

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-32049

Priority: November 08, 2004

Maximum Diversion Rate: 4.20 CFS

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

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	03/01 to 11/15	3.20 CFS
INDUSTRIAL	01/01 to 12/31	1.00 CFS

LOCATION OF POINTS OF DIVERSION:

GROUND WATER	NE¼SE¼	Sec. 14, Twp 06N, Rge 05W, B.M., PAYETTE County
GROUND WATER	NW¼SE¼	Sec. 14, Twp 06N, Rge 05W, B.M., PAYETTE County
GROUND WATER	SE¼SW¼	Sec. 13, Twp 06N, Rge 05W, B.M., PAYETTE County
GROUND WATER	NW¼SW¼	Sec. 13, Twp 06N, Rge 05W, B.M., PAYETTE County
GROUND WATER	NE¼NW¼	Sec. 24, Twp 06N, Rge 05W, B.M., PAYETTE County

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N 05W 13																	20.0
06N 05W 24			40.0	30.0			40.0					30.0					140.0
Total Acres: 160																	

PLACE OF USE: INDUSTRIAL

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N 05W 13						X	X			X	X						
06N 05W 14	X			X									X				

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2010**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-32049

4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Water bearing zone to be appropriated is from 300 to 600 feet.
6. Industrial use is for feedlot dust control system.
7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
8. 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.
9. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality standards of the Department of Environmental Quality.
10. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 21st day of March, 2005.



FOR KARL J DREHER, Director

RECEIVED

MAR 17 2005

Ident. No. 63-32049 12/99

RECEIVED

NOV 09 2004

WATER RESOURCES
WESTERN REGIONDEPARTMENT OF
WATER RESOURCES
STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Boise Valley Feeders, L.L.C. Phone (208) 722-8090
Mailing address 2201 Ridgeway Road, Parma, ID 83660
2. Source of water supply ground water which is a tributary of NA
3. Location of point of diversion is Township 6N Range 5W Sec. 14, in the _____ 1/4,
NE 1/4, SE 1/4, Govt. Lot _____, B.M., Payette County;
additional points of diversion if any: SESW and NWSW of Section 13, NWSE of Section 14, and NENW
Section 24, T6N R5W
4. Water will be used for the following purposes:
- Amount 3.20 cfs for irrigation purposes from 3/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
- Amount 1.00 cfs for industrial purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 4.20 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source Four wells (two existing, two new)
with electric pumps, buried piping to sprinkler systems for irrigation and dust control.
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet;
total reservoir capacity _____ acre-feet
- c. Proposed well diameter is 16 inches; proposed depth of well is 500 feet
- d. Is ground water with a temperature of greater than 85°F being sought? No
- e. If well is already drilled, when? 1963+/-, 1974 +/-; Drilling firm unknown and Cope;
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in kW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. Industrial use is for feedlot dust control system.

9. Description of place of use:

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

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
6N	5W	13						I	I		I	I		20					20
		14	I			I									I				
		24		40	30		40			30									140

I=industrial

Total number of acres to be irrigated 160

10. Describe any other water rights used for the same purposes as described above. 63-7874, 63-3359

11. a. Who owns the property at the point of diversion? Applicant (Sections 13 and 14); Highland Livestock & Land Company Limited (NENW Section 24)

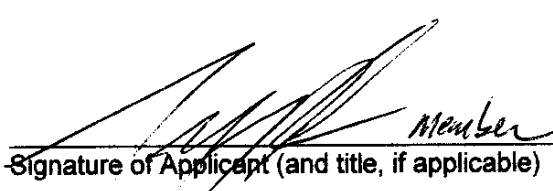
b. Who owns the land to be irrigated or place of use? Applicant (Sections 13 and 14); Highland Livestock & Land Company Limited (Section 24)

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: See attached agreement for purchase of property

