

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 84933**

This is to certify that: **BOISE VALLEY FEEDERS LLC**
2201 RIDGEWAY RD
PARMA, ID 83660

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-32049	WR/LICENSE	11/8/2004	3.680 cfs	704.0 af	N/A	134.0	GROUND WATER

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-32049	NO	NO	YES	NO	YES	YES

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-32049	63-32049	3.680 cfs	468.1 af	N/A	42.0	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		3.680 cfs	468.1 af	0.0	42.0		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 22nd day of September, 2021.



NICK MILLER, Western Regional Manager

WATER RIGHT NO. 63-32049**As Modified by Transfer No. 84933**

In accordance with the approval of Transfer No. 84933, Water Right No. 63-32049 is now described as follows:

Right Holder: BOISE VALLEY FEEDERS LLC
2201 RIDGEWAY RD
PARMA, ID 83660

Priority Date: 11/8/2004

Source: GROUND WATER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>
INDUSTRIAL	01/01	to 12/31	2.840 cfs	279.1 af
IRRIGATION	03/01	to 11/15	0.840 cfs	189.0 af
			3.680 cfs	468.1 af

LOCATION OF POINT(S) OF DIVERSION

GROUND WATER	NWSW	Sec 13 Twp 06N Rge 05W PAYETTE County
GROUND WATER	SESW	Sec 13 Twp 06N Rge 05W PAYETTE County
GROUND WATER	NWSE	Sec 14 Twp 06N Rge 05W PAYETTE County

PLACE OF USE: INDUSTRIAL

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	13						X	X		X	X		X					
06N	05W	14	X			X					X				X				
06N	05W	24		X	X		X	X											0

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	05W	24		17.0	22.0					3.0									42.0

