uses in Indian Creek resulting from the reduction by flows during the irrigation season. Nor does the draft permit or the staff analysis evaluate the impact on Riverside's or other water rights users who rely upon Indian Creek for their water source. Riverside is not the only user that relies on water from Indian Creek. A number of other water users do as well and could also be injured.

It is also important to understand the distinction between water distributed to Pioneer for Pioneer's use on over 17,000 acres, as described in the draft reuse permit and staff analysis, and any attempt by the City of Nampa to recapture water for its own use. The City is not recapturing its own waste water and putting it to use on its own lands. As a result, this proposed permit is not a true reuse permit at all, but instead is a disguised transfer of water from the City to Pioneer. Since this application is not truly a request by the City to reuse the water itself, IDEQ lacks the authority to grant a reuse permit as it is currently proposed. This transfer of water has not been authorized by the Department of Water Resources. If IDWR were to review this transfer, IDWR would be required to evaluate the impact on and injury to other water users, even junior users. from such a transfer. *See* Idaho Code 42-222. None of these analyses has been done by IDWR, IDEQ, the City or Pioneer.

The staff analysis asserts that there is some assurance that water discharged from the City of Nampa to the Phyllis Canal will not find its way back to jurisdictional waters. This is naïve at

best. Currently there are two spills directly to Indian Creek from the Phyllis Canal. The permit and staff analysis contend that the City and Pioneer will in the future place automation in the system to prevent those spills. But there is no analysis of the effectiveness of the automation that has yet to be installed, tested or evaluated for efficacy. Second, the application proposed permit and staff analysis recognized that there are spills and overflows in storm events from Pioneer's system into jurisdictional waters. Yet, those discharges are ignored for the purposes of determining impacts to jurisdictional waters.

Under IDEQ rules and guidance, a surface water body "includes but is not limited to rivers, streams, canals, ditches, lakes and ponds." (emphasis added) Discharges to surface waters may require an NPDES or IPDES permit. Yet, none is required under the terms of this reuse permit. For example, the City of Wilder has an NPDES permit for discharge to the Wilder drain, which is a source of water for Wilder Irrigation District canals. Jerome Cheese has an NPDES permit to discharge to the Northside Canal.

Nor does the draft permit analyze the effect of introduction of additional phosphorous through the Phyllis Canal to lands where the reuse water containing higher concentration of phosphorous could contaminate ground water. The staff analysis and the proposed reuse permit recognize that ground water is, in places, within five (5) feet of the surface. IDEQ reuse guidance requires the protection of surface and ground water from excessive phosphorous and requires control of that phosphorous. The proposed reuse permit allows land application to Pioneer's lands in areas where the water will percolate to shallow ground water and back to surface water. Riverside sees no effort to mitigate impacts to surface water from ground water interconnections that may be affected by the phosphorous in the water discharged to Phyllis Canal.

It also appears that nothing in the permit or in the staff analysis imposes standard permit conditions on Pioneer's use of the waste water. IDAPA § 58.01.17.500.03 requires the permittee to operate and maintain all structures, equipment or control and monitoring devises installed to achieve compliance with the permit and to provide the director of DEQ authority to access the facility and to inspect the records, the equipment and the operations. Since the Phyllis Canal and its distribution system is now proposed to be part of City of Nampa's recycled water or waste water treatment, those conditions must be imposed not simply on the City of Nampa (as the permittee), but also on Pioneer for its use of the Phyllis Canal and other distribution facilities, including the reinjection locations into Indian Creek. If the reuse water is pumped into the Phyllis Canal, any permit should require the City and Pioneer to provide the Director of DEQ to have the access to inspect all of the conveyance system and all the property where the recycled water is supplied. The Director should also have authority over any changes or alterations to the operations of the Pioneer's delivery system under DEQ's waste water and recycled water rules.

Riverside would appreciate receiving a response to its comments and hearing how this permit will be condition to protect existing water rights.

//

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP

Albert P. Barker

cc: Riverside Irrigation District

APB/aje

Exhibit R IDEQ'S RESPONSE TO RIVERSIDE'S COMMENTS

STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1445 North Orchard • Boise, Idaho 83706 • (208) 373-0550
www.deq.idaho.gov

Brad Little, Governor
John H. Tippets, Director

January 21, 2020

Mr. Albert Barker
Barker Rosholt & Simpson LLP
1010 W. Jefferson St. Ste 102
Boise ID 83702

Re: City of Nampa, Reuse Permit M-255-01
Draft Reuse Permit Public Comments, Response to Comments

Dear Mr. Barker:

Thank you for your comments regarding the City of Nampa Draft Reuse Permit M-255-01 submitted to the Idaho Department of Environmental Quality (DEQ) in a letter dated November 27, 2019. Responses to your comments are attached to this letter.

Should you have any questions regarding these responses, please contact me at (208) 373-0459, or via email at Valerie.Greear@deq.idaho.gov.

Sincerely,

Valerie A. Greear, P.E.
Water Quality Engineering Manager

Enclosure: Response to Comments on Draft Reuse Permit M-255-01

ec: Nate Runyan, P.E., Deputy Public Works Director, City of Nampa
Larry Waters, P.E., DEQ Wastewater Bureau Chief
Hannah Young, Deputy Attorney General
2019AGH1854

RECEIVED JAN 27 2020

Printed on Recycled Paper

Response to Comments from the Barker Rosholt & Simpson LLP submitted on behalf of Riverside Irrigation District, Ltd. dated November 27, 2019 on Draft Reuse Permit M-255-01

1. **Comment:**

Riverside is disturbed by the proposal from the City of Nampa and Pioneer Irrigation District (Pioneer) to gift Pioneer approximately 20 cfs of water, which water is currently returned to Indian Creek from the City of Nampa's outfall. As IDEQ Staff Analysis for the proposed reuse permit describes, Pioneer will take all of this 20 cfs of water during the irrigation season that otherwise would be released and discharged to Indian Creek to supplement the natural flow of Indian Creek. Pioneer then proposes to utilize this 20 cfs of water during the irrigation season on 17,000 acres of land within Pioneer's district boundaries to the north and west of the City of Nampa. The proposed reuse permit does not require any of the reuse water to be reused within the City of Nampa's municipal irrigation district, irrigation system or the City's service area. Rather all the water is to be discharged to the Phyllis Canal for use by Pioneer water users, as it sees fit with no conditions and without regard whether the water users are within the City of Nampa delivery system.

Significantly, Pioneer does not have a water right to use any of this 20 cfs of water on any land within the Pioneer Irrigation District boundaries. In this reuse scheme, Pioneer is not recapturing its own waste water, but instead is attempting to capitalize on the City of Nampa's concern over phosphorous limitations that will in the future apply to the outfall from its waste water treatment plant into Indian Creek. Yet, under Idaho law, no person may "apply water to land" without having a valid water right to do so. Idaho Code § 42-201(2). Pioneer has no valid water right to use this water and has not made any application to obtain a water right to use this new source of water on Pioneer land.