12. Remarks: Water-bearing zone to be appropriated is 300 to 600 feet.

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

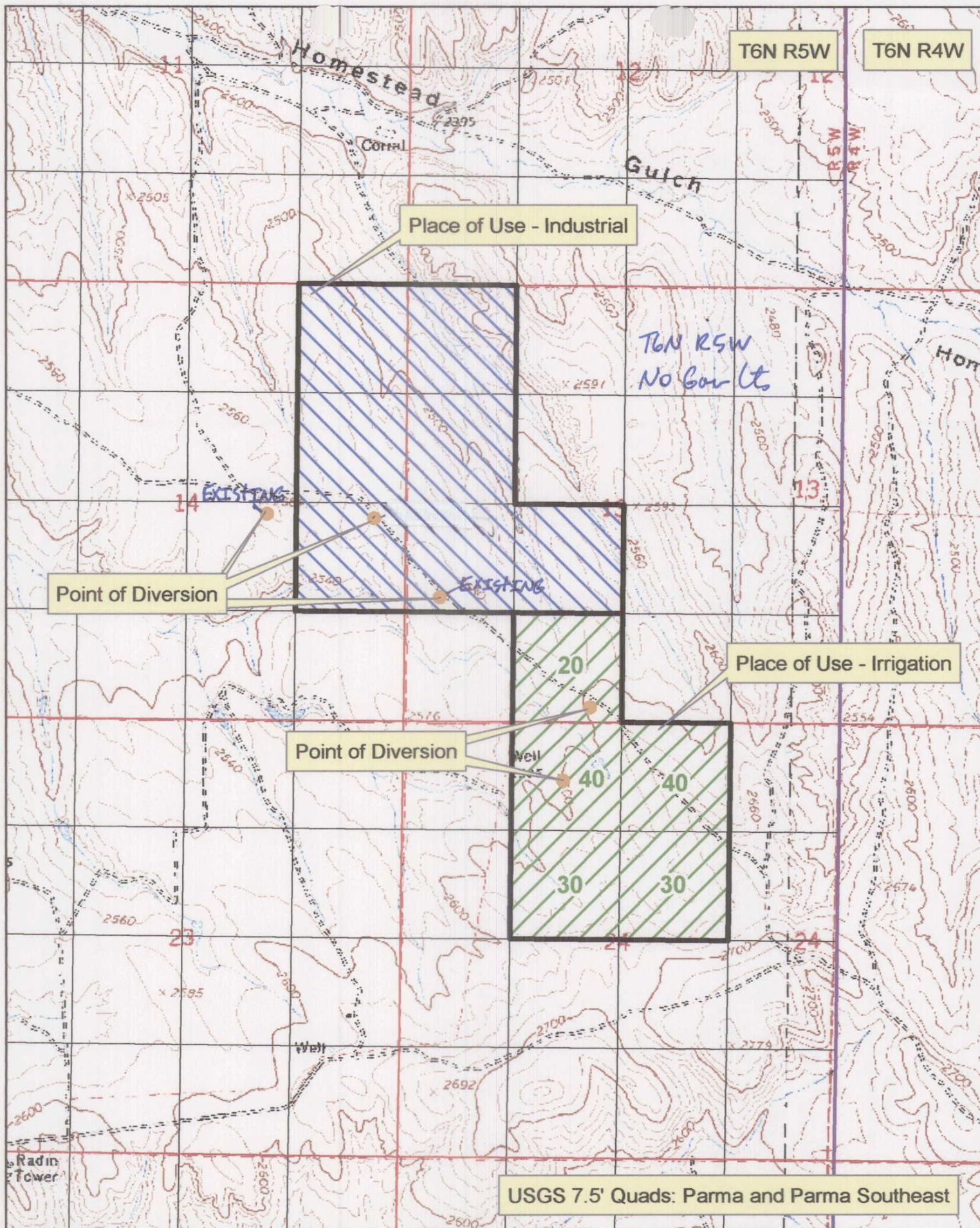
 Member
Signature of Applicant (and title, if applicable)

Received by AB Date 11-8-04 Time 11:00 AM Preliminary check by Ly

Fee \$ 410- Receipted by AB # W033379 Date 11-8-04

Publication prepared by sk Date 2-16-05 Published in INDEPENDENT ENTERPRISE

Publication approved sk Date 3-7-05



63-32049

REQUEST TO PROCESS

COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE
THREE ALTERNATIVES BELOW

Name of Applicant Boise Valley Feeders, LLC
Mailing Address 2201 Ridgeway Road
Parma, ID 83660
Application No. _____
(if known)

 IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.

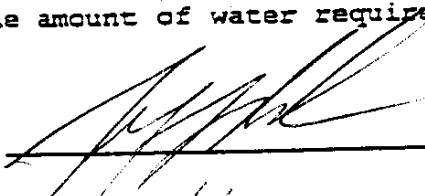
 PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will amend my application to include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.

 X WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature

 Member
11/3/04

Date

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

commit to insure against loss or damage that may result from such Unpermitted Exceptions no later than the closing. Any Unpermitted Exceptions affecting title to the Property, which can be removed by the payment of money on the closing, shall be removed at that time.

3.3. Title Insurance. As soon as it is available after closing, Seller, at Seller's cost, will provide to Buyer a standard coverage title insurance policy pursuant to the Title Commitment, dated as of the closing and insuring Buyer in the amount of the Purchase Price against loss or damage by reason of defect in Buyer's title to the Property subject only to the general exceptions shown on the Title Commitment, the Permitted Exceptions and real property taxes and assessments that are not delinquent ("Title Policy").

3.4. Conveyance of Title. On closing, Seller shall execute and deliver to Buyer a special warranty deed in the form attached hereto as Exhibit D, conveying good and marketable title to the Property free and clear of any defects or encumbrances, except for the lien of real estate taxes for the current calendar year not yet due and payable, any matter created or allowed by Buyer, and the Permitted Exceptions (the "Deed").

4. FURTHER AGREEMENTS.

The Buyer and Seller further agree as follows:

4.1. Property As-Is. Buyer is relying solely upon Buyer's own inspection, investigation and due diligence with respect to all aspects of the Property, including, but not limited to, the physical condition of the Property, all issues related to the surrounding properties, all access issues related to the Property and all other matters and/or issues related to the Property. Seller or Seller's agents are not making, have not made and expressly disclaim any representations or warranties, expressed or implied, with respect to any aspect, feature or condition of the Property including, without limitation, the existence of hazardous waste, or the suitability of the Property for Buyer's intended use. Buyer shall independently verify all information and reports regarding any aspect or feature of the Property provided by Seller. Seller does not warranty or guarantee the accuracy of any information or reports provided by Seller, its agents, consultants or advisors. Seller is selling and Buyer is purchasing the Property in its "As Is" condition with all faults, including both latent and patent defects.

Buyer acknowledges that Seller is not representing the accuracy of the acreage of the Property as set forth in Paragraph A above. Buyer shall verify to Buyer's satisfaction, at Buyer's sole cost and expense, the accuracy of the acreage of the Property prior to the execution of this Agreement.