POU Total Acres: 42.0

CONDITIONS OF APPROVAL

1. Industrial use is for feedlot dust control system.
2. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.

Transfer No. 84933

WATER RIGHT NO. 63-32049
As Modified by Transfer No. 84933

CONDITIONS OF APPROVAL

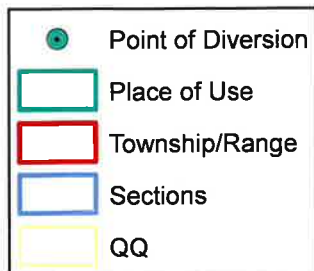
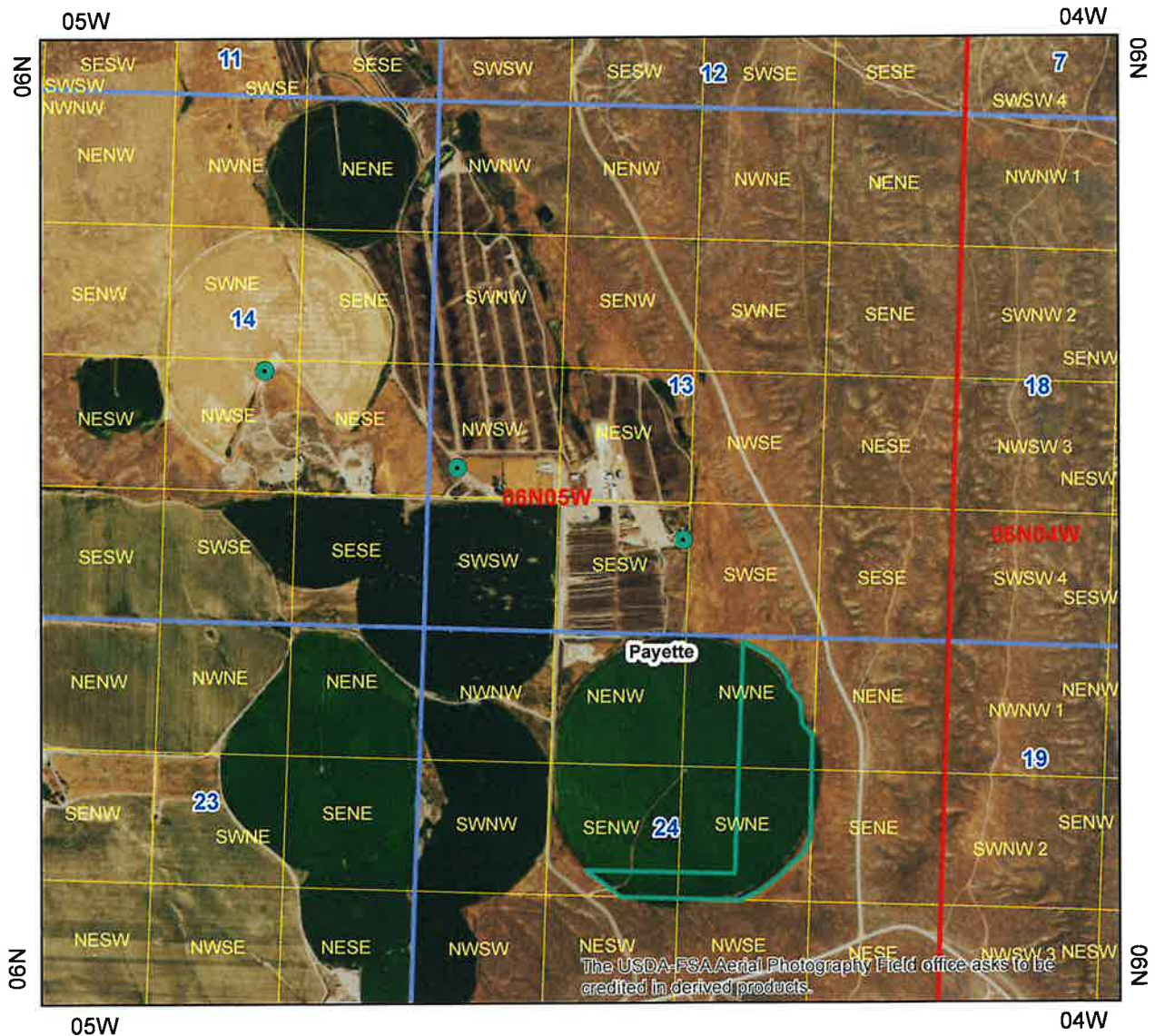
3. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
4. When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
5. The following rights are diverted through point(s) of diversion described above: 63-3359, 63-7874, 63-31262, and 63-32049.
6. The approval of this transfer redefines all of the elements of this water right, and the new use of water authorized by this approval shall constitute the full extent of the right.
7. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
8. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

State of Idaho
Department of Water Resources

Attachment to Transfer No. 84933

Water Right(s): 63-32049

This map depicts the IRRIGATION 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.