Under IDAPA § 58.17.01.600.01 .d the Department is required to account for legal considerations relative to land use and water rights. Nothing in the City's application, the proposed permit or the staff analysis even attempts to undertake any evaluation of water rights for Pioneer, the City or the impact to other water rights. Any reuse permit should be expressly conditioned to require the City and Pioneer to protect existing water rights diverted from Indian Creek, including Riverside's water rights including providing appropriate mitigation for injury. Riverside attempted to work with Pioneer to come up with such conditions, but Pioneer has refused to engage with Riverside to discuss any potential conditions on the use of the City of Nampa's waste water that would offer any protection to the Indian Creek water users. At the very least, the Department should condition approval of the reuse permit on the City and Pioneer obtaining approval of the water use from IDWR.

Neither the draft permit nor the staff analysis evaluates the impact of shifting water away from the discharge outfall at Indian Creek on the beneficial uses in Indian Creek resulting from the reduction by flows during the irrigation season. Nor does the draft permit or the staff analysis evaluate the impact on Riverside's or other water rights users who rely upon Indian Creek for their water source. Riverside is not the only user that relies on water from Indian Creek. A number of other water users do as well and could also be injured.

It is also important to understand the distinction between water distributed to Pioneer for Pioneer's use on over 17,000 acres, as described in the draft reuse permit and staff analysis, and any attempt by the City of Nampa to recapture water for its own use. The City is not recapturing its own waste water and putting it to use on its own lands. As a result, this proposed permit is not a true reuse permit at all, but instead is a disguised transfer of water from the City to Pioneer. Since this application is not truly a request by the City to reuse the water itself, IDEQ lacks the authority to grant a reuse permit as it is currently proposed. This transfer of water has not been authorized by the Department of Water Resources. If IDWR were to review this transfer, IDWR would be required to evaluate the impact on and injury to other water users, even junior users, from such a transfer. See Idaho Code 42-222. None of these analyses has been done by IDWR, IDEQ, the City or Pioneer.

Response: Thank you for bringing this issue to our attention. DEQ does not regulate water rights, nor have the ability to provide a response to the issues raised in this comment. Section 10 of the reuse permit states "Compliance with this permit does not relieve the permittee from applicable requirements in other federal, state, and local laws, statutes, and rules." The City has been informed of this concern.

2. **Comment:**

The staff analysis asserts that there is some assurance that water discharged from the City of Nampa to the Phyllis Canal will not find its way back to jurisdictional waters. This is naive at best. Currently there are two spills directly to Indian Creek from the Phyllis Canal. The permit and staff analysis contend that the City and Pioneer will in the future place automation in the system to prevent those spills. But there is no analysis of the effectiveness of the automation that has yet to be installed, tested or evaluated for efficacy. Second, the application proposed permit and staff analysis recognized that there are spills and overflows in storm events from Pioneer's system into jurisdictional waters. Yet, those discharges are ignored for the purposes of determining impacts to jurisdictional waters.

Response: Compliance Activity CA-255-02 in Section 3 of the reuse permit requires that the City include in the Plan of Operation the procedures to eliminate the spill to Moses Drain. This is required prior to recycled water being discharged to the Phyllis Canal and will be subject to DEQ review and approval; the plan will be analyzed at that time. This section will include the details of how the system will work, how the system will communicate with the operators so that they can ensure the system is working, the maintenance required and emergency notifications if the system fails at any time.

DEQ recognizes that spills may occur, and there is a potential for recycled water to enter jurisdictional waterways from recycled water applications. In these rare occasions, these noncompliances must be reported to DEQ in accordance with the reporting requirements of IDAPA 58.01.17.500.06 and Section 7 of the reuse permit, along with a summary of events reported in the annual report required in Section 6 of the reuse permit.

3. **Comment:**

Under IDEQ rules and guidance, a surface water body "includes but is not limited to rivers, streams, canals, ditches, lakes and ponds." (emphasis added) Discharges to surface waters may require an NPDES or IPDES permit. Yet, none is required under the terms of this reuse permit. For example, the City of Wilder has an NPDES permit for discharge to the Wilder drain, which is a source of water for Wilder Irrigation District canals. Jerome Cheese has an NPDES permit to discharge to the Northside Canal.

Response: The City of Nampa submitted an application for a Reuse Permit, and therefore DEQ responded within the agency's authorities under the Recycled Water Rules. The City is required to comply with all requirements of any other applicable federal, state, and local laws, statutes, and rules.

Wilder has an NPDES permit issued by EPA. The NPDES permit issued by EPA to Jerome Cheese has been terminated.

4. **Comment:**

Nor does the draft permit analyze the effect of introduction of additional phosphorous through the Phyllis Canal to lands where the reuse water containing higher concentration of phosphorous could contaminate ground water. The staff analysis and the proposed reuse permit recognize that ground water is, in places, within five (5) feet of the surface. IDEQ reuse guidance requires the protection of surface and ground water from excessive phosphorous and requires control of that phosphorous. The proposed reuse permit allows land application to Pioneer's lands in areas where the water will percolate to shallow ground water and back to surface water. Riverside sees no effort to mitigate impacts to surface water from ground water interconnections that may be affected by the phosphorous in the water discharged to Phyllis Canal.

Response: The reuse permit limits phosphorus concentration in the discharge to 0.35 mg/L, which would be up to 54.2 pounds/day and is approximately the same concentration of phosphorus in the canal currently. Had DEQ attempted to do the analysis in accordance with the guidance as discussed in the comment, the limit would likely have been higher. In lieu of this analysis, DEQ included the concentration used to calculate the wintertime allocation for the city from the Lower Boise River TMDL: 2015 Total Phosphorus Addendum. This requirement is considered conservative, and was included in recognition that phosphorus is a non-point source watershed issue, not only when discharged directly to the impacted water body.

5. **Comment:**

It also appears that nothing in the permit or in the staff analysis imposes standard permit conditions on Pioneer's use of the waste water. IDAPA § 58.01.17.500.03 requires the permittee to operate and maintain all structures, equipment or control and monitoring devises installed to achieve compliance with the permit and to provide the director of DEQ authority to access the facility and to inspect the records, the equipment and the operations. Since the Phyllis Canal and its distribution system is now proposed to be part of City of Nampa's recycled water or waste water treatment, those conditions must be imposed not simply on the City of Nampa (as the permittee), but also on Pioneer for its use of the Phyllis Canal and other distribution facilities, including the reinjection locations into Indian Creek. If the reuse water is pumped into the Phyllis Canal, any permit should require the City and Pioneer to provide the Director of DEQ to have the access to inspect all of the conveyance system and all the property where the recycled water is supplied.

The Director should also have authority over any changes or alterations to the operations of the Pioneer's delivery system under DEQ's waste water and recycled water rules.

Response: For recycled water, the point at which the City will be required to comply with the terms and conditions of the permit is at the point of discharge. Therefore the City must maintain all structures and equipment up until that point, provide DEQ with access to inspect the system up until that point, and be subject to engineering review up until that point. This is commonly referred to as the "point of compliance", after which point the water is considered to be irrigation water and is no longer regulated by DEQ.

Many requirements of the Recycled Water Rules apply to most standard permitted scenarios, i.e. application of water to a single or several fields designated specifically for reuse, but Class A reuse does not necessarily fall into that scenario. Class A water compliance is considered "end of pipe," and compliance with the treatment and disinfection requirements to meet Class A recycled water must be met at that "point of compliance," after which point the water can be used with minimal further requirements.