As used herein, the term "hazardous waste" shall mean any hazardous wastes or pollutants, contaminants or hazardous substances as defined by the Federal Water Pollution Control Act and any amendments thereto ("Clean Water Act" or "CWA"), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") and any amendments thereto, the Resource Conservation and Recovery Act ("RCRA") and any amendments thereto or any similar federal, state or local law, rule or regulation, including, without limitation, asbestos or asbestos-containing materials, PCBs, petroleum and petroleum products and urea-formaldehyde.

4.2. License. Seller hereby grants Buyer, its agents, employees and contractors, a license to enter the Property under the following terms and conditions ("License"):

4.2.1. The term of the License shall begin on the effective date of this Agreement and continue to the Closing Date, as set forth in Section 5.1, or the termination of this Agreement, whichever is earlier.

4.2.2. The License is subject to the terms of any and all documents encumbering the Property.

4.2.3. Buyer's right to enter the Property shall be for the limited purpose of conducting surveys, soil tests, engineering studies and environmental studies. Buyer shall not damage or harm the Property in any way and shall obtain Seller's written approval before doing any excavation or similar activity that could harm or alter the Property.

4.2.4. Buyer shall indemnify, defend and hold Seller harmless from and against any and all claims, damages, liability, causes of action, judgments, expenses (including reasonable attorneys' fees and reasonable attorneys' fees on appeal) arising out of or in any way connected with Buyer's exercise of the License. Buyer shall repair any and all damage to the Property arising out of Buyer's exercise of the License and shall restore the Property to as good a condition as existed on the date immediately preceding the date of this Agreement.

4.3. Contingencies. Except as set forth in this paragraph 4.3, this Agreement has no contingencies in favor of the Buyer and no conditions precedent to Buyer's obligations hereunder. Buyer's obligations to close this transaction shall be subject to Buyer obtaining a Level One Environmental Report, satisfactory to Buyer, on the Property on or before the Closing Date. The Earnest Money Deposit shall be non refundable even if Buyer does not obtain a satisfactory environmental report.

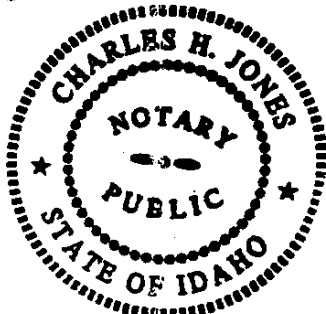
5. CLOSING AND RELATED MATTERS.

5.1. Closing Date. Seller, in Seller's sole discretion, shall select the closing date for this transaction ("Closing Date"). The Closing Date, as selected by Seller, shall be on or after July 15, 2004 and shall be before January 15, 2007. The Seller shall designate a Closing Date to Buyer by providing Buyer at least twenty (20) days prior written notice of the Closing Date. Notwithstanding and in addition to the foregoing, Buyer may notify Seller, in writing, of Buyer's desire to close and upon receipt of such notice, Seller shall set a Closing Date not later than six (6) months after the receipt of Buyer's notice of desire to close.

5.2. Escrow Closing. The closing of the transaction contemplated herein shall take place at the office of the Accommodator. Buyer and Seller shall deposit in escrow with the Accommodator all instruments, documents and monies, including the monies specified in Section 2 (payable in cash by wire funds or official bank check to Seller), as necessary to complete the sale in accordance with this Agreement. The cost of the Title Insurer's closing fees and recording relating to the transaction contemplated herein shall be equally divided between Seller and Buyer. All other expenses not specifically referenced in this Agreement and incurred by Seller or Buyer with respect to this transaction shall be borne and paid exclusively by the party incurring the same, without reimbursement. The cost of the Accommodator's fees shall be paid by the Seller.

5.3. Possession. Possession of the Property shall be delivered to Buyer on the Closing Date.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement effective as of the day and year first set forth above.



For ED Johnson

Expires 11-24-05

Charles H. Jones 5-19-04

Filing # 33135

SELLER:

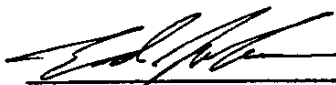
HIGHLAND LIVESTOCK & LAND COMPANY,
LIMITED, an Idaho corporation

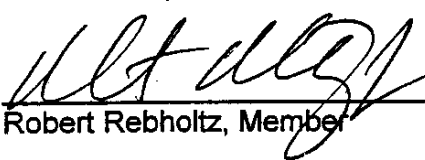
By: 
Brad Little, its President

COPY

BUYER:

BOISE VALLEY FEEDERS, L.L.C., an Idaho limited
liability company


Ed Johnson, Member


Robert Rebholz, Member

COPY

Exhibits

- Exhibit A - Legal Description of Property
- Exhibit B - Illustration of Property
- Exhibit C - Permitted Exceptions
- Exhibit D - Special Warranty Deed

EXHIBIT A

Legal Description

In Section 24, W1/2NE1/4, E1/2NW1/4, All in Township 6 North, Range 5 West of Boise Meridian, Payette County, Idaho.