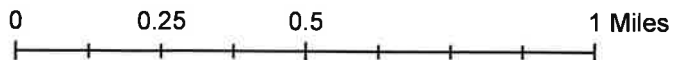
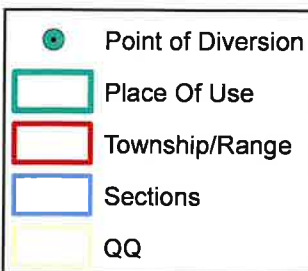
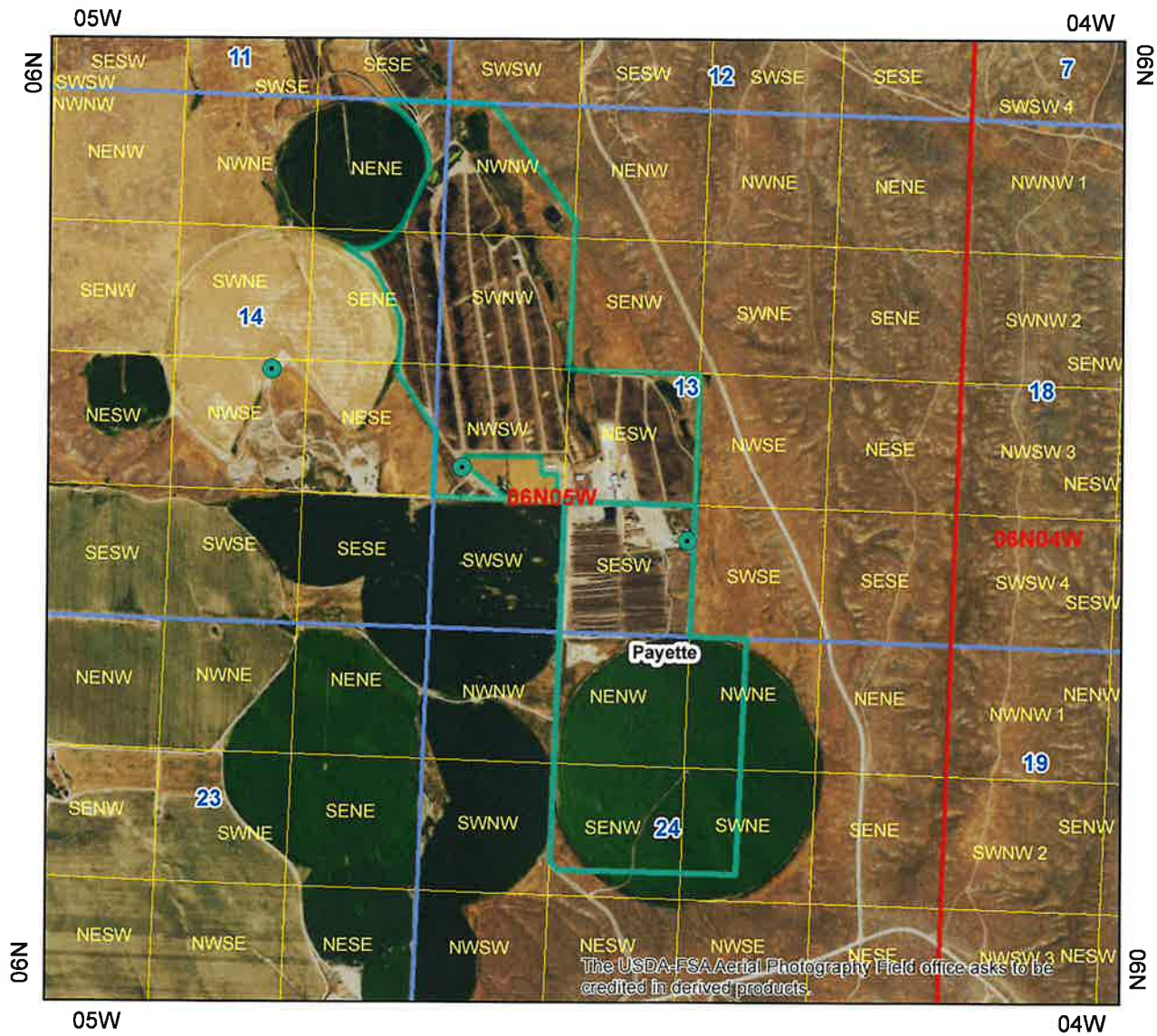


0 0.25 0.5 1 Miles



State of Idaho
Department of Water Resources
Attachment to Transfer No. 84933
Water Right(s): 63-32049

This map depicts the INDUSTRIAL 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.





September 22, 2021

BOISE VALLEY FEEDERS LLC
2201 RIDGEWAY RD
PARMA ID 83660

RE: Transfer No: 84933
Water Right No.: 63-32049

Transfer Approval Notice

Dear Water Right Holder and other Interested Persons:

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions concerning the enclosed information, please contact me at (208) 334-2190.