Exhibit S **WASTEWATER RE-USE PARTNERSHIP: CITY OF NAMPA AND PIONEER IRRIGATION DISTRICT – DIFFERENT SOURCE BUT HARDLY REVOLUTIONARY (PRESENTATION BY ANDY WALDERA)**

2019 IWUA SUMMER WATER LAW AND RESOURCE ISSUES SEMINAR

Andy Waldera
Sawtooth Law Offices, PLLC

Wastewater Re-Use Partnership: City of Nampa and Pioneer Irrigation District—Different Source But Hardly Revolutionary

Partnership and collaboration between the City of Nampa and Pioneer Irrigation District is not new, and while Class A recycled wastewater (IDAPA 58.01.17) may be a new source of water, recycling and re-using wastewater within Pioneer's boundaries is hardly a new concept. Some estimate that surface water diverted for irrigation purposes in the Treasure Valley is recycled and re-used upwards of nine times over, and Pioneer is a major player in that field owing to its location in the valley.

Located largely in a topographic "bowl" spanning northwest Nampa and most of Caldwell, Pioneer's approximately 34,000 acres receive, manage, and re-use irrigation return flows (both surface and shallow groundwater) from upgradient irrigation entities including Settlers Irrigation District, Nampa & Meridian Irrigation District, and various Boise Project Board of Control entities. What was once a confounding nuisance (waterlogging of lands across nearly a third of the district), was plumbed (via construction of roughly 100-mile network of drains, drainage wells, and feeder canals) for opportunity beginning as early as 1913.

Each of Pioneer's three delivery canals (the Phyllis, Highline, and Lowline) rely on the input of drain water to meet patron irrigation demand. The Phyllis and Highline Canals use drain water from Fivemile and Fifteenmile Drains, respectively, to supplement live and storage flow diversions from the Boise River and Lowline Canal deliveries are comprised entirely of drain water diverted from Wilson Drain (which also serves as the source of water for Black Canyon Irrigation District's Notus Canal). While a pipeline leading to the Phyllis Canal from the Nampa WWTP may not be a feeder canal diversion from a typical "drain," it's not very different either. And, in many respects, Class A recycled wastewater is cleaner that that diverted from traditional agricultural drains (particularly in terms of sediment load). When Nampa approached Pioneer with its concept proposal, Pioneer immediately recognized value in the opportunity. Hopefully, the regulatory community does too.

Anticipated Benefits:

- Ever-present and reliable source of supplemental water supply, up to 41 cfs at build out;
- Passive, gravity-based flow from Pioneer's perspective (no pumping costs);
- Alternative source off-setting declining drain flow sources elsewhere at worst, storage water savings opportunity at best (declining drain flows are a considerable concern within

Pioneer's boundaries—in some locations drain flows have declined to the point where Pioneer cannot pump from them anymore);

- Practical plumbing solution—input of water downstream of lava rock canal channel choke point (which also increases upstream canal operations margin for safety);
- Facility automation and related efficiency opportunities (which also serve the purpose of addressing "tributary" concerns);
- Municipal pump station cross-connection and "regionalizing" opportunities; and
- Cleaner, less sediment laden source of water

Potential Concerns:

- Regulatory path and red tape (DEQ-based re-use permit is a must, no interest in NPDES program treatment);
- Capital expenditures (mitigated by city funding infrastructure construction);
- Cleaner water (perhaps less sediment laden, but what about other constituents);
- WWTP upsets (have seen other local dischargers fail to meet permit limits—mitigated by regular effluent testing, on-site WWTP storage capacity, and municipal corporation status);
- Seasonality (mitigated by general lack of off-season discharge/no interference with canal maintenance);
- Ability to cease discharge in emergency situations (mitigated by on-site WWTP storage capacity and ability to spill to Indian Creek if necessary);
- Increased O&M costs (primarily aquatic weed growth and treatment potential owing to higher temperature water and potential Phosphorus contents—mitigated by city chemical cost contribution willingness and effluent matching historic canal background Phosphorus levels);
- Indemnification from water quality exceedances and city solely responsible for NPDES permit compliance concerning its WWTP operations; and
- Public perception over recycled wastewater use (not revolutionary in either the irrigation or WWTP effluent settings, particularly in other states)

Exhibit T **MINUTES – NAMPA CITY COUNCIL (FEB. 20, 2018) (AGENDA ITEM #29 – NAMPA WASTEWATER TREATMENT PLANT FACILITY PLAN) (PAGES 1, 31-47)**

REGULAR COUNCIL
February 20, 2018

Mayor Kling called the meeting to order at 6:30 p.m.

Clerk made note that Councilmembers Skaug, Haverfield, Levi, Hogaboam, Bruner, and Rodriguez were present.

Mayor Kling presented a request to amend the agenda by adding Summary of publication for Item #24 - 1st Reading of Election Ordinance Calling a Special Municipal Bond Election for Phase II Upgrades of the Wastewater Improvements Project.

MOVED by Bruner and **SECONDED** by Hogaboam to **approve** the **amendment to the agenda** by adding Summary of publication for Item #24 - 1st Reading of Election Ordinance Calling a Special Municipal Bond Election for Phase II Upgrades of the Wastewater Improvements Project. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

MOVED by Levi and **SECONDED** by Hogaboam to **approve** the **Consent Agenda with the above mentioned amendment as presented;** Regular Council Minutes of February 5, 2018**; Bicycle and Pedestrian Advisory Committee Minutes; Board of Appraisers Minutes; Airport Commission Minutes; Planning & Zoning Commission Minutes; Library Commission Minutes; IT Steering Committee Minutes; department reports, bills paid;** The City Council dispenses with the three (3) reading rule of Idaho Code § 50-902 for all ordinances; **final plat extensions**: 1) Request for First 1-Year Extension of Subdivision Final Plat Approval for Brookdale Estates Subdivision No. 5, Located Between E Cherry Ln and E Birch Ln, and 11th Ave N and Kensington Ave, in an RS-7 Zoning District for JUB Engineers, Representing Trilogy Development. Request to Extend 02/06/2017 Approval, Expiring 02/06/2018 to 02/06/2019; **final and preliminary plat approvals:** 1) Subdivision Short Plat Approval for Vineyard Suites on the Boulevard Subdivision at TBD W Corporate Lane and 707 Caldwell Blvd. and Conditional Use Permit for Senior Apartments at TBD W Corporate Lane. for New Beginnings Housing, LLC - Greg Urrutia; **Authorize Public Hearings**: 1) Annexation and Zoning to IL for Self-Storage at 908 W Karcher Rd. for Civil Site Works Representing Charles and Carmela Ham 2) Modification of Zoning Development Agreement between Needs Koch, LLC and the City of Nampa recorded 08/15/2007 as Inst. #2007056433 amending Bella Commons Phase 1 changing Lot 4, Block 1 from a Commercial Lot to a Multiple Family Residential Lot to Match The Existing Neighborhood; and, Zoning Map Amendment from BN-PUD to RMH-PUD for Summit Development Representing Conquest Properties, LLC; 3) Annexation and RS-6 Zoning for 13.96 acres, and BC for 3.59 Acres at 0 Amity Ave – Parcel R3179901000 for Patrick Colwell, T-O Engineers, Representing Aberdeen Springs Wind, LLC, Fred Cornforth; 4) Zoning Map Amendment from RMH to BC at 172, 174, 176 and 178 E Maine Ave. for Amber Steube Representing Magnolia Investments, LLC; **Authorize to Proceed with Bidding Process: 1)** Authorize the Engineering Division to Proceed with the Formal Bidding Process for the Birch Lift Station Pump Procurement and Pump Installation & Station Upgrade; **Authorization for execution of Contracts and Agreements**: 1) None; **Monthly Cash Report**: 1) None; **Resolutions:** 1) Disposal of Surplus Property for Waterworks; **License for 2017**: *Used Precious Metals* – **None License for 2018:** *Pawnbrokers* **None**; **Miscellaneous Items**: 1) None. Mayor