RECEIVED

NOV 08 2004

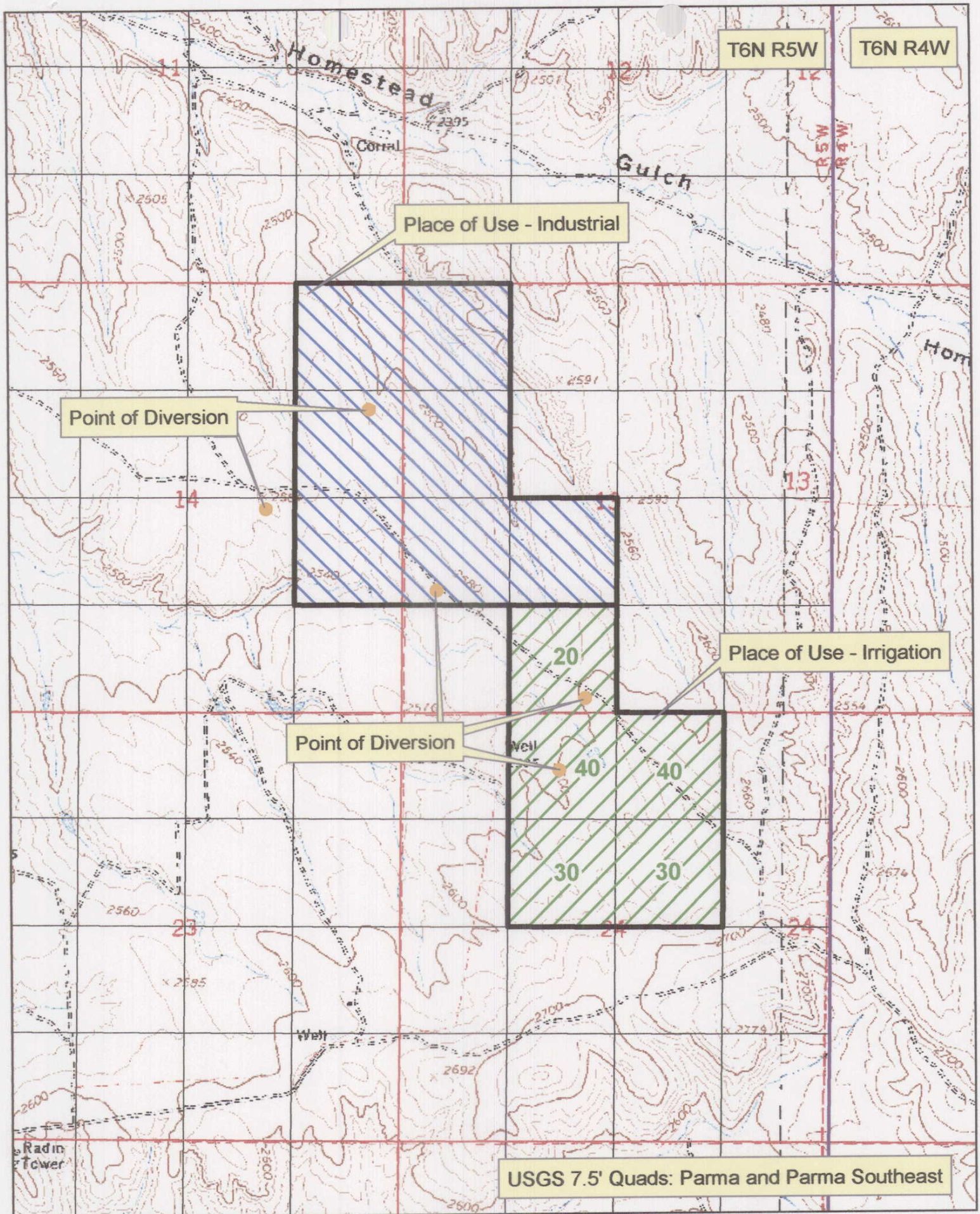
WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Boise Valley Feeders, L.L.C. Phone (208) 722-8090
Mailing address 2201 Ridgeway Road, Parma, ID 83660
2. Source of water supply ground water which is a tributary of NA
3. Location of point of diversion is Township 6N Range 5W Sec. 14, in the _____ ¼,
SE ¼, NE ¼, Govt. Lot _____, B.M., Payette County;
additional points of diversion if any: SESW and NWSW of Section 13, NWSE of Section 14, and NENW
Section 24, T6N R5W
4. Water will be used for the following purposes:
Amount 3.20 cfs for irrigation purposes from 3/15 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 1.00 cfs for industrial purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 4.20 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
a. Describe type and size of devices used to divert water from the source Four wells (two existing, two new)
with electric pumps, buried piping to sprinkler systems for irrigation and dust control.
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet;
total reservoir capacity _____ acre-feet
c. Proposed well diameter is 16 inches; proposed depth of well is 500 feet
d. Is ground water with a temperature of greater than 85°F being sought? No
e. If well is already drilled, when? 1963+/-, 1974 +/-; Drilling firm unknown and Cope;
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
a. Hydropower; show total feet of head and proposed capacity in kW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. _____
e. Other; describe fully. Industrial use is for feedlot dust control system.

*Original ps. 1 + map rec'd 11/8/04.
Retain for file history.*

*SEE
11/9/04
Replacements
-82*



Now
Starting
Right Side
of file.



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 21, 2005

BOISE VALLEY FEEDERS LLC
2201 RIDGEWAY RD
PARMA ID 83660

RE: Permit No. 63-32049

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit 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 a party 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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

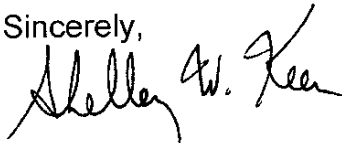
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

Also, 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, please contact me at 208-287-4947.