Sincerely,


DENISE LAUERMAN

for Nick Miller
Western Regional Manager

Enclosures

CC:

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660

CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2021, I served a true and correct copy of the foregoing PRELIMINARY ORDER (Approved Transfer) by U.S. Mail, postage prepaid, to the following:

Re: Transfer No.: 84933
Water Right No.: 63-32049

BOISE VALLEY FEEDERS LLC
2201 RIDGEWAY RD
PARMA ID 83660

SPF WATER ENGINEERING LLC
C/O LORI GRAVES
300 E MALLARD DR STE 350
BOISE ID 83706-6660


Denise Lauerman
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

TO: Sascha Marston
FROM: Allen Bradbury
DATE: 8/20/2021
RE: **Refund Request: Application for Transfer**

SPF Water Engineering LLC paid \$990 for an application for transfer of water right 63-32049 on April 22, 2021. The application paid for \$740 based on the entire right of 3.68 cfs plus \$250 for a change in nature of use, however the change in nature of use from irrigation to industrial only involves 1.84 cfs for \$580. As per Transfer Processing Memo 23 only 1.84 cfs needs to be paid for.

Please issue a refund of \$160 to:

TO

SPF WATER ENGINEERING LLC
300 E MALLARD DR, STE 350
BOISE, ID 83706

TEL. (208) 383-4140

RECEIPT

Receipt no. W049327

Copy: app # 84933 Boise Valley Feeders

MEMORANDUM

TO: Transfer No. 84933

FROM: Allen Bradbury

DATE: 7/30/2021

RE: Evaluation of Application

Summary of Application Proposal

This transfer proposes to change the place of use, the period of use, and the nature of use for a portion of water right 63-32049 which is diverted from groundwater. The applicant proposes to transfer the nature of use from 92 acres of irrigation into industrial use for dust abatement. This transfer will modify the place of use and the period of use. The applicant is seeking forfeiture protection for the remaining 42 acres of irrigation through a lease application to the Water Supply Bank.

Water will be used at and near the current place of use approximately 6 miles northeast of Parma, Idaho in Payette County near the intersection of Pearl and Elmore roads.

Representative: Lori Graves, SPF Water Engineering, 300 E Mallard Dr, Ste 350, Boise ID 83706, lgraves@spfwater.com, (208) 383-4140.

Summary of Information Submitted

Authority to File: According to the State of Idaho Secretary of State Business Services website, Boise Valley Feeders, LLC is composed of two members Agri Beef Co. and West Valley Farms & Livestock LLC. Jeffrey S. Johnson is listed as a member of West Valley Farms & Livestock LLC. The applicant is listed as the current water right holder of record for the water right involved in this application. Tax parcel information obtained by the Department and dated 2/26/2021 show the property owned by Boise Valley Feeders, LLC. The applicant owns all property associated with the places of use and points of Diversion.

Water Right Validity/Historical Beneficial Use: Water right 63-32049 was licensed on 9/23/2015. A Beneficial use field exam was conducted on 7/15/2015. Aerial photos from 2019 and 2017 do not indicate any changes in the use of the land since the field exam confirming that beneficial use has occurred within the last 5 years.

Injury to Other Water Rights: Injury to other water rights is not likely as a result of this transfer. The application does not intend to increase the number of acres irrigated or the amount of water to be diverted. This change in the nature of use from irrigation to industrial does not affect the amount of water available, the source or change the point of diversion. The applicant is transferring a portion of irrigation to industrial use, no injury is anticipated to surrounding wells or springs or water rights.

Enlargement of Use: This transfer is seeking to change a water right for irrigation, the applicant provided information estimating the consumptive water use diverted for irrigation of field corn. Based on an estimated volume of 107.9 af usage volume and 1.94 af/yr evapotranspiration volume the applicant calculated $(107.9 \text{ af} / 1.94 \text{ af/yr})$ 55.5 acres needed to be retired from irrigation to offset industrial volume. Alternatively, a calculation based on flow rate estimated 1.84 cfs required for an industrial sprinkler system and 0.02 cfs duty of water per acre resulted in $(1.84 \text{ cfs} / 0.02 \text{ cfs/acre})$ 92 acres from irrigation to offset industrial volume. The applicant propose to retire 92 acres from irrigation since this is the greater number of acres between volume and flow rate required to offset the proposed industrial use.

This application for transfer is proposing to change the place of use and nature of use for part of a water right, which change will result in an equivalent reduction in beneficial use under the original right.