[Pages 2-30 of Minutes omitted]

separate design [exception] approval from the City Council. **5.** Temporary bollards shall be emplaced at the end of the proposed Lancaster Drive where the same is slated to link to the existing road section in Roosevelt Park Subdivision No. 4, named S Lancaster Drive. The bollards shall be used to deter civil construction contractor access across/through Roosevelt Park Subdivision. The bollards may be removed once the streets (with associated sidewalks, curbs and gutters) are fully constructed and approved by the City to allow for home construction contractors to access Meadowcrest through/from Roosevelt Park Subdivision roads as may be necessary. (Civil work construction traffic for the Development shall access the Property from S Middleton Road. **6.** The proposed Lot 7 of Block 2 shall be removed. Said lot may be emplaced elsewhere in Meadowcrest Subdivision, provided it is not located in the row of lots comprising Block 2 as shown on the approved Preliminary Plat. **7.** A six-foot (6') chain link fence (unless allowed otherwise by the City's Council) along the Orr Drain's southwestern easement edge shall be emplaced in conjunction with adjoining common area improvement(s). Said fencing shall comply with standards found in N.C.C. § 10-27- 6(J)(4).) with the staff recommendation and that the project is phased for **Meadowcrest Subdivision** at the Northeast Corner of Lake Lowell Ave. and So. Middleton Rd. for Hayden Homes Idaho LLC, **Tim Mokwa** and authorize the City Attorney to draw the appropriate Ordinance.

Councilmembers made comments on the request.

Mayor Kling made comments on the request.

The Mayor asked for a roll call vote with Councilmembers Levi, Hogaboam, Bruner, Skaug, Haverfield voting **YES**. Councilmember Rodriguez voting **NO**. The Mayor declared the

MOTION CARRIED

Item #29 - Mayor Kling opened a **public hearing** for **2017 Nampa Wastewater Treatment Plant Facility Plan**, which Contains Technical Components of the Treatment and Discharge Approach (Preferred Alternative).

Michael Fuss had Matt Gregg, Brown and Caldwell; Rosemary Curtin,Public Outreach RBCI; Shelby Smith, Brown and Caldwell; Dave Pergo, Brown and Caldwell; Eric Heringer, Piper Jaffray financial advisor; John Devitt, Skinner Fawset Bond Council; Brandon Coates, RBCI; introduced as the WWTP team.

Introduction

- City staff and the WPMT have been working for 18 months to develop Facility Plan
- Sought input from broad range of community members and stakeholders to inform the planning process

The time is now to make the next, best decision for Nampa.

Matt Gregg from Brown and Caldwell presented the following staff report:

Facility Plan Development Approach

Technical Memos

- TM T-45: Existing Asset Evaluation
- TM T-46: Flow and Load Projections
- TM T-47: Liquid Stream Alternatives BCE
- TM T-49: Capacity Assessment
- TM T-50: Existing Asset Investment Evaluation
- TM T-51: Biosolids End Use Alternatives BCE
- TM T-52: Capital Improvements Plan

NWAG Meetings

- NWAG #1 – January 26, 2017
  - Background information
  - Regulatory requirements (TM T-47)
- NWAG #2 – April 12, 2017
  - Facility Planning Approach (TM T-45, T-46, T-47, T-49)
  - Alternative analysis (TM T-47)
- NWAG #3 – June 14, 2017
  - Alternative analysis (TM T-47)
  - Repair & Replacement Needs (TM T-50)
- NWAG #4 – October 12, 2017
  - Preferred Alternative (TM T-47, T-51)
  - CIP and Delivery Schedule (TM T-52)

1 Community Interests
NWAG/IWG input, CSFs

2 External Demands
Regulatory, growth

3 Asset Performance
Condition, capacity

4 Financial Capacity
Rates, affordability

Community Interests: Critical Success Factors

1. Preserve our natural resources and our environment to promote a caring community where people live, work, play, worship, and raise their families
2. Provide a healthy, professional environment that empowers our employees to succeed
3. Maintain affordable wastewater service for rate payers through long-term, fiscally-sound decision-making
4. Stimulate economic development by efficient utilization of resources and providing sufficient utility capacity
5. Anticipate future regulatory requirements by considering economic ramifications to environmental action

External Drivers: Residential & Industrial Growth

- Nampa WWTP provides treatment for residential, commercial, and industrial wastewater
- Need to plan to provide capacity for expected growth within each sector
  – 2015 Population - 89,000
  – Projected 2040 Population - 154,000 (~70% growth)
- Allocating capacity to expansion within the industrial customer base to support economic development goals

External Drivers: Regulatory Requirements

PHOSPHORUS LIMITS

May 1 – September 30
100 µg/L (0.1 mg/L)
↓ 98%

October 1 – April 30
350 µg/L (0.35 mg/L)
↓ 94%

TEMPERATURE LIMITS

July – September
19 °C (66 °F)
↓ 5 °C

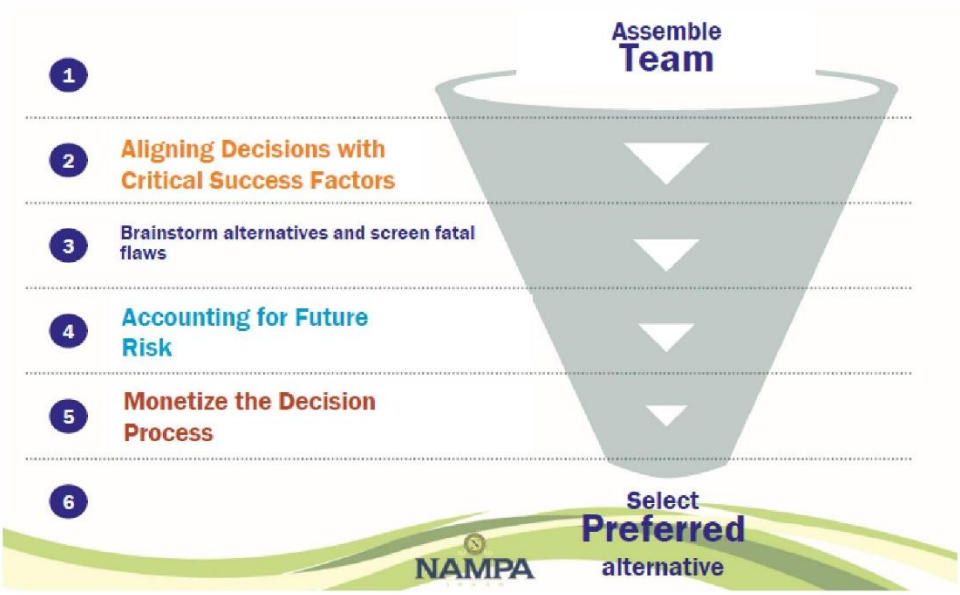
August – Instantaneous Maximum
22.8 °C (73 °F)