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being more prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

cc: SPF WATER ENGINEERING LLC

CERTIFICATE OF SERVICE

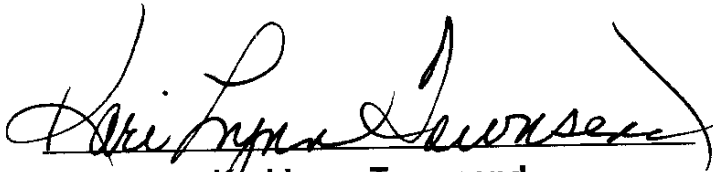
I hereby certify that on March 21, 2005 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

63-32049

**BOISE VALLEY FEEDERS LLC
2201 RIDGEWAY RD
PARMA ID 83660**

**SPF WATER ENGINEERING LLC
C/O TERRY SCANLAN
600 E RIVER PARK LN STE 105
BOISE ID 83706**

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", is written over a horizontal line.

**Kari Lynn Townsend
Secretary**

**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. 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 issuance 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.

Comment Report

63-32049

1. scurtis 1/31/2005 Legal Notice Remarks

Comment: Applicant agrees to mitigate consumptive use in the future as needed.

Water bearing zone to be appropriated is from 300 to 600 feet.

Ground water appears tributary to the Snake River.

2. lgraves 1/31/2005 Comment/Analysis

Comment: The wells listed in the NWSW S13 and the NWSE S14 are two existing wells shared with rights 63-3359, 63-7874 and 63-31262. These rights are listed in applicants name for stockwater and irrigation uses in sections 11, 13 and 14. The p/u for stockwater listed on these rights is for an existing feedlot and overlaps with the industrial p/u listed on this application, which is for dust control at the same feedlot. No other rights overlap the proposed irrigation p/u except stockwater right 63-3666 from an unnamed stream that was not claimed in the SRBA. The proposal is located in the basin 63 administrative hold area. Applicants consultant, Terry Scanlan, requested that this application be exempt from the administrative hold and submitted supporting documentation with the application that suggests the proposed ground water is tributary to the Snake River rather than the Boise River. Applicants submitted a similar request for approved permit 63-31262 in 2001. Shane Bendixon reviewed the supporting documentation and agreed with the applicants that the ground water in the subject area was tributary to the Snake River.

As stated in Terry Scanlans 1/28/05 e-mail, five p/ds were listed on the application for flexibility purposes. However, applicants anticipate that they will utilize a maximum of four wells (two existing and 2 proposed).

Applicants also have decree 63-28750 for domestic use from a separate well and system (confirmed per telecon by Terry Scanlan 1/28/05). No other rights are used.

3. kwalker 3/18/2005 Permit Review

Comment: Application does not fall within any problem areas. Ground water is tributary to Snake River in this area so n/a as far as processing delay area. No overlapping water rights for proposed irrigation place of use. Season of use recommended as standard in area. Recommend approval.

Affidavit of Publication

Copy of Notice
(First Copy)

STATE OF IDAHO,

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

63-32049

Wa BOISE VALLEY FEEDERS LLC
2201 RIDGEWAY RD
PARMA ID 83660
Point(s) of Diversion NESE S14 T06N R05W PAYETTE County Source
GROUND WATER
Departn Point(s) of Diversion NWSE S14 T06N R05W PAYETTE County Source
GROUND WATER
Point(s) of Diversion SESW S13 T06N R05W PAYETTE County Source
GROUND WATER
T. Lu Point(s) of Diversion NWSW S13 T06N R05W PAYETTE County Source
GROUND WATER
duly sworn, deposes: Point(s) of Diversion NENW S24 T06N R05W PAYETTE County Source
That She is the GROUND WATER
Use: IRRIGATION
THE INDEPENDENT: 03/01 To 11/15 3.2 CFS
at Payette, in the Co Use: INDUSTRIAL
paper has been at 01/01 To 12/31 1 CFS
aforesaid, and in th Total Diversion: 4.2 CFS
a copy of which is Date Filed: 11/08/2004 Place Of Use: IRRIGATION
newspaper once a w T06N R05W S13 SESW
the regular and ent T06N R05W S24 NWNE SWNE NENW SENW
time of publication, Number of Acres 160
and not a suppleme Place Of Use: INDUSTRIAL
regularly published T06N R05W S13 NWNW SWNW NESW NWSW
weeks prior to the d T06N R05W S14 NENE SENE NESE

Such notice
Feb. 16
Feb. 23
STATE OF IDAHO
COUNTY OF
On this 24th day
a Notary Public, pers
known or identifie
subscribed to the w
sworn, declared th
acknowledged to me

Remark: Applicant agrees to mitigate consumptive use in the future as needed.
Water bearing zone to be appropriated is from 300 to 600 feet.
Ground water appears tributary to the Snake River.
Permits will be subject to all prior water rights. Protests may be submitted based on the
criteria of Sec. 42-203A, Idaho Code.
Any protest against the approval of this application must be filed with the Director, Dept.
of Water Resource, Western Region,
2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application
on or before 03/07/2005.
The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director 2005.
No. 1744

Feb. 16, 23

Notary Public for Idaho

Residing at

My commission expires:

STATEMENT

Independent-Enterprise

PAYETTE, IDAHO

Number of Lines 40

Number of Insertions (2) two

40 Lines @ 2.38 . . . \$ 95.20

40 Lines @ 2.04 . . . \$ 81.60

TOTAL COST
WILL BE \$ 176.80

RECEIVED

FEB 25 2005

WATER RESOURCES
WESTERN REGION

No 1744

Affidavit of Publication

STATE OF IDAHO,
COUNTY OF PAYETTE

ss.