An application for transfer, which proposes an increased period of use in connection with a changed nature of use for ground water, is presumed not to be an enlargement in use if the rate of diversion, total annual volume diverted, and annual volume of consumptive use are not increased. For these reasons, an enlargement of use is not anticipated as a result of this transfer.

Local Public Interest: The intent of the beneficial use is to transfer the nature of use from irrigation to industrial for the purpose of dust abatement. There are no anticipated negative impacts to recreation, fish, or wildlife as a result of this transfer. There is no indication that any applicable water or hazardous substance standards designed to protect water resources would be violated. This transfer is compatible with the objectives and policies of the State Water Plan. None of the available information suggests a conflict with the local public interest.

Beneficial Use/Conservation of Water Resources: No issues were identified. The application proposes beneficial use consistent with conservation of water resources in Idaho.

The application is consistent with criteria of I. C. § 42-222 and should be processed.

Summary of Application Approval / Denial

Overlap Analysis:

Discussion

Conditions

Assuming no other information contradicts the above analysis, the application can be approved as reflected by the draft approval.

Bradbury, Allen

From: Angie Hansen
Sent: Tuesday, June 1, 2021 10:39 AM
To: Bradbury, Allen
Cc: Miller, Nick; Hersley, Jean
Subject: RE: WSB Lease application for 63-32049

Allen,

No concerns on my end. Sounds like they do not plan to irrigate the area under the pivot in the future (with wastewater effluent or ground water), but rather convert the most of the land to an area for their dairy operation that needs dust abatement. Dust abatement has been called industrial and commercial in the past. I don't have any issue with using the term industrial here over commercial.

Regards,
Angie

From: Bradbury, Allen
Sent: Wednesday, May 26, 2021 3:54 PM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>
Cc: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>; Miller, Nick <Nick.Miller@idwr.idaho.gov>
Subject: RE: WSB Lease application for 63-32049

Here is a brief update on transfer #84933 for the Boise Valley Feeders and phone call to Lori Graves, SPF. The application states the following:

"Applicants wish to expand their current authorized industrial use to include additional feedlot area. The feedlot expansion is planned on acres currently irrigated under a 134-acre pivot. To meet the industrial flow rate and volume necessary for the expansion, 92 acres of the authorized pivot area are proposed for conversion to industrial use; the remaining 42 acres are being submitted to the IWSB on the accompanying lease application for future use."

There is also an application for amendment of permit for a stock water right #63-33701 to expand the place of use for stock water to include the same area as the pivot mentioned above.

I called Lori about the nature of the industrial use. She told me that the industrial use is for dust abatement in the feedlot area.

After talking it over with Nick, I will continue to prepare this transfer for advertising.

Let me know if there are other concerns.

Allen

From: Miller, Nick
Sent: Monday, May 17, 2021 10:35 AM
To: Hersley, Jean <Jean.Hersley@idwr.idaho.gov>; Bradbury, Allen <Allen.Bradbury@idwr.idaho.gov>

Cc: Grimm, Angie <Angie.Grimm@idwr.idaho.gov>

Subject: RE: WSB Lease application for 63-32049

Allen and I discussed the transfer and I don't think there are any issues with moving forward with the lease. However, we strongly suspect the applicant plans to continue irrigating the pivot currently covered with the irrigation right because they are changing the nature of use of some of the irrigation to "industrial" for the feedlot, and putting the rest in the WSB – maybe they plan to run the pivot with "industrial effluent"? Otherwise it is a bit odd they chose to change the nature of use to Industrial, rather than stockwater or commercial...

Angie, what are your thoughts on this? I think Allen has called you, but I am curious.

Nick.

From: Hersley, Jean

Sent: Monday, May 17, 2021 8:19 AM

To: Bradbury, Allen <Allen.Bradbury@idwr.idaho.gov>

Cc: Miller, Nick <Nick.Miller@idwr.idaho.gov>

Subject: WSB Lease application for 63-32049

I have an application to lease 42 acres of the irrigation portion of 63-32049. The transfer that was filed with this application is still in the DRAFT stage. Are there any issues with me moving forward with the lease? There should be a map with the transfer that depicts the leased portion. Please let me know today so I can move forward or not. Thank you.