Repair and Replacement Projects

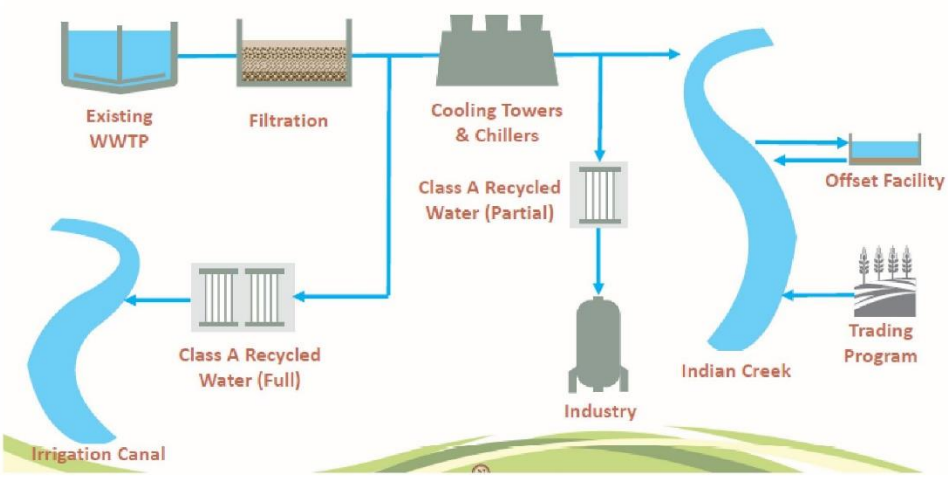
Total Repair and Replacement Costs = $13,2M
Alternatives Summary

Alternative 1 – Treat and Discharge
Alternative 2 – Treat and Discharge Class A Reuse to Industry
Alternative 2.5 – Treat and Discharge to Irrigation with Class A Industry Reuse
Alternative 3 – Treat and Discharge to Irrigation
Alternative 4 – Treat and Offset
Alternative 5 – Treat and Trade
Alternative 6 – Do Nothing More

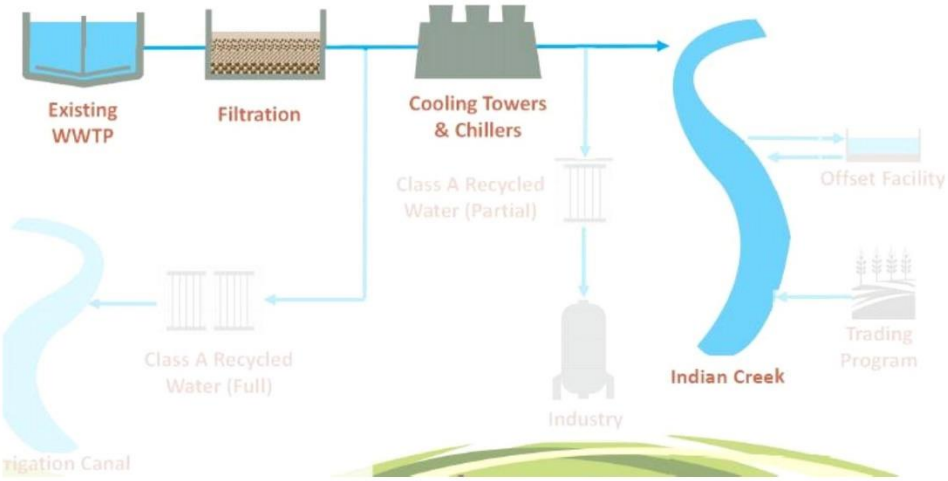
Evaluation Process: Business Case Evaluation



Alternatives Overview



Alternative #1: Treat and Discharge

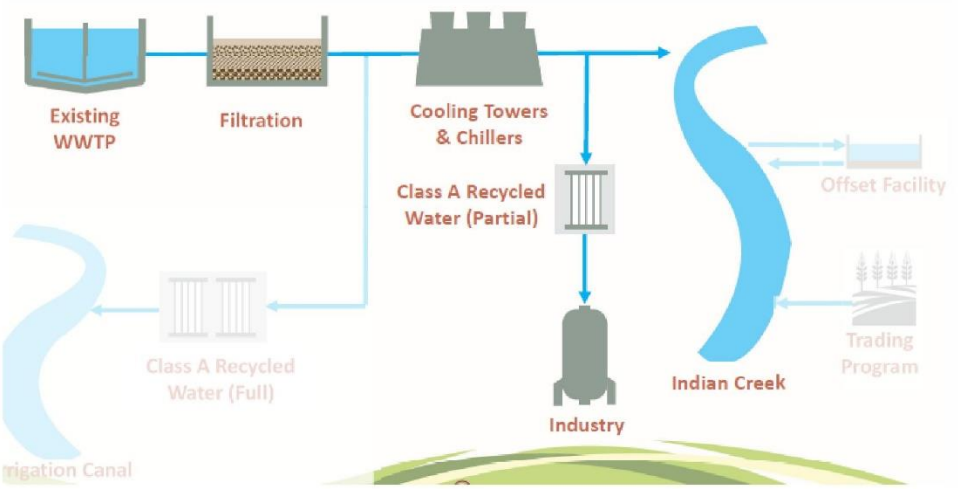


Capital Costs: $115.2 million
Operations & Maintenance Costs: $9.8 million annual average – Total costs from 2026-2040 = $141.8 million
Potential Fatal Flaws: None

Risks and Benefits:

Risks	Benefits
Permit Violations	Potential removal/reduction of temperature requirements
Year-Round TP Limits < 0.35 mg/L	
Regulation of Additional Constituents – Surface Water	
Water Quality Degradation	

Alternative #2: Treat and Discharge Class A



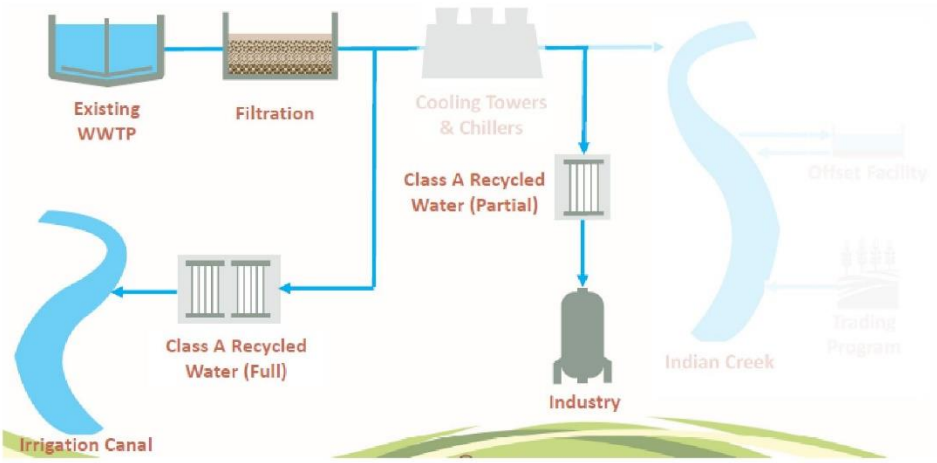
Capital Costs: $119.3 million
Operations & Maintenance Costs: $10.0 million annual average – Total costs from 2026-2040 = $146.2 million

Potential Fatal Flaws: None

Risks and Benefits:

Risks	Benefits
Permit Violations	***Economic Development Opportunity***
Year-Round TP Limits < 0.35 mg/L	***Additional Water Assets***
Regulation of Additional Constituents – Surface Water	Low cost funding availability
Water Quality Degradation	Potential removal/reduction of temperature requirements
Public Perception	
Water Rights	

Alternative #2.5: Irrigation & Industry Reuse



Councilmember Levi asked questions on alternative 2.5.