Water Rights

TITLE OF PUBLICATION

63-32049

SPONSOR OF PLAINTIFF

Department of Water Resources

PLAINTIFF OR LEGAL AGENT

T. Lisa Ann Riddick

being

duly sworn, deposes and says:

That *She* is the *Clerk* of

THE INDEPENDENT-ENTERPRISE, a weekly newspaper published at Payette, in the County of Payette and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Payette; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for *two (2)* consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue containing with *Feb. 16*, 200*5*, and ending with the issue of *Feb. 23*, 200*5*.

STATE OF IDAHO

COUNTY OF

On this *24th* day of *Feb*, in the year of our Lord before me, a Notary Public, personally appeared *Lisa Ann Riddick* known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Notary Public for Idaho

Residing at

My commission expires: *7-1-10*

Copy of Notice
(First Copy)

1. Deadline to register is ay. To register or for information, visit the site at www.colecommu- g or contact Cole Com- y Church at (208) 375- between 9 a.m. and 4 p.m.

icial Peace classes sored in Weiser

er Church of the ene will sponsor classes ing Dave Ramsey's Fi- l Peace University. The k program starts Mon- m 6:30 p.m. to 8:30 p.m. ore information, con- e church at 414-0135 or rtung at 550-1830.

er, auction planned er Flat Church

p Olé dinner and auc- ill be held March 4 at lat Church. Dinner be- 6:30 p.m. with the auc- 7:15 p.m. Tickets are \$15 son or \$20 at the door. A r eight, presold only, is onation items are be- epted. For more infor- , contact Cheryl at (208) 9 or Dale at (208) 459- roceeds benefit Camp e.



Brothron

STATEMENT

Independent-Enterprise

PAYETTE, IDAHO

Number of Lines *40*

Number of Insertions *(2) two*

40 Lines @ *2.38* ... \$ *95.20*

40 Lines @ *2.04* ... \$ *81.60*

TOTAL COST

WILL BE \$ *176.80*

RECEIVED

FEB 25 2005

WATER RESOURCES
WESTERN REGION

Nº 1744



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 10, 2005

HIGHLAND LIVESTOCK & LAND CO
C/O BRAD LITTLE
210 W MAIN ST
EMMETT ID 83617

Re: Water Right Application No. 63-32049 in the Name of Boise Valley Feeders LLC

Dear Sir:

Enclosed is a copy of an application(s) that may be of interest to you. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter. However, if you desire to file a formal protest against the approval of this application(s), your written protest along with the \$25.00 protest fee must be received in this office by March 7, 2005.

If you have any questions regarding the application(s), please contact this office.

Sincerely,

A handwritten signature in cursive script that reads 'Sue Kreger'.

Sue Kreger
Administrative Assistant

Encl. Copy of Application(s)

|

**IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705**

February 09, 2005

Legal Notice Department
INDEPENDENT ENTERPRISE
124 S MAIN
PAYETTE ID 83661

RE: Application for Permit No. 63-32049 and 67-14517

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 03/07/2005. Your cooperation is appreciated.

Sincerely

Sue Kreger
Administrative Assistant

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

63-32049

BOISE VALLEY FEEDERS LLC
2201 RIDGEWAY RD

PARMA ID 83660

Point(s) of Diversion	NESE	S14	T06N R05W	PAYETTE County	Source GROUND WATER
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Point(s) of Diversion	NWSE	S14	T06N R05W	PAYETTE County	Source GROUND WATER
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Point(s) of Diversion	SESW	S13	T06N R05W	PAYETTE County	Source GROUND WATER
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Point(s) of Diversion	NWSW	S13	T06N R05W	PAYETTE County	Source GROUND WATER
-----------------------	------	-----	-----------	----------------	---------------------

Point(s) of Diversion	NENW	S24	T06N R05W	PAYETTE County	Source GROUND WATER
-----------------------	------	-----	-----------	----------------	---------------------

Use:	IRRIGATION	03/01 To 11/15	3.2 CFS
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Use:	INDUSTRIAL	01/01 To 12/31	1 CFS
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Total Diversion:	4.2 CFS
------------------	---------

Date Filed: 11/08/2004

Place Of Use: IRRIGATION

T06N R05W S13	SESW
---------------	------

T06N R05W S24	NWNE SWNE NENW SENW
---------------	---------------------

Number of Acres 160

Place Of Use: INDUSTRIAL

T06N R05W S13	NWNW SWNW NESW NWSW
---------------	---------------------

T06N R05W S14	NENE SENE NESE
---------------	----------------

Remark: Applicant agrees to mitigate consumptive use in the future as needed.

Water bearing zone to be appropriated is from 300 to 600 feet.

Ground water appears tributary to the Snake River.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 03/07/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Independent Enterprise on February 16 and 23, 2005.

|

Graves, Lori

From: T Scanlan [tscanlan@spfwater.com]
Sent: Friday, January 28, 2005 1:36 PM
To: 'Graves, Lori'
Subject: Boise Valley Feeders Application for Permit

Lori

As we discussed, the application for permit lists five points of diversion for flexibility purposes. However, we anticipate utilizing a maximum of four wells (two existing and two new) under this permit.