*Jean Hersley
Technical Records Specialist II
Idaho Dept Water Resources
(208) 287-4942*

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

65-24038
BIG WILLOW RANCH LLC
1 DIXIE LN
PAYETTE, ID 83661-5030
Point of Diversion
NWNW S8 T08N R02W
PAYETTE County Source
BIG WILLOW CREEK
Tributary PAYETTE
RIVER
Use: STOCKWATER
01/01 to 12/31 0.67 CFS
Total Diversion: 0.67 CFS
Date Filed: 06-07-2021
Place Of Use:
STOCKWATER
T08N R02W S7 SWNW,
SENW, NESW, NWSW
Place Of Use:
STOCKWATER
T08N R03W S12 NESE

NOTICE OF PROPOSED
CHANGE OF WATER
RIGHT
TRANSFER NO. 84933
BOISE VALLEY FEEDERS
LLC, 2201 RIDGEWAY
RD, PARMA, ID 83660
has filed Application No.
84933 for changes to the
following water rights
within PAYETTE County
(s): Right No. 63-32049;
to see a full description of
these rights and the
proposed transfer, please
see <https://research.idwr.idaho.gov/apps/water-rights/querynewtransfers>.
The purpose of the
transfer is to change a
portion of the above rights
as follows:
This transfer proposes to
change the place of use,
the period of use, and the
nature of use for water
right 63-32049 which is
diverted from
groundwater. The
applicant proposes to
transfer the nature of use
from 92 acres of irrigation
into industrial use. The
industrial use is for dust
abatement. Water will be
used at the current place
of use approximately 6
miles northeast of Parma,
Idaho in Payette County
near the intersection of
Pearl and Elmore roads.

Permits will be subject to
all prior water rights. For
additional information
concerning the property
location, contact the
Western office at (208)
334-2190; or for a full
description of the right(s),
please see <https://idwr.idaho.gov/apps/ExtSearch/WRApplicationResults/>.
Protests may be
submitted based on the
criteria of Idaho Code §
42-203A and Idaho Code
Sec. 42-222. Any protest
against the approval of
this application must be
filed with the Director,
Dept. of Water Resources,
Western Region, 2735 W
AIRPORT WAY, BOISE ID
83705-5082 together with
a protest fee of \$25.00 for
each application on or
before 7/26/2021. The
protestant must also send
a copy of the protest to
the applicant.
GARY SPACKMAN,
Director

Legal Number 413657

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }
County of Payette }

M Brooke Watkins
Of Payette, Payette County, Idaho, being
First duly sworn, deposes and says:

- 1) That I am a citizen of the United States, and at all times hereinafter mentioned was over the age of eighteen years, and not party to the above entitled action.
- 2) That I am the representative of the Argus Observer, a daily newspaper published in the County of Payette and State of Idaho; that the said newspaper is in general circulation in the said County of Payette, and has been uninterruptedly published in said County during a period of seventy-eight consecutive weeks prior to the first publication of this notice, a copy of which is hereto attached.
- 3) That the notice, of which the annexed is a printed copy, was published in said newspaper 2 time(s) in the regular and entire issue of said paper and was printed in the newspaper proper, and not in a supplement.

That said notice was published the following:
07/07/2021 07/14/2021

Legal # 413657
APPS FOR PERMITS
L-413657

M. Brooke Watkins

State of Idaho }
County of Payette }

On this 14th day of July in the year 2021
Before me a Notary Public personally appeared.
M Brooke Watkins
known or identified to me to be
the person whose name is subscribed to the within
instrument, and being by me first duly sworn,
declared that the statements therein are true, and
acknowledge to me that he/she executed the same.

Yvonne Dee Lee
Notary Public for Idaho
Residing at Payette County
My Commission expires *

November 4, 2025

RECEIVED

JUL 19 2021

WATER RESOURCES
WESTERN REGION

YVONNE DEE LEE
Notary Public - State of Idaho
Commission Number 62548
My Commission Expires Nov 4, 2025