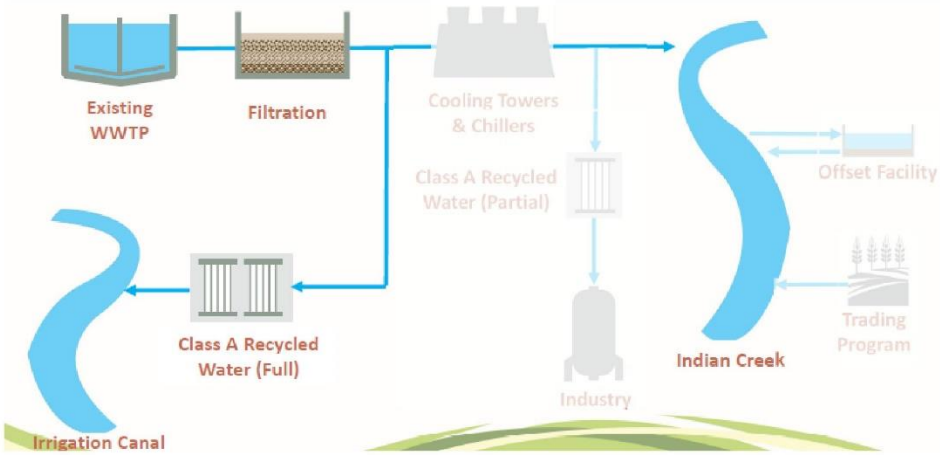
Capital Costs: $120.9 million
Operations & Maintenance Costs: $10.2 million annual average – Total costs from 2026-2040 = $149.3 million

Potential Fatal Flaws: Contract negotiations with irrigation company, regulatory agency permitting

Risks and Benefits:

Risks	Benefits
Permit Violations	***Economic Development Opportunity***
Year-Round TP limits < 0.35 mg/L	***Additional Water Assets***
Regulation of Additional Constituents – Surface Water	Low cost funding availability
Public Perception	
Water Rights	
Continued Contracting with Irrigation Company	
Regulation of Temperature in Irrigation Canals	

Alternative #3: Treat and Irrigation Discharge

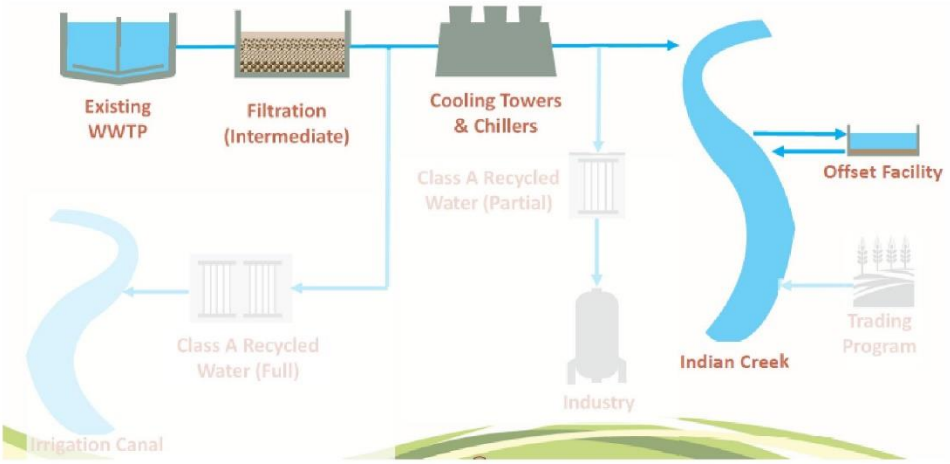


Capital Costs: $117.2 million
Operations & Maintenance Costs: $9.9 million annual average – Total costs from 2026-2040 = $145.6 million
Potential Fatal Flaws: Contract negotiations with irrigation company, regulatory agency permitting

Risks and Benefits:

Risks	Benefits
Permit Violations	Additional Water Assets
Year-Round TP limits < 0.35 mg/L	Low cost funding availability
Regulation of Additional Constituents – Surface Water	
Public Perception	
Water Rights	
Continued Contracting with Irrigation Company	
Regulation of Temperature in Irrigation Canals	

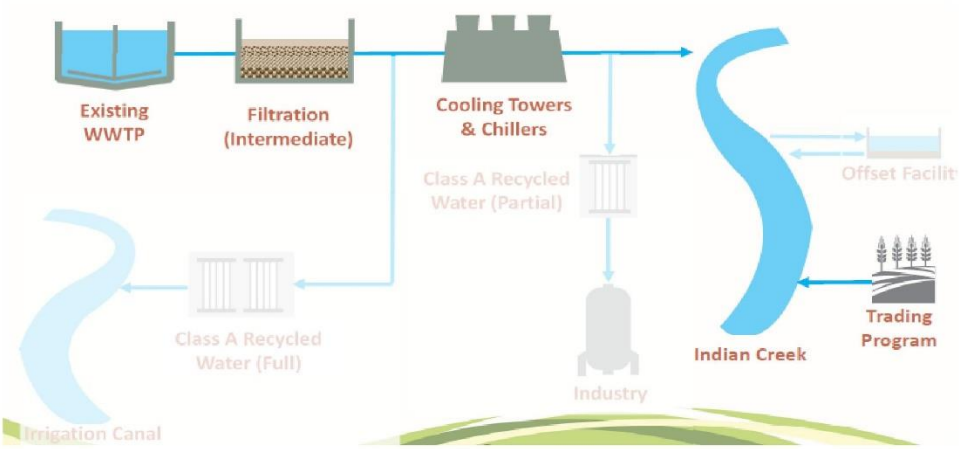
Alternative #4: Treat and Offset



Potential Fatal Flaws: Available land on Indian Creek

Risks and Benefits: N/A

Alternative #5: Treat an Trade



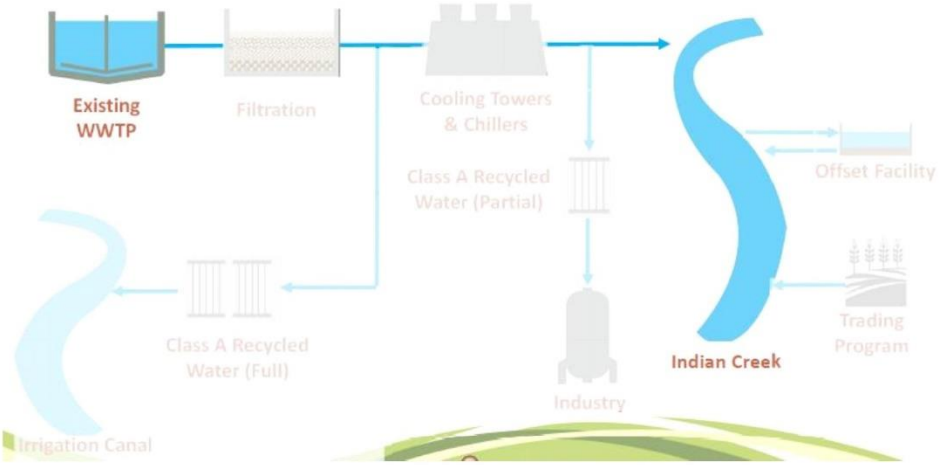
Capital Costs: $99.9 million
Operations & Maintenance Costs: $8.3 million annual average – Total costs from 2026-2040 = $118.6 million

Potential Fatal Flaws: None

Risks and Benefits:

Risks	Benefits
Permit Violations	***Net environmental benefit***
Year-Round TP Limits < 0.35 mg/L	Potential removal/reduction of temperature requirements
Regulation of Additional Constituents – Surface Water	
Water Quality Degradation	
Public Perception	
Trading Ratio Increases	
Credit Availability	

Alternative #6: Do Nothing More



Capital Costs: $0
Operations & Maintenance Costs: $0

Potential Fatal Flaws: None

Risks and Benefits:

Risks	Benefits
Daily Permit Violations (Phosphorus)	
Daily Permit Violations (Temperature)	
Public perception	
Regulation of Additional Constituents – Surface Water	
Legal Costs	

Comparing the Alternatives – 2040

Alternatives	Capital	O&M	Risks	Benefits	2040 Net Present Value
1	$115.2 M	$141.8 M	$41.0 M	$0.3 M	$391.4 M
2	$119.3 M	$146.2 M	$41.4 M	$16.0 M	$381.1 M
2.5	$120.9 M	$149.3 M	$41.6 M	$18.9 M	$382.2 M
3	$117.2 M	$145.6 M	$41.4 M	$1.2 M	$397.5 M
5	$99.9 M	$118.6 M	$92.2 M	$0.9 M	$408.6 M
6	$0	$0	$508.9 M	$0 M	$718.8 M

Evaluation Summary

- Capital and operational costs are similar
- Alternative 5 has the highest level of risk (aside from Do Nothing More) due to the

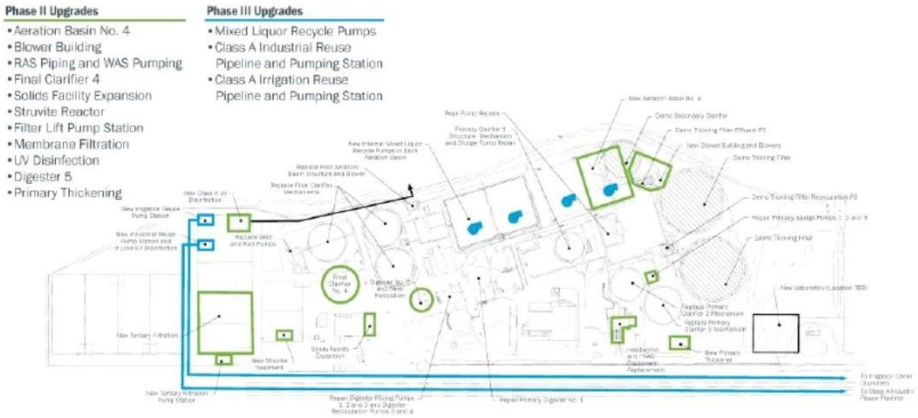
–Uncertainty in the trading framework
– Long-term viability of trading

- Both Alternatives 2 and 2.5 provide benefit of potential economic development
- Alternative 2.5 becomes more favorable as the value of water increases beyond the assumed values

NWAG/Industrial Working Group Feedback

- When asked to choose just one alternative, NWAG members overwhelmingly favored Alternative 2.5
- Alternatives 2 and 2.5 were ranked the highest on comment sheets
  – NWAG members saw value in reusing water and the benefits to industry and/or irrigation customers
  – Members indicated the need to consider the future and long-term growth
- IWG is interested in developing recycled water program and sees potential in industrial reuse
- Alternatives 5 and 6 were ranked the lowest due to concerns with the risks associated

Preferred Alternative: Nampa's Recycled Water Program

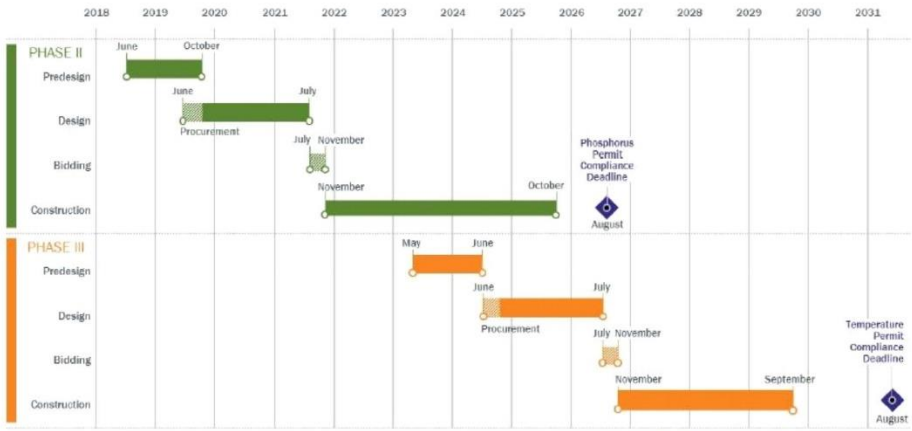


Capital Improvements Plan

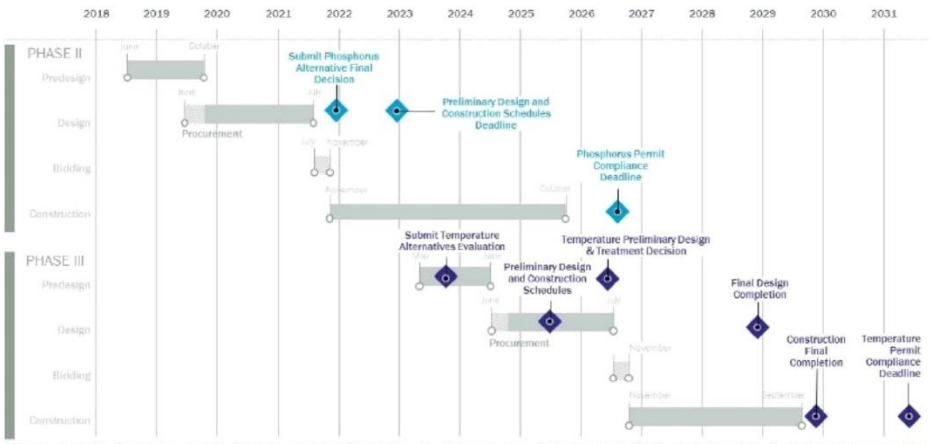
Project Component	Cost*
Phase II Upgrades	$108,957,000
Phase III Upgrades	$11,919,000
Repair and Replacement Projects	$13,223,000
Programmatic Contingency	$15,488,000
TOTAL	**$149,587,000**

**Costs are presented in 2017 dollars.*

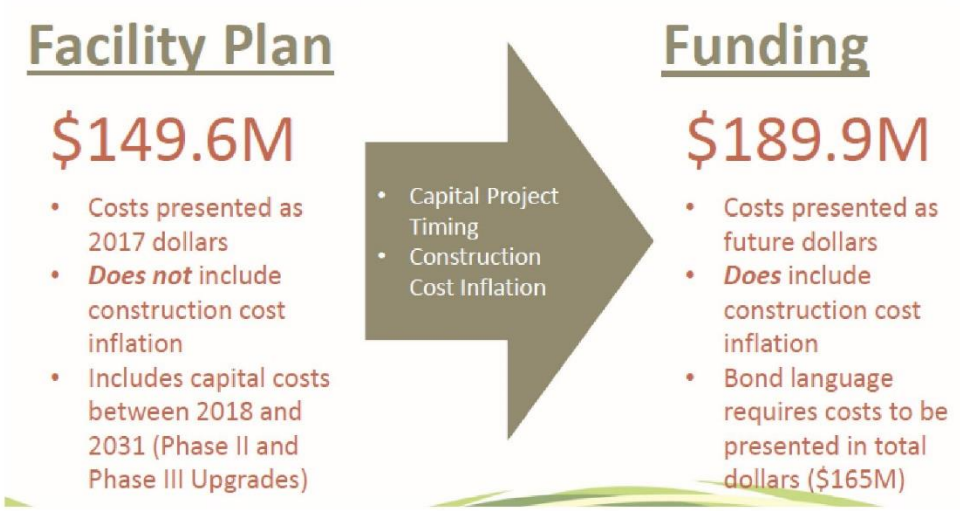
Capital Improvements Schedule



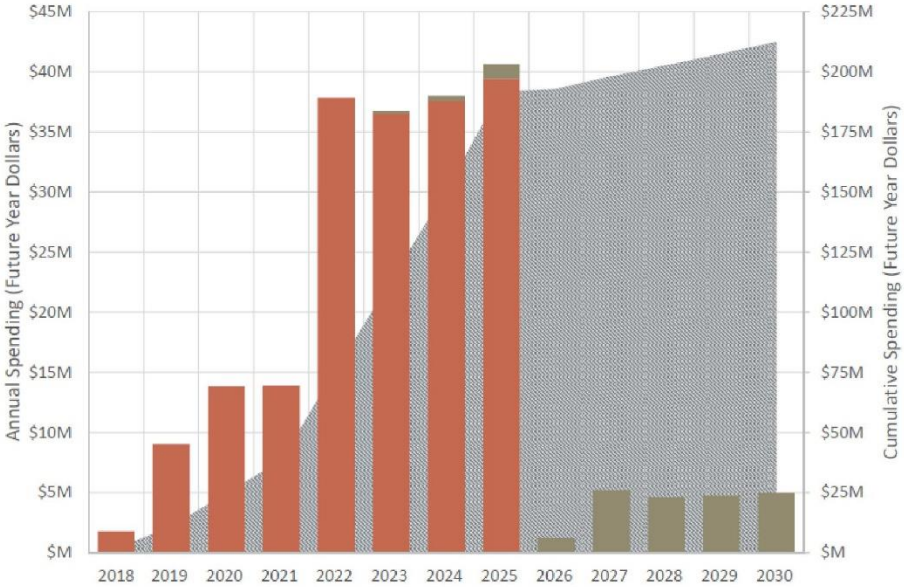
Capital Improvements Schedule



Understanding the Phase II Costs



Capital Improvement Plan Outlays



Facility Plan Review Timing

- December 8th – *Draft Facility Plan delivered to DEQ for technical review*
- January 18th - *DEQ Technical Review Comments Received*
- January 25th - *DEQ Technical Approval*
- January 29th – *Facility Plan available for public review*

Councilmembers asked questions of staff and the consultants.

Those appearing in favor of the request were: Charles Fuller, 116 South Locust Street; Chris Veloz, 721 5th Street South; Hubert Osborne, 4199 East Switzer Way; Paul Raymond 547 South Valley.

Those appearing in opposition to the request were: Klynn Miller, 619 Crocus Court; Eric Erickson, Amalgamated Sugar Company.

Councilmembers asked questions of Eric Erickson.

Mayor Kling asked some questions on the timing of the proposal.

Matt Gregg and Michael Fuss addressed the question that were asked in public testimony.

MOVED by Haverfield and **SECONDED** by Skaug to **close** the **public hearing**. Mayor Kling asked all in favor say aye with all Councilmembers present voting **AYE**. Mayor Kling declared the

MOTION CARRIED

Councilmembers had discussion and made comments on the request.

MOVED by Bruner and **SECONDED** by Skaug to **approve** the wastewater treatment facility plan which contains technical components of treatment and discharge based on the **alternative 2.5.** The Mayor asked for a roll call vote with all Councilmembers present voting **YES**. The Mayor declared the

MOTION CARRIED

Item #16 – The following Ordinance was read by title:

AN ORDINANCE DETERMINING THAT CERTAIN LANDS, COMMONLY KNOWN AS **411 S. HAPPY VALLEY ROAD**, COMPRISING APPROXIMATELY 6.85 ACRES, MORE OR LESS, LAY CONTIGUOUS TO THE CITY LIMITS OF THE CITY OF NAMPA, COUNTY OF CANYON, STATE OF IDAHO, AND THAT SAID LANDS SHOULD BE **ANNEXED** INTO THE CITY OF NAMPA, IDAHO, AS PART OF THE **BC (COMMUNITY BUSINESS) ZONE**; DECLARING SAID LANDS BY PROPER LEGAL DESCRIPTION AS DESCRIBED BELOW TO BE A PART OF THE CITY OF NAMPA, CANYON COUNTY, IDAHO; DIRECTING THE CITY ENGINEER AND PLANNING AND ZONING DIRECTOR TO ADD SAID PROPERTY TO THE OFFICIAL MAPS OF THE CITY OF NAMPA, IDAHO; REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS OR PARTS THEREOF IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE; AND, DIRECTING THE CLERK OF THE CITY OF NAMPA TO FILE A CERTIFIED COPY OF THE ORDINANCE AND MAP OF THE AREA TO BE ANNEXED WITH CANYON COUNTY, STATE OF IDAHO, AND THE IDAHO STATE TAX COMMISSION, PURSUANT TO IDAHO CODE, SECTION 63-215. (Applicant Veronica Buxton and Samuel Wolfe)

The Mayor declared this the first reading of the Ordinance.

Mayor Kling presented a request to pass the preceding Ordinance under suspension of rules.

MOVED by Haverfield and **SECONDED** by Levi to **pass** the preceding **Ordinance** under suspension of rules. Mayor Kling asked for a roll call vote with all Councilmembers present voting **YES.** The Mayor declared the ordinance duly passed, numbered it **4361** and directed the Clerk to record it as required.

MOTION CARRIED

[Pages 48-58 of Minutes omitted]