Terry

1/28/2005

**SPF**

Water Engineering, LLC
water resource consultants

RECEIVED

NOV 09 2004

WATER RESOURCES
WESTERN REGION

November 6, 2004

Steve Lester
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Subject: Application for Permit in the Name of Boise Valley Feeders LLC

Dear Steve:

Yesterday I mailed to you an application for permit on behalf of Boise Valley Feeders, LLC. In further discussions with them, I found that the application and map incorrectly listed one of the points of diversion. Enclosed is a corrected first page of the application and map. Please contact me with any questions.

Sincerely,

Terry M. Scanlan, P.E., P.G.
Engineer/Hydrogeologist

Cc: Jeff Johnson



RECEIVED

NOV 08 2004

WATER RESOURCES
WESTERN REGION

November 5, 2004

Steve Lester
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

Subject: Application for Permit in the Name of Boise Valley Feeders LLC

Dear Steve:

On behalf, Boise Valley Feeders LLC, this letter requests an exemption from the administrative hold on processing of new applications for permit in Basin 63. Boise Valley Feeders's enclosed Application for Permit proposes appropriation of 3.2 cfs for irrigation of 160 acres and 1.0 cfs for industrial use (dust control at an existing feed lot) from a groundwater source. A check for the \$410 filing fee is included.

Boise Valley Feeders received an exemption from the administrative hold and subsequent approval of permit 63-31262 in September 2001. The criteria used in the request for exemption associated with permit 63-31262 apply to the enclosed application and are provided below.

1. Both groundwater and surface water at the points of diversion proposed by the Application for Permit are clearly tributary to the Snake River. As shown on the attached maps, the proposed point of diversions are located in western Payette County, approximately 5 miles south of the dividing line between Basin 63 and Basin 65. In this area, the basin boundary is the approximate location of the drainage divide between Big Whitley Gulch and Hurd Gulch, both of which are tributary to the Snake River (rather than the Boise or Payette Rivers). As such, appropriation of groundwater at this location should not injure groundwater or surface water rights in the Boise River drainage basin.
2. We understand that a primary purpose of the administrative hold in Basin 63 was to allow completion of the Treasure Valley Hydrologic Project. However, computer modeling conducted for the Treasure Valley Project does not extend into the area where the Application for Permit proposes to appropriate groundwater. The model boundary is located to the south of the proposed points of diversion. Thus, we feel that this application should not be subject to the administrative hold because the Treasure Valley Hydrologic Project does not provide significant data regarding groundwater conditions at this site.

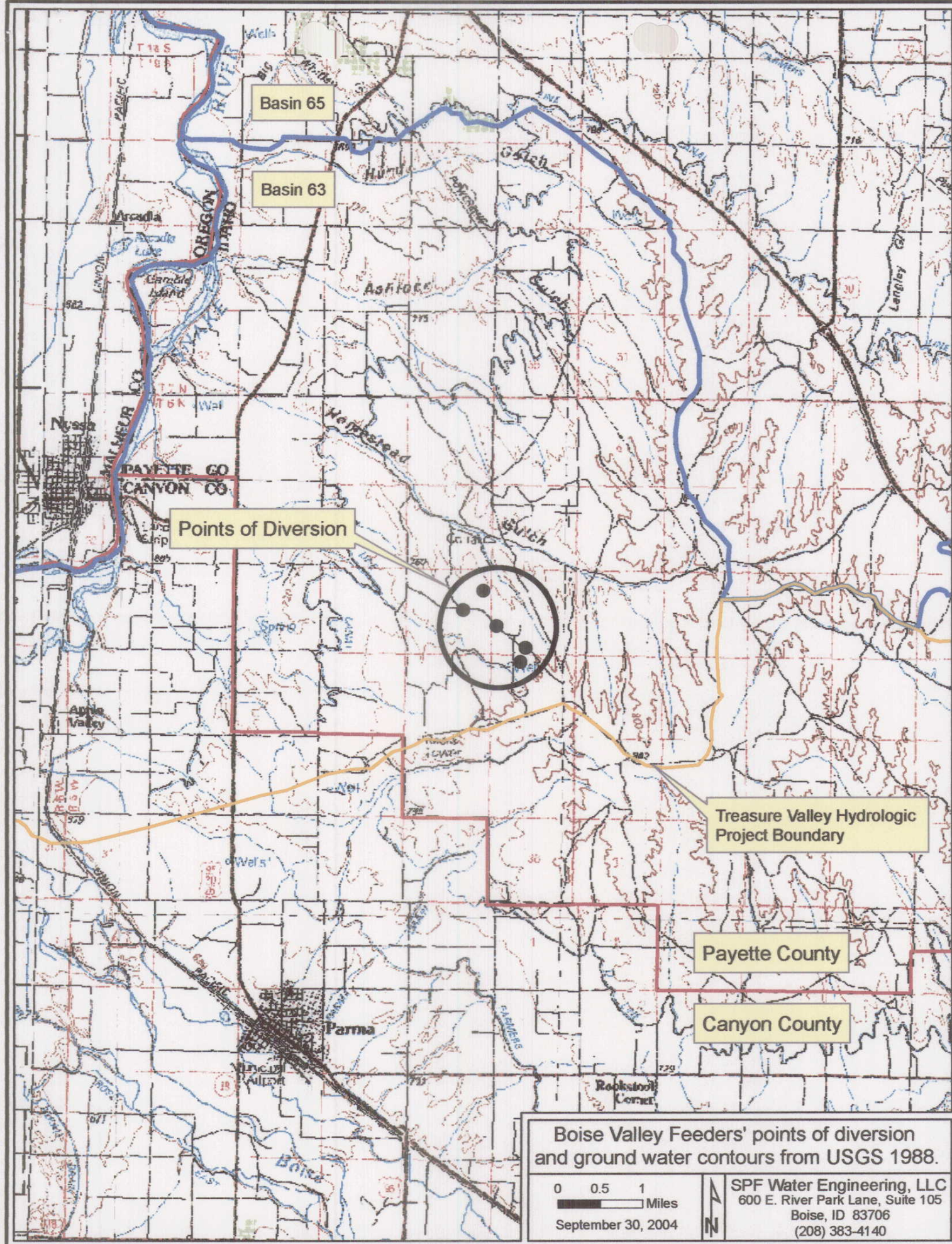
Thank you for your consideration of this request. We look forward to your response.

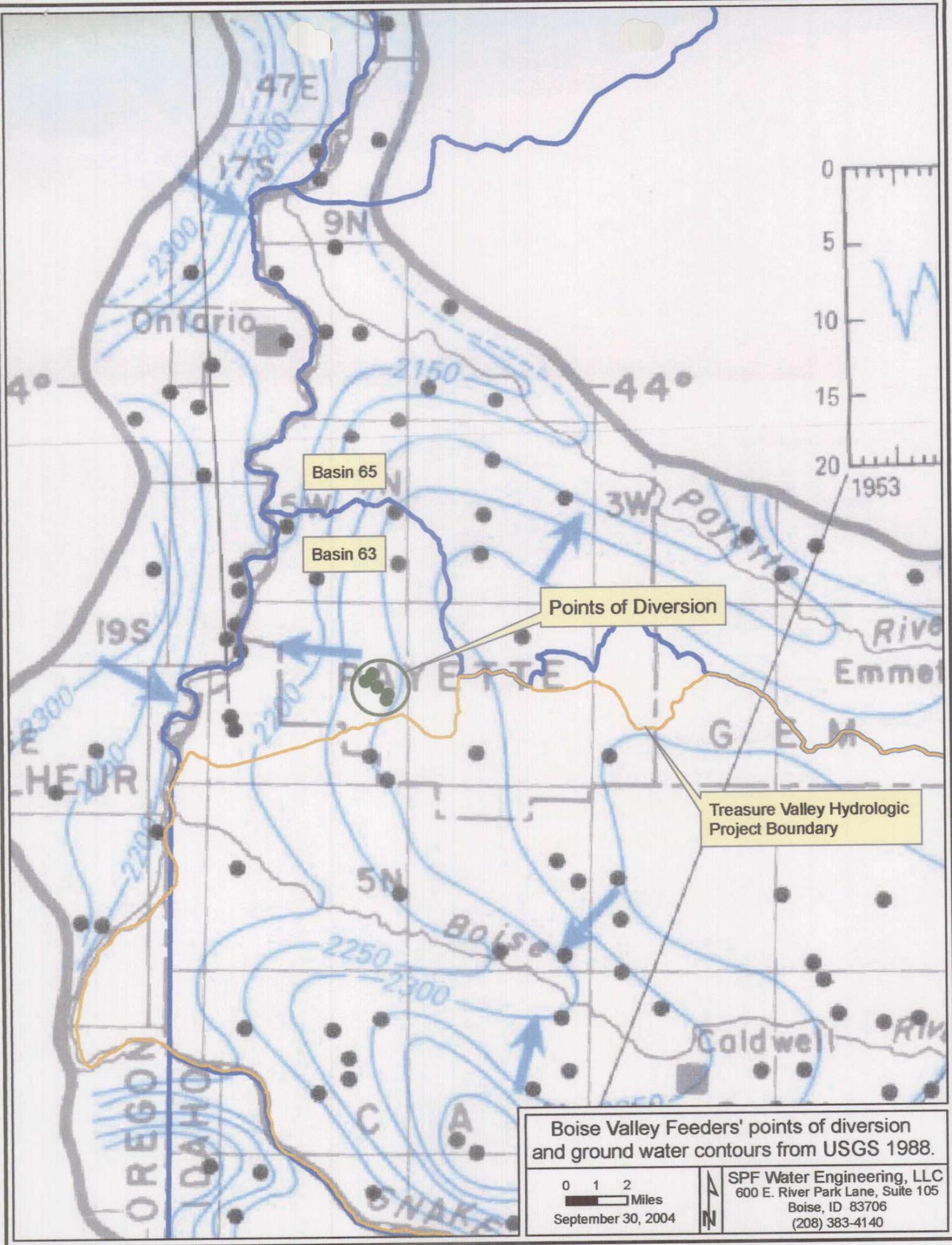
Sincerely,

A handwritten signature in black ink, appearing to read "Terry M. Scanlan". The signature is fluid and cursive, with the first name "Terry" and last name "Scanlan" clearly distinguishable.

Terry M. Scanlan, P.E., P.G.
Engineer/Hydrogeologist

Cc: Jeff Johnson





Boise Valley Feeders' points of diversion and ground water contours from USGS 1988.

0 1 2
Miles
September 30, 2004

SPF Water Engineering, LLC
600 E. River Park Lane, Suite 105
Boise, ID 83706
(208) 383-